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SENATE

Official Committee Hansard

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Reference: Electoral and Referendum Amendment Bill (No. 2) 1998

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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Tuesday, 16 June 1998

Members: Senator Gibson (*Chair*), Senator Murray (*Deputy Chair*), Senators Heffernan, Robert Ray, Sherry and Watson

Participating members: Senators Abetz, Bishop, Bolkus, Brown, Colston, Conroy, Cooney, Evans, Faulkner, Gibbs, Harradine, Lundy, Margetts, Murphy, Neal, Reynolds and Schacht

Senators in attendance: Senators Murray, Watson, Heffernan, Gibson and Robert Ray

Terms of reference for the inquiry: Electoral and Referendum Amendment Bill (No. 2) 1998

WITNESSES

DACEY, Mr Paul, Assistant Commissioner, Elections and Enrolment Division, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600	1
EDGMAN, Mr Brad, Director, Funding and Disclosure, Australian Electoral Commission, Parkes, Australian Capital Territory 2600	1
GERRITSEN, Professor Rolf, Professor of Applied Policy, Australian Centre for Regional and Local Government Studies, Faculty of Management, University of Canberra, Canberra, Australian Capital Territory 2600	1
McGRATH, Dr Amy Gladys, Convenor, H.S. Chapman Society, PO Box 737, Kensington, New South Wales 2033	1
MALEY, Mr Michael Charles, Director, Research and International Services, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600	1
MOYES, Mr Andrew David, Director, Government and Legal Section, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600 .	1
VINEY, Mr Arthur Edward Allanby, Convenor, Scrutineers for Honest Elections, 12 Wakehurst Parkway, Frenchs Forest, New South Wales	1
FRASER, Mr Ian, Spokesperson, Prisoners Action Group, 27 Railway Street, Petersham, New South Wales 2049	36

**COLLINS, Mr Brett Anthony, Spokesperson, Justice Action, 391 Sussex Street, Sydney,
New South Wales 38**

Committee met at 10.06 a.m.

Senator Minchin, Special Minister of State and Minister Assisting the Prime Minister, minister in charge of the bill.

CHAIR—I declare open this public hearing of the Finance and Public Administration Legislation Committee. The committee is required by the Senate to inquire into and report by 23 June 1998 on the Electoral and Referendum Amendment Bill (No. 2) 1998. The committee has received six submissions from the following individuals or organisations: the New South Wales Council of Civil Liberties, the Hon. Richard Jones, the Australian Electoral Commission, Senator Andrew Murray, former Senator Ms Christabel Chamarette and Justice Action.

Is it the wish of the committee that the submissions be published? There being no objection, it is so ordered.

I propose to call on the items from schedule 1 of the bill in the order on the program and seek the views of the minister and the witnesses before questions from committee members on each bracket of items. The items appear to be uncontroversial and we will move rapidly.

DACEY, Mr Paul, Assistant Commissioner, Elections and Enrolment Division, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600

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VINEY, Mr Arthur Edward Allanby, Convenor, Scrutineers for Honest Elections, 12 Wakehurst Parkway, Frenchs Forest, New South Wales

CHAIR—I welcome Senator Nick Minchin, Special Minister of State. Do you have an opening statement?

Senator Minchin—Not really. I want to make it clear that we are dealing here with bill No. 2. I appreciate that the way the government has had to deal with this has meant some confusion. It is important that the committee and those on this side of the table remember there is a bill No. 1 in the parliament, which is currently being debated in the Senate and which has a number of measures in it that in a policy sense overlap with some of measures in bill No. 2, which is the subject of this inquiry.

Then there is a third legislative response to the joint standing committee report which is an Income Tax Act amendment. That is the amendment which deals with tax deductibility, which again is not a matter for this bill. I think it would be helpful for everybody if we were to make sure that we confine our discussion to bill No. 2, although I acknowledge that there are two other pieces of legislation which cover the government's responses to the joint standing committee report.

Senator ROBERT RAY—I will not ask questions on bill No. 1 or the tax bill, but in a couple of instances questions arise as to why things were not put in this bill as they reflect, for instance, in close of rolls vis-a-vis subdivisions in the Northern Territory. There is some overlap for omissions.

Senator Minchin—Yes.

CHAIR—I welcome the Australian Electoral Commission to this committee hearing. There are some outside witnesses here. Do any of you wish to speak for a couple of minutes at this opening stage?

Dr McGrath—I would like to remind the committee of a little history. There is a popular misconception that we have only one secret ballot system as the foundation of our electoral system. In fact there were two. I come from the H.S. Chapman Society. Chapman founded the Victorian ballot which was not a secret ballot and never known as a secret ballot. It was an identification ballot. It identified the voter from first to last throughout the process. It is a system still in operation in Britain, the UK, Northern Ireland, India, Malaysia, Pakistan and other Commonwealth countries.

It was the system in operation in Australia, except for Tasmania, until 1900. The South Australia ballot is the ballot which identified people on enrolment, but it was spaced or not identified in the vote. My final comment on that is that in 1901 the chief electoral officers of the various states got together to decide which system they would adopt: the Australian ballot which was an identification ballot, or the secret vote ballot.

They chose the South Australian system totally on the basis that small subdivisions—as they still are in the UK and Northern Ireland—would be the basis of the Australian voting system into the remote future. Of course, we do not have subdivisions now and I will comment on that later.

Mr Viney—Thank you for the invitation to be here. My principal concern is that we still seem to be putting the cart before the horse. I believe the database on which all elections are based is flawed and no-one can say to what extent.

If we go through the proposed bill you are seeing statements like, ‘If the electoral officer is satisfied of a previous voter, he can do this,’ because he was previously on the roll. But it does not follow that he was legally on the roll in the first place. Nobody knows the extent of the illegal enrolments and we look like starting to address it now. We have started on the journey of a thousand miles by taking the first step and calling for future enrolments to have some identification. Who knows what is there?

Prof. Gerritsen—My interests in this are rather narrower than everyone else’s. A minor hobby of mine is that each year I publish from the Electoral Commission records the disclosures of the major political parties. This year I made a bit of a fuss, which the press picked up, about certain aspects of those disclosures. But that had more to do with bill No. 1, as the minister has just pointed out to me, than bill No. 2.

Senator MURRAY—I should point out that Professor Gerritsen’s minor hobby is everyone else’s major obsession.

Prof. Gerritsen—I said it was a minor hobby because I do not get paid for it.

CHAIR—We will move on to the items as set out in the schedule of the bill. They have been grouped together by the Electoral Commission and the first item is 1 to 9, the use of elector data. Are there any comments or queries about that?

Senator ROBERT RAY—Could we ask the minister what the rationale is for 1 to 9?

Senator Minchin—These really relate to the provision of rolls and habitation indexes to proven parties, use of information, et cetera. There has been discussion for some time about what information ought to be available to the parties from the electoral roll.

The basic principle behind bill No. 1 and bill No. 2 in this division is that in bill No. 1 essentially more technical amendments were proposed by the joint standing committee that met with, if not universal, a clear majority or bipartisan support. The more controversial ones were put into bill No. 2.

We were keen to ensure that the measures proposed in bill No. 1 had the maximum possibility of passing the parliament prior to any federal election. That is in the interests of the AEC and its administration of elections, as well as the fact that, because they were technical amendments which would improve the operation of the act and the conduct of federal elections, it was in everybody's interests to get them through. Bill No. 2 was reserved for what you might call the more policy orientated proposals which did not necessarily meet with universal acclamation from within the committee.

For example, the question of making gender information available from the roll to the parties was put in bill No. 1 because there was no internal opposition—at least the Labor and Liberal members of that committee agreed—and it seemed somewhat less controversial to put gender in, given that it is reasonably obvious when you meet someone whether they are male or female; therefore there is not much of a policy argument about that. Whereas there are some who argue that information such as date of birth and salutation ought not to be made available, and it was gathered up in bill No. 2. We think salutation should not be controversial at all and that it is entirely appropriate that voters be asked to put on their enrolment application whether they are Mr, Miss or whatever and that the parties be given that information so that parliamentarians can more properly and accurately address constituents.

The date of birth can only assist parliamentarians in servicing their constituents if they know whether the voter whose concerns they are addressing is 18 or 80. The concerns of voters do vary, obviously, depending on their age. Again, age is hardly private in the general sense in that it is relatively obvious when you meet someone whether they are 18 or 80. There does not seem to be good reason why date of birth is suppressed. It used not to be and, in fact, some of the parties still have computer data which has date of birth on it, from voters who have been on the roll for up to a certain period. So there is some date of birth information available anyway and it seems that, on balance, parliamentarians will be assisted in servicing the needs of their constituents if that is made available.

Senator ROBERT RAY—That is a great relief to me. I thought it was to assist parties in direct mail and campaigning, so you have put my mind at rest.

Senator Minchin—Really? I do not know why you would think that.

Senator MURRAY—The Privacy Commissioner is not present, but I understand that he has not supported the provision of gender, age and salutation details. Do you have any comments on that?

Senator Minchin—He had reservations, didn't he?

Mr Moyes—My understanding is that the Privacy Commissioner had reservations about gender. My recollection is that he was not happy about date of birth. As far as gender was concerned, he was not overly happy and he had concerns. There are two parts to the provision in the first bill related to gender. One is for medical research purposes, and the Privacy Commissioner did agree with that. I just want to make that distinction clear. My recollection

is that the Privacy Commissioner did not openly support the provision of that data to members, senators and parties. But I also recall that, some years ago when it first came up, the Privacy Commissioner indicated that it was a matter for the parliament to debate.

Senator MURRAY—For the purposes of the report, could I request that the secretariat check with either the joint statutory electoral committee secretariat or the Privacy Commissioner for the actual text and nature of their views. I think it is already on the public record; we just need it explicit.

Senator Minchin—The JSCEM report states that the Privacy Commissioner was not opposed to salutation details but believes that the compulsorily acquired information relating to gender and age should only be authorised by law to meet a significant and demonstrable public interest. The commissioner regards the term ‘research’ as a misnomer of MPs and political parties to use the information for direct marketing to constituents. Obviously the Privacy Commissioner’s concerns should be—

Senator MURRAY—That is from pages 92 and 93, isn’t it?

Senator Minchin—Mine is an extract, so I am not quite sure.

Senator MURRAY—Is it items 7.59 to 7.64?

Senator Minchin—Yes, that is correct. Obviously the Privacy Commissioner’s views should be acknowledged and taken account of, but the committee, on balance, came to the view that that sort of information ought to be made available to the parties, and the government agrees with them.

In this bill, we are proposing to increase significantly the penalties for misuse of information. We are acknowledging that it is very important that the information only be used for the purposes prescribed in the act. I think the only one we are really talking about is date of birth, and the government thinks, as does the committee, that the age of constituency is a reasonable information for members of parliament to have access to in properly servicing their constituents.

Senator MURRAY—And, in your view, that is in the public interest?

Senator Minchin—Absolutely. I think it is in the public interest that MPs be able to service their constituents in the best way possible. There are so many areas of government policy now that are of considerable concern to constituents and have, what some might call, the unfortunate effect of MPs offices becoming almost ombudsman and service agencies. In ensuring that the public is fully informed of what their entitlements are and what benefits are available to them and how they are applied under government policy—and so many of them are related to age and life cycle—I think it is in the public interest for members of parliament to know how old their constituents are.

Senator HEFFERNAN—Dr McGrath has pointed out that the present system we use was based on the original principle of small parishes—and everyone knows the difficulty now that you can vote early and vote often. With the date of birth, could it not be demonstrated that it was in the public interest as it would in some way be a trigger to minimise electoral fraud?

Senator Minchin—That is a reasonable proposition, but I think there are a lot of other things that can be done to ensure that we minimise electoral fraud.

Senator HEFFERNAN—But that certainly would assist that process.

Senator Minchin—The date of birth is collected; it is a matter of whether it is then released to the member of parliament. It is gathered information, so the Electoral Commission has it.

It is a question of whether information which the Electoral Commission has—a government authority—ought to be made available to the members of parliament who, ultimately, are accountable to the people.

Senator HEFFERNAN—I would have thought that, maybe as a public awareness thing, that the member of parliament could use the date of birth as a little tool to make sure that that person down the street actually exists.

Senator Minchin—I think it is marginal in the impression of electoral integrity. As human beings, our relative age—our approximate age—is hardly a private matter. I know that Senator Gibson is not much over 50, and that is fairly obvious, but I do know he is not 18. I acknowledge the Privacy Commission in its proper role is an advocate for privacy, but for parliamentarians and their servicing of their constituents this date of birth issue should not be controversial.

Senator ROBERT RAY—Has anyone from the Electoral Commission or your department done a costing of how valuable that material would be to direct marketers? I do not mean to single out *Reader's Digest*, but they have certainly used the rolls in the past.

Mr Dacey—The short answer is no. We have not done an evaluation.

Senator ROBERT RAY—I am wondering how you calculated the fine. I could think of two or three direct marketing agencies in Australia that would laugh off a \$10,000 fine if they could get hold of all this material.

