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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION
COMMITTEE

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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Tuesday, 11 September 2001

Members: Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Brandis, Conroy, Lightfoot and Ray

Participating members: Senators Abetz, Brown, Chapman, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Gibson, Harradine, Harris, Hogg, Knowles, Lundy, McGauran, Payne, Ridgeway, Tchen, Tierney and Watson

Senators in attendance: Senators Brandis, Conroy, Faulkner, Ferris, Lightfoot, Mason, and Ray

Terms of reference for the inquiry:

Commonwealth Electoral Amendment Bill 2001

Committee met at 10.33 a.m.

CROSBY, Mr Lynton Keith, Federal Director, Federal Secretariat, Liberal Party of Australia

CHAIR—I declare open this public meeting of the Senate Finance and Public Administration Legislation Committee inquiry into the [Commonwealth Electoral Amendment Bill 2001](#). On 29 August the Senate referred this bill to the committee for report by 18 September 2001. The committee advertised the inquiry in all Australian capital cities and in the *Financial Review* and the *Australian* on 1 September. The committee has received and published four submissions on the legislation.

I welcome this morning my Senate colleagues and Mr Lynton Crosby, the Federal Director of the Liberal Party. I remind you that the evidence given to the committee is protected by parliamentary privilege and also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. I now invite you to make a brief opening statement, and then we will proceed to questions.

Mr Crosby—Thank you, Mr Chairman, for the opportunity to make a contribution to this hearing. The purpose of the bill has been set out clearly by the government in its second reading speech and the explanatory memorandum to the bill. The Liberal Party, in the development of the way in which it operates and finances its national campaigns, has now reached the stage where it is reasonable for there to be a split of our public funding between the federal secretariat and the divisions, rather than the position under the act at present whereby all public funding money is paid to the divisions.

Parties such as the Labor Party and the Australian Democrats have achieved payment being made to their respective national bodies under legislative mechanisms that are appropriate to their circumstances in the way those parties are structured. We desire no more and no less than that: an amendment to the act that is suitable to the particular circumstances of the Liberal Party and that makes possible the implementation of the party organisation's desire, as

expressed by our federal executive, for a way of direct payment of appropriate proportions to be possible to both the federal secretariat and the divisions.

The long-term trend for Liberal Party campaigns has been a growing national role in the running of federal campaigns. This reached the point where the Federal Council of the Liberal Party in 1999 placed that role in the party's constitution as a specific power and function of the federal secretariat. Subclause 49(g) added to the list of the powers and functions of the federal secretariat the following: to undertake federal election campaigns in conjunction with divisions. Thus, the party gave constitutional recognition to the reality of the key role of the federal secretariat in running national election campaigns. It follows pretty logically from this that there should be recognition in the legislation governing our public funding of this federal role in running and funding our campaigns.

The Liberal Party does not have the centralised structure or culture that the Labor Party operates. Our federal level cannot simply direct the divisions as to what they should do with their share of public funding money or direct them to tell the AEC that their share of public funding should be paid to the federal body. That is why this bill comes forward in the way it does. The mechanism we do have internally within the Liberal Party to bring together the views of the party is the federal executive. The federal executive includes membership of the presidents of each of the divisions as well as various federal office-bearers, and it is the federal executive that passed a resolution in recognition of the arrangement which will be made possible by this legislation.

This bill will make possible something not at present possible under the act, and that is to lodge with the AEC a particular split-up of the Liberal Party's public funding as between the federal secretariat and the divisions, so that the roles of both levels in the way we run and fund our campaigns are recognised and so that both levels receive their proportions direct from the AEC. Clearly the bill reflects the wishes of the Liberal Party organisation. Its provisions reflect the respective roles of the federal and divisional levels of our party. Accordingly, we support the passage of this bill. I will leave it there, Mr Chairman, and I will be more than happy to answer any questions and expand on any points.

CHAIR—Many thanks, Mr Crosby. Senator Ray?

Senator ROBERT RAY—One thing out of your submission, Federal Director. You said that the Labor Party has the culture to direct state divisions. Is it your understanding that the Labor Party directed state divisions in terms of centralised funding?

Mr Crosby—My understanding, on the advice of a former national secretary of the ALP, is that a resolution was passed by the national executive of the ALP directing that the state secretaries of the ALP ensure the transfer of the public funds to the national office. That is my understanding.

Senator ROBERT RAY—Could you explain what the current arrangements are as they affect the Liberal Party under the existing act before any changes are made?

Mr Crosby—The arrangements are simply that funds are paid by the AEC to each state party agent.

Senator ROBERT RAY—I am only being presumptive here, but I presume that some of those state divisions or the territory division—we can exclude the Northern Territory, can't we?

Mr Crosby—It is a separate political party—no relationship.

Senator ROBERT RAY—Yes, a separate political party. I assume they then remit money to the federal secretariat.

Mr Crosby—They remit a proportion of funds from time to time as agreed.

Senator ROBERT RAY—You said the Liberal Party is having a change in attitude. Is it true to say that historically, using a bit of your corporate knowledge, it was the Liberal Party that insisted on these decentralised arrangements, or the possibility of them, being in the electoral act?

Mr Crosby—Prior to the passage of the change to the Liberal Party constitution in 1999, which I referred to, there had been, it is true, a traditional practice for the state divisions of the Liberal Party to have overwhelming responsibility for national election campaigns. In 1999 the federal council of the body, which is essentially an entirely state based body with just some supplementary membership at office-bearer level, resolved to put responsibility for national campaigns in the hands of the federal secretariat of the party.

Senator ROBERT RAY—That did not actually answer my question, but it was interesting.

Mr Crosby—I thought you would appreciate it.

Senator ROBERT RAY—I always appreciate additional information, but isn't it true that in 1983-84 the Liberal Party argued very strongly against public funding but that, if it was to occur, it go to a state level, and that, when the act was reviewed and changed to its current form, which I think was 1994, you again in your negotiations at that committee and everywhere else argued for a state based solution? This is just for the historical record.

Mr Crosby—That has been the past practice. Circumstances have changed. As you are aware, there was specific amendment to the legislation to take account, for example, of the circumstances of the Australian Democrats. I would argue that, in seeking to make an amendment on this occasion to deal with the circumstances of the Liberal Party, that desire is simply a reflection of a practice already established—that is, to take into account particular circumstances of particular political parties.

Senator ROBERT RAY—I think you used as a trigger point, if you like, the federal council meeting in 1999, which amended or instituted rule 49(g). Subsequent to that, how many submissions have you made to the Joint Standing Committee on Electoral Matters in relation to public funding and the centralising that is reflected in this bill?

Mr Crosby—None before today.

Senator FAULKNER—Why not?

Mr Crosby—Because, as you would be aware, from time to time these things can be dealt with first and foremost by appropriate discussion internally. That process has occurred, and we are now at the stage to consider the legislation in the proposed form.

Senator FAULKNER—But how then did you communicate the outcomes of that 'appropriate discussion internally' to government?

Mr Crosby—As I am sure you are aware, just as in the Labor Party where the leader of your party is a member of your national executive, so the leadership group of the Liberal Party are all members of the federal executive of the Liberal Party. As you are also aware, within the formal and informal forums of the party, discussions occur from time to time.

Senator FAULKNER—But were there any formal communications from the party at a federal level to government to progress this legislation?

Mr Crosby—There has been a range of appropriate discussions with the appropriate parliamentary representatives of the Liberal Party to progress this matter.

Senator FAULKNER—But not with the relevant parliamentary committee. The Liberal Party—and, I would acknowledge, the Labor Party and the major political parties in this country—has traditionally regularly made submissions to the Joint Standing Committee on Electoral Matters. The interesting thing here is: why was this done differently?

Mr Crosby—I am not aware—and you may be able to inform me of this—of the circumstances with regard to the amendment to the legislation for the Australian Democrats. I do not know whether that occurred by way of follow-up from a recommendation being made to the Joint Standing Committee on Electoral Matters in relation to the Australian Democrats. But this is one of those things, frankly, which I would have thought was a relatively simple process, and there are many more important issues for consideration by the Joint Standing Committee on Electoral Matters—issues like electoral fraud and voter entitlement—that would be more appropriately considered by that committee.

Senator ROBERT RAY—So you are saying that this is not a matter of priority?

Mr Crosby—No. What I am saying is that in terms of—

Senator ROBERT RAY—So it would not matter if we do not deal with it for another year or two.

Mr Crosby—Don't verbal me, Senator. What I am saying is that, in the context of the role of the Joint Standing Committee on Electoral Matters, I think there are other more important issues that give rise to significant community concern and which themselves have been the subject of royal commissions and all sorts of things.

Senator FERRIS—Voter ID.

Mr Crosby—Yes, voter ID, as Senator Ferris suggested, and there are other things that warrant the particular attention of the committee. There are important issues. This is a relatively straightforward issue. Given that the parliament dealt with the issue of the Australian Democrats in about five minutes, I would have thought this was a relatively straightforward proposal in a similar vein.

Senator ROBERT RAY—That is writing a political party's name—the Liberal Party's name—into legislation 33 times in four pages. Isn't that an unusual step?

Mr Crosby—I do not have the time to count the number of references to the party's name—

Senator ROBERT RAY—It does not take long to count to 33, unless you are Senator Abetz.

Mr Crosby—but I can tell you—I am sure Senator Abetz can defend himself—

Senator ROBERT RAY—He only got to 29 in the preselection; that is all. Sorry.

Mr Crosby—I knew that.

Senator ROBERT RAY—But the rest did not so we let him in.

Mr Crosby—The issue is that it is not how many times a party's name is referred to in a particular amendment; it is the intent of the amendment. In the Labor Party's submission to this committee, Mr Gartrell, the assistant national secretary—I think that is his title—indicated that there had been support for an amendment to take account of the circumstances of the Australian Democrats and that that was entirely legitimate. In that sense, this is exactly the same: an amendment to take account of the circumstances of the Liberal Party of Australia.

I would make the point that already there is, in other sections of the act, consideration of the particular circumstances that certain political parties face. It is not just the specific mention of the Australian Democrats. For example, in section 299(4)(b)(i) there is consideration given to what the treatment of the allocation of public funding is when you have a situation where a party or parties are involved as multiples on a group—that is, where you might have, for example, the Liberal and National parties in coalition running a joint Senate ticket, as they do in New South Wales and Victoria. There are provisions already in this legislation that enable this act to be applied to that circumstance. Yes, it is true that the Liberal and National parties are not specified by name in section 299(4)(b)(i), but the fact is that the only two parties that involve themselves in that practice—to the best of my recollection and certainly in recent years—have been the Liberal and National parties. So it is clear already that there are considerations incorporated within the act that take account of the particular needs of political parties.

