



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Conduct of the 2007 federal election and matters related thereto**

TUESDAY, 3 FEBRUARY 2009

CANBERRA

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**JOINT STANDING**  
**COMMITTEE ON ELECTORAL MATTERS**

**Tuesday, 3 February 2009**

**Members:** Mr Melham (*Chair*), Mr Morrison (*Deputy Chair*), Senators Birmingham, Bob Brown, Carol Brown, Hutchins and Ronaldson and Mr Danby, Mr Bruce Scott and Mr Sullivan

**Members in attendance:** Senator Hutchins, Mr Melham, Mr Morrison, Mr Sullivan

**Terms of reference for the inquiry:**

To inquire into and report on:

All aspects of the 2007 Federal election and matters related thereto, with particular reference to:

- a. the level of donations, income and expenditure received by political parties, associated entities and third parties at recent local, state and federal elections;
- b. the extent to which political fundraising and expenditure by third parties is conducted in concert with registered political parties;
- c. the take up, by whom and by what groups, of current provisions for tax deductibility for political donations as well as other groups with tax deductibility that involve themselves in the political process without disclosing that tax deductible funds are being used;
- d. the provisions of the Act that relate to disclosure and the activities of associated entities, and third parties not covered by the disclosure provisions;
- e. the appropriateness of current levels of public funding provided for political parties and candidates contesting federal elections;
- f. the availability and efficacy of 'free time' provided to political parties in relation to federal elections in print and electronic media at local, state and national levels;
- g. the public funding of candidates whose eligibility is questionable before, during and after an election with the view to ensuring public confidence in the public funding system;
- h. the relationship between public funding and campaign expenditure; and
- i. the harmonisation of state and federal laws that relate to political donations, gifts and expenditure.

**WITNESSES**

**HENDERSON, Mr Brad, Federal Director, the Nationals ..... 1**



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**Committee met at 12.42 pm****HENDERSON, Mr Brad, Federal Director, the Nationals**

**CHAIR (Mr Melham)**—I declare open this public hearing of the Joint Standing Committee on Electoral Matters for the inquiry into the conduct of the 2007 federal election. At today's hearing we will hear from the federal director of the Nationals, Mr Brad Henderson. Political parties are key stakeholders in the electoral system. It is important to get their feedback on the conduct of the 2007 election and proposals for electoral reform. The submission by the Nationals raises a number of issues arising from the 2007 federal election including enrolment, notification, proof of identification, harmonisation of voting systems and the conduct of postal voting. The committee will be keen to examine some of the improvements suggested by the Nationals and other political parties on these and other issues such as the conduct of pre-poll voting and counting, and the counting of votes in close seats.

Welcome, Mr Henderson. I think this is the first time you have appeared in front of the committee.

**Mr Henderson**—It is. They did not tell me about this in the job application.

**CHAIR**—That is all right. We are pussy cats; we are not tigers. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as the proceedings of the respective houses. We have received a submission from the Nationals covering a range of matters. If you have a supplementary submission, please feel free to give it. In the alternative, if you want to make an opening statement, go right ahead.

**Mr Henderson**—Thank you, Chair and members, for this opportunity to appear before the committee on behalf of the Nationals. The Nationals are strong supporters of the role this committee plays and we appreciate the opportunity to contribute to an inquiry such as this. Our democracy is the envy of many other countries, but it is critical that we continue to examine ways to ensure the highest integrity in our electoral processes and to ensure that these processes truly serve to allow the full expression of the wishes of the Australian people.

In making some opening remarks, I would first like to record the Nationals' appreciation of the efforts of the AEC in administering the 2007 federal election. I would like to recognise gains made in addressing some of the problems that the Nationals identified in our submission to this committee's inquiry into the 2004 federal election. We have also appreciated the very active efforts made by the AEC under the former commissioner, Mr Campbell, to engage in active consultation regarding continuous improvement in the administration of federal elections. We look forward to a similarly constructive working relationship with the AEC in the coming years under the new commissioner, Mr Killesteyn.

That said, the Nationals believe there is further opportunity to improve the Australian electoral process. Our approach to these issues is based on a belief that an individual's right to vote is precious and that the integrity of our electoral system is an intrinsic foundation of our democracy. For those reasons we believe it is not unreasonable that a level of individual responsibility is attached to an individual's right to vote. We do support continued refinement of

the electoral system federally but also between state and federal jurisdictions to ensure the highest integrity of our electoral processes, to provide for consistency, to improve voting participation and to reduce voting informality.

Turning briefly to some of those issues raised by the Nationals with this committee after the 2004 election, I would first like to refer to the procedures for voter enrolment and electoral roll maintenance. The Nationals strongly supported the changes made in the last parliament that now require proof of identity for enrolment. The previous system, until the 2004 election, when all that was required to change your voting enrolment was to sign a card with a willing witness was open to abuse and also provided a threat to public confidence in the integrity of the electoral system. Whether people believe actual cases of abuse were occurring or not, the fact that joining your local DVD shop required more stringent proof of identity than enrolling to vote devalued the right to vote in our view and the responsibilities attached to that. The Nationals believe the improvements made in this regard in the last parliament were well founded and worked well. We have not received, to my knowledge, any negative public feedback regarding these improvements and we strongly support the maintenance of the current proof of identity requirements for enrolment.