Senator Minchin—As you were just saying, we have increased the fine from what was a very small \$1,000 to \$10,000. If it became evident that any of this information had got into commercial hands and was then improperly used, there may well be a case, at some subsequent point, for a very significant increase again in the fine. I am not sure that the possibility of illegal use should prevent it being made available to members of parliament to better serve their constituents. The parliament may want to massively increase the fine at some point if it becomes obvious that that information is somehow getting into their hands illegally.

Senator ROBERT RAY—I am just wondering why we do not do it now. For a direct marketing agency, \$10,000 is very paltry—\$100,000 is not, for instance. I would rather capture it before it gets out. I do not think in general it will, but at the moment 224 people are entitled to this. I can think of at least one in whose hands I would not want to see it.

Senator Minchin—Why? Because they do not get the whole?

Senator ROBERT RAY—At least I would not like his relatives to get their hands on it.

Senator Minchin—I won't inquire as to whom you are referring! I take it on board. I have an open mind on the possibility of an amendment when it does get into the parliament that increases it. I think you make a fair point.

Senator ROBERT RAY—Thank you.

Dr McGrath—Can I make a point about this. Privacy is an issue in this. This is about the privacy of the roll—access to the roll. I would like to place on record, as a layman, that it is almost impossible for a layman to get any roll at all. I am not sure whether the parliament is aware of that. They used to be as readily available as they are England, but when I went to get the roll at Kingsford-Smith all I could get was a weekly microfiche and to assemble any information from that is practically impossible. When I went during the election to look at the up-to-date roll at the time of the election, someone picked up the stats from me and said I could not look at them. You have to go to Goulburn Street to get new rolls, and then the one I wanted for Macquarie was missing. All the rolls up to date are not available in the state

library. I think this is something which you should be aware of. It is not information that is available.

CHAIR—Minister, do you want to comment?

Senator Minchin—It is a slightly separate question as to the availability of the roll. The joint standing committee did touch on that issue. The government did not accept the recommendation in relation to making it available in libraries and things, but I acknowledge the point that is being made.

Mr Viney—I would have thought that, if you are using a tape or a disk and it is going to every member of parliament, it is a question of encryption. They all have their own computers, I gather. If that is properly coded, then it will only be translatable by those who possess the decoding key.

Senator ROBERT RAY—They are the very ones that may on-sell it, unfortunately, to a direct marketing organisation. That is the problem.

Mr Viney—But if the encryption is exclusive to the member of parliament or the senator—House of Representatives or Senate—where do the direct marketing people come into the act? If they got hold of the tape, it is still gobbledy-gook, as far as they are concerned.

CHAIR—I think Senator Robert Ray is suggesting that a member of parliament could actually use the information—transcribe it and on-sell it.

Mr Viney—It is possible. Also, computer hackers could get in and take it anyway without it being made available to members of parliament.

Senator ROBERT RAY—That is a possibility too.

Mr Viney—It has happened before, hasn't it?

Dr McGrath—There is one element that is always overlooked: that the Australian Electoral Commission or the body that is administering elections has access to the information. One has to presume that all employees are totally honest.

Senator Minchin—I think that is an important point. This information is all held in the Electoral Commission—

Dr McGrath—They have been put in a privileged position.

CHAIR—Thank you. We will now move on to the next group of items, which is items 10, 18, 29, 48 and 58—entitlement of prisoners to enrol and vote. Minister, do you want to comment?

Senator Minchin—This is really the entitlement of prisoners to enrol and vote. Just briefly, this is clearly a matter of policy. There are philosophical dispositions in relation to this issue, and I acknowledge the opposition from some quarters to this because of a different philosophical position. But the committee's position and the government's position is that the right to vote is one of the privileges of living in a democracy, that if you have committed an offence against society so serious that you are actually incarcerated in a prison cell for a period of time then you entirely lose your rights, privileges and freedom as a citizen for the period of the imprisonment and that it is quite an extraordinary anomaly that, despite all that, a prisoner actually retains the right to vote so a prisoner's vote remains worth as much as the most law abiding of all our citizens. That is, in some ways, to the denigration of the value of the vote to the law-abiding citizens.

It seems clear to us, particularly from debate in the community when this issue has arisen before, that there is an overwhelming sense in the community that it is an anomaly that

prisoners have retained the right to vote. There is some debate about whether you shorten the sentence. If you are convicted of an offence involving imprisonment of five years or more, the great majority of prisoners are in fact in gaol for less than that. So at the moment most prisoners vote. But without getting into the ins and outs of voluntary versus compulsory voting, in this country we have the quite extraordinary anomaly that not only are prisoners entitled to vote but they are forced to vote. If they do not, they are guilty of an offence and, if they do not pay the fine, then they have their prison term extended, which strikes us as a most peculiar situation. Therefore, the government has accepted the recommendation that the most appropriate policy course is that imprisonment carries with it the loss of the right to vote for the term of the imprisonment.

Senator ROBERT RAY—You did not seek advice of that section of Attorney-General's that deals with length of sentences, did you?

Senator Minchin—With?

Senator ROBERT RAY—The length of sentences. Has your department sought advice from Attorney-General's? I am not talking about legal advice now; I am talking about advice on the issue.

Senator Minchin—On how many prisoners are serving—

Senator ROBERT RAY—No, on the implications of this in terms of sentencing.

Senator Minchin—What information do you say we should have sought?

Senator ROBERT RAY—You have not sought any information from Attorney-General's on this particular provision, have you, excluding the legal aspects of drafting?

Senator Minchin—No. The government examined the committee's recommendation. This position had been reached by the coalition in opposition when the previous Keating government proposed that no prisoners at all be denied the right to vote. There was a huge public outcry against that and the Keating Labor government quickly retreated. At that time, when the amendments relating to that matter were being debated, we came to the view that no prisoners should be entitled to vote. It is a policy position. We did not seek specific advice from Attorney-General's on any aspect of that, no.

Senator ROBERT RAY—So we are in a position, are we, if someone is convicted of an offence and if about a week before the writs are issued they are given two months gaol, they will not get a vote under this proposal, but if someone is convicted a week after the election for two years in gaol, they will be out in time to vote in the next election?

Senator Minchin—That is correct.

Senator ROBERT RAY—Where is the justice there?

Senator Minchin—Whenever you make an on-balance policy decision of this kind, it is impossible to prevent individual cases of potential anomaly. We acknowledge that. You have to make on-balance decisions and the government, on balance, does not believe that that potential anomaly should deter it from pursuing what it believes to be the right policy course in this case.

Senator ROBERT RAY—Do you think judges would be entitled to take into account this extra penalty of not being able to vote in sentencing?

Senator Minchin—The government does not contemplate pronouncing on that matter. It is simply stating its strong view, in terms of those who are entitled or not entitled to vote, that those who are in prison should be denied it.

Senator ROBERT RAY—So in some cases you are endorsing a retrospective penalty. You have embraced retrospectivity in this case.

Senator Minchin—How is that?

Senator ROBERT RAY—Some people who are in gaol are entitled to vote as of today. You are going to take that right from them. That will be a retrospective punishment.

Senator Minchin—They will have the right to vote up until the time this law is passed.

Senator ROBERT RAY—Yes.

Senator Minchin—When the law is passed, if they are currently in prison, they will be denied it.

Senator ROBERT RAY—Having been sentenced before the law is passed, you are basically embracing retrospectivity, an anathema to the Liberal Party.

Senator Minchin—It will only be retrospective if a vote cast while they are in prison were somehow declared invalid. It will not have any retrospective effect in taking away a pre-act right to vote and therefore denying the validity of a vote they had previously cast. That could be the only way in which it could be considered retrospective.

Senator ROBERT RAY—I think a magistrate or judge might say, ‘Look, that is double jeopardy. We have put them in gaol for a specific time to fit the crime. If you want to further restrict their civil rights, we may have given them a slightly lesser length of sentence.’ Of course it is retrospective.

Senator Minchin—You may speculate to that effect. I find that rather fanciful.

Senator ROBERT RAY—You mentioned before that there will be anomalies in this, and I think there will be. I think they were probably best met by the 1983-84 amendments, which had two years as the cut-off. Then it moved to five years, which was not a move I was keen on myself, incidentally, because I thought the two-year rule tended to make it fairly equal across an electoral cycle in terms of people’s rights. I still think it is totally unfair for someone to get eight weeks and be deprived of their vote just through bad timing, while someone else gets two years in gaol and they voted before and they will vote the next time. I do not see how that is fair.

Senator MURRAY—To pursue Senator Ray’s point a little, the AEC, as I understand it—they can clarify it in their remarks on these amendments—have indicated that they will be unable to prevent prisoners voting if the time frame is short. So, to use Senator Ray’s example of somebody who is convicted a week or two before the closing of the rolls, those persons will be able to vote. Effectively, there may be substantial numbers of prisoners at any time who your proposal would still let through the net. I guess the consequence is that people will then be dealt with unequally before the law. I wonder what your reaction to that is.

Senator Minchin—I guess at the margin there is always going to be that sort of issue. I guess that could occur even if you have a term. But, as the AEC has pointed out, if they do not receive notice in sufficient time of someone being imprisoned then they would remain on the roll. There will not be any mobile polling in prisons—

Senator ROBERT RAY—Hopefully, no absentees.

Senator Minchin—True. Obviously, if it has not been administratively possible for them to be notified and deleted from the roll and they vote pre-poll or postal, that vote would count.

Senator MURRAY—You would be sufficient of an historian of democracy to know that the qualified franchise has been a proposition of the conservative frame of mind for many

centuries. At its most extreme, the qualified franchise restricted the franchise to those who were well educated or who had property or who had a particular skin colour, in the case of the colonies of southern Africa and, indeed, Australia until a few decades ago. The modern democracies have by and large rejected that, although a qualified franchise still does exist with regard to age and, in our act, if you are of unsound mind. How do you react to the proposition that to exclude certain classes of people on the basis that they are unfit to vote is in fact a return to a kind of exclusive social view and that this is in effect a return to a qualified franchise?

Senator Minchin—I would have to say that the proposition you are putting would fail dismally the pub test. The proposition that denying prisoners the right to vote somehow takes us back to the so-called dark ages of democracy when only the wealthy and privileged could vote seems to me an extraordinarily long bow to draw. In my view, the pub test on this issue would clearly show that most Australians would be very surprised to learn that prisoners cannot walk down the street but that their vote counts just as much as that of the most law-abiding citizen. That is the proposition which I think most Australians would find quite extraordinary.

It is not as though this proposition is in itself unusual. My advice is that Tasmania, which some uphold as a bastion of democracy because of its Hare-Clarke system, does not allow any prisoners to vote; nor do the United Kingdom, Switzerland, Norway, Belgium or a number of states of what is proclaimed to be one of the great democracies, the United States, allow any prisoners to vote. So we are not out of step in this, nor do I think merely saying that when someone loses all their freedoms, which is what prison is about, one of the rights of citizenship they are going to lose while in prison is the right to vote somehow amounts to going back down that path. We have not suggested any other restrictions of any kind, nor would we have any in mind, but this one has been a matter of some concern to the coalition for quite some time and, in government, we intent to pursue it.

Senator MURRAY—Returning to another of Senator Ray's points, concerning the failure of either yourself, your advisers or indeed the joint electoral committee to establish the number of prisoners who could be affected in each state by the sanction and what class of crime it would befall—and I will explain what I mean by that shortly: it does in fact bring up the potential for an unjust punishment. When you refer to the reaction of the man or woman in the street, I think they tend to think of armed robbery and other heinous crimes, but in Australia there are a substantial number of imprisoned persons who the populace at large is not of the opinion should be imprisoned. For instance, in Western Australia, fine defaulters are dealt with by taking away their driver's licence; in fact, that state actively tries to avoid putting fine defaulters in prison. That is not the case in other states. So it would be the case that a fine defaulter in Western Australia would be able to carry on voting, whereas a fine defaulter in another state would be refused that right. I think if you put that proposition to the man or woman in the street they would regard that as manifestly unfair. How do you react to that?

Senator Minchin—It is true that a number of jurisdictions have different rules relating to whether imprisonment is a consequence of failure to comply with the law in terms of paying fines and things like that. There is not much we here can do about that. Certainly, in terms of one of my interests, one of the things that most disturbs me about compulsory voting is that you can end up in prison for not voting, but we are not pursuing that particular issue.

Senator ROBERT RAY—There is compulsory attendance at the polling booth; there is no such thing as compulsory voting, and you know it.

Senator Minchin—You can end up in prison for not voting in this country, which I think is deplorable. I do not think it is unreasonable, and nor does the government, for any citizen who has to make the choice as to whether they pay a fine for breaking the law or say, ‘Bugger them, I am not going to pay their fine. I will go to jail,’ to have in mind that one of the consequences of that will be that they will not be entitled to vote while they are in prison.

Senator MURRAY—But, Minister, you used the fact that there is strong public support for this kind of action as justification for your case. Strong public support is reflected in the existing law, which says that serious offences, namely, those attracting jail terms of five years or more, have the added penalty of the removal of the vote, whereas minor offences, such as a fine default, do not. Have you tested at all—since it is a plank of your policy—the views of the populace at large on the proposition that only serious crimes should have this additional punishment attached?

Senator Minchin—I was fairly intimately involved in the debate we had when we were in opposition and the Labor government was proposing to remove any restrictions on prisoner voting, and then retreated.

Senator ROBERT RAY—It did not propose that.

