THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

THE 1993 FEDERAL ELECTION

REPORT OF THE INQUIRY INTO
THE CONDUCT OF THE 1993 FEDERAL ELECTION
AND MATTERS RELATED THERETO

NOVEMBER 1994

CANBERRA

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COMMONWEALTH OF AUSTRALIA

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Joint Standing Committee on Electoral Matters

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FOREWORD

The Committee has now reported on each election conducted by the Australian Election Commission (AEC) since the AEC's establishment in 1984. This process has proved to be an effective means of informing the Government and the AEC of the perceived need for legislative or administrative change based on the evidence of electors, parliamentarians, political parties and informed observers of the political scene.

Accordingly, this report records the findings of the Committee on the criticisms and proposals for change that have been submitted to the Inquiry based on the experience of the 1993 federal election. The report recommends refinements to many areas of the electoral system. Most of these proposals have the support of the whole Committee. However there are differences of opinion on some matters of policy. In these cases members have elected to exercise their right to add dissent to the report.

One area of disagreement was the question of the extent to which measures are needed to guard against potential electoral fraud. The AEC was able to satisfy the majority of the Committee that electoral fraud occurs infrequently and is detectable when it occurs. However, the Committee is united on the importance of ensuring the accuracy of the electoral rolls. We would like to see a move away from the present arrangements which rely on a blitz on enrolments through habitation review just prior to an election. A better system would be one based on continuous roll review.

We find the administration of the Electoral Act by the AEC to be of a very high standard. It is a notable achievement that the AEC can conduct an election for the House of Representatives and the Senate in a period of as few as 33 days from the issue of the writ to the close of polls, and then produce within a few hours of the close of polls a reliable indication of which party will form the next federal government. The quality of the work of the AEC has been recognised internationally, with frequent invitations to consult or assist with elections in re-emerging democracies such as the recent elections in Cambodia and in South Africa.

As Chairman, I acknowledge the co-operation of Deputy Chairman Mr David Connolly MP and my fellow Committee members throughout the Inquiry. I also thank the Committee Secretary Mr Donald Nairn, the Research Officer Mr Russell Chafer, the Administrative Officer Mrs Helen Fyfe and the other staff who served the Committee during the course of the Inquiry.

The Committee is of course indebted to those individuals and organisations who made submissions to the Inquiry. We are particularly grateful for the high quality of advice from the Electoral Commissioner Mr Brian Cox and his staff. We thank Mr Cox, who has recently announced his retirement, for his distinguished service as the Commonwealth's most senior electoral officer and for the support he has given to this Committee during his period in office.

SENATOR DOMINIC FOREMAN
Chairman

November 1994

TERMS OF REFERENCE

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 1993 federal election and matters related thereto.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

37TH PARLIAMENT

MEMBERS

Chairman	Senator D Foreman
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Research Officer	Mr R Chafer
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The Committee would also like to thank former Secretaries Ms J Middlebrook and Ms A Stewart, and former Administrative Assistants Ms F Coates and Mrs A Lamb.

1 Replaced Senator G Maguire (discharged 27 May 1993)

2 Replaced Senator S Spindler (discharged 19 August 1993) who had replaced Senator K Sowada (discharged 27 May 1993)

3 Replaced Senator R Kemp (discharged 19 August 1993)

4 Appointed 28 October 1993

5 Appointed 17 November 1993

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APPENDICES:

ABBREVIATIONS:

ABC	Australian Broadcasting Corporation
ACAL	Australian Council for Adult Literacy
ACT	Australian Capital Territory
AEC	Australian Electoral Commission
AEO	Australian Electoral Officer
AFI	Australians Against Further Immigration
AJRC	Australian Joint Roll Council
ALP	Australian Labor Party
ATSIC	Aboriginal and Torres Strait Islander Commission
ATSIEIS	Aboriginal and Torres Strait Islander Electoral Information Service
CPI	Consumer Price Index
DRO	Divisional Returning Officer
ELMS	Election Management System
MLC	Member of the Legislative Council
PEST	Post Election System
PR	Proportional Representation
PSU	Public Sector Union
RAAF	Royal Australian Air Force
RMANS	Roll Management System
SBS	Special Broadcasting Service
SCAG	Standing Committee of Attorneys-General
TENIS	The Election Night System

REFERENCES

All mentions of "Evidence" in the footnotes refer to either the written submissions (page no. preceded by an "S" eg "pS0871") or the transcripts of public hearings. Evidence from the submissions is listed before evidence from the transcripts.

CHAPTER SUMMARY AND LIST OF RECOMMENDATIONS

CHAPTER ONE: BACKGROUND TO THE INQUIRY

This Chapter includes information concerning the conduct of the Inquiry and selected election statistics.

CHAPTER TWO: POLLING

The most serious complaint of the 1990 election was that voters were obliged to queue for an unacceptably long time in order to record a vote. The Committee examines the strategies used to improve the queuing problem for the 1993 election.

The Committee also makes a series of recommendations on procedures for voting at mobile polling booths, voting by residents of nursing homes and hospitals, remote and isolated area polling practices, and use of "dual booths" (for adjoining electorates).

> ***Recommendation 1:*** **that the AEC notify political parties and candidates at least 48 hours in advance of the date, time and place of a proposed visit of a mobile polling booth to an institution.** (p7)

> ***Recommendation 2:*** **that all patients in institutions be advised of their right to cast a postal vote if they are unable to vote at a mobile polling booth. The AEC should provide advisory forms for distribution in the institutions to assist in this process.** (p7)

Recommendation 3: that standing instructions for AEC officers be amended to make clear that all patients in hospitals and nursing homes are to be presumed able to exercise their right to vote, unless the responsible AEC officer is satisfied on medical grounds that a patient is too incapacitated to cast a vote. (p8)

Recommendation 4: that the AEC improve education for hospital and nursing home administration staff to ensure

- that patients are not deprived of the right to vote, and
- that the rights of party scrutineers are understood and applied consistently. (p8)

Recommendation 5: that section 234 of the Electoral Act be amended to require that

- every elector voting at a mobile polling booth be informed of his or her right to be assisted in casting a vote. Where the elector requests assistance, the officer in charge of the booth shall identify the AEC officers and any scrutineers present, and inform the elector of his or her right to choose any one or none of those present to assist; and
- require that unless the elector's medical condition necessitates the presence of medical staff, only the elector, an AEC officer and a scrutineer nominated by a candidate in the election may be present at the filling out of the ballot paper. (p8)

Recommendation 6: that subsection 226(5)(a) of the Electoral Act be amended to provide that subsection 340(1) (relating to canvassing near polling places) applies to a hospital that is a polling place, or a special

hospital within the meaning of section 225, once such a hospital is actually in use as a polling place rather than from the issue of the writ. (p9)

Recommendation 7: that subsection 225(1) of the Electoral Act be amended so that special hospitals can be gazetted at any time. (p9)

Recommendation 8: that subsection 227(4) of the Electoral Act be amended to delete the requirement for the AEC to gazette the details of visits to remote communities by mobile polling teams, and to insert a requirement that the AEC give maximum public notice of the places, dates and times of such visits. (p10)

Recommendation 9: that subsection 222(2) of the Electoral Act be amended to restrict the right to vote, at a hospital which is declared a polling place, to an elector who is attending the hospital on polling day as a patient or visitor of a patient or an employee in the hospital. (p11)

Recommendation 10: that the AEC, in consultation with the political parties, review procedures to ensure that access to polling booths in remote and isolated areas is equally available to scrutineers for all candidates contesting an election in a Division. (p11)

Recommendation 11: that the AEC minimise the use of dual booths at the next federal election. (p12)

Recommendation 12: that the AEC consult all parties contesting an election about the location of dual booths in a Division. (p12)

CHAPTER THREE: THE SCRUTINY

After the 1990 election, slowness of results was identified as a serious deficiency to be corrected for 1993. The solution was a system known as the "two candidate preferred count", whereby the Australian Electoral Commission (AEC) on election night conducted a provisional distribution of preferences direct to the two candidates most likely to win each House of Representatives seat. The Committee recommends minor improvements to the two candidate preferred count.

The Committee also:

- makes recommendations designed to speed up the Senate count,
- notes computing problems suffered by the AEC on election night,
- suggests that consultation between the media and the AEC be improved to facilitate the accuracy of media reporting on election night,
- notes that the National Tally Room is no longer necessary from a technological point of view, but does not propose that it be abolished, and
- notes controversy surrounding the live broadcast of results from the eastern States to Western Australia while voting was still going on in that State.

Recommendation 13: **that Officers-In-Charge of polling places be granted access before polling day, on a confidential basis, to the names of the candidates selected for the two candidate preferred count.** (p19)

Recommendation 14: **that sections 274 and 284 of the Electoral Act be amended so that the two candidate preferred count is in future extended to declaration vote scrutinies in all electoral Divisions.** (p20)

Recommendation 15: **that section 266 of the Electoral Act concerning the preliminary scrutiny of declaration votes be amended so as to provide that the preliminary scrutiny of declaration votes may begin on the Monday before polling day.** (p21)

Recommendation 16: **that section 273 of the Electoral Act be amended so that, if at any stage of the Senate count the arithmetic based on the group voting tickets shows that only one result is possible, the count will cease and the candidate or candidates will be elected, and so that if the arithmetic based on the group voting tickets shows that the exclusion of a number of candidates is inevitable, those candidates will be excluded in bulk.** (p22)

Recommendation 17: **that section 273 of the Electoral Act be amended so as to permit the Senate scrutiny to be carried out by either the current manual processes or by a computer process based on the same principles as the manual count.** (p23)

Recommendation 18: **that before any such computer process is adopted for the Senate scrutiny, the AEC undertake consultations with all interested parties including this Committee.** (p23)

CHAPTER FOUR: ELECTORAL INTEGRITY

The Inquiry's most controversial topic was the question of whether procedures for enrolment and voting should be tightened to prevent electoral fraud, in particular multiple voting. The majority of the Committee concludes that fraud is not a significant occurrence and did not influence any result at the 1993 federal election. Most of the proposed changes to enrolment and voting procedures examined (including requiring proof of identity for enrolment and voting) are therefore judged critically in terms of their cost, administrative problems and inconvenience to voters.

The Committee does however propose that the AEC pilot a continuous electoral roll review, and give more emphasis to investigating means of cross-checking information on the electoral rolls against other databases. The Committee also recommends improved procedures for removing names from the electoral rolls following objection action.

Other matters examined include the enrolment and voting of Aboriginal people, alleged improprieties in the Queensland electorate of Dickson, procedures for bringing a petition before the Court of Disputed Returns, allegations of mass disenfranchisement of declaration voters by the AEC, concerns arising from supposedly high levels of return-to-sender MP mail, and proposals designed to improve the receipt of enrolment forms by the AEC during the close-of-rolls period.

> ***Recommendation 19:*** **that the AEC keep Parliament advised on progress in converting its on-line Roll Management System (RMANS) from a voter-based to an address-based format.** (p41)

> ***Recommendation 20:*** **that the AEC negotiate with the Department of Immigration and Ethnic Affairs in order to establish more extensive cross-checking of citizenship information.** (p43)

> ***Recommendation 21:*** **that section 92 of the Electoral Act be amended to allow more flexibility in the timing of electoral roll reviews and so as to ensure that roll reviews are conducted between elections on an ongoing basis.** (p48)

> ***Recommendation 22:*** **that the AEC pilot a continuous electoral roll review in a number of Divisions, with the Divisional Returning Officers in question having electoral roll review funding available over a two year period, and the authority to set the most appropriate work program for their own Divisions.** (p48)

> ***Recommendation 23:*** **that the AEC display at the relevant Divisional office and make available to interested parties lists of names proposed for removal from the electoral rolls before those removals are actioned.** (p54)

> ***Recommendation 24:*** **that procedures be amended so that AEC staff, particularly in rural and remote areas, are obliged to record and make use of postal addresses as well as residential addresses. The postal addresses should be provided to parties contesting an election.** (p54)

> ***Recommendation 25:*** **that the AEC, particularly in rural and remote areas, make greater use of telephone checks and co-ordination with local authorities or community groups to clarify residency status before removing names from the rolls.** (p54)

> ***Recommendation 26:*** **that the AEC conduct an evaluation of its enrolment program in remote areas and provide a report on the evaluation to the Committee.** (p54)

> ***Recommendation 27:*** **that subsection 118(5) of the Electoral Act be amended to provide that the period during which a Divisional Returning Officer cannot remove a name from the roll following objection action commences at the close of rolls.** (p55)

> ***Recommendation 28:*** **that section 114 of the Electoral Act be amended so that an elector objecting to the enrolment of another elector on the ground that the challenged elector is of unsound mind need not be enrolled in the same Division, and that section 115 be amended to provide that the $2.00 fee not be required for objections on the ground of unsound mind.** (p56)

Recommendation 29: **that instructions for ATSIEIS Field Officers be amended to make clear that those officers have a responsibility to engage in enrolment activity, as well as their educative role.** (p59)

Recommendation 30: **that section 370 of the Electoral Act, restricting legal representation before the Court of Disputed Returns, be repealed.** (p68)

Recommendation 31: **that section 356 of the Electoral Act be amended so that the security for costs required of a petitioner to the Court of Disputed Returns is $500.** (p69)

Recommendation 32: **that a fine not exceeding $50 be introduced in support of subsection 92(1) of the Electoral Act, relating to provision of information required for preparation, maintenance or revision of the electoral rolls.** (p71)

Recommendation 33: **that the Electoral Act be amended so that during the close of rolls period DROs have the authority to arrange, where practicable, to collect mail directly from mail exchanges and mail sorting/delivery centres in their Division to expedite the processing of enrolment forms before the close of rolls.** (p74)

Recommendation 34: **that section 102 of the Electoral Act be amended so that the hour at which the rolls close be changed to 8pm.** (p74)

Recommendation 35: **that AEC offices open to the public from 8.30am to 8pm during the close of rolls period (Saturday and Sunday included).** (p74)

CHAPTER FIVE: THE NOMINATIONS PROCESS

In this Chapter the Committee:

- notes the continuing uncertainty caused for candidates at the 1993 election by the "foreign allegiance" and "office of profit" provisions contained in section 44 of the Constitution,

- examines arguments for increasing the deposit required of would-be candidates or substantially increasing the number of electors' signatures required in support of a nomination by an independent candidate (the latter option is endorsed),

- recommends various improvements to the process for "bulk nomination" by a political party of its House of Representatives candidates, and

- recommends that the minimum period allowed for candidates to nominate be reduced from 11 days after the issue of the writ to five, in the interests of reducing the minimum election period.

Recommendation 36: **that the Government examine the introduction into the Citizenship Oath of a simple mechanism for the renunciation of foreign allegiance.** (p79)

Recommendation 37: **that the nomination form be amended to clarify the question on compliance with section 44 of the Constitution and remove the "double negative".** (p80)

Recommendation 38: **that subsection 166(1)(b) of the Electoral Act be amended so that the number of signatures required in support of nominations for the House or Representatives and Senate be increased to 100 and 500 eligible voters respectively, and that signatories print**

their names and addresses as well as signing the nomination form. (p84)

Recommendation 39: that subsection 167(3) and sections 177 and 180 of the Electoral Act be amended so that the whole of a political party's bulk nomination of House of Representatives candidates is not invalidated by a) the death or withdrawal of a candidate within that bulk nomination or b) a bulk-nominated candidate also nominating separately. If necessary a bulk nomination should be able to override an individual nomination. (p85)

Recommendation 40: that in the case of a bulk nomination of House of Representatives candidates, nomination refund cheques be directed to the party/person which paid the nomination fee, rather than being addressed direct to the relevant candidates. (p86)

Recommendation 41: that section 167 of the Electoral Act be amended so that a national officer of a registered political party can make a "bulk nomination" of that party's endorsed House of Representatives candidates. If necessary, a national nomination should be able to override a State nomination. (p86)

Recommendation 42: that sections 156, 175 and 176 of the Electoral Act be amended, so that the minimum period from the date of the writ to the close of nominations is reduced to five days (that is, a nominations period of not less than five days nor more than 28 days) with the hour of nomination to be 12 noon and nominations to be declared at 5pm on the same day. (p88)

CHAPTER SIX: POSTAL, PRE-POLL AND ABSENT VOTING

Postal voters in remote areas are sometimes disenfranchised by a combination of slow turn-around times for mail deliveries and the existing procedures for applying for a postal vote. In response to this problem the Committee recommends that those General Postal Voters living 100 kilometres or more from a polling place be immediately sent ballot papers as soon as an election is called, without having to first obtain, fill in and return a postal vote application form.

In the interests of improved service to electors, the Committee also recommends that interstate absent voting be introduced in those electoral Divisions bordering State boundaries. However the Committee rejects arguments that electors casting a pre-poll vote in their own electorate should have an ordinary vote rather than the present declaration vote (where the elector fills in his or her details on an envelope into which ballot papers are placed).

The Committee also makes recommendations concerning the use by political parties of reproductions of the AEC's official postal vote application form.

Recommendation 43: that the Electoral Act be amended to prohibit a postal vote application form, or a reproduction thereof, being incorporated with material issued by any body other than the AEC. (p92)

Recommendation 44: that the Electoral Act be amended as necessary so that a postal vote application form and associated material sent to electors shall nominate only the appropriate office of the AEC as the return address for that application form. (p92)

Recommendation 45: that the AEC provide candidates' scrutineers daily with a list of names and addresses (excluding the addresses for "silent enrolments") of applicants for postal votes. (p93)

Recommendation 46: that subsection 189(3) of the Electoral Act be amended to provide that all information (excluding the elector's name) on postal vote applications from silent enrolment electors be deleted or obliterated before public inspection. (p94)

Recommendation 47: that subsection 186(2) of the Electoral Act be amended so that a General Postal Voter can register to be sent ballot papers and a declaration envelope without a postal vote application form being required, provided that the voter lives more than 100 kilometres from a polling booth. (pp95-96)

Recommendation 48: that subsection 184A(2) of the Electoral Act be amended to include an elector who is caring for someone with a serious illness or infirmity as an elector able to register as a General Postal Voter. (p96)

Recommendation 49: that the Electoral Act be amended as necessary to allow for interstate absent voting in those Divisions bordering State boundaries. (p98)

Recommendation 50: that the Electoral Act be amended as necessary so that an elector may cast a pre-poll vote up to the close of polls in the State or Territory in which the vote is cast. (p99)

Recommendation 51: that section 94 of the Electoral Act be amended so that Eligible Overseas Electors can register:

- within the three month period immediately preceding their day of departure from Australia; and,

- at any time within one year after their actual date of departure, provided that they are enrolled, with the proviso that the initial three year registration period is backdated to commence from the date that they left Australia. (p100)

CHAPTER SEVEN: THE PREFERENTIAL VOTING SYSTEM

The Committee affirms its support for the existing preferential voting system used for the House of Representatives. However anecdotal evidence suggests a lack of public understanding as to how preferential voting works. The Committee therefore recommends a public education campaign.

The Committee also notes controversy surrounding section 329A of the Electoral Act, which bans people advocating (during the election period) anything other than a full and consecutive preferential vote.

Recommendation 52: that the AEC conduct an ongoing public education campaign, through means including the media and the school system where possible, aimed at improving understanding of the preferential voting system. (p103)

CHAPTER EIGHT: CAMPAIGN AND ELECTORAL ADVERTISING AND MATERIAL

The Committee rejects arguments that some form of legislation should be introduced to enforce "truth" in political advertising, and recommends that political parties be allowed to use logos in television advertising in place of the existing "written, spoken and authorised by" announcement which cuts excessively into expensive air time.

The Committee rejects proposals that use of how-to-vote cards should be banned, recommending instead that in addition to traditional methods of distributing how-to-vote-information, the AEC investigate means by which how-to-vote material could be displayed inside polling booths.

The Committee also examines issues related to commentary in the media (for example letters to the editor and publication of lists of candidates), notes AEC programs designed to assist electors in general and groups with special needs, and makes various other recommendations concerning electoral material.

Recommendation 53: **that subsection 328(1) of the Electoral Act relating to publication of electoral material be amended, so that the word "poster" is added to the words "electoral advertisement, handbill, pamphlet or notice".** (p111)

Recommendation 54: **that the Electoral Act and the *Broadcasting Act 1942* be amended as necessary to allow registered political parties to display, for at least one second, a registered party logo and party name as an alternative to the existing "written, spoken and authorised by" announcement used for television advertising.** (p112)

Recommendation 55: **that the AEC investigate means by which how-to-vote material could be displayed inside polling places at future federal elections.** (p113)

Recommendation 56: **that section 332 of the Electoral Act be amended so that, in the case of a letter to the editor, only the author's name and suburb/locality need be shown. The newspaper concerned should still be required to obtain and retain full address details.** (p116)

Recommendation 57: **that section 332 of the Electoral Act be amended so that radio stations are required to obtain (before broadcast) and retain the full name and address of a "talkback" caller during an election or referendum period, with full name and suburb/locality required to be broadcast.** (p117)

Recommendation 58: **that subsections 153(2) and 154(4) of the Electoral Act be amended to provide that receipt and particulars of the writ be advertised in at least one newspaper circulating generally in the State or Territory. The advertising provisions for redistributions in sections 64, 68 and 76 of the Electoral Act should be similarly amended.** (p118)

Recommendation 59: **that in the week leading up to polling day the AEC advertise in the electronic media where and when, in newspapers, a list of polling places can be found.** (p119)

Recommendation 60: **that subsection 393(1) of the Electoral Act be repealed and replaced with a provision stipulating that electoral documents may not be destroyed, amended, defaced or altered in any way prior to a) the Court of Disputed Returns having disposed of petitions disputing an election, or b) the time for filing petitions having expired without any petitions being filed.** (p124)

Recommendation 61: **that section 209A of the Electoral Act be amended to provide that ballot papers may be printed using either a security mark approved by the AEC or a watermark.** (p124)

Recommendation 62: **that the AEC investigate changes to the Senate ballot paper to eliminate any confusion caused by the use of the letters "I" and "J" to identify group voting tickets.** (p125)

Recommendation 63: **that section 102 of the Electoral Act be amended so that DROs are clearly able to accept a facsimile of a "claim for enrolment or transfer of enrolment".** (p125)

Recommendation 64: **that subsection 245(3) of the Electoral Act be amended so that non-voter notices are sent by post "or other means".** (p126)

CHAPTER NINE: THE AUSTRALIAN ELECTORAL COMMISSION

The Committee examines the future structure of the AEC, the computerisation of the AEC and relations between the AEC and the State electoral authorities.

Recommendation 65: **that when available the Minister for Administrative Services refer the AEC's proposals for a revised structure to the Committee for Inquiry and report.** (p132)

Recommendation 66: **that the AEC advise the Committee of steps taken to improve the response of the Roll Management System (RMANS) under peak load.** (p135)

CHAPTER TEN: OTHER MATTERS

The "other matters" examined in this Chapter include:

- a proposal, endorsed by the Committee, to reduce the minimum election period from 33 to 28 days;
- voting rights of prisoners, Norfolk Islanders and the AEC's Divisional Returning Officers; and

ongoing inquiries by the Committee into women's participation in Parliament, election funding and financial disclosure, and the process for redistribution of House of Representatives electoral boundaries.

Recommendation 67: **that section 157 of the Electoral Act be amended to provide that the date fixed for polling shall be not less than 21 days nor more than 30 days after the close of rolls or the date of nomination, whichever comes last.** (p141)

Recommendation 68: **that subsection 93(8)(b) and section 109 of the Electoral Act be repealed, so that an elector is not deprived of the right to enrol or vote on the basis that the elector is a prisoner (except in the event of a conviction for treason or treachery).** (pp143-144)

Recommendation 69: **that section 95AA of the Electoral Act be amended so that Norfolk Islanders who choose to enrol may only enrol in the Division of Canberra.** (p145)

Recommendation 70: **that subsection 274(13) of the Electoral Act, which precludes a Divisional Returning Officer (DRO) from voting in the House of Representatives Division for which he or she is the DRO, be repealed.** (p146)

Recommendation 71: **that subsection 249(4)(b) of the Electoral Act, which provides for annotation of the names of Antarctic electors on certified lists, be repealed.** (p147)

Recommendation 72: **that the AEC report back to the Committee on amendments to section 326 of the Electoral Act, relating to bribery, that would more clearly define the scope and intent of the provision.** (p149)

Recommendation 73: **that section 16 of the Electoral Act be amended to provide that the Commission may delegate its powers "under this Act or any other law", other than its powers under Part IV (Electoral Divisions) of the Act.** (p149)

CHAPTER ONE: BACKGROUND TO THE INQUIRY

1.1 1993 Election Details

1.1.1 The 36th federal Parliament was dissolved on Monday 8 February 1993, and writs issued on the same day for an election for the House of Representatives and a half-Senate election. The electoral rolls closed on Monday 15 February, and nominations closed at 12 noon on Friday 19 February.

1.1.2 As at the close of rolls 11 339 849 electors were enrolled to vote. An additional 9118 electors who turned 18 years of age before or on the day of the election were provisionally enrolled (provisional enrolments are excluded from the close-of-rolls statistics). Enrolment for the 1993 election represented an increase of 672 974 persons or 6.31 percent on the close of rolls total for the 1990 election. In the seven-day statutory period between the issue of writs and the close of rolls, a total of 457 033 enrolment transactions were processed nationally of which 160 700 transactions were for new enrolments[1].

1.1.3 Polling day was Saturday 13 March 1993, with the exception of a supplementary election on 17 April 1993 for the House of Representatives Division of Dickson in Queensland. For the full House of Representatives election the 95.77 percent of eligible voters who voted did so thus[2]:

87.74 percent cast ordinary votes
5.76 percent cast absent votes
0.42 percent cast provisional votes
3.25 percent cast pre-poll votes
2.83 percent cast postal votes

[1]Evidence (AEC) pS0431 and ppS0475-477

[2]Evidence (AEC) pS0444

1.1.4 The informal vote for the House of Representatives was reduced to 2.97 percent in 1993 (3.19 percent in 1990) and for the Senate was reduced to 2.55 percent (3.40 percent in 1990)[3]. The Committee commends the AEC for its efforts to reduce the informal vote, from levels of 6.3 percent for the House of Representatives vote in 1984 and 9.9 percent for the Senate vote in 1983. The substantial improvement in the Senate informal vote reflects the success of group ticket ("above the line") voting, which was introduced in 1984.

1.1.5 The result of the House of Representatives election was that, out of 147 Members elected, 80 were from the Australian Labor Party (ALP), 49 were from the Liberal Party, 16 were from the National Party and two were Independents. Of the 40 Senators elected in the half-Senate election, 17 were from the ALP, 15 were from the Liberal Party, three were from the National Party, two were from the Australian Democrats, one was from the Western Australian Greens, one was from the Tasmanian Independent Senator Brian Harradine Group and one was from the Northern Territory Country Liberal Party[4].

1.1.6 As at 30 June 1993 expenditure on the election, as calculated by the AEC[5], was $46 650 000 excluding $14 155 000 for public funding. Using close of rolls enrolment as the basis, the expenditure per elector to 30 June 1993 was $4.11 or $5.36 including public funding.

[3]Evidence (AEC) pS0428 and pS0472

[4]AEC *Annual Report 1992-1993* p27

[5]Evidence pS0468 and p188

1.1.7 Comparative figures for previous elections and final figures for 1993 are:

	1984	1987	1990	1993
	$	$	$	$
Average Cost per Elector				
Actual Cost	3.13	3.75	4.02	4.25
Constant Prices (Dec '84 base)	3.13	3.05	2.68	2.62

1.2 The Inquiry

1.2.1 Successive Joint Standing Committees on Electoral Matters and their predecessor, the Joint Select Committee on Electoral Reform, have reported on each general election since 1984. On 2 June 1993 the then Minister for the Arts and Administrative Services, Senator the Hon. Bob McMullan, gave the Committee a reference to inquire into "aspects of the conduct of the 1993 federal election and matters related thereto".

1.2.2 Members of the public were invited to make submissions in an advertisement placed in the major daily newspaper in each State and Territory on 5 June 1993, and in a further advertisement placed in the same newspapers on 7 May 1994 calling for submissions on election funding and financial disclosure. In addition, letters were sent to individuals and organisations who had contributed to previous Inquiries, and the Chairman wrote to all Members and Senators on 16 June 1993 inviting them to make submissions.

1.2.3 The Committee received 152 submissions from the public, AEC Central and State offices, AEC staff in the House of Representatives electoral Divisions, various political parties and organisations, Members of federal and State parliaments, State electoral offices, television networks and other organisations. A list of submissions is at Appendix 2.

1.2.4 The Committee undertook seven public hearings through October and November 1993, in Sydney, Brisbane, Melbourne, Perth and Canberra, and a further two public hearings in Canberra in June 1994 to consider election funding and financial disclosure (an interim report on this subject, titled *Financial Reporting by Political Parties*, was tabled on 30 June 1994). A list of the public hearings and the witnesses heard is at Appendix 3.

1.2.5 The submissions and transcripts of evidence from public hearings have been incorporated into separate volumes. Copies of these documents and the interim report are available for inspection at the Committee Secretariat, the Commonwealth Parliamentary Library, the National Library of Australia and various State and university libraries.

1.2.6 Two reports of the committee in the previous Parliament, *1990 Federal Election* and *Ready or Not: Refining the Process for Election '93*, addressed concerns with the conduct of the 1990 federal election, in particular unacceptable queuing at polling places and slowness of results. The Committee is pleased to note that these problems were redressed for the 1993 election, and endorses the Electoral Commissioner's claim that

> the 1993 election, from an AEC operational viewpoint, was probably the most successful of all the elections held since the introduction of the major reforms of the *Commonwealth Electoral Act* which came into effect in 1983...while there were some streams of concern expressed in the submissions, these tended to arise from the legislative framework rather than the performance of the AEC[6].

1.2.7 This report suggests further refinements to the legislative framework (legislative changes since the 1990 federal election are at Appendix 4), and examines remaining administrative concerns.

[6]Evidence p189

CHAPTER TWO: POLLING

2.1 Queuing at Polling Places

2.1.1 In its report *1990 Federal Election*, the committee in the previous Parliament stated that

> undoubtedly the most serious complaint of the 1990 election was that large numbers of people at many polling places around the country were forced to queue for a long time to vote[7].

2.1.2 The committee recommended that the AEC develop a system to gain data on voter turnout patterns and queues at each polling place, and that a formal performance standard be set for a reasonable length of time for a voter to wait to cast a vote (the AEC set this standard at 10 minutes). The committee also recommended that:

> to alleviate queuing problems at future elections the Australian Electoral Commission:
>
> - employ additional staff where necessary to ensure that the ratio of ordinary vote issuing staff to potential voters is at a realistic level
> - revise its National Polling Places Resources Policy to provide flexibility in the staffing and resourcing of polling places...
> - ensure Divisional Returning Officers review polling premises and their management on a regular basis [and]
> - improve training for Divisional Office and polling place staff to ensure that they have all the knowledge and skills necessary to perform more effectively their tasks on polling day[8].

[7]*1990 Federal Election* p7

[8]Ibid pp12-13 and pp27-28

2.1.3 Procedures were revised and the queuing problem was virtually eliminated for the 1993 election, with the Inquiry receiving no complaints about delays in casting a vote. The major political parties confirmed that polling booth procedures had been substantially improved[9].

2.1.4 Voter service in 90 percent of polling places met the AEC's performance standard[10], with either no delays or delays of up to 10 minutes. In the remaining 10 percent of polling places where queues of longer than 10 minutes were experienced, some were the result of large numbers of voters arriving at polling places before the opening time of 8am, and most were less than 15 minutes in duration and/or occurred only once during the day.

