
The Parliament of the Commonwealth of Australia

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Report of the Inquiry into the Integrity of the Electoral Roll

Joint Standing Committee on Electoral Matters

May 2001
Canberra

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Contents

| | |
|----------------------------------|------|
| Foreword..... | vii |
| Membership of the Committee..... | ix |
| Terms of reference | xi |
| List of abbreviations..... | xiii |
| List of recommendations..... | xv |

THE REPORT

| | |
|---|-----------|
| 1 Introduction..... | 1 |
| Background..... | 1 |
| Related inquiries and their impact on the committee's work | 5 |
| Shepherson Inquiry | 5 |
| The LCARC inquiry..... | 9 |
| Earlier JSCEM inquiries | 10 |
| Inquiry into the integrity of the electoral roll..... | 11 |
| Structure of the report | 12 |
| 2 Managing the roll..... | 13 |
| Fraudulent enrolment..... | 13 |
| Defining enrolment fraud | 14 |
| Extent of enrolment fraud | 15 |
| Mechanisms for managing the roll..... | 20 |
| Current identification and verification procedures | 20 |

| | |
|--|-----------|
| The Roll Management System | 22 |
| Continuous Roll Updating..... | 25 |
| Removing deceased electors | 30 |
| Return to sender mail | 31 |
| Full habitation review..... | 33 |
| Roll audits of selected Divisions..... | 37 |
| Section 85 of the <i>Commonwealth Electoral Act 1918</i> | 38 |
| Identity checks at enrolment..... | 40 |
| Early close of rolls..... | 46 |
| Previous JSCEM federal election inquiry recommendations | 46 |
| Submissions to the current inquiry | 47 |
| Access to the electoral roll..... | 50 |
| 3 Enrolment fraud management..... | 53 |
| AEC fraud control plan | 53 |
| Issues relating to AEC staff..... | 55 |
| Training of AEC staff | 55 |
| Staff security checks | 56 |
| Staff – management communications | 58 |
| Enrolment fraud investigation | 59 |
| AEC investigation process | 59 |
| Relationship between AEC and AFP..... | 61 |
| AFP investigative process | 63 |
| Tied funding..... | 65 |
| Penalties for enrolment offences..... | 65 |
| Offences | 65 |
| Transfer of offences to the criminal code | 66 |
| Disqualification from parliament | 67 |
| Increasing penalties for the remaining offences..... | 67 |
| External scrutiny of fraud control activities | 68 |
| ANAO performance audit on the AEC management of the electoral roll | 69 |
| Scrutiny by the committee | 71 |

| | | |
|----------|---|-----------|
| 4 | Regulating political parties | 73 |
| | Regulation of parties—current practice..... | 74 |
| | Regulation of parties—a need for tighter control? | 75 |
| | Parties as private bodies | 75 |
| | Political parties in other liberal democracies | 77 |
| | Changes in Australian society | 78 |
| | The receipt of public money | 78 |
| | Changes in the law | 79 |
| | Regulation of parties—how might it be strengthened? | 81 |
| | Tightening existing arrangements | 81 |
| | The AEC and party preselections..... | 83 |
| | External influence upon parties..... | 86 |

MINORITY REPORTS

| | | |
|--|--|------------|
| | Minority report— Mr Laurie Ferguson MP (Deputy Chair), Senator the Hon John Faulkner, and Mr Robert McClelland MP (ALP) | 91 |
| | Supplementary remarks— Senator Andrew Bartlett and Senator Andrew Murray (Australian Democrats) | 111 |

APPENDICES

| | | |
|--|--|------------|
| | Appendix A – List of submissions | 113 |
| | Appendix B – List of exhibits | 119 |
| | Appendix C – List of hearings and witnesses | 121 |

LIST OF TABLES

| | | |
|-----------|--|----|
| Table 2.1 | Total enrolment forms processed by AEC, 1999-2000..... | 22 |
|-----------|--|----|



Foreword

The accuracy and integrity of Australia's electoral roll is one of the pillars on which the Australian Electoral Commission's enviable reputation rests. The conviction of Karen Ehrmann, Andrew Kehoe and Shane Foster for enrolment fraud brought the integrity of the roll into question and prompted this inquiry, as well as the Shepherdson inquiry and a Legislative Assembly Legal, Constitutional and Administrative Review Committee inquiry in Queensland.

A key intention of the committee's inquiry was to identify the weaknesses and strengths in current roll management practices and make recommendations aimed at restoring confidence in the accuracy of the roll. Throughout this inquiry the committee stressed that it would not probe the internal matters of Australian political parties except in so far as they impact on the integrity of the electoral roll.

Whilst the allegations of fraudulent enrolment in Queensland have achieved the most prominence, the evidence gathered by the committee leads it to believe that this practice is most likely not confined to Queensland. The committee concurs with the findings of the Shepherdson inquiry that enrolment fraud is not uncommon. Indeed, the committee found that enrolment fraud is sufficiently widespread to recommend changes to the management of the roll.

The committee believes that the Australian Electoral Commission has to be careful that it is not overly confident about the effectiveness of its current roll management practices. A more circumspect attitude is more appropriate in the light of the findings of both the Shepherdson inquiry and this committee.

This report, agreed by a majority of the committee, contains 18 recommendations to improve the security of the roll and increase its accuracy.

Much of the committee's concerns about electoral fraud would be alleviated if identification was required for new enrolments and the movement of existing enrolments. This reform has been recommended by previous JSCEM inquiries

and the government has adopted it but failed to have the states agree to a uniform application of identification for enrolment. The committee believes that the Commonwealth should proceed with identification for enrolment without the states if that is required because of the importance of bringing about this long needed reform.

The committee found that one of the main motivators for electoral fraud was gaining control of preselections by both union and non-union forces in the Labor Party. The step from defrauding the roll for the purposes of internal Party preselections and voting for fraudulently enrolled electors on polling day is a small one. For that reason the committee has recommended breaking new ground in the regulation of political parties and proposed the insertion of 'one vote, one value' as a requirement of registered political parties' constitutions.

The committee was particularly pleased that many of the priorities for change identified by it were also independently identified by the Shepherdson inquiry. Such a concurrence of views clearly indicates wider support for the improvements suggested here. The committee hopes that its recommendations are adopted as a matter of urgency, and that public confidence in the electoral roll can be restored.

I would like to take this opportunity to thank the Australian Electoral Commission for its cooperation with the committee during the conduct of this inquiry. I would also like to thank all organisations and members of the public who participated by either making submissions or appearing at public hearings.

Finally, I would like to express my appreciation to my predecessor as Committee Chairman, Mr Gary Nairn MP; the Deputy Chairman, Mr Laurie Ferguson MP; and all members of the Committee for their energetic participation in this inquiry.