Senator Minchin—My recollection is that, from our assessment of the work we did on public opinion, there was a pretty strong consensus that no prisoners should be entitled to vote. It was not a matter of the nature of the offence per se but that, if you are in prison, you have been denied every freedom that every other law-abiding citizen has. No matter whether your sentence is for a weekend or for five years, you have committed an offence of one kind or another that involves imprisonment and the loss of rights. One of those rights should be voting. We can all debate without final resolution where public opinion might tip one way or the other. Obviously, the degree of concern in the public mind would be manifestly greater over the possibility that murderers could vote than it would be over the possibility that people who had failed to pay a number of speeding fines and had chosen to go to gaol rather than pay the fines could vote. That does not deny that the public, in our view, shares a concern about any prisoners voting.

Senator ROBERT RAY—On that basis, privatisation of Telstra is going to get knocked off next week. You are going to vote against it because it has got only 24 per cent public support.

Senator Minchin—Senator Ray, I am pointing to the fact that the government’s policy position and philosophical disposition coincide with what we believe to be the consensus in the community. I would not wish you to suggest that our position on this is a response to public opinion. I have simply been making the point that the government’s policy and philosophical disposition on this matter is consistent with public opinion as we understand it.

Senator MURRAY—Minister, you are aware that Australia is a signatory to the International Covenant on Civil and Political Rights. You have indicated in your evidence that, if this went through, Australia would not be the only country in breach of that covenant by denying prisoners rights. This brings to the table the question of just how committed the government is to that overall covenant.

Senator Minchin—We have examined that treaty. Does it actually say that all prisoners should be allowed to vote?

Senator MURRAY—I think articles 12 and 25 are the relevant references.

Senator Minchin—What do they say? You are asserting that that covenant says that all prisoners must have the right to vote. That is what you have just asserted.

Senator MURRAY—Yes, I am asserting that. Treachery is excluded. Treason or treachery are crimes against the state; therefore, an appropriate punishment—because of the nature of the crime—is to withdraw citizenship because your crime is against citizenship. They are the only crimes against citizenship.

Senator Minchin—This country has always had restrictions on prisoner voting. Since federation, prisoners serving a sentence of one year or more have been denied the right to vote. I cannot recollect the terms. I am not sure that it says that no prisoners should be denied the right to vote. If it did, we have been technically in breach of it for the whole of our existence as a nation.

Senator MURRAY—Just for the record, and to assist you, Minister, my submission says: Australia is a signatory to the International Covenant on Civil and Political Rights. Article 25, in combination with Article 2, provides that every citizen shall have the right to vote at elections under universal suffrage, without a distinction of any kind on the basis of race, sex etc *or other status*.

It is our belief that ‘other status’ would refer to the legal status of convicted prisoners in detention. In other words, it is discriminatory on non-justifiable grounds, whereas treason or treachery in our view are justifiable grounds. Rather than you and I debate the meaning, it would be helpful to the committee if you could come back to us, if you were able, with the government’s informed view on that particular aspect.

Senator ROBERT RAY—But that is why A-G’s advice was not sought.

Senator Minchin—There had been internal discussions about that treaty, but those sorts of words are always open to interpretation. As to ‘other status’ in the context of race and sex, which obviously means discrimination on grounds over which one has no control—you are of one race or you are of one sex—you choose whether you break the law or not. So it is not so unreasonable for a society to restrict the franchise for those who choose to break the laws made by society, whereas you cannot choose your gender or race. I would have thought there was a good legal argument to suggest that, in the context of race and sex, other status would refer to those sorts of distinctions, not one where people choose to break the law.

In any event, let us for the sake of your argument assume that it refers to whether one is a breaker of the law or not, then this country—and I do not know of a democracy that allows all prisoners to vote; I would be interested if there were such a creature, but I doubt it—is in breach, we are all in breach. This country has been for its whole existence. Again, whatever the treaty, at the end of the day the Australian parliament should decide what the law is on this matter. It has always been the case that there has been restricted voting for prisoners. I have cited to you the countries that have no prisoner voting. We believe that is the appropriate position for Australia.

Senator HEFFERNAN—I have a question on the present law which applies to five years. Is that the sentence bestowed or the sentence served?

Senator Minchin—There was this strange position before where it applied if you were serving a sentence punishable by a term of imprisonment of one year or more. That was almost impossible to enforce. It was changed to whether you have been sentenced to a term of imprisonment of one year or more. But that was then changed at the same time as the words ‘punishable’ and ‘punished’ by the previous Labor government from one year to five years. So there was a significant increase.

Senator HEFFERNAN—But does that mean that if I am sentenced to five years, I am a model prisoner and I get out on parole—

Senator Minchin—No, if you are sentenced to a term of four years and 11 months, you can still vote. But if the sentence you are given is five years or more—

Senator ROBERT RAY—Can we just check the factual background of what you said. You could be right, but I had a feeling it was two years.

Senator Minchin—No, it has never been two years; it was one year and then it changed to five years. It was almost impossible to enforce, as the commission can verify, because of the use of the word ‘punishable’, which actually comes from the constitution because they relate to members of parliament.

Senator ROBERT RAY—Yes.

Senator HEFFERNAN—The view could be argued that there is some unfairness in the present system because a similar crime might attract a hell of a difference in the sentence depending upon the mood of the magistrate of the day and you might be sentenced to one year or five years for the same crime. What you are proposing here could in some ways even that score up a little bit.

Senator Minchin—Certainly, if you have a term, there are going to be people who fall either side. Even to take Senator Robert Ray’s point, there are anomalies in the current system in terms of whether they are entitled to vote if they fall one day either side of the arbitrary term of imprisonment that attracts this denial of the franchise. So whatever you do there is going to be an anomaly.

Senator HEFFERNAN—My real question was: if I am sentenced by the court to five years—in reality most people know that in most states that might only mean I serve 18 months—

Senator Minchin—But it is the sentence you receive. I think if you are paroled earlier is irrelevant to the application of this.

Senator ROBERT RAY—I take it, Minister, that you would want to amend section 44 of the constitution to be consistent?

Senator Minchin—The government has not made a decision to do so, but I think there is probably a pretty good argument to do so.

Senator ROBERT RAY—I see. You could not run for parliament if you got gaoled for a couple of months for a parking fine or a speeding fine, say.

Senator Minchin—The thinking there was the nature of the offence, I suppose, but the application of the law, as the commission has testified publicly, is much more difficult in terms of the word ‘punishable’, as your government acknowledged when it changed the law.

Senator ROBERT RAY—But you will acknowledge, though, that if a member of parliament is sentenced to 18 months in gaol for a crime that carries only 18 months they can maintain their seat in parliament, but they cannot vote in a general election.

Senator Minchin—As you know, it is a lot easier to change the electoral laws than the constitution. My responsibility is electoral laws; it is for others to pass judgment on the constitution.

CHAIR—It is outside this particular bill, Senator.

Senator ROBERT RAY—No, I think it has great relevance here.

Senator WATSON—Certainly under the old system a person sentenced to five years would lose his right even though he was released after six months?

Senator Minchin—That is right.

Senator WATSON—So there are anomalies whichever way you look at it.

Senator Minchin—That is right.

CHAIR—We move to the next group of clauses, which are Nos 11, 12, 14, 28, 30 and 31—the earlier close of the roll.

Members of the audience interjecting—

CHAIR—Sir, you are out of order. Please sit down. We are now dealing with the earlier close of the rolls. Minister, do you want to make a statement?

Senator Minchin—Again, this is, I acknowledge, one of the more controversial propositions, but the coalition shares the concern expressed by the joint standing committee about the difficulty of ensuring the integrity of the roll when it is possible for quite considerable enrolments to take place between the issue of the writ and the close of the roll with, as is freely acknowledged, absolutely no possibility of any checks being made as to the veracity of those applications.

There is a significant new enrolment that takes place between the issue of the writ and the close of the roll. The government agrees with the committee that that is a quite significant opportunity, unable to be measured in any sensible way, for fraudulent enrolment to take place.

We do not want to deny the opportunity for corrections to the roll to be made so that the roll is accurate for addresses and things like that, so we are maintaining a period between the issue of the writ and the close of the roll for existing enrollees' enrolments. So there are three working days—which may well work out to be not much less than the existing seven days—in practice for the enrolment transactions that now take place in that period to be covered to the extent that they deal with those already on the roll who want to correct their enrolment details.

But we do think, on balance, the need to ensure the accuracy and the integrity of the roll is such that new enrolments should not be accepted after the issue of the writ. These provisions will provide for that proposition. New enrolments will close at the issue of the writ, but the roll itself will close three working days after that.

Senator ROBERT RAY—Do you have evidence that the current electoral rolls are rorted?

Mr Dacey—No, we do not.

Senator ROBERT RAY—Have you had any evidence that, in the period from the issuing of the writs to the close of the writs, there has been massive fraud?

Mr Dacey—No.

Senator ROBERT RAY—Could you tell me how many people come onto the roll for the first time from the announcement of the election to the close of the rolls? That, of course, is a slightly different question to how many transactions there are, because it is a wake-up call for a lot of people to change address. But I am asking how many new people are there who are actually coming onto the roll?

Mr Dacey—Approximately 20 per cent of the 400,000 last time were new enrolments; that is about 80,000.

Senator ROBERT RAY—So under this proposition, if nothing changed—and one can always acknowledge that things can change by advertising, but I doubt it—80,000 people would miss out.

Mr Dacey—That is a possibility.

Senator ROBERT RAY—A wonderful coincidence, Minister, between the demographics, your own opinion polling and coming up with this proposition—just wonderful.

Senator Minchin—You may take that cynical proposition. We certainly do not accept that young people who we mainly are talking about are necessarily locked in or wedded to or always going to vote for our opponents. We certainly do not accept that at all. Of course, to the extent that provisional enrolment—which I would strongly advocate, which is now an entrenched part of the electoral legislation enabling you to enrol provisionally when you turn 17—encompasses this age group, this would have no effect. To suggest that changing this law will mean that those 80,000 would miss out I think is unduly pessimistic.

To the extent that obviously there needs to be an administrative response to ensure that everybody who is eligible to enrol complies with the law and enrolls as soon as they are eligible to do so—and I think resources obviously need to be devoted to that purpose and to the promotion of opportunities for provisional enrolment—then I think those numbers would be dramatically less than that if the law were changed in this way. But we do think it is essential that the only names to go on the roll be those that can be established as being eligible. If there is absolutely no opportunity to establish the veracity of applications for enrolment, then it is wrong to accept them.

Senator ROBERT RAY—It is amazing how you can find extra resources for this, but get rid of all or nearly all the Aboriginal enrolment education officers as a budget saving measure. But, leaving that aside, you say that there is lack of opportunity here to be able to check. Can you advance any evidence that in this period between the calling of the election and the closing of the rolls there has been massive fraudulent enrolment?

Senator Minchin—One of the great difficulties with this whole area of enrolment is that it is almost impossible to determine the extent to which fraudulent enrolment is taking place. That is one of the issues which the H.S. Chapman Society in particular is focused on—that we simply do not know, and it is almost impossible to know. All we come across is the occasional evidence of fraudulent enrolment.

I must say, in the spirit of bipartisanship—and we will touch on this when we get to proof of identity and things—I would have thought that even the Australian Labor Party would see some considerable merit, given its preselection procedures, in ensuring the absolute maximum degree of accuracy in the electoral roll. That is our purpose. It is not to seek to disenfranchise anybody but to ensure the practical value and worth of everybody's vote, and to maintain that by ensuring that only those who are able to be verified as being entitled to enrolment are enrolled. If you take 80,000 enrolments in that week, there is not a chance of establishing whether or not all 80,000 are false—and obviously they are not all false. But it is established that, if you want to sort the roll, that is the best time to do it, obviously.

Senator ROBERT RAY—But you have not established one case of this—not one. Minister, the fact is that, when this election timetable was put together back in 1983, this was all part of an agreement between your party and our party in checks and balances. The 33-day period was insisted on by your party. The close of the electoral rolls was insisted on by us. It was all part of an agreement. Now what you are doing is chipping half of the agreement away—

that is, taking our side of the turkey onto your plate, or keeping the side of the turkey we gave you. That is what it comes down to.

There are 480,000 people at risk here. Basically, you are going to distort the roll by not allowing enough time—forget the 80,000—for the others to shift. So they will then go back and vote absentee, or something, in an electorate they have not been near for six months, eight months or 12 months. It is a joke. It is all based on Liberal Party paranoia that came out of several defeats. You could not conceive that you lost for genuine reasons, so it had to be some electoral fraud or manipulation that caused you to lose the election.

Senator Minchin—It is regrettable that the ALP continues to deny any possibility of fraudulent enrolment, which is remarkable in the light of one of your own candidates being charged with fraudulent enrolment.

Senator ROBERT RAY—Leave that to the courts. I am not going to run the wards and all the other cases here, and neither are you.

Senator Minchin—You are the one challenging this government's proposed legislation on the grounds that there are no cases of fraudulent enrolment—

Senator ROBERT RAY—If there is a court finding, we may come back to it.

Senator Minchin—when your own candidate in Queensland was sacked because she was charged with fraudulent enrolment.