2.1.5 In around one percent of polling places delays of longer than 20 minutes were still reported at some stage during the day. The Committee therefore notes with approval that the AEC is continuing to investigate cost effective means of improving the flow of voters at polling places[11].

2.2 Polling Facilities

2.2.1 For the 1993 election, there were 7885 static polling places, 531 pre-poll centres and postal voting centres and 90 overseas voting centres. In addition, there were 486 special hospital mobile teams, 45 remote mobile polling teams and 21 prison mobile teams[12].

2.2.2 Some concerns about polling facilities for the 1993 election are discussed below.

[9]Evidence pS0550 and pS0702

[10]Evidence (AEC) ppS0427-428

[11]Evidence ppS0427-428

[12]AEC *Annual Report 1992-1993* p21

Mobile Polling Booths

2.2.3 Sections 222 to 227 of the *Commonwealth Electoral Act 1918* ("the Electoral Act") allow for mobile polling facilities for electors who would otherwise be unable to vote, such as those in remote areas, hospitals, nursing homes and prisons.

2.2.4 The ALP, Liberal Party and others have expressed concern over procedures at these facilities[13]. The main difficulties are inadequate notice to the parties as to the location of mobile booths, discretion exercised by hospital and nursing home management as to which patients are able to vote, refusal of scrutineer access to voters by hospital and nursing home staff, and concerns about the potential for interference in the elector's ballot. The Committee is also concerned that patients in hospitals and nursing homes where mobile polling booths operate are not being adequately advised that they are entitled to a postal vote, if they are unable to exercise a vote at the mobile booth.

2.2.5 The Committee therefore recommends that the AEC review procedures for mobile polling.

> ***Recommendation 1:*** **that the AEC notify political parties and candidates at least 48 hours in advance of the date, time and place of a proposed visit of a mobile polling booth to an institution.**

> ***Recommendation 2:*** **that all patients in institutions be advised of their right to cast a postal vote if they are unable to vote at a mobile polling booth. The AEC should provide advisory forms for distribution in the institutions to assist in this process.**

[13]Evidence pS0019, pS0133, ppS0557-558, pS0564, pS0704, p280 and pp661-663

Recommendation 3: **that standing instructions for AEC officers be amended to make clear that all patients in hospitals and nursing homes are to be presumed able to exercise their right to vote, unless the responsible AEC officer is satisfied on medical grounds that a patient is too incapacitated to cast a vote.**

Recommendation 4: **that the AEC improve education for hospital and nursing home administration staff to ensure**

- **that patients are not deprived of the right to vote, and**
- **that the rights of party scrutineers are understood and applied consistently.**

Recommendation 5: **that section 234 of the Electoral Act be amended to require that**

- **every elector voting at a mobile polling booth be informed of his or her right to be assisted in casting a vote. Where the elector requests assistance, the officer in charge of the booth shall identify the AEC officers and any scrutineers present, and inform the elector of his or her right to choose any one or none of those present to assist; and**
- **require that unless the elector's medical condition necessitates the presence of medical staff, only the elector, an AEC officer and a scrutineer nominated by a candidate in the election may be present at the filling out of the ballot paper.**

2.2.6 Also, subsection 340(1) of the Electoral Act prohibits candidates from canvassing on polling day within six metres of a polling place. In the recent Fremantle by-election, a visit of a candidate to a nursing home before polling day

raised the provision (subsection 226(5)(a) of the Electoral Act) which states that in the case of "special hospitals" used for mobile polling (hospitals, nursing homes and similar institutions declared as special hospitals by the AEC), subsection 340(1) applies from the date the writ is issued.

2.2.7 The Committee is of the view that the provisions relating to canvassing at hospitals and nursing homes should be made more consistent with the provisions for ordinary polling places, and recommends accordingly.

Recommendation 6: **that subsection 226(5)(a) of the Electoral Act be amended to provide that subsection 340(1) (relating to canvassing near polling places) applies to a hospital that is a polling place, or a special hospital within the meaning of section 225, once such a hospital is actually in use as a polling place rather than from the issue of the writ.**

2.2.8 The AEC seeks an amendment to the Electoral Act to allow special hospitals to be gazetted at any time, not just following the announcement of an election[14]. Such an amendment would bring the provisions for mobile polling booths at special hospitals into line with the more flexible provisions for other types of mobile booths.

Recommendation 7: **that subsection 225(1) of the Electoral Act be amended so that special hospitals can be gazetted at any time.**

2.2.9 Lastly, the AEC submitted that the gazettal provisions for mobile polling booths in remote Divisions cause "timetable problems and a general lack of flexibility", in that the day and time of visit of the mobile polling team is required to be gazetted, as well as the place to be visited[15]. Provided that the legislation imposes an obligation on the AEC to provide public notice of the details of visits, the

[14]Evidence pS0725

[15]Evidence ppS1411-1412

Committee can see no need for these details to be gazetted.

> ***Recommendation 8:*** **that subsection 227(4) of the Electoral Act be amended to delete the requirement for the AEC to gazette the details of visits to remote communities by mobile polling teams, and to insert a requirement that the AEC give maximum public notice of the places, dates and times of such visits.**

Declared Institutions: Voting by Non-Residents

2.2.10 Subsection 222(2) of the Electoral Act provides that where a hospital is a declared institution for voting purposes, the right to vote at that hospital is restricted to staff, patients and their bona fide visitors, unless an appropriate person on the staff of the hospital has agreed to permit "electors generally" there.

2.2.11 The ALP and the Liberal Party submitted that the objective of subsection 222(2) is being frustrated, in that increasing numbers of "electors generally" are being permitted to vote at declared institutions[16].

2.2.12 The Committee believes that the intent of subsection 222(2) to restrict voting at declared institutions to patients, their visitors and employees of the institutions should be affirmed. The discretion provided to an "appropriate person on the staff" to allow general voting is so wide that it defeats the purpose of the provision. Further, the Committee is of the view that the subsection could be amended by deleting the proviso altogether, as there is ample scope for discretion without it.

[16]Evidence pS0561 and ppS0704-705

> ***Recommendation 9:*** **that subsection 222(2) of the Electoral Act be amended to restrict the right to vote, at a hospital which is declared a polling place, to an elector who is attending the hospital on polling day as a patient or visitor of a patient or an employee in the hospital.**

Remote and Isolated Area Polling Practices

2.2.13 In its submission the Liberal Party expressed concern that there is a potential for undue influence or lapse in procedures in remote communities, owing to familiarity between electors and locally based part-time or casual polling officials[17].

2.2.14 The Committee has seen no evidence to suggest that polling in remote areas was not properly conducted. However, it might be prudent to improve scrutineering arrangements so that suspicions of undue influence are not aroused.

> ***Recommendation 10:*** **that the AEC, in consultation with the political parties, review procedures to ensure that access to polling booths in remote and isolated areas is equally available to scrutineers for all candidates contesting an election in a Division.**

Dual Booths

2.2.15 In its reports *1990 Federal Election* and *Ready or Not: Refining the Process for Election '93*, the committee in the previous Parliament noted that use of dual polling places (where a booth is registered as a polling place for two Divisions) had caused confusion for many voters at the 1990 election[18].

[17]Evidence pS0705

[18]*1990 Federal Election* p30 and *Ready or Not* pp13-14

Accordingly, the committee recommended in *Ready or Not* that the AEC minimise the use of dual booths.

2.2.16 The AEC did reduce the number of dual booths from 312 for the 1990 federal election to 274 in 1993. However, the Liberal Party advised that use of dual booths still caused voter confusion in a number of electorates and this view was supported by the Member for Adelaide, whose electorate contained a remarkable six dual booths[19].

2.2.17 The AEC continues to defend dual booths on the grounds of voter convenience and administrative efficiency[20]. Notwithstanding this, the Committee is of the view that use of dual booths should be curbed. Also, the sitting member is at present the only candidate guaranteed to be consulted by the AEC about the location of dual booths in an electorate[21]. The Committee believes that this privilege should be extended to all parties contesting an election.

Recommendation 11: **that the AEC minimise the use of dual booths at the next federal election.**

Recommendation 12: **that the AEC consult all parties contesting an election about the location of dual booths in a Division.**

[19]Evidence pS0064, pS0704, p294 and pp495-499

[20]Evidence pS0450 and pp614-616

[21]Evidence pp617-618

City Halls as Polling Places

2.2.18 In *Ready or Not*, the committee in the previous Parliament noted that the AEC intended to use city halls as polling places for whole States[22]. As expected, this resulted in a faster voting process for those using the facility, greater convenience for the public, administrative efficiency and faster transmission of results[23].

Small Polling Booths

2.2.19 The ALP submitted that the AEC should consider adopting a minimum of 200 voters as the threshold for the continued use of any polling booth located within 15 kilometres of another polling booth, barring hardship or adverse geographic circumstances[24].

2.2.20 The AEC has advised the Committee that current guidelines distinguish between rural and metropolitan polling places. In the country, only those polling places which took fewer than 100 votes at each of the last three elections will be considered for abolition. These guideline numbers were increased between the 1990 and 1993 elections and provided a satisfactory service to electors.

[22]*Ready or Not* p14

[23]Evidence (AEC) pS0429

[24]Evidence pS0555 and pp522-524

2.2.21 With an ever increasing proportion of the vote being cast before election day, the ALP submitted that "it is imperative that pre-polling facilities be available to all voters"[25], especially those in provincial and rural areas.

2.2.22 The AEC informed the Committee that it assesses the requirement for pre-polling facilities before each election. If a requirement is established the AEC makes provision for a pre-poll voting centre. In making the assessment, the AEC has regard to such factors as statistics of voting at previous elections, the timing of the election and the number of electors expected to vote.

[25]Evidence pS0561

CHAPTER THREE: THE SCRUTINY

3.1 The 1990 Scrutiny

3.1.1 It was clear before the 1990 federal election that the House of Representatives vote would be close. The ALP suggested that counting procedures should be modified to allow party scrutineers to monitor the flow of preferences, in order to gain an early indication of the final result. The AEC felt it did not have sufficient time before polling day to implement this suggestion and the request was refused[26].

3.1.2 In the event, results for the 1990 election were only finalised five days after polling day. The committee in the previous Parliament identified slowness of results as a serious deficiency and made three recommendations on the subject, dealing with:

- the need for a notional distribution of preferences in counting the House of Representatives vote;
- systems for recording, processing, transmitting and publicly displaying that vote; and
- the need to improve the counting of the Senate vote to maximise the percentage known on polling night.

[26]*1990 Federal Election* pp43-51

3.2 The Two Candidate Preferred Count

3.2.1 The committee recommended in its November 1992 report *Counting the Vote on Election Night* that the AEC identify the two candidates most likely to win each House of Representatives seat, using "all relevant objective data including historical results"[27], and conduct a provisional distribution of preferences direct to those candidates during the scrutiny (in addition to the full distribution of preferences). The objective was to gain an early indication of the outcome of the full count of preferences, and to thereby ascertain "on the night" the outcome of the election.

3.2.2 The provisional distribution of preferences is known as the "two candidate preferred count". The relevant amendments to section 274 of the Electoral Act came into force in December 1992.

3.2.3 After the close of polls for the election, first preference votes for each polling place were counted and phoned through to the relevant AEC Divisional Office, where they were entered into the computer. The first preference votes were then transmitted electronically to the AEC's central computer and to the National Tally Room.

3.2.4 Once first preference results were phoned in, the two candidate preferred count took place and the results for each polling place were entered into the computer system at the Divisional Office, typically 15-20 minutes after the first preference count. The two candidate preferred data was matched by polling place with historical data, booth-by-booth, from the 1990 election with adjustments as necessary for redistributed boundaries, thereby allowing swings to be accurately reproduced by the AEC computer system and made available. The two candidate preferred result was transmitted from each Divisional Office to the national system in three batches: when the progressive total reached approximately 10 percent,

[27] *Counting the Vote on Election Night* p20

approximately 40 percent and when the final count for the night had been collected by the Divisional Returning Officer (DRO)[28].

3.2.5 The two candidate preferred count proved to be a particularly successful innovation; the aim of providing a clear indication on the night of the result of the election was achieved, including the likely result in seats where the actual result could have taken three or four days to decide[29].

3.2.6 A submission to the Inquiry by independent candidate Mr Ivan Morrow did caution that the two candidate preferred count has created extra work on polling night, and that "the rigour of keeping to proper procedures is extremely important as a general principle"[30]. The Committee emphasises that election results are still determined solely by the full count of preferences - the purpose of the two candidate preferred count is to ascertain more quickly what the final result will be. There were just two Divisions (Hunter and Mallee) where the two leading candidates after the full distribution of preferences were not those chosen by the AEC for the two candidate preferred count[31], and in the great majority of cases the two candidate preferred count provided an accurate indication of final preference flows (a dissenting report on this matter by Senator Lees and Senator Chamarette is at page 167).

3.2.7 Proposed amendments to the conduct of the two candidate preferred count are examined at paragraphs 3.2.8 to 3.2.13.

[28] Evidence (AEC) pS0451 and p192

[29] Evidence (AEC, PSU) pS0429 and pS0825

[30] Evidence pS0375

[31] Evidence (AEC) pS0451 and pp193-194

Staff Training and Procedures

3.2.8 The AEC undertook a comprehensive check of the accuracy of the two candidate preferred count in Victoria. Several days after polling day DROs replicated the election night count for every polling place in the State:

> as a 'rule of thumb' the accuracy of the polling night [two candidate preferred] count was regarded as acceptable if it was within 1 percent of the true figure or, in the case of small polling places, five votes. In Victoria 92% of polling places were within these margins on polling night. There were very few major errors. The most common error (about 3% of polling places) was that too many votes were counted as exhausted. Errors of this sort arose where staff did not look beyond second preferences[32].

Accordingly, the Committee endorses the AEC's stated intention to improve training and procedures[33].

Names of the Preferred Candidates

3.2.9 The committee in the previous Parliament recommended that Officers-In-Charge of polling places not be given the names of the candidates selected for the two candidate preferred count until 6pm on polling night. This recommendation was in part governed by concern, in the event of a three cornered contest, over the AEC appearing to favour two candidates[34]. It was thought that this problem would be avoided if the names of the selected candidates were kept confidential until the close of polling.

[32]Evidence pS0429

[33]Evidence pS0429, pS0825 and pS0978

[34]*Ready or Not* p46

3.2.10 The Committee is satisfied following the 1993 election that this concern was without substance, and notes that the 6pm arrangement placed Officers-In-Charge "under increased pressure at a critical time"[35].

> ***Recommendation 13:*** **that Officers-In-Charge of polling places be granted access before polling day, on a confidential basis, to the names of the candidates selected for the two candidate preferred count.**

Updates of Two Candidate Preferred Figures

3.2.11 When the two candidate preferred count was first being considered, the AEC proposed that primary vote results be transmitted to the Tally Room at the same time as the two candidate preferred figures. This arrangement was referred to as "the nexus". The media networks were concerned about the potential for delay in transmission of primary vote results, and argued that these results should be sent as soon as available[36]. The nexus was dropped, and for the 1993 election two candidate preferred results were instead forwarded to the Tally Room in three batches as the scrutiny progressed.

3.2.12 The AEC is satisfied with the procedures followed during the last election and now does not see any advantage in adopting the nexus concept[37]. It now proposes that rather than being sent in three discrete batches, at the next election the two candidate preferred results be updated progressively on election night but still independently of primary vote results. This system was successfully trialled at a number of by-elections in early 1994 and is supported by the Committee.

[35]Evidence (AEC) pS0451

[36]*Counting the Vote on Election Night* pp9-10 and pp16-18

[37]Evidence (ABC, AEC) pS1525 and ppS1585-1586

The Declaration Vote Scrutiny

3.2.13 The two candidate preferred count was applied to scrutiny of the declaration vote (that is, where an elector has filled out his or her details on an envelope for a postal, pre-poll or absent vote) in those Divisions identified as close at the end of counting on election night. The Committee believes that the two candidate preferred count should be extended to the declaration scrutiny in all Divisions at future federal elections. The AEC advised the Inquiry that

> there is support within the AEC for extending the [two candidate preferred count] to declaration vote scrutinies in all Divisions and reporting those figures through media releases. If the [two candidate preferred] count from polling places was checked, corrected as necessary, and continued as an integral part of the declaration scrutinies, there should be no need to delay the formal distribution of preferences until counting of all first preference votes is finalised. Declaration of the Poll could be based on the [two candidate preferred] figure, except in very close three cornered contests[38].

Recommendation 14: **that sections 274 and 284 of the Electoral Act be amended so that the two candidate preferred count is in future extended to declaration vote scrutinies in all electoral Divisions.**

3.2.14 Also, the Committee agrees that the preliminary scrutiny of declaration votes should be permitted to begin in the week before polling day in the interests of speeding up the count and reducing pressure on AEC staff and computer systems[39]. The Committee emphasises that the "preliminary scrutiny" refers only to the initial checking of electors' details on the declaration envelopes; the actual scrutiny of the declaration votes would still commence after the close of polls.

[38]Evidence pS0451

[39]Evidence (AEC) ppS0728-729

3.2.15 While this approach would require candidates to consider having scrutineers available before polling day, this would be offset by a shorter and less hectic post-polling day scrutineering period.

Recommendation 15: **that section 266 of the Electoral Act concerning the preliminary scrutiny of declaration votes be amended so as to provide that the preliminary scrutiny of declaration votes may begin on the Monday before polling day.**

3.3 The Senate Scrutiny

Preference Flows on Group Voting Tickets

3.3.1 Since ticket or "above the line" voting was introduced for the Senate in 1984 it has been accepted by the great majority of voters, and therefore can provide highly reliable data on preference flows and who the successful candidates are likely to be. However, this information cannot be taken into account under existing tests governing the bulk exclusion of Senate candidates, which require exhaustive exclusion of candidates who obviously have no chance of acquiring a quota[40].

3.3.2 The problem was illustrated by the evidence of the Australian Electoral Officer (AEO) for South Australia, discussing the Senate scrutiny in that State:

> the group voting ticket blueprint by which preferences on some 96% of the ballot papers were being distributed clearly showed that candidate Lees was favoured [for the sixth Senate position] by all preferences before candidate Maguire, the only other real contender for the sixth position, and could not be overtaken no matter what the sequence of exclusions. Nevertheless because the bulk exclusion tests do not allow the election of a candidate as a direct result of a bulk exclusion, a further 135

[40]Evidence (AEO for SA, AEO for WA, AEC) ppS0076-77, pS0215, pS0452 and pp437-438

distributions were necessary to give effect to the obvious election of candidate Lees. This added four days to the process of determining all the successful candidates[41].

3.3.3 The Committee believes that the Electoral Act should be amended so that Returning Officers can take known preferences on the group voting tickets into consideration.

Recommendation 16: **that section 273 of the Electoral Act be amended so that, if at any stage of the Senate count the arithmetic based on the group voting tickets shows that only one result is possible, the count will cease and the candidate or candidates will be elected, and so that if the arithmetic based on the group voting tickets shows that the exclusion of a number of candidates is inevitable, those candidates will be excluded in bulk.**

Computerisation of the Senate Scrutiny

3.3.4 Partial computerisation was introduced for the Senate scrutiny at the 1993 federal election, with all States using a computerised tally sheet. The Committee agrees with AEC Central Office and some Divisional staff that the time has come for non-ticket Senate ballot papers - that is, those ballot papers where the voter has distributed preferences "below the line" - to be entered and verified by computer[42]. The AEC has successfully conducted a trial of such a system in Aboriginal and Torres Strait Islander regional elections (the voting system for these elections being based closely on that for the Senate), whereby the computer program distributes preferences and determines which candidates have been elected. Trials to date indicate complete accuracy and a significant time reduction.

[41]Evidence pS0077

[42]Evidence (J.Raveane, R.Merida and T.Owen, AEC) ppS0300-304, pS0452, pS0973-975 and pp358-363

3.3.5 If similar technology were adopted for the Senate scrutiny, all "below the line" votes would be keyed into the computer, which would automatically verify for formality and identify exhausted votes. The keying in would be verified for accuracy.

3.3.6 Once the keying in of ballot papers had been completed, the computer would identify those candidates who had been elected. Candidates' scrutineers would have access to progressive printouts from the computer, showing at each stage of the count which candidates are elected, surpluses and transfer values and progressive exclusions.

3.3.7 Advice from the Attorney General's Department is that computerising the Senate scrutiny in such a manner would require an amendment to the Electoral Act[43].

Recommendation 17: **that section 273 of the Electoral Act be amended so as to permit the Senate scrutiny to be carried out by either the current manual processes or by a computer process based on the same principles as the manual count.**

Recommendation 18: **that before any such computer process is adopted for the Senate scrutiny, the AEC undertake consultations with all interested parties including this Committee.**

3.3.8 The AEC has informed the Committee that it is monitoring more advanced technologies such as handwriting recognition and optical scanning[44], and studying the prospects of their eventual application at federal elections.

[43]Evidence (AEC) pS0973

[44]Evidence ppS0304-305, pp363-364 and pp620-621

3.4 Computing Problems on Election Night

3.4.1 The Committee notes the report of an external consultant contracted to review the performance of the AEC's Election Management System (ELMS), including The Election Night System (TENIS), that

> the AEC system performed well overall on the night of the 1993 election. The processing of the first preference votes was completed faster than for the previous election. Two-candidate preferred votes were processed on the election night for the first time [and the] heaviest enquiry load ever made on the AEC system was supported....the support effort by all AEC [Information Technology] personnel was of a high standard [and] a similar dedication to the task was demonstrated by the consultants and contractors working with the AEC[45].

3.4.2 However, there were some problems with the system. Both the ALP and the Liberal Party were critical of system failures[46], there were complaints from minor parties about delays in transmitting Senate results[47], and media networks experienced difficulty in accessing AEC figures at a critical time.

3.4.3 Before the election, the AEC promised the networks that transactions would be sent approximately every five minutes containing candidate and Divisional updates. However, between 7pm and 8.30pm - when the bulk of the figures were coming in - the AEC computer system slowed down owing to a hard disc working to maximum capacity and delivered only five transactions. While each of these transactions contained updates from approximately 100 Divisions, and while as a consequence of these five transactions the national first preference figures increased from 21.9 percent to 62.1 percent, the incident nonetheless caused considerable

[45]Evidence ppS0488-489

[46]Evidence ppS0550-551, pS0703 and p502

[47]Evidence pS0372, pS0627, pS0638 and pp65-66

inconvenience to the networks[48].

3.4.4 From 9pm to 10.45pm database problems resulted in the entire data entry and report generation system being unavailable for periods of five to 10 minutes on several occasions, and at 10.45 a database error caused corruption which made the entire data entry and report generation system unavailable until 11.31pm. At this time, over 81 percent of the first preference votes, 65 percent of the two candidate preferred results and 60 percent of the Senate had been counted and entered into the system. At 11.40 updates of the House of Representatives data were resumed[49].

3.4.5 There were contingency procedures in place, involving the use of the manual Tally Board, and relaying of information from the Divisional Offices through a bank of dedicated facsimile machines and telephones.

3.4.6 The ABC and Channel Nine expressed dissatisfaction to the Inquiry over the failures in the feed on election night and what they saw as a lack of consultation (this view is disputed by the AEC). The AEC advised the Inquiry that the two candidate preferred count led to substantial reprogramming and full user testing unavoidably close to election day, and that this might have caused some of the problems in compatibility between the systems of the AEC and the media networks[50]. The AEC also advised the Inquiry that it was devising a timetable for implementing a number of changes and would be consulting the media on those changes[51]. A meeting was subsequently held between the AEC, the ABC and the Nine Network in February 1994, with a national test of TENIS conducted in August. The Committee is keeping this matter under review.

[48]Evidence (Nine Network, ABC, Softway Pty Ltd, AEC) ppS0285-291, ppS0343-344, pS0353, ppS0448-449, pp8-20 and pp28-30

[49]Evidence (Softway Pty Ltd, AEC) pS0353 and pS0449

[50]Evidence pS0447, pS0978 and p25

[51]Evidence pp30-31

3.4.7 The Committee notes that the AEC arranged for a more general review of the election night system by an external consultant[52], who analysed the technical reasons for the failures and made a number of recommendations to enhance the performance of the system. These are technical rather than policy difficulties. The Committee expects that the AEC, and the media networks, will resolve these problems satisfactorily by the time of the next federal election.

3.5 Media Education

3.5.1 The Committee notes the advice of the AEC that

> by 8.30pm EST the system had provided enough data to journalists in the National Tally Room for them to have a good indication that the Government had been returned to office[53].

3.5.2 This advantage was squandered to an extent by some media outlets' poor understanding of the two candidate preferred count. To quote Senator Beahan,

> some [commentators] did not seem to understand that there was a notional distribution of preferences going on and that in fact there was a very accurate picture coming through earlier than usual of what the result would be. There were a few red faces when people realised what had actually happened[54].

3.5.3 There was also a propensity when talking about "swings" for commentators to fail to distinguish between changes in the primary vote (which are affected by the number of candidates contesting a Division) and the more significant

[52]Evidence ppS0486-489

[53]Evidence pS0448

[54]Evidence p653

changes in the two party preferred vote[55].

3.5.4 The Committee suggests that consultation between media organisations and the AEC should be reviewed with a view to improving the accuracy of media reporting on election night.

3.6 The Tally Room

3.6.1 A traditional feature of election coverage in Australia is the National Tally Room, which after each election provides a central point for the collection, display and issue of results of the count across the nation. Users include the media and the political parties.

3.6.2 The AEC informed the Inquiry that

> visitors from overseas - and we always have a number of them at election time - are fascinated by the Tally Room. [It is] in some ways a peculiarly Australian institution...a lot of what we do in the Tally Room is done in other places by either media organisations or political parties[56].

3.6.3 The Tally Room is no longer necessary from a technological point of view. Users could take a direct data feed from the AEC and, in the case of the television networks, broadcast from their own facilities. Also, disposing of the Tally Room would save the public an estimated $200 000[57]. However, the manual Tally Board provides a useful back-up in the event of a failure in the electronic transfer of results. The Inquiry was informed that 96 percent of media representatives in the Tally Room believe it to be a valuable part of the election event for the media, while

[55]Evidence pp612-613

[56]Evidence p611

[57]Evidence (AEC) pp609-612

only three percent believe that the Tally Room could be abandoned[58]. The Committee therefore notes that the Tally Room is no longer an essential facility, but does not propose that it be abolished.

3.7 Live Broadcast of the Scrutiny to Western Australia

3.7.1 On polling day, early figures from the eastern States were being broadcast live to Western Australia with two hours of voting still remaining in that State. Some submission writers suggested that the broadcast to Western Australia should be delayed until the local close of polls, on the ground that Western Australian voters could be influenced by knowing the trend of voting elsewhere[59].

3.7.2 However no evidence was provided in support of this suspicion, and the Committee has some doubts about the practicality of imposing a blackout of early results to Western Australia. Therefore, the Committee does not propose to recommend any form of delay on the broadcasting of results to that State.

[58]Evidence (AEC) pS0436, ppS0446-447 and p610

[59]Evidence (E.Cameron MP, AEO for WA, ABC) pS0096, pS0214, pS0712 and pp21-22

CHAPTER FOUR: ELECTORAL INTEGRITY

4.1 Introduction

4.1.1 The Inquiry's most controversial topic was the perennial question of whether procedures for enrolment and voting should be tightened up to prevent electoral fraud[60], in particular multiple voting - be it in an individual's own name or the names of other electors, in any number of false names placed on the electoral rolls, or in the names of deceased electors. Other forms of fraud include electors who are not entitled to be on the rolls by virtue of being underage or foreign citizens, and electors deliberately enrolling for the wrong House of Representatives Division.

4.1.2 In brief, all objective evidence indicates that fraud is not a significant occurrence and did not influence any result at the 1993 federal election. The Committee therefore believes that many of the proposed changes to enrolment and voting procedures should be judged critically in terms of their cost, administrative problems and inconvenience to voters. To quote the AEC,

> some of the measures discussed [would] tend disproportionately to affect underprivileged or marginal members of society. The burden of inconvenience on voters could well serve to reduce the high level of voluntary compliance with

[60]Evidence (N.Amendolia, W.Barrett, I.Sinclair MP, A.Pussich, Senator D.MacGibbon, S.McArthur MP, D.Ruse, J.Hewson MP, AEO for WA, I.Causley MLA, J and F.Paul, F.Mason, E.Holmes, SA Electoral Commissioner, S.Flanagan, AEC, A.Viney, T.Mack MP, L.Hay, R.Peet, J.Noonan, T.Fischer MP, Liberal Party, Senator G.Tambling, B.Cullen, P.Worth MP, D.Hall, The Enterprise Council, G.Keegan, B.Wilshire, A.Jones, R.Patching, F.Rowell, Ethnic Communities Council of Qld, T.Owen, J.Raveane, R.Merida, D.Rumley, WA Electoral Commissioner, ALP) ppS0001-2, ppS0023-27, ppS0073-74, ppS0078-80, pS0084, ppS0107-108, ppS0110-111, ppS0134-144, ppS0208-209, pS0214, ppS0228-229, pS0294, ppS0309-323, pS0365, ppS0383-389, ppS0457-460, pS0490, ppS0492-497, ppS0534-538, ppS0625-627, pS0631, pS0633, ppS0640-650, ppS0655-686, pS0705, ppS0707-710, ppS0754-759, ppS0763-765, ppS0767-823, ppS0894-907, ppS0909-912, ppS0967-968, ppS0981-1410, ppS1417-1477, pp38-58, pp90-110, p127, pp167-170, pp176-177, p183, pp190-191, pp204-206, pp208-216, pp218-230, pp232-243, pp279-284, pp324-341, pp366-368, pp388-390, pp395-396, p408, pp416-420, pp499-501, pp511-515 and pp671-729

compulsory enrolment and voting which has largely been forthcoming in Australia. Both of these factors would tend to diminish rather than enhance the legitimacy of Australian election processes[61].

4.1.3 Therefore this report does not support several of the changes examined during the Inquiry, such as requiring proof of identity for enrolment and voting purposes, use of a "voter card", closure of electoral rolls as soon as an election is called, or the re-introduction of subdivision voting (a dissenting report from Mr Connolly, Senator Minchin, Senator Tierney and Mr Cobb is at page 153). All of these proposals are examined in more detail in paragraphs 4.3.1 to 4.3.44.

4.1.4 This Chapter also examines procedures for electoral roll review and removal from the roll, Aboriginal enrolment and voting, alleged improprieties in the Division of Dickson, procedures for the Court of Disputed Returns, and various other matters.

4.2 Multiple Marks on Certified Lists

4.2.1 As is the case after every federal election, numerous allegations of widespread multiple voting were made. No factual data was provided to the Parliament that could confirm these allegations, and no petitions were upheld in the Court of Disputed Returns. In the absence of such evidence the Committee can only conclude that the incidence of multiple voting remains low.

4.2.2 Procedures for investigating multiple marks on the certified lists of voters are as follows[62]: immediately after the election the certified lists for each Division are electronically scanned. Reports are produced of the names of those electors against whom are shown two or more marks. Once scanning errors and

[61]Evidence pS0818

[62]Evidence (AEC) ppS0459-460 and ppS0748-751

extraneous markings are eliminated, the remaining names against which two or more marks have been made are investigated by the DRO.

4.2.3 The DRO will typically do this by writing to each elector against whose name a multiple mark is shown, seeking details of the polling place at which, or the method of declaration vote by which, the elector recorded his or her vote.