Mr C M Pyne MP
Chair



Membership of the Committee

Chair Mr C M Pyne MP (from 6/11/00)
 Mr G R Nairn MP (until 6/11/00)

Deputy Chair Mr L D T Ferguson MP

| | | |
|----------------|--------------------------------------|-------------------------------------|
| Members | Senator A J Bartlett | Mr M D Danby MP (until 4/12/00) |
| | Senator R L D Boswell (until 7/9/00) | Mr J A Forrest MP (until 27/11/00) |
| | Senator the Hon. J P Faulkner | Hon. D F Jull MP (from 3/4/01) |
| | Senator J Ferris (from 7/9/00) | Mr R B McClelland MP (from 4/12/00) |
| | Senator B J Mason | Hon. A M Somylay MP (until 3/4/01) |
| | Senator A J M Murray | Mr S R St Clair MP (from 27/11/00) |

Committee Secretariat

| | |
|-------------------------------|--|
| Secretary | Ms Bev Forbes |
| Inquiry Secretary | Mr Kevin Bodel (from 01/02/01) |
| | Dr Christine Moore (until 31/01/01) |
| Research Officers | Mr Quinton Clements |
| | Mr Scott Bennett (16/04/01 – 27/04/01) |
| Administrative Officer | Ms Slavica Jurcevic |



Terms of reference

On 23 August 2000 the Special Minister of State, Senator the Hon Chris Ellison, asked the Joint Standing Committee on Electoral Matters to examine the issue of the integrity of the electoral roll and fraudulent enrolment. At its meeting on 5 September 2000 the Committee agreed that in examining that matter it would look at the following.

That the Joint Standing Committee on Electoral Matters inquire into and report on:

- the adequacy of the Commonwealth Electoral Act for the prevention and detection of fraudulent enrolment;
- incidents of fraudulent enrolment; and
- the need for legislative reform.



List of abbreviations

| | |
|-------|--|
| AEC | Australian Electoral Commission |
| AFP | Australian Federal Police |
| ALP | Australian Labor Party |
| ANAO | Australian National Audit Office |
| AWU | Australian Workers Union |
| CCPM | Case Categorisation and Prioritisation Model |
| CJC | Criminal Justice Commission |
| CRU | Continuous Roll Updating |
| DPP | Commonwealth Director of Public Prosecutions |
| DRO | Divisional Returning Officer |
| ECQ | Electoral Commission of Queensland |
| ERR | Electoral Roll Review |
| GIS | Geographic Information System |
| JSCEM | Joint Standing Committee on Electoral Matters |
| LCARC | Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee |
| RMANS | AEC Roll Management System |
| RTS | Return to sender mail |



List of recommendations

1 Introduction

2 Managing the roll

Recommendation 1

That the Australian Electoral Commission investigate and report on the financial cost, legal requirements, privacy implications and priorities for upgrading RMANS data-processing and expanding Continuous Roll Updating data-matching. (para 2.56)

Recommendation 2

That when following up return to sender mail the Australian Electoral Commission use all practical means in contacting electors to confirm their enrolment details. (para 2.74)

Recommendation 3

That the Australian Electoral Commission investigate and report on the possible conduct in accordance with section 85 of the *Commonwealth Electoral Act 1918* of a revision of the Electoral Roll of a Division such as the Federal Division of Herbert. (para 2.100)

Recommendation 4

That the States and Territories support the *Electoral and Referendum Amendment Regulations 2000* and the Commonwealth proceed to implement the amended regulations in time for the next federal election.

Should any State or Territory prefer to retain their enrolment criteria as it stood prior to the October 1999 Commonwealth amendments and (re)establish separate State or Territory Electoral Rolls, the

Commonwealth should proceed with the implementation of the *Electoral and Referendum Amendment Regulations 2000*. (para 2.117)

Recommendation 5

That the gender and date-of-birth of electors be included on the Certified Lists of Voters for elections. (para 2.121)

Recommendation 6

That section 155 of the *Commonwealth Electoral Act 1918* be amended to provide that for new enrolments, the rolls for an election close on the day the writ is issued, and for existing electors updating address details, the rolls for an election close at 6.00pm on the third day after the issue of the writ. (para 2.133)

Recommendation 7

That the Australian Electoral Commission complete its review of sections 89 to 92 of the *Commonwealth Electoral Act 1918* in sufficient time for the committee to consider this matter during the next federal election inquiry. (para 2.144)

3 Enrolment fraud management

Recommendation 8

That the Australian Electoral Commission develop a more comprehensive approach to enrolment fraud as part of any new fraud control plan. (para 3.8)

Recommendation 9

That, as part of an overall fraud control plan, all Australian Electoral Commission staff involved in the prevention and detection of enrolment fraud be trained in appropriate prevention and detection strategies. (para 3.13)

Recommendation 10

That all Australian Electoral Commission staff who have access to the Commonwealth Electoral Roll as part of their work be required to obtain a 'Position of Trust' security clearance. (para 3.25)

Recommendation 11

That, as a matter of immediate priority, the Australian Electoral Commission, the Australian Federal Police, and the Commonwealth Director of Public Prosecutions develop a service agreement to cover the

referral of electoral fraud offences for legal advice, investigation and prosecutions. (para 3.42)

Recommendation 12

That the benchmark penalty for the enrolment fraud offences remaining in the *Commonwealth Electoral Act 1918* be increased to 12 months imprisonment or a fine of 60 penalty units. (para 3.66)

Recommendation 13

That the Australian National Audit Office conduct a data-matching exercise with a sample of the Commonwealth Electoral Roll as part of its current performance audit of the Australian Electoral Commission's management of the roll. (para 3.76)

Recommendation 14

That the Australian National Audit Office conduct an annual data-matching exercise on a sample of the Commonwealth Electoral Roll as a regular check on the accuracy of the roll. (para 3.79)

Recommendation 15

That, during each federal election inquiry, the Australian Electoral Commission report all cases of enrolment fraud detected during the previous parliament. (para 3.81)

Recommendation 16

That the Australian Electoral Commission report its progress in implementing the recommendations contained in this report to the committee at the next federal election inquiry. (para 3.82)

4 Regulating political parties

Recommendation 17

That the Australian Electoral Commission allow political parties to use its services to conduct internal party ballots. Such services should be provided on a cost recovery basis. (para 4.51)

Recommendation 18

That the *Commonwealth Electoral Act 1918* be amended to ensure that the principle of one vote, one value for internal party ballots be a prerequisite for the registration of political parties. (para 4.66)