Senator ROBERT RAY—Charged, not yet convicted; that is the point I am making.

Senator Minchin—If you were to talk to your own party, you would find it is rife with infighting over the question of fraudulent enrolment to do with your own preselection system. I cannot understand why the ALP does not see the wisdom of making sure that we do have accurate rolls—for the integrity of your own party.

Senator ROBERT RAY—We want accurate rolls. But what we will not be in, Minister, is an absolute rort of cutting off the rolls the day you announce an election. That used to be the state government's great trick. It is at your discretion. If you had fixed terms, Minister, if you had a fixed election date, you would have a case. But you are basically saying now that the Prime Minister, at his whim, can knock 80,000 potential voters off the roll—and that is not on.

Senator Minchin—You are not knocking anybody off the roll.

Senator ROBERT RAY—Of course you are.

Senator Minchin—Everybody is required to enrol the minute they become eligible; that is the law. We have provisional enrolment for 17-year-olds. This change of the law would obviously be heavily advertised. We hope that everyone does comply with the law when they are required to enrol.

Dr McGrath—I am burning to have an opportunity to speak. Senator Ray, I have nothing to do with the Liberal Party. I came from the Labor Party. I was a member of the Labor Party for 35 years, and my husband was a judge. I draw the attention of the committee to the report on electoral malpractice, a blue book, which came out in March 1998, presented by the all-party committee of the House of Commons. That should be required reading in this context.

The Labor Party in Britain did not take the same attitude. They took part and agreed unanimously that there was not only fraud in North Ireland but considerable fraud, and it was fraud by all parties on an organised scale. The Sinn Fein did not agree. The reason it was exposed was that the Chief Electoral Officer does not adopt the policy of the Electoral

Commission in Australia, which is that they do not investigate on the whole. That is another issue I have no time for here. The Chief Electoral Officer of North Ireland—whose view is that, where there is an opportunity for abuse, there is abuse—carried out investigations which were exposed in this report by all parties; probably the most vehement was the Social Democrat and Labor Party of North Ireland who were willing to admit that it was happening and built some proofs.

Senator Ray, with all respect, Treffor Owen, electoral officer of the Australian Electoral Commission, in 1989 in Victoria said that a great many people who voted in the 1987 election had left their address several years earlier. There must have been 60,000 of them, nearly as much as an electorate. He had to remove those just after the election. At that time concern over massive fraud in the 1987 election was so great that the Electoral Commission itself had to have an audit. The audit was not done in marginal electorates, but it did prove in those electorates of New South Wales and Victoria that the irregularities and matters for concern were such that the results would have been overturned in all six electorates.

Senator ROBERT RAY—Let us ask the Electoral Commission if that is correct.

Dr McGrath—Pardon me, but I have a say, Senator. I have been listening to you with patience.

CHAIR—Senator Ray, please.

Senator ROBERT RAY—No, allegations have been made. We have the Electoral Commission sitting here.

Dr McGrath—I have the reports that have been published. They know there have been reports; not an allegation. It is their report.

Senator ROBERT RAY—You are saying that the variety of election results would have been—

Dr McGrath—No, I have quoted two examples. I have quoted the Australian Electoral Commission's own report on the inquiry into six electorates and their own officer. If I may finish, I would be glad. I will not have many opportunities today.

CHAIR—Please continue, Dr McGrath.

Dr McGrath—Their own officers—Robert Patching of the Rankin electorate, Mr Raveane of Corio and the DRO Fowler in Sydney—have all expressed concern as to the problem with migrants seeking election and ticking that they are citizens when they are not. The evidence with the joint standing electoral committee is that Mr Patching rejected 200 applicants, 143 of them concerned ethnics. He got confirmation from the immigration department that they had applied to vote when they were not citizens and ticked that they were. As a result, 143 of them were taken off. At that point he was asked to desist by Canberra because it was not the policy of the Electoral Commission to check as to whether these enrolments were false or not. Therefore, the Australian Electoral Commission is not in a position to know how many migrants were allowed to enrol when they were not entitled to.

There are practices among migrants that are not acceptable. The Mayor of Fairfield sent me a cutting of a situation where about 159 people in Cabramatta enrolled at one post box. I would like to add—and I continue to quote from those people who were involved in the enrolment system—that in the 1993 report of the joint standing committee there are 10 ways of committing fraud with which I am now familiar but which I do not practise. The Electoral Commission admitted that of the 10 there was only one that it could identify. They cannot detect nine methods of fraud, including people using non-voters' names and other methods.

CHAIR—Thank you. Mr Viney, do you want to say anything?

Mr Viney—I suppose it would be 25 years ago that I was talking to a federal DRO on this question of getting people to record their change of address. I put the suggestion forward that, because estate agents were largely involved in every move of people, we ought to provide the change of enrolment card through estate agents. He thought it was a hell of a good idea, and we talked around amongst estate agents and they said that they could see their responsibility as a citizen to do what they could to keep up the integrity of the voting system. It went to Canberra and was knocked on the head. Now I understand the Electoral Commission are proposing a test of putting some cards in newsagents, but unless they put them alongside the Lotto booth I do not think many people will pick them up.

As far as known cases of fraud in enrolment are concerned, I know of a classic example. A few years ago—and I remember it very clearly because it was in the *Herald* on Anzac Day—a pensioner had been committed because he had put seven non-existing persons on social security, taken apartments in their names and enrolled them to add authenticity to the social security scandal. You have a situation in Sydney at the moment where John Newman, whom I knew very well, was murdered. As Dr McGrath mentioned, in that area the Mayor of Fairfield stated that 159 people enrolled at one post office box.

Let me go back to my own period in the state parliament in New South Wales. When we checked after a state election, doing a post mortem, we found 40 enrolments at the one address. It just does not make sense. If your computer were turned around, and if you had precinct rolls available, then the community could police it. But at the moment it is more and more complicated to find out who is on the roll or who should not be on the roll. That is why we campaigned very heavily in New South Wales to introduce precinct voting, because it is a self-policing situation. It is like the local copper. He knows everything that is going on, but the moment you centralise your law enforcement you lose touch with the grassroots.

CHAIR—Minister, do you want to comment?

Senator Minchin—We are discussing the specific issue of when the rolls should close for new enrollees.

CHAIR—Yes.

Senator Minchin—The government is proposing this as a measure to ensure that only those who are entitled to be on the roll are on the roll. We had a look at things like precinct voting, which was strongly put to the joint standing committee, but the government is not proposing to go down that path. We are maintaining division wide voting. I would add that the Electoral Commission has done a lot of very good things recently on this issue, including moving to an address based roll system, which I think will meet a number of the concerns raised by Dr McGrath and Mr Viney in that sense. I think that is a great advance which we should all welcome in terms of being much more readily able to have the capacity to monitor the sorts of anomalies which have been pointed to. We think this is not an unreasonable proposition to put, but I accept that others do not share that view.

Senator WATSON—In support of what Senator Minchin said, several years ago following a federal election I received an abnormally high number of return letters of welcomes to the electorate. A brief follow-up by my office revealed RSD addresses that were not in existence, flat numbers in excess of those in the particular block and numbers in excess of those in a particular street. However, the overall effect was not sufficient to affect the election result.

Senator Minchin—This should not be seen in any way as a reflection on the commission. In that seven-day period they have no opportunity whatsoever to do any checks of enrolments. They have no choice really but to put everyone on the roll. It is quite an extraordinary situation that we find ourselves in. We do not want to deny anyone enrolment. We support compulsory enrolment, which is what we have in this country. As soon as you are entitled to enrol, you must enrol. It is the law, and we do not propose to change that. We do feel very strongly that such a huge window should not remain open.

Senator ROBERT RAY—Why do you not just extend the election period by a week? You would have an extra week to check, if you are so principled.

Senator Minchin—I am not sure that extra time is necessarily the proposition. People who are breaking the law by not enrolling when they must at law are then given this great let off. I personally remain of the conviction that voting itself should not be compulsory, but I do not think it is unreasonable for society to require people to be on the roll. That does not of itself force them to exercise the franchise. Compulsory enrolment has had cross-party support for a very long time. It is the law that you are required to enrol the minute you become eligible to enrol. Therefore, if you fail to exercise both your right and your obligation, you should be aware—and it is not unreasonable for parliament to say—that when the election is called the rolls will close for new enrollees.

We accept that we are obviously not going to remain in government forever. At some point, there will be a change of government, I hope in the long and distant future. That does not detract from our belief that this should come into effect. So in terms of your argument, Senator Ray, it will then be open for a government of a different persuasion to have the freedom to call an election, but we think when this becomes law and people understand that this is the law, it will actually be an incentive to comply with the law and enrol when you are required to, when you become eligible.

Senator MURRAY—My questions are directed to the commission. The propositions about the integrity of the roll have been well presented and well explored previously before the Joint Standing Committee on Electoral Matters. For the purposes of this committee, can you confirm the audit process you go through to ensure the integrity of the roll?

Mr Dacey—I am not sure what you mean by ‘the audit process’. Is it as we receive an enrolment application, what procedures apply?

Senator MURRAY—Is there any process whereby you periodically take a representative sample of the roll to establish whether that roll reflects the reality of where people live, whether such people are alive and are of age, et cetera?

Mr Dacey—The obvious one is the electoral roll review, which is conducted approximately every two years. That is a snapshot review where we have people doorknocking all households, particularly in urban areas, and is a review by mail in the non-urban areas. However, the AEC is now moving to a process of what we call continuous roll update where we will eventually move away from the snapshot approach and, through other mechanisms, update the roll on a more continuous basis. We are moving into that process and the commencement of that process was, as the minister mentioned before, moving to an address based system where RMANS—our roll management system—is address based. To effect an enrolment, when a divisional office receives an enrolment card, that enrolment has to be made for a valid address. So we have on our system a list of all valid addresses. It cannot be made for a made-up address if the system will not accept a card unless it is for a valid address.

There are other procedures which we are undertaking through our system now that we are address based. We can check vacant addresses. They are addresses where we do not have people enrolled that have had people enrolled in the past. We can check multi-surname addresses—you can set a limit of, say, four or more surnames at the one address. We can also set enrolment limits at addresses. So for a standard residential house, for instance, you could say that warning bells will ring if you try to enrol more than four people or for an apartment more than two people. We are also looking at the possibility of data matching with other agencies and working closely with Australia Post with change of address information to update the roll.

Senator MURRAY—When you were doing the snapshot audit process, what was the percentage, frequency or extent of electoral fraud identified?

Mr Dacey—We did not detect any electoral fraud during that process.

Senator Minchin—It is important to point out that that was essentially about dealing with the question of addresses and people saying that they live at particular addresses. It really does not go to the question of whether in fact they are Australian citizens, whether they met all the other entitlements and, indeed, does not individually deal with all the enrolments at any particular address. It has as much been about making sure that those who live there are on the roll as it is about making sure that those who live there who are not entitled to be on the roll are not on the roll. It cannot cover every facet of potential electoral fraud. Primarily, it deals with the address issue.

Senator MURRAY—Mr Dacey, having heard the minister's remarks, will your new audit process deal with those shortcomings?

Mr Dacey—They will certainly be more effective on a more continuous basis. It will replace the doorknock snapshot approach and we will be able to mine our own database—which is called data mining—to highlight to us and to make inquiries where we suspect there may be some problems with the roll.

Senator MURRAY—You have used the word 'will'. When is the starting date for this?

Mr Dacey—It has commenced. It will be progressive but, for instance, vacant house mail-outs, where we propose to mail to addresses on the roll that have had electors in the past but now do not, have commenced on a trial basis in two states and will be implemented from 1999, as with checks on multiple surname households that will also be implemented from 1999.

Senator MURRAY—Sorry, I do not understand. If it has commenced already and it is continuous—

Mr Dacey—It has commenced in terms of development. We have only recently moved to the address based system and we are now extending programs within that system to come up with these.

Senator MURRAY—When would it commence in 1999?

Mr Dacey—In the first quarter of 1999.

Senator MURRAY—So, if the Prime Minister held his election in May 1999, for instance, by then you would be able to report on a sample basis whether there is any electoral fraud?

Mr Dacey—We could certainly report on the effectiveness of those procedures and any irregularities which we have picked up through those processes. I should say that we are in

the process of finalising in all states a snapshot approach, which is the electoral roll review. It is occurring now.

Senator MURRAY—Would it be your advice then that it would be prudent to wait until the consequence of that test to establish the extent of the problem before changing the law?

Mr Dacey—I do not have any advice on that.

Senator MURRAY—But it might be an appropriate conclusion to draw.

Mr Dacey—That could be a conclusion some could draw.

Senator MURRAY—My other question to the commission refers to the demographics of the estimated 80,000 who would be affected by this change in the bill. Have you done any demographics, and indeed any geographics, on that 80,000 to establish what a typical 80,000 would look like and whether they come from any particular electorates or regions?

Mr Dacey—That information is available. We do not have it with us. For example, that information is available by division, by age ranges, et cetera, but we do not have it with us at the moment.

Senator MURRAY—For the purposes of the report, Chair, I would recommend that, if they can give us a brief summary, it would allow us to have a factual response on that basis.

Mr Dacey—For example, by age range and by electorate?