You might say, as you appear to be saying, that for some reason political parties should not be mentioned—

Senator ROBERT RAY—No. Now you are verballing me, but anyway.

Mr Crosby—You might say that political parties should not be mentioned in the context of an act at all. However, the fact is that, as a result of an initiative of the Labor Party, public funding and disclosure were introduced and a whole range of regulatory procedures were put in place for political parties. It is inevitable once you go down that route that the circumstances of political parties must be and are taken into account in the legislation. I put it to you that it is not unusual, therefore, for a particular political party to be named as this whole area of election funding and disclosure evolves.

Senator FAULKNER—Did you or anyone else on behalf of the Liberal Party at a federal level formally or informally request the government to deal with this matter before the forthcoming federal election?

Mr Crosby—In fact, this is an issue that has been discussed informally and formally in the forums of the party, amongst the party organisation and between the party organisation and the parliamentary party over a number of years. It is not something that suddenly came to fruition at this time because it was deemed to be an urgent need; it is something that has been canvassed and discussed over a period of time and brought to a conclusion more recently.

Senator FAULKNER—I accept that, but my question was a little more specific than that. I was asking whether representations were made on behalf of the Liberal Party by you or by others, either formally or informally, to have this legislation dealt with in the parliament prior to the forthcoming federal election.

Mr Crosby—I cannot speak for what others may have said or done but I can speak for myself, obviously. We considered this to be a very straightforward amendment. In terms of the fact that precedent had been set with the Australian Democrats, and the circumstances of the particular political parties had been taken into account—witness section 299(4)(b)(i)—we

considered that this was a relatively straightforward proposal and that, therefore, it would be prudent, efficient and beneficial to progress it as quickly as possible.

Senator FAULKNER—I would sum that up by saying that you could have answered my question with the word yes.

Mr Crosby—Yes, I could have. I always like to give full information, Senator Faulkner.

CHAIR—I would like to allow Senator Ferris a quick question, and then we can come back to you, Senator Ray.

Senator ROBERT RAY—I have just one more follow-up question, and I will not move on to a new topic. You said that you did not put these matters before JSCEM because it had more important things to do. Isn't JSCEM looking at funding and disclosure issues as we speak?

Mr Crosby—The Joint Standing Committee on Electoral Matters is generally always looking at public funding—

Senator ROBERT RAY—But it has got a specific reference.

Mr Crosby—You know, Senator, that there are ongoing issues. The committee is always looking at those sorts of things. The point is that this is a relatively simple proposal. Other political parties have been dealt with individually and it seemed that it was unnecessary to go through that process. Frankly, I am surprised that we even have a hearing of this nature today, given that it is a fairly specific proposal.

Senator ROBERT RAY—Except that every piece of legislation has been based on a JSCEM report, even though not every detail.

Mr Crosby—There are many details and many amendments that have borne no relationship to recommendations of the Joint Standing Committee on Electoral Matters.

Senator ROBERT RAY—Yes, but most people have actually put in submissions; you have not. It seems to me, from the evidence you have given so far, that the reason you have not—the reason you have given us—is that you did not want to overburden them with what you think are minor matters.

Mr Crosby—It is a question of whether it is necessary for something like that to go to the Joint Standing Committee on Electoral Matters. As I said, I am not aware that the proposal to amend the act with regard to the Australian Democrats went to the Joint Standing Committee on Electoral Matters, and I am not aware that there has been any Joint Standing Committee on Electoral Matters consideration of, for example, the issue in relation to section 299(4)(b)(i). That provides for a split-up, effectively, between the Liberal and National parties' public funding for the Senate.

Senator ROBERT RAY—Yes, but when these matters were last changed and that Democrat amendment was moved, it was all on the basis of acting on a previous report by JSCEM to deal with these broad issues. Maybe it was not the Democrats per se but it was based on their deliberations, was it not?

Mr Crosby—I cannot answer that.

Senator ROBERT RAY—I thought you were being a bit assertive, that is all.

Senator FERRIS—Mr Crosby, you have explained that the federal secretariat is responsible for the administration of electoral campaigns. Can you tell me whether you have

got any internal mechanism to force divisions to take particular decisions about what they do with federal electoral funding?

Mr Crosby—Essentially, we are a federalist party and, because of the structure of our party, ultimate decision making power rests in that sense with the executives of divisions. We do not have, for example, the power that the national executive of the Labor Party would have to direct their state secretaries to hand over public funding money, or to direct the Electoral Commission to pay the public funding money, to the national office. We do not have that structure.

Senator FERRIS—This would clearly obviate the need for that structure anyway.

Mr Crosby—This makes clear two things: first of all, I would have thought that all senators would be committed to the principle that Commonwealth funds provided at federal elections must be spent on federal elections and that the bodies that have responsibility for conducting those federal elections campaigns, therefore, should be the logical bodies to whom the public funds are paid.

Senator FERRIS—Can you tell me whether the federal executive has ever discussed the way public funding should be divided? How would that be determined?

Mr Crosby—Yes, prior to every election the federal executive regularly discusses the requirements of the party from a campaign perspective, makes decisions about the appropriate way that funds will be allocated and spent and then passes a resolution to that effect, but that resolution essentially rests on the goodwill of each state division for its implementation.

Senator FERRIS—And would continue to do so.

Mr Crosby—That is correct.

Senator FERRIS—I am interested in asking you to respond to some of the quite extraordinary accusations and comments that were made during the second reading debate in the House of Representatives by a number of members of the opposition. I think that under the circumstances it would be appropriate for us to ask you to respond to them. Perhaps I will just put three of them to you and you can comment on them. Mr Emerson described this as ‘Lynton Crosby’s dash for cash bill’ in his speech in the second reading debate. I wonder if you would like to comment on that. Mr Tanner said:

The real purpose of the bill is far more sinister, far sleazier and much more about an internal power struggle within the Liberal Party than the glib words from the government suggest.

Importantly, Mr Melham also said:

Don’t demean this parliament by bringing in sleazy, grubby legislation to resolve internal disputes, because that is how you impugn the electoral system ...

Those seem to me to be quite serious allegations requiring a response. If you would like to have a look at the copies of the speeches that I quoted from the second reading debate, I am happy to give them to you.

Mr Crosby—I will take your word for it. I do not make a habit of reading everything that Daryl Melham says.

Senator FERRIS—I can understand that, but I think they require some sort of response. Would you like to do so?

Mr Crosby—Thanks for that opportunity. I will deal with the last two points, which are similar in implication of things being sinister, sleazy or demeaning. There was a resolution of the federal executive on the matter.

Senator FAULKNER—That was unanimous, wasn't it?

Mr Crosby—It was most recently discussed at the August meeting of the federal executive, and it was unanimous. To suggest that this is all part of some internal power struggle is just a nonsense. It is a nice attempt by the Labor Party to turn something pretty straightforward into something much more significant. The fact is that it was deemed a prudent change, taking into account changed roles within the party, and it was discussed and supported by the federal executive. That is the first thing.

The second point is that a claim of a 'dash for cash' might be a good line for the media, but the fundamental point is this: public funding is paid under legislation to political parties to take account of the financial needs of conducting campaigns, given that Australia has introduced controls on political parties with regard to disclosure and how they conduct themselves that are amongst the world's most rigorous. It was introduced in conjunction with disclosure out of recognition that there could be some consequential impact from disclosure on funds available to political parties. It was a judgment that it is important to support and nurture the democratic process by ensuring that political parties have access to funds to do their jobs in a campaign sense.

This is not money that would be going into the pockets of anybody, in the sense that it and more will be spent at each federal election. Public funding does not cover the cost—either for the Labor Party or the Liberal Party—of campaigns. Funds will continue to be provided for and fully acquitted on the conduct of federal elections, as they should. Public funding should not be seen by any party or used by any party as an income supplementation scheme—as we have seen, for example, with the One Nation Party. Public funding is a device that has been accepted by the parliament in recognition of the impact of disclosure and other things on income streams for political parties and of a desire to ensure some measure of fairness in the political process from a campaign perspective. All the funds that are provided under public funding are fully acquitted and some by any federal election campaign.

Senator FERRIS—Why would Daryl Melham call it sleazy and grubby?

Mr Crosby—I think it is easy when you are attacking your political opponent to run a few lines, but that is obviously something he wanted to do. I must admit some surprise at the breadth and enthusiasm of Labor members to attack us on this issue. I know they have been embarrassed over the last 12 to 18 months in relation to electoral rorting and the CJC inquiry in Queensland and other things.

Senator ROBERT RAY—How do you count to three?

CHAIR—Order!

Mr Crosby—However, I think it is an entirely appropriate piece of legislation and should be supported.

Senator FERRIS—And in fact it is going to give the Liberal Party no more than the ALP and the Democrats already have.

Mr Crosby—In effect, and in another sense it is only an extension of what already occurs in relation to the Liberal and National parties because of their special circumstances in

relation to the Senate, where already, as the electoral act acknowledges, two parties can run as part of a group in the Senate, and therefore a mechanism applies to enable the apportionment of public funding as agreed between those parties.

Senator ROBERT RAY—If you agree to a coalition ticket—

CHAIR—Senator Ray! Senator Ferris has the call.

Mr Crosby—If there is a coalition ticket, yes, but the point is—

Senator ROBERT RAY—It takes two parties to agree.

Mr Crosby—Nevertheless, it takes account of the fact that that is a standard practice that has been ongoing and longstanding in at least two states.

CHAIR—Senator Ferris, have you any more questions?

Senator FERRIS—Thanks for your protection, Chair, but I do not have any further questions.

Senator FAULKNER—Does the Liberal Party have a state based or, if you like, a national or federal based membership system?

Mr Crosby—We have a state based membership system. There is a capacity under our national constitution for there to be a range of national affiliations and other things, but at present they do not exist.

Senator FAULKNER—Are you aware of the situation with the Australian Labor Party, whether it has a state or a national based membership system?

Mr Crosby—I am not wholly aware. I assume it would probably have a national based membership system.

Senator FAULKNER—You would be wrong. What about the Australian Democrats?