Introduction

Background

- 1.1 In the introduction to its report on the 1998 federal election the Joint Standing Committee on Electoral Matters (JSCEM) stated that the Australian electoral system is '...an asset and one which makes a valuable contribution to the democratic society in which we live.'¹ At the heart of our electoral system is the joint Commonwealth/ State electoral roll that is used for the conduct, not just of federal elections but state and territory elections, local government elections and in some states party preselection ballots. Changes to the electoral roll are administered by the Australian Electoral Commission (AEC).
- 1.2 The integrity of the Commonwealth's electoral roll is vital to the conduct of free and fair elections. It is therefore essential that the integrity of the roll is not compromised and that all Australians have confidence in the accuracy of the roll.
- 1.3 In August 2000 the integrity of Australia's electoral roll was brought into question by three cases of enrolment fraud in Queensland resulting in prosecution and conviction. The most prominent of those cases was that of Ms Karen Ehrmann whose offences took place in 1993, 1994 and 1996. It is believed that Ms Ehrmann was the first Australian to be jailed for enrolment fraud.² The other two cases were that of Mr Shane Foster who was an accomplice in the offences committed by Ms Ehrmann, and Mr Andrew Kehoe who committed separate offences in 1996. Mr Kehoe is

1 Joint Standing Committee on Electoral Matters. June 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 1.

2 Legislative Assembly of Queensland Hansard, *Electoral Fraud - Dr Watson*, 22 August 2000.

believed to be the first person in Australia to be convicted of enrolment fraud.³ The Foster and Ehrmann cases were a result of the Australian Federal Police (AFP) investigations into the offences committed by Mr Kehoe.

- 1.4 In 1997 Mr Andrew Kehoe pleaded guilty to 10 counts of forging and uttering electoral enrolment forms under the *Commonwealth Electoral Act 1918*. Mr Kehoe's offences occurred in October and September 1996 and relate to the Australian Labor Party (ALP) preselection contest for the State electorate of Townsville. Mr Kehoe was sentenced to three months jail, suspended for two years.
- 1.5 On 11 August 2000 Ms Karen Lynn Ehrmann, a former Townsville City councillor and Labor candidate for the State electorate of Thuringowa, pleaded guilty in the District Court of Queensland, Townsville to 24 counts of forging and 23 counts of uttering Commonwealth Electoral Enrolment forms in contravention of section 67 of the *Crimes Act 1914*. She was sentenced to three years imprisonment with nine months to be served.
- 1.6 Mr Shane John Foster, a Townsville City councillor, pleaded guilty to 22 counts of forging electoral enrolment forms under section 67 of the *Crimes Act 1914* and was sentenced on 17 March 1999. He received a three month suspended jail sentence.
- 1.7 All three cases involved attempts to influence the outcomes of internal preselection contests for ALP Local Government and Legislative Assembly election candidate positions in Queensland through 'branch stacking'⁴. The significance of those internal state ALP ballots for the integrity of the Commonwealth Electoral Roll (the electoral roll) is that in Queensland:

A party member's entitlement to vote in the selection of candidates for the House of Representatives, the Legislative Assembly and local government, was effectively dependent upon that person being entered on the Commonwealth electoral roll at an address which corresponded with a branch within the relevant electorate or local government area.⁵
- 1.8 Queensland does not maintain its own electoral roll. Under the Joint Roll Arrangements the AEC, with Electoral Commission of Queensland (ECQ) input, maintains the Queensland State Roll. Because ALP ballots are linked to entries on the joint State/Commonwealth electoral roll, branch

3 Legislative Assembly of Queensland Hansard, *Electoral fraud - Dr Watson*, 22 August 2000.

4 Branch stacking is the act of deliberately increasing the number political party members in a branch, either legally or illegally, in order to win internal party ballots.

5 McMurdo, PD. 2000. *Allegations of electoral fraud: Report on an advice by P D McMurdo QC*. Brisbane, Criminal Justice Commission, pp 16-17.

stacking in the ALP can impinge on the integrity of the electoral roll, as was the case in the Ehrmann, Foster and Kehoe convictions.

- 1.9 At her sentence hearing Ms Ehrmann submitted documents together with a sworn affidavit alleging the involvement of members of the Queensland branch of the ALP in systematic enrolment fraud. Ms Ehrmann stated:

I am pleading guilty to charges but I am in no way the instigator of a grand scheme. I was a bit player in a well known scheme being carried out by the AWU long before I was involved. I was not a person with any power or great position. I was, most of the time, bullied and pressured by people in positions of power.⁶

- 1.10 Ms Ehrmann further alleged that 'branches were stacked all over Queensland'. Her solicitor, Mr Mark Dyer, in a sworn affidavit and in an interview with the AFP in April 2000 referred to 'a general scheme that was followed within the Australian Labor Party in Queensland ... which ... was practiced across the State in a widespread manner'.⁷

- 1.11 However, Philip McMurdo QC, in his report to the Criminal Justice Commission (CJC), urged caution in relation to both Ms Ehrmann's references to widespread branch stacking and Mr Dyer's allegations of a general scheme, pointing out that neither 'necessarily suggest criminal conduct and thereby even the potential for official misconduct'.⁸ Mr McMurdo notes that many of the allegations made by Ms Ehrmann are 'general and ambiguous'.

- 1.12 In her sentencing remarks, Chief Judge Wolfe also rejected Ms Ehrmann's claims of being a minor participant in a broader conspiracy. Chief Judge Wolfe noted that Ms Ehrmann 'stood to benefit, and your involvement from the material before me appears far more concerted, far more calculated and far more persistent'.⁹ As evidence of this, Chief Judge Wolfe cited the fact that on one occasion Ms Ehrmann had entered into a tenancy agreement, paid the bond and rent for a residence, at which no-one lived, for the purpose of falsely enrolling people on the electoral roll.

- 1.13 Those recent cases of enrolment fraud and associated allegations of systematic enrolment fraud in Queensland generated considerable political and media attention on the issue of the integrity of the electoral

6 Exhibit A to the Affidavit of Karen Lynn Ehrmann, *The Queen v. Karen Lynn Ehrmann*, 11 August 2000, District Court of Queensland.