Senator MURRAY—Preferably, yes, because we should know whether there is a sudden surge in particular types of electorate—marginal electorates, for instance, which I guess would be the inference behind some of the government's views—or geographical areas or particular demographic groups.

Senator ROBERT RAY—Leaving aside the 80,000 question to the Electoral Commission, that presumes another 400,000 people do a transaction which one presumes is moving from one roll to another roll.

Mr Dacey—Basically a change of address. It is 400,000 in total.

Senator ROBERT RAY—So we are talking about 320,000.

Mr Dacey—For the last election.

Senator ROBERT RAY—And they do that in seven days, basically a five working day period?

Mr Dacey—That is correct.

Senator ROBERT RAY—The government proposal is three days. Do you have any evidence at the moment day by day of the five working days when those changes flood in?

Mr Dacey—Those figures can be extracted. It appears that the majority do wait until the last few days; as with any process, people tend to wait until the deadline. Of course, if the time period is reduced, our enrolment advertising campaign would reflect that. We really cannot make an estimate of whether people will pick up on that advertising, but we would expect that those last days would be very busy days.

Senator ROBERT RAY—I am concerned that by restricting the amount you will not actually take people off the roll, they would just be voting in the wrong electorate, which is a point made by some people at the other end of the table to some extent, although in a different context. We could be forcing a lot of people to vote in the wrong electorate. No matter how much we advertise and no matter how much we set down what we would like in

principle, human nature is that you do your tax return at the last minute and you do your enrolment at the last minute. Is it about 12 per cent of Australians who move every year?

Mr Dacey—It is now in excess of 20 per cent. Enrolment transactions do include change of name.

Senator ROBERT RAY—I have got a different view from the minister and so I will not pursue that any more, but I did want to ask Mr Maley a question about claims made by Dr McGrath about the 1987 election. I think you were involved in that review. Did you turn up any seats that would have had a different result? I should say for the record that he reported to me as the relevant minister at the time, just in case anyone misunderstands.

Mr Maley—No, the question was raised about the audit of six divisions which was done following the 1987 election. It did not reflect any evidence that a wrong result was produced in any division. I would also make the point about that audit that it was an initiative taken by the AEC to specifically focus on elements of the administration of the election, and particularly declaration votes. It was not prompted by a belief that there was any fraud seriously or significantly affecting the system at all. It was not prompted by fraud. It did not find fraud.

On the point that you just raised on the flow of electoral claims during the roll close period, my recollection is that we provided statistics day by day on those figures to the Joint Standing Committee on Electoral Matters. They revealed that there was essentially very little activity for the first few days of the roll close and then everything started to come in from about the third day. But we can check those figures.

Senator ROBERT RAY—Okay. Have you found the 159 at the post office box in Fairfield in the electorate of Fowler yet?

Mr Maley—I have not heard of that particular statistic before.

Senator ROBERT RAY—Dr McGrath, maybe you would like to give the evidence so they can investigate it. You have got evidence?

Dr McGrath—It is very hard to hear you when you have your hands up to your face.

Senator ROBERT RAY—I often get the complaint in the Senate that I speak too loudly because I have got the second loudest voice.

Dr McGrath—I would like you to speak loudly.

Senator ROBERT RAY—So I always try to drop it back.

Dr McGrath—I want to hear your words of wisdom, particularly when—

Senator ROBERT RAY—I was asking you to pass on your evidence of 159 enrollees at a post office box to the Electoral Commission so they can investigate it.

Dr McGrath—I would be delighted. Thank you.

Senator ROBERT RAY—Thank you. On the question of real estate agents that was raised here, I do not know what the practice is elsewhere, but the practice in Melbourne is that real estate agents usually give you an enrolment form in a pack. Also, every time you move, the movers give you a long list of things to do and enrolment forms too. That is not compulsory—I understand that. In a de facto sense, at least it exists in Melbourne. I do not know about any other city.

CHAIR—That is interesting.

Senator ROBERT RAY—Minister, you must be getting nostalgic for the Australia card. That would have fixed all these problems.

Dr McGrath—There is one point that has not been raised and which has been of concern to me since the head of the computer crime team came to talk to the H.S. Chapman Society. The Electoral Commission has, in rush periods, contracted out entries in the electoral roll. Also, I am told that it has been mentioned to DROs within the Australian Electoral Commission that the entire roll may be contracted out to private contractors. The head of the computer crime team said that top security should be put in place to screen people and systems wherever such things happen because the electoral roll is crucial to the accuracy of our democracy so that we get the right result. It is not a small matter; it is probably the most crucial matter ever discussed in parliament. I want to ask: what security screening is there? What separate audit in the Australian Electoral Commission is there when they use casual employees to put entries in the roll?

This is very pertinent because a computer hack got into the system at the highest level before the election of 1993. He got into the computer system between the time the management system was complete in the month before the issue of the writ. He had access to the electoral roll facilities. He had access to the ballot counting facilities. The computerised count of that election was in total disarray both in DROs' offices and on the counting night for three weeks after the election and three or four weeks before.

The Australian Electoral Commission did not advise this parliament at any time for the next four years that that had happened. It required me as a private citizen to write a paper and draw this parliament's attention to that fact. This is not satisfactory. I have documents from the National Institute of Standards in America—where they do not have national elections—on standards required of computer use in any election of any kind for democratic purposes.

I believe none of these measures that they regard as absolutely requisite to honesty and accuracy are in place in this country. This question of whether somebody can say what audit exists of these casual employees putting things into the roll is pertinent. Are they going to contract out the whole roll in the future so the DROs will not be making entries any more or, if they are, will they go to a central terminal?

CHAIR—Do you want to comment on the questions raised about that, Minister? I know it is away from the bill.

Mr Dacey—If I could respond to Dr McGrath's comments, the AEC does not contract out entries into our enrolment system. All enrolments are processed in each of our 148 divisional offices.

Senator ROBERT RAY—I am just marking off the wrong assertions.

Mr Dacey—With regard to using a private contractor to run the system, the AEC has not in its history used its own computer system or own computer to manage the roll. It was managed on the computer of the old Department of Administrative Services, now the Department of Finance and Administration. The government has outsourced IT, and the AEC is part of cluster 3 which is being outsourced. Those contracts are being signed. The input of data into the computer is done by AEC staff, but the computer itself is managed on an outsourced basis.

Our casual employees, like casual employees anywhere, sign agreements and undertakings of fidelity and secrecy. Obviously, during an election period we have three-person divisional

offices. They need to employ casual employees and we have no evidence of any casual employees having attempted to fraudulently interfere with the roll.

Also, in response to Dr McGrath's suggestion about hackers getting into the roll for the 1993 election, it is true that the AEC became aware that a hacker had set up what are known as trap doors into the AEC's systems. However, the AEC launched an investigation and, in fact, no access had been gained to the AEC's enrolment system during that period. Procedures were immediately put in place to ensure that in fact that could not happen through the development of stronger fire walls. In fact, a hacker did not get into the AEC's enrolment system.

Senator ROBERT RAY—Did not?

Mr Dacey—Did not.

Dr McGrath—In fact, you would not know.

Mr Dacey—Checks were undertaken which revealed that in fact they did not get into the system.

Senator ROBERT RAY—We are getting a whole series of allegations coming from this side of the room and no substantiation from the body involved.

Senator Minchin—I think the point was that a hacker found a way in but that was not exploited.

Senator ROBERT RAY—That was not the evidence given.

Dr McGrath—I do not know how many people are computer literate. I have a whole cutting book on the problems. It would be impossible for the Electoral Commission to say that a raft of fictitious names had been put on the roll, not that they did not know for a few days, and it would be impossible for them to track down just before an election when they had at that time 500,000 last minute names in that election. They say they cannot check those. So how could they check that there has been an input of names? That is the point I am making.

Senator ROBERT RAY—Your major point that the minister has not answered yet—

Dr McGrath—Is he required to?

Senator ROBERT RAY—No, but we might as well send it to him. The point that Dr McGrath is making is that the Electoral Commission's evidence is that they do not have their own computers. There are a lot of good financial reasons for that.

Dr McGrath—They have not answered one question.

Senator ROBERT RAY—But, in the cluster 3 outsourcing, now some private group will be running the electoral roll, or at least the computers will run it. The Electoral Commission will still be inputting.

Dr McGrath—As I said, it has been discussed within the commission.

Senator ROBERT RAY—What Dr McGrath was really asking is: what sort of safety net is there even when it is outside government?

Dr McGrath—That is right.

Senator Minchin—Mr Moyes and Mr Dacey may want to respond to that. I was just chatting to Mr Moyes about the security provisions particularly applying in this case in relation to the contract in the tender documents. I do not know whether he wants to add to that briefly, describe those or make that point in evidence about the security arrangements for this outsourcing.

Dr McGrath—The point I am making is that really the government may not be aware that that was under discussion.

Senator ROBERT RAY—I think they were.

Mr Dacey—In fact, it is a government decision for cluster 3 and outsourcing, but certainly there are very strong security arrangements within the cluster 3 contract. I do not have the details with me, but there are very strong security arrangements there.

Senator ROBERT RAY—Anyway, I understand cluster 3 is not going too well.

CHAIR—I think that finishes the early close of the rolls. We will move on to items 13, 15 to 17 and 19 to 26, enrolment reform.

Senator Minchin—These are relatively technical and I do not think are controversial. They really seek to remove some anomalies in enrolment or re-enrolment when you move address. Whether you are moving inside or outside an electorate, there are some odd anomalies. I think the bipartisan view was that they ought to be resolved. I am just talking about the re-enrolment. This covers proof of identity and things like that, which are obviously more controversial. We can pick up all those in this too. I was not quite sure how many items this covered.

That particular item—that is, 26 and 27—is not so controversial. Item 19 talks about the witnessing requirements. As you know at the moment, we think it is something of an anomaly where a witness does not have to actually be on the roll themselves but only eligible to be on the roll. We think that is rather odd. At the moment it is entirely an honour system. There is no way of knowing whether the witness actually exists or not or whether it is just a scrawled signature or whatever. There is no checking. If they are not on the roll, you cannot even do that.

We are saying, on witnessing, that it is not unreasonable that the witness should be actually on the roll and from a prescribed class of persons. As you know from reading the detail, that will be done on a very wide and quite liberal basis and take special account of particular community groups whom we do not want to see suffering undue disadvantage because of this.

We do think that the witnessing requirements here should generally be consistent with other areas of government where witnessing is significant and a significant element in trying to minimise the extent to which fraudulent enrolment can occur and that these are not undue measures.

Senator ROBERT RAY—I do not want to get into the one month thing. In part I support it, and have technical difficulties with aspects of it, but we will argue that out at the committee stage. The first point about proof goes to citizenship. To be on the roll, if you are non-Australian born, you must prove citizenship. An FOI request went in—from whom I do not know—this year about the citizenship of parliamentarians. I assume it was across all sides of politics, because it involved about 40 people. There were far more than just the Labor Party ones I know about. Perhaps Senator Murray got one.

It was interesting that on the Labor side the Department of Immigration and Multicultural Affairs turned up two people for whom they had no proof of citizenship. Very fortunately, I think they got the wrong two people, because they kept meticulous records. They had all the records of their citizenship, which a lot of people will not have. It really goes to the question of how well satisfied we are at the moment of the department of immigration's records in this regard and what scope can be given to someone outside those records to prove their citizenship and the appeal mechanisms, et cetera.

Mr Dacey—I cannot really comment on the department of immigration's records and their accuracy or on what sort of state they are in. In the past when we had provisional enrolment for new citizens—when they made application for citizenship—which was then conferred following the ceremony, the timelag between the citizenship ceremony and the department of immigration knowing of that ceremony was, in a lot of cases, considerable. Effectively, this could mean, particularly if you had an Australia Day ceremony where you would have several thousands of new citizens achieving citizenship, that, if there was a February or March election, you may not have the information through the central Department of Immigration and Multicultural Affairs computer that they were in fact citizens. So there was a disenfranchisement problem there.

Senator ROBERT RAY—I am not critical either of the Electoral Commission or the Department of Immigration and Multicultural Affairs for their records. The real thrust of my question was: accepting that proof of citizenship would be a good idea—which I basically accept—what alternative method is there for people who say, 'Well, yes, Immigration don't have it, but my parents were made Australian citizens and I was on the certificate. We don't have the certificate'? What alternative method of proof would we allow under the proposed amendments to the act?

Mr Dacey—If we could not get the information from the Department of Immigration and Multicultural Affairs and the applicant themselves did not have any particular records, I am not sure exactly what procedures we would have in place. We are assuming that either the applicant themselves or the department of immigration would have that information available. I am not aware of any cases where we have not been able to get information. Perhaps a passport would be suitable.

The problem is not that great in that, for the last two years, the AEC has been attending citizenship ceremonies and the department of immigration has assisted us by producing enrolment forms which are personalised for those people attending ceremonies. We pick up a very significant number—a high proportion; in the high 90 per cent—of enrolment forms at those ceremonies. So, obviously, there is no need for the proof of citizenship there.

Senator ROBERT RAY—I do not propose to take this any further at the moment. I may be just spearing at phantoms here. If it does become a problem because of inadequacy of records, maybe the joint select committee could look at it again in the future in terms of some sort of an appeal mechanism. You could almost become a non-person here simply because you are relying on records which are at some stage transferred over to a computer, et cetera.