Mr Crosby—Based on Mr Gartrell's submission, where he refers to a national membership system, I assume the Democrats have a national membership system.

Senator FAULKNER—One of the issues—and I heard what you said in response to Senator Ferris's questions—that this committee will have to examine is why it is necessary to legislate for the Liberal Party to achieve its desired outcome. I have no problem with the Liberal Party having any desired outcome it cares to have in relation to the internal administration of public funding. That would be my view; I would be pretty generous on these sorts of things. I know how hard it is to administer a political party; it is not easy. But why do we have to legislate? Why can't the state divisions and the federal secretariat of the Liberal Party agree on this matter? Then there is no need for this bill to proceed.

Mr Crosby—I think for the reasons of simplicity and security and recognising that in the past you have legislated; you legislated in relation to the Australian Democrats. I think whether they have a national or a state based membership is a bit irrelevant. An amendment was provided for to take account of their circumstances, and the legislation has previously taken account of the circumstances in relation to political parties in the Senate. Extending your argument, you could say, 'Do not have any provision in relation to the Senate.' The Liberal and National parties, for example, could set upon a course of agreement. They could have a private agreement and transfer funds. The Electoral Commission could pay it to just one body which hands it over to the other. It is simpler and more effective, and, I think, given the precedents already established, it would be more reasonable to have it incorporated in this legislation in the way it is proposed. This legislation at present does not provide for any split

at all. It is an all or nothing situation. You have the situation where the Australian Labor Party—

Senator FAULKNER—Unless your state divisions agree. Wouldn't you acknowledge to the committee that, if the state divisions and the federal secretariat of the Liberal Party agreed on a formula, agreed on an approach, this legislation would not be necessary? That is true, isn't it?

Mr Crosby—We do agree, and we have agreed in the past. However, I think there is an important symbol here too, and that symbol is that the national office of the Liberal Party—the federal secretariat of the Liberal Party—is now the entity in the constitution of the Liberal Party that has responsibility for the conduct of national campaigns. It is therefore a sensible and logical extension and a recognition of that circumstance that this legislation be amended so that that national role of the party in the conduct of federal election campaigns be recognised through the payment of public funds which are provided for national election campaigns.

Senator ROBERT RAY—Let us just get this straight: tomorrow, if the six state branches and the one territory branch here sent a letter to the Electoral Commission, all or any proportion of the funds could go to the national federal Liberal secretariat.

Mr Crosby—No. As I understand the act as it presently stands, it is all the funds, not any proportion.

Senator ROBERT RAY—All of those funds, and you could remit as much of them back to each state branch or territory branch as you wanted to. There is nothing to prevent you, under this legislation, doing that.

Mr Crosby—That is right, but it is an all-or-nothing arrangement. We are saying that amending in this way provides the opportunity to guarantee both components of our party, consistent with our constitution and our campaign obligations, the opportunity to specify the amounts allocated.

Senator ROBERT RAY—But I am offering you a \$3.15 solution: seven letters to the Electoral Commission tomorrow from each of your state branches and signed by them, saying, 'We are ceding this to the national secretariat. We are going to negotiate with the national secretariat to get 30 per cent back'—and that is your business. You have all this unanimity, you tell us, with everyone agreeing. Why should we have a special act?

Mr Crosby—It is not a special act; it is an amendment.

Senator ROBERT RAY—No, it is a bill, an act; it is not a move to an existing one.

Mr Crosby—Okay—

Senator FAULKNER—And it is being done before the federal election.

Mr Crosby—Yes, and I am sure that the Democrats amendment was made before one federal election or another, and I am sure that it has provision for a split in relation to the Senate and that it was done before one federal election or another as well. So that is a bit of an irrelevancy. As I say, for the sake of good order, for clarity and in recognition of the pivotal role that the federal organisation of the Liberal Party now has in the conduct of election campaigns, the payment of funds to that federal organisation should be enshrined. If the federal organisation after agreement then deems to pay a certain amount to individual divisions, that is a matter for them. But we are seeking here a recognition of the practical

reality that national election campaigns are conducted by the federal secretariat of the party and consistent with, yes, the specific but nevertheless established treatment of the Australian Democrats and the Liberal and National parties with regard to the Senate, are seeking an amendment to take account of public funding for the Liberal Party of Australia.

Senator ROBERT RAY—You still have not answered why you cannot do the \$3.15 solution.

Mr Crosby—I think I have answered that.

Senator ROBERT RAY—No, you have not. You have talked about clarity and all the rest of it. There are provisions under this existing act that the Labor Party—with a bit of pain, but not much—took advantage of. It had each of its secretaries and state branches make a decision with federal guidance—and you have federal guidance here—to hand the money over. Why can't you get them to do so?

Mr Crosby—But there is a fundamental difference. Your so-called federal guidance, on the advice of a former National Secretary of the Labor Party to me, was in fact a specific resolution of the national executive of the Labor Party to each of the state secretaries of the Labor Party requiring that transfer to occur. It is not the case that the federal executive of the Liberal Party has those powers. The federal executive of the Liberal Party does not have the binding directional powers over each of the states and territories as the national executive of the Labor Party does. That illustrates or just underscores the very point. Each party has different circumstances. The act takes account of the circumstances that apply for you. The act takes account of the circumstances that apply for the Australian Democrats. The act takes account of the particular circumstances of parties such as the Liberal and National parties that run joint Senate tickets and therefore have a joint group. The act takes account of all of those. All we are saying is that, just as the particular circumstances of those parties are taken account of and enshrined in this legislation, in the same way the particular circumstances and structure of the Liberal Party ought to be taken account of in this legislation. If you want to have an argument about whether there ought to be electoral legislation governing political parties and whether political parties should be mentioned, that is a much bigger debate. But the fact is that we now have disclosure, we now have public funding, we place rules and requirements on political parties by law, and this is just a natural extension of that influence over a long period of time that we seek by this bill to implement.

CHAIR—Mr Crosby has been answering questions patiently for longer than we thought he would be. How much longer do you think you will be?

Senator ROBERT RAY—About half past. I did inform the secretary yesterday that I did not agree with the timing. We will not have too many more questions on this line. Mr Crosby, are you saying that each one of the state divisions of the Liberal Party supports this proposal?

Mr Crosby—I am saying that the federal executive of the Liberal Party, by unanimous resolution at its August meeting, endorsed this proposal.

Senator ROBERT RAY—Let me repeat the question, because you just gave me an answer to a question that I did not ask. Does each of the state divisions of the Liberal Party support this proposal?

Mr Crosby—Reflected by the fact that each state and territory division of the Liberal Party has its president on the federal executive and the fact that every president was present at the August meeting, the answer to that is yes.

Senator ROBERT RAY—I still cannot understand why you cannot get seven letters in if they all agree. Why do we go to the expense, the disruption to a legislative program and all the rest of it when, just for \$3.15 and with seven letters, all this can be resolved?

Mr Crosby—With all due respect, I do not think it is acceptable to argue that this is significant disruption. Extending your argument, there was never any need to amend the act to take account of the Australian Democrats. Extending your argument, there was never any need to take account of the special circumstances of those parties that run joint Senate tickets that require a split between the two parties. That is extending your argument. But the fact is that that has occurred. All we are seeking here is similar treatment to that occurring with the Australian Democrats and with regard to those parties that might run coalition or joint Senate tickets. It is as simple as that.

Senator ROBERT RAY—Are you not just really using the federal parliament to enforce a resolution to internal difficulties?

Mr Crosby—Not at all. The precedent has been established with the Australian Democrats and with the Senate. Are you saying that that was a resolution of internal difficulties?

Senator ROBERT RAY—You are speaking of national membership and you are state based.

Senator FAULKNER—Given the rules that apply to witnesses before these committees, can you say to us, Mr Crosby, that the Queensland state division of the Liberal Party supports this legislation and this approach by the federal executive or the federal secretariat of the Liberal Party? Can you honestly say that to us?

Mr Crosby—I can say to you that at the August meeting of the federal executive, where the Queensland division was represented, a resolution was passed unanimously, and so all I can do is say that the division was represented. Does the parliamentary Labor Party to a person agree with Kim Beazley's position on illegal entrants?

Senator FERRIS—We know the answer to that.

Mr Crosby—Apparently not, because we have seen people out publicly. Does that mean that there is not a Labor Party position on the issue? No, it does not mean that there is not a Labor Party position on the issue.

Senator FAULKNER—This is a very important point. You talk about division within political parties.

Mr Crosby—Can I finish my answer?

CHAIR—Let Mr Crosby finish, Senator Faulkner.

Senator ROBERT RAY—If you want to introduce those sorts of interjections, we will respond.

Mr Crosby—In the same way, there may be people within the Liberal Party who have all sorts of views about the way election campaigns should be conducted or how public funding should be applied. I am sure, Senator Faulkner, that in the Labor Party there are probably people at branch level who would have said, during your time as an office holder in the New South Wales secretariat of the Labor Party, 'Don't give any money to Sussex Street; we could spend it more wisely ourselves; let's not give it to them.' Am I saying that there is not somebody in the Liberal Party somewhere who does not think there would be a better way

than all the public funds being applied to the federal secretariat of the Liberal Party and then split to the divisions? No, I am not. But, in the context of the senior-most executive body of the Liberal Party, the federal executive of the Liberal Party, there was a resolution on the books, and the matter has been debated twice—on the first occasion, without dissent, and on the second occasion, unanimously—and a resolution was passed on this matter.

Senator FAULKNER—You make the point—and, by the way, I agree with it—that there are divisions in all political parties. I accept that: the Labor Party, the Liberal Party or the Callithumpians. We all know that. The issue here is whether, in a political party—in this case the Liberal Party, and this legislation is about the Liberal Party, which you know and we all acknowledge—the divisions are so significant that you cannot get the state divisions to come to an agreement with the federal secretariat. I believe that is the case: you cannot get the Queensland division of the Liberal Party for one—and this is why there was such upset in the party room—to sign on the dotted line. With all the criticisms you care to make about the Labor Party—and some of them may be valid and some may be only a little unfair; I know not—the Labor Party has signed up through its national secretariat and its state and territory branches. Apparently you cannot do that, even though that mechanism is available to you under the current legislation. Isn't it reasonable for me, the parliament or anyone to say, 'Get your own house in order. Don't waste the time of the parliament on this matter, which is not a legislative priority.' Why get the parliament to solve the Liberal Party's internal problems?