4.2.4 There were 14 172 such letters sent out in 1993. Of the replies, 7173 revealed cases where the name of an apparent non-voter could be matched with the similar name of an apparent multiple voter; that is, there had been a polling official error whereby the wrong name had been marked off against the certified list.

4.2.5 There were 535 cases where the elector admitted voting more than once. Of these cases, 443 were explainable by circumstances known to the AEC, such as age, infirmity and language difficulties. The remaining 92 cases of admitted multiple voting were referred to the Australian Federal Police for investigation.

4.2.6 As at the end of September 1993, there were 695 cases where the letters seeking information were either returned undelivered (281) or were not answered (414). No further investigations were undertaken in respect to those returned undelivered, although the AEC did commence objection action to remove those names from the rolls[63]. Of the 414 cases where the letter had not been answered, 318 had no further action taken. These were cases where the age of the elector, or other circumstances known to the AEC, were such that it was determined that further action was not warranted. The remaining 96 cases were referred to the Australian Federal Police for investigation.

4.2.7 Of the total of 188 cases referred to the Australian Federal Police, as at October 1993 15 have been dealt with and one of these has been referred to the Director of Public Prosecutions. The AEC generally accepts the advice of the

[63]Evidence p643

Australian Federal Police as to whether to proceed with prosecution action. Often the advice is that further action is not warranted as there has been no wilful attempt to vote more than once.

4.2.8 Of greatest concern was a further figure of 5769 replies where evidence was "inconclusive"; that is, there was no conclusive evidence of polling official error to explain a multiple mark, but as the voter in question denied voting more than once no further action was taken[64]. In 52 of these cases three or more marks were recorded against a name.

4.2.9 The AEC advised the Inquiry that there is no particular pattern evident across Divisions, and even making the unlikely assumption that all 5769 were cases of multiple voting, the figures can be broken down to show that in no Division could the result have been affected.

4.2.10 If the AEC had reasonable grounds for believing that multiple voting had occurred in numbers exceeding the elected candidate's winning margin, it would file a petition disputing the election with the High Court sitting as the Court of Disputed Returns, in accordance with section 357 of the Electoral Act[65]. The Court of Disputed Returns is also available to a candidate or any person qualified to vote in an election. The Court has the power to overturn the House of Representatives result for any Division, or the Senate result for any State, and order a fresh election.

[64]Evidence (AEC) pp641-647 and pp722-723

[65]Evidence pS0537

"Cemetery Voting"

4.2.11 A peculiar variant of multiple voting is "cemetery" or "graveyard" voting, involving votes allegedly cast in the names of deceased electors not removed from the electoral rolls.

4.2.12 The Committee is satisfied that cemetery voting is not a problem in contemporary Australian elections. The Inquiry heard evidence from AEC staff that information from the State births, deaths and marriages bureaucracies, and publication of death notices in newspapers, allows information on deaths to be collated with some accuracy[66]. This information is used to mark deceased electors' names received after the close of rolls on a single certified list in each Division - List number 350. The marks against electors' names on this list are then scanned and compared with marks on lists used for polling. Where there is a multiple mark against an elector's name on List 350 and another list, the circumstances are thoroughly investigated[67].

4.2.13 All but 18 of such multiple marks after the 1993 federal election were conclusively proven to be the result of an error in marking the certified list, or to relate to an elector who had died after the date of casting his or her vote. The investigation did not establish 18 cases of cemetery voting, but merely 18 cases - across all Divisions in Australia - where insufficient documentary evidence existed to prove conclusively that a multiple mark was the result of an error in marking the certified list.

[66]Evidence p167 and pp214-215

[67]Evidence (AEC) ppS0810-811 and p227

4.3 Electoral Malpractice: Proposed Solutions

Early Close of Rolls

4.3.1 Following widespread public complaint after the 1983 election, when the electoral rolls closed the day after the election was called, the September 1983 *First Report* of the Joint Select Committee on Electoral Reform led to the current provision that the rolls close seven days after the issue of the writ for an election[68]. In 1993, 457 033 voters took the opportunity to either enrol (160 700) or to update their enrolment details during this close of rolls period.

4.3.2 The AEC has conceded that there is virtually no scope for any detailed check, before election day, of the relevant enrolment forms[69]. Several people submitted that the rolls therefore ought to close the day an election is announced, in order to prevent false names being registered for multiple voting purposes.

4.3.3 However, investigation by the AEC has not supported suspicions of fraud. Following the 1990 election the AEC conducted a comprehensive audit of all late enrolments in six Divisions: two marginal seats held by the Government, two marginal seats held by the Opposition, and two safe seats as "control" Divisions[70]. Of the 23 240 new enrolments investigated, there were just 72 cases (0.3 percent) where the voter had apparently wrongfully, though not necessarily fraudulently, enrolled. The 72 cases represented around 0.02 percent of enrolment for the election in those Divisions.

[68] *First Report* p110

[69] Evidence pS0772 and p208

[70] Evidence pS0772, pS0815, p205, p690 and p699

4.3.4 For the 1993 election, the AEC investigated enrolment statistics for all Divisions during the close of roll period[71]. It emerged that the average number of new electors enrolling in marginal Divisions was in fact slightly less than the average in non-marginal Divisions. Nationally the proportion of total close of rolls activity made up by new enrolments was also less in marginal Divisions than in other Divisions. Therefore objective analysis does not support suspicions of unusual new enrolment activity in marginal Divisions in the close of rolls period.

4.3.5 A majority of the Committee is opposed to the proposal that the rolls should close as soon as an election is called. Those advocating this course have not substantiated their case. The consequences of an immediate closure, such as the retention on the rolls of out-of-date enrolments and denial of the franchise to thousands of new electors who would otherwise meet all the criteria for enrolment, would be highly regrettable.

Proof of Identity

4.3.6 Several submission writers and witnesses called for documentary proof of identity to be required for enrolment and/or voting purposes. Many advocated use of the "100 points" check implemented under the *Financial Transaction Reports Act 1988* for the purpose of being a signatory to a bank account. Under the 100 points check several of a range of documents, including a passport, citizenship certificate, birth certificate, driver's licence, social security card, Medicare card, credit card or bank passbook, are required to establish identity.

4.3.7 The suggestion is that the AEC could either accept bank accounts for enrolment purposes, and thereby "borrow" the 100 points system, or institute its own scheme operating on the same principles.

[71] Evidence pS0457, ppS0812-813, pp218-219 and pp697-699

4.3.8 The former suggestion is not practical; as the *Financial Transactions Reports Act 1988* only came into operation in February 1991, it could only be applied to holders of bank accounts that had been opened or had signatories added after that date. This is assuming that the AEC would be able to extract such information from financial institutions[72].

4.3.9 Also undesirable would be the creation of an AEC version of the 100 points check. Leaving aside the $37 million per year it costs financial institutions to administer the scheme[73], the 100 points check has imposed an inconvenience upon bank account signatories that would not be acceptable for the voting population.

4.3.10 The Senate Standing Committee on Legal and Constitutional Affairs recently reviewed the *Financial Transactions Reports Act 1988*[74] and took evidence on the operation of the identity verification provisions. The Australian Banker's Association argued that

> the 100 point check system is costly and the identification documents associated with it are too specific and therefore **unduly onerous for the ordinary bank customer, and can be avoided through using false documentation**[75]. [emphasis added]

4.3.11 The Victorian Council for Civil Liberties submitted that

> while most customers can produce sufficient identification, certain groups face difficulties. **These include pensioners, Aborigines, persons living in remote locations, recent arrivals in Australia [and] homeless youths**[76]. [emphasis added]

[72]Evidence (AEC) ppS0905-907

[73]Evidence (AEC) ppS0777-778

[74]Senate Standing Committee on Legal and Constitutional Affairs, *Checking the Cash*

[75]Evidence (AEC) pS0776

[76]Evidence (AEC) pS0777

4.3.12 This last observation in particular summarises why, in the absence of any evidence that the electoral system is being abused, it is not appropriate that proof of identity be introduced for enrolment and voting purposes. The franchise is extended unconditionally to groups such as Aborigines, pensioners, Australian citizens born overseas and persons in remote locations, and it would be unacceptable for the Parliament to jeopardise the proper exercise of their franchise.

4.3.13 Even if the Committee did consider proof of identity to be desirable, there is the issue of how documents would be provided to the AEC. Short of imposing a severe inconvenience on voters (and an immense financial and staffing burden on the AEC) by requiring that those wishing to enrol or update their enrolment should attend personal interviews[77], the current system of "enrolment by mail" would have to continue. As electors could not be expected to consign valuable originals of documentary evidence by mail, photocopies would have to be accepted. Such a system would not effectively deter anyone intent on rorting the system, while the inconvenience imposed on the great majority of honest electors would certainty discourage the updating of enrolment details.

4.3.14 Lastly, proof of identity checks would not be practical given the surge in enrolment activity during the close of rolls period. As explained in paragraphs 4.3.1 to 4.3.5, there should continue to be a statutory period between the issue of the writ for an election and the close of electoral rolls. Obviously, any effective proof of identity check would have to include transactions made during that period, as those of fraudulent intent would otherwise simply enrol after the issue of the writ. However, to impose proof of identity checks on late enrolment transactions would make it impossible to deal with all those transactions quickly enough to enable the printing of the certified lists.

[77]Evidence (AEC) ppS0774-783

4.3.15 As explained by the AEC, those transactions for which checks could not be completed might in effect be treated as if they had not been received before the close of rolls:

> this would cause the rolls to be less accurate than would otherwise have been the case, would also give rise to a massive increase in the number of provisional votes cast, and would antagonise electors whose notified changes were not reflected in the certified lists. The increased number of provisional votes would inevitably slow the finalisation of the results of the election[78].

4.3.16 Alternatively such electors could be granted enrolment "subject to confirmation" and given some sort of provisional vote, to be admitted after the proof of identity checks had been completed. This scheme would also be impractical:

> the names of the electors so affected would have to be annotated on the certified lists so that polling officials would know that they were to be issued with provisional votes. The increase in declaration votes would be over 400 000 on 1993 close of roll figures, and the time needed to complete identification checks...would lengthen the time taken for election results to be finalised to a degree that would undoubtedly be unacceptable to participants in the electoral process, and to the general public[79].

4.3.17 A majority of the Committee therefore does not recommend that proof of identity be required for enrolment or voting purposes.

Use of a "Voter Card"

4.3.18 This proposal would see a card issued to voters before the election and handed in at the polling place, where it would be checked against the electoral roll. The main objective would be to reduce the potential for multiple voting.

[78]Evidence pS0785

[79]Evidence pS0785

4.3.19 Any voter card mailed out to voters in the same manner as existing enrolment forms could easily fall into the hands of a person other than the addressee. Even if this was not the case, the voter card would only be effective in reducing the opportunity for multiple voting in the same name; a fraudulent voter could quite easily apply for multiple cards in fictitious names. As discussed at paragraphs 4.2.1 to 4.2.13, multiple voting in the same name is a phenomenon of marginal importance, is readily detectable by the AEC's scanning of the certified lists of voters, and did not affect the result in any Division at the 1993 election.

4.3.20 To be of value, any form of voter card would probably have to be issued by way of personal interview at an AEC office, with the elector compelled to bring along documentary proof of identity. The same difficulties discussed at paragraphs 4.3.6 to 4.3.17 would be evident. Alternatively, on polling day voters could be required to produce some form of photographic identity document such as a driver's licence, in addition to their voter card. Not every voter could produce such a document, and Western Australia still does not issue a photographic licence[80]. It is probable that the declaration vote would increase, the scrutiny would be delayed, and the system would discriminate against legitimate electors unable to produce such a document.

4.3.21 The issuing of voter cards would be a major administrative exercise. For the cards to incorporate up-to-date enrolment details it would be necessary for the elector to return the card every time his or her enrolment details changed. With some 2 million enrolment transactions conducted each year, the Committee believes that the expense and inconvenience of such a major change is not warranted. As the AEC told the Inquiry,

> anyone who does not receive a card, who does not appreciate the significance of the card, who loses the card, or who forgets to bring the card to the polling place, or whose card is stolen, will be forced to record a provisional vote. This will inevitably increase the provisional vote from current levels, inconveniencing voters and polling

[80]Evidence p708

officials, delaying election results, and increasing costs[81].

Subdivision Voting

4.3.22 In its *First Report*, the Joint Select Committee on Electoral Reform recommended that a voter be allowed to cast an ordinary vote anywhere within his or her electoral Division, rather than being confined to a smaller subdivision. The beneficiaries of this reform were electors whose enrolled subdivisions were not the most convenient for them on polling day. Under the old system, such electors had to either make their way to a polling place within their subdivision or cast an absent vote - even if they were voting elsewhere within the Division for which they were enrolled.

4.3.23 The Liberal Party of Australia, and others, have submitted that Division-wide ordinary voting has increased the potential for multiple voting, in that an elector's name is now on rolls at all polling places within a Division. These concerns have led to calls for the re-introduction of subdivision voting, or the introduction of precinct (or "locality") voting, where an elector's name would appear on only one roll at one polling place.

4.3.24 The only form of multiple voting that these measures would restrict would be multiple voting in the same name, be it in the individual's own name or the name of another elector on the roll for that subdivision or precinct (as opposed to multiple voting in false names placed on the roll). As has already been pointed out, multiple voting in the same name is rare and is readily detectable by AEC scanning of certified lists.

4.3.25 Accordingly, there is little point in provoking a rise in the absent vote by withdrawing the convenience of Division-wide ordinary voting.

[81]Evidence pS1402

Proof of Address

4.3.26 The AEC checks applications for enrolment against valid street number ranges held on its on-line Roll Management System (RMANS). Further checks are conducted, for example through local councils, when an address claimed for enrolment is outside valid number ranges[82]. The AEC also conducts regular habitation reviews to verify the accuracy of enrolment information.

4.3.27 The AEC advised the Inquiry that there would be administrative difficulties and consequent expense if electors were required to provide documentary proof of address. Many documents (such as rates notices) provide proof of ownership, not residence, and generally do not contain the names of all residents at an address.

4.3.28 A preferable means of improving verification of residence would be a major redesign of RMANS, so that individual addresses rather than electors' names become the basis for enrolment records[83]. The AEC has been investigating such a redesign; it believes that RMANS could eventually be expanded to encompass a complete system holding national data on all land parcels (including known use, such as residential, park or commercial) against which addresses claimed for enrolment could be matched and, if not verified, further checked.

4.3.29 Completion of such a redesign is still some time away, but the Committee nonetheless feels that an address-based system would prove to be a worthwhile advance on current practice.

> ***Recommendation 19:*** **that the AEC keep Parliament advised on progress in converting its on-line Roll Management System (RMANS) from a voter-based to an address-based format.**

[82]Evidence pS0787

[83]Evidence (AEC, PSU) ppS0787-788, p548 and pp714-716

4.3.30 Another improvement would be an expansion in cross-checking of electoral rolls against other databases, such as Australia Post records. This proposal is examined in more detail at paragraphs 4.4.10 to 4.4.13.

Voter Marking

4.3.31 Several nations prevent multiple voting by marking the voter's thumb with either visible ink or ink visible only under ultraviolet light. The marks made by either ink vary in durability; in general they fade within four or five days.

4.3.32 While such a system would not result in the same sort of upheaval to existing enrolment procedures as other options canvassed, it would add significantly to the cost of running elections - in particular the cost of deploying additional polling place staff to avoid the sorts of queuing delays experienced in 1990.

4.3.33 In the absence of any objective evidence of widespread multiple voting, the Committee does not recommend that electors be subjected to a "voter marking" scheme.

Proof of Citizenship

4.3.34 The DRO for Rankin in Queensland advised the Inquiry that there is very little likelihood of a non-citizen being detected if he or she ticks the citizenship box on an enrolment card[84]. The DRO described an informal arrangement he had implemented, whereby if an enrolee ticked the citizenship box but was born in a different country he (the DRO) would fax the details to a contact in the Department of Immigration and Ethnic Affairs for checking. He has ceased this practice due to uncertainty about the implications under the Privacy Act.

[84]Evidence pp168-169

4.3.35 As of June 1993 the AEC has been receiving the details on a specific category of elector called "new citizen provisional enrolees", who make a provisional claim for enrolment at the time of registering for Australian citizenship[85]. There is still no detailed check on other categories of electors born overseas, including all those on the rolls before June 1993.

4.3.36 A more detailed check is desirable. The DRO for Rankin, through his informal arrangement, picked up 200 non-citizens attempting to enrol over nine months in his Division. If his informal arrangement were to be formalised for all Divisions it could be of great benefit in improving the accuracy of the electoral rolls.

4.3.37 The Committee accordingly requests that the AEC negotiate with the Department of Immigration and Ethnic Affairs, with a view to implementing the sort of check discussed in paragraph 4.3.34.

> ***Recommendation 20:*** **that the AEC negotiate with the Department of Immigration and Ethnic Affairs in order to establish more extensive cross-checking of citizenship information.**

4.3.38 Despite these concerns, enrolees should not be required to produce documentary evidence of citizenship. The complicated nature of citizenship law means that adequate documentary proof might be difficult to assemble, and assessing such documents would certainly require personal interviews at AEC offices[86]. A majority of the Committee does not believe that such a major logistical exercise should be pursued.

[85]Evidence (AEC) pp208-213

[86]Evidence (AEC) ppS0785-786

Proof of Age

4.3.39 There are no independent checks done on an elector's stated age. As with other pre-conditions for enrolment, an individual's claim on the enrolment form, signed and witnessed by someone already on the roll, is taken as a solemn declaration of truth, with criminal sanctions in the event of a false declaration being detected.

4.3.40 State registers of births, deaths and marriages could not be used to confirm enrolees' ages. The usefulness of such cross-checking would be very limited, due to the high proportion of the Australian population born overseas, the majority of records being only partially computerised, and the fact that many electors will have changed name by marriage or deed poll[87].

4.3.41 Alternatively, documentary proof of age could be required for enrolment and voting purposes. This encounters the same objections as requiring proof of identity, notably the possible disenfranchisement of groups in society who could not provide such documents, for example some Aboriginal communities and people from societies where birth records are not accurately kept[88].

4.3.42 In the absence of even informal feedback from party scrutineers that significant numbers of underage persons are seeking to enrol and vote, a majority of the Committee does not believe that documentary proof of age should be required.

[87]Evidence (AEC) pS0786 and pp232-233

[88]Evidence (AEC) pS0786, pp232-233 and p713

Voting in Ink

4.3.43 Some submission writers argued that voting in pencil should be abandoned in order to prevent tampering with ballot papers. However, individual voters are already free to mark their own ballot papers with a pen if they so desire; they are not under an obligation to use the pencil provided at the polling booth.

4.3.44 No improvement in security would be achieved by marking a ballot paper in an indelible substance[89]. Regardless of the writing implement used, a voter can cross out or alter a mark and replace it without rendering the vote informal. Also, security of ballot papers is guaranteed by all handling of ballot papers being open to observation by scrutineers, and the secure storage of ballot papers in sealed parcels. Allegations of tampering are virtually unheard of, and certainty no evidence of this sort was received during the Inquiry.

4.4 Procedures for Electoral Roll Review and Objection Action

4.4.1 An electoral roll review or "habitation" review was undertaken nationally during 1992, in order to update the rolls before the 1993 federal election and State elections in Queensland, Victoria and Western Australia (the electoral rolls maintained by the AEC are used under "joint roll" arrangements for State elections).

4.4.2 As part of the review, field officers checked the enrolment details of residents at 5.7 million dwellings nationally. A further 350 000 dwellings, generally in remote areas, were reviewed by mail. Direct contact was made with residents at 88 percent of the dwellings under review and resulted in the identification of 1.2 million persons required to enrol, and approximately 650 000 persons who were no longer living at the address for which they were enrolled[90].

[89]Evidence (AEC) pS0909

[90]AEC *Annual Report 1992-1993* p4

4.4.3 The committee in the previous Parliament, in its September 1992 report *The Conduct of Elections: New Boundaries for Co-operation*, looked at alternative strategies for electoral roll review. That report was the outcome of an Inquiry into resource-sharing between State electoral bodies and the AEC. The 1993 election Inquiry also received submissions proposing alternative strategies, including review of the rolls on a continuous basis and cross-checking of the electoral rolls with information held on other databases, such as records of State and federal government authorities.

Continuous Electoral Roll Review

4.4.4 Under current procedures, electoral roll reviews tend to be concentrated over a very short period of time, typically three months every two years, and are generally geared towards an event such as a State or federal election or redistribution. The efficiency of this procedure has been questioned by State electoral authorities and several AEC Divisional staff, and others who would prefer the reviews to be conducted on a continuous basis[91].

4.4.5 Criticisms of this type are not new. As early as 1974, a review of the old Australian Electoral Office recommended that the concentrated review be replaced by a continuous habitation review[92]. Similarly, the DRO for Macpherson told the resource-sharing Inquiry that

> what happens now is that we try to get this photo image of the electorate - clunk - like that and what happens is that we work our butts off going at a particular task furiously and then invariably it takes us months afterwards to process all the information. If we had permanent officers doing a continuous review...then we could structure our work plan in a divisional office and within the Commission as a whole much better[93].

[91]Evidence ppS0880-893, ppS1007-1008, ppS1406-1407, pp357-358, pp364-366, p375, p415, pp420-421, p507 and pp726-727

[92]*The Conduct of Elections* p170

4.4.6 The disadvantages of the current process were set out in a submission by Victorian AEC staff to the 1993 election Inquiry. The main disadvantages are:

- a peak workload on Divisional staff for four to five months every two years;
- heavy reliance on casual staff, as against a continuous review where permanent staff could process the bulk of the work;
- lack of public awareness of the electoral roll review process;
- a high turnover of review officers, owing to the loss of part-time officers who find further employment in the intervening 20 months or so;
- a huge workload placed on Divisional staff in recruiting and training electoral roll review staff for each review;
- a lack of flexibility as to when is the best time to conduct a review in a particular area; and
- an inability to immediately follow up on information gained due to heavy processing requirements[94].

[93]Ibid p171

[94]Evidence (J.Raveane) ppS0882-883

4.4.7 The Committee notes the advice of the Electoral Commissioner that

> the continuous roll reviews have been in our minds; we have discussed those with the State electoral commissioners as a principle...one of the things, by the way, is that the roll review process is one which is cost shared with the States. In fact, they pay half the costs of the electoral roll reviews, with some grumbling, I might add...if we had a continuous roll review and that had cost implications then obviously that would have implications for our arrangements with the States and their willingness to share even that level of cost. I am not arguing against it, I just want to review this[95].

4.4.8 Any move to a continuous review would have to be preceded by an amendment to section 92 of the Electoral Act. As noted during the resource-sharing Inquiry[96], section 92 is far too prescriptive to allow much weight to be given to the needs of the States in updating the joint rolls, as well as restricting any move away from the present "snap" reviews.

> ***Recommendation 21:*** **that section 92 of the Electoral Act be amended to allow more flexibility in the timing of electoral roll reviews and so as to ensure that roll reviews are conducted between elections on an ongoing basis.**

4.4.9 The Committee believes that an effective first step towards continuous roll review would be to trial such a system in a number of Divisions.

> ***Recommendation 22:*** **that the AEC pilot a continuous electoral roll review in a number of Divisions, with the Divisional Returning Officers in question having electoral roll review funding available over a two year period, and the authority to set the most appropriate work program for their own Divisions.**

[95]Evidence pp726-727

[96]*The Conduct of Elections* p174

Cross-Checking of Electoral Information Against Other Databases

4.4.10 The other improvement to roll maintenance examined during the Inquiry was cross-checking of electoral rolls against information held on other databases. Such a process could complement or partially supplement the existing habitation review process.

4.4.11 Suitable databases might be those of Australia Post and Telecom, and those of State instrumentalities responsible for provision of electricity, water and gas services, drivers' licences and motor vehicle registration. Local council records might also be suitable.

4.4.12 The DRO for Rankin nominated one variation on cross-checking with other databases, whereby such checks would allow a better targeted habitation review:

> I did a random sample in my office recently of the latest habitation review that I conducted. I took six habitation walks from different areas and was able to find out that of the habitations we visited there were no changes at 62 percent of the habitations. So we are in the ridiculous situation that we are paying money for information we already hold. I believe that what we have to look at is a way of targeting those other 38 percent of households. I believe we could do this by using information held by local councils....by running these lists against the information we already hold, we could then send those review officers to those houses where the information differed[97].

4.4.13 During the Inquiry the AEC warned of legislative impediments to cross-checking with other databases, but did not provide any substantial detail (the AEC advised that it had not yet had any legal advice). Notwithstanding a trial being conducted with Australia Post[98], the Committee believes that the AEC should

[97]Evidence p166

[98]Evidence (AEC) pS0784 and pp706-707

negotiate with other agencies (in consultation with the Privacy Commissioner) concerning the possibility of cross-checking with their data where this is relevant to the accuracy of the electoral roll. The Committee should be kept informed of the progress of these negotiations.

4.4.14 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney and Mr Cobb adding a further recommendation to the above comments is at page 156.

4.4.15 The Committee is surprised at the lack of progress made by the nation's electoral authorities in examining alternatives to current electoral roll review procedures. Joint studies seem to be still in the early planning stages, with some uncertainty over co-operative arrangements between the State electoral bodies and the AEC[99]. The Committee is also concerned that staffing arrangements have yet to be finalised for the proposed Australia Joint Roll Council. Chapter Nine (The Australian Electoral Commission) also refers.

4.4.16 Notwithstanding moves by the AEC and the other electoral authorities to address some of the recommendations made in *The Conduct of Elections*, the Committee believes that further impetus could be provided if the Government were to make its official response. The Committee is concerned at the lack of a Government response and again draws the attention of the Parliament to the recommendations of its predecessor that:

- where a review is timed to meet Commonwealth needs (for instance an election or redistribution) that cost be carried by the Commonwealth;

- where a review is timed to meet State/Territory needs (for instance an election or redistribution) the cost be carried by the State/Territory concerned;

[99]Evidence (AEC) pp708-710

- where a review is timed to meet Commonwealth and/or State/Territory needs the cost be shared equally between the Commonwealth and the State/Territory concerned; and that

- consideration of alternatives to habitation reviews be undertaken by the proposed Australian Joint Roll Council (AJRC).

The Committee takes this opportunity to remind the Government of its long-standing commitment to respond to committee reports within three months of their tabling.

4.4.17 In summary, the Committee recognises the difficulty of investigating alternative procedures. As the AEO for Western Australia has said,

> it will be interesting to see if the critics ever get around to discovering something which will
>
> - Completely cover the whole electorate and be dedicated to the task in hand
> - Identify eligible electors only (i.e. age, citizenship)
> - Result in the actual receipt of a claim card from eligible electors
> - Accurately identify cases where electors have moved residence permanently
> - Satisfy those who are concerned about the integrity of the roll
> - Satisfy the provisions of the Privacy Act[100].

Objection Action

4.4.18 Part IX of the Electoral Act contains procedures for the removal of a name from the electoral rolls following objection action. A person enrolled for a Division may object to the enrolment of another person for that Division, and a DRO is required to object to a person's enrolment for the Division, if there are reasonable

[100]Evidence pS0941

grounds for believing that the challenged elector is not entitled to be enrolled for that Division.

4.4.19 Once a DRO has decided to proceed with objection action, a notice of objection is sent out to the challenged elector. If a satisfactory response has not been received within 20 days, the DRO is required to determine the objection. Having done so, the DRO sends the elector a written "notice of determination", usually to the effect that the elector's name has been removed from the roll.

4.4.20 Several witnesses advised the Inquiry that objection action relies too heavily on mail deliveries getting through to a residential address, with a disproportionate impact on electors in remote areas[101]. This is because there is no street delivery of mail in many remote and rural areas. As such, mail sent by the AEC or political parties to a residential address will often be returned to sender, and will thereby become the trigger for objection action. The objection notice - if sent to the same address - will also fail to get through, and the addressee will most likely be removed from the roll.

4.4.21 Particular problems were caused by objection action in Western Australia[102]. Between 7 and 9 December 1992 the names of 51 518 electors in that State were removed from the rolls following the AEC's 1992 electoral roll review. A computer printout of the names and addresses was sent to the three major political parties on 21 December 1992, which left very little time for people to be located and re-enrolled before the 18 January 1993 close of rolls for the State election. On polling day (6 February) over 16 000 cards were taken at the polling place when people arrived with the intention of voting and found that they were not enrolled. Under the Western Australian State Electoral Act (and unlike

[101]Evidence (ALP, G.Gallop MLA, T.Stephens MLC, K.Leahy MLA, Senator M.Beahan) pS0552, pp443-448, pp450-458 and pp654-659

[102]Evidence (D.Rumley, AEO for WA, ALP, WA Electoral Commissioner, G.Gallop MLA, T.Stephens MLC, K.Leahy MLA, Senator M.Beahan) ppS0173-181, pS0213, ppS0216-218, pS0552, pS0832, ppS0914-932, pS0936, pS0940, pp387-415, pp441-448, pp450-464 and pp653-655

Commonwealth legislation) electors who arrive at polling places to find their names have been removed by objection action cannot be awarded a provisional vote.

4.4.22 All parties involved, including the AEC, agree that the bulk deletion should have been carried out somewhat earlier than December 1992. The effect of the late deletion was compounded by the fact that lists of deletions are only provided to interested parties, such as State and federal Parliamentarians, after the names have been removed from the rolls. The difficulties this posed in Western Australia were explained by State MLC Tom Stephens:

> we had to wait until those names were actually removed and then trigger this mass re-enrolment drive to find those people - up and down sand dunes and in and out of bush communities throughout the mining and pastoral region of my own electorate. In that process we were able to effect a massive re-enrolment in our own electorate which was particularly important to those people[103].

4.4.23 Mr Stephens and fellow Western Australian politicians Geoff Gallop and Kevin Leahy advocated closer co-operation between the AEC and local bodies or authorities who could assist with residency information. They also suggested that the AEC could make use of telephone checks, instead of just relying on mailed objection notices getting through to the addressee.

4.4.24 The Committee concludes that the AEC should review its procedures to ensure that, when mail is returned undelivered from addresses in rural and remote areas, it institutes adequate follow-up procedures before amending the electoral roll. Such follow-up action would be consistent with subsection 118(2) of the Electoral Act, which states that before determining an objection, a DRO may make any inquiries the officer considers necessary to ascertain the facts in relation to the objection.

[103]Evidence p450

Recommendation 23: **that the AEC display at the relevant Divisional office and make available to interested parties lists of names proposed for removal from the electoral rolls before those removals are actioned.**

Recommendation 24: **that procedures be amended so that AEC staff, particularly in rural and remote areas, are obliged to record and make use of postal addresses as well as residential addresses. The postal addresses should be provided to parties contesting an election.**

Recommendation 25: **that the AEC, particularly in rural and remote areas, make greater use of telephone checks and co-ordination with local authorities or community groups to clarify residency status before removing names from the rolls.**

4.4.25 The committee in the previous Parliament recommended in its report *Ready or Not* that the AEC should review its enrolment practices as they apply in remote areas, and the Committee reiterates this recommendation.

Recommendation 26: **that the AEC conduct an evaluation of its enrolment program in remote areas and provide a report on the evaluation to the Committee.**

4.4.26 The Committee also asks that this review address claims by Western Australian federal and State Parliamentarians that the AEC seems unwilling, in remote areas, to conduct enrolment in areas likely to be the centre of social activity, such as shopping centres and events like festivals and rodeos[104]. Such places are used very effectively by the political parties for enrolment drives.