Senator Minchin—I would just make the point that we are specifically providing that the method of verification will be prescribed by regulation.

Senator ROBERT RAY—Yes, but you are not showing us the regulations yet, are you.

Senator Minchin—Yes, but through the regulations there will be capacity to take account of what you are describing.

Senator ROBERT RAY—If you go back to the Acts Amendment Act, regulations cannot be retrospectively knocked over, so the relationship between a proclamation of the act, the issuing of regulations and the next election date become very critical. It is a very potent mixture for you to have a close look at if you want to be fair.

Dr McGrath—Ian Dickson, who is still the Commissioner of New South Wales, and Mrs Cundy reported on the problems of the electoral system in 1989. They said that the only really

effective method of eliminating fraudulent enrolment is to require each applicant to appear in person at the office of the electoral registrar with appropriate identification.

Senator ROBERT RAY—That is not easy if you are in Kalgoorlie.

Dr McGrath—Never mind. It is easy to take difficult examples to down a system which the majority can observe. I do not think we have time for that today. Cundy and Dickson criticised the Australian Electoral Commission for casting serious doubts on that statement of theirs. They said that the system was wide open to manipulation and fraud, and they dismissed the arguments of the Electoral Commission. These issues have been addressed in North Ireland.

I commend Senator Ray for bringing up the question of regulations. That concerns me and my husband who, as you know, is a chief judge. Regulations are a problem when it comes to leaving authority in the hands of the Australian Electoral Commission over which there is no audit.

I have a problem between items 19 and 24 on that point. Under item 19, they have to give authority to a DRO or an Australian electoral officer. Over here it says that prescribed persons can take the documents in without appointments and forward them to the AEC. I think it should be said to whom in the AEC. It is too broad and it is different from a DRO. That means the DRO in the division who has to keep an eye on the whole of his electorate will not be seeing quite a lot of documents. I have problems with that and it could easily be changed. It should go to the AEO or DRO.

Senator Minchin—I will take note of that comment.

Senator ROBERT RAY—Could we have a costing on what these new methodologies are going to cost the Electoral Commission?

Senator Minchin—The explanatory memorandum refers to the financial impact statement and gives costings provided by the AEC. I think we are talking about the same items here, aren't we? There would be a cost of approximately \$4.8 million in the first year and \$3.9 million in each out year for developing and publicising a new enrolment form, training AEC staff and agencies, Australia Post and AEC processing expenses.

Senator ROBERT RAY—So basically it is \$3.9 million a year with \$1 million in the first year. I do not find those figures unexceptional, other than, again, the fact that we can always find money for this but not for educating Aboriginals in the voting system.

Senator Minchin—We do think that these sorts of provisions are not unreasonable and the cost is not excessive.

CHAIR—Thank you, Minister. The next items are assisted voting—items 32 to 41. Minister, would you like to comment?

Senator Minchin—These are unexceptional and I do not think they met with serious opposition. They prescribe more closely who may assist a voter to mark his or her ballot paper; we are not suggesting there should not be assistance for those who need it. In order to ensure that everybody is satisfied with the integrity of the assistance process, we are prescribing that the presiding officer should be the one to assist a voter to mark his or her ballot paper. Given that this is all about other people getting involved in the business of the secret ballot and some are concerned about the current provisions, it is not unreasonable to tighten that a bit. Therefore we are providing that it be the presiding officer.

Senator ROBERT RAY—I support this in principle because I think it is an area of potential fraud, and I know of one case of fraud in that area. I just have two or three technical questions.

Can the person who asks the presiding officer to vote for them appoint someone else as a scrutineer to observe the process or do you need an official scrutineer there?

Mr Dacey—They may appoint someone else.

Senator ROBERT RAY—So they can just appoint someone else. Are the provisions the same as those for blind voting, where you must watch someone else fill it in but not watch the way they fill it in? That is, the presiding officer will fill in the vote. Is the scrutineer entitled to see that the presiding officer is obeying the instructions of the voter? With a blind voter, when someone else votes for them, the scrutineer can only watch that the ballot is being filled in and not the order. Do you understand that question?

Mr Moyes—I think so. My understanding is that, in that situation, the scrutineers who can be present can also see the order as part of the verification that they are doing what is required by the voter.

Senator ROBERT RAY—That is good. A final point occurred to me when I was reading this the other day. Minister, I do not spend a lot of time in polling booths these days. I only go to vote—unlike in the past. With regard to the presiding officer's availability, it seems to me that the way you have it organised now is pretty good, but the presiding officer seems to spend a lot of time supervising at the absentee table. My question is about their potential availability to be able to carry out this task. It is not a bad idea but—

Senator Minchin—How is it going to work in practice?

Senator ROBERT RAY—Yes.

Mr Dacey—Perhaps at the smaller polling places they do spend more time at the absent table or the declaration table, but certainly at the larger polling places they take a more overall management role and availability should not be a problem. In the absence of the presiding officer, the deputy or the 2IC assumes that responsibility.

Senator ROBERT RAY—Just to put my mind at ease, do you know how many of these sorts of transactions would occur in an averaged sized polling booth over the 10 hours of voting in a day?

Mr Dacey—Assisted voting transactions?

Senator ROBERT RAY—Yes.

Mr Dacey—I would not like to guess. It very much depends on the demographics of the electorate. In some electorates it is probably none. In electorates where you have a high proportion of people born overseas or a high Aboriginal population, quite a number of assisted votes occur.

Senator ROBERT RAY—Thank you. That is all I have.

CHAIR—That finishes the questions on assisted voting. We now move on to the preliminary scrutiny of declaration votes—items 42, 50 and 51.

Senator Minchin—Again, I think these are self-explanatory. Again, they have bipartisan support. My understanding is that there is no fundamental opposition to this. I remain to be enlightened.

Senator ROBERT RAY—I support it, but I cannot understand why you do because it does not go to the master roll afterwards. It does not fit the paranoid pattern of the coalition.

Senator Minchin—It does not go to the opening of any declaration votes or that sort of thing. It is just the scrutiny of the declaration. So it will assist in the speed with which the

electoral process can be completed and seems from our point of view an imminently sensible proposition.

Senator ROBERT RAY—Basically, you are going to take out the postal votes and the pre-poll votes and mark them off on the roll. Are you then going to separate them from their declaration envelopes?

Senator Minchin—No.

Mr Dacey—The envelopes will remain sealed.

Senator ROBERT RAY—Are we talking about one or two envelopes here?

Mr Dacey—This is the inner envelope—the declaration envelope.

Senator ROBERT RAY—I am just trying to find out what the go is here. You mark them off on the roll.

Mr Dacey—That is correct.

Senator ROBERT RAY—That is something you normally do afterwards when you get a master roll in, which is a waste of space anyway. I think we all acknowledge that.

Mr Dacey—It is basically checking their entitlement on the roll before polling day. That is as far as we would go.

Senator ROBERT RAY—Except that you would have them all lined up at 6 o'clock with a sharp opener, so brownie points returning officers can get them in by 6.20, which will give as a terribly distorted result for 20 minutes and Malcolm Mackerras will predict the election result wrongly. Good move, fellas! There is quite a difference in some of these votes in voting patterns.

Mr Dacey—Sure, there can be.

Senator ROBERT RAY—It will make it interesting. The minister is warned, I am warned, so that will do.

CHAIR—The next items are 43 to 45, the thresholds for the reporting of donations.

Senator Minchin—The issue of public funding and disclosure is always a little controversial. This has been dealt with in virtually every parliament and every joint standing committee report. There was a separate report about financial reporting by the committee when I was on it, and a number of changes were made then. The joint standing committee received quite a bit of additional evidence and submissions in its inquiry into the 1996 election and made recommendations accordingly, some of which the government has picked up; others it has not or has modified to some extent.

Just to deal with them individually, the question of a donor reporting a donation is seen by some on both sides of parliament as an unnecessary intervention by the state into the private affairs of individuals. Given that all donations above a certain limit must be disclosed, why should the donor themselves be under a legal obligation to do something which the party to whom they donate has to do anyway?

I think this report actually did recommend that the donor requirement be abolished altogether, and that was with a Labor majority back in 1994. That was a bipartisan recommendation then. We think that it is, on balance, sensible to keep some obligation on donors but that the \$1,500 level is an undue burden on those who voluntarily make donations to political parties, so we are proposing to increase it to \$10,000—not abolish it, as has previously been proposed—to act as some sort of double check in the system. So the parties

will know that with donations above a particular level, while they have to disclose them, the donors themselves are still under an obligation to disclose.

In terms of amounts received, we are proposing that the aggregation figure above which amounts must be noted of \$500 be increased to \$1,500. That has been bipartisan. Both the Labor and the Liberal parties submitted that the amount for aggregation purposes should be \$1,500, and I think the Labor members of this committee agreed with that, so there has not been a dispute in that sense between the major parties about that matter. It really goes to the health and sustainability of voluntary organisations involving thousands of ordinary Australians who, for reasons which escape many of us, choose to work voluntarily in political parties and then get the job of being treasurer of the local branch, et cetera. This whole business of maintaining records of every single penny that comes into the place has a huge impact on them. So there has been, and I would hope there still is, bipartisan agreement about moving to the \$1,500 level.

The more controversial question is the amount in total that should be disclosed by any donor. There was a Liberal Party proposition that that should be \$10,000. To be consistent with the donor level, the committee, I think, recommended \$5,000 as the total amount that a donor makes in any financial year that should be disclosed. The government has picked up that recommendation and put it in this bill. I gather that does not have bipartisan support. The government, nevertheless, will be maintaining its position on the bill and putting to the parliament that that amount should now be \$5,000, not \$1,500, but not the \$10,000 which was put to us by the Liberal Party.

Senator MURRAY—Before I pursue any further questions, I would like the views of Professor Gerritsen on these proposals.

Prof. Gerritsen—I am generally sympathetic to the idea of upping the rates. I also note that I welcome the addition of Independents to the taxable allowances. I think that is an important removal of what was previously a very undemocratic anomaly. I agree with what the minister said about the difficulties that branch level officials of parties have, even to the point where, for instance, individual politicians have these difficulties because they will attend, if they are Labor, the great Australian Labor Party barbecue which seems to be in existence perpetually everywhere.

CHAIR—Not only for the Labor Party.

Prof. Gerritsen—People will press cash upon them and the people will appear in the records as donating odd amounts, which are the amounts that they happened to have when they emptied their pockets out by the end of the evening—that kind of thing. There are a lot of difficulties.

Country Party branch secretaries tell me they drive around in a truck and pick up wheat in a bin on the back. The farmer's harvester might be half full and so half a tonne of three tonnes goes into the bin, and at the end of the day they have to work out who has donated what. So there are those sorts of anomalies at the bottom end of the scale. They are not the problems that bother me. I think that they are in a sense technical issues, like virtually everything else here, that do have some implications. I will be interested in the discussion of the lower limit, because the \$5,000 is still slightly above the median donation. Depending on the reporting provisions, whether or not \$5,000 is sufficient—

Senator MURRAY—Just for the record, what is the median amount?

Prof. Gerritsen—I do not have the figures off the top of my head, but from memory it is just over \$4,000. It is a sample that is very skewed. In the five years that I have been keeping records, there are something like 6,000 reportable donors. There are a few hundred who give very large amounts, at least \$30,000 and above, and some corporations that give donations in terms of hundreds of thousands of dollars. So in any sample they skew the mean.

Senator Minchin—Some unions too, Professor.

Prof. Gerritsen—Some trade unions, yes. They tend to spend most of their money as third parties rather than donations to the Labor Party.

Senator ROBERT RAY—And waste it.

Prof. Gerritsen—I have had discussions with two federal directors of the Liberal Party about this, and they have both brought up the question of trade union participation in election campaigns and have been resistant to the proposition that I put to them that I did not think the Labor Party would think that would do them much good and that the Liberal Party should be funding the trade unions to advertise during election campaigns. Perhaps I am overly cynical.

The real problem I have in this area is not covered by this bill. The minister tells me that it is covered by bill No. 1, and that is the question of the associated entities. To a degree, the question of principle is, to me, greater than the particular issue of the associated entities. I think there is some evidence that over time, as the act has been amended since disclosure was required, there have been persistent attempts to evade the disclosure provisions. There have been arguments put, say, on the conservative side of politics, that business people are unwilling to give money to the Liberal Party because they may attract some industrial action from the appropriate trade union. There has been no proof of that assertion. I presume that on the other side of politics there would be an argument that, if a businessman donates money to the Labor Party and his colleagues or competitors find out, it might hamper the person commercially. The parliament has not accepted that principle and the parliament has required disclosure.

Before the 1995 amendments, I would argue that there was a persistent attempt to avoid the full impact of those disclosure provisions. Since 1995, as I identified in my last report, there is a foundation which loaned money to one of the political parties. I note that several senators and members have made long speeches about this, so I will not repeat the details, but what I would draw to the attention of the committee is the implications of this. Last year we saw individuals engaged in actions which were sliding around the law and some time later it came back and bit them. I am referring to the travel rorts situation. It not only bit those individuals but bit their parties and I think bit the standing of politicians as a whole. That is what worries me about this.