Senator FERRIS—On a point of order, Mr Chairman. That question has been traversed in about 15 different ways—

Senator ROBERT RAY—Chair—

Senator FERRIS—Can I make my point of order, please?

Senator ROBERT RAY—I wonder whether you are entitled to do that.

Senator FERRIS—As a participating member of this committee, I am entitled to make a point of order at this committee. I wonder why we are continually traversing the same question in different ways to attempt to get an answer which is more acceptable to the opposition.

CHAIR—The issue has been trawled—

Senator ROBERT RAY—And I think that that was his last question.

CHAIR—We will try to finish by 11.30. I think Senator Lightfoot has a couple of questions and Senator Conroy is very keen to participate.

Senator FAULKNER—First of all I would like an answer to my question.

CHAIR—I understand that, Senator Faulkner. Mr Crosby, if you could reply to Senator Faulkner's question, I will then hand over to Senator Lightfoot and then back to Senator Conroy.

Mr Crosby—Our support for this legislation does not arise because of an incapacity to develop an arrangement with regard to the application of public funding at the next federal election, if that is the import of what you are saying. However, it is our view that, consistent with the changed structure of the campaign management consistent with the fact that the particular circumstances of other parties have been taken into account, it is appropriate that the changed circumstances of the Liberal Party be taken into account in this legislation in this way. It simply is not a device to resolve disputation between any division of the Liberal Party.

Senator ROBERT RAY—For my last question—

CHAIR—Let us go to Senator Lightfoot and then come back to Senator Ray.

Senator LIGHTFOOT—Mr Crosby, are there any perceived problems with changing the legislation so that funding goes directly to the national body rather than to the state divisions?

Mr Crosby—I am not altogether sure what you mean by that. We have a very close relationship between the federal party and individual divisions, including your own division, in terms of campaign effectiveness and so forth.

Senator FAULKNER—Except on the issue of One Nation preferences.

CHAIR—Senator Faulkner!

Senator ROBERT RAY—That was as bad as—

Senator FAULKNER—I know. I plead guilty. I should not have said that or made that comment about the Western Australia division and One Nation preferences. I am sorry I did.

Senator LIGHTFOOT—If we turned the cameras off, Senator Faulkner might be quiet. To paraphrase what I just said, Mr Crosby, are there any problems with the Electoral Commission directing funds to the central body of the Liberal Party rather than individually to the state divisions?

Mr Crosby—I do not believe that there are.

Senator LIGHTFOOT—That was all I wanted to know. I have one more question, which is in three parts. A view has been expressed in *Bills Digest* No. 24 of 2001-02 that:

Strictly speaking, the Federal Secretariat and the State Divisions of the Liberal Party are separate entities. A law which permits the Federal Secretariat to determine the funding entitlements of a State Division would seem to be a law which gives the Federal Secretariat, a private body, the power to make an important public funding decision.

My question relating to that quotation is: could you comment on that statement? If you could answer that, I will go through the other parts of the question as they arise.

Mr Crosby—With regard to the effect of this legislation, it provides not only for the payment of public funds to the federal secretariat but also for the federal secretariat to specify amounts payable to each of the divisions. As the federal office holder of the party—the federal director—it is my obligation to respond to directions of the federal executive which contains representatives of all the states. The collective interest of the states is protected and supported by virtue of the structure of the federal executive and the power to direct me to ensure that the needs of divisions are taken account of.

Senator LIGHTFOOT—Could you explain the relevance that the relationship between the state branches and the federal body of registered political parties has for the legislation?

Mr Crosby—Again, the point needs to be made that every party that is a registered political party has a different structure, and therefore it is appropriate that, taking account of the different structures and roles within the parties, the legislation is amended from time to time to take account of those different relationships.

Senator LIGHTFOOT—Wouldn't it be more relevant for the states to receive money instead of individual money being sent to the states and the territory branch and then that money being reimbursed back to the federal secretariat, given that the federal body incurs expenses, the same as the federal ALP body does? It is more expeditious to have that single

reimbursement to the federal body rather than six or seven disbursements to the states and the territory body.

Mr Crosby—Either way you have a multiple disbursement, potentially, but the point is that the principal costs of an election campaign are incurred by the federal secretariat. The federal secretariat runs the campaign and spends more than all the funds provided under public funding on a federal electoral campaign, so in recognition of that starting point we believe it is appropriate to amend the legislation in this way.

Senator LIGHTFOOT—Mr John Massam submitted:

Prima facie, the very idea of passing a bill regarding the internal funding arrangements of one particular political party, instead of a general law covering all political parties, or better still, all political candidates, goes against the public interest as developed in the British and later the Australian parliamentary practice in recent centuries, and smacks of special privilege, which is opposed to the ideals of the public in the year 2001.

What is your comment?

Mr Crosby—With due respect to Mr Massam, the world has passed him by, in that we now have legislation that strongly governs the affairs of political parties. If you want to start having a comparison between the controls, conduct and regulation of British political parties versus Australian political parties, I am sure you will find that in virtually every respect Australian political parties are much more heavily regulated with regard to their practices than are those in the UK. He is really arguing about something broader, I believe. The crux of his questioning is whether there should be legislation that deals with political parties by name or specifically. For a long time we have had legislation that controls and affects the behaviour of political parties. The Labor Party introduced disclosure.

Senator LIGHTFOOT—And it names those political parties.

Mr Crosby—And, as a consequence, public funding, and we have had amendments that name political parties. One understands what he is saying, and there would be some who would say that you should not involve specifically the reference to political parties or even the practices of political parties, as done in 299(4)(b). In Australia we have regulation where public funding is provided. It was introduced by the Labor Party. Therefore, once you go down the path of regulating and controlling political parties, it is natural and, to a certain extent, reasonable and fair that you then modify legislation from time to time as part of that practice of regulation and control.

Senator LIGHTFOOT—Is the federal secretariat of a registered political party a private body, and if so does it have any particular implications for the proposed legislation?

Mr Crosby—If you mean, by ‘private body’, a corporation—

Senator LIGHTFOOT—As a lawful private body.

Mr Crosby—such as One Nation was, as I understand it—established, with three shareholders, as a company—the Liberal Party is not such an entity.

Senator FAULKNER—You should not ask that one, Ross!

Senator LIGHTFOOT—Okay, I appreciate that, Mr Crosby. Thank you.

Senator BRANDIS—I have just one question, Mr Crosby. You mentioned that this legislation would make provision for the allocation of funds where there are joint tickets for the Senate, for instance—

Mr Crosby—The legislation already does.

Senator BRANDIS—This legislation addresses that or changes those arrangements specifically in relation to joint tickets. I wonder if you would explain to us the mechanism by which that works.

Mr Crosby—No, it is not my understanding that this legislation would do that. That is covered by section 299(4)(b).

Senator BRANDIS—Which this amends slightly?

Mr Crosby—Yes. With regard to 299, obviously there is a range of procedures that are put in place, particularly, if you refer to the bill—

Senator BRANDIS—I am just interested in the mechanism—that is all—as to how an allocation is made in that particular case.

Mr Crosby—It is done in agreement with the states, to take account of the circumstances of the states. That reflects negotiations that have been achieved by the states, and each state has a different arrangement.

CHAIR—Different political cultures in each state.

Mr Crosby—That is correct.

Senator FERRIS—You could say that!

Senator CONROY—When you say it is by agreement, does a state have to agree? Who makes the final decision?

Mr Crosby—There is a requirement—

CHAIR—Senator Brandis, have you finished?

Senator CONROY—Senator Ray has not.

Senator ROBERT RAY—Senator Ferris put a few quotes to you. You say this has fairly unanimous agreement in the Liberal Party. Why did the Prime Minister describe—

Mr Crosby—I do not know that I used the words ‘fairly unanimous’.

Senator ROBERT RAY—How would you describe the federal council?

Mr Crosby—I said that the federal executive had agreed unanimously—

Senator ROBERT RAY—I am trying to get to that.

Mr Crosby—I am trying to be fair. The federal executive, by unanimous resolution, agreed in August; it had previously discussed it, and the resolution was passed without dissent. In terms of the Liberal Party, what I did say was that I could never speak for everyone in the Liberal Party. There will always be somebody who thinks that funds can be spent more wisely. But in terms of the senior-most decision making body of the Liberal Party outside of our federal council, which only meets every one or two years—that is, the federal executive—this decision was supported.

Senator ROBERT RAY—In the light of that clarification, would you agree with the Prime Minister who described the behaviour of certain coalition federal Liberal members as treacherous when they went and lobbied the Democrats against this?

Senator FERRIS—I raise a point of order, Chair. That has got nothing to do with this inquiry.

Senator ROBERT RAY—You quoted Daryl Melham and all the rest of it.

Senator FERRIS—I quoted second reading debate speeches. I did not quote—

Senator FAULKNER—You didn't quote the Prime Minister.

Senator ROBERT RAY—I bet you didn't!

Senator FERRIS—allegations which are in the media and are unsubstantiated. I call on you, Chair, to rule that question out of order on relevance.

Senator FAULKNER—He was not talking about any participating member of the committee.

Senator FERRIS—That is just a disgraceful unsubstantiated slur, and you know it, Senator Ray.

CHAIR—Do you want to rephrase your question, Senator Ray?

Senator ROBERT RAY—In deference to my colleague at the end of table, I withdraw the question. But your questioning was pathetic, Senator Ferris.

Senator LIGHTFOOT—You should know better than to take on Senator Ferris.

Senator ROBERT RAY—Come off it, Ross! You never fight out of your class; you are right.

CHAIR—Senator Conroy, do you have a question?

Senator CONROY—I am interested in some press comment on the bill made by the Western Australian State Director of the Liberal Party, Peter Wells, which I think you responded to. I want to go to the comments he made. The issue he was raising was that the states were forced to pay GST on the funds they send back to head office and then claim it back. That, according to Peter Wells, created cash flow problems. He was supporting the legislation and he said that, to him, it made a lot of sense because:

Why mess around with the GST if you don't have to?

I want to get some response to this question—

Senator LIGHTFOOT—What was your question?

Senator CONROY—If I could finish! Thank you for your help and I appreciate that Peter Wells is a well-known friend of yours, Senator Lightfoot.

Senator LIGHTFOOT—He is an excellent state director.

Senator CONROY—Do you think it is appropriate for one of your state directors to describe this situation as 'why mess around with the GST if you don't have to'?