7 McMurdo, PD. 2000. *Allegations of electoral fraud: Report on an advice by PD McMurdo QC*. Brisbane, CJC, p 19.

8 McMurdo, PD. 2000. *Allegations of electoral fraud: Report on an advice by PD McMurdo QC*. Brisbane, CJC, p 18.

9 Transcript of Proceedings, *The Queen v. Karen Lynn Ehrmann*, 11 August 200, District Court of Queensland, State Reporting Service, p 5.

roll and contributed to the disquiet in some sections of the community about the potential for electoral fraud identified by the JSCEM in 1996.¹⁰

- 1.14 At the outset it is important to be clear what is meant by the term enrolment fraud. Fraud is a 'generic term which refers to the numerous and diverse criminal activities in which deceit and deception in one form or another is an ingredient. The term 'fraud' encompasses a great variety of offences.'¹¹ There is no statutory or other unequivocal definition of fraud. In fact it was not until 1984 that the statutory offence of 'defrauding' the Commonwealth was added to the *Crimes Act 1914* (section 29D) but neither that section nor section 86A (conspiracy to defraud) define fraud except from an offences viewpoint. Under the new *Criminal Code*, which came into effect from 24 May 2001¹², section 7.3 repeals earlier fraud sections and deals with fraudulent conduct - again it is an offence definition.
- 1.15 The commonly accepted definition of fraud in the Commonwealth context is that set out in the current *Fraud control policy of the Commonwealth*:
- Inducing a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or of evading a liability to, the Commonwealth.¹³
- 1.16 In evidence to the committee the AEC tended to rely on that definition (see chapter 2). There are a number of offence provisions in the *Commonwealth Electoral Act 1918* that are relevant to fraudulent enrolment, notably sections 336, 337 and 339(1). These offences relate to signing and witnessing electoral papers, impersonation and multiple voting. The offences of forgery and false and misleading statements that were also in the Act were repealed by the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* (assented to on 24 November 2000) and have been inserted as general offences in the *Criminal Code*.
- 1.17 The Law Enforcement Control Division of the Attorney-General's Department is currently revising the Commonwealth's fraud control policy and guidelines. The second consultation draft of April 2001 defines

10 Joint Standing Committee on Electoral Matters. June 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 5.

11 Maher, G. 1990. *Fraud awareness*. Canberra, Education Design Systems Pty Limited, p 9.

12 Transcript p 464 (Attorney-General's Department).

13 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 3.

fraud as 'dishonestly obtaining a benefit by deception or other means'¹⁴. The essence of the proposed new definition is little different from that used in the current policy.

- 1.18 The difficulty in all fraud work is the proof of criminal intent on the part of a suspected offender. The importance of this matter in separating false enrolment from enrolment fraud cannot be stressed too much. False enrolment occurs when an elector is incorrectly enrolled as a result of a misunderstanding on the part of people as to their obligations.¹⁵ A fraudulent enrolment occurs when a false enrolment is undertaken deliberately or with criminal intent.¹⁶

Related inquiries and their impact on the committee's work

- 1.19 Ms Ehrmann's allegations of widespread electoral fraud and other allegations resulted in two inquiries being established in Queensland, one by Queensland's CJC, the other by the Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee (LCARC).

Shepherson Inquiry

- 1.20 On 22 August 2000 the CJC appointed an independent counsel, Mr Philip McMurdo QC, to examine: whether a reasonable suspicion of misconduct exists in respect of allegations referred to Counsel; the nature of the investigation of any such suspected official misconduct that the Commission should conduct; whether, having regard to section 90 of the *Criminal Justice Act 1989*, an open hearing should be held for the purpose of such investigation; and the terms of reference for any such open hearing.¹⁷
- 1.21 Mr McMurdo's report was tabled in the Queensland Legislative Assembly on 6 September 2000. The CJC announced that 'the essence of the advice is

14 Law Enforcement Coordination Division, Attorney-General's Department. April 2001. *Commonwealth fraud control policy and guidelines: Consultation draft no. 2*. p 2. <http://law.gov.au/aghome/commprot/olec/LECD/FCPConsultDraft2.htm>

15 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 5.

16 Submissions p S874 (AEC).

17 Criminal Justice Commission. *Certificate under Section 143 of the Criminal Justice Act 1989 evidencing a resolution by the Criminal Justice Commission to appoint an independent person to conduct investigations and to hold hearings*. 6 September 2000.

that there are matters, which if proven, could constitute official misconduct under the terms of the Criminal Justice Act'.¹⁸ Mr McMurdo recommended the CJC conduct an investigation into a number of specific matters.¹⁹

- 1.22 The Commission accepted Mr McMurdo's recommendations and on 6 September 2000 appointed the Honourable Tom Farquhar Shepherdson QC to conduct a full investigation of the allegations and hold public hearings. Public hearings began on 3 October 2000 with Ms Ehrmann being the first witness to appear. The hearings were suspended on 19 January 2001 until further notice.
- 1.23 On 19 January 2001 Mr Russell Hanson QC (Assisting Counsel to the Hon TF Shepherdson QC) tendered a closing submission on the evidence obtained in the course of the inquiry.
- 1.24 On 1 May 2001 the Shepherdson inquiry presented its final report to the Queensland Parliament. In presenting that report the Chairman of the CJC stated '...the Inquiry exposed to public scrutiny, evidence of attacks on the integrity of the electoral roll...[and laid] the foundation for meaningful electoral reform by Government...'²⁰
- 1.25 In summary the final report concluded that:
- Allegations relating to two main categories of false enrolment were examined - forgery which is the more serious but also the more difficult to prove and consensual false enrolment which is less serious and often easier to establish and was found during the inquiry to be far more extensive than identifiable forgery.
 - ...the practice of making consensual false enrolments to bolster the chances of specific candidates in preselections was regarded by some Party members as a legitimate campaign tactic. No evidence, however, was revealed indicating that the tactic had been generally used to influence the outcome of public elections. Where it was found to have been used in public elections, the practice appeared to be opportunistic or related to the family circumstances of particular candidates rather than systemic or widespread.
 - Nor was there any evidence found confirming Ehrmann's allegation that the ALP had a 'mole' inside the Australian Electoral Commission who helped Party members produce false proof of electoral address.

18 Criminal Justice Commission media release. 6 September 2000. *CJC pursues electoral allegations*.

19 See Criminal Justice Commission media release. *CJC pursues electoral allegations*. 6 September 2000 for the terms of reference of the Shepherdson Inquiry.

20 CJC Media release. 1 May 2001. *Shepherdson Inquiry - An important contribution to electoral reform*.

- The Inquiry uncovered evidence of forgery, but there was great difficulty in obtaining evidence to establish who was responsible.²¹
- There is evidence of forgery on the part of Anthony Mooney which warrants referral to the Commonwealth Director of Public Prosecutions (DPP) for consideration.
- There is admissible evidence of charges for forgery on the part of David Barbagallo which warrants referral to the Queensland DPP for consideration.
- A number of other prosecutions were not pursued due to time-barrings, subsequent changes of legislation since the offences occurred and the CJC practice of not referring charges of perjury.
- The inquiry did not hear nor receive any evidence to suggest false identities had been created to enable non-existent people to apply for enrolment to enable them to vote. Nor was there evidence, at least since 1990, that any person had fraudulently voted in an election using the identity of a person who had died before the election.
 - The evidence to the Inquiry suggested that in the majority of detected cases of false enrolment any requirement that a person when initially enrolling provide more detailed proof of identity would probably have had little impact on the conduct disclosed.²²

However, the report immediately goes on to cite a case where this was a problem. It concludes that this matter requires further consideration of the arguments.