Let me put a purely hypothetical situation to you. I am a large media proprietor and I donate a large amount of money to the Greenfields Foundation, which then gives it to the party which won the election. That party a short time after proposes to donate property that belongs to Australians, that is, digital television channels, to that same media proprietor. If the donation is open, the possibility does not arise of any imputation of corrupt influence of government.

That is the point I am trying to make. I am working on this database and trying to say, 'Okay, let's look at the pattern.' There is the old picture of the corrupt politician where some shyster comes up, say Rolf Gerritsen who owns Wobbly Gnomes Wooden Leg Manufacturing Company, and says, 'Listen, I want tariffs; I'll give you \$100,000 and you'll organise tariffs for me,' and he does it.

From my observations of the reported donations, it appears that there is no correlation between public policy outcomes and the pattern of donations; that corporations tend to donate to political parties, if you like, to reward a policy stance rather than to induce one. But you have to accept that people who gave money to organisations act as a filter. Here, to a degree, I see the government or the major governing parties, or the politicians in them, as having different interests from the people who run their party machines. The people who run their party machines obviously have a vested interest in raising as much money as possible. So, if they can offer some deal to a businessman—‘You can donate money and it does not become public’—there is an attraction to the political party to do it.

All I am saying is that, with the nature of society being what it is, down the track the truth will emerge and the party before the people will be damaged. The particular apparatchiks in the parties who organise these particular cosy little deals will have long gone on to some consultancy or some other lofty position in society, but they leave the damage for you and for successive generations of politicians. I do think the public standing of politicians is important, and I think it is being damaged by this kind of covert behaviour.

Senator Minchin—I would just make this point: with great respect to Professor Gerritsen, I appreciate what he is saying, but the whole question of associated entities is in bill No. 1. We have already had public debate about Greenfields. I just hope that we are not going to divert this committee’s attention, dealing with bill No. 2, into a partisan debate about Greenfields. I would just note for the record that the government is picking up the specific proposition put by the Electoral Commission with respect to tightening arrangements regarding associated entities and it hopes that that will meet with the parliament’s agreement when we deal specifically with bill No. 1. But that is not part of this bill.

Senator ROBERT RAY—We will embrace that and maybe enhance it.

Senator Minchin—We are prepared to look at your enhancement.

Senator MURRAY—Thank you for that, Professor. With regard to the specifics on this bill, you have indicated that approximately 6,000 donors are on the public record. I guess this would be a guess, but do you have a feeling as to how many of those donors would no longer appear if this limit were raised to the extent that has been suggested by the government?

Senator Minchin—How many between 1,500 and 5,000?

Senator MURRAY—Of the 6,000, yes, if it went up from 1,500 to the new limit.

Prof. Gerritsen—I would have to have the disk on the computer and work that out, but my guess would be about between 20 and 30 per cent.

Senator MURRAY—So about a third of those who are disclosed at present would no longer need to be disclosed?

Prof. Gerritsen—Yes, and it would be very—

Senator Minchin—Twenty to 30 per cent.

Prof. Gerritsen—Twenty to 33, if it were going to keep the committee happy. They would be disproportionately the private individuals. There is a class of small business that also tends to donate in that range. But, generally speaking, it would be the private individual donations. Corporations, say, of the kind that are listed on the Stock Exchange or of that size tend to give money in amounts of \$10,000 and above.

Senator MURRAY—As a majority, would those persons now excluded between 20 and 30 per cent be donors to any particular party?

Prof. Gerritsen—I would think that possibly a majority—I would not like to put a figure on it—would be donors to the Liberal Party, but that possibly would be because the Liberal Party has more support amongst people who can write cheques for \$1,500.

Senator MURRAY—From what you said earlier, you probably would add the National Party to that?

Prof. Gerritsen—Yes, the National Party's finances are in nowhere near as good shape as those of the Liberal Party.

Senator ROBERT RAY—It is mostly farmers.

Prof. Gerritsen—I suspect that after last weekend they will get worse.

Dr McGrath—Mr Chairman, I want to ask whether the role of donor unions in electorates and the services they provide during elections are disclosed; if so, does the Professor have any comment to make?

Prof. Gerritsen—The Electoral Commission can explain this better than I can. But the simple fact is that, during an election campaign, they monitor the media and they also monitor any expense by organisations or persons who seek to engage in influencing the election outcome. That may be a trade union with some hairy-chested advertising campaign, or it may be Dick Smith Electronics.

Senator ROBERT RAY—Or it may be 40,000 hamburgers from McDonalds to the Liberal Party last time. That is a classic example.

Dr McGrath—I have heard other stories, but this is not the time.

Prof. Gerritsen—I can remember a state election where one person who is now important in the Australian Labor Party's machinery was theoretically going to be taken to court for giving away free sausages at a barbecue.

Senator MURRAY—Mr Chairman, I return to the Electoral Commission. I understand—I am not sure who would respond to this—that the Electoral Commission opposes lifting the limit to \$5,000. In your original report, you said that the effect of going to the \$10,000 could be that a sum of \$90,000 would be spread over the national branches of the party, for instance, and that would then mean that a significant sum of money could be avoided.

On your example, even at \$5,000, the amount could be \$45,000, or it could translate to \$135,000 if it were \$45,000 a year spread over a three-year election cycle. In other words, the effect of the \$5,000 range, translating to \$45,000 a year or \$135,000 over a three-year cycle, may be to provide a loophole whereby the vast majority of donors could escape scrutiny. Such a result would effectively collapse the donations purpose of the act. Perhaps you would like to comment and be explicit in your attitude to those things.

Mr Edgman—That is quite right. The way that a donor can make such a large donation without being disclosed is by donating up to the threshold to each state and territory branch of a political party. So, for a party that is organised nationally in every state and territory plus with a national secretariat, you are looking at nine separate identified parties, in effect, for disclosure purposes.

A donor can make separate donations to each of those parties. Because they are not aggregated across the party across Australia, only within each state and territory, they will not be disclosed. So if it is for \$5,000, as you say, they could donate \$4,999 a year to each state and territory branch of a political party and go undisclosed. That would add up to just short of \$45,000.

Senator MURRAY—At present, is it the case that the same can happen with \$1,500—in other words, in nine divisions with there being a total of \$13,500?

Mr Edgman—That is correct.

Prof. Gerritsen—I support that line of questioning. One of my concerns is that, whilst we have this fairly elaborate system of disclosure in place, the actual mechanism for implementing it is positively Dickensian. It is all handwritten forms; it is not computer based at all. The committee should really look at computer lodgment of disclosure of returns by parties.

Senator MURRAY—Electronic lodgment.

Prof. Gerritsen—Yes, and that would enable the commission to cross-tab and pick that up. From the periods when I disaggregated returns—but then I would not look at the ones that were under the level of disclosure—apart from, say, trade unions which donate to the Labor Party, the only private corporations that donate across Australia in different places tend to be development corporations, and their donations are strongly correlated with incumbency. They are not prejudiced against either side of politics; they just love governments.

Senator MURRAY—I would like the reaction of both the commission and Professor Gerritsen. Everyone understands that the purpose of public disclosure is to avoid both the imputation and the actuality of corruption. It is considered unlikely that a political party can be bought for \$1,500—though maybe somebody very small somewhere might—and maybe not for even \$13,500—

Senator ROBERT RAY—I understand that \$16,000 a year is the going rate for a senator.

Senator MURRAY—Yes, that is a good example. Since nine times \$1,500 reaches \$13,500 I ask both the commission and Professor Gerritsen: is it your considered opinion that the possibility of this being lifted to a potential of \$45,000 a year undisclosed because of the nine by five possibility—and, indeed, that is \$135,000 over three years—increases the opportunities for corrupt donations?

Senator Minchin—I am not sure if that question about the whole field of corruption should be placed before the commission to speculate about.

Senator MURRAY—The commission has opposed it, and I would like to know their reasons for opposing it.

Senator Minchin—That is a different question. They are not here to speculate about what level of money political parties can be corrupted by; their job is to enforce the laws provided by parliament.

Senator MURRAY—With your permission, perhaps they could answer as they see fit, relative to their reasons for opposing it. Could Professor Gerritsen do so as well, please?

Mr Edgman—We just sought to point out the true level at which donations could perhaps go undisclosed. It is also the case that individuals will enter arrangements where each member of the family gives up to the donation limit. The individual may also give up to the donation limit and a company that they happen to own will also give up to the donation limit.

There are a number of avenues by which you can split your donation so that it can go undisclosed. All we sought to do was to point out the fact that \$1,500 does not have to be the maximum point at which a person's donation gets disclosed; by entering arrangements they can raise that donation level and, in theory, they could raise it above \$45,000 if they chose to split it across their family, across a company and across every state and territory branch of a political party.

Senator MURRAY—So, in your example, a five family member substantial business, by splitting nine times \$1,500 by, say, five, could conceal a donation of \$67,500, and the figure grows as you go up. Professor Gerritsen, doesn't that pose real dangers for our system?

Prof. Gerritsen—The tradition of non-disclosure is the element which bothers me. I do not think you can buy a political party for \$45,000, or even for \$67,000. You can buy me, but not a political party. My figures show quite a few examples of what the commission mentioned—of people with the same surnames and the same addresses donating money that in some cases is over and above the disclosure level. It is obvious that those people are enthusiasts for that political party, so, in that sense, to me it is not a particular problem.

Senator MURRAY—But you are not able to identify—nor is the commission—anyone who donation splits, say, \$1,499 and below?

Prof. Gerritsen—No.

Senator MURRAY—It would be lost in the system.

Prof. Gerritsen—Yes. There is also the problem, which the commission alluded to, of individuals and companies with which they may be associated. There are a lot of donations by companies that are not easily identifiable, in terms of who owns them, unless you go and do a corporate registration check. That possibility exists; I just do not have the research assistance to go and chase that avenue.

Senator ROBERT RAY—I agree with the aggregation of the \$1,500. I think that is sensible. I guess it will not come as a surprise to you, Minister, that we do not favour kicking out the rest of the limits at this stage. Some of the other areas will need to be cleaned up hard. But that is just a philosophical difference we have and I do not think we are going to resolve that by questioning it any further.

CHAIR—We move on to authors of reports, item 46.

Senator Minchin—It is a fairly technical amendment, from recollection.

CHAIR—Any questions about anything?

Senator ROBERT RAY—I think it just takes out something that has survived that should not have survived in the last 15 years.

CHAIR—Senator Murray, any problems?

Senator MURRAY—No.

Senator ROBERT RAY—It is covered in the generality and this covers it in the specific. The generality will do, won't it?

CHAIR—We will go on to item 47—effect of failure of postal vote delivery arrangements. Again, it is a technical amendment, isn't it?

Senator Minchin—There is bipartisan support for this.

CHAIR—Any questions on that?

Senator ROBERT RAY—No; we agree.

CHAIR—Item 49—postmarks on postal vote envelopes.

Senator Minchin—It is fairly technical. I do not know if there are any questions.

Senator ROBERT RAY—It has given us problems in scrutineering. It is a sensible reform.

CHAIR—Omissions from the bill?

Senator Minchin—What's not there that should be there?

Senator ROBERT RAY—Probably a lot!

CHAIR—That was the heading; giving cognisance to what the minister said earlier about the other two bills that are before us.

Senator ROBERT RAY—I just want to at least erase the problem I see with using the artificiality of subdivision boundaries in the Northern Territory to basically disadvantage some of the voters there.

Senator Minchin—Bill No. 1.

Senator ROBERT RAY—It is covered in bill 1?

Senator Minchin—Do you want to speak to that briefly? Could one of you just describe what we are doing there?

Mr Moyes—Yes. This is off the top of my head. What we are proposing there is to effectively ignore the fact that subdivisions exist for the purpose of admission of a declaration vote—in a nutshell.

Senator ROBERT RAY—I admit absolutely, Minister, I have not read bill No. 1. I am pleased to know it is there. I will go back and read it.

Senator MURRAY—If I could make a statement very briefly. As you know, I put a submission in to the committee. It includes a set of recommendations which are not immediately consequent to the bill. However, I recognise—as does the minister and, indeed, all parties—that electoral reform or amendment bills come up only once in a three-year cycle, as you are getting towards the end of that three-year cycle. At times it is appropriate for matters to be considered which are urgent, critical or relevant to that particular bill.

I have referred to the regulation of political parties. During today's discussion I heard remarks about the low regard in which politicians and political parties are currently held by the populace. I have made some recommendations and suggestions arising out of what I regard as an urgent situation where there is a collapse of public support for and belief in politicians and the political process. It is something which touches us all. It is not anything that anyone of us should claim virtue in.

Senator ROBERT RAY—I hope not.

Senator MURRAY—I believe it is an area which is appropriate to be attended to. I do not, however, consider that this committee now at this hearing can deal at length with that, but I have taken the opportunity to put those matters before the parliament.

Senator ROBERT RAY—In reference to a couple of the nastier references to the Labor Party in Senator Murray's submission, the Western Australian branch of the Democrats has expelled more people in the last five years than the Victorian branch of the Labor Party has in the last 35 years. I say that to balance the record.

CHAIR—Senator, are you intending to put your suggestions before the joint committee?

Senator MURRAY—I will do so, but this was the appropriate opportunity to bring it up, and I did so, Minister, in case the government wish to react in any way to those suggestions I have put up.