Mr Crosby—I saw those remarks attributed to Peter Wells. The issue of the GST was not a consideration for either the federal executive or me or others involved in discussing this appropriate refinement of funding arrangements for the party.

Senator CONROY—Is there a cash flow implication?

Mr Crosby—I do not know. I have not even looked at it. I would doubt that there is, but I have not looked at it because it is not the motivation for this legislation. That comment, as I recall it, came up some time after this whole proposal had been developed and publicly debated. So I do not know whether or not it is accurate, but it was not a motivation for the legislation.

Senator CONROY—I just note the comments which are attributed to you in this *Canberra Times* article, and I will put them to you and I am happy for you to correct the record if they are incorrect. The article says:

Federal party director Lynton Crosby denied that the GST motivated the change.

“If there’s any GST issue—but I’m not sure there is but I’ve heard one state say that—it’s only a timing issue,” he said.

“... There would be a cash-flow implication but that’s all.”

That is your quote. Now you are saying that there is no cash flow—

Mr Crosby—I am saying that I am not sure that that is the case. I have not looked at it, because it was not the motivation for proposing this legislation. The important thing is to ensure that the legislation goes through as we proposed to take account of changed circumstances which I have discussed during this morning’s hearing. As to any tax implication, it is not something that I would take account of or consider in my advocacy of this legislation.

Senator CONROY—The comment you have made here, though, is, ‘There would be a cash flow implication.’ That is your quoted comment—as opposed to a tax implication, you said a cash flow implication. You are quoted as saying there would be a cash flow implication.

Mr Crosby—I think I was responding to the assertion being made by Mr Wells. I was saying that, if what he said was wholly true—and there was a longer discussion than that—there may or would be a cash flow implication. I am not sure of the answer to that. It is not the motivation for this legislation.

Senator CONROY—I just wanted to go through how the transactions would work and I appreciate that—

CHAIR—Senator Conroy, can I just interrupt. As at 11.34, Mr Crosby will have been at the table for an hour. How long do you think you will take?

Senator CONROY—Hopefully only 10 or 15 minutes.

CHAIR—I am just concerned that Mr Crosby was scheduled to be here for half an hour and he has been here for nearly an hour now, with most of the time going to the opposition.

Senator CONROY—I will happily go through these as fast as I can.

Senator FERRIS—Why don’t you put them on notice?

Senator ROBERT RAY—He is not a government department.

CHAIR—The difficulty with questions on notice, and Senator Ray is correct to this degree, is that we have a very short reporting period and it would be extremely difficult to take questions on notice.

Senator CONROY—I will attempt to get through these as fast as I can. Provided Senator Lightfoot and Senator Ferris stop interrupting, my journey will be speedy.

CHAIR—I would greatly appreciate that, because by about 20 to 12 the enthusiasm and the patience of the chair may wear thin.

Senator CONROY—I just wanted to go through the processes to try to understand whether there is a cash flow implication. Public funding is paid by the AEC and distributed to your state branches at the moment. Is that correct?

Mr Crosby—That is correct.

Senator CONROY—Payment is an appropriation and therefore is not subject to a GST?

Mr Crosby—That is correct.

Senator CONROY—You would then invoice the state branches for your share of the total public funding?

Mr Crosby—I cannot advise you of the detail of the practice. We have an agreement as to a certain amount that is paid by the states to the federal organisation. That is taken care of by the appropriate official in the federal secretariat.

Senator CONROY—I am not asking you for a figure. I am just saying that that generates a GST—

Mr Crosby—I want to explain that that is an activity carried out by others of which I am therefore not intimately aware.

Senator CONROY—You are the director and, according to recent press releases that you put out, a bit of an expert on GST in some of your divisions, so I am hoping that you will be able to clarify your own section.

Mr Crosby—I am always learning.

Senator CONROY—I know that. But you do generate an invoice, which generates a GST liability, which is essentially what I am trying to get to.

Mr Crosby—I do not know whether that is right or not.

Senator CONROY—The GST has to be paid to the ATO, and it is a taxable supply.

Mr Crosby—This is not a matter that we have confronted, because there has not been an election since the passage of tax reform legislation. Arrangements are currently being made to ensure that we fully, completely and openly comply with our tax requirements, and we will.

Senator CONROY—No; it all nets out in the end.

Mr Crosby—Yes, I understand that, but I am trying to say that I do not want to comment on the detail of the practice because I am just not in a position to confirm the complete treatment to date.

Senator CONROY—But this goes to whether there is a cash flow implication. You have already made public comment on whether there is cash flow so I am presuming you understood the process when you made that comment.

Mr Crosby—I was responding to a question as part of an extensive interview with the ABC, I think, so I always take two looks at whatever is said.

Senator CONROY—It was in the *Canberra Times*.

Mr Crosby—Yes, I think they may have got it from the ABC. By the time it has been through the ABC and through a couple of other media outlets—

Senator CONROY—I am just trying to get to the basis of taxable supply: what constitutes taxable supply, whether or not it nets out and whether, if you have to pay the GST, you then pay the GST when you send the invoice.

Mr Crosby—If there were GST applicable, because we are a business entity and we have an ABN and all of that we would have to—if GST is applicable those entities entitled to claim it back would be entitled to claim back.

Senator CONROY—In the end it all nets out, but it is the cash flow issue. When you issue an invoice you have to remit the GST before you receive the money is fundamentally the equation. There is a cash flow gain by the money coming directly to you, so you do not have to chase it down is essentially all I am trying to ascertain. I think that is the way it works.

Mr Crosby—That may be the case.

Senator CONROY—Once the federal division issues the invoice it then has to be paid. In the end all the GST is paid and there is no argument there at all; it is just a question that there is a cash flow benefit to the federal divisions by this particular move, as Mr Wells slags.

Mr Crosby—That may be the case; however, as I said before, Senator Conroy, that was not the basis for our initiating this proposal or supporting this proposal. I think the most important thing is for me to simply say that that is the start and the finish of it from my point of view. I am not in that sense interested in or competent to discuss the GST aspects of it because they were not an issue relevant to our initiation or support of this proposal.

Senator CONROY—But what I am trying to understand is the basis on which you currently account for the GST. If there is a cash flow benefit to the Liberal Party by going down this path, the parliament is entitled to know. So I am just trying to understand exactly the implications for your organisation. This is an amendment about your organisation so I think I am entitled to ask questions down this path. Section 29-40 allows businesses to choose the cash basis for accounting for GST rather than the accrual basis, provided you are under a million dollars—I think that is from section 29-40—and turnover is calculated as the sum of all supplies. So that is where ‘what is a taxable supply’ comes into the debate. Some of your Queensland colleagues have put to me that this bill will substantially affect the way the Queensland division operates, and they are concerned about their capacity to claim taxable supplies. It has been put that this will actually stop their capacity to claim a taxable supply so I just want to go to the GST act—

Mr Crosby—I do not know that that is the case, as I have said.

Senator CONROY—I am hoping to ask you, if you will let me finish my question.

CHAIR—Senator Conroy, it is nearly time to wind up.

Senator CONROY—Yes, I am trying to. Section 9-5 of the GST act says that taxable supply is the ‘supplies made in the course or furtherance of an enterprise that you carry on.’ Then there is the meaning of a taxable supply, with a list that I will not waste time going through. But it is important because I am trying to understand—and you have ticked this off—what taxable supply net cost of a function is. The assertion that has been put to me and to some of your colleagues is that this is no longer something they will be able to do.

Mr Crosby—I presume you mean parliamentary representatives.

Senator FAULKNER—Never give up your sources.

Senator CONROY—I would not want to draw anybody into this.

Senator FERRIS—The Zimmerman family?

Senator CONROY—The capacity to claim GST input tax credits—

Senator FAULKNER—Are you sure they were not tricking you when they gave you that big book to look at?

Senator FERRIS—Your tax advisers in the Zimmerman family, Senator Conroy?

CHAIR—Senator Conroy, have you finished that question?

Senator CONROY—I keep getting interrupted by Senator Ferris.

CHAIR—Please finish your question, Senator Conroy.

Senator CONROY—I am trying to understand what taxable supply cost netting is.

Mr Crosby—If this legislation is passed, we will give consideration to all the sorts of advice we will need to seek at that time. If and when that occurs, I will welcome the opportunity to advise you of what the specific circumstances would be.

Senator CONROY—I am just drawing on a press statement that you made on 27 August.

Mr Crosby—In relation to this legislation?

Senator CONROY—In relation to cost netting. You said that cost netting is a taxable supply in this statement. What I am asking you is: could you define under section 9(10), the meaning of supply—which is the ‘supply of goods; supply of services; provision of advice or information; grant, assignment or surrender of real property; creation, grant, transfer’, et cetera. Which of these definitions does cost netting fall under?

Mr Crosby—I think that it is more appropriate to focus on the principles of this legislation. That is what I have sought to do.

Senator CONROY—What has been put to me —

CHAIR—Let the witness answer.

Mr Crosby—If the legislation is passed, we will take appropriate advice on the matter and at that time if you want informal tax advice—

Senator CONROY—No, I am talking about the current legislation. I am talking about the impact of the current legislation.

Senator FAULKNER—I think we can find better sources than your informal tax advice, don't you worry.

Mr Crosby—I am sure you can.

Senator CONROY—I am talking about the current legislation.

CHAIR—Order!

Senator CONROY—I am almost finished.

CHAIR—I know, Senator Conroy.

Senator FAULKNER—They are terrific; the whole lot of them.

CHAIR—If Senator Faulkner is quiet, I will get back to you.

Senator CONROY—Under the current legislation and in the current position, what has been put to me is that with this amendment there will be a change. To understand the change, I need to understand your support for the proposition as outlined in your press statement—

Mr Crosby—Can I have a look at that?

Senator CONROY—This is your statement. I will appreciate it if you stay on that page; otherwise, I will snatch it back.

Mr Crosby—Now you have tempted me!

Senator FAULKNER—That is one of his old tricks.

Senator CONROY—That is your press statement where you are talking about the Queensland division of the Liberal Party.

Senator FAULKNER—Soon he will have you reading that big book he has got in front of him. You would be gone then.

Senator CONROY—If I could have it back because I am quoting from it—

Mr Crosby—Hang on. Just show me the bit, will you?

Senator CONROY—It is from the Liberal Party of Australia and is the tax invoice for the division of Groom, funnily enough, and it says: ‘2.) net costs of Picnic Point function.’ But I am not trying to get into Picnic Point.