[104]Evidence (T.Stephens MLC, Senator M.Beahan) p454 and p655

Objection Action - Subsection 118(5)

4.4.27 Subsection 118(5) of the Electoral Act prevents a DRO from removing a name from the electoral roll between the issue of the writ and the close of polling, even though the DRO has already determined that the name should be removed[105]. This provision dates from before 1983; that is, when it was possible for the rolls to close the same day the writ was issued.

4.4.28 In the interests of enhancing the accuracy of the rolls, this subsection should be amended so that a DRO can remove a name up to the close of rolls.

Recommendation 27: **that subsection 118(5) of the Electoral Act be amended to provide that the period during which a Divisional Returning Officer cannot remove a name from the roll following objection action commences at the close of rolls.**

Objection Action - Unsound Mind

4.4.29 AEC Central Office and the DRO for Gellibrand in Victoria submitted that procedures for getting someone of unsound mind, for example an elderly person afflicted by senile dementia, off the electoral roll are excessively bureaucratic and insensitive[106]. At present, a personal objection must be lodged by an elector enrolled for the same Division as the person being objected to, and the standard $2.00 deposit for lodging an objection must be paid.

[105]Evidence (Liberal Party, AEC) pS0704, pS0732 and p280

[106]Evidence ppS0330-331, ppS0731-732, pp369-372 and pp376-380

4.4.30 The inconvenience of these procedures has an undesirable effect on the accuracy of the rolls. The DRO stated that

> in the Division for which I am Returning Officer, I have received over 60 deposits of $2 and Personal Objections from people who have complied with our bureaucratic requirements for roll removal, but many more have complained of our insensitivity and not taken this action[107].

4.4.31 The end result is inflated enrolment, and higher than necessary non-voter levels. Alternatively, family members will untruthfully claim that an elderly relative no longer lives at an address and the elector is then removed by non-residence objection.

4.4.32 Procedures ought to be simplified, and the Committee recommends accordingly.

> ***Recommendation 28:*** **that section 114 of the Electoral Act be amended so that an elector objecting to the enrolment of another elector on the ground that the challenged elector is of unsound mind need not be enrolled in the same Division, and that section 115 be amended to provide that the $2.00 fee not be required for objections on the ground of unsound mind.**

4.4.33 Protection against wrongful removal will still be provided by the requirement under subsection 118(4) that an objection on the ground of unsound mind be accompanied by a medical certificate, and by the fact that an elector wrongfully removed from the roll by objection action can have a provisional vote admitted to the scrutiny after further checking.

[107]Evidence pS0331

Objection for Non-Residence on the Basis of Address

4.4.34 When it is discovered during an electoral roll review that an elector has left his or her enrolled address (and the new address is not known) objection action is initiated by the AEC, on the assumption that the elector has left the Division. The DRO for Gellibrand informed the Inquiry[108] that

> we are making an allegation that the person is no longer living in the subdivision, yet all we basically know is that they have left the particular address that the review officers have been to. [We should] require that the people be objected to on the basis of what we know, which is that they have left the address, rather than on the basis of what we cannot prove [that the elector has left the Division][109].

4.4.35 The DRO drew attention to the problems current procedures pose for management of the joint rolls:

> when we are talking about a person who has moved from one State electorate to another we end up taking them off the State roll and keeping them on the federal roll. Then we have the problem of trying to get them to re-enrol for the State electorate. It is becoming a very messy business...If we were to enrol the people for their new address, we would not have that confusion; we would do it all in one[110].

4.4.36 The Committee can see the logic in the proposal that the basis for enrolment should be address rather than Division, but can also see a danger that electors who fail to keep their enrolled address up to date, but still reside within the same Division, could be disenfranchised. While the basis for public education should certainly be that people notify the AEC if they change address, the Committee does not believe that address rather than Division should be the basis for enrolment and objection action under the Electoral Act.

[108]Evidence ppS0331-333, pp372-375 and pp380-383

[109]Evidence p373

[110]Evidence p374

4.5 Aboriginal Enrolment and Voting

4.5.1 The Aboriginal and Torres Strait Islander Commission (ATSIC) submitted to the Inquiry that

> enrolment and voting have been compulsory for indigenous Australians since 1983 but these are not culturally familiar processes. Additional reasons for non-enrolment appear to include individuals' concerns about registering their names on the electoral roll; feelings that elections are irrelevant; lack of electoral education and cultural restrictions. No reliable data exists from which it is possible to determine the level of existing enrolment[111].

4.5.2 Some issues associated with Aboriginal enrolment and voting are examined at paragraphs 4.5.3 to 4.5.16.

Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS)

4.5.3 The Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS) is a national program which aims to encourage the participation of Aboriginal and Torres Strait Islander people in the electoral process. The service operates through Field Officers, who are AEC contract staff, and Community Electoral Assistants, who are community or organisation-based Aboriginal and Torres Strait Islander people trained to act as an electoral resource in their communities and, where appropriate, to assist with the conduct of elections and other AEC activities[112].

4.5.4 In its September 1991 report *Aboriginal and Islander Electoral Information Service*, the committee in the previous Parliament recommended that ATSIEIS, as it is now called, should place a greater priority on electoral education

[111]Evidence pS0539

[112]AEC *Annual Report 1992-1993* p54

than on enrolment activity[113]. In some regions, therefore, ATSIEIS Field Officers have ceased to undertake enrolment activity and instead have left this activity to the Community Electoral Assistants[114].

4.5.5 This practice has proven unsatisfactory, as highlighted by Tom Stephens:

> over a two-day period we were able to effect an enrolment increase for [a particular] community of something like 30 percent, and that was with people...volunteering to get on the electoral roll without any other incentive than the fact that we were there. To go into an electoral agent's home to find in that home that some seven of the family were not on the electoral roll was a real experience of frustration about the process that had been adopted...in response to the report of your predecessors in this Committee[115].

4.5.6 The present Committee agrees that ATSIEIS Field Officers should place as much emphasis on enrolment activity as on education, and recommends accordingly.

> ***Recommendation 29:*** **that instructions for ATSIEIS Field Officers be amended to make clear that those officers have a responsibility to engage in enrolment activity, as well as their educative role.**

[113]*Aboriginal and Islander Electoral Information Service* pp13-15

[114]Evidence (Senator M.Beahan, AEO for WA, T.Stephens MLC, K.Leahy MLA) pS0067, pp438-439, pp448-449, pp458-460 and pp657-658

[115]Evidence p449

The Objections Process

4.5.7 The deficiencies of the objections process discussed at paragraphs 4.4.20 to 4.4.24 particularly affect Aboriginal electors, given the high proportion of Aboriginal electors living in areas without regular mail delivery to residential addresses[116]. The importance of simple phone checks, as recommended earlier, was explained by Tom Stephens:

> all Aboriginal communities throughout [Western Australia] now have the telephone. It is a simple process, by and large, to ring those Aboriginal communities, speak to the chairman or any of their officers and run through the list of names of people that are being proposed for deletion[117].

4.5.8 This is especially important in light of evidence that a number of Aboriginal people, having been removed from the roll by objection action more than once, now feel alienated from the whole process and refuse to re-enrol[118].

4.5.9 The Inquiry also heard worrying evidence of inappropriate people, namely staff of Homeswest (the Western Australian State housing commission), being chosen to conduct habitation reviews in that State[119]:

> the [Homeswest] officer knocked on doors and asked whether people were living at that house that were on the electoral roll for that address. The presence of those people at those homes in the numbers that they might have been would have effected a change in their rental requirements. The responses led to the Electoral Commission deleting large numbers of people from the electoral roll in, for example, Boor Street in Carnarvon.

[116]Evidence (T.Stephens MLC, K.Leahy MLA, Senator M.Beahan) pp452-455 and pp654-657

[117]Evidence p452

[118]Evidence (K.Leahy MLA, T.Stephens MLC) p453 and p460

[119]Evidence (T.Stephens MLC, K.Leahy MLA, Senator M.Beahan) pp452-453 and p654

4.5.10 This is hardly conducive to the maintenance of accurate electoral rolls. The Committee emphasises to the AEC that staff chosen to perform habitation reviews ought to be appropriate for the environment in which those reviews are conducted.

Assisted Voting

4.5.11 The Northern Territory's Acting Chief Electoral Officer advised the Inquiry that

> assisted voting is a common requirement, particularly in rural areas of the Northern Territory. The assistance level in Aboriginal communities is about 75 to 80%. The Australian Electoral Commission procedure of having nominated people to assist with voting appears to cause confusion as to who can assist and has been known to arouse suspicions of political parties that undue influence might have been exerted[120].

4.5.12 This view was indeed reflected in evidence received from political parties[121]; the Committee expects that such concerns will be lessened by the recommendations in Chapter Two on assisted voting at mobile polling booths and scrutineer access in remote areas.

4.5.13 The Acting Chief Electoral Officer also advised that the Northern Territory Electoral Office uses photographs of each candidate to reduce the need for assisted voting and the incidence of informal voting. The Committee commends this approach to the AEC.

[120]Evidence ppS0336-337

[121]Evidence pS0564, pS0705 and p664

Polling Place Staffing

4.5.14 ATSIC and the Greens W.A both submitted that more Aboriginal staff should be employed at community polling stations, to assist Aboriginal voters with language problems and to engender greater trust in the electoral process[122].

4.5.15 The Committee refers this matter to the AEC for consideration in reviewing its polling place strategies for the next election.

Interstate Absent Voting

4.5.16 Senator Michael Beahan submitted that interstate absent voting should be provided for Aboriginal communities in the border area of South Australia, the Northern Territory and Western Australia. This proposal is examined in Chapter Six (Postal, Pre-poll and Absent Voting).

4.6 Dickson

4.6.1 Following the death of a candidate after the close of nominations, the House of Representatives election for Dickson in Queensland was deemed to have failed in accordance with section 180 of the Electoral Act. A supplementary election was held on 17 April 1993 and won by the Attorney General, the Hon. Michael Lavarch MP.

4.6.2 A Queensland-based organisation called the Enterprise Council submitted that the result in Dickson was "manufactured"[123], owing to:

[122]Evidence pS0224 and pS0540

[123]Evidence ppS0754-759 and ppS0984-S1400

- electors not residing at their enrolled addresses;
- non-existent or deceased electors at caravan parks;
- electors voting in the name of religious non-voters;
- multiple surnames enrolled at individual households;
- a high level of return-to-sender MP mail; and
- a high level of non-voting when compared with the State average.

4.6.3 The Enterprise Council charged that the AEC had acted improperly in not seeking to challenge the Dickson result in the Court of Disputed Returns.

4.6.4 The AEC responded to each allegation as follows[124]:

- the only basis for alleging that electors were not at their enrolled addresses is a list of return-to-sender MP mail, and the Enterprise Council provides no evidence that any of the electors it refers to were not entitled to vote in Dickson;
- evidence put forward by the Enterprise Council does not address its proposition that electors at caravan parks "did not exist";
- of the three deceased electors referred to by the Enterprise Council, one died after the supplementary election, and no votes were recorded in the names of the other two;

[124]Evidence ppS1417-1477

- the Enterprise Council provides no evidence that any religious non-voters had votes cast in their names;

- the evidence put forward by the Enterprise Council relating to multiple surnames enrolled at households is severely flawed, by failure to explain why different surnames in a household should be regarded as indicating fraudulent enrolment, by factual errors, and by basic misunderstandings such as asserting that nine people were enrolled for one house. In fact, all nine had merely listed their enrolled address as Old Gympie Road, Dakabin (in common with many rural areas, there are no street numbers on this road);

- the accusation of a high level of return-to-sender MP mail is based solely on envelopes obtained in a dubious fashion from the office of the Liberal candidate. The envelopes have not been forwarded by the Enterprise Council to the AEC for investigation, despite such a request being made by the AEC nearly a year ago; and

- the lower voter turnout in Dickson compared with the State average reflects a long-standing pattern of a lower turnout for by-elections than for general elections.

4.6.5 Having examined both submissions, the Committee is satisfied that the evidence put forward by the Enterprise Council fails to substantiate its allegations. This view would appear to be shared by the Liberal candidate in Dickson, Dr Bruce Flegg, who has advised the AEC that

> the Enterprise Council...in no way speak for me and I in no way support their misguided campaign[125].

[125]Evidence pS1425

4.6.6 The AEC did not act unreasonably in declining to challenge the Dickson result in the Court of Disputed Returns. The Committee therefore finds the Enterprise Council's accusation of political interference or improper collusion between the Commonwealth Government and the AEC[126] to be unfounded.

4.7 The Court of Disputed Returns

4.7.1 Petitions to the High Court sitting as the Court of Disputed Returns must be filed in the Registry of the High Court within 40 days of the return of the writ for an election. There were eight petitions filed after the 1993 federal election, of which one was not accepted by the High Court on the ground that the petitioner had previously been judged a vexatious litigant. The seven remaining petitions were all dismissed or withdrawn.

4.7.2 Of the seven petitions lodged[127]:

- two by Mr Patrick Muldowney challenged all House of Representatives and Senate elections on the ground that freedom of speech had been inhibited by section 329(A) of the Electoral Act (Chapter Seven refers);

- a petition by Mr Ian Sykes disputed all elections on the ground of various alleged breaches of section 44 of the Constitution (Chapter Five refers);

- a petition by Mr Ivan Pavlekovich-Smith disputed all elections on the ground that incumbent candidates had an unfair advantage;

[126]Evidence pS1019

[127]AEC *Annual Report 1992-1993* pp30-31, Evidence (AEC) ppS0462-464 and ppS0842-877

- a petition from Mr Robert Hudson disputed the election for the Division of Dobell on the ground that the incumbent candidate had an unfair advantage;

- a petition from Mr John Robertson disputed all elections on the ground of defamation; and

- a petition from Mr Alasdair Webster, the Liberal candidate for Macquarie, disputed all House of Representatives elections on the ground of various alleged irregularities.

Preparation of Petitions

4.7.3 Consideration of these petitions has enabled the Court of Disputed Returns to clarify several issues of practice and procedure, as follows:

- petitioners, other than candidates and the AEC, must be qualified to vote by being enrolled at the date on which the election was held (in practical terms, the date of the close of rolls);

- petitioners cannot challenge the election at large but only those elections for which they were a candidate or were qualified to vote, that is, in the Division for which they were enrolled for the House of Representatives, and the State or Territory in which they were enrolled for the Senate;

- petitions must set out all the facts relied on to invalidate the election; moreover, no amendment of the facts relied on will be allowed if more than forty days have elapsed since the return of the writ for the election. Otherwise the amendments would in effect evade the requirement that the petition be filed within that time;

- if alleging illegal practices, the petition must establish that the result of the election is likely to have been affected by the illegal practice; and

- only illegal practices within the meaning of that term under the Electoral Act can invalidate an election.

4.7.4 Dr Sue Flanagan, on behalf of a group including the petitioner in the Macquarie case Mr Alasdair Webster, submitted that procedures for the Court of Disputed Returns are restrictive and actively discourage any challenge. Their concerns included the Court's preliminary hearing procedures, rules relating to the viewing of electoral material, the fact that one petition cannot challenge the whole of a general election result, and the requirement that no amendment be made to the facts relied on to invalidate an election result forty days or more after the return of the writ[128].

4.7.5 However the Committee was not persuaded that Court procedures have operated in the past, or would operate in the future, to prevent the thorough review of a contested election. Therefore the Committee does not see a need for a full review of procedures for bringing a petition before the Court of Disputed Returns.

Legal Representation

4.7.6 During one of the hearings before the Court of Disputed Returns, Justice Gaudron made a number of observations on the ease with which petitions which may have no legal merit can be lodged[129]. In particular, with reference to section 370 of the Electoral Act which provides that no party to a petition shall, except by consent of all parties or by leave of the Court, have legal representation,

[128]Evidence pS0384, ppS0387-388, ppS0760-762, pS0764, pS0909, pS1406, pp39-40, p45 and p53

[129]Evidence (AEC) ppS0855-858

Justice Gaudron stated that

> very rarely do you have a provision such as this - you do in some Acts, but not commonly - no legal representation except by leave. So what you are doing is you are in fact encouraging people to come to the Court with arguments that do not necessarily have a basis in law....I was hoping maybe that the legislature might see fit to do something with respect to the provisions as they stand[130].

4.7.7 These provisions were originally included in the Electoral Act in order to protect elected parliamentarians from wealthy and vexatious petitioners, however the AEC advises that section 370 is now dated and inconsistent:

> modern day realities are that respondents will rarely appear without legal representation, and more often than not will hire a Queen's Counsel whose fee is guaranteed from party or other sympathetic resources. It is also unlikely that the court would decline to consent to such representation if there were to be any objection from the petitioner. This suggests that section 370 of the Act, limiting legal representation, no longer serves any practical purpose[131].

4.7.8 The Committee agrees with Justice Gaudron and recommends that section 370 of the Electoral Act be repealed. Petitioners will still have the option of appearing without legal representation.

> ***Recommendation 30:*** **that section 370 of the Electoral Act, restricting legal representation before the Court of Disputed Returns, be repealed.**

[130]Evidence pS0856

[131]Evidence pS0857

Fees Payable by Petitioners

4.7.9 For the average petitioner it costs $900 to lodge a petition with the Court of Disputed Returns. High Court filing fees make up $800 of this amount, but can be waived if the petitioner is the holder of a health card or faces other financial constraints. The other $100 is a deposit as security for costs required under section 356 of the Electoral Act. There is no provision for waiver of this fee.

4.7.10 The AEC submitted that the $100 security for costs provides little meaningful deterrent to the lodging of vexatious or frivolous petitions, and could be increased. The amount has effectively not increased since 1902, and was originally set at a low level in part because the ban on legal representation would keep respondents' costs similarly low[132]. The AEC submitted that if the ban on legal representation were to be repealed as recommended,

> then the logical nexus between that provision and section 356 which sets a low $100 as the petitioner's deposit for security for costs would fall away[133].

4.7.11 The Committee concludes that a person wishing to lodge a petition in the Court of Disputed Returns should be required to give security for costs sufficient to deter a vexatious or frivolous petition.

> ***Recommendation 31:*** **that section 356 of the Electoral Act be amended so that the security for costs required of a petitioner to the Court of Disputed Returns is $500.**

[132]Evidence pS0857

[133]Evidence pS0858

AEC Use of Electoral Material

4.7.12 The AEC has expressed some concern about its rights under the Electoral Act to deal with electoral material while petitions are being cleared through the Court of Disputed Returns. This matter is examined in Chapter Eight (Campaign and Electoral Advertising and Material).

4.8 Other Matters

Enforcement of Compulsory Enrolment

4.8.1 Subsection 92(1) of the Electoral Act imposes a duty on, inter alia, "all occupiers of habitations" to furnish to the AEC all such information as the AEC requires in connection with the preparation, maintenance or revision of the rolls.

4.8.2 However, the DRO for Rankin informed the Inquiry that

> I am yet to prosecute one elector for failure to enrol, and I assure you that the people who do not want to enrol do exist. While prosecutions are the least desirable of the duties of a Returning Officer, our failure to address this problem has inadvertently led to a situation of voluntary enrolment[134].

4.8.3 The DRO for Gellibrand told the Inquiry that

> section 92(1) of the *Commonwealth Electoral Act 1918*...provides that information that we gather shall be made available to the electoral officers to prepare, maintain or revise the electoral rolls. Some residents are being obstructive to this purpose. When you go to their door they say, "no, I am not interested in that". I believe that this is partly because there is no penalty provision to support that section of the

[134]Evidence p165

Electoral Act[135].

4.8.4 The Committee believes that there should be a penalty in support of subsection 92(1), and recommends accordingly.

> ***Recommendation 32:*** **that a fine not exceeding $50 be introduced in support of subsection 92(1) of the Electoral Act, relating to provision of information required for preparation, maintenance or revision of the electoral rolls.**

"Mass Disenfranchisement" by the AEC

4.8.5 Submissions and evidence to the Inquiry from Dr Sue Flanagan and Mr Richard Peet alleged that the difference of 53 397 between the total number of Senate votes cast and the total number of House of Representatives votes cast meant that 53 397 electors had been disenfranchised[136], by virtue of the AEC giving them the wrong ballot paper for the House of Representatives.

4.8.6 The AEC responded that the allegation

> is a total fallacy. There are a number of ways in which there can be a difference between the number of House of Representatives ballot papers and the number of Senate ballot papers in the count. One is that, whatever we put in the way of resources into guarding ballot boxes in polling places, there are some people that will walk out with a ballot paper, for whatever reason...secondly, it is also the case that a number of declaration votes, or declaration vote certificates, are received where the elector omits to put both ballot papers in the declaration envelope. Now again, because of the smaller nature of the House of Representatives ballot paper, it is easy to omit to put that in. Thirdly, there are people who give us an address when they

[135]Evidence p376

[136]Evidence ppS0384-385, pS0642, pS0644, pS0760, pS0762, ppS0766-767, ppS0907-909, p39, pp41-42, pp47-48, pp51-53 and pp677-679

> declare for their enrolled address, we give them a ballot paper for that Division and then we find that they are in fact on the roll for [an address in] another Division. Now that has not been our, or the AEC staff's, in any way giving these people a wrong ballot paper[137].

4.8.7 The AEC have sought to break down the figure of 53 397 against the three categories. There were 7723 fewer House of Representatives ballot papers than Senate ballot papers placed in ballot boxes, due largely to House of Representatives ballot papers being removed from the polling place; 3068 fewer House of Representatives ballot papers than Senate ballot papers were placed in declaration envelopes; and there were 39 610 cases that the AEC believes were due to declaration voters claiming enrolment for the wrong address. An outstanding 2996 are largely accounted for by the different dates for the Senate and House of Representative elections in Dickson[138].

Return to Sender MP Mail

4.8.8 Submissions from several individuals and MPs expressed concern about apparently high rates of return-to-sender MP mail, suggesting that such mail indicates a high level of incorrect names or addresses on the electoral rolls. These claims are refuted by the AEC, which advised the Inquiry that it investigates names and addresses on return-to-sender mail forwarded to it.

4.8.9 One recent investigation in a marginal Division produced no evidence of fraudulent enrolment; indeed, "the evidence examined has tended to reinforce the view that the enrolment system is operating as intended"[139]. In the study in question, late-December 1992 roll data was being used for a March 1993 mail-out.

[137]Evidence p677

[138]Evidence ppS0907-909

[139]Evidence (AEC) ppS0457-459 and ppS0814-815

The AEC has emphasised the importance of Members and Senators using only the most current enrolment information for mail-outs; failure to do so can give rise to unfounded allegations of inaccuracies in the rolls.

4.8.10 Those organisations who believe that mail returned unclaimed to them indicates inaccuracies in the rolls always have the option of instituting objection action against the electors in question, as provided for in subsection 114(1) of the Electoral Act. As the AEC points out, there has been a dearth of such private objection action[140].

Receipt of Enrolment Forms During the Close of Rolls Period

4.8.11 The DRO for Forde in Queensland informed the Inquiry that a significant number of enrolment forms are always received through the mail on the morning after the rolls have closed[141]. Under subsection 102(4) of the Electoral Act, these enrolment forms cannot be processed until after the close of polling for the election.

4.8.12 In Forde, over 150 enrolment forms were received through the mail on the day after the close of rolls:

> across all the 147 Divisions Australia-wide...that would translate into in excess of 22 000 people across the country failing to get their enrolment forms processed simply because the form missed the last mail clearance the day before[142].

[140]Evidence pS0815

[141]Evidence ppS0409-410

[142]Evidence pS0409

4.8.13 In the interests of enhancing the accuracy of the rolls used on election day, DROs should be able to collect mail directly from mail exchanges and sorting centres during the close of rolls period.

> ***Recommendation 33:*** **that the Electoral Act be amended so that during the close of rolls period DROs have the authority to arrange, where practicable, to collect mail directly from mail exchanges and mail sorting/delivery centres in their Division to expedite the processing of enrolment forms before the close of rolls.**

4.8.14 The DRO for Forde also submitted that the AEC's office hours during the close of rolls period of 8am to 6pm Monday to Friday make it difficult for many electors who work during the day to update their enrolment[143]. He suggested that the roll close deadline of 6pm poses similar difficulties.

4.8.15 The Committee believes that the AEC's office hours should be substantially extended during the close of rolls period, and recommends accordingly.

> ***Recommendation 34:*** **that section 102 of the Electoral Act be amended so that the hour at which the rolls close be changed to 8pm.**

> ***Recommendation 35:*** **that AEC offices open to the public from 8.30am to 8pm during the close of rolls period (Saturday and Sunday included).**

[143]Evidence ppS0406-408

CHAPTER FIVE: THE NOMINATIONS PROCESS

5.1 Statistics

5.1.1 A total of 1208 candidates nominated for the federal election. There were 266 candidates for the 40 Senate vacancies, and 942 candidates for the 147 House of Representatives seats. In total there were 203 more candidates than for the 1990 election[144].

5.2 Section 44 of the Constitution

5.2.1 Section 44 of the Australian Constitution is concerned with eligibility to be chosen or to sit as a Senator or Member of the House of Representatives. As with past elections, uncertainty was caused in 1993 by sections 44(i) and 44(iv).

5.2.2 Section 44(i) states that any person who:

> is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power

shall be incapable of being chosen or of sitting as a Senator or a Member of the House of Representatives.

5.2.3 Section 44(iv) states that any person who:

> holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth

[144]Evidence (AEC) pS0440

shall be incapable of being chosen or of sitting as a Senator or a Member of the House of Representatives. However subsection iv

> does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

The Cleary Case

5.2.4 Following the 11 April 1992 by-election for the Division of Wills in Victoria, Mr Ian Sykes (an unsuccessful candidate) lodged a petition with the Court of Disputed Returns[145]. The ground relied on to invalidate the Wills result was that the elected candidate, Mr Phil Cleary, held an office of profit under the Crown by virtue of being an officer in the Education Department of Victoria. Mr Sykes also claimed that candidates Mr John Delacretaz and Mr Bill Kardamitsis were ineligible for election. The Sykes petition claimed that while Mr Delacretaz and Mr Kardamitsis were both naturalised Australian citizens, both were entitled to the rights and privileges of a subject or citizen of a foreign power and were therefore under acknowledgment of allegiance to a foreign power within the meaning of section 44(i) of the Constitution.

5.2.5 On 25 November 1992 the full bench of the High Court sitting as the Court of Disputed Returns decided that Mr Cleary, as a Victorian State school teacher on leave without pay, was disqualified under section 44(iv) of the Constitution because he held an office of profit under the Crown at the relevant time. The "relevant time" would appear to be when nominating.

[145]Evidence (AEC) ppS0440-441 and ppS0865-866

5.2.6 The Court also decided that candidates of foreign birth, notwithstanding their having taken Australian citizenship and severed domestic and social links with their country of birth, may nevertheless be disqualified under section 44(i) of the Constitution if they fail to take all reasonable steps to renounce their foreign nationality.

Office of Profit Under the Crown

5.2.7 Uncertainty over the Constitutional definition of "office of profit under the Crown" was reflected in evidence to the Inquiry from several organisations[146], including the ALP and the Liberal Party, and the Local Government and Shires Associations of New South Wales.

5.2.8 In response to many inquiries before the 1993 election the AEC advised, in accordance with long-standing practice and as written in the Candidates' Handbook, that the AEC holds no formal expertise on matters of constitutional interpretation and that intending candidates should seek their own legal advice. Senior AEC staff did suggest to intending candidates who were Commonwealth or State public servants that they should resign before nominating. They were unable to give the same advice to local government employees, as no precedent had been established in the Cleary case as to whether local government employees hold an office of profit under the Crown.

5.2.9 The most effective means of removing uncertainty over the office of profit disqualification would be to remove section 44(iv) of the Constitution. This of course would require a referendum, which is not being contemplated at present.

[146]Evidence ppS0054-57, pS0075, ppS0373-374, pS0479, pS0551, pS0706, ppS0865-868, pp61-63, pp286-287 and pp599-600

5.2.10 Assuming that section 44(iv) stands, any legislative change recommended by the Committee to clarify the office of profit disqualification (short of simply making a lot more people definitely ineligible) would probably end up in the High Court. During the Senate debate on the *Commonwealth Electoral and Referendum Bill 1992*, the Australian Democrats foreshadowed an amendment to give all State, Territory and local government employees the same reinstatement rights as Australian Government employees or officers of the Australian Public Service who resign to contest an election. However, the Attorney-General's Department advised that such legislation would be unconstitutional[147].

5.2.11 The then Minister for Administrative Services, Senator Nick Bolkus, suggested that the aim of the proposed amendment could be achieved through uniform legislation by all State and Territory governments. Model provisions were considered by the Standing Committee of Attorneys-General (SCAG) at a meeting in June 1993; SCAG decided to refer the provisions to the appropriate State and Territory Ministers, with a recommendation that they be enacted. The Committee will be keeping this matter under review.

5.2.12 The Committee is still awaiting the Government's response to a recommendation made by the committee in the previous Parliament, relating to clarification of the status under section 44(iv) of those officers on the Commonwealth payroll who are not employed under the *Public Service Act 1922* (employees of government business enterprises, for example)[148].

[147]Evidence pS0867

[148]*Ready or Not* pp25-27

Foreign Allegiance

5.2.13 Both the ALP and the Liberal Party submitted that citizenship requirements for candidates ought to be further clarified, notwithstanding the precedents set in the Cleary case[149]. While the High Court determined that candidates can be disqualified if they fail to take all reasonable steps to renounce foreign allegiance, the Court provided no advice on what those "reasonable steps" are.

5.2.14 One possible measure would be to amend the Citizenship Oath[150]. In any case the Committee hopes that section 44(i) will receive further consideration from the appropriate Government Ministers before the next election.

> ***Recommendation 36:*** **that the Government examine the introduction into the Citizenship Oath of a simple mechanism for the renunciation of foreign allegiance.**

Wording of the Nomination Form - "Double Negative"

5.2.15 The nomination form filled in by candidates includes the yes/no question "I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a [Senator or Member]".

5.2.16 While the double negative ("I am not...incapable") in the nomination form is consistent with the wording used in section 44 of the Constitution, the Inquiry heard evidence of some confusion as to whether the correct answer to the

[149]Evidence pS0551 and pS0706

[150]Evidence (AEC) pS0868

question was yes or no[151]. A petition to the Court of Disputed Returns partly on this basis (paragraphs 5.2.19 to 5.2.21 refer) was dismissed; however the Committee believes that the nomination form should be amended so that candidates are certain of what they are attesting.

> ***Recommendation 37:*** **that the nomination form be amended to clarify the question on compliance with section 44 of the Constitution and remove the "double negative".**

Wording of the Nomination Form - the Sykes Petition

5.2.17 The nomination form was amended before the 1993 election to require prospective candidates to give more detail on citizenship. Where Australian citizenship was not obtained by birth or naturalisation, intending candidates are now required to give details of "other means".

5.2.18 On the revised nomination form, candidate for Wills (and petitioner in the Cleary case) Mr Ian Sykes indicated that he was born in England and had obtained citizenship by "other means", namely: "Subject of the Head of State: Mother Australian". The DRO for Wills was not satisfied that these "other means" conferred Australian citizenship on Mr Sykes and, after consultation with the Attorney-General's Department, the nomination was rejected.