- Evidence suggested that if the AEC and ECQ had enhanced standards as to proof of residency, they would no doubt have reduced the opportunities for people to engage in the practices that were identified at this hearing.²³

1.26 The weaknesses in the present electoral system exposed, focus on the electoral enrolment and electoral voting procedures touching especially on preselections. Some of the measures suggested for improvement include:

- ...better procedures for identifying people when they initially apply for enrolment and when they apply to change enrolment;

21 Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p XIV. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

22 Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p 167. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

23 Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. pp XIII-XVIII, 10-17 and 163-184. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

- better procedures for establishing proof of residency when a person applies for enrolment in a particular electorate;
- ...ongoing vigilance of the rules governing plebiscites and the application to plebiscites of sanctions under criminal law;
- legislation requiring preselection processes of all political parties to be transparent and fair;
- supervision of plebiscites by the Electoral Commission Queensland to ensure such transparency and fairness occurs;
- a change to the law that would make consensual false enrolments and other electoral offences indictable offences and therefore not subject to a time limitation for prosecution or, if there is to be a time limitation, increasing that time;
- revision and tightening of the electoral laws operating in Queensland, including increased penalties for transgressing these laws;
- codes of conduct for MLAs and local government councillors; [and]
- a change to the law to introduce the doctrine of electoral agency to make candidates accountable for any illegal conduct of their electoral agents, ie campaign managers, and to provide sanctions under the criminal law.²⁴

1.27 The following members of the Queensland Legislative Assembly resigned as a result of evidence before the Shepherdson inquiry - Mr Jim Elder MP, Mr Grant Musgrove MP and Mr Mike Kaiser MP.²⁵

1.28 On 21 January 2001 the Queensland Premier introduced two reform packages to address the matters identified in the closing submission by Mr Hanson QC to the Shepherdson inquiry. The Premier said:

These major reform packages will:

Introduce reforms to deal with electoral fraud and the abuse of internal pre-selections in the Queensland branch of the ALP;

Make fundamental reforms to how all political parties, the electoral system and our parliament work.²⁶

1.29 The planned reforms to the ALP's internal practice were to: replace postal votes with stand-up ballots; Electoral Commission to audit internal ballots; agreed, annual certified list of voters to provide transparency and prevent manipulation of voting lists; new ALP disputes tribunal and new rules to handle disputes; rules to ensure people not signed up as members

24 Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p XVIII. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

25 Balogh, S and Newman, G. Vote-rorts MPs escape prosecution. *The Australian*, 20 January 2001.

26 Ministerial media statements. The Hon Peter Beattie MP. *Beattie delivers major reforms for best government system*. 21 January 2001, p 1.

or have membership renewed without their knowledge; six-monthly internal audits of party membership against electoral roll; re-organisation of ALP State Party office; and a special ALP conference in June to examine further reform items.

- 1.30 The planned reforms to registered political parties relate to: all preselections to be supervised by ECQ; parties must have community-based membership and proper constitution to get funds; preference deals, loans, gifts and contributions to other candidates and parties to be disclosed; funding to be disclosed or funds will be forfeited; and requests the Commonwealth to toughen electoral laws.
- 1.31 Other reforms were to have: parliamentary debates to be broadcast on the internet; parliament to meet in full session in a regional centre once a term; online system for petitioning parliament; three year e-democracy trial organised on Government website; and training for new MPs.²⁷

The LCARC inquiry

- 1.32 On 22 August 2000 the Legislative Assembly of Queensland passed the following motion:

That this House requests the Legal, Constitutional and Administrative Review Committee to investigate and report back to State Parliament by 14 November 2000 on the best way to minimise electoral fraud at elections, where the Queensland State electoral roll is used.²⁸

- 1.33 The LCARC inquiry examined ways to prevent '...fraudulent practices in relation to enrolment procedures and the casting and recording of votes...'²⁹ The inquiry focus was on local government and Legislative Assembly elections, State referendums, aboriginal and island council elections and the maintenance of the electoral roll by the AEC under the *Commonwealth Electoral Act 1918*.
- 1.34 The LCARC tabled an interim report on 14 November 2000. In that report the committee made systemic recommendations relating to the efficient and effective maintenance of the electoral roll and the advancement of the

27 Ministerial media statements. The Hon Peter Beattie MP. *Beattie delivers major reforms for best government system*. 21 January 2001, 2p. and Balogh, S. Beattie reforms to rout rorting. *The Australian*, 22 January 2001.

28 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. November 2000. *The prevention of electoral fraud: Interim report*. Brisbane, Qld Parliament, p 1. (Report No 28).

29 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. November 2000. *The prevention of electoral fraud: Interim report*. Brisbane, Qld Parliament, p 2. (Report No 28).

new Continuous Roll Update (CRU) system capabilities. A second area of recommendations which the committee believed were warranted relate to reforms such as introducing proof of identity requirements at the point of enrolment and voting. However, as LCARC saw these reforms as representing '...a departure from the finely balanced set of principles upon which our current electoral system is constructed...' ³⁰ it decided to await the outcomes of the Shepherdson Inquiry before reporting on these matters. To date LCARC has not tabled a final report.

Earlier JSCEM inquiries

- 1.35 Since 1984 the JSCEM and its predecessor committees have undertaken investigations into the conduct of all federal elections. While acknowledging the basic strengths of the *Commonwealth Electoral Act 1918* and its administration by the AEC many of those inquiries have raised concerns about the quality of the electoral roll and allegations of electoral fraud.
- 1.36 A significant number of submissions on the topic were received to each inquiry, for example 38 submissions on the 1987 election, 19 on the 1990 election, 28 on the 1993 election, 24 on the 1996 election and 28 on the 1998 election. For the most part few recommendations were made. An exception was in the inquiry into the 1996 federal election when the committee devoted a chapter to this topic and made 11 recommendations covering the electoral roll including eight recommendations directly related to aspects of the integrity of the electoral roll. The recommendations related to time for change of address, witnessing provisions, proof of identity, data matching, multiple voting, verification of citizenship and closing date for the rolls prior to an election. Seven of the eight recommendations were supported by government and incorporated into the *Electoral and Referendum Amendment Bill 1997*.
- 1.37 In its 1998 federal election inquiry the committee made five recommendations dealing with enrolment procedures and the accuracy of the electoral roll. Four of those five recommendations relating to closure of the rolls, overseas electors and address as the basis of enrolment were supported. The recommendation on witnessing and enrolment provisions was not supported.

30 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. November 2000. *The prevention of electoral fraud: Interim report*. Brisbane, Qld Parliament, p ii. (Report No 28).