Mr Crosby—I did not issue that.

Senator CONROY—This is called a tax invoice.

Mr Crosby—Yes, but I did not issue that.

Senator FERRIS—This is nonsense.

Senator CONROY—I am trying to stay away from the individual issue.

CHAIR—Senator Conroy, we are not rerawing through that.

Senator CONROY—I am deliberately trying to avoid any—

CHAIR—You have had—

Senator CONROY—I appreciate that you are sensitive, Senator Mason, and I am just trying to ask Mr Crosby—

CHAIR—You have had over an hour—

Senator FERRIS—You have had an extra 15 minutes.

Senator CONROY—I am trying to ask Mr Crosby what taxable supply is net costs of a function.

Senator LIGHTFOOT—I have got to get back to Western Australia tonight.

Senator CONROY—Which of these definitions here in the tax act is net costing?

Senator BRANDIS—Isn’t that an issue of law?

Mr Crosby—I am not going to give you a chapter and verse interpretation of the tax act. I am not a tax adviser.

Senator CONROY—But you have said it is a taxable supply. In your statement you said that this is all completely legitimate and it is a taxable supply.

Mr Crosby—I have never said anything in relation to the public funding issue. Good try, but I never said anything in relation to the public funding issue in that statement.

Senator CONROY—This is about the effect on a division of your party. Some of your colleagues say they cannot do this any more.

Mr Crosby—You are raising a different issue. You are raising an issue of functions and activities which is quite separate from the transferral of public funding.

Senator CONROY—What ongoing business is net costing of the Liberal Party?

Mr Crosby—I am not going to say any more than I have said to you already. You can keep asking but the fact is that we support this legislation. We believe it takes account of the changed circumstances of the Liberal Party. It is consistent with the treatment of the Australian Democrats and the Liberal and National parties in relation to the Senate and that is the start and finish of it.

Senator ROBERT RAY—Imagine if the Labor Party had introduced this.

CHAIR—It would have gone through and had a very good run. I will call a halt to it there, I think. Mr Crosby, many thanks for your generosity, time and assistance here this morning. The committee is appreciative of your time. Thank you very much.

[11.45 a.m.]

GARTRELL, Mr Timothy, Assistant National Secretary, Australian Labor Party, National Secretariat

CHAIR—Welcome. I remind you that the evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. The committee has before it a submission from the National Secretariat of the Australian Labor Party. Are there any alterations or additions you wish to make to this submission at this stage?

Mr Gartrell—None.

CHAIR—I invite you to make a brief opening statement and then we will proceed to questions.

Mr Gartrell—As outlined in our submission, our main objections are threefold. Firstly, our view is that this bill is unnecessary. It is not a proper use of the parliament to resolve internal factional divisional struggles within the Liberal Party through legislation. It is clear I think from Mr Crosby's answers today that the Queensland branch of the Liberal Party do not agree with the centralisation of public funding.

Senator BRANDIS—Mr Crosby did not say that at all.

Mr Gartrell—He avoided that question.

Senator BRANDIS—It is dishonesty to attribute that to Mr Crosby when he did not say that at all.

Senator ROBERT RAY—You know it is true, George.

CHAIR—Mr Gartrell, please go ahead.

Senator FERRIS—Do not misquote Lynton Crosby.

Mr Gartrell—Secondly, this bill is also about the federal Liberal Party minimising its GST administration burdens. This is on the admission of a Liberal Party insider.

Senator FERRIS—Name them.

CHAIR—Mr Gartrell, please go ahead.

Mr Gartrell—Finally, there are higher priorities for the parliament than intervening in the internal machinations of the Liberal Party. I would like to briefly expand on these points. Firstly, on our view that the bill is unnecessary, we believe it is unprecedented for the internal divisional power plays within political parties to be resolved by legislation. No other organisations in the community have this recourse when it comes to the resolution of their internal differences. No matter how strong the division between the federal secretariat of the Liberal Party and its state divisions, notably Queensland, this is not the way to resolve it. However, this legislation deals specifically with the Liberal Party—no other party—for the purpose of resolving this bickering over the allocation of public funds. It has nothing to do with any other registered political party and has no public benefit. The only beneficiary of this bill is the federal secretariat of the Liberal Party.

Our second point is that this represents a mechanism to help the Liberal Party federal secretariat manage the GST administration burdens. This comes from the admission of one influential state director, who I will quote later. At the very least, this is an unintended spin-off of this quick factional fix; at the worst, it is really the icing on the cake, the element that has made it too good to resist bringing it to the parliament. I have attached in our submission the *Canberra Times* article with the headline 'Libs to Bypass Own GST Woes'. The *Canberra Times* reported that the GST complicates the public funding system, with the states forced to pay GST on funds they send to the federal secretariat, which they then claim back. There is a quote there from Peter Wells, the WA director of the Liberal Party, who said:

To me it makes a lot of sense ... Because why mess around with GST if you don't have to?

In that article, Mr Crosby conceded that there would be a cash flow implication.

We believe this is a bit rich coming from the party that gave us the GST, that used hundreds of millions of taxpayers dollars telling us how simple it would be. On the one hand businesses have to organise themselves around the complexities of the GST, while on the other hand the federal Liberal Party wants the parliament to organise their finances to avoid these GST complexities and fix a nasty internal dispute. It is the same attitude behind the GST scam in Broome and other electorates. It is one rule for them and one rule for us. As the WA director said:

... why mess around with GST if you don't have to?

Our final point is that there are better priorities for the parliament than this quick fix. It says something about the government's priorities. These matters have never been raised in the Joint Standing Committee on Electoral Matters or in other parliamentary forums. Next week the Joint Standing Committee on Electoral Matters is holding a public hearing into funding and disclosure. Both parties are appearing and both parties are giving evidence. These matters could have been dealt with there. There were 13 recommendations from the AEC's 1996 report on funding and disclosure and 12 recommendations from the AEC's 1998 report on funding and disclosure. All are currently before the Joint Standing Committee on Electoral Matters and all are more worthy of legislative attention than this inappropriate bill. Why are we dealing with an internal Liberal Party matter when we should be looking at improving the integrity of the disclosure of donations so that organisations like the Greenfields Foundation and the Millennium Forum properly disclose their donations?

In conclusion, I would like to suggest the way forward, which is based on the way the Australian Labor Party reached their agreement with state branches in 1994. The interesting thing there is that that decision was unanimous; there was no vote on that.

Senator FERRIS—As ours was, Mr Gartrell.

Senator ROBERT RAY—\$3.15 is all it would cost you. Do you want me to fund it for you?

Mr Gartrell—All state branches agreed.

Senator LIGHTFOOT—That would be improper if you gave us money, Senator Ray.

CHAIR—Senator Lightfoot! Please let Mr Gartrell finish his statement.

Senator ROBERT RAY—I bet you would take it, though!

Mr Gartrell—The national executive decided this on 18 November 1994. It seems the steps are quite obvious here: get your divisions together with the federal secretariat and agree;

get your federal executive to adopt their agreement; or get the Prime Minister to show some leadership and get them all to agree. This should be dealt with where it belongs: at the organisational level, at the party level; not by trying to ram through quick fix legislation to fix your internal power plays. The parliament should not be used as a de facto disputes tribunal for the Liberal Party—

Senator ROBERT RAY—Could we do away with the running commentary; we did not do that when Mr Crosby was here. Senator Ferris has been doing it all the way through Mr Gartrell's evidence. If you want to do a running commentary, leave the room.

CHAIR—Order! Mr Gartrell, please continue.

Mr Gartrell—The parliament should not be used as the de facto disputes tribunal for the Liberal Party, and effectively that is what this legislation is doing.

CHAIR—Senator Ray, do you have any questions?

Senator ROBERT RAY—We will let your side start off; we absorbed so much time previously.

CHAIR—Senator Ferris, do you have any questions?

Senator FERRIS—No.

CHAIR—Senator Lightfoot, do you have any questions?

Senator LIGHTFOOT—No.

Senator ROBERT RAY—If there are no others, I will just ask a very simple question. Political parties compete with each other but also have common interests. Would you as a Labor Party official be available to assist the Liberal Party in centralising their funding through the existing act by their sending of seven letters? Would you actually tell them how it can be done?

Mr Gartrell—Yes. We can help them find their way through this.

Senator ROBERT RAY—Thanks. No more questions.

Senator FERRIS—What a dorothy!

CHAIR—Are there any other questions?

Senator FAULKNER—This is an Australian Labor Party witness, Mr Chair. You really should ask the government.

CHAIR—I have asked the government senators, Senator Faulkner.

Senator CONROY—Senator Brandis?

Senator CONROY—Would you like some—?

Senator BRANDIS—I will defer to you, Senator Conroy.

CHAIR—Are there any members of the opposition who would like to ask Mr Gartrell any questions?

Senator CONROY—No.

CHAIR—Do any government senators have any questions?

Senator LIGHTFOOT—I have no questions, thank you.

Tuesday, 11 September 2001

SENATE—*Legislation F&PA 27*

CHAIR—Mr Gartrell, thank you for your time today.

Senator ROBERT RAY—Your evidence stands unchallenged.

Senator FAULKNER—A very compelling submission.

Senator ROBERT RAY—Yes, it certainly was.

Senator FERRIS—Declare an interest, Senator Faulkner.

CHAIR—We will adjourn until 12 midday.

Proceedings suspended from 11.53 a.m. to 12.01 p.m.

DAVIS, Ms Barbara, First Assistant Commissioner, Business Support, Australian Electoral Commission

MITCHELL, Ms Kathy, Director, Funding and Disclosure, Australian Electoral Commission

CHAIR—The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. I remind you that the evidence given to the committee is protected by parliamentary privilege and I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. You shall not be asked to give opinions on matters of policy, and if you are I will rule them out of order. I now invite you to make a brief opening statement and then we will proceed to questions.

Ms Davis—Our opening statement will be very brief. The AEC is quite happy to answer any clarifications that the committee may have either on the proposed amendments or the existing legislation. However, if there are matters of policy, they are probably not within our province at this time and we look forward to the continuation of the funding and disclosure hearings towards the end of this month.

Senator ROBERT RAY—You would obviously as a group read all the submissions that go before the Joint Select Committee on Electoral Reform?

Ms Davis—Yes.

Ms Mitchell—Yes.