Senator Minchin—I apologise that I have not had an opportunity to read the submission in detail, but I will. I am always interested in your views on these matters, Senator Murray. They are normally well thought through. As Gary Gray said in evidence to the 1996 inquiry—and it is certainly echoed in the Liberal Party, and as a former Liberal Party official I know what they are talking about—we sometimes feel that political parties are subject to

extraordinary regulation as voluntary organisations. The parties are comprised almost entirely of volunteers and yet are now subject to significant regulation, which makes it more difficult to sustain them as voluntary organisations. At the same time, I understand where you are coming from in terms of the public's view of politics, parties and politicians in general. How do we sustain bodies critical to the health of democracy, that is, broad based mainstream political parties which attract the support and voluntary involvement of ordinary Australians, and at the same time do things to enhance their standing?

If you start to go down the path of even greater regulation, you will inevitably start looking at the question of public funding for the maintenance of political parties. I think that is an inevitable corollary because regulation involves, by and large and almost inevitably, greater expense to employ additional officials to ensure that you are complying with the law and all that sort of thing and to reduce the burden on volunteers. So, if you move down that path, you have to acknowledge that we may well have to look at the question of public funding for the maintenance of political parties, not just for elections. That is a wider agenda, but I will have a good look at your paper.

Senator ROBERT RAY—Does that mean political parties will be zero rated under this; or should I ask the chairman?

Senator Minchin—Through to you, Chairman.

CHAIR—Thank you. Before we close I have agreed that two representatives from the groups that have made submissions to us could come and address the committee for a maximum of five minutes each.

[12.24 p.m.]

FRASER, Mr Ian, Spokesperson, Prisoners Action Group, 27 Railway Street, Petersham, New South Wales 2049

CHAIR—I welcome Mr Fraser. Who do you represent?

Mr Fraser—I am an ex-prisoner. I have done 10 years. I have been out for a long time. As a country that is based on a penal system—that is our basis; that is where we came from—I think it is very mean-spirited to remove this right to vote. What are we trying to do in relation to people going into prison? Are we going to be inclusive? Are they going to be part of our society or are they going to be outlaws? This person over here was talking about people being gaoled for not voting, et cetera. That is bullshit.

CHAIR—If you are going to talk like that, we will close down the committee. Keep going.

Mr Fraser—The other thing, too, is that I would like to know if there has ever been a prosecution for failure to enrol. The second issue I would like to raise is that, due to the nature of what I believe is Australia's racist society, the fact is that Koori people are gaoled 12 times more than non-indigenous people and they are the most dispossessed of the lot. They are even more dispossessed than other prisoners, yet we are attacking the most defenceless people in society.

I think it is mean spirited. We are supposed to be a country that will embrace people of different views who are here to express them; not to shut them out. This is what this committee has done. You have failed to have any consultation with these groups—

CHAIR—I remind you this committee is hearing evidence. We have not made up our minds. We have not said anything.

Mr Fraser—As for the invitation to come here and speak, the fact is that we were refused permission initially and that is wrong. Somebody has to speak for prisoners or ex-prisoners; somebody has to say something about it and you have not had any consultation with the groups.

As Senator Ray and Senator Murray have pointed out, there will be anomalies in relation to enforcement and whether some vote or do not vote. I would put it to you that there are still thousands of people gaoled as fine defaulters. Are they really deserving of being stripped of their citizenship? That is what it is. I think not, particularly for a country built on a penal settlement.

Finally, this country likes to portray itself before the international world as a country that respects human rights. Yet this government displays its hypocrisy in removing those rights contrary to the treaties that it has signed and re-signed. This stinks; that is all I can say about it.

Senator ROBERT RAY—We got a list of witnesses earlier on and you were not on the list. Then your submission came in. For future reference, the normal process is to go and see the secretary of the committee. This is a pretty open process here.

Mr Fraser—The phone calls were made.

Senator ROBERT RAY—I was not sure of that. What we try to do here is look at the detailed clauses of the bill. It is up to the government to look at the philosophy and it is up to the electoral committee to look at the philosophy. We are looking at it clause by clause. I wanted to ask you a more general question. Are you saying that it is an absolute right for all prisoners to vote, or are you saying that it is acceptable to have a cut-off point like five, six or seven years?

Mr Fraser—I argue that all prisoners should vote, but they have to be citizens of the country, not non-registered aliens. They have to be citizens of our country.

Senator ROBERT RAY—If that was not possible, if that was not the mind of parliament, do you have a view of where a cut-off point would be? That does not mean that you endorse a cut-off point, because you say all prisoners should vote. But if in fact that was not achievable, what do you think would be a fair cut-off point in terms of sentencing?

Mr Fraser—If you are talking in terms of serious criminality, if you do want to strip people of their rights, I think anything over 12 months, probably.

Senator ROBERT RAY—Anything over 12 months?

Mr Fraser—I think the New South Wales state law is a sentence of 12 months or more. I do not agree with it. I have always fought against that.

Senator MURRAY—You are right. It is a year in New South Wales and it is five with the Commonwealth. I have a question on prisoners voting. Do you agree that if the crime is against citizenship—in other words, is treason or treachery—that those whose specific crime is against citizenship should be excluded from voting?

Mr Fraser—I think it is really a non-issue. You are probably talking about one or two prosecutions every 10 years for treachery. It is really a non-issue. Hanging is still on the books for that. Isn't there still the death penalty for treason and piracy? There used to be until recently.

Senator ROBERT RAY—I think you are right.

Mr Fraser—It is just a non-event. You are talking about one or two people, but we are talking about 17,000 people being disenfranchised by this change.

Senator MURRAY—As a principle it is correct. If a crime is specifically of that nature, would you agree that it is appropriate?

Mr Fraser—No, not really. It is a non-event. There is no impact of it in excluding somebody from voting. You are talking about one person being prosecuted in 20 years. No-one gets prosecuted for treason these days, unless you try to shoot the Queen or something.

CHAIR—Thank you, Mr Fraser. I have to go now, because I have to catch a plane. Should further submissions be received on this bill, is it the wish of the committee that those submissions be published?

Senator ROBERT RAY—Providing that someone vets them, yes. We will not have someone come up with something that we will just publish. It is to cover defamation.

CHAIR—The secretary will check with me.

[12.37 p.m.]

COLLINS, Mr Brett Anthony, Spokesperson, Justice Action, 391 Sussex Street, Sydney, New South Wales

Mr Collins—I am a spokesperson for Justice Action and I am also a member of the Prisoners Action Group.

CHAIR—We are here to hear evidence about the clauses in this bill. You are free to have a few minutes to address the committee. However, I will have to be rude and go because I have to catch a plane. I will hand over to the Acting Chairman.

Mr Collins—I will just distribute some information referring to prisoners' votes. It is on page 10 of this edition that I have framed.

ACTING CHAIR (Senator Murray)—Is it the wish of the committee that it be received in evidence? There being no objection, it is so ordered.

Mr Collins—We thank you for the opportunity to participate here. We thank you for the support of the Greens, the Democrats and certainly that of the ALP in the past on the issue of the rights of prisoners to vote. We would like to express our concern about the motive for this being brought before the parliament. After looking through all the documentation going back to the Law Reform Commission discussion paper No. 31, we note that a stream of material has been before the parliament and other parliaments on the issue of prisoners' entitlement to vote. At the end of it, the discussion paper notes that the only antagonistic attitude to prisoners' voting is that it may have some deterrence value. That no longer has any criminological value. We want to make sure that the motive is well expressed. We see everything contrary to removing the rights of prisoners to vote.

I also want to put forward a document from a woman in the audience who has been working with prisoners. She spends most weekends going to prisons and speaking with prisoners and has a long history with them. She has a page that she would like to pass up.

ACTING CHAIR—Is it the wish of the committee that the paper be accepted? There being no objection, it is taken.

Mr Collins—I bring this material because there are 17,000 prisoners, their families and supporters of prisoners who are most concerned about this attack on prisoners' rights. When you realise that 25,000 prisoners every year go through New South Wales prisons, one would expect that hundreds of thousands of people would be affected by this.

ACTING CHAIR—I am sorry to interrupt. You must address the committee. The minister is here as a courtesy. The rest of the people are witnesses. It is the committee that you are talking to.

Mr Collins—There is a great amount of support, including from people like Vicky Potempa who give of themselves to go out to the gaols to give support to prisoners. We can go back to a long period of goodwill that has been shown to prisoners, even back to biblical days. Here in Australia most particularly there should be goodwill towards prisoners on the basis of our penal colony history. There are many good reasons for it, apart from community spirit and a whole range of things like that.

What we are most concerned about—and I am sure my friend has already expressed it to you—is that in the procedure itself there has been almost a negation of prisoners' entitlements to speak for themselves. When prisoners come before the courts they are accused of something and, in the process, they are at risk and then they have a chance to defend themselves. In this process, they have a right and the right is bestowed on them by the laws. The proposition here is that that right will be removed. To not give the prisoners the entitlement to defend their right is quite wrong, it is flawed, and we would ask the committee to report that, on the basis of the lack of community consultation that has occurred, it cannot report on the issue of prisoners' votes because to do so would be unjust.

It would be unfair, even at this late stage, to just receive our material and feel that that would be community consultation because it is not. Although we do have the trust of the prisoner community, we are not the prisoner community; we are not prisoners who are personally affected. They are entitled to be consulted themselves and, as such, there should be some measures such as notices on noticeboards and received material, and that cannot be avoided. We put it to you that it would be flawed in any other way.

Another issue, which is quite emotional and very important, is that prisoners already feel that they are disenfranchised. They feel that the laws are nothing to do with them—that they affect them but they do not protect them. They already feel outlawed. There is a term inside gaols which says, 'You have got no rights. They can fuck you if they want to—'

ACTING CHAIR—Please, Mr Collins. I will close it down immediately if you use bad language here.

Senator ROBERT RAY—We all have a dual way of speaking in life, and you have to put yourself in the first mode, not the second.

Mr Collins—I am using the jargon that is used inside the gaols. It doesn't seem offensive.

Senator ROBERT RAY—I know, but that is the way it goes here.

Mr Collins—But they cannot make you love the baby. It is a very harsh statement, but that is the real belief inside the gaols. They do not have many entitlements, but one of them certainly is to participate in the laws which affect them. They recognise that right and they expect to have rights before the courts such as they are. To remove their entitlement to vote, even though there are very few mechanisms for using those powers, would be quite wrong. For this to be withdrawn at this stage, even though it is not being fully used at the moment, would be seen as a confirmation of their outlawed position inside Australian society, and that would be to the Australian community's cost. The result would have an impact on crime: people would no longer feel a moral obligation to abide by the laws. That is a very serious situation and we put that to you. You have a focal group—17,000 prisoners in Australia—who

would have that presented to them, and we would most certainly ensure that they understood the implications of this decision.

We add to that the importance of the percentage of Aboriginal people who are inside gaols. There are 1,200 per cent more indigenous people than non-indigenous people in prison, and that is an appalling statistic which can only be racially discriminatory, and recognised as such. The deaths in custody are appalling and for anyone to be mean-spirited in the face of that smacks of the worst sorts of attitudes in the government. We put it to you that no government should be seen to be doing this sort of act. It does not become a government in any country, let alone Australia.

ACTING CHAIR—Please address the chair, Mr Collins.

Mr Collins—I think Senator Minchin is involved in this material—

ACTING CHAIR—The courtesy is to address the chair.

Senator Minchin—I am not a member of the committee.

Mr Collins—Sure. We do not rely on the United Nations covenants. We would expect that you people would know them yourselves. We will draw upon our legal support to bring it before the United Nations committee. We have already been given support to do so, but we do not expect to have to do that. We also expect that you will recognise the importance of people being given a chance and being accepted into the community. At the stage at which you exclude them from the community, you cannot expect them to make any effort to re-enter. You can expect that will have a negative effect upon their attempts to make an approach to the community. We would see this as having an opposite effect to what is being stated.

Senator ROBERT RAY—I wanted to put the same question to you as I put to Mr Fraser. Since Federation, prisoners have not had a universal right to vote in this country. But we have had two different levels up until 1983: if you had been sentenced for a crime involving more than a year and then the five-year rule. You argue, the same as Mr Fraser does, that all prisoners should be able to vote, and we accept that is your argument. But, if you did not have that choice, what would you think was a fair way of drawing the line if society wanted to distinguish between major crimes and lesser crimes?

Mr Collins—I think it is entirely inappropriate at all to remove the right to vote.

Senator ROBERT RAY—I understand that.

Mr Collins—I do not think that there is any logic in giving it to some and not to others. The principles remain the same, that if you have a legal standing to vote and all the other arguments that I have already raised exist then there is no basis to remove the vote from anyone at all in the Australian community if they have the intellectual capacity to exercise their entitlement to vote. It works as an obligation to vote rather than a privilege.

Senator HEFFERNAN—Are you in favour of compulsory attendance at polling booths on polling day?

Mr Collins—Yes, I think it is an important part of one's civic involvement. It is a good education and very valuable.

ACTING CHAIR—The committee thanks the minister sincerely for his attendance, and also thanks the witnesses.

Committee adjourned at 12.52 p.m.