5.2.19 Mr Sykes subsequently lodged a petition with the Court of Disputed Returns, challenging the whole of the election on the grounds that a) there was a double negative in the nomination form and b) the AEC had failed to ask candidates whether they had renounced rights and privileges of a foreign power under section 44(i) of the Constitution (notwithstanding the general question in the nomination form on compliance with section 44). Mr Sykes also challenged the election of Mr

[151]Evidence (AEO for SA, CIR Alliance, S.Hall MP, AEC, ALP) pS0076, pS0081, pS0204, pS0441, pS0551 and ppS0871-872

Cleary in the Division of Wills on grounds including that Mr Sykes' nomination for Wills was wrongly rejected[152].

5.2.20 On 17 August 1993 the petition was dismissed to the extent that it challenged the election of Members of the House of Representatives other than in the Division of Wills, and the election of Senators outside Victoria. Justice Dawson also commented that even if the declaration on the nomination contained a double negative, its meaning was not uncertain, and in any event its wording was prescribed by section 166 of the Electoral Act and compliance with the Act could not be relied on as grounds for invalidating an election. In relation to the allegation that candidates are required to renounce any foreign allegiance, his Honour said that there is no requirement in the Constitution, or the Electoral Act, that the AEC ask whether a candidate has renounced the rights and privileges of a foreign power.

5.2.21 In relation to Mr Sykes' claim that his nomination had been wrongly rejected, Justice Dawson found that Mr Sykes had not set out sufficient facts to establish that an illegal practice had occurred, nor had he established that the result of the election would have been affected by that illegal practice. The petition against the election of Mr Cleary in Wills was therefore dismissed.

5.3 Deposits and Signatures

Deposits

5.3.1 The deposit required of a House of Representatives candidate is $250, refundable if the candidate achieves four percent of first preference votes for the relevant Division. The deposit required of a Senate candidate is $500, refundable if the candidate (or, if applicable, the "above the line" Senate group in which the

[152]Evidence (AEC) pS0441 and ppS0862-872

candidate is included) achieves four percent of the vote for the relevant State or Territory. Neither deposit has been increased since 1983.

5.3.2 The AEC submitted that the level of these deposits is too modest to dissuade candidates who have no chance of acquiring more than a handful of votes[153]. Of the 942 House of Representatives candidates, 501 polled less than four percent of the formal vote for the relevant Division. Of the Senate candidates, all ungrouped ("below the line") candidates, and 56 Senate groups, failed to attract four percent of the relevant State or Territory vote.

5.3.3 The AEO for South Australia, referring to the Senate election in that State, advised the Inquiry that

> there were 36 senate candidates contesting the March 13 election in South Australia, seven of whom could not attract more than 50 votes each. A further four attracted less than 100 each. One candidate had to make a number of trips to a bottle shop in order to get six seconders who were enrolled[154].

5.3.4 The Committee's preferred solution to these problems is an increase in the number of signatures required to nominate as an independent candidate (paragraphs 5.3.8 to 5.3.10 refer). Such a reform would be more relevant to a candidate's potential electoral support than an increase in deposits, and would not jeopardise participation in elections by the impecunious.

5.3.5 Alternatively, some independent candidates and their supporters submitted to the Inquiry that the four percent threshold for refund of deposits (and payment of election funding) ought to be eliminated. Some candidates who failed to attract four percent of the vote at the 1993 election sought to have their deposits

[153]Evidence pS0076, pS0442, pS0470, pS0911 and p296

[154]Evidence pS0076

and/or election expenses refunded anyway[155].

5.3.6 The Committee believes that candidates at future elections should continue to attract four percent of the vote before having their deposits and election expenses refunded, in order to encourage potential candidates to assess realistically the level of support they could hope to attain. As for those candidates who want their deposits and expenses for the 1993 election refunded, the Committee can only comment that in nominating as candidates they understood and accepted - for the 1993 election at any rate - the prescribed conditions.

5.3.7 Some of the submissions referred to in paragraph 5.3.5 were made on the basis of the relative inconvenience of "below the line" Senate voting, as against group ticket voting. This is examined at paragraphs 7.4.1 to 7.4.2 (page 106).

Signatures

5.3.8 A candidate not endorsed by any registered political party needs just six signatures from electors enrolled for the relevant election (that is, the relevant House of Representatives Division or State/Territory for the Senate) to have a nomination accepted. In contrast, a registered political party nominating a candidate is required under the Electoral Act to have a minimum of 500 members.

5.3.9 In their evidence to the Inquiry the ALP and Liberal Party supported an increase in the number of signatures required, in order to dissuade frivolous candidatures[156]. It is hard to believe that a House of Representatives candidate who could not obtain the signatures of 100 eligible voters for a Division, or a Senate candidate who could not obtain the signatures of 500 eligible voters for a State or

[155]Evidence (M.Genet, C.Dennison, I.Pavlekovich-Smith, D.Decker) ppS0103-105, ppS0114-121, ppS0235-283 and pS0295

[156]Evidence pS0555, p296 and p504

Territory, would have any chance of election.

5.3.10 The Committee also believes that signatures of eligible voters on a nomination form should be more clearly identifiable than at present.

> ***Recommendation 38:*** **that subsection 166(1)(b) of the Electoral Act be amended so that the number of signatures required in support of nominations for the House or Representatives and Senate be increased to 100 and 500 eligible voters respectively, and that signatories print their names and addresses as well as signing the nomination form.**

5.4 Bulk Nominations

5.4.1 House of Representatives candidates for all elections held before 1993 were obliged to lodge their own nominations with the appropriate DRO. In its report *The 1987 Federal Election*, the committee in the 35th Parliament recommended that a registered political party be allowed to nominate in bulk its House of Representatives candidates in any one State or Territory[157]. The amending legislation received Royal Assent in November 1991, and thereby came into effect for the 1993 election.

5.4.2 The procedure for bulk nominations is that the registered officer of a party lodges the nominations for each State or Territory with the AEO for that State or Territory. The nominations are then forwarded to Divisional Offices for the declaration of nominations and the draw of ballot paper positions.

5.4.3 While the bulk nominations process proved to be a very useful reform, the 1993 election did expose some weaknesses in the relevant provisions of the Electoral Act. These weaknesses are examined below.

[157] *The 1987 Federal Election* pp24-25

Invalidation of Bulk Nominations

5.4.4 The election exposed serious doubt as to whether the whole of a bulk nomination is invalidated by one of the candidates within that bulk nomination withdrawing or dying[158]. According to the AEO for South Australia,

> the Commission's early advice was that if one went all others were vulnerable and this advice was passed on to candidates in the Candidates' Handbook. Subsequent legal advice was that the withdrawal or death of one would not affect the status of others. Nevertheless in the absence of a precedent candidates would be best advised to seek their own legal advice[159].

5.4.5 In addition, the whole of a bulk nomination can be accidentally invalidated by one of the candidates also nominating separately[160]. Such consequences were not intended as a result of the bulk nomination provisions, and should be written out of the Electoral Act.

> ***Recommendation 39:*** **that subsection 167(3) and sections 177 and 180 of the Electoral Act be amended so that the whole of a political party's bulk nomination of House of Representatives candidates is not invalidated by a) the death or withdrawal of a candidate within that bulk nomination or b) a bulk-nominated candidate also nominating separately. If necessary a bulk nomination should be able to override an individual nomination.**

5.4.6 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette objecting to the last sentence of the above recommendation is at page 158.

[158] Evidence (AEO for SA, AEC, ALP, Liberal Party) ppS0075-76, ppS0441-442, pS0470, pS0554, ppS0706-707, p503 and p600

[159] Evidence pS0075

[160] Evidence (ALP, Liberal Party) pS0554 and pS0707

Refund of Deposits

5.4.7 A political party will typically pay the full nomination fee on behalf of all its bulk-nominated candidates. However the AEC sends the refunds (where candidates have attracted four percent of the vote) direct to the relevant candidates.

5.4.8 The Committee agrees with a submission from the ALP that this practice fails to recognise the reality of the nominations process[161].

> ***Recommendation 40:*** **that in the case of a bulk nomination of House of Representatives candidates, nomination refund cheques be directed to the party/person which paid the nomination fee, rather than being addressed direct to the relevant candidates.**

Nomination of Candidates by National Executives

5.4.9 The bulk nomination option permits the registered officer of a party at the State level, but not the national level, to nominate candidates for Divisions within a State. The Committee agrees with the National Secretary of the ALP that a similar process could reasonably be made available to registered officers of a party at a national level[162].

> ***Recommendation 41:*** **that section 167 of the Electoral Act be amended so that a national officer of a registered political party can make a "bulk nomination" of that party's endorsed House of Representatives candidates. If necessary, a national nomination should be able to override a State nomination.**

[161]Evidence ppS0554-555

[162]Evidence pS0554, p503 and pp521-522

5.4.10 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette objecting to the last sentence of the above recommendation is at page 158.

5.5 Close of Nominations and the Declaration

5.5.1 Nominations close at 12 noon not less than 11 days, or more than 28 days, after the issue of the writ for an election. Nominations are then publicly declared, and the draw for positions on the ballot paper takes place at AEC Divisional Offices.

5.5.2 AEC Central Office and the DROs for Rankin and Forde submitted that there should be a gap between the close of nominations and the declaration, to give AEC staff more time to check details on nomination forms[163]. The difficulties caused by current procedures were explained by the AEC:

> the trend at recent elections has been toward an increasing number of candidates nominating and, additionally, for many candidates to leave their nomination until the final day (and often the final hour). Immense pressure is therefore placed on returning officers to administer the detailed process, check that all is in order with the nomination forms, check the entitlement of nominators and generally satisfy themselves that the provisions of the [Electoral Act] are being met - all in a short period of time in which the critical decision of whether or not to accept or reject the nomination has to be made. There can be, for example, little possibility of obtaining legal advice on the validity of a last minute nomination[164].

[163]Evidence pS0380, pS0396, ppS0412-413, pS0430, pS0470, ppS0911-912, pp164-165, pp197-203 and pp295-296

[164]Evidence pS0430

5.5.3 AEC Central Office submitted that the nominations period should be reduced by one day (that is, a minimum of 10 days and a maximum of 27 days), with the public declaration of the nominations set for 24 hours after the close of nominations.

5.5.4 The Committee does not favour a 24 hour gap, and instead recommends that nominations close at 12 noon and be declared at 5pm. Also, the Committee recommends that the minimum nominations period be reduced to five days in the interests of reducing the minimum election period. This proposal is discussed further in Chapter Ten.

> ***Recommendation 42:*** **that sections 156, 175 and 176 of the Electoral Act be amended, so that the minimum period from the date of the writ to the close of nominations is reduced to five days (that is, a nominations period of not less than five days nor more than 28 days) with the hour of nomination to be 12 noon and nominations to be declared at 5pm on the same day.**

5.5.5 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney and Mr Cobb is at page 159. A dissenting report from Senator Lees and Senator Chamarette is at page 168.

CHAPTER SIX: POSTAL, PRE-POLL AND ABSENT VOTING

6.1 Statistics

6.1.1 Of the total vote cast for the 1993 federal election, 12.26 percent was by means other than an ordinary vote[165]. Absent votes accounted for 5.76 percent, pre-poll votes 3.25 percent, and postal votes 2.83 percent of the total vote. An outstanding 0.42 percent was accounted for by provisional votes, which were only admitted to the scrutiny after detailed checking of electors' details on declaration envelopes (for example, where an elector's name had been wrongfully removed from the rolls following objection action).

6.2 Pre-Poll Ordinary Voting

6.2.1 Pre-poll votes are cast at designated centres by those electors unable to vote in their own Division on polling day. Some 353 953 pre-poll votes were cast at the 1993 election, of which 188 098 were by electors voting in their own Division.

6.2.2 AEC Central Office and several State and Divisional staff submitted that pre-poll voters ought to be able, when voting in their own Division, to cast an ordinary vote[166] rather than the current declaration vote (where the voter fills out his or her details on a declaration envelope into which the ballot papers are placed).

6.2.3 Ordinary voting would be a much swifter, more efficient process for both the AEC and the voter, given that a declaration vote takes five times as long to issue and cast as an ordinary vote. Another advantage would be to speed up the

[165]Evidence (AEC) pS0444

[166]Evidence ppS0146-150, pS0215, ppS0380-381, pS0396, ppS0414-416, ppS0734-737, p165, pp342-356, pp434-436, pp528-529 and pp632-636

scrutiny, as explained by the DRO for Isaacs in Victoria:

> under the present system [the votes] are in envelopes, they have to be sorted into alphabetical order, they have to be marked off the roll and then they have to be extracted. The way we time it, about 100 to 120 per hour can be marked off the roll. In my electorate we will have 1800 of them, so you are looking at 15 hours work just to get them marked off the roll. Then the ballot papers have to be extracted during the scrutiny. If you are doing 1000 in one day, and you might have six people - that is about the way we do it - they will take until lunchtime, starting at 9 o'clock. Forty percent of the time will be taken up in taking [ballot papers] out of the envelopes before they can start[167].

6.2.4 However, the Committee is concerned that the introduction of pre-poll ordinary voting would encourage and endorse the trend towards an ever-increasing proportion of the vote being cast before polling day. This issue was not satisfactorily addressed by those advocating pre-poll ordinary voting, and in consequence the Committee does not support the proposal at this time.

6.3 Postal Vote Application Forms

6.3.1 Prospective postal voters must first obtain, fill in, sign and have witnessed a postal vote application form, which is returned to the AEC. Only then is the elector sent ballot papers. A limited category of postal voters (called General Postal Voters) are sent the application form automatically when an election is called; a very limited category of ill or incapacitated General Postal Voters are automatically sent ballot papers, without having to fill in the application form.

[167]Evidence pp347-348

Use of Postal Vote Application Forms by Political Parties

6.3.2 Both the ALP and the Liberal Party produce copies of the AEC's official postal vote application form and send them, with political material, to electors who have requested the forms. At the 1993 federal election, a refinement of this practice by the Liberal Party caused some controversy[168].

6.3.3 In some States the Party incorporated a partial reproduction of the official postal vote application form into a single document with party political material. In addition, these Liberal Party application forms nominated the Liberal Party, rather than an AEC office, as the address for return of the forms. Having received the application forms, the Liberal Party would forward them on to the AEC for sending out of ballot papers to the applicants.

6.3.4 After the election the ALP sought an injunction in the Supreme Court of New South Wales to require the AEC to set aside, pending a possible challenge in the Court of Disputed Returns, the relevant postal vote envelopes and enclosed ballot papers for the Divisions of Page and Macquarie. On 19 March 1993, Mr Justice Hodgson found that the forms were valid and declined to grant the injunction. He did express concern that some people may have been misled as to procedures for obtaining postal votes.

6.3.5 The AEC also expressed concern to the Inquiry, firstly about the potential for the AEC to be seen as aligned with a political party, and secondly about the potential for electors to be disenfranchised by postal vote application forms being forwarded through a political party.

6.3.6 The AEC's preferred solution is to ban altogether reproduction and distribution of postal vote application forms by political parties. This proposal is not acceptable to the parties, particularly given what MPs and party organisations see

[168]Evidence (AEC, ALP, A.Oshlack, Liberal Party) ppS0444-445, pS0465, pS0556, ppS0567-624, ppS0687-700, pS0703, pp72-76,pp79-88, pp287-293, p504, pp524-526 and pp600-604

as over-zealous rationing by the AEC of original postal vote application forms[169] (AEC policy is that up to 500 forms can be provided to a candidate and up to 5000 to a party in a State - on request and subject to availability).

6.3.7 The Committee concludes that while reproduction of postal vote application forms by political parties should continue to be permitted, it should not be permissible for reproductions to be incorporated into other literature.

> ***Recommendation 43:*** **that the Electoral Act be amended to prohibit a postal vote application form, or a reproduction thereof, being incorporated with material issued by any body other than the AEC.**

6.3.8 The Committee also believes that lodging an electoral document should be a direct process between the elector and the AEC. However, if an elector lodges an electoral document with the AEC through a political party the elector should not be disenfranchised for doing so. The Committee therefore recommends that the only nominated return address on a postal vote application form should be that of the appropriate AEC office, with any form sent to the AEC through a political party to still be considered valid.

> ***Recommendation 44:*** **that the Electoral Act be amended as necessary so that a postal vote application form and associated material sent to electors shall nominate only the appropriate office of the AEC as the return address for that application form.**

6.3.9 A dissent to recommendations 43 and 44 from Mr Connolly, Senator Minchin, Senator Tierney and Mr Cobb is at page 160.

[169]Evidence (D.Kerr MP, AEC, Liberal Party, ALP) pS0112, pS0444, p287, pp291-292, p526 and pp601-602

Provision of a List of Postal Vote Applications to Candidates

6.3.10 A candidate's scrutineers can examine a list of postal vote applications at the relevant AEC Divisional Office. They cannot, however, obtain a copy of this list, even though the information of interest to scrutineers - the names and addresses of applicants - is already available on the electoral roll and therefore is not of a confidential nature.

6.3.11 The ALP submitted that scrutineers should be able to obtain lists of names and addresses of postal vote applicants[170]. Given that the information sought is not of a confidential nature, this is a reasonable suggestion and the Committee recommends accordingly.

> ***Recommendation 45:*** **that the AEC provide candidates' scrutineers daily with a list of names and addresses (excluding the addresses for "silent enrolments") of applicants for postal votes.**

Inspection of Postal Vote Applications - Silent Enrolments

6.3.12 Under the Electoral Act, all postal vote applications for a Division are available for public inspection at the relevant AEC Divisional Office from the third day after polling day until 40 days after the return of the writ.

6.3.13 The AEC advised the Inquiry of difficulties in relation to public access to information on "silent enrolment" electors. Silent enrolment electors do not have their addresses publicly displayed on the electoral rolls, on the ground that this would place the personal safety of the electors or their families at risk. While no residential address appears on a silent enrolment elector's postal vote application available for public inspection, a range of other information is present, including

[170]Evidence ppS0556-557

postal address, phone number, and the name and address of the applicant's witness[171]. This clearly undermines the intent of the silent enrolment provisions.

> ***Recommendation 46:*** **that subsection 189(3) of the Electoral Act be amended to provide that all information (excluding the elector's name) on postal vote applications from silent enrolment electors be deleted or obliterated before public inspection.**

6.3.14 Silent enrolment is also discussed in Chapter Ten (Other Matters).

6.4 General Postal Voters

General Postal Voters in Remote Areas

6.4.1 Electors who live more than 20 kilometres from a polling place can register as General Postal Voters. These remote General Postal Voters are automatically sent postal vote application forms when an election is called, without having to request the forms from the AEC.

6.4.2 Having been sent the postal vote application form, a General Postal Voter then follows the same procedures as other postal voters, namely sending back the completed postal vote application, receiving ballot papers, and posting the ballot papers back to the AEC.

6.4.3 While this poses no problem for electors with regular mail delivery, there are electors in remote areas who are regularly disenfranchised by the current procedures. At present, the period between close of nominations and polling day can be as few as 22 days. In many remote areas of Australia the turn-around time for

[171]Evidence ppS0729-730

mail can be a week or more, meaning that the process of receiving and returning a postal vote application, and then receiving and returning ballot papers, can take up to a month - too long, in many cases, for electors in remote areas to have their votes counted[172].

6.4.4 The AEC and others submitted that the best solution would be to adopt the practice of some State and Territory electoral authorities and automatically send electors in remote areas their ballot papers when an election is called. This would remove two steps (namely, receiving and returning the postal vote application form) from the process, and would thereby give remote General Postal Voters more time to register their votes with the AEC. Such a reform would have the added attraction of eliminating confusion caused by differing State and federal procedures.

6.4.5 A precedent does exist for the proposed reform; those electors who are General Postal Voters by virtue of being infirm and unable to sign documents already receive ballot papers without having to complete a postal vote application.

6.4.6 The Committee is not inclined to recommend the wholesale automatic distribution of ballot papers to all General Postal Voters who live more than 20 kilometres from a polling place. Rather, this facility should only be offered where the elector lives more than 100 kilometres from a polling booth. The Committee expects the AEC to cross-check lists of such General Postal Voters against postal vote application forms, to ensure that no voter receives two sets of ballot papers before polling day.

> ***Recommendation 47:*** **that subsection 186(2) of the Electoral Act be amended so that a General Postal Voter can register to be sent ballot papers and a declaration envelope without a postal vote application**

[172]Evidence (R.Smith, F.Rowell, AEO for WA, B.Scott MP, NT A/Chief Electoral Officer, G.Smith, AEC, Senator G.Tambling, WA Electoral Commissioner, Liberal Party) ppS0159-168, pS0214, ppS0230-233, pS0336, pS0418, pS0445, pS0470, pS0564, pS0566, pS0914, pS0916, ppS0944-947, pp171-178, p289, pp422-434, pp605-607 and pp660-661

form being required, provided that the voter lives more than 100 kilometres from a polling booth.

6.4.7 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette is at page 161.

Grounds for Registration as a General Postal Voter

6.4.8 The DRO for Forde advised the Inquiry that while the seriously ill or infirm can register as General Postal Voters, this option is not available to their carers[173]. Such people have to make arrangements to attend a ballot booth on election day, or have a pre-poll vote, or obtain a postal vote application form. An election therefore places a carer in the position of possibly having to leave a house where an ill or infirm person is being attended to.

6.4.9 The Committee believes that carers of ill or infirm General Postal Voters should have the opportunity to register as General Postal Voters themselves, and recommends accordingly.

Recommendation 48: **that subsection 184A(2) of the Electoral Act be amended to include an elector who is caring for someone with a serious illness or infirmity as an elector able to register as a General Postal Voter.**

[173]Evidence pS0397 and pS0419

6.5 Interstate Voting

6.5.1 An elector voting outside his or her enrolled Division can cast an absent vote at any polling place within the same State. The elector cannot cast an absent vote if voting in another State, but instead can cast a pre-poll vote at a pre-poll centre or AEC Divisional Office. Such interstate "pre-poll" voting in fact includes many votes cast on polling day itself.

Interstate Absent Voting

6.5.2 Senator Michael Beahan submitted that interstate absent voting should be provided for electors in the border region of Western Australia, the Northern Territory and South Australia[174]:

> people have moved in from across the border in the Northern Territory or South Australia and have not been able to vote at a mobile polling booth in Western Australia because there is no absentee vote provisions for Grey, Kalgoorlie or the Northern Territory. It seems to me a very simple thing to have those rolls and the ballot papers available[175].

6.5.3 The electors referred to by Senator Beahan are currently obliged to either make their way to a designated pre-poll centre, or return to a Division in their home State (effectively the Division for which they are enrolled, given the large geographical size of Divisions in this region of Australia).

6.5.4 The Committee can see no reason why interstate absent voting could not be made available in all Divisions bordering State boundaries, and recommends accordingly.

[174]Evidence pS0067, p656 and pp658-659

[175]Evidence p656

Recommendation 49: **that the Electoral Act be amended as necessary to allow for interstate absent voting in those Divisions bordering State boundaries.**

Close-of-Polls Time

6.5.5 A separate problem was raised by the AEO for Western Australia. Several interstate electors voting on polling day at pre-poll centres were disenfranchised, by a requirement under the Electoral Act that they cast their vote by the close-of-polls time in their home State, rather than the local close-of-polls time. In Western Australia, this meant that voting closed for Tasmanians at 3pm, for Queensland, New South Wales and Victorian electors at 4pm, and for Northern Territory and South Australian electors at 4.30pm[176].

6.5.6 The difficulties this caused for AEC staff at pre-poll centres were explained by the DRO for Kalgoorlie:

> the coalface is not very voter friendly because if you get a queue of people with a Victorian at the front and a South Australian behind him, you say to the Victorian, "I am very sorry but you are not allowed to vote because you are too late. Are you from South Australia, sir? No problem". And these people have travelled 100 kilometres to vote, especially at Kalgoorlie[177].

6.5.7 Apparently the relevant provisions were changed in 1983 on the basis of a legal opinion that an elector "could not vote after the close of poll"[178]. However there had been no difficulties before the provisions were amended, and the Committee believes that the commonsense approach would be to revert closing time

[176]Evidence pS0214 and p434

[177]Evidence p434

[178]Evidence (AEO for WA) p434

to local time. The Electoral Act should be amended as necessary to remove any basis for legal objection.

Recommendation 50: **that the Electoral Act be amended as necessary so that an elector may cast a pre-poll vote up to the close of polls in the State or Territory in which the vote is cast.**

6.6 Other Matters

Eligible Overseas Electors

6.6.1 There were 90 overseas voting centres available for the 1993 election[179]. Over 38 000 pre-poll and postal votes were issued overseas, which represents an increase of 8000 over the figure for the 1990 election[180].

6.6.2 An elector who applies for registration as an Eligible Overseas Elector must do so within a month immediately preceding his or her date of departure. Electors who make their application either before the one month period, or after they have left the country, cannot be registered.

6.6.3 The Committee agrees with a submission from the DRO for Forde that these procedures are needlessly restrictive[181], and recommends accordingly.

[179]AEC *Annual Report 1992-1993* p21

[180]Evidence (AEC) pS0834

[181]Evidence pS0397 and pS0420

Recommendation 51: **that section 94 of the Electoral Act be amended so that Eligible Overseas Electors can register:**

- **within the three month period immediately preceding their day of departure from Australia; and,**

- **at any time within one year after their actual date of departure, provided that they are enrolled, with the proviso that the initial three year registration period is backdated to commence from the date that they left Australia.**

Postmarking of Postal Votes

6.6.4 Schedule 3(7) of the Electoral Act provides that the postmark shall be used to determine the date when a postal vote was cast. The AEC submitted that this provision should be repealed, given that postmarks are becoming steadily less common[182]. Of a recent sample of postal vote envelopes in one Division, 42 percent had no postmark at all, and a further five percent had an illegible postmark.

6.6.5 The AEC's preferred solution is to rely instead on the witness's signature to determine when a postal vote was cast. The Committee, however, considers a postmark to be a more reliable form of verification, and therefore believes that Schedule 3(7) should be retained while postmarks are still available on a substantial proportion of postal vote envelopes.

[182]Evidence ppS0727-728

CHAPTER SEVEN: THE PREFERENTIAL VOTING SYSTEM

7.1 Alternatives

7.1.1 Several submissions to the Inquiry suggested that the compulsory preferential voting system used for House of Representatives elections ought to be replaced[183]. Alternative systems most frequently proposed were optional preferential voting and proportional representation (PR). Advocates of proportional representation argue that use of the system would result in each political group's share of the total vote being more accurately reflected in the composition of the House of Representatives.

7.1.2 The Joint Select Committee on Electoral Reform considered proportional representation in its *First Report* of September 1983, and concluded that

> while PR may result in the party composition of the House reflecting more closely the pattern of party support [it] would not assist the stability of government...there seems little doubt that when voters exercise their obligation on polling day, despite the candidates in whose names their votes are actually cast, they also believe that they are participating in the selection process of a government...overseas experience with PR has been that it is not conducive to the stability of government, and the results of adoption of PR for the Australian Senate would tend to reinforce this[184].

[183]Evidence (K.Blackmore, W.Barnes, E.Goode, J.Hansor, L.Reilly, W.Bach, Electoral Reform Society of SA, the Australian Greens, Proportional Representation Society of Australia, Women's Electoral Lobby) ppS0007-9, pS0044, ppS0085-86, ppS0088-89, pS0101, ppS0197-198, ppS0296-297, pS0299, pS0369, ppS0507-513, ppS0516-518, pp67-68, p148, p253, pp259-260 and p277

[184]*First Report* pp60-61

7.1.3 The present Committee is still of this view. Furthermore, the Committee rejects the argument that electors who vote for unsuccessful House of Representatives candidates are effectively disenfranchised. This argument ignores the rationale behind the compulsory distribution of preferences, and the fact that a successful candidate is no less a representative of an elector in the House simply because the elector did not direct a first preference to that candidate[185].

7.1.4 The Committee notes Senator Chamarette's support for a system of optional preferential voting. The rest of this Chapter examines refinements to the preferential voting system.

7.2 Public Education

7.2.1 A range of political groups submitted that there exists a serious lack of understanding as to how preferential voting works[186]. While supporting evidence is inevitably anecdotal and therefore difficult to quantify, the kind of misunderstandings that occur were noted in a submission by the Australian Democrats:

> . **Who decides preferences.** Perhaps because media reports often refer to the "direction" of preferences by one party to another, and sometimes to their "exchange", there is a belief that parties or candidates ultimately decide what will happen to [electors'] votes...
>
> . **What happens to a vote** if the No.1 candidate on that ballot slip does not win a simple majority. There are ideas that these votes are set aside, left out, diluted in some way, even "given" to another party as the result of a secret agreement.

[185]Ibid p61

[186]Evidence (South Sydney and Inner West Greens, Grey Power (NSW), Senator M.Lees et al, W.Bach and G.George, the Australian Greens, L.Hay) pS0100, pS0106, ppS0152-158, pS0197, ppS0367-369, pS0625, pS0631, p147 and pp156-160

> . **The status of How-to-Vote cards.** Some people appear to believe that it is necessary to follow a card in order to record a formal vote[187].

7.2.2 Such misunderstandings would detract from a confused voter's attempt to cast a vote that fully reflects his or her wishes, and could consequently undermine confidence in the electoral system.

7.2.3 The AEC's ongoing public education campaigns have made an important contribution to reducing the level of informal voting. The Committee believes that the time has come for a similar intensive campaign aimed at explaining preferential voting.

> ***Recommendation 52:*** **that the AEC conduct an ongoing public education campaign, through means including the media and the school system where possible, aimed at improving understanding of the preferential voting system.**

7.3 Section 329A of the *Commonwealth Electoral Act 1918*

7.3.1 Section 240 of the Electoral Act provides for full and consecutive marking of preferences on House of Representatives ballot papers. To ensure that electors who make a genuine mistake in numbering a ballot paper (such as missing a square or repeating a number) are not disenfranchised, section 270 of the Act provides that a House of Representatives vote is still considered formal, when there are at least three candidates, if:

. there is a "1" against the name of one candidate, and

[187]Evidence pS0153

- there are numbers in all the other squares, or all the other squares except one left blank.

7.3.2 Any number that is repeated is disregarded in the counting of preferences.

7.3.3 At the 1987 and 1990 federal elections, there were instances of electors being encouraged to take advantage of section 270 to deliberately cast their vote in a manner that would effectively allow optional preferential voting[188]. For example, a vote of 1, 2, 2, 2 is still a formal vote under section 270. As all three markings of "2" are disregarded because the "2" is a repeated number, the voter has effectively registered a first preference only.

7.3.4 The actual incidence of deliberate optional preferential voting at the 1990 election would appear to have been very low[189]. Nonetheless, the committee in the previous Parliament recommended in its report *1990 Federal Election* that

> section 329(3) of the *Commonwealth Electoral Act 1918* be amended to include a general prohibition on the distribution of any material which discourages electors from numbering their ballot paper consecutively and fully

and that

> the Australian Electoral Commission report to the Joint Standing Committee on Electoral Matters on possible changes to the *Commonwealth Electoral Act 1918* that would have the effect of minimising the incidence of optional preferential voting[190].

[188]Evidence (AEC) pS0428 and pS0848

[189]Evidence (AEC) pS0428

[190]*1990 Federal Election* p42

7.3.5 Parliament subsequently enacted section 329A of the Electoral Act in December 1992, making it an offence to encourage, during the election period, voters to fill in a ballot paper other than in accordance with the full preferential voting requirements set out in section 240 of the Act. The offence is punishable by imprisonment for six months.

7.3.6 Section 329A attracted considerable protest when enacted, and again in evidence to the 1993 election Inquiry[191], on the basis that banning the advocacy of a vote not in accordance with section 240 can be construed as an attack on free expression.