In our post-2004 submission to this committee the Nationals also called for increased communication by the AEC with the public, local government and utility providers regarding enrolment requirements. On behalf of the party I am pleased to acknowledge the AEC's efforts in this regard and commend it accordingly. This type of communication, particularly with the public, while also serving an immediate priority in ensuring the integrity of the electoral roll, can only assist in further promoting the value of an individual's vote and the importance of contributing to our democratic process. The Nationals strongly support the continuation of similar communication efforts by the AEC in this regard and we are happy to provide any assistance required to this end. From what I have read of some of the submissions made to this committee so far, I am aware that there is some concern regarding the cost of the AEC's communication with the public. For the reasons that I have just outlined, and based on the increased level of participation at the 2007 election, the Nationals believe that is money well spent.

In a written submission to your current inquiry we have also proposed a number of additional measures for consideration that may offer further opportunity to improve the integrity of the electoral roll and public awareness of the electoral system. These include a practice initiated by at least one state electoral commission—that is, Queensland's—of notifying voters by mail of their enrolment and the division in which they are enrolled prior to an election. It is our suggestion that this could be extended federally, assisting in allaying confusion after redistributions and acting as a potential proof of identity for voting proper on election day. The AEC has expressed some concerns to me of the likely cost of such a proposal but in the interests of promoting greater awareness, improving the integrity of the roll and, importantly, providing a window of opportunity prior to election day itself to resolve any confusion, inaccuracy or discrepancy with an individual's enrolment, I think it is still worth the committee's time to consider such an idea.

While the Nationals do believe a level of individual responsibility is attached to an individual's right to vote, we do not believe that supports any argument to maintain arrangements or systems that may generate inconsistency between state and federal jurisdictions

or confusion amongst voters. As we did in our submission to your 2004 election inquiry, the Nationals continue to advocate greater consistency between the electoral processes at state and federal level, particularly the universal adoption of compulsory preferential voting.

In a similar vein, our submission to this inquiry has highlighted the ongoing need for the AEC to provide superior training for its election officers to ensure that quality advice is consistently provided to all voters, irrespective of their voting location, and also to ensure greater consistency in electoral rulings made by returning officers. For instance, I am aware of this committee's interest in the idea of a three-person panel to replace the role of the returning officer in close electoral contests. But I would make the point that, unless there is consistency in interpretation of the rules, that proposal simply risks the provision of three alternative interpretations. So ongoing consistent training is a key element.

Also assisting in the enhancement of the roll's integrity in 2007, compared to 2004, was the introduction of improved close of roll arrangements. The Nationals advocated such a change in the committee's 2004 election inquiry, again on the basis of removing the opportunity for abuse but also to ensure public confidence in the integrity of the roll. These arrangements worked well for the 2007 election. However, as a result of the Gippsland by-election, we have become painfully aware of what we regard as an anomaly that requires an amendment—namely, the act currently requires the date for the close of the roll to be three days after the issue of the writ but that a public holiday in any state or territory is not to be counted as a working day for this purpose. This meant that the duration of the Gippsland by-election campaign was drawn out dramatically as a result of a couple of country shows in faraway Queensland. For by-elections, we argue that an amendment should be made so that only public holidays in that part of the state are not to be counted as working days when setting the closing of the roll.

In terms of provisional voting, our party has previously expressed serious concerns with the processes surrounding this, most particularly in our previous submission. In that submission we highlighted the significant increase in provisional voting in 2004 and an apparent loophole which allowed people who had been taken off the roll for not responding to an AEC request to validate their enrolment to turn up and vote anyway on election day. In advocating change to require proof of identity, we cited the Commonwealth Electoral Act, which makes it incumbent on voters to ensure their details are correct at all times. It is worth recalling that now, considering some of the debate this committee has heard that seems to support winding back the changes made since 2004, because, from the evidence of the 2007 election, it seems that the change introduced in the last parliament, which now requires proof of identity, has made significant improvement to the integrity of the provisional voting system without increasing the number of people unable to vote. It is our view that the current arrangements should be maintained.

On the evidence submitted by the AEC to this inquiry, the improved arrangements for proof of identity and the close of rolls—with the exception of that by-election anomaly I referred to, the AEC's public communication and provisional voting have all worked well and resulted in more people enrolling, with fewer informal votes and fewer people missing out on a vote compared to 2004.

I would also like to quickly put on record the Nationals' support for the changes made to tighten the requirement for registering political parties. We made a strong case in your 2004 inquiry for tighter controls to rub out what we argue was effectively electoral fraud. We remain

strong supporters of the arrangements now in place, which are more than fair and reasonable for bona fide political parties.