Senator ROBERT RAY—The matters contained in this legislation have never been raised by way of submission to that committee, to your knowledge?

Ms Davis—That is correct, Senator.

Senator ROBERT RAY—Did the AEC actually draw up this legislation?

Ms Davis—The AEC has been requested to provide assistance by way of drafting instructions.

Senator ROBERT RAY—I am trying to make this as broad as possible, but some bills you could say are at the initiative of the AEC and some are at the initiative of the government. Which category does this bill fall into?

Ms Davis—We would classify this as an initiative of the current government.

Senator ROBERT RAY—Yes. When did the current government approach you to assist in the drafting of this bill?

Ms Mitchell—Earlier this year, Senator. I cannot remember exactly at what point in time.

Senator ROBERT RAY—I am not asking you for a specific date, but an approximation might assist the committee.

Ms Mitchell—About March.

Senator ROBERT RAY—About March?

Ms Mitchell—Yes.

Senator ROBERT RAY—Was that assistance by way of drafting or advice to the Office of Parliamentary Counsel? Can you tell me what the process is?

Ms Mitchell—It was a ministerial brief to the Special Minister of State initially.

Senator ROBERT RAY—From the Special Minister—

Ms Mitchell—No, the Special Minister of State asked for a brief from the Australian Electoral Commission on the provisions of the legislation, and that was provided.

Senator ROBERT RAY—Do you know what the cost has been of drawing up this legislation?

Ms Mitchell—No. We have not calculated AEC costs, and I would not be able to advise on Office of Parliamentary Counsel costs.

Senator ROBERT RAY—Going to the existing act—I do not know how much of the evidence you heard this morning—

Ms Davis—We entered only at 11.30.

Senator ROBERT RAY—I will not ask about the evidence this morning. Are you aware of how the Labor Party is funded from a public funding point of view?

Ms Mitchell—Yes, Senator.

Senator ROBERT RAY—How does that work?

Ms Mitchell—At the moment, under the provisions of subsections 299(5A), (5B) and (5C), the Australian Labor Party has lodged a notice with the Australian Electoral Commission which was signed by all the state and territory party agents and the federal secretariat's party agent advising that public funding which would normally be due under the provisions of the Commonwealth Electoral Act to be paid to state and territory branches is paid instead to the federal secretariat's agent.

Senator ROBERT RAY—And if you received a similar letter from the federal Liberal Party of Australia?

Ms Mitchell—The same arrangement would be in place.

Senator ROBERT RAY—So that was one letter or, in the case of the Labor Party, was it eight letters?

Ms Mitchell—As I understand it, there were eight. Under the provisions of the legislation, effectively it is a notice, but it has to be signed by each of the agents so there were attachments to the notice signed by each of the agents indicating that they agreed with the decision.

Senator ROBERT RAY—So I have been misleading the committee when I said it was \$3.15; it would only be a 45c solution. Don't comment on that; I am just assisting my colleagues here.

CHAIR—Is there a question there?

Senator ROBERT RAY—It is not \$3.15. For just 45c, have we got a deal for you? Seven signatures and we do not have to spend a couple of weeks debating this in parliament.

Senator LIGHTFOOT—We appreciate your preoccupation with stamps, Senator Ray.

CHAIR—Order! Ms Mitchell?

Senator ROBERT RAY—No, I did not require a response to that because we are starting to edge on to policy. But just for the record and to clarify this: the Liberal Party of Australia, under existing legislation—and I am not trying to lead the witness here—with seven signatures, because they do not have a representative in the Northern Territory, attached to one letter can have all the money go to the federal secretariat?

Ms Mitchell—That is correct.

Senator ROBERT RAY—Thank you.

Senator BRANDIS—Ms Mitchell and Ms Davis, I think that you were in the room when Mr Gartrell made his statement and gave his evidence. As I heard it, his evidence suggested that a purpose, or at least an effect of this legislation, would be to give the Liberal Party some GST-related benefit. Is that the position of the AEC?

Ms Mitchell—The AEC cannot really comment on GST matters because that is not our area of expertise. Those sorts of questions need to be directed to the tax office.

Senator BRANDIS—Does it appear to the AEC that there is any aspect of this legislation which has a tax effect?

Ms Davis—The AEC has not really considered any taxation implications pursuant to these particular amendments to the legislation.

Senator BRANDIS—When the drafting instructions were given to the AEC, was it any part of those instructions that the AEC should communicate with the Commissioner of Taxation or his officers for the purpose of contriving any arrangement to give the Liberal Party a GST benefit?

Ms Mitchell—No.

Senator BRANDIS—Thank you.

Senator FAULKNER—Is advice to government on these matters now being progressed directly by the AEC to a Special Minister of State, or is that advice provided to the Department of Finance and Administration's Portfolio Coordination Unit?

Ms Davis—With respect to this legislation, advice is being relayed directly to the Special Minister of State, isn't it?

Ms Mitchell—Yes.

Senator FAULKNER—Perhaps we could go back a step for the benefit of the committee. Could you very briefly outline for the committee's benefit what is the role of the Department of Finance and Administration's Portfolio Coordination Unit in relation to electoral matters generally? That might be useful, and I will then move to the specific.

Ms Davis—As we understand it, the Portfolio Coordination Unit in the Department of Finance and Administration has only recently been requested to adopt a role in respect of some electoral matters. We understand that there are some electoral matters that the Special Minister of State is referring to a particular unit within the portfolio. At the moment, there are discussions between the Electoral Commission and the department of finance to clarify what the protocol in relation to communications between each of the different parties might be in this respect.

Senator FAULKNER—But this seems to be quite an extraordinary development. Here we have a situation where no longer is the independent Australian Electoral Commission provid-

ing advice to the minister on electoral matters; we now have department of finance portfolio advice also being provided. Is this a pretty recent development?

Ms Davis—Yes, it is a comparatively recent development. Obviously the portfolio and the minister have had that option before them for some time. But, as we understand it, the arrangement has also recently been put in place for other agencies that are within the portfolio and not just exclusively to the Electoral Commission.

Senator FAULKNER—I think you indicated that the minister was seeking advice on some electoral matters from the Portfolio Coordination Unit and not from the Australian Electoral Commission.

Ms Davis—To date, certainly we are unaware of any matters we have not been asked similarly for comment/advice on. However, you may have to ask the department of finance if there are any matters that we may be unaware of.

Senator FAULKNER—I am trying to establish here in the first instance whether we need to hear from the department of finance on this matter, quite apart from what, in my view, is an extraordinary development in that we no longer have the AEC alone providing advice to government on these matters. Ms Davis or Ms Mitchell, are you aware of any role the Portfolio Coordination Unit might have played with this particular legislation?

Ms Davis—I am unaware. My understanding would be that there has been a direct line of communication with the commission because certainly that arrangement with the coordination unit only occurred prior to initial discussions that we had with the Special Minister of State and in the AEC.

Senator FAULKNER—It is quite a new development; is that what are you saying?

Ms Davis—Yes.

Senator FAULKNER—Would you be able to put a time frame on that for us?

Ms Davis—Probably within the last six weeks.

Senator FAULKNER—So here we have, literally in a matter of weeks before a federal election being called, a new source of advice on electoral issues and electoral matters to government; namely, something called the Portfolio Coordination Unit in the department of finance. Is that correct?

Ms Davis—Yes.

Senator FAULKNER—And the situation is that the independent statutory authority, the Australian Electoral Commission, is no longer the sole source of advice to government and the responsible minister—in this case, the Special Minister of State—on electoral matters. Is that the case also?

Ms Davis—Yes—I mean, whether or not the Special Minister of State, whoever that may have been, regarded the AEC as the sole provider of advice. One would assume that there would be many alternatives for the government of the day to access. But certainly there has not been this sort of formal arrangement, to my knowledge.

Senator FAULKNER—Mr Chairman, how would you suggest the committee progress the issue on this particular bill of the nature of advice to government that might be coming forward from the Portfolio Coordination Unit?

CHAIR—Senator Faulkner, we will discuss that at our private meeting after this meeting.

Senator FAULKNER—I am just raising it.

Senator ROBERT RAY—We did not know about it prior to this meeting. It might be an alternate source of advice on this bill.

CHAIR—We will discuss that in our private meeting afterwards.

Senator FAULKNER—In relation to process, are there now two lines of communication from the AEC to government: on the one hand, direct to government, direct to the minister; and on the other hand, advice via the Portfolio Coordination Unit—or are these completely separate entities? I am just trying to understand the information flow. Let me put it another way: now, as a result of what has occurred in the last six weeks, does the AEC have an option or the capacity to provide advice directly to government, to the minister, or via the Portfolio Coordination Unit?

Ms Davis—Certainly the AEC's position would be that we would want to maintain that direct advisory role to the minister of the day. As I mentioned before, we are currently working with the portfolio unit on developing a protocol for such communication matters, and that would be the AEC's view.

Senator ROBERT RAY—I do not want to verbal anyone, but evidence has been given that public funding inferentially is for federal election costs, and then evidence was given that it did not match at all. But haven't there been amendments in the late 1980s or early 1990s to the effect that public funding is no longer necessarily matched to election expenditure?

Ms Mitchell—In the early days of the version of the Commonwealth Electoral Act we have now—that is, back in the early 1980s—there was a reimbursement system. Parties put in what their expenses were, and the money was reimbursed. That is not the way public funding is calculated these days.

Senator ROBERT RAY—Can I just clarify that? Public funding was on the basis of votes gained, but you could only maximise it if you had spent that amount of money?

Ms Mitchell—Yes.

Senator ROBERT RAY—Isn't that a better way of expressing it?

Ms Mitchell—Sorry, yes. That is correct. These days it is not related in any way to expenditure. The AEC does not look at political party expenditure in relation to the payment of public funding. It is completely based on a percentage of votes received by political parties.

Senator ROBERT RAY—Thank you. I just needed that clarified for the record.

Senator LIGHTFOOT—Ms Davis, Ms Mitchell, you have read the bill, haven't you? You said earlier that you had read the bill.

Ms Mitchell—Yes.

Ms Davis—Yes.

Senator LIGHTFOOT—Does the bill favour any state or territory or, in your view, is it non-discriminatory? Do you think the bill favours any of the states or territories with respect to its thrust?

Ms Davis—With the way the bill is currently framed, it is straightforward. I think anyone reading the bill could understand where the money is to be prescribed to go. I could not say whether it favours one particular, unless you saw the percentage agreements—and then that

would not be our view either. We would simply administer what had been agreed and on any such notice.