7.3.7 On this basis section 329A became the subject of two cases of election-related litigation. After the election Mr Patrick Muldowney lodged two petitions with the Court of Disputed Returns, both on the ground that section 329A had inhibited free speech. As Mr Muldowney was not enrolled at the time of the election, the petitions were dismissed in that they were not signed by a candidate or person qualified to vote in the elections under challenge (paragraphs 4.7.2 and 4.7.3, pages 65-66, also refer).

7.3.8 In the week before polling day, Mr Albert Langer sought a declaration from the High Court that section 329A is constitutionally invalid (*Langer v AEC and Electoral Commissioner*, filed 5 March 1993). The basis of Mr Langer's argument was that section 329A is allegedly in breach of the implied freedom of speech guarantee found in the Constitution by the High Court in the political advertising ban case[192] in 1992. The Court declined to grant the declaration sought by Mr Langer, and instead referred the question of the constitutional validity of section 329A to the full bench for a later hearing[193]. It is unlikely that the hearing will

[191]Evidence (W.Barnes, L.Reilly, the Australian Greens, Liberal Party) ppS0043-44, ppS0052-53, pS0101, pS0370, pS0913 and p66

[192]*Australian Capital Television Pty Ltd v The Commonwealth [No.2]* (1992) 66 ALJR 695; 108 ALR 577

[193]Evidence (AEC) pS0464, pS0849 and pp624-625

be held before April 1995.

7.3.9 The Committee does not endorse the advocacy of either informal voting or optional preferential voting. As the Langer case has not yet been heard, the Committee will withhold further comment and await the High Court's verdict on the constitutionality of section 329A.

7.3.10 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette is at page 162.

7.4 Recording of Preferences

7.4.1 Some ungrouped ("below the line") Senate candidates and others have argued that the relative ease of group ticket voting, as against the full distribution of preferences required "below the line", discriminates against ungrouped candidates. The solutions proposed in the past have included forms of optional preferential voting, and the elimination of group voting tickets[194].

7.4.2 The Committee is not persuaded that such proposals should be adopted. The recommended increase in the number of signatures required in support of a nomination should result in fewer candidatures on Senate ballot papers, and should thereby make the full distribution of preferences less inconvenient than at present. The recommended public education campaign on the preferential voting system should also be of benefit.

7.4.3 Also, the Greens W.A. submitted that it should be mandatory for Senate how-to-vote cards to include advice on where group ticket preferences are to be distributed. This suggestion is examined in the next Chapter.

[194]Evidence (L.Reilly, M.Genet, D.Decker, M.Drane, Proportional Representation Society of Australia) pS0101, ppS0103-105, pS0295, pS0363, pS0505 and ppS0523-525

CHAPTER EIGHT: CAMPAIGN AND ELECTORAL ADVERTISING AND MATERIAL

8.1 Political Advertising

Truth in Advertising

8.1.1 Subsection 329(1) of the Electoral Act makes it an offence to print, publish, distribute or broadcast during the election period any matter likely to "mislead or deceive an elector in relation to the casting of a vote". However, this should not be interpreted as a truth-in-advertising provision; in 1981 the Court of Disputed Returns in effect determined (in *Evans v Crichton-Browne*) that the words "in relation to the casting of a vote" refer only to the process of obtaining, marking and depositing a ballot paper.

8.1.2 In 1984 the Electoral Act did contain, briefly, a provision aimed at prohibiting untrue political advertising. Subsection 329(2) of the Act came into force in February 1984 and stated that

> a person shall not, during the relevant period in relation to an election under this Act, print, publish, distribute, or cause, permit or authorise to be printed, published or distributed, any electoral advertisement containing a statement -
>
> (a) that is untrue; and
> (b) that is, or is likely to be, misleading or deceptive.

8.1.3 The first detailed examination of this provision was carried out by the Joint Select Committee on Electoral Reform in its August 1984 *Second Report*[195]. The committee found the aim of "truth" in political advertising to be unachievable through legislation:

> political advertising differs from other forms of advertising in that it promotes intangibles, ideas, policies and images. Moreover, political advertising during an election period may well involve vigorous controversies over the policies of opposing parties...the Committee has noted the concern expressed by broadcasters and publishers on the inhibiting effect this section would have on political advertising. The Committee notes with some concern the fact that these difficulties were not raised during the debate on the 1983 bill. This oversight suggests the need for legislation committees to closely examine complex Bills such as this, to ensure that the Parliament is aware of the full implications of every provision.

The committee concluded that

> it is not possible to control political advertising by legislation [and] section s.329(2)...should be repealed. In its present broad scope the section is unworkable and any amendments to it would be either ineffective, or would reduce its scope to such an extent that it would not prevent dishonest advertising. The safest course, which the Committee recommends, is to repeal the section effectively leaving the decision as to whether political advertising is true or false to the electors and to the laws of defamation[196].

8.1.4 Legislation repealing subsection 329(2) came into force in October 1984.

[195] *Second Report* pp4-28

[196] Ibid pp26-27

8.1.5 While several submissions to the 1993 election Inquiry debated the issue of "truth" in political advertising[197], none provided an argument to convince a majority of the Committee that legislation would be more workable now than when subsection 329(2) was repealed in 1984.

8.1.6 As such, the Committee still believes that legislation cannot sensibly regulate the assertions that are the essence of an election campaign. Voters, using whatever assistance they see fit from the media and other sources, remain the most appropriate arbiters of the worth of political claims.

8.1.7 The Committee is also of the view that it would be entirely inappropriate for the AEC to be made responsible for the administration of truth-in advertising legislation. Any decision the AEC could make in a truth-in-advertising case would inevitably lead to perceptions that its political neutrality had been compromised.

8.1.8 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette is at page 164. A dissenting report from Senator Lees is at page 168.

Improper Removal of Campaign Signs

8.1.9 Submissions from Mr Cyril Dennison and Mr Chris Miles MP alleged improper damage or removal of campaign signs[198]. Mr Dennison submitted that the Electoral Act ought to specifically ban such practices.

[197] Evidence (E.Cameron MP, B.Wakelin MP, Women's Electoral Lobby, J.Hewson MP, the Greens WA, D.Gorza, S.Flanagan, S.Prasser, T.Fischer MP, AEC, Liberal Party, P.Worth MP) ppS0095-99, pS0170, pS0201, pS0209, pS0227, ppS0339-340, pS0384, pS0387, ppS0498-501, pS0685, ppS0738-746, pS0763, pS0912, pp58-60, pp137-146, p191, p286, pp481-482, p499 and pp636-641

[198] Evidence pS0116 and pS0334

8.1.10 Section 327 of the Act already provides that a person shall not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty relevant to an election. The penalty is a $1000 fine or imprisonment for six months, or both. There is no explicit reference to damage or removal of campaign material.

8.1.11 The Act does explicitly prohibit the damage or removal of AEC official notices (penalty: $500), however such notices are few in number and are generally placed within view of AEC staff. The question of whether similar protection should be extended to candidates' material was considered after the 1990 election. The committee in the previous Parliament concluded that

> a provision of the kind suggested would for all practical purposes be unenforceable and would, in effect, have moral force only...only where offenders were caught in the act of defacing or destroying election material would there be any prospect of a successful prosecution[199].

The present Committee is of the same view.

Authorisation of Posters

8.1.12 The Electoral Act prohibits a person printing, publishing or distributing "an electoral advertisement, handbill, pamphlet or notice", unless the name and address of the person authorising the material appears thereon. Posters are not specifically included in this definition.

8.1.13 The Committee believes that the Act should be amended to require that posters, one of the most common forms of political advertising, be authorised.

[199] *1990 Federal Election* p61

Recommendation 53: **that subsection 328(1) of the Electoral Act relating to publication of electoral material be amended, so that the word "poster" is added to the words "electoral advertisement, handbill, pamphlet or notice".**

Use of Logos in Television Advertising

8.1.14 In its June 1989 report *Who Pays the Piper Calls the Tune*, the committee in the 35th Parliament recommended that the "written, spoken and authorised by" announcement used at the end of political advertisements on television be replaced by a display, for a minimum of one second, of the relevant political party's official logo or name[200]. The rationale for this recommendation was that the "written, spoken and authorised by" announcement cuts into expensive air time. The recommendation was not pursued because it would have been superfluous under the legislation which was later disallowed by the High Court banning all political advertising.

8.1.15 The ALP has renewed the proposal[201]. The Committee agrees that political parties should be allowed to register with the AEC symbols or logos which could appear at the end of television advertising, provided that parties still have the option of using the "written, spoken and authorised by" announcement, and provided that when a logo is used for identification the name of the party also appears.

8.1.16 While there would be no on-air announcement of who spoke or authorised an advertisement if a party chose to use its logo for identification, the television stations would still be required to hold these details under the *Broadcasting Act 1942*[202].

[200] *Who Pays the Piper Calls the Tune* pp111-113

[201] Evidence (ALP, Liberal Party) pS1534, p735 and pp802-803

[202] *Who Pays the Piper Calls the Tune* p112

Recommendation 54: **that the Electoral Act and the *Broadcasting Act 1942* be amended as necessary to allow registered political parties to display, for at least one second, a registered party logo and party name as an alternative to the existing "written, spoken and authorised by" announcement used for television advertising.**

Definition of Political Advertising

8.1.17 The Rt Hon. Ian Sinclair MP made representations to the Inquiry on behalf of a constituent who, during the election, ran advertisements with the slogan "Vote 1 Toyota", unaware that such advertisements meet the definition of "expenditure in relation to an election" in subsection 309(4) of the Electoral Act. Mr Sinclair's constituent therefore found himself obliged to disclose his expenditure in a return to the AEC[203].

8.1.18 The AEC informed the Inquiry that the funding and disclosure provisions of the Act confer no discretion on the AEC to decide whether such advertisements are "electoral" or not. The Committee will look at this issue further when it next examines the funding and disclosure provisions of the Act (Chapter Ten refers).

[203]Evidence (I.Sinclair MP, AEC) ppS0651-654, ppS1561-1563, ppS1572-1578, pp246-247 and pp836-840

8.2 How-to-Vote Cards

Continued Use

8.2.1 Several submissions to the Inquiry called for use of how-to-vote cards to be abolished or restricted, on grounds including cost, environmental waste and the difficulty for smaller parties and independent candidates in staffing polling places to hand out the cards[204].

8.2.2 The Committee does not believe that the use of how-to-vote cards should be banned. There are civil liberties implications in refusing candidates and their supporters permission to provide material to voters. Also, for many supporters of political candidates handing out how-to-vote cards is one of the few means by which they can participate in a campaign.

8.2.3 There are, however, some proposals that might relieve the current dependence of candidates and voters on distribution of how-to-vote cards. One such proposal would see how-to-vote information displayed in the polling booth, as is done for some State elections. This scheme has been looked at previously and rejected on the ground that the traditional method of handing out how-to-vote material is simpler[205]. Nonetheless the Committee asks that the AEC give further consideration to this means of assisting electors.

Recommendation 55: **that the AEC investigate means by which how-to-vote material could be displayed inside polling places at future federal elections.**

[204]Evidence (W.Barnes, F.McInerney, CIR Alliance, W.Bach and G.George, the Greens WA, the Australian Greens) ppS0043-51, ppS0071-72, pS0081, pS0197, pS0221, pS0371, pp66-67, pp148-153 and pp465-470

[205]*1990 Federal Election* pp53-56

8.2.4 A dissenting report from Senator Lees, adding a further recommendation to recommendation 55, is at page 169.

Senate Group Ticket Preferences

8.2.5 The Greens W.A advised the Inquiry that they advertise where their preferences will be distributed if the ticket box is marked on the Senate ballot paper. They suggested that all parties should be required to do the same in how-to-vote material[206].

8.2.6 The Committee believes that the Greens proposal might be counter-productive. For example, on occasions when the ALP in Western Australia printed the full allocation of preferences on how-to-vote cards, the level of informal voting was increased by voters recording both a group ticket vote and a full "below the line" vote on the one ballot paper.

8.2.7 Given that the great majority of voters already support ticket voting, and that party workers will readily provide information on distribution of preferences if asked, the Committee does not recommend that display of preferences be required on Senate how-to-vote cards. The Greens' concern would in part be addressed by improved public awareness of preferential voting, as discussed in Chapter Seven.

[206]Evidence pS0223 and pp474-476

8.3 Commentary in the Media

Published Lists of Candidates

8.3.1 In evidence to the Inquiry, Australians Against Further Immigration (AFI) alleged that a Melbourne newspaper had repeatedly discriminated against AFI in lists of candidates, by removing AFI from lists, by falsely describing an AFI candidate as an "independent", and by failing to explain the acronym "AFI" in a list of candidates in which the full name of every other party was included in a legend[207].

8.3.2 While it is regrettable that errors of this kind should occur, the Committee does not consider it possible to prescribe accuracy in reporting.

8.3.3 There is another approach available. Under the Electoral Act the AEC is obliged to advertise the location of polling places, rather than relying on the media to accurately report this information on the AEC's behalf. The Committee suggests to the AEC that it adopt a similar approach for lists of candidates.

Letters to the Editor

8.3.4 Under the Electoral Act any "article, report, letter or other matter containing electoral matter" in a newspaper must set out the author's name and address (journalists usually nominate as their address that of the newspaper). Electoral matter is defined as "matter which is intended or likely to affect voting in an election".

[207]Evidence pS0016, pp307-318 and pp322-323

8.3.5 Outside of election periods most newspapers do not publish a full street address for writers of letters to the editor, to protect the privacy and security of correspondents. During the election, a number of papers effectively ignored the legislative requirement that a full street address should be printed; one major media group wrote to the AEC to complain about the "absurdity" of the legislation.

8.3.6 The Committee agrees with the AEC that the relevant legislation is inconsistent in its application and no longer serves a useful purpose, and gives rise to security and privacy concerns[208].

Recommendation 56: **that section 332 of the Electoral Act be amended so that, in the case of a letter to the editor, only the author's name and suburb/locality need be shown. The newspaper concerned should still be required to obtain and retain full address details.**

8.3.7 The question then arises as to who will have access to the full address details to be collected by newspapers. The Committee believes that these details should be available for public inspection at AEC offices, with the names of people interested in viewing these details to be recorded. The Committee will discuss this issue further with the AEC.

Talkback Radio

8.3.8 In contrast with the obligations placed on writers of letters to the editor, callers to talkback radio during the election period are not required to identify themselves or where they are from[209]. The Committee believes that this inconsistency should be rectified.

[208]Evidence ppS0726-727, pp247-248 and pp623-624

[209]Evidence (M.Jackson, AEC) ppS0003-5, pS0727, pp247-248, p624 and pp630-631

Recommendation 57: **that section 332 of the Electoral Act be amended so that radio stations are required to obtain (before broadcast) and retain the full name and address of a "talkback" caller during an election or referendum period, with full name and suburb/locality required to be broadcast.**

ABC Air Time

8.3.9 In evidence to the Inquiry Grey Power and the Greens W.A argued that the ABC's formula for allocating free air time, based on a party's share of the vote at the preceding election, discriminates against new and smaller political organisations[210]. The present formula is determined by the ABC Board, not through electoral legislation; the Committee therefore does not consider it appropriate to make a recommendation on this matter.

8.4 Voter Assistance - AEC Advertising and Material

8.4.1 Before the election the AEC conducted its usual advertising campaign to remind voters of their electoral rights and responsibilities[211]. The campaign included reminders to enrol, the requirements for formal voting, and information relating to when and where to vote (including information on postal, pre-poll, mobile and absent voting facilities). Some AEC Head Offices arranged briefing sessions for community groups, staff of Senators and MPs, and political parties and candidates, to enable these groups to handle inquiries from members of the public.

[210]Evidence pS0070, ppS0711-712 and pp478-480

[211]Evidence (AEC) ppS0434-437

8.4.2 The AEC also distributed a multi-page leaflet, *Your Federal Election Voting Guide*, to all Australian households in the week before polling day. The leaflet contained information on how to complete the ballot papers for the Senate and the House of Representatives, and descriptions of how the votes are counted for the two Houses of Parliament.

Advertising of the Writ and Polling Booth Locations

8.4.3 The Electoral Act requires that the writs for an election be advertised in not less than two newspapers circulating generally in each State or Territory. Similar provisions apply to the advertising of redistributions. The provision relating to advertising of the writs dates from 1902, before the spread of the electronic media.

8.4.4 The AEC advised the Inquiry that there are "increasing practical problems" in finding at least two newspapers in which to advertise the election writs in each State and Territory[212]. The Committee agrees that this requirement of the Act, and similar provisions relating to redistributions, should be amended.

> ***Recommendation 58:*** **that subsections 153(2) and 154(4) of the Electoral Act be amended to provide that receipt and particulars of the writ be advertised in at least one newspaper circulating generally in the State or Territory. The advertising provisions for redistributions in sections 64, 68 and 76 of the Electoral Act should be similarly amended.**

[212]Evidence ppS0732-733

8.4.5 Regarding the location of polling booths, the DRO for Rankin submitted that

> there is a definite need in the week leading up to election day to advertise in the electronic media where and when a list of polling places can be found in the local newspaper. This could be done with little extra effort or expense and would eliminate confusion of electors who are unaware of the locality of their nearest polling booth[213].

The Committee agrees with this suggestion.

> ***Recommendation 59:*** **that in the week leading up to polling day the AEC advertise in the electronic media where and when, in newspapers, a list of polling places can be found.**

Special Assistance

8.4.6 The AEC directed special advertising for the election at groups with special needs[214]. Public broadcasting stations (including Aboriginal and print-handicapped programs) and advertising in ethnic press, radio and television were used extensively. Publications which carried AEC information in the lead-up to the election included: *Link*, Australia's disability magazine, *Aged Pension News*, *Wintalka*, newsletter of the New South Wales Meals on Wheels Association, *Australian Senior Citizens' Newspaper*, *Navy News Pictorial*, *Army Ordnance* and *RAAF News*. Information was also provided to the Department of Foreign Affairs and Trade for inclusion in newsletters released by public affairs officers at Australian missions. As a result of these measures, and in particular articles in *Aged Pension News*, the AEC received many inquiries regarding postal voting services.

[213]Evidence pS0382

[214]Evidence (AEC) ppS0434-435, ppS0437-438 and ppS0752-753

8.4.7 Also, the AEC worked with the National Federation of Blind Citizens of Australia in arranging for the householder elector leaflet to be produced as a five minute audio tape for voters with eyesight and literacy problems. Over 4000 tapes were distributed through Talking Book libraries and other information outlets.

8.4.8 The Committee commends the AEC for the quality of its programs to assist community groups with special needs. Some issues affecting particular groups are examined at paragraphs 8.4.9 to 8.4.16.

Ethnic Communities

8.4.9 Activities by the AEC aimed particularly at electors from non-English speaking backgrounds included:

- translation into community languages of press releases, and placement with the ethnic media;
- placement of paid advertising at all phases of the campaign with all registered ethnic newspapers and community radio stations;
- advertising in 23 languages on SBS radio and television;
- inclusion of translated summaries in voter information letter-boxed throughout Australia, and inclusion of the Translation and Interpreting Service telephone number on other AEC material;
- provision of instructions in community languages at polling places serving voters from a non-English speaking background;
- recruitment of bilingual staff to work at polling places in appropriate areas;

- use of the services of an ethnic public relations company to assist in getting coverage of key messages in the ethnic media;
- the successful trial of a special leaflet in two Divisions (Grayndler and Fowler) with a high proportion of electors from a non-English speaking background; and
- the contribution of an episode to the SBS series "For Your Information". Copies of this program were distributed to multilingual centres, Adult Migrant Education Centres and libraries.

8.4.10 Another SBS series led to the one complaint the Inquiry received about the AEC's service to migrant communities. The Ethnic Communities Council of Queensland advised the Inquiry that a set of video tapes provided by the AEC were inappropriate, in that much of the text was in English and the groups on camera were in many cases different in origin from the language of the tape[215]. The AEC responded that the videos were made by SBS television as part of an English language instruction program, and were not intended to form part of the AEC's election material[216].

8.4.11 The Committee notes that the Ethnic Communities Council praised the AEC's electoral officers and, notwithstanding the problem with the SBS videos, congratulated the AEC for its commitment to helping non-English speaking people become aware of the electoral process[217].

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[215]Evidence pS0083 and pp180-182

[216]Evidence pS0752 and pp647-648

[217]Evidence p180 and pp183-184

Electors with Literacy Problems

8.4.12 The Australian Council for Adult Literacy (ACAL) suggested to the Inquiry that more could be done through the adult education system to help electors with literacy problems[218]. The AEC is aware of this suggestion.

8.4.13 ACAL and the Greens W.A also suggested that the political parties could adopt symbols for use on ballot papers[219]. This practice is employed in the United States and other countries.

8.4.14 The Committee doubts that the existing party logos would prove sufficiently distinctive for this purpose, meaning that the political parties would have to decide on a different set of symbols. The AEC would then have to print these on ballot papers, and find some method of identifying independent candidates and smaller parties. At this time the Committee believes that the costs and administrative complications outweigh the potential benefits.

Visually Impaired Voters

8.4.15 Mr W. Bennett, a former Officer-in-Charge of a polling place in the Division of Hinkler, advised the Inquiry that many of the aged and visually impaired voters at his polling place

> had problems differentiating between the official ballot paper and the 'how to vote' cards produced by the various political parties. On a number of occasions attempts were made to place the 'how to vote' card in the ballot box and to throw away the official ballot paper...the National Party used green 'how to vote' cards which were similar to the House of Representatives ballot papers while the Labor Party used large white 'how to vote' Senate cards which were very similar to the official Senate ballot paper[220].

8.4.16 Mr Bennett suggested that the AEC could adopt a distinctive colour (for example yellow) for ballot papers, which would then be made unavailable for use on how-to-vote cards. Having sought advice on this proposal from the AEC, the Committee believes that the most appropriate solution to the problem raised by Mr Bennett is for voters to use the assisted voting facilities provided at polling places. The current colours of green for House of Representatives ballot papers and white for Senate ballot papers have been in use for at least three decades, and to legislate for change now would probably create more confusion than would be resolved.

8.5 Electoral Material

Use by the AEC After an Election

8.5.1 Subsection 393(1) of the Electoral Act provides that once the Court of Disputed Returns has disposed of any petitions arising after an election, the AEC can deal with electoral documents for the purpose of collecting "statistical information relating to the election"[221]. The intent of this provision is ambiguous when compared with section 375A of the Act, which states that the filing of a petition in the Court of Disputed Returns does not deprive the AEC (unless the Court orders otherwise) of "access to a document for the purposes of the performance of its functions" - meaning all of its functions, not just the collection of statistical information.

[218]Evidence p299

[219]Evidence pS0224, p298 and pp476-477

[220]Evidence pS0639

[221]Evidence (AEC) ppS0730-731

8.5.2 The Committee agrees that the power of the AEC to deal with electoral material even when an election result is under challenge should be unequivocal, given that there is no limit to the time which the Court of Disputed Returns may take to consider a petition. The only stipulation should be that documents may not be destroyed or altered in any way until all petitions have been disposed of (and until at least six months after the election, as provided for in the Act).

> ***Recommendation 60:*** **that subsection 393(1) of the Electoral Act be repealed and replaced with a provision stipulating that electoral documents may not be destroyed, amended, defaced or altered in any way prior to a) the Court of Disputed Returns having disposed of petitions disputing an election, or b) the time for filing petitions having expired without any petitions being filed.**

Security Printing of Ballot Papers

8.5.3 Since 1915 the Electoral Act has required that ballot papers be authenticated by an official watermark. The AEC advised the Inquiry that this requirement is costly and technologically obsolete[222].

8.5.4 If a security printing process (as used for chequebooks) were used to produce ballot papers, the AEC would not be obliged to store stocks of watermarked paper to cater for at least two elections. Also, as an "official mark for identification" security printing would probably prove superior to watermarking; for example, the security printing could be such that erasures could not be disguised.

> ***Recommendation 61:*** **that section 209A of the Electoral Act be amended to provide that ballot papers may be printed using either a security mark approved by the AEC or a watermark.**

[222]Evidence ppS0724-725 and pp631-632

"I" and "J" on the Senate Ballot Paper

8.5.5 The Committee agrees with a submission from the ALP that the letters "I" and "J" are potentially confusing when used to designate group voting tickets on the Senate ballot paper[223].

> ***Recommendation 62:*** **that the AEC investigate changes to the Senate ballot paper to eliminate any confusion caused by the use of the letters "I" and "J" to identify group voting tickets.**

Facsimile Copies of Enrolment Forms

8.5.6 The DRO for Forde advised the Inquiry that the ability of DROs to accept enrolment forms sent by facsimile is something of a grey area, there being no mention in the Electoral Act of faxed electoral documents[224]. The Committee agrees that the ability of DROs to accept facsimile copies of enrolment forms should be clarified.

> ***Recommendation 63:*** **that section 102 of the Electoral Act be amended so that DROs are clearly able to accept a facsimile of a "claim for enrolment or transfer of enrolment".**

[223]Evidence pS0553 and p503

[224]Evidence pS0395 and pS0411

8.5.7 The Electoral Act provides that non-voter notices shall be sent by post. The AEC informed the Inquiry that this does not adequately cater for electors in remote Divisions[225], in that mail services in remote areas can be unreliable.

Recommendation 64: **that subsection 245(3) of the Electoral Act be amended so that non-voter notices are sent by post "or other means".**

[225]Evidence pS0729

CHAPTER NINE: THE AUSTRALIAN ELECTORAL COMMISSION

9.1 Introduction

9.1.1 The AEC was established as an independent statutory authority in February 1984, taking over from the Australian Electoral Office (1973-1984) which was formerly the Commonwealth Electoral Branch (1902-1973) of a series of Commonwealth Departments. The AEC has a three-tiered structure with a Central Office in Canberra, a Head Office in each State and the Northern Territory, and offices in the House of Representatives electoral Divisions. Most of the Divisional Offices have a staff of three officers including the DRO. In 1992/93 the AEC's average staffing level (which does not include the casual staff employed for the election) was 764, down from 898 in 1986/87.

9.1.2 As noted in the introduction to this report, the Committee is generally satisfied with the AEC's conduct of the 1993 federal election. The AEC's response to problems identified after the 1990 election was commendable, and the Inquiry did not reveal any notable weaknesses in the Commission's internal management and administrative practices.

9.1.3 However, the way the AEC conducts its affairs was inevitably the subject of some evidence to the Inquiry. The rest of this Chapter examines the future structure of the AEC, the extension of the on-line Roll Management System (RMANS) across the Divisional network, and co-operation between the AEC and the State electoral bodies.

9.2 Future Structure

9.2.1 The Commonwealth Government extracts an ongoing "efficiency dividend" from the annual running cost appropriations of Government departments and agencies. The AEC contributes over $300 000 - the equivalent of nine staff - to the efficiency dividend each year. The majority of the cuts in recent years have been applied in Central Office and State Head Offices, in research, policy development and program support areas.

9.2.2 The AEC submitted to the Inquiry that

> the effects of concentrating the efficiency dividend in these areas may not be felt publicly in the short term, but the longer term consequences are of concern. Electoral research and policy development are essential to the maintenance of a quality electoral service and to support the AEC's wider functions...whilst the delivery of quality electoral services remains its priority, the AEC cannot continue to quarantine those services from the effects of the efficiency dividend. The AEC must have the option of revising its service delivery methods where more efficient alternatives are available[226].

9.2.3 The Public Sector Union (PSU) submitted that staffing in every area of the AEC is now "at or below minimum acceptable levels". The PSU argued that the continuing application of the efficiency dividend to the AEC will result in the electoral roll not being maintained to the same level as previously, as well as reduction in electoral education programs and poorer preparation for elections, for example less thorough review of polling place locations[227].

9.2.4 The Committee recognises that the efficiency dividend imposes a particular strain on smaller agencies like the AEC. However, the Committee is not convinced that the situation as described by the PSU is imminent. AEC management informed the Inquiry that

> the Commission believes that the electoral rolls can be properly and accurately maintained under the resource allocation arrangements being introduced for this triennium...management will, however be monitoring closely the effect of the new arrangements[228].

9.2.5 As an interim solution to the financial constraints imposed by the efficiency dividend, the AEC is to reduce Divisional Office staffing from three permanent officers to an average of 2.7 over the AEC's three year forward program[229]. For example, during electoral roll review and election years a Divisional Office might be staffed by three people, with a reduction to two people during the third year of the election cycle. In evidence to the Inquiry AEC management expressed confidence that, in the event of a snap election, experienced casual staff could be recruited at short notice.

9.2.6 The AEC made it very clear that the Divisional Office staffing reductions are driven solely by the efficiency dividend:

> we looked very carefully to see whether there were salary funds available elsewhere in the organisation...we found there were not. [Divisional Offices] have a high load at an election time, obviously, and their other high load is during electoral roll review. In one year out of three, broadly speaking, they have a relatively quiet time...we reached the conclusion that there was a possibility that the Divisional Offices could survive as they are presently structured with about eight staff years of salary allocation over a three year period[230].

[226]Evidence pS0467

[227]Evidence ppS0827-828 and pp533-535

[228]Evidence pS0980

[229]Evidence (PSU, AEC) pp539-543, pp591-599 and pp627-628

[230]Evidence pp596-597

9.2.7 The Electoral Commissioner explained that the reduction in staffing levels precedes a more comprehensive structural review:

> [diminishing resources] leads us to the situation where either you get more money or you have to restructure the way you set yourself up to do things. I think we are at that point[231].

9.2.8 Over the years numerous observers - including this Committee's predecessors - have questioned the efficiency of each Division having its own dedicated three-person office, with all the associated infrastructure costs. This particularly applies in metropolitan areas, where a small geographical area can contain a large number of Divisional Offices. An alternative would be for each metropolitan area to instead have fewer, more centralised "regional" offices, catering for a number of Divisions each.

9.2.9 "Regionalisation" is not a new proposal. In 1974, an inquiry undertaken for the Australian Electoral Office by the consulting firm W.D. Scott & Co Pty Ltd recommended that

> the flat organisational structure imposed by the dispersed Divisional Office should be challenged and wherever possible replaced by a system of Regional Offices...these offices would not be simply a grouping together of Divisional Offices, working separately, but a joint office where four or five DROs would be under the control of a Regional Manager who would have sufficient support staff to service all the operational requirements of the joint office[232].

9.2.10 During November and December 1985 a team of AEC staff conducted a further review. The team reported that

> the need to maintain a Divisional Office in each electorate in non-election periods must be questioned, if only on cost effective grounds...the review team considers that the Scott concept of Regional Offices has much to commend it. The problems identified by Scott in 1974 can be found today: Divisional Offices remain small, isolated units; there is still a lack of mobility and career structure[233].

9.2.11 In December 1987 the AEC released a further report, titled *Efficiency Scrutiny Into Regionalisation.* That report was the subject of an Inquiry by the committee in the 35th Parliament[234]. The committee recommended that regionalisation occur in metropolitan areas, with regional offices to be formed by a combination of up to three Divisional Offices. In June 1989 the Parliament was advised that the Government had deferred further consideration of this matter.

9.2.12 Finally, the committee in the previous Parliament recommended in its report *The Conduct of Elections* that regionalisation should proceed in metropolitan and major regional centres, with each Division continuing to have a dedicated DRO within a regional office. The committee further recommended that the number of Divisions to be contained in each regional office should not be limited to three, but should be considered "in light of costs, and of benefits and convenience to electors", with the AEC to also consider the extent to which State Head Office costs could be reduced through devolution of responsibilities to regional offices. The committee concluded that regionalisation

> should not merely bring together several divisions, operating as separate entities, but should involve a restructuring of activities and take into account variations in workload...functions which might be so organised include roll management, election preparation and public education...the amalgamation and restructuring of the AEC's field presence should also improve the flexibility of organisational arrangements, enable improved career structures to be developed and, with proper management, reduce infrastructure costs[235].