Turning to postal voting, the Nationals' submission has also highlighted significant discrepancies between the AEC's and Australia Post's addressing requirements, particularly in rural areas. The result is that the mail is often simply not delivered, denying voters the opportunity to receive information from candidates and also imposing considerable added costs on the parties with returned mail. On the issue of postal voting more generally, I have been very encouraged to read the committee's deliberations during this inquiry on the problems the Nationals identified in a written submission regarding the inconsistency between Australia Post's mail services in some regional areas and the AEC's deadline for the acceptance of postal votes.

From the evidence you have already received from Australia Post and the AEC, the problem is clearly a serious one—perhaps more serious even than we envisaged ourselves. The result is that many Australians have been denied their right to have their vote counted despite having fulfilled all of their responsibilities regarding the exercise of that right. Our party appreciates the candour now shown by officials from both agencies regarding this issue, but we regret that it is only now, after the election and after the Nationals and their volunteer members spent many, many unpaid hours investigating a glaring shortcoming in the system, that the lid has been lifted on that shortcoming. It is fair enough to ask why this problem was not earlier identified by the agencies in question themselves, and I think it also underlines the importance of the role this committee plays that through its processes we have been able to expose this problem.

There is a real possibility that this shortcoming may have affected the result in at least one seat at the 2007 election; of course, we will never know now. We cited just one example in our written submission of a couple in the division of Flynn who voted legitimately by post but whose votes were not counted by the AEC because of the mail delivery constraints within Australia Post, but our scrutineers are aware of many more. In fact, the AEC has confirmed the numbers involved in correspondence with your committee subsequent to their hearing before you, although we are still querying the substance of that advice to you in terms of the particular way they have recorded the votes affected.

The Nationals strongly support the committee's examination of this problem, and we urge a multipronged approach to rectifying it that should include improving the logistical processes within the likes of Australia Post themselves. We are also open to revisiting the committee's previous recommendation on the acceptance of postal votes for counting as an alternative to the current method of reliance on an envelope's postmarked date.

One other issue regarding postal voting relates to the design and composition of the gazetted postal voting application, or PVA. In short, the gazetted PVA continues to defy all accepted written communication trends and has become increasingly complex and less user friendly. This is resulting in our campaign workers reporting numbers of postal voting applications completed inaccurately, with the lack of a signature or a witness's signature the common shortcoming. Most state PVAs are significantly simpler in their design, although there is also considerable scope to improve their layout to a more user-friendly format as well. The Nationals recommend that this issue be addressed, and additionally we ask that the committee consider recommending that gazettal of whatever PVA form is to be used for an election be achieved at least six months, and preferably 12 months, prior to a scheduled election. Late gazettal and regular changes cause

enormous difficulty in planning and budgeting for the production of PVAs for those parties and candidates that offer this service to voters.

These problems we have identified are pronounced by the growth in the popularity of postal voting, up from some 4.9 per cent in 2004 to almost 5½ per cent at the last election. These are serious issues because the combined effect of the three problems I have identified is contributing to a denial to voters of their legitimate right to exercise their vote. We have raised a number of other important issues in our submission, including a proposal regarding the media blackout rules and the recycling of election-day materials, and I commend those to the committee as well.

Finally, to close my remarks before taking your questions, I would like to offer some comments on the issue of campaign finance. The Nationals have previously flagged their position on campaign finance issues in their submission to your inquiry into the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 regarding the tax deductibility of political contributions and gifts. I would like to place on record here, though, that the Nationals are very willing to consider genuine bipartisan campaign finance reform on three conditions: first, that it promote further public confidence in the integrity of our electoral system; second, that it be fair and equitable to all political parties and does not restrict a candidate's or party's ability to communicate with voters; and, third, that preferably it can be consistently adopted across all state and federal jurisdictions. What we do not support is the piecemeal progression of individual changes to the current rules for campaign finance ahead of or independently from a comprehensive and coordinated examination of campaign finance generally.

Our concern for a comprehensive and coordinated examination is compounded by the lack of such an approach federally at the moment as well as by separate inquiries that have been or are being undertaken by the states. It is the Nationals' view that any changes should be considered collectively and that, once agreed, these should be progressed on a genuinely bipartisan basis and ideally adopted collectively and uniformly across all jurisdictions. Such a process would provide genuine transparency and uniformity of regulation as well as going a considerable way toward promoting further public confidence. The process underway with the electoral reform green paper provides an opportunity for this approach, and the Nationals are contributing to that shortly.

We maintain the miscellaneous few changes currently before parliament should be considered as part of the green paper process. The current process adopted by the government, whereby these few changes are being progressed independently of a holistic examination, serves only to create cynicism about the government's real objectives. It also casts serious doubt over the sincerity of public statements regarding campaign finance reform.

I would like today to give just one example to demonstrate what I am saying, and I refer to the government's move to remove tax deductibility for party political membership. The current tax deductibility arrangements for party membership apply equally to all parties and candidates, providing no advantage to any party or individual over another. Undertaken in isolation, as the government proposes, the removal of the tax deductibility provision will have the effect of tilting the so-called level playing field more heavily in favour of the Labor Party at the expense of all other parties and Independents. In fact, we believe it can be reasonably argued that the playing field is already tilted in the Labor Party's favour by virtue of the income tax exemption currently provided to trade unions—and I refer to section 50.15 of the Income Tax Assessment Act 1997.