Inquiry into the integrity of the electoral roll

- 1.38 It is against that background that on 23 August 2000 Senator the Hon Chris Ellison, Special Minister of State, referred to the JSCEM the inquiry into the integrity of the electoral roll.³¹ The committee interpreted the Minister's referral letter as requesting it inquire into and report on:
- the adequacy of the Commonwealth Electoral Act for the prevention and detection of fraudulent enrolment;
 - incidents of fraudulent enrolment; and
 - the need for legislative reform.
- 1.39 At the outset of its work the committee recognised the political sensitivity of the inquiry. Accordingly, throughout its investigation process the committee stressed that the inquiry was not designed to probe the internal matters of Australian political parties. Those matters were considered to be beyond the scope of the committee's investigation except in so far as they impact on the integrity of the electoral roll.
- 1.40 In conducting its investigations it was particularly important to the committee that it heard the views of as many organisations and individuals as possible. Accordingly, the inquiry was advertised in the major and capital city newspapers on Saturday 9 September 2000. The committee also wrote to individuals and organisations with a particular interest in the electoral process inviting them to make a submission. The committee's Internet site³² was also used as a method of inviting the public to make submissions to the inquiry. On 15 December 2000 the committee also wrote to Premiers and Chief Ministers to ensure that they had the opportunity to make a submission to the inquiry. Throughout the inquiry process the committee actively sought to keep the public informed of its work and continued to involve the community in its investigative process.
- 1.41 The committee received 87 submissions from a wide cross-section of the target audience; a list of these submissions is at Appendix A and the exhibits received are listed at Appendix B.
- 1.42 During the course of the inquiry the committee undertook a program of public hearings. Hearings were held in Canberra, Brisbane, Townsville and Sydney. The hearings sought to supplement information provided in the submissions rather than duplicate it. A small proportion of the committee's evidence was also taken in camera. One informal briefing

31 Senator the Hon Christopher Ellison, Special Minister of State. 23 August 2000. *Media release: Federal inquiry into Queensland electoral fraud*. 2p.

32 <http://www.aph.gov.au/house/committe/em/electionroll/index.htm>

was also held. In total the committee took evidence from 33 witnesses, representing 20 organisations or themselves at eight public hearings between 15 November 2000 and 3 April 2001. Details of the hearing program and witnesses and the informal briefing program are provided at Appendix C. In undertaking its hearings the committee reminded the media that it was honouring the suppression orders of the CJC and with the CJC's agreement provided the media with details of names that had been suppressed.

- 1.43 The submissions and transcripts of evidence from the committee's public hearings have been incorporated into separate volumes. Copies of these documents are available for inspection at the National Library of Australia, the Commonwealth Parliamentary Library and the committee's secretariat. All transcripts of evidence and some submissions are also available on the committee's Internet site.

Structure of the report

- 1.44 The remainder of this report is structured to reflect the scope of the inquiry and the electoral process. Chapter 2 looks at additional checks required when people are applying for enrolment and examines ways of improving the process of identifying and removing incorrect entries on the electoral roll. Chapter 3 discusses enrolment as a fraud problem, investigation of cases of fraud and the appropriateness of existing penalties. Chapter 4 discusses ways in which existing scrutiny of political parties might be improved to prevent problems of fraudulent enrolment arising.

Managing the roll

Fraudulent enrolment

- 2.1 As outlined in chapter one, for fraudulent enrolment to occur there has to be criminal intent. Fraudulent enrolment generally takes the form of:
- People deliberately enrolling themselves at a false address/in the wrong electoral district;
 - People deliberately enrolling false names at real, or false, addresses; and
 - People deliberately enrolling real (other peoples') names at real, or false, addresses.¹
- 2.2 False enrolment occurs if an elector is enrolled at the wrong address. This is generally the result of moving to another electoral division and failing to change one's enrolment details. False enrolment also occurs when people who are ineligible to enrol such as non-citizens do so. Non-citizens seeking to enrol often do so on the mistaken belief that as residents they are entitled to enrol and vote.² Thus false enrolment is the product of a misunderstanding on the part of people enrolling as to their obligations, 'rather than deliberate attempts at fraud'.³ Indeed, as the Australian Electoral Officer for Queensland, Mr Bob Longland, pointed out, enrolling

1 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. September 2000. *Inquiry into the prevention of electoral fraud: Issues Paper*. Brisbane, LCARC, p 13.

2 Transcript p 134 (R.Patching).

3 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 5.

to vote and changing enrolment details may assume a low priority for many Australians.⁴

- 2.3 In its 1996 Federal Election Inquiry Report the committee sought to rectify the tardiness of many Australians to keep their enrolment details up to date by recommending electors be required to re-enrol within one month of changing address anywhere in Australia, a recommendation supported by the Australian Electoral Commission (AEC).⁵ This provision was included in the *Electoral and Referendum Amendment Bill (No. 2) 1998*, but was defeated in the Senate on 15 February 1999.

Defining enrolment fraud

- 2.4 The AEC informed the committee that the procedures for additions, amendments and deletions from the electoral roll are contained in the *General enrolment manual*, a detailed document that is drawn from legislation but includes principles and practices directed to properly enrolling voters and maintaining the roll.⁶
- 2.5 The emphasis in the *General enrolment manual* is on voters being correctly enrolled. As a result, it does not specifically define fraudulent enrolment, but it does provide information about what to do if an enrolment form is defective or is not properly witnessed.⁷
- 2.6 When questioned about whether the AEC had a definition of enrolment fraud at the 3 April 2001 public hearing, the AEC responded:
- Not specifically to enrolment...there is the general fraud control policy of the AEC.⁸
- 2.7 The AEC's *Fraud control plan 1997-1999* defines fraud using the definition contained in the *Fraud control policy of the Commonwealth* (see chapter 1).⁹

4 Transcript p 41 (AEC).

5 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p. 20.

6 Submissions p S843 (AEC), and Transcript p 548 (AEC).

7 Transcript p 548 (AEC).

8 Transcript p 548 (AEC).

9 Australian Electoral Commission. 1998. *Fraud control plan 1997-1999*. Canberra, AEC, p 7; see also Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 3.

- 2.8 This definition is intended to include both monetary and intangible benefits, including any benefit that could be gained from the Government.¹⁰
- 2.9 Clearly, enrolment fraud falls within the definition of fraud in the current *AEC Fraud control plan 1997-1999*.

Extent of enrolment fraud

- 2.10 A threshold issue for the committee as part of this inquiry is the actual level of fraudulent enrolment. While the committee never intended investigating all allegations of electoral fraud, through evidence received it was able to obtain an overview of the extent of enrolment fraud.
- 2.11 As part of its initial submission to the inquiry, the AEC compiled a list of all possible cases of enrolment fraud it has on record for the decade 1990-2000. This list comprises 71 cases in total. Almost three-quarters of the cases came from NSW (47 cases), while there were 18 cases in Queensland, five in Victoria, three in the Northern Territory, three in Western Australia, and one in South Australia.¹¹ The AEC advised that the 71 cases of possible enrolment fraud were drawn to the attention of the AEC in the following ways:
- AEC roll review procedures, including Continuous Roll Updating (CRU) (35 cases);
 - information provided by the public (15 cases);
 - information provided by Members of Parliament (10 cases);
 - information provided by other government agencies investigating other offences (eight cases); and
 - information from press reports (three cases).¹²
- 2.12 According to the AEC, the majority of cases it detected appear to have been for the purposes of:
- identity fraud on the Commonwealth Electoral Roll for criminal purposes, or to test the system;

10 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 3.