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[231] Evidence p595

[232] *The Conduct of Elections* p17

[233] Ibid p18

[234] *Is This Where I Pay the Electricity Bill?*, October 1988

[235] *The Conduct of Elections* pp29-30

9.2.13 The existing Divisional structure has its supporters, notably many of the DROs. The DRO for Rankin submitted to this Inquiry that

> there can be no doubt that the Divisional Office structure of the Commission continues to deliver at times of crisis...the reason why the Divisional Office structure has stood the test of time is that there is nowhere to "hide" in a three person office when the pressure is on. This is an intangible asset grossly under estimated by those advocating the centralised structure of regionalisation[236].

9.2.14 The Electoral Commissioner agreed that the AEC's entire structure, not just the Divisional Offices, will have to be examined:

> a consideration of regionalisation really is not enough. Indeed, it would not necessarily be fair just to the staff of Divisional Offices. One has to look at the structure of the organisation as a whole - Divisional Offices, Head Offices and Central Office - and see whether there are not ways and means of delivering the same service, but against the backdrop of the resources that are to be made available to us[237].

9.2.15 Clearly, the issues raised by a new organisation and staffing structure for the AEC are of vital concern to the Parliament. The Committee believes that the Minister for Administrative Services should refer any preliminary proposals for the re-organisation to this Committee, so that the Committee can report to the Parliament on the ramifications of any proposed changes.

> ***Recommendation 65:*** **that when available the Minister for Administrative Services refer the AEC's proposals for a revised structure to the Committee for Inquiry and report.**

[236]Evidence pS0382

[237]Evidence p592

9.3 Computerisation

9.3.1 The AEC's computerised "Roll Management System" (RMANS) was first used for the 1989 Tasmanian State election, and was then used for the 1990 and 1993 federal elections. Since the 1990 federal election RMANS has produced rolls and associated products for all State electoral events except those in South Australia, where a separate roll system ("EAGLE") still operates.

9.3.2 The committee in the previous Parliament recommended in *1990 Federal Election* that

> the Australian Electoral Commission extend its online Roll Management System to all Divisional Offices in the eastern States as an immediate priority[238].

9.3.3 The upgrading of the communications system to accommodate all Divisions in the eastern States was completed in 1991, and in 1992 on-line processing was introduced. All Divisions, except those in South Australia, now have on-line connection to RMANS.

9.3.4 The Electoral Commissioner informed the Inquiry that this had allowed substantial improvements in the administration of the 1993 election:

> enrolment processing was completed in the two days following the close of roll. That was faster than we have been able to achieve in the past, faster by quite a number of days. This enabled the certified lists and rolls for candidates to be produced earlier than in previous elections[239].

[238]*1990 Federal Election* p68

[239]Evidence p190

9.3.5 RMANS has also eliminated a potential cause of inaccuracy in the electoral rolls:

> prior to the implementation of RMANS we, in effect, did not have a national roll; we had a series of State rolls. What that meant was that if a person transferred enrolment from one State to another and did not indicate a previous address in another State, their enrolment in the other State would be retained until such time as it was picked up by a habitation review or non-voter action...we are now in a position to search across every database except South Australia's, which is still discrete, to immediately identify those possible duplicates[240].

9.3.6 As discussed in Chapter Four, the AEC is investigating converting RMANS to an address-based format, to improve verification of addresses claimed for enrolment. The AEC is also developing a facility whereby RMANS will be able to identify addresses where no electors are enrolled. When developed, the follow-up of vacant addresses will be able to be undertaken on a centralised basis, reducing the burden on Divisional staff[241].

9.3.7 While AEC Central Office submitted that RMANS operated at a "high level of user satisfaction"[242] during the close of rolls period, others were more critical. In particular, the PSU submitted that RMANS did not operate fast enough under peak load to be of use to staff under pressure to meet deadlines[243].

9.3.8 The AEC responded that all enrolment cards were entered by 6pm on Wednesday 17 February, just two days after the close of rolls, and that constant monitoring of the database by both the AEC and the Department of Administrative Services had allowed the load on RMANS to be spread between different States, and for additional communication facilities to be commissioned to reduce and even out

[240]Evidence pp727-728

[241]Evidence (AEC) pS0979

[242]Evidence pS0431

[243]Evidence pS0545

response times[244]. Nonetheless, the Committee is still concerned about the performance of RMANS under peak load.

> ***Recommendation 66:*** **that the AEC advise the Committee of steps taken to improve the response of the Roll Management System (RMANS) under peak load.**

9.3.9 In addition to the Divisions gaining on-line access to RMANS, in the lead-up to the election the AEC made considerable efforts to automate various election-related activities[245]. Apart from The Election Night System (TENIS) discussed in Chapter Three, the most important component of the AEC's Election Management System (ELMS) was probably the Post Election System (PEST). PEST dealt with such post-election activities as the exchange of absent, pre-poll and postal votes, the checking of polling booth figures and the reconciliation of postal and pre-poll votes and votes cast overseas. PEST also produced the range of reports and statistics generated by the election.

9.3.10 According to the AEC, PEST enabled

> progressive results [to be] released daily to the media and Divisional Offices were able to input results of counts more accurately than ever before which also substantially reduced the workload in Divisional Offices[246].

9.3.11 PEST has also transformed the production of election statistics:

> the computerisation of this part of the election process is enabling us to produce the official statistics from the 1993 election some 15 months earlier than was the case at the last election[247].

[244]Evidence pS0977

[245]Evidence (AEC) ppS0453-454

[246]Evidence pS0454

[247]Evidence p190

9.3.12 This view was supported by an independent consultant asked to review ELMS:

> the Post Election system has had a marked effect on productivity. There is a consensus amongst AEC staff interviewed that post election processing, with the new system, is 18 months ahead of the previous election. This implies that post election is as advanced now (after four months), as it would be after nearly two years previously[248].

9.3.13 However, some problems with the system did occur in the first few days after the election, due to the large volume of transactions being received and the structure of the database. When discussing these problems both the DRO for Rankin and the PSU noted that while ELMS was targeted for completion in June 1992, this deadline was not met[249].

9.3.14 AEC management responded that while full user testing would ideally have been conducted well in advance of the election, legislative changes relating to the two candidate preferred count necessitated full user testing of ELMS unavoidably close to the election[250]. It is not anticipated that such difficulties will recur in the run-up to the next election.

[248]Evidence pS0488

[249]Evidence pS0379, pS0546, p163 and p533

[250]Evidence pS0978

9.4 Co-operation with the State Electoral Bodies

9.4.1 Resource-sharing between the State electoral bodies and the AEC was the subject of an Inquiry by the committee in the previous Parliament. The September 1992 report of that Inquiry, *The Conduct of Elections: New Boundaries for Co-operation*, included recommendations on:

- joint study of alternatives to current electoral roll review procedures,
- equitable cost sharing for the production, by the AEC, of the joint rolls used for Commonwealth and State electoral events, and
- the formation of an Australian Joint Roll Council (AJRC) responsible for "the development and maintenance of the joint roll and other electoral matters which have significance for more than one electoral administration".

9.4.2 In his foreword to *The Conduct of Elections*, the Chairman (the Hon. Arch Bevis MP) noted the sensitivity of the issues raised during that Inquiry and stated that

> we hope that the difficulties occasioned by the inquiry itself will soon fade, and the positive aspects of communication and cooperation will become its more lasting effects.

9.4.3 While the present Committee shares this hope, the AEC's evidence to the 1993 election Inquiry[251] suggests that adequate communication and co-operation may be some time coming:

> in conjunction with the States, we had a discussion about the question of alternative means of enrolment checking and data gathering...initially, it had been agreed

[251]Evidence pp708-710

amongst us that the Australian Electoral Commission and two or three States would form a working group to examine in some detail the possibilities...all but one of the States pulled out. The other States said 'Thank you very much. We will co-operate with you, but you can provide all the resources and we will look at the results'...we are trying to re-establish this study at the moment through the [Australian Joint Roll Council].

However,

> efforts to appoint an Executive Secretary for the Australian Joint Roll Council have fallen through, and we need to start that one again...without some sort of research capability, there are things we can do on our own, but you need State involvement in all of these things.

9.4.4 Also,

> [The States] do not want to renegotiate things like joint roll arrangements because they might end up paying more...Victoria and Western Australia are most reluctant to negotiate about new agreements and so forth. Some of them are very favourable arrangements at the moment. Victoria is paying $20 000 a year or less. The Northern Territory is paying $100 000. If you compare the populations you can see some of the inequities in the current arrangements. We cannot force them to negotiate; it is a Government to Government arrangement in the end[252].

9.4.5 No doubt the State bodies would offer a very different interpretation. At any rate, the Committee is concerned that negotiations between the States and the Commonwealth have failed to produce a national approach to the updating and production of electoral roll information.

9.4.6 The Committee will be keeping this matter under review.

[252]Indeed, as this report was being finalised it was reported that the joint roll arrangement between the Commonwealth and Victoria would end in mid-1995. The Minister for Administrative Services, the Hon Frank Walker QC, stated that despite repeated requests from the Commonwealth over three years Victoria had not entered into meaningful negotiations to formalise a new and equitable roll arrangement: "Victoria is paying less than $40 000 a year for a service which costs over $3.2 million - that contribution is a pittance".

CHAPTER TEN: OTHER MATTERS

10.1 Minimum Election Period

10.1.1 There was some discussion during the Inquiry of means by which the minimum election period of 33 days could be reduced[253]. The timetable for an election, following the issue of the writ, is as follows:

Issue of the Writ	0 days
Close of Rolls	7 days after issue of the writ
Close of Nominations	11 to 28 days after issue of the writ
Polling Day	33 to 58 days after issue of the writ

10.1.2 The ALP submitted that the minimum election period should be reduced to 24 days. The AEC expressed concern that the proposal would not allow it sufficient time to properly conduct an election, and the Liberal Party submitted that the proposal is designed to work to the advantage of an incumbent government[254].

10.1.3 However, having studied the evidence the Committee believes that the minimum election period could be reduced to 28 days. If the minimum nominations period were reduced from 11 days to five, and a minimum period set from the close of rolls (or the close of nominations, whichever were to come last) to polling day of

[253]Evidence (R.Patching, G.Smith, ALP, AEC, Liberal Party, PSU) pS0380, ppS0398-405, pS0553, ppS0833-839, pS0913, p164, p503, pp518-521, p536 and pp648-651

[254]Evidence pS0913

21 days, the election timetable would be:

Issue of the Writ	0 days
Close of Nominations	5 to 28 days after issue of the writ
Close of Rolls	7 days after issue of the writ
Polling Day	28 to 58 days after issue of the writ

10.1.4 A majority of the Committee believes that the 11 days presently allowed for nominations is remarkably generous and could easily be reduced to a minimum of five days, even with the recommended increase in the number of signatures required in support of a nomination by an independent candidate (Chapter Five, "The Nominations Process", refers).

10.1.5 The Committee has therefore recommended (in Chapter Five) that nominations close at 12 noon between five and 28 days after the issue of the writ, with the declaration taking place at 5pm on the same day.

10.1.6 The final part of the election period is the 22 to 30 days between the close of nominations and polling day. AEC Central Office, and the DROs for Rankin and Forde, all submitted that the minimum of 22 days should not be reduced[255]. The AEC argued that

> current advice is that to guarantee printing and despatch of ballot papers to all Divisions and polling staff, anything less than 22 days becomes risky...in addition, any shortening of this timeframe may lead to some postal voters being disenfranchised, particularly overseas postal voters and postal voters in remote areas.

[255]Evidence pS0380, ppS0401-403, ppS0833-835, p164 and p650

10.1.7 While the AEC will face some administrative challenges, a majority of the Committee believes that one day should be removed from this final period of the election. The substantial efficiencies achieved through computerisation of election activities, as discussed in Chapter Nine, should enable the AEC to complete production and distribution of electoral material in 21 days. Where necessary the AEC should revise its staffing arrangements (notably greater use of weekend work and overtime) to ensure that the shorter deadlines are met.

10.1.8 The AEC's concerns about postal voters in remote areas will be adequately addressed by recommendation no.47 in Chapter Six, whereby General Postal Voters who live 100 kilometres away from a polling place will be allowed to have their ballot papers sent out as soon as an election is called. Revised arrangements might also be required for overseas electors.

10.1.9 The proposed changes to the minimum election period will require amendments to the Electoral Act. The Committee recommends accordingly (noting that the reduction in the minimum nominations period has already been addressed in Chapter Five).

> ***Recommendation 67:*** **that section 157 of the Electoral Act be amended to provide that the date fixed for polling shall be not less than 21 days nor more than 30 days after the close of rolls or the date of nomination, whichever comes last.**

10.1.10 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney, Mr Cobb and Senator Chamarette is at page 165.

10.2 Certain Categories of Electors

Prisoners

10.2.1 The Electoral Act disqualifies from enrolment and voting any prisoner under sentence for an offence punishable for five years or longer. The Act provides that Controllers-General of Prisons shall, on a monthly basis, provide the AEC with lists of such prisoners.

10.2.2 The basis for disqualification is therefore the potential sentence for an offence, not the actual sentence imposed. The AEC advised the Inquiry that this creates practical difficulties[256], as explained in a letter to the AEC from the Northern Territory Department of Correctional Services:

> we are just not in a position to recognise all the cases and court outcomes where the offence involved is one punishable by imprisonment for five years or longer. It is possible, for instance, for a person to be convicted of an offence carrying a maximum penalty of five years or longer in prison, with the court then imposing a much lesser penalty such as a bond, fine, probation, home detention, etc...other jurisdictions are experiencing the same difficulty [and are] furnishing monthly section 109 returns based on prison sentences of five years or more actually imposed[257].

10.2.3 The AEC also suggested that the disqualification provisions are potentially inequitable:

> because the exclusion from enrolment refers to a potential rather than an actual sentence, a person serving an actual sentence of one month could be excluded from enrolment, while a person on a sentence of 59 months could be eligible, depending on the potential maximum sentence in each case. Thus the present legislation takes no account of the Court's assessment of the seriousness of the offence[258].

The AEC submitted that the basis for disqualification should be an actual, rather than potential, sentence of five years or more.

10.2.4 The difficulties in the existing legislation were also considered by the committee in the 34th Parliament[259]. The committee recommended that enrolment and voting rights be granted to all prisoners, regardless of their sentence. In support of this recommendation the committee argued that

> an offender once punished under the law should not incur the additional penalty of loss of the franchise. We also note that a principle aim of the modern criminal law is to rehabilitate offenders and orient them positively toward the society they will re-enter on their release. We consider that this process is assisted by a policy of encouraging offenders to observe their civil and political obligations.

10.2.5 The Government included the recommended amendment in the *Electoral and Referendum Bill 1989*, however the amendment was rejected by the Senate[260].

10.2.6 The present Committee has re-examined this issue and agrees with the conclusions of its predecessor. In addition to encouraging prisoners to observe their civil obligations, the proposed change would be far simpler administratively than existing arrangements.

> ***Recommendation 68:*** **that subsection 93(8)(b) and section 109 of the Electoral Act be repealed, so that an elector is not deprived of the right to enrol or vote on the basis that the elector is a prisoner (except in**

[256] Evidence ppS0432-433, pS0470, ppS1478-1524, pS1583 and pp216-218

[257] Evidence ppS1481-1482

[258] Evidence pS0433

[259] *The Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation*, December 1986 pp33-36

[260] Evidence (AEC) pS0432, ppS1484-1485 and ppS1513-1524

the event of a conviction for treason or treachery).

10.2.7 A dissenting report from Mr Connolly, Senator Minchin, Senator Tierney and Mr Cobb is at page 165.

Norfolk Islanders

10.2.8 In 1991 the House of Representatives Standing Committee on Legal and Constitutional Affairs conducted an Inquiry into the legal regimes of Australia's external Territories. The report of that Inquiry[261] recommended that

> the Commonwealth Parliament amend the *Commonwealth Electoral Act 1918* to give optional enrolment rights to the people of Norfolk Island; the electorate to which the voters would be attached to be determined on the advice of the Australian Electoral Commission[262].

10.2.9 The AEC recommended that Norfolk Islanders be enrolled in the Division of Canberra. Constitutional problems were likely if Norfolk Islanders were enrolled for a Division in a State, so a Territory Division was thought to be the only option. Canberra, being the only one of the three Territory Divisions not already administering an external Territory, was the Division selected.

10.2.10 The AEC's recommendation that Norfolk Islanders be enrolled exclusively within Canberra was based on the principle that Norfolk Island electors should vote in the one Division to maximise their representative power. Representatives of the Norfolk Island Government, however, argued that the Islanders have no "community of interest" with the Division of Canberra. They proposed that Norfolk Islanders instead be permitted to enrol and vote in any

[261] *Islands in the Sun*, March 1991

[262] Evidence (AEC) pS1414

Division with which they could show a past connection[263].

10.2.11 This proposal was adopted, and the relevant provision of the Electoral Act (section 95AA) was enacted. The AEC informed the Inquiry that the result is not satisfactory:

> section 95AA is probably the most complex provision in the Act and the density of legal language is in part related to the fact that during negotiations with the Norfolk Island Government it was agreed that the Division of Canberra not be named in the legislation. It therefore had to be described in the abstract in the most tortuous of legal language[264].

10.2.12 The Committee agrees with the AEC that the "community of interest" argument of the Norfolk Island Government representatives was misguided, and has resulted only in the potential dissipation of the Islanders' voting power. The AEC's original proposal to enrol Norfolk Islanders within the Division of Canberra would not have had this effect, and would have been far simpler legislatively and administratively than the existing arrangements.

10.2.13 As 75 of the 96 Norfolk Islanders who voted at the 1993 federal election chose to enrol in the Division of Canberra anyway, that Division appears to have been selected in a form of unofficial plebiscite. The Committee therefore recommends that Norfolk Islanders vote only for the Division of Canberra.

> ***Recommendation 69:*** **that section 95AA of the Electoral Act be amended so that Norfolk Islanders who choose to enrol may only enrol in the Division of Canberra.**

[263] Evidence (AEC) ppS1413-1416 and pp206-208

[264] Evidence pS1414

Divisional Returning Officers

10.2.14 Where a DRO is enrolled in the Division for which he or she is the Returning Officer, the DRO is precluded under the Electoral Act from voting for the House of Representatives. This provision dates from before 1990, when DROs had the casting House of Representatives vote in the event of a tied result[265].

10.2.15 In 1990, the Act was amended by implementing a recommendation of the committee in the 34th Parliament that tied results be challenged by the AEC in the Court of Disputed Returns. As there was no other reason for the disenfranchisement of DROs, there would appear to be no reason why the right to vote for the House of Representatives should not be restored to them.

> ***Recommendation 70:*** **that subsection 274(13) of the Electoral Act, which precludes a Divisional Returning Officer (DRO) from voting in the House of Representatives Division for which he or she is the DRO, be repealed.**

Silent Enrolment Electors

10.2.16 The Liberal Party submitted that the circumstances under which electors are entitled to apply for silent enrolment should be reviewed, to ensure that this option is only available when genuinely required[266].

10.2.17 As discussed in Chapter Six, "silent enrolment" electors do not have their addresses displayed on the electoral rolls on the ground that this would place their personal safety, or that of their families, at risk. An elector making such a request must give the DRO particulars of the relevant risk, and the request must be

[265]Evidence (AEC) pS0726

[266]Evidence pS0703

verified by statutory declaration by the elector or some other person.

10.2.18 Under section 104 of the Electoral Act a DRO, when directed to do by the Electoral Commission, shall conduct a review of silent enrolments. If the DRO is not satisfied that a silent enrolment is still warranted, the elector must be notified in writing that the DRO has decided that the elector's address should be entered on the roll. Such a decision can be overruled by the Australian Electoral Officer (AEO) for the relevant State or Territory, or the Administrative Appeals Tribunal.

10.2.19 The Committee believes that the procedures as described are appropriate, although it is important that the AEC's powers of review under section 104 be regularly exercised.

Antarctic Electors

10.2.20 The AEC submitted that a provision of the Electoral Act providing for certified lists of voters to be annotated to show Antarctic electors is "unnecessary and out of step with prevailing practice"[267]. The prevailing practice is that the electoral roll itself is annotated, not the certified list.

> ***Recommendation 71:*** **that subsection 249(4)(b) of the Electoral Act, which provides for annotation of the names of Antarctic electors on certified lists, be repealed.**

[267]Evidence pS0724

10.3 Miscellaneous

Definition of "Bribery"

10.3.1 Section 326 of the Electoral Act makes bribery an electoral offence. The provision states that

> a person shall not ask for, receive or obtain, or offer or agree to ask for, or receive or obtain, any property or benefit of any kind, whether for the same or any other person,

or

> give or confer, or promise or offer to give or confer, any property or benefit of any kind

on the understanding that a vote, candidature or candidate's position in a Senate group voting ticket is likely to be influenced.

10.3.2 The ALP and the Liberal Party both submitted that this definition causes uncertainty; for example, as to whether or not an unexceptional activity such as a candidate offering someone food or drink could constitute "bribery" within the meaning of the Act[268].

10.3.3 The Committee agrees that the Act should preferably be amended to make clear that activities of the type described do not constitute bribery. It might be feasible, for example, to specify a minimum monetary value in the bribery provisions, and/or to exclude food and drink.

[268]Evidence ppS0551-552, pS0706, p286 and pp502-503

Recommendation 72: **that the AEC report back to the Committee on amendments to section 326 of the Electoral Act, relating to bribery, that would more clearly define the scope and intent of the provision.**

10.3.4 If the clarification sought cannot be achieved without risking the effectiveness of the bribery provisions, the Committee agrees that amendments should not be considered. There have been no major cases of electoral bribery brought before the courts in the entire history of federal parliamentary elections, and the chances of a candidate being charged and prosecuted for the sorts of trivial activities mentioned by the Labor and Liberal parties would appear to be slight.

Delegation of AEC Powers

10.3.5 The AEC has requested a minor amendment to the Electoral Act so that the Commission can delegate its powers under any law[269]. While the Act enables "the Commission" (that is, the three Commissioners, who are the Chairperson the Hon. Trevor Morling QC, the Electoral Commissioner Mr Brian Cox and the Australian Statistician) to delegate to the Electoral Commissioner its powers "under this Act", this does not permit delegation of the powers the Commission has under other legislation, for example the *Aboriginal and Torres Strait Islander Commission Act 1989*. The Commissioners are therefore obliged to deal with such matters as appointment of polling places for ATSIC elections themselves, rather than being able to delegate these responsibilities.

Recommendation 73: **that section 16 of the Electoral Act be amended to provide that the Commission may delegate its powers "under this Act or any other law", other than its powers under Part IV (Electoral Divisions) of the Act.**

[269]Evidence pS0733 and p631

The *Referendum (Machinery Provisions) Act 1984*

10.3.6 Many of the Committee's recommendations which refer to the Electoral Act will also have application to the Act governing the conduct of referenda, namely the *Referendum (Machinery Provisions) Act 1984.*

10.3.7 The Committee expects that when the Government presents amendments to the Electoral Act arising from the recommendations in this report it will present equivalent amendments to the Referendum Act.

10.4 Ongoing Inquiries

Women, Elections and Parliament

10.4.1 In evidence to the 1993 election Inquiry[270], the Women's Electoral Lobby stated that

> those issues perceived as women's issues were dealt with very rapidly at the beginning of the election campaign. Political parties all seem to have great difficulty in recognising that the whole range of issues from taxation through to the provision of roads are women's issues...in the coverage of the next election WEL expects to see and hear from women running for office.

10.4.2 The Senate referred the following to the Committee on 27 May 1993:

> [the Committee] to inquire into and report...on women, elections and Parliament, with particular reference to:
>
> (i) the reasons for the gender imbalance in the Australian Parliament,
>
> (ii) strategies for increasing the number and effectiveness of women in political and electoral processes, and
>
> (iii) the effect of parliamentary procedures and practices on women's aspirations to, and participation in, the Australian Parliament.

10.4.3 The Committee reported on this reference on 2 June 1994[271]. The Government has yet to respond to the Committee's recommendation that the Committee be authorised under its resolution of appointment to monitor developments in the area of the participation by women in the electoral process, and to report on this matter from time to time.

Election Funding and Financial Disclosure

10.4.4 Before the 1993 federal election, Part XX (Election Funding and Financial Disclosure) of the Electoral Act was amended to provide for comprehensive disclosure of income and expenditure of political parties and candidates. On 30 June 1994 the Committee tabled a brief interim report titled *Financial Reporting by Political Parties*, which contained nine recommendations designed to alleviate the administrative burden of compliance with the new requirements.

10.4.5 The interim report stated that the present report would examine more fully the various proposals received in relation to funding and disclosure. However the Committee needs the information in a report the AEC will soon be tabling, in accordance with section 17 of the Electoral Act, on the operation of the funding and disclosure provisions in relation to the 1993 election. The Committee will examine the AEC's report and comment further on the funding and disclosure provisions as necessary.

[270] Evidence ppS0201-202 and pp251-261

[271] *Women, Elections and Parliament*, Parliamentary Paper No.97/94

Redistributions

10.4.6 The ALP submitted that frequent redistributions are disruptive to the electoral process, and requested that the Committee investigate whether a more stable and less disruptive process might be established, "consistent with the necessary democratic principles"[272].

10.4.7 In response, the Electoral Commissioner pointed out that the redistribution provisions of the Electoral Act allow little room for manoeuvre:

> the Electoral Act lays down certain criteria that the Redistribution Commissioners must consider. The first of the criteria are numerical ones. The Divisions have to be set so that, at the time of the redistribution, the number of voters in each electorate should be not more than 10 percent nor less than 10 percent of the State average. We are also asked to endeavour to ensure that the difference in the average will be not more than two percent three-and-a-half years on from the redistribution. So there are numerical constraints that are really quite imperative[273].

10.4.8 The Committee believes that it would be timely for an Inquiry to be conducted into the redistributions process once the present redistributions in the ACT, Queensland and Victoria are finalised. The Committee will seek a reference from the Minister for Administrative Services later this year. If the reference is given, the Inquiry will probably be conducted early in 1995.

SENATOR DOMINIC FOREMAN
Chairman

November 1994

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[272]Evidence (ALP, AEC) ppS0561-562, ppS1588-1612, pp505-506, pp529-531 and pp651-652

[273]Evidence p651

DISSENTING REPORT

Mr David Connolly MP
Senator Nicholas Minchin
Senator John Tierney
Mr Michael Cobb MP

CHAPTER FOUR: ELECTORAL INTEGRITY

In Chapter Four of the report the majority concludes that changes to the existing electoral procedures are not necessary because there is no "objective evidence" of widespread electoral fraud.

We believe that this conclusion is too complacent given the evidence to the Committee which indicates cases of multiple voting (see paragraphs 4.2.4 to 4.2.8). We are also concerned that under the existing procedures there are opportunities for irregular and incorrect enrolment.

The current arrangements stress the obligation which proceeds from compulsory voting. We propose that compulsory voting be abolished so that the franchise again becomes the valued right of the free citizen in an open society.

We believe that there are measures that should be taken immediately to ensure the integrity of our electoral procedures.

Entitlement to Enrolment

Only those so entitled should be on the electoral roll. Section 93 of the Electoral Act provides that to be entitled to enrolment as an elector a person must be 18 years of age, an Australian citizen or on the roll for an electoral Division. To claim this

important right now, electors have only to sign and have witnessed a claim form as prescribed. They do not have to present themselves to the AEC and prove that they are who they claim to be or produce evidence as to their age and citizenship.

The procedure to register as an elector is much less stringent than that which is now required of someone opening a bank account or registering for social security or applying for a driver's licence. The integrity of the system is dependent on the objection procedure and on periodic electoral roll reviews (habitation reviews). These are deficient in many respects as the majority concedes: see recommendations 21 to 25 (pages 48-54).

We recommend that

individuals claiming entitlement to enrolment should be required to provide the AEC with proof of their identity together with evidence of their citizenship by production of either a birth certificate, current passport or certificate of naturalisation.

Close of Rolls for an Election

We believe that the system is most vulnerable during the campaign itself, during the seven days in which people are allowed to enrol or change their enrolment prior to the closing of the rolls. At the 1993 election 457 033 voters enrolled or changed their enrolment in this period. The AEC has conceded (see paragraph 4.3.2) that there is no time before the poll to check the right of these electors to the enrolment which they claim.

We believe that rather than encouraging this last-minute rush to enrol, the AEC should move to a continuous roll review as advocated in recommendations 21 and 22. It should advertise extensively to encourage people to enrol in the period immediately preceding an election (six months before the House of Representatives

is due to expire by effluxion of time).

The system should be capable of identifying those about to become eligible to enrol (naturalised citizens and 18 year olds) who should be sent enrolment cards which in the event of no response should be followed up.

We recommend that

rather than rely on last minute enrolment after the election has been called, the AEC should move immediately to a continuous roll review approach to roll management as advocated by this Committee and its predecessors.

Division-Wide Ordinary Voting

We believe that the practice of Division-wide ordinary voting increases the potential for multiple voting. Accordingly, the Electoral Act should be amended to restore the previous requirement that electors vote on election day in the subdivision in which they are enrolled.

We recommend that

subdivisional voting be reintroduced.

Voter Card System

We consider that a voter card system as discussed in paragraphs 4.3.18 to 4.3.21 of the report should be thoroughly examined. We note that such a system has been trialled by the Victorian Electoral Office at the recent Coburg by-election with encouraging results.

We recommend that

the AEC take an early opportunity to trial a system of voter cards in a by-election.

Roll Review and Objection Action

We broadly agree with the comments in the report on cross-checking of electoral records with other databases (paragraphs 4.4.10 to 4.4.13). However, those involved in cross-checking various databases will agree that inconsistency in expressing names and lack of updating of name changes are major impediments to successful matching. Matching rates, for example between the Telecom white pages and the electoral rolls, are often very low.

We recommend that

the AEC undertake with other Government departments and some large private organisations a study of ways of developing first, a standard for recording names, and second, rules requiring people to be consistent when providing names to the AEC, government bodies and key private organisations.

Compulsory Voting

The determination of the AEC to resist attempts to reduce the possibility of fraud is to a large extent based on the premise that, because the law forces people to vote, the Electoral Act should make it as easy as possible for people to enrol and vote.

The logic is that there should be as few "barriers" to people enrolling and voting as possible, because voting is compulsory. Thus in practice compulsory voting underpins a system which has very few checks in place to prevent and detect fraudulent enrolment and voting.

This false logic extends to the system of voting itself, with claims that full preferential voting is too complicated for all the people who are forced to vote, and should be simplified.

Compulsory voting, as enshrined in section 245 of the Electoral Act, is thus a major contributor to the maintenance of an electoral system the integrity of which a growing number of Australians now doubt. It is also being used as part of a push for a de facto first-past-the-post voting system.

Compulsory voting is not the democratic norm. No other English-speaking democracy has it, nor does any other major democracy. In principle it is contrary to the spirit of democracy, which is based on the right to vote (or not to vote).

Compulsory voting denies Australians the fundamental democratic right to choose not to vote, and should be abolished.

We recommend that

section 245 of the Electoral Act be repealed.