Thus union donations to the Labor Party and associated entities and the union's own direct expenditure on political campaigns are effectively tax free. Additionally, individuals taking out union membership are also provided a tax deduction for that expenditure. The net effect of the exemptions provided to the union movement for income tax and membership fees is that a major source of the Labor Party's fundraising is pretax for the contributor.

Clearly, as the government currently proposes, removing the tax deductibility for membership of a political party but not for a trade union is not only inequitable but also contrary to an individual's right to freedom of association, a principle that the Nationals firmly subscribe to. In fact, some have argued that the provision of tax deductibility for political donations and membership of a political party is a taxpayer subsidy. If that assertion is to be accepted then the current exemptions for union membership and industry associations must equally be interpreted as a taxpayer subsidy. The net public effect or take-home message from the government's argument in favour of this particular change currently before the parliament is that Australians may associate with organisations with which Labor enjoys a close relationship on a tax-deductible basis—that is, the trade unions—but they may not associate with another association or a political competitor on the same footing.

I cite this example of the tax treatment of an individual's membership of a party, union or industry association simply as just one of the many issues that arise in the absence of truly bipartisan and holistic examination of campaign finance law reform. It should be of equal concern to the government that on the evidence so far it appears to many observers and ordinary people—not just to those involved in our side of politics—that the government is more interested in disadvantaging its political competitors relative to its own standing. In short, we believe that the government is actually damaging the public confidence it claims to be motivated to improving.

Once again, I reiterate that the Nationals are very willing to consider genuine, bipartisan campaign finance reform, but achieving that genuine reform will require all sides, to use the vernacular, to be fair dinkum. In closing, I trust that the issues raised in the Nationals submission to your inquiry, and by me today, will be of real use to your deliberations and I wish you well in those. I am happy to take any questions you might have.

**Senator HUTCHINS**—Thank you very much, Mr Henderson, for that very comprehensive contribution to our inquiry. I have a question in relation to the section about media in your submission, which says:

The Nationals recommend that the existing media 'blackout' provisions should be extended to internet advertising, providing a consistent approach to all electronic advertising throughout election campaigns and an across-the-board 'cooling off' period prior to polling day.

I am not sure how one could control that. I know what your aim is, but how could one practically try to control anything that is on the internet now?

**Mr Henderson**—What we are arguing for there is the need for consistency. There is the fact that new forms of media—or not so new anymore in terms of the internet—are really overtaking the application of what we think was the intention of those original provisions, regarding the

blackout provisions. We are really cutting off a couple of media outlets, but there is a whole range of new media outlets—

**Senator HUTCHINS**—Like emails and YouTube?

**Mr Henderson**—Exactly. In arguing that, there is no way you could control guerrilla campaigns.

**Senator HUTCHINS**—I am sympathetic to your position, but if you could highlight some way in which we could do it—

**Mr Henderson**—There is probably no way you could control a guerrilla campaign, but, in terms of newspaper websites and so on, those public sites take advertising on a commercial basis just like a television or radio station does. It is that form of advertising that we would argue should be brought into line consistently with television and radio provisions.

**Senator HUTCHINS**—I can see that, but it would be very difficult to control individuals on the internet.

**Mr Henderson**—You could not control individuals. We are not arguing that. It is more about the commercial media providers, commercial websites, that take advertising, including political advertising, and subjecting them to the same rules as other electronic media have.

**Senator HUTCHINS**—Thank you.

**Mr SULLIVAN**—Mr Henderson, thank you for coming in. I found that what you had to say pretty well covered it. I want to talk to you about a couple of things—firstly, voter identification. I think I am on record as saying that I cannot understand why I can have a photographic ID card for my local bowls club but it seems to be an invasion of my privacy to have a voter ID card with my photographic image on it. In relation to requiring proof of identification when voting, earlier you talked about the AEC sending out letters to tell everybody which electorate they are in. Have you ever thought of collapsing your ideas for those two things into one and coming up with perhaps a voter ID card?

**Mr Henderson**—There is the potential for that, I guess. My understanding of the Queensland arrangement is that it is not necessarily a formal requirement to produce it. It is a means of assisting you to say that you are in this electorate and, if there is any challenge by an officer at a booth, you can provide that as a demonstration of who you are.

**Mr SULLIVAN**—I can tell you that, as a booth worker at a voting booth for three electorates, it was a godsend for us to know which how-to-vote card to give the voters that came in. I understand what you are saying. Interestingly enough, in your presentation or in the submission you talked about how proof of ID would be a means of preventing dual voting, which we hear is not a great problem anyway in terms of the minimal amount of it, but I do not see that it would prevent anything. If I were of a mind to vote more than once in an election, as long as I did not do it at the same polling booth with the same issuing officer I would get away with it and, at the end of the day, could claim that it was not me and that a person has made a mistake. I just do not think it works in that sense. The other thing that you quite rightly noted, through Mr Scott, is that

this committee has been chasing the postal vote issues in remote communities. How do you propose that people who vote by mail will provide the AEC with proof of identification in order to claim a vote?