11 Submissions pp S974-S980 (AEC).

12 Submissions p S883 (AEC).

- enrolment forgery for the purposes of party preselection ballots and local council elections; and
- false enrolments transferring the principal place of residence intended to affect results at local council elections and federal elections.¹³

However, the AEC did not provide details of the numbers in each category.

- 2.13 The AEC suggested that most cases of enrolment fraud are in support of ‘criminal or nefarious intentions such as under-age entry to licensed premises, immigration fraud, or social security fraud, or to “test the system” ’¹⁴, rather than attempts to affect federal election results.
- 2.14 From these statistics, the AEC estimates that on average there is about one fraudulent enrolment for every 200,000 enrolments.¹⁵ The AEC concedes that there will always be a few cases of fraud that it cannot detect through its own procedures, particularly cases of identity fraud.¹⁶
- 2.15 The Shepherdson Inquiry report was able to identify within the terms of reference of that inquiry a series of cases of enrolment fraud, namely:
- Townsville in 1996;
 - Mundingburra in 1996;
 - East Brisbane in 1993;
 - South Brisbane in 1986;
 - Springwood in 1997;
 - East Brisbane in 1996;
 - the Budd family enrolments; and
 - the Elder family enrolments.¹⁷
- 2.16 The number of false enrolments detected by the Shepherdson Inquiry in each of these cases was not large, ranging from two (Mundingburra in 1996) to about 25 (Townsville in 1996). With the exception of Mundingburra in 1996 and the Budd and Elder family enrolments, all of

13 Submissions p S874 (AEC).

14 Submissions p S833 (AEC).

15 Transcript p 541 (AEC).

16 Submissions p S874 (AEC).

17 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. pp XIV-XVII. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

these cases relate to internal party preselection ballots (see chapter 1). The report indicated that:

The information gathered during the inquiry clearly established that the practice of making consensual false enrolments to bolster the chances of specific candidates in preselections was regarded by some Party members as a legitimate campaign tactic. No evidence, however, was revealed indicating that the tactic had been generally used to influence the outcome of public elections. Where it was found to have been used in public elections, the practice appeared to be opportunistic or related to the family circumstances of particular candidates rather than systemic or widespread.¹⁸

2.17 Other witnesses to the committee's inquiry alleged that enrolment fraud was far more extensive. Ms Karen Ehrmann, in her evidence before the committee on 14 December 2001, indicated:

...Everyone was doing it. It was encouraged and condoned by people at the highest level in the Queensland parliament and the Labor Party...¹⁹

2.18 Mr Robert Patching stated that, as Divisional Returning Officer (DRO) for Rankin, in the late 1980s he uncovered 218 non-citizens who had attempted to enrol.²⁰ Mr Patching suggested that:

...if this figure can be extrapolated over an election period of 3 years it is possible that the number of persons gaining the right to vote by fraudulently stating their enrolment qualifications could be as many as 870 per election per division.²¹

2.19 In addition, in their evidence on 30 January 2001 in Sydney, Mr Steven Simat and Mr Nick Berman both argued that the integrity of the roll could not be guaranteed.²²

2.20 During the inquiry, the committee also received evidence on a number of allegations of fraudulent enrolment in NSW, in particular in relation to local council elections.²³ The committee did not investigate these

18 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. Brisbane, CJC, p XIV. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

19 Transcript p 141 (K.Ehrmann).

20 Submissions p S653 (R.Patching)

21 Submissions p S653 (R.Patching)

22 Transcript pp 430 and 435 (S.Simat and N.Berman).

23 Submissions pp S392-S393 (C.Stott), pp S546-S551 (D.Harwin), pp S702-S703 (S.Simat), pp S730-S743 (E.Brooks Maher), pp S1072-S1073 (R.Clark), and p S1277 (B.Horne).

allegations in any depth, and so cannot draw a conclusion on any of these allegations.

- 2.21 The enrolment fraud uncovered by both the AEC and the Shepherdson Inquiry occurred over a span of many years in diverse geographical locations. In each case, the number of false enrolments was not large. In comparison, the AEC notes that in the 1999-2000 financial year it processed 2.46 million enrolment forms.²⁴
- 2.22 The former Australian Electoral Commissioner, Professor Colin Hughes, noted that substantial numbers of persons are needed in any attempt to alter the roll so as to influence the outcome of a federal or state/territory election.²⁵ He stated that the ballots most vulnerable to fraudulent enrolments are party preselections and by-elections.²⁶ As by-elections generally occur by themselves, Professor Hughes argues, that:
- it is possible to concentrate all the resources of whatever group seeks to violate the integrity of the by-election, whereas at a general election they have to be spread thinly across the map, at the very least over a substantial number of marginal seats.²⁷
- 2.23 Professor Hughes noted that the possibility of overturning a general election result and ejecting the elected government through a by-election whose outcome was influenced by fraudulent enrolments has not occurred at the federal level.²⁸ However, he noted that the possibility has occurred at the state level in the Queensland state seat of Mundingburra in 1996.²⁹
- 2.24 Whilst the allegations of fraudulent enrolment in Queensland have achieved the most prominence, the evidence leads the committee to believe that this practice is not confined to Queensland. Although this practice does not occur on a large scale, the committee concurs with the report of the Shepherdson Inquiry, in which the Hon Tom Shepherdson QC stated:
- ...I do not consider that the small numbers of persons who engaged in this practice, as disclosed by the evidence at the Inquiry, should necessarily lead the Australian Electoral Commission or the Electoral Commission Queensland to believe

24 Submissions p S497 (AEC).

25 Submissions p S381 (C.Hughes).

26 Submissions p S382 (C.Hughes).

27 Submissions p S382 (C.Hughes).

28 Submissions p S384 (C.Hughes).

29 Submissions p S384 (C.Hughes).

that such conduct is relatively uncommon...These unlawfully cast votes can prove decisive in polls where the margin between winning or losing is small.³⁰

- 2.25 Estimating the extent of potential fraud in any organisation, either public or private, is inherently difficult.³¹ This is why the agency fraud risk assessment process is an important part of the Commonwealth's fraud control work. Risk assessment enables agencies to identify potential weaknesses in fraud controls and allows agencies to adjust resources and control mechanisms.³² The risk assessment is part of the fraud control planning process and further details on this are contained in chapter 3.
- 2.26 The *Fraud control policy of the Commonwealth* makes it clear that chief executives of agencies have a responsibility to make fraud control a major responsibility of all staff.³³ An agency's attitude to fraud control is therefore critical to its success in preventing it. The AEC indicated that in relation to enrolment fraud, its normal processes were very good and that it was confident it had a first class electoral roll.³⁴
- 2.27 The committee believes that the AEC has to be careful that it is not too confident. A more circumspect attitude is more appropriate in the light of the Shepherdson Inquiry and this inquiry's work. The AEC's attitude leads the committee to question the adequacy of the AEC's assessment of the risks in relation to the integrity of the electoral roll.
- 2.28 The issue at hand, then, is the adequacy of the AEC's procedures and the *Commonwealth Electoral Act 1918* (the Electoral Act) to detect and prevent fraudulent enrolment so that the Australian community can be confident that enrolment fraud will not become a problem.