Senator LIGHTFOOT—But in terms of your collective—I include Ms Mitchell in this—understanding of the bill, its direction really is non-discriminatory with respect to the states or territories? It does not name a state or a territory that should be favoured over one or the other. It is a simple, straightforward, unambiguous nation-covering bill.

Ms Mitchell—The legislation certainly does not mention any particular state or territory.

Senator LIGHTFOOT—Yes, that is right.

Senator FAULKNER—We know it is not because Mr Crosby has already—

CHAIR—Senator Faulkner—

Senator LIGHTFOOT—If I could perhaps go on from there—

Senator FAULKNER—If you are not counting the Northern Territory and Western Australia, that's fair enough.

CHAIR—Order! Senator Lightfoot.

Senator LIGHTFOOT—Thank you, Mr Chairman. What advice did the AEC take when it was asked to assist with the drafting of the bill, and from whom or what?

Ms Mitchell—This is a general principle in relation to the drafting of a bill: a policy position needs to be established, and the AEC needs to be advised what that policy position is and what is to be achieved by the legislation. Having been advised of that, the AEC then gives drafting instructions to the Office of Parliamentary Counsel, which drafts the legislation. The AEC then looks at that draft legislation—

Senator LIGHTFOOT—When it is returned to them.

Ms Mitchell—when it is returned from the Office of Parliamentary Counsel. It then goes through a discussion process with the Office of Parliamentary Counsel to determine that the legislation is achieving the policy objective, and then the legislation is provided to the Special Minister of State for approval.

Senator LIGHTFOOT—When the draft came back, do you know whether your officers in the AEC at the time were satisfied with that draft, or was it heavily amended? It is a fairly straightforward bill, isn't it?

Ms Mitchell—The AEC did not ask for amendments to the bill, no.

Senator LIGHTFOOT—No, and it did not require any amendments to the bill.

Ms Mitchell—No.

Senator LIGHTFOOT—So it was a one-off draft, it came back and then it went off to the Special Minister of State?

Ms Mitchell—Yes.

Senator LIGHTFOOT—It seemed a pretty clear, straightforward, simple amendment to existing legislation?

Senator FAULKNER—You are entitled to your opinions.

Senator LIGHTFOOT—That was a question, it was not a statement, of course.

Senator FAULKNER—If you agree with the Liberal Party.

Ms Mitchell—The Office of Parliamentary Counsel does the drafting. I am not a drafting expert, so I cannot comment on whether it was a simple matter to draft the legislation.

Senator LIGHTFOOT—But you have read the bill, though, Ms Mitchell?

Ms Mitchell—It is not changing a lot of the legislation. If that is simple, it is simple on that basis.

Senator LIGHTFOOT—Do you have a view on that, Ms Davis?

Ms Davis—I agree with Ms Mitchell.

Senator LIGHTFOOT—It is just a simple piece of straightforward—

Ms Davis—For the AEC—

Senator FAULKNER—I will take a point of order. This is a serious matter for you to give some consideration to, Mr Chairman. The questions that are being asked of representatives at the table who are here in the name of the independent Australian Electoral Commission, in my view, border on the inappropriate. Normally, I do not think that they would be allowed. It places the witnesses in an invidious position to ask them to become commentators on matters that are clearly subject to significant political debate, as evidenced by this committee hearing. The technical issues are fine—I have no problem with those questions at all—but starting to ask for value judgments about policy questions from the witnesses is out of order and I would encourage Senator Lightfoot not to press questions of that nature to these witnesses. There are enough other—

Senator LIGHTFOOT—The point of my questioning is simply this: we have here two redoubtable experts from the AEC. I want to establish that the bill itself—it is very simple and has few pages—is in fact unambiguous. It is easily read, it is not misunderstood, and it does not prefer or favour—

Senator FAULKNER—They are nonsensical questions.

Senator LIGHTFOOT—I did not interrupt you on your point of order. The bill does not show any favour to any state—Queensland came up with monotonous repetition during the questioning of previous witnesses—and I want to bring back some balance into the debate here.

Senator FAULKNER—You know it is unbalanced.

Senator LIGHTFOOT—We have been fortunate to have some excellent witnesses. I want to take this opportunity to draw out the witnesses so that the committee fully understands that there is nothing devious about this bill; it is a simple piece of straightforward—

Senator FAULKNER—You can't ask them that.

Senator LIGHTFOOT—legislation with just a few pages that amends the Australian electoral—

Senator ROBERT RAY—It puts the Liberal Party's name in—

CHAIR—Senator Lightfoot, on technical questions there is no issue. Obviously, with some of the shades of grey, that is valid, but when we start to intrude into the advising process and the internal working policy process, it is out of order.

Senator FAULKNER—It is the opinions that are being asked—

CHAIR—We are also talking about the process of developing legislation, and that can also be—

Senator FAULKNER—That's fine.

CHAIR—No. On issues of technical probity, that is fine, but it is not in terms of policy. Therefore, Senator Lightfoot, could you please restrict your questions to matters of technical expertise and not policy?

Senator LIGHTFOOT—Thank you, Mr Chairman. How do you see the main thrust of the bill? Could you explain to the committee—

Senator FAULKNER—Fair dinkum!

Senator ROBERT RAY—No, they might have some pictures there!

CHAIR—That can be answered in a non-policy—

Senator FERRIS—He loves personal invective!

Senator LIGHTFOOT—Senator Faulkner must have a stomach disorder!

CHAIR—Ms Mitchell and Ms Davis please—

Ms Davis—I might ask Ms Mitchell to respond in probably a two-sentence response—

CHAIR—The question is in order, so please do so.

Ms Davis—as we would respond to anyone internally explaining what the revised amendments might mean.

Senator LIGHTFOOT—Exactly. I appreciate your cooperation.

Ms Mitchell—In brief, the bill is about the payment of public funding to political parties.

Senator LIGHTFOOT—Nothing more, nothing less?

Ms Mitchell—No.

Senator FAULKNER—Oh, Jesus!

Ms Davis—The amendment to the bill is specifically relating to arrangements for the payment of public funding within the Liberal Party. That is specifically if you are asking what the amendments are.

CHAIR—That is what Senator Lightfoot is asking. The question is quite in order.

Senator LIGHTFOOT—Yes, that is right. I do apologise for my colleague Senator Faulkner.

Senator ROBERT RAY—We are only laughing at you, not the witnesses, I assure you.

CHAIR—Have you finished, Senator Lightfoot?

Senator LIGHTFOOT—Yes.

CHAIR—Thank you for your patience.

Senator ROBERT RAY—Can I ask for technical advice here? On the consolidated electoral bill—we have had plenty—how many times does the Australian Labor Party appear in the Electoral Act?

Senator LIGHTFOOT—Fair go!

Ms Mitchell—Off the top of my head, it is not.

Senator FERRIS—How relevant is that?

Senator ROBERT RAY—You are about to propose putting the Liberal Party of Australia in the Electoral Act 33 times.

Senator FERRIS—So what! The Democrats are mentioned.

Senator ROBERT RAY—So you are equivalent to the Democrats?

Senator FERRIS—No. You are making a point which is not relevant.

CHAIR—Senator Ray, do you have further questions?

Senator ROBERT RAY—I thought the junior senator from South Australia had the floor.

CHAIR—I am just trying to create order.

Senator FERRIS—You love personal invective, don't you, Senator Ray?

CHAIR—Senator Ferris, please!

Senator ROBERT RAY—Why don't you run the feminist excuse? That is the only thing you have got left.

CHAIR—Order! Senator Faulkner, do you have some questions?

Senator FAULKNER—I do. I would like to return to the important question of the Portfolio Coordination Unit. For the first time today we have the existence of this Portfolio Coordination Unit and its role exposed. The reason I am asking this question, Mr Chairman, is that I am concerned that, for the first time since the establishment of an independent electoral commission in this country, which is one of the very important elements that provides an enormous amount of confidence in the integrity of our electoral system, we now have a different source of advice going to the minister.

CHAIR—I am not sure the dire implications are necessarily there, but we can discuss that privately afterwards.

Senator FAULKNER—No, we are discussing another issue privately, which is about whether we bring them before the committee, but I am happy to talk to you about this privately if you wish. Given the evidence that you have given us, Ms Davis, I think it would be useful for the committee's purposes if you could provide the draft protocol you have spoken about, which I understand is a protocol between the Portfolio Coordination Unit and the AEC, and obviously the completed protocol, when it is finalised. You may not be able to answer that now; you may prefer to take that on notice and refer it to Mr Becker, the Electoral Commissioner. I appreciate that that may be your response. But I ask that the drafts and the final protocol be provided to the committee and, if you intend to refer the question to Mr Becker, would you ask if he would not mind providing that information as a matter of urgency?

Ms Davis—Yes, I will do that, Senator. With respect, we are working on a draft and we would not have something that is a final draft at this stage, so I am wondering about timings here. With respect of this particular committee, I understand you are hoping to report by—

Senator FAULKNER—I am worried about timing, too. Just around the corner—literally in a matter of weeks—the Prime Minister will call a federal election. Everyone knows that: it is no secret to anyone in this room or outside it. I want to know what implications there might be with the new role of the Portfolio Coordination Unit in relation to electoral issues and

electoral matters in the broad. That seems to be perfectly reasonable, I am sure you would agree—I would hope you would agree, anyway, Mr Chairman.

CHAIR—It is not the question that I have any objection to. It is just the timing.

Ms Davis—I will pass on the request to Mr Becker.

Senator FAULKNER—I have heard what Ms Davis has said about the preparation of the protocol and the concerns with timing. I am concerned with timing, too.

CHAIR—I accept that.

Senator FAULKNER—And I am concerned about the election implications of this move.

Ms Davis—I will pass on the request to the commissioner for you and get back to you as soon as possible.

Senator FAULKNER—I was going to ask another question on notice to Mr Becker, but it is perhaps best progressed at another forum, if there is another forum available.

CHAIR—There being no further questions from the government or opposition senators, I thank Ms Mitchell and Ms Davis for their attendance and help here this afternoon. That concludes today's public hearing. The committee intends to table its report on Tuesday, 18 September 2001. Those interested in following the inquiry should refer to the committee's Internet page for copies of submissions and the transcript of today's proceedings.

Committee adjourned at 12.31 p.m.