**Mr Henderson**—That is something for your great minds to deliberate over. Clearly the system is not working. We have set up the system and created a public expectation that, if people lodge their postal votes until election day, they will be counted, but the logistics of the system are not allowing that to happen. I think we have to look creatively at other ways of allowing those votes to be counted, particularly in close contests. I note that last time you recommended relying on the word of the voter in terms of the date they signed it and dated it. We are not averse to looking at that, but I think you need to look at that in the context of ensuring that that is not open for abuse as well and that we are continuing to improve the integrity of the process.

**Mr SULLIVAN**—Over the recess, we had the American presidential and house elections and senate election, and there was some comment made in America that the American electoral system needs to be fixed. Madeline Albright cited the Australian system as the best example in the world, and you have just indicated that you think it needs to be improved. We may be a little close to thinking that there are problems with ours that the rest of the world does not necessarily see.

**Mr Henderson**—I would argue that you can never stop improving processes. You have identified in the evidence you have heard from Australia Post and the AEC that there is a problem. It does have the potential to affect results. I think that, if we become aware of a problem, it is our duty to endeavour to rectify that to ensure that public confidence is maintained.

**Mr SULLIVAN**—I have one final question about something else on which I find myself in agreement with your submission, which probably will not stand me terribly well in my party: optional preferential voting. You have suggested that compulsory preferential voting should be adopted in all jurisdictions. Are you aware through your party networks of how that will play out in New South Wales and Queensland, in terms of a change being made back to compulsory preferential voting?

**Mr Henderson**—Whether they would support that?

**Mr SULLIVAN**—Yes.

**Mr Henderson**—I think you would have to talk to the state parliamentary groups, but it has been a longstanding position of the Nationals that we support compulsory preferential voting, the reason being that we believe it provides the fullest expression of the voters' wish in terms of their preferred candidate. As to what state governments or state oppositions may be proposing or otherwise, I am not aware; you would have to go and ask them. I am not even aware that there has been any real debate of any significance in recent times at state level, but, again, it is another one of those issues of inconsistency. Where you have inconsistency, it creates the potential, albeit small, for confusion amongst voters and for the will of the people not to be fully and completely expressed.

**Mr SULLIVAN**—Most of the people who have pointed to that inconsistency before have seen the solution as being the adoption of a universal optional preferential system rather than the

submission that your party has made about a return to compulsory preferential voting in those state jurisdictions. Of course, we cannot control those state jurisdictions either, any more than can your parties.

**Mr Henderson**—I will use an example, and obviously it is a partisan example, of a state election in Queensland a few years back. I think it was in the seat of Burdekin, and under the optional preferential voting system there the Labor candidate, Steve Rodgers, was elected with about 33 or 34 per cent of the vote. There was a raft of other candidates in that race—

**Mr SULLIVAN**—Sixteen was the number.

**Mr Henderson**—from memory, nearly all of whom could have been considered conservative, of one shade or another. The fact that two-thirds of that electorate were effectively voting conservative I think would lend support to my argument that that system does not fully express voters' wishes. I am sure you could find examples on our side of the fence as well.

**Mr SULLIVAN**—In the election that I think you are talking about, I think there were 16 people elected to the legislative assembly with a vote after exhaustion, and the distribution of those preferences that were distributed was less than 50 per cent of the formal vote cast. That is the problem. The full expression, as you mentioned, is the reason I support it. I am going to end up getting drummed out of my party for that, but I do not think—

**CHAIR**—We love you too much to drum you out of the party, even though some of the comments you make leave us gobsmacked!

**Mr SULLIVAN**—I am finished now, Mr Chairman, thank you.

**CHAIR**—There are a number of questions I want to ask you, but firstly I do want to thank you not just for your submission but for the quality of your opening statement. It was a considered statement and it was well argued. Obviously there are a number of issues where I have a different view—

**Mr Henderson**—I appreciate that.

**CHAIR**—but I think it is important for us to engage. The first thing I want to talk to you about is the full preferential system. It seems to me that some of the points you make in relation to the informality that arises at a federal level are valid. As a supporter of full preferential I am disturbed that post the 1998 election the Langer provisions were removed from the Electoral Act such that we have no safety net. If there were 20 candidates in the lower house and someone went to write 1 to 20 but repeated two numbers inadvertently, in the old days the vote would be counted up until the informality but now it would be informal from the beginning. Have you got any views in relation to the reinstatement of that provision, given that we have these different voting systems? We have a system in the Senate where you only have to put 1 above the line and you generally have a half-Senate election. I would say to you that the statistics I have seen—there are a number of AEC research papers on this—show that the more candidates, the more informal the vote in the lower house, and it is a similar situation in seats with large migrant populations. Have you got a view about reinstating those provisions, with penalties, of course,

against advocating an optional vote? I see those provisions as a safety net. We are talking about 90,000 votes being reintroduced nationally into the count.

**Mr Henderson**—From the party's perspective, we are happy with the current arrangements. I say that for the sake of maintaining simple, absolute consistency—number every square in your order of preference. It is simple and easy. What has assisted are the improved party registration processes, which have cut down the size of the Senate paper, for instance, and have also led to a cut-down in the number of bogus parties.