30 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*, p 166. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

31 House of Representatives Standing Committee on Banking, Finance and Public Administration. November 1993. *Focusing on fraud: Report on the inquiry into fraud on the Commonwealth*. Canberra, Commonwealth of Australia, pp 8-9.

32 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 17.

33 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 2.

34 Transcript p 545 (AEC).

Mechanisms for managing the roll

Current identification and verification procedures

- 2.29 At present, under section 93 of the Electoral Act, all persons are entitled to be enrolled on the Commonwealth Electoral Roll if they meet the following requirements:
- They have an identity;
 - They have a real place of living, or possessed one in the past;
 - They are over 18 years of age;
 - They are an Australian citizen, or a British subject who appeared on a Commonwealth Electoral Roll immediately before 26 January 1984.³⁵
- 2.30 Under section 94A of the Electoral Act anyone who is currently living outside Australia is qualified to enrol as an elector from outside Australia if they:
- are 17 years of age or older and;
 - an Australian citizen (or a British subject who was on the electoral roll on 25 January 1984) and;
 - departed Australia within the last two years and intends to return within six years of the date of departure from Australia; and
 - left Australia for reasons relating to their career or employment or that of their spouse.
- 2.31 Under section 93 (8) of the Electoral Act a person is not qualified to enrol:
- if because of unsound mind, is incapable of understanding the nature and significance of enrolment and voting; or
 - is serving a sentence of five years or longer for an offence against the law of the Commonwealth or of a State or Territory; or
 - has been convicted of treason and has not been pardoned.
- 2.32 Section 101 of the Electoral Act makes it compulsory for every person who is qualified to enrol as an elector to apply for enrolment within 21 days after becoming qualified to enrol. The penalty for failing to enrol is a fine

35 Australian Electoral Commission. 1998. *Electoral Reform Implementation Plan*. Canberra, AEC, p 2.

of up to \$50. Section 101 of the Electoral Act provides that any elector who changes his or her address must change his or her enrolment details.

- 2.33 An individual seeking to enrol must complete an Electoral Enrolment Form. Currently under section 98 (2) of the Electoral Act the form must be witnessed by an elector or person eligible for enrolment.³⁶ Under section 342 of the Electoral Act the witness must satisfy himself or herself that the information provided in the claim is accurate. Generally the witness is a spouse, friend or an AEC Officer. As the AEC points out, 'in the case of the AEC Officer witnessing, it is often the case that the applicant will not be known to the officer'.³⁷ The officer witnessing is required under AEC procedures and section 342 of the Electoral Act to satisfy themselves that the details supplied by the applicant are correct either by asking the applicant to declare this or seeking some proof by sighting a photographic form of identity.
- 2.34 After the enrolment form has been correctly filled in and witnessed, it must be sent to the relevant DRO or Australian Electoral Officer who will forward it to the appropriate DRO. The DRO must be satisfied that the applicant is eligible to enrol according to the criteria above and the application is in order.
- 2.35 Information on the completed enrolment form is entered into the AEC's computerised Roll Management System (RMANS) at the divisional office, and 'an automatic match is made of the new application against existing records on RMANS for that person'.³⁸ The AEC points out that 'previous enrolment records are held on-line back to 1997 in the case of South Australia, and at least to 1991 for all other States and Territories'.³⁹ On the RMANS database enrolment records are identified as 'being on the Current File, the Deleted File or the Archived File'.⁴⁰ If a match is found with a record on the Current File, 'the information on the new application is linked, and the matched previous record is moved to the Deleted File'.⁴¹ If a match is found with a deleted record where the reason for deletion is the elector is deceased, RMANS provides a warning that is followed up by divisional staff.⁴² If there is no match with existing records, the enrolment

36 Section 98 (2) *Commonwealth Electoral Act 1918*.

37 Australian Electoral Commission. 1998. *Electoral reform implementation plan*. Canberra, AEC, p 5.

38 Submissions p S502 (AEC).

39 Submissions p S502 (AEC).

40 Submissions p S502 (AEC).

41 Submissions p S502 (AEC).

42 Submissions p S503 (AEC).

is 'flagged as new to RMANS'.⁴³ Once this process is complete and the DRO is satisfied, the applicant is then entered on the roll for a Subdivision of that particular Division. The applicant is then notified in writing of their enrolment in that Subdivision.

The Roll Management System

2.36 As of 30 March 2001 12,484,981 people were enrolled on the roll.⁴⁴ In the 1999-2000 financial year the AEC processed 2.46 million enrolment forms, which included the following transactions:

Table 2.1 Total enrolment forms processed by AEC, 1999-2000

| Enrolment Transactions | Number of Transactions |
|--|------------------------|
| New Enrolments | 319,637 |
| Re-enrolments | 178,163 |
| Re-instatements | 22,446 |
| Interstate Transfers | 153,060 |
| Intrastate (between divisions) Transfers | 660,506 |
| Intradivisional Transfers | 961,538 |
| No change Enrolments * | 167,906 |
| Deletions (objections, deaths, duplications) | 329,219 |
| Total | 2,463,256 |

(* No-change enrolments occur when electors notify the AEC of a variation to their personal details)

Source AEC 2000, Annual Report 1999-2000, Canberra, p. 23.

2.37 The AEC described the electoral roll as:

a "continuous" document, with enrolment additions, transfers and deletions occurring as a continuous stream of changes, rather than a "static" document compiled at one time for a particular electoral event.⁴⁵

2.38 According to the Australian Electoral Officer for Queensland, Mr Bob Longland, the major problem in managing the roll is:

43 Submissions p S503 (AEC).

44 Australian Electoral Commission. *Enrolment statistics at 30 March 2001*.
<http://www.aec.gov.au/enrol/stats.htm>

45 Submissions p S497 (AEC).

What we are doing is proving