Bulk Nominations

In recommendations 39 and 41 (pages 85-86) the report picks up recommendations made by the Liberal Party and ALP to remove anomalies in the operation of subsection 167(3) of the Electoral Act.

This provision was inserted when the Electoral Act was amended in 1991 to permit the registered officer of a political party (a State official) to nominate all the endorsed candidates for Divisions in a State to the Australian Electoral Officer for that State (a "bulk nomination" of candidates).

Two situations had been identified as a cause of concerns which are addressed in recommendations 39 and 41. The first recommendation was proposed to remedy an unintended consequence of the operation of the new provision, whereby it was thought that the whole of a bulk nomination could be invalidated by the death or withdrawal of one of the candidates or by one of the nominated candidates also nominating separately.

The second recommendation was proposed to enable the national officer of a political party to make the bulk nominations. To the extent that recommendations 39 and 41 deal with these two matters we have no difficulties supporting them.

However, the majority have tacked to the two recommendations proposed amendments which would have the effect of permitting a bulk nomination to prevail over an individual nomination, and a bulk nomination made by the national officer of a party to prevail over other nominations purportedly made on behalf of the party. We do not believe that provisions such as these, directed at the resolution of disputes within a political party, should have any place in the Electoral Act. Senator Chamarette agrees with these comments.

Close of Nominations and the Declaration

The AEC proposed a 24 gap between the close of nominations and the declaration, in order to give its officers sufficient time to check the validity of last-minute nominations.

This is a sensible request and should have been acceded to. Government members of the Committee have instead taken the opportunity to reduce the minimum nomination period to a highly marginal five days, in order to reduce the minimum election period (as discussed further in our dissent to Chapter Ten) while maintaining the seven day close-of-rolls period. The recommendation leaves a gap of just five hours between the close of nominations and the declaration.

If adopted the recommendation will create serious administrative difficulties. For example, both the close of rolls and the close of nominations could potentially fall on the seventh day after the issue of the writ. The AEC and the DROs for Forde and Rankin all warned the Committee in separate evidence that this situation would be administratively intolerable. However, Government members of the Committee give no indication as to how AEC staff are expected to cope in the event of this occurring.

We believe that the minimum nominations period should be reduced to no less than nine days, with the declaration set for a full 24 hours after the close of nominations.

We recommend that

> **sections 156, 175 and 176 of the Electoral Act be amended so that the minimum period from the date of the writ to the close of nominations is reduced to nine days with the public declaration of the nominations set for 24 hours after the close of nominations.**

Postal Vote Application Forms

We dissent from recommendations 43 and 44 (page 92) which would have the effect of banning political parties from incorporating a postal vote application form in their own publicity material and nominating a party address for the return of that application form.

At the 1993 election the Liberal Party incorporated a partial reproduction of the postal vote application form in party publicity which nominated a Liberal Party return address. This was partly because of the failure of the AEC to satisfy the demand for official postal voting forms.

The majority have accepted arguments of the AEC that the neutrality of the AEC might in some way be compromised by association of official forms with party publicity, or that a failure on the part of a political party to send the completed form on to the AEC might disenfranchise an elector.

Neither of these arguments is at all persuasive. If an elector chooses to send a postal voting form through a political party this should be regarded as no different from sending it, as thousands do, through a relative or friend. If all parties were to adopt the practice of incorporating the form in their publicity, as it is now open for them to do, there would be no danger of the AEC being identified with a particular party. Nor is the suggestion that a political party would disenfranchise electors or certain electors anything more than insulting.

General Postal Voters

The report notes that many General Postal Voters in remote areas are disenfranchised by a combination of slow mail turn-around times and the requirement that they must obtain, fill in and return a postal vote application form before being sent their ballot papers.

The AEC recommended that this problem be overcome by adopting the procedure used for most State and Territory elections; that is, sending out ballot papers to remote General Postal Voters (those General Postal Voters living more 20 kilometres from a polling place) as soon as an election is called, without an application form being required.

Unfortunately, Government members of the Committee have stated in the report that they are not inclined to recommend the "wholesale automatic distribution of ballot papers to all General Postal Voters who live more than 20 kilometres from a polling place". They recommend instead (recommendation 47) that this facility only be offered where an elector lives more than 100 kilometres from a polling place.

We support the AEC's original recommendation. The Government members' proposal will create two classes of remote General Postal Voter, thereby causing confusion and administrative difficulties, and will eliminate the claimed advantage of aligning Commonwealth and State procedures.

We note that the State electoral administrations report no difficulty with either fraud or low response rates to ballot papers sent out to registered postal voters. Under the AEC proposal, remote General Postal Voters would still have to fill in their details on a declaration envelope, and provide a signature that would be compared with the signature supplied by the elector when he or she registered as a General Postal Voter. Also, any ballot papers sent out and then inadvertently or deliberately deposited in a regular ballot box on polling day would be detected and removed from the count, as postal ballot papers are printed with the additional

notation "Postal Ballot Paper".

The Government members' claim that they are concerned about the supposed potential for abuse under the AEC's proposed system is directly at odds with their comments on electoral integrity measures elsewhere in the report.

We recommend that

> **subsection 186(2) of the Electoral Act be amended so that a General Postal Voter living 20 kilometres or more from a polling place can register to be sent ballot papers and a declaration envelope without a postal vote application form being required.**

Senator Chamarette supports this recommendation.

CHAPTER SEVEN: THE PREFERENTIAL VOTING SYSTEM

Section 329A of the Electoral Act

Section 329A of the Electoral Act was enacted after the 1990 election to ban people advocating (during the election period) anything other than a full and consecutive preferential vote for the House of Representatives, as provided for in section 240 of the Act. As the report notes (pages 103-106), when section 329A was enacted it attracted protest on the ground of freedom of expression. The report also notes that section 329A is presently the subject of a High Court case brought by Mr Albert Langer.

We believe that section 329A is a heavy-handed response to a highly marginal phenomenon and should be repealed, notwithstanding the fact that the Langer case has yet to be heard. Our main objection is on the ground of civil liberties: to vote

informally is not an unlawful act, nor is it unlawful to use section 270 of the Act to effectively cast a first preference only. It is therefore highly objectionable that someone advocating such a vote runs the risk of spending six months in prison. We stress that these provisions would be unnecessary if Australia's system of compulsory voting was to be repealed as we recommend.

The preferential voting system was hardly in jeopardy before the implementation of section 329A. As the report concedes, the actual incidence of deliberate optional preferential voting at the 1990 election was very low. Similarly, the AEC warned the committee in the previous Parliament that a provision such as section 329A would be very difficult to enforce:

> any attempt...to prohibit persons in any way inducing voters to mark their ballots "1, 2, 2, 2 etc" is likely to lead to a situation where, on the face of it, it could be an offence to explain a provision of the Commonwealth Electoral Act.
>
> For example, if the text of s.270 of the Act were read on radio, and the interviewer were to ask "does this mean that I can vote 1, 2, 2, 2 and my vote will be counted as a formal vote for the candidate of my choice?" the answer has to be "yes". It is difficult to see where the law could draw the line between simply explaining section 270 and inducing voters to cast an optional preferential vote. If such a distinction were to be drawn, its enforcement would seem problematical, particularly in the heat of an election campaign. [*Ready or Not* Appendix 7]

We note that the AEC chose not, or was unable, to have anyone prosecuted for breaching section 329A at the 1993 election.

We recommend that

> **section 329A of the Electoral Act be repealed.**

Senator Chamarette supports this recommendation.

CHAPTER EIGHT: CAMPAIGN AND ELECTORAL ADVERTISING AND MATERIAL

Truth in Advertising

We disagree with the majority's conclusion (page 109) that no form of truth-in-advertising legislation is necessary. At the 1993 election it was clearly demonstrated that such legislation is needed to eliminate deliberate misrepresentation of a party's stated policies on particular issues. We note that if some of the misrepresentations which occur during election campaigns were to happen in the private sector, the perpetrators would find themselves liable to prosecution under the Trade Practices Act.

Truth-in-advertising legislation has worked very effectively in South Australia. The existence of such legislation at a national level would provide a means of protecting electors against misleading advertising.

We recommend that

> **the former subsection 329(2) of the Electoral Act, which prohibited misleading political advertising, be reinstated.**

Senator Chamarette supports this recommendation.

CHAPTER TEN: OTHER MATTERS

Minimum Election Period

We reject the Committee's recommendations 42 and 67 (pages 88 and 141), which together will reduce the minimum election period from 33 to 28 days. This is designed to favour the party in Government, which of course will have advance notice of the election date. The recommendations will place unnecessary stress on the AEC, will reduce the time available to process postal votes and will disadvantage electors in remote communities and overseas electors. No acceptable administrative or policy argument has been advanced to support a reduction in the minimum election period. Senator Chamarette concurs with this view.

Voting Rights of Prisoners

We dissent from Recommendation 68 (page 143) which is designed to extend the franchise to all prisoners. At present, prisoners under sentence for an offence punishable by imprisonment for five years or more are disqualified from enrolment and voting.

As our coalition colleagues on the committee in the 34th Parliament said when this proposal was last mooted, the concept of imprisonment - apart from any rehabilitation aspects - is one of deterrence, seeking by the denial of a wide range of freedoms to provide a disincentive to crime. A person having committed an offence against society is denied the privileges and freedoms of society of which one important one is the right to vote. The Committee's recommendation is therefore driven by a philosophical position with which we strongly disagree.

DISSENTING REPORT

Senator Meg Lees

CHAPTER THREE: THE SCRUTINY

The Two Candidate Preferred Count

While not objecting to the principle of the "two candidate preferred count", as an additional piece of information the Democrats are concerned at the anomalies which have occurred following the assumption that only candidates from the major parties will fill one or other of the preferred positions.

In previous elections there have been incidences where Australian Democrat or Independent candidates should have been considered as one of the two preferred candidates and as a result the interpretation of results during the election count was absurd.

The Australian Democrats recommend that flexibility be built into the system to allow a change of preferred candidate during the count when it becomes apparent that another candidate has emerged as a preferred candidate. This also has Senator Chamarette's support.

CHAPTER FIVE: THE NOMINATIONS PROCESS

Close of Nominations and the Declaration

Recommendation 42 (page 88) proposes that the minimum period from the date of the writ to the close of nominations be reduced from 11 to five days. This is not acceptable to the Australian Democrats as it erodes further the time the general public has to consider the merits or otherwise of contesting candidates and political parties. Given that governments are wont to call snap elections to suit their own political ends it is crucial that all political parties and the voting public have sufficient time to focus on political matters. Senator Chamarette concurs with this.

CHAPTER EIGHT: CAMPAIGN AND ELECTORAL ADVERTISING AND MATERIAL

Truth in Advertising

The issue of "truth" in political advertising has been debated widely. The Joint Select Committee on Electoral Reform in its August 1984 *Second Report* found that the aim of "truth" in political advertising was unachievable through legislation and recommended that subsection 329(2) be repealed. This recommendation came into force in October 1984.

While the Australian Democrats accept that political advertising promotes "intangibles, ideas, policies and images" (see page 108) this is not unlike advertising for many commercial "products" and services which are subject to the criterion of "truth".

Moreover, the Australian Democrats contend that there are examples of political advertising that are clearly dishonest and have no basis in fact. For example, some political advertising has asserted that a parliamentarian has voted for a particular measure when scrutiny of the public record indicates this to be patently false. The Australian Democrats contend that perceived problems in achieving "truth" in adverting have been over-emphasised. As a result the community's view of politicians is that they cannot be trusted to tell the truth.

This issue will need to be seriously addressed if the public's cynicism is not to be further deepened.

How-to-Vote Cards

The Australian Democrats have been long on the record for our opposition to the dissemination of "How-to-Vote" cards on election day for reasons similar to those submitted by a number of individuals and groups to this Inquiry (see page 113). We believe that Recommendation 55 advocating that "how-to-vote" material be displayed inside polling places at future elections is a step in the right direction. In regard to issues of "freedom of speech" the Australian Democrats maintain that if the minimum distance from the entrance to a polling booth was significantly increased to, say, 500 metres, then both the ideal of "freedom of speech" and the minimisation of harassment of voters and waste of paper would be achieved.

APPENDIX 1

RESOLUTION OF APPOINTMENT

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS
RESOLUTION OF APPOINTMENT (AS AMENDED 28 OCTOBER 1993)

Electoral Matters Committee
Appointment

(1) That a Joint Standing Committee on Electoral Matters be appointed to inquire into and report on such matters relating to electoral laws and practices and their administration as may be referred to it by either House of the Parliament or a Minister.

(2) That the committee consist of 12 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.

(5) That the committee elect a Government member as its chairman.

(6) That the committee elect a deputy chairman who shall act as chairman of the committee at any time when the chairman is not present at a meeting of the committee and at any time when the chairman and deputy chairman are not present at a meeting of the committee the members present shall elect another member to act as chairman at that meeting.

(7) In the event of an equality of voting, the chairman, or the deputy chairman when acting as chairman, shall have a casting vote.

(8) That 4 members of the committee constitute a quorum of the committee.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That the committee appoint the chairman of each subcommittee who shall have a casting vote only and at any time when the chairman of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chairman at that meeting.

(11) That the quorum of a subcommittee be a majority of the members of that subcommittee.

(12) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(13) That the committee or any subcommittee have power to send for persons, papers and records.

(14) That the committee or any subcommittee have power to move from place to place.

(15) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(16) That the committee have leave to report from time to time.

(17) That the committee or any subcommittee have power to consider and make use of:

(a) submissions lodged with the Clerk of the Senate in response to public advertisements placed in accordance with the resolution of the Senate of 26 November 1981 relating to a proposed Joint Select Committee on the Electoral System, and

(b) the evidence and records of the Joint Committees on Electoral Reform and Electoral Matters appointed during previous Parliaments.

(18) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

(19) That a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.

APPENDIX 2

SUBMISSIONS

Sub No.	From	Sub No.	From
1	Ms N Amendolia JP SANS SOUCI NSW	14	Local Govt. and Shires Associations of NSW SYDNEY NSW
2	Mr M H T Jackson KARDINYA WA	15	Australian Labor Party Unanderra Branch CORDEAUX HEIGHTS NSW
3	Mr K A Blackmore CHESTER HILL NSW	16	Mr E C Mack MP Member for North Sydney SYDNEY NSW
4	Ms M A Slingsby TAMBORINE MT QLD	17	Ms P M Worth MP Member for Adelaide ADELAIDE SA
5	Australians Against Further Immigration ARMADALE VIC	18	Senator M Beahan Senator for Western Australia NORTHBRIDGE WA
6	Australian Labor Party Cunningham FEC MT KEMBLA NSW	19	Grey Power (WA) NEDLANDS WA
7	Mr B Campbell MONTO QLD	20	Mr F McInerney COONAMBLE NSW
8	Mr A Hampton State Returning Officer New South Wales Government TAMWORTH NSW	21	Rt Hon I Sinclair MP Member for New England ARMIDALE NSW
9	Mr W D Barrett MAROUBRA NSW	22	Mr I T Spencer Australian Electoral Officer for South Australia ADELAIDE SA
10	Confidential Submission	23	Mr A Pussich CROYDEN NSW
11	Mrs J M Graham WHALE BEACH NSW	24	CIR Alliance FRANKSTON VIC
12	Mr C Pyne MP Member for Sturt NORWOOD SA	25	Ethnic Communities Council of Queensland Ltd (Australia) SOUTH BRISBANE QLD
13	Mr W G H Barnes CIR Alliance BANJUP WA		

Sub No.	From
26	Senator D MacGibbon Senator for Queensland BRISBANE QLD
27	Mr E D Goode NORTH BOX HILL VIC
28	Mr J Hansor BOWRAL NSW
29	Mr D Farrell VERMONT SOUTH VIC
30	Mr E Cameron MP Member for Stirling OSBORNE PARK WA
31	South Sydney and Inner West Greens NEWTOWN NSW
32	Mr L A Reilly THORNBURY VIC
33	Mrs M M Genet FORBES NSW
34	Grey Power (NSW) NORTH PARRAMATTA NSW
35	Mr S McArthur MP Member for Corangamite GEELONG VIC
36	Mr B Humphreys MP Member for Griffith BRISBANE QLD
37	Mr D E Ruse TOOWOOMBA QLD
38	Hon D Kerr MP Minister for Justice Member for Denison HOBART TAS
39	Mr C Dennison NUNDAH QLD
40	Bureau of Meteorology BRISBANE QLD
41	Mr B Teede CARNARVON WA
42	Mr W D Barrett MAROUBRA NSW
43	Mr R F X Conner Rex Conner (Snr) Labor Party WOLLONGONG NSW
44	Mr W Lang Divisional Returning Officer for Isaacs CHELTENHAM VIC
45	Senator A O Zakharov Senator for Victoria ELSTERNWICK VIC
46	Senator M H Lees Deputy Leader of the Australian Democrats Senator for South Australia GLENELG SA
47	Mr R W Smith Divisional Returning Officer for Kalgoorlie KALGOORLIE WA
48	Mr F D Rowell Divisional Returning Officer for Maranoa DALBY QLD
49	Mr K J Maher CANBERRA ACT

SUBMISSIONS

Sub No.	From
50	Mr B Wakelin MP Member for Grey WHYALLA NORRIE SA
51	Professor D Rumley University of WA PERTH WA
52	Mr W Bach BRISBANE QLD
53	Ms C Harget-White GOOMBUNGEE QLD
54	Women's Electoral Lobby (Australia) CANBERRA ACT
55	Mr S Hall MP Member for Boothby MARION SA
56	Mr R Stuart SARATOGA NSW
57	Dr J R Hewson MP Member for Wentworth CANBERRA ACT
58	Mr S Evans ST HELENS TAS
59	Mr B G Young Australian Electoral Officer for Western Australia PERTH WA
60	The Greens (WA) PERTH WA
61	Mr I Causley MLA Member for Clarence Parliament of New South Wales MACLEAN NSW
62	Mrs J and Mr F Paul WEST RYDE NSW
63	Mr B Scott MP Member for Maranoa DALBY QLD
64	Mr B Reid MP Member for Bendigo BENDIGO VIC
65	Mr I Pavlekovich-Smith MOORABBIN VIC
66	Nine Network Australia SYDNEY NSW
67	Mrs A Capel MOREE NSW
68	Mrs F Mason MEADOWBANK NSW
69	Mrs D Decker FORBES NSW
70	The Electoral Reform Society of South Australia SOUTH PLYMPTON SA
71	Mr J Raveane Divisional Returning Officer for Corio GEELONG VIC
72	Mrs B J Powell BLACKBURN VIC
73	Mr E McL. Holmes RINGWOOD VIC
74	Australian Council for Adult Literacy CANBERRA ACT

Sub No.	From
75	Mr D J Campbell Divisional Returning Officer for Gellibrand FOOTSCRAY VIC
76	Mr C Miles MP Member for Braddon BURNIE TAS
77	Mr D Rice Northern Territory A/Chief Electoral Officer NT Electoral Office DARWIN NT
78	Mr P Knott MP Member for Gilmore BOMADERRY NSW
79	Mr D Gorza BUNDABERG QLD
80	Australian Broadcasting Corporation SYDNEY NSW
81	Softway Pty Ltd STRAWBERRY HILLS NSW
82	Mrs M Drane FORBES NSW
83	Confidential Submission
84	Mr A K Becker Electoral Commissioner for South Australia SA Electoral Department ADELAIDE SA
85	The Australian Greens RANDWICK NSW
86	Mr B Horne MP Member for Paterson MAITLAND NSW
87	Mr I B Morrow BELMONT SOUTH NSW
88	Mr R E Patching Divisional Returning Officer for Rankin INALA QLD
89	Dr S Flanagan NEWCASTLE NSW
90	Mr G F Smith Divisional Returning Officer for Forde WOODRIDGE QLD
91	Australian Electoral Commission CANBERRA ACT
92	Mr A Viney FRENCH'S FOREST NSW
93	Mr S Prasser University of Southern Queensland TOOWOOMBA QLD
94	Proportional Representation Society of Australia CANBERRA ACT
95	Mr E C Mack MP Member for North Sydney SYDNEY NSW
96	Aboriginal and Torres Strait Islander Commission CANBERRA ACT
97	Mr P Worthing URALLA NSW
98	Public Sector Union MELBOURNE VIC

SUBMISSIONS

Sub No.	From
99	Australian Labor Party CANBERRA ACT
100	Senator G Tambling Senator for the Northern Territory DARWIN NT
101	Australian Labor Party New South Wales Branch SYDNEY NSW
102	Mrs L Hay TURRAMURRA NSW
103	Mr W Bennett BUNDABERG QLD
104	Mr R Peet GLENORIE NSW
105	Mr J R Noonan JP KATOOMBA NSW
106	Rt Hon I Sinclair MP Member for New England ARMIDALE NSW
107	Australian Electoral Commission CANBERRA ACT
108	Mr T Fischer MP Leader of the National Party Member for Farrer CANBERRA ACT
109	Mr A Oshlack Richmond/Clarence Greens LISMORE NSW
110	Liberal Party of Australia CANBERRA ACT
111	Australian Broadcasting Corporation SYDNEY NSW
112	Mr R Jones MLC Parliament of New South Wales SYDNEY NSW
113	National Party of Australia CANBERRA ACT
114	Mr A Green SYDNEY NSW
115	Australian Electoral Commission CANBERRA ACT
116	Australian Electoral Commission CANBERRA ACT
117	Senator G Tambling Senator for the Northern Territory DARWIN NT
118	Dr S Flanagan NEWCASTLE NSW
119	Mr R Peet GLENORIE NSW
120	Australian Electoral Commission CANBERRA ACT
121	Public Sector Union MELBOURNE VIC
122	Mr B Young Australian Electoral Officer for Western Australia PERTH WA
123	Australian Electoral Commission CANBERRA ACT
124	Australian Electoral Commission CANBERRA ACT

Sub No.	From
125	Mr J Raveane Divisional Returning Officer for Corio GEELONG VIC
126	Mr B F Cullen Divisional Returning Officer for Wannon WARRNAMBOOL VIC
127	Australian Electoral Commission CANBERRA ACT
128	The Liberal Party of Australia CANBERRA ACT
129	Mr L E Smith Electoral Commissioner for Western Australia WA Electoral Commission PERTH WA
130	Ms P M Worth MP Member for Adelaide ADELAIDE SA
131	National Party of Australia CANBERRA ACT
132	Australian Electoral Commission CANBERRA ACT
133	Australian Electoral Commission CANBERRA ACT
134	Mr D N Hall SOUTH COOGEE NSW
135	The Enterprise Council BRISBANE QLD
136	Australian Electoral Commission CANBERRA ACT
137	Mr E McL. Holmes RINGWOOD VIC
138	Australian Electoral Commission CANBERRA ACT
139	Australian Electoral Commission CANBERRA ACT
140	Australian Electoral Commission CANBERRA ACT
141	Australian Electoral Commission CANBERRA ACT
142	Australian Broadcasting Corporation SYDNEY NSW
143	Australian Labor Party CANBERRA ACT
144	Ms K Klugman TARAGO NSW
145	National Party of Australia (WA) PERTH WA
146	The Greens (WA) PERTH WA
147	Liberal Party of Australia CANBERRA ACT
148	Mr Chris Morris and Mr Brad Edgman CANBERRA ACT
149	Australian Electoral Commission CANBERRA ACT
150	National Party of Australia CANBERRA ACT

SUBMISSIONS

Sub No.	From
151	Australian Electoral Commission CANBERRA ACT
152	Mr A Smith GERALDTON WA

(as at June 1994)

APPENDIX 3

PUBLIC HEARINGS AND WITNESSES

SYDNEY - 14 OCTOBER 1993

Australian Broadcasting Corporation
- Mr Arthur Gray
- Mr Antony Green

Channel Nine
- Mr Rob Hurst
- Mr David Quin

Australian Electoral Commission
- Mr Rod Medew
- Mr Trevor Willson

Softway Pty Ltd
- Mr Chris Maltby
- Mr Paul O'Donnell

Dr Sue Flanagan
Mr George Keegan
Mr Richard Peet
Mr Alasdair Webster

Local Government and Shires Associations of New South Wales
- Mr David Clark

Australian Greens
- Dr Judith Lambert
- Mr Mark Wittervan

Australian Labor Party - New South Wales Branch
- Mr Laurie Brown
- Ms Jarka Sipka

Mr Brian Wilshire

Mr Alan Jones

BRISBANE - 15 OCTOBER 1993

Mr Scott Prasser

Queensland Greens
- Mr Willy Bach
- Mr Greg George

Mr Robert Patching, Divisional Returning Officer for Rankin

Mr Frank Rowell, Divisional Returning Officer for Maranoa

Ethnic Communities Council of Queensland
- Mr Stratos Efstratiou
- Mr Nick Xynias

CANBERRA - 22 OCTOBER 1993

Australian Electoral Commission
- Dr Robin Bell
- Mr Brian Cox, Electoral Commissioner
- Mr Paul Dacey
- Mrs Libby Gladwin
- Mr Michael Maley
- Mr Rod Medew
- Mr Brian Nugent
- Mr Alan Wall
- Mr Trevor Willson

Women's Electoral Lobby, Australia
- Dr Gwen Gray
- Ms Ann Wentworth

Liberal Party of Australia
- Mr Lynton Crosby
- Mr Anthony Nutt

Australian Council for Adult Literacy
- Ms Nancy Veal
- Ms Helen Cotter

MELBOURNE - 1 NOVEMBER 1993

Australians Against Further Immigration Party
- Dr Rodney Spencer
- Ms Angela Walker

Mr Ted Holmes

Mr Bill Lang, Divisional Returning Officer for Isaacs

Mr Ray Merida, Divisional Returning Officer for Latrobe
Mr Trefor Owen, Director Operations Branch, AEC
Mr Jerry Raveane, Divisional Returning Officer for Corio

Mr Don Campbell, Divisional Returning Officer for Gellibrand

PERTH - 10 NOVEMBER 1993

Professor Dennis Rumley

Mr Les Smith, Western Australian Electoral Commissioner
Mr Barry Young, Australian Electoral Officer for Western Australia

Mr Ray Smith, Divisional Returning Officer for Kalgoolie

Dr Geoff Gallop, Shadow Minister for Parliamentary and Electoral Reform (ALP) WA
Mr Kevin Leahy, MLA, State Parliamentary Labor Party WA
Hon Tom Stephens, MLC, Parliamentary Secretary, State Parliamentary Labor Party WA

Greens WA (Inc)
- Ms Giz Watson
- Ms Brenda Roy

CANBERRA - 15 NOVEMBER 1993

Ms Trish Worth, MP

Australian Labor Party
- Mr Gary Gray

Public Sector Union
- Mr Bill Chilvers
- Mr Richard Hart
- Mr John Spicer

Australian Electoral Commission
- Dr Robin Bell
- Mr Brian Cox, Electoral Commissioner
- Mr Paul Dacey
- Mrs Libby Gladwin
- Mr Michael Maley

- Mr Andrew Moyes
- Mr Brian Nugent
- Mr Trevor Willson

Senator Michael Beahan

Senator Grant Tambling

CANBERRA - 23 NOVEMBER 1993

Australian Electoral Commission
- Dr Robin Bell
- Mr Brian Cox, Electoral Commissioner
- Mr Paul Dacey
- Mr Michael Maley
- Mr Brian Nugent
- Mr Alan Wall

CANBERRA - 6 JUNE 1994

Australian Labor Party
- Mr Gary Gray

Mr Brad Edgman, AEC Funding and Disclosure section
Mr Chris Morris, AEC Funding and Disclosure section

CANBERRA - 7 JUNE 1994

Liberal Party of Australia
- Mr Lynton Crosby

Australian Electoral Commission
- Dr Robin Bell
- Mr Brian Cox, Electoral Commissioner
- Mr Paul Dacey
- Mrs Libby Gladwin

APPENDIX 4

LEGISLATIVE CHANGES BETWEEN THE 1990 AND 1993 FEDERAL ELECTIONS

(extract from the AEC's submission no.91)

1. LEGISLATIVE CHANGES SINCE THE LAST ELECTION

1.1.1 Since the 1990 election there have been a number of significant changes to Commonwealth electoral and related legislation.

Electoral and Referendum Amendment Act 1991

1.1.2 The *Electoral and Referendum Act 1991*, which received Royal Assent on 13 November 1991, amended the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984*. The majority of the provisions came into effect on 13 May 1992. The amending Act gave effect to the remaining recommendations of Report No. 3 (dated May 1989) of the Joint Standing Committee on Electoral Matters entitled *Inquiry into the conduct of the 1987 Federal Election and 1988 Referendums*, and to a number of minor amendments, the need for which had become apparent since the Committee reported. Among a number of matters, the amendments have streamlined the enforcement of compulsory voting by introducing an infringement notice system, and provided for the supply of certified lists of voters to Senators, Members of the House of Representatives, and House of Representatives candidates. The amendments also made changes to procedures relating to nominations.

Commonwealth Electoral Amendment Act 1992

1.1.3 The *Commonwealth Electoral Amendment Act 1992*, which received Royal Assent on 16 June 1992, was enacted following a review of the practical implications of the new disclosure provisions, and was designed to reduce some of the administrative burden which had been placed on political parties whilst preserving the primary objective of full disclosure. It includes requirements for registered political parties to furnish annual returns giving details of all financial transactions (Division 5A Part XX). Another significant amendment is the requirement for third parties who have made donations to candidates, registered political parties, or a "person or organisation specified by the AEC by notice in the Gazette", to furnish a return of donations made (s.305A).

Electoral and Referendum Amendment Act 1992

1.1.4 Further significant amendments were made by the *Electoral and Referendum Amendment Act 1992* to provide for an indicative distribution of second and later preference votes at House of Representatives elections; and to make it an offence to intentionally encourage voters to mark their ballot papers otherwise than consecutively and fully. Additionally, enrolment material was provided to Members of Parliament and political parties for election-related purposes and a system of provisional enrolment was introduced for new citizens. The provisional enrolment amendment came into force by proclamation on 24 June 1993, whilst all other amendments came into force on Royal Assent on 24 December 1992.

Norfolk Island (Electoral and Judicial) Amendment Act 1992

1.1.5 *The Norfolk Island (Electoral and Judicial) Amendment Act 1992* was enacted as the result of the Government's response to a recommendation of the House of Representatives Legal and Constitutional Affairs Committee enquiry into the legal regimes of the external Territories. The Committee recommended that Australian citizens living on Norfolk Island be given the right of optional enrolment for the purposes of representation in the Australian Parliament. The Act received Royal Assent on 17 October 1992 and amended the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* to provide for non-compulsory enrolment for Norfolk Islanders in any Division in Australia, with the exception of the Divisions of Fraser and the Northern Territory, under specified conditions.

Regulations

1.1.6 The Commonwealth Electoral (Annual Returns by Registered Political Parties) Regulations (SR No 293 of 1992) were Gazetted on 24 September 1992 and specified fund-raising events and the amounts to be shown in annual returns by registered political parties for the purposes of the Commonwealth Electoral Act.

1.1.7 The Electoral and Referendum Regulations (Amendment) (SR No 422 of 1992) were Gazetted on 24 December 1992. They repealed several redundant regulations, and introduced new regulations relating to the enforcement of compulsory voting, and made minor amendments to the form of the House of Representatives ballot paper and to the list of prescribed authorities permitted access to private elector information.

1.1.8 The Electoral and Referendum Regulations (Amendment) (SR No 28 of 1993) were Gazetted on 12 February 1993 and provided that if more than 30 candidates nominate for a Division then the House of Representatives ballot paper must be printed in more than one column.