**CHAIR**—The Senate is not what I am now worried about, because it has refined the process. I can remember the 1974 election, which was the first one I participated in. Two councillors from Bankstown council put 20 people on the Senate ballot, so there were 70-odd numbers to write, and the high informal vote cost Labor dearly in New South Wales. I am worried about abuse of the system but am talking about when the voter's intention is clear. As I understand it, the situation is that in every other count around the country if you make that low-level mistake your vote is included in the count—and it was federally prior to 1998.

**Mr Henderson**—We would place a higher priority on trying to bring all systems in line with a full compulsory preferential voting system than on reintroducing that provision.

**CHAIR**—One of the things you talked about in your opening statement was union tax deductibility, which you equated with tax deductibility for joining a political party. Aren't you comparing apples and oranges in relation to a tax deduction for an individual that has to do with his workplace? It is like employers claiming tax deductions for the legal costs of running a business. Everyone says, 'That tax deductibility automatically flows into the Labor Party,' but a lot of those unions are not affiliated with the Labor Party—a lot of the public service unions, for instance. Aren't you drawing a bit of a long bow to put that tax deductibility into that category? These people are not joining a political party, they are not members of a political party and they are not seeking benefit in terms of the Labor Party; they are seeking benefit and protection in being members of a union which directly relates to their work.

**Mr Henderson**—I cite that example to demonstrate the inconsistency and other issues that can arise when you approach issues of campaign finance reform in isolation. I go back to the principle of freedom of association. We would not regard a person's right to join a political party as being any different from a person's right to join a union, a business association or any other organisation. So I make that point simply to ask: if we in this country believe in freedom of association, why is it free for some and not for others? The argument is more about consistency. We also have the view that engagement in Australia's democratic process is not a political process, it is something that should be encouraged. It seems to be another means of discouragement for people to get involved in a political party versus any other organisation. I simply cite that example on those grounds. I guess that comes back to our appeal for consistency.

**CHAIR**—I want to come to your postal vote application. Obviously I am concerned, like you, that people can be knocked out on technicalities. The importance of those provisions is well-known to political parties. The witnessing is an important process. I will come in at the same time with that Australia Post stuff. We have had a submission and we have had in camera evidence in relation to it. I really appreciate the fact that Mr Scott and the Nationals took this up. I think it is fair to say that is not just a regional issue.

**Mr Henderson**—No.

**CHAIR**—It seems to me that the witnessing provisions are very important provisions because what I am thinking about is, given that there is a concession that not all these things are postmarked, so that people have legitimately voted, I am attracted to the proposition that the witnessing provisions become the prime reference as to whether someone has voted before the appropriate time and whether the vote is admitted into the count, with of course penalties that go with it. Do you have a problem with that?

**Mr Henderson**—I think that is the nature of the committee's recommendation last time.

**CHAIR**—I am thinking of reinforcing that; that is what I am saying. I just cannot think of a better solution.

**Mr Henderson**—We are open to that. Obviously we would dearly love to see an improvement in Australia Post logistics because those issues do not just affect postal voting applications, it is all your other communications with your voters as well. So we would like to see that addressed. Additionally, I talk about that multi-pronged approach and we would be open to considering that again.

**CHAIR**—Do you see some changes in the timeframe that postal votes would be allowed to be admitted into the count in terms of when they are received, or having the same provisions that are in the act remain?

**Mr Henderson**—Unless you address that logistics problem, there is going to be a continuing problem with some votes being received late just because of the mail processes.

**CHAIR**—But there is a time beyond which you cannot admit them. You are happy with the current time?

**Mr Henderson**—I think it is largely reasonable, but if you could improve the system so that those envelopes are at least opened and there is some demonstrable proof that they have been completed and lodged legally, we would be very open to considering that.

**CHAIR**—Okay. I want to come to the proof of identity provisions and the assertion that they have worked well in the 2007 election. In terms of the evidence I have seen, I actually have a different view. It is based on the fact that for me enfranchisement is very important, but this resulted in the disenfranchisement of a large number of voters. A lot of this will be in the report; it is in the submissions and we have been seeking accurate material so that we can have that evidence before us. Historically between around 60 or 50 per cent of votes were admitted. In 2004, 90,500 votes or 50 per cent were admitted; in 2001 81,200 votes, 49 per cent, admitted; in 1998, 97,000, 53 per cent, 87,000 in 1996, 50 per cent; 45,000, which was 40.84, which was the previous lowest. In 2007, the figure plummeted to only 24,212, which was 14.44 per cent of those votes.

Before I get you to comment, I should put on the record for those who will read the transcript that the main ones we are talking about are voters who rock up, whose names are not on the roll, who insist on a vote and then an investigation is made as to whether they were previously on the

roll. For instance, people who move next door and do not answer the correspondence get removed from the roll and, under the current provisions, do not get reinstated unless they rock up with a POI. We had three people over the age of 100 knocked out because they did not roll up with POIs. The former rule was that, provided you lived within the same electorate, you would be reinstated if you could be found on the roll, on a prior occasion, within a certain period of time—I am told that is within two elections. If you go out of the electorate your vote is lost, but your state vote might be counted. It seems to me that if they are real people that sort of stuff should not take away their right of voting. They have not responded, for whatever reason—some of them are lazy; I accept that. The question is integrity, whether they are real people, whether there is multiple voting or fraud.

In 1984 we kept on the rolls the British that were on the rolls prior to 1984. We have subsequently had Heather Hill's case, where it was found that British citizens are regarded as foreigners; the Australia Act; and dual citizenship. Yet, because we wanted the principle that those people are on the roll, that their vote is important, we have kept them on the roll, even though they have not taken out Australian citizenship. The view has inevitably been, until recently, even with a bit of red tape, one of enfranchisement, providing they are legitimate.

The final part of the puzzle I want to put to you is that one of the justifications for these provisions was multiple voting or fraud or whatever. We will get some figures, as I understand it, that have shown that there has really been no change over time, that it has actually been pretty stable. Indeed, in McEwen there were allegations of eight multiple votes. We now know from the commission that, on further investigation, all those can be accounted for. There was marker error whatever. I regard those as safety net provisions, similar to what I said before, not someone running around multiple voting. In Queensland, a lot of the problems with the Labor Party were not electoral fraud for voting but electoral fraud for selection and Young Labor purposes. I am sorry for the long preamble, but I just wanted your views.

**Mr Henderson**—We go back to the first comments I was making about the right to vote being precious, and we do not believe it is unreasonable to have some responsibilities attached to that. That is why we have been so supportive of the AEC's communication efforts with the electorate. Not only is that encouraging people to get on the roll; it is also encouraging them that their vote will make a difference. So our primary focus is on asking people to fulfil those responsibilities. That is why we would favour that approach in the first instance.

If you look back at our 2004 submission, made by my predecessor, one of the issues we highlighted with provisional voting was a big increase at that election and the potential for shifting across electoral boundaries and questions that that may raise. That was a real concern and we would be very reluctant to see any change that might revert back to allowing any potential for that to occur in the future. I have some sympathy for your argument about voters within an electorate moving, but I think once again it has to come back to things like providing greater proof of identity on the day. If you are going to start winding back some of these protections, if you like, I think we have to look at other means, such as producing a licence or whatever.

**CHAIR**—Can I just come in on that. One of the reasons I am hot to trot on it is that, in my experience as a scrutineer, you have something that is as good as proof of identity, because for those voters to be reinstated one goes back to their original enrolment form, on which there is a signature. That is compared to the signature that is on the envelope of the declaration vote. What I am saying to you is that the notion that they are different people can be overcome because you have a comparison. It is the same as what we do for postal votes. When you apply for a postal vote they compare the signature when the other signature comes back. If anything, the commission having those records overcomes what you are saying. You are dealing with people not who are seeking to enrol but who are on the roll and you have a signature for them. Do I make sense?

**Mr Henderson**—You do. The caution that I have is that a lot of gains have been made in the last couple of years. There have been various criticisms made of the changes that were made to things like the close of rolls and provisional voting and all the rest of it. But I think public awareness has increased regarding people's responsibility to change their address for voting purposes. I would caution against winding back on that while we are just starting to see the gains of those communication campaigns take effect. I do not think this position is unreasonable. When you move house you are compelled to notify your bank, your employer, your newsagency and anyone else who is sending you bills or other information of your new address. Why is it that voting should be any different?

**CHAIR**—While we are talking about that, do you and your party have any objection, for instance, to making it easier for the Electoral Commission to be provided with that information in the event that there is a change of address, so that if the motor registry has it it can flick it off to the Electoral Commission. I think it is called automatic enrolment. If you go to Centrelink and there is a change of address then it is forwarded to the Electoral Commission.

**Mr Henderson**—I am not entirely comfortable with that.

**CHAIR**—Okay. The one thing of course would be that you would be looking at a form where the voter would allow that to happen. In other words, they would tick a box. There could be a signature comparison or whatever. I am just trying to float issues in the modern world where we now have a movable society.

**Mr Henderson**—Absolutely.

**CHAIR**—In 1986, my seat of Banks was the most stable electorate in the country. It is now about No. 8. In North Sydney, every six years Joe Hockey has to put up with 50 per cent of his electorate turning over. I do not want to break down the integrity of it, but I also want to be realistic.

**Mr Henderson**—I go back to that principle of devaluing the vote. If it becomes automatic and it is too easy then voting becomes just another one of those things. Whatever measures you are going to consider, I do believe it is important that we maintain a level of responsibility and reinforce with individuals that they have this precious right to vote and they have responsibilities to fulfil. That is not to say that we are not averse to looking at ways of making it more convenient for people to change their enrolment details, but we do believe that there should be some level of personal initiation of that as well.

**CHAIR**—What I am thinking of is that it is done consensually. Part of the procedures for these organisations would be that when someone comes along they would raise that issue with the person and it would then be initiated. So it would not be uninitiated. I agree with you that it has to be generated by the voter, but at the moment it is not part of the processes of Centrelink, the motor registry agencies, Australia Post or whatever. We need a system whereby we capture those voters. But I hear what you are saying. There are a couple of other issues which I want to raise with you. We are looking at making declaration votes ordinary votes within the subdivision—

**Mr Henderson**—Pre-polls, you mean?

**CHAIR**—Yes, pre-polls—so that they can be counted on election day. It is something I think the Liberal Party initiated and the ALP agree with. They can be scrutinised before the day but counted on the night, creating another polling place on the night which might be the electoral division or the pre-poll polling place. You do not have any problem in relation to that?

**Mr Henderson**—We support that. That makes absolute sense in determining a result more quickly.

**CHAIR**—I have floated the idea that also we make it a bit easier to obtain a declaration of vote on the basis that, if you are outside the electorate on election day, that in itself is sufficient, as against a situation where you might require people to lodge an absentee vote on the day if they are within eight kilometres of the polling place.

**Mr Henderson**—Yes. We are open to that.

**CHAIR**—Thank you. There does not seem to be any opposition to that, I might say. The other one I want to talk to you about where there are differing views is the issue of provisional enrolment for 17-year-olds. I have floated the idea that it might be worth while lowering the age of a provisional voter to 16 so that electoral officials, in talking to schools, could capture them at year 10. There is some objection to this from some quarters because they feel that 17 is sufficient, but my experience or my view is that there are a lot of year 10 kids who are a lot keener. If you have discussions with them through electorate officials, if they are able to enrol them from 16 onwards, as soon as they turn 18, they are on the roll. We know that it takes from 18 to 25 to get the figures stabilised in terms of a high percentage of people on the roll. Do you have a view in relation to that?

**Mr Henderson**—I have an initial reservation about devaluing that. There is a little risk there. It is just one of those tick and flick things you just do. It is a bit like coming of age—you get your drivers licence, you should enrol to vote and so on. I am a little hesitant in that regard. I would also offer a practical response. How would that work, given that when most kids finish school they go off to university or get a trade? Their address is likely to change anyway. So how are you—

**CHAIR**—They would know that they are on the roll but the same provisions currently apply. If they move outside the electorate and they have turned 18, their vote will not count because they are not on the electorate roll. It is just a question of capturing those people at a time where you have their attention, whereas by the time they are 17, you do not have their attention. I am

looking at not benign ways but creative ways of getting people into the system. What it would mean, on what you say, is that, if they go to university, change; unless they change their address, it does not count. These are the things I want to test. I do not want to ambush people with them. If you have any concrete views one way or the other—I cannot see that there is political advantage in it other than that I am concerned that at 18 the enrolment figures are the lowest and are substantially lower than other years.

Finally, if there are further issues to raise, please feel free to do so because we are looking at reporting before June, some time after the budget. As I said, I am continually requesting statistics from the commissioner so that parties like you—Labor, Liberal and other interested ones—can have a look at the evidence and we can improve and agree where we can achieve that consensus.

**Mr Henderson**—There is one area where I probably need to check with the AEC first, but I looked at the correspondence they sent you after their hearing before you and they provided a breakdown by division of two categories of rejected postal votes—votes cast late and votes received late. According to their advice the postal voting applications that are date stamped after the election are put in the cast late column. That does not correlate with the advice we have had from our scrutineers. In fact it looks as though the opposite occurs. For instance in Flynn electorate there are two in the cast late category. My reading of that is that it is supposed to include those that are postmarked late but there are 144 in the received late column. I do not know whether it is just a—

**CHAIR**—Can I suggest that if you have those concerns, you contact either me or the secretariat with a paper trail and we will ask the commission to clarify. That is what we have done for the McEwen electorate and that is where we were able to clarify some of those issues. If you have those issues please let us know because if you are right—

**Mr Henderson**—It almost looks like a terrible mistake unless I am misinterpreting it. The first thing is that I have not had a chance to talk to the AEC yet. I will talk to them and get back to you.

**CHAIR**—I urge caution because I can remember the 1990 election in Richmond and the allegations of dead people voting. I can still remember Mr Farrell running down to the main committee room to give us the advice that the ticks actually meant that they took them off the roll and they did not vote.

**Mr Henderson**—In Flynn we are pretty sure we had our scrutineer there the whole time and she was seeing the envelopes come in and being cast aside from virtually the start of counting.

**CHAIR**—We would be happy to follow it up for you.

**Mr SULLIVAN**—I have a final question following on from the questions the chair was asking about the automatic change of address through other agencies and your view that it may devalue the privilege, responsibility or right to vote by the voter not having to initiate the changes. Have you a view about whether there ought to be a simplified form for making enrolment changes rather than the voter having to complete the full catastrophe again?

**Mr Henderson**—We would be open to considering that. If there is any way that we can simplify forms and make things more user-friendly but still fully inform people about the responsibilities that they are signing up to then we are supportive of that.

**CHAIR**—Thank you for your attendance today. We will send you a copy of the transcript of your evidence and you can make any corrections in terms of grammar or fact.

Resolved (on motion by **Mr Sullivan**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

**Committee adjourned at 1.43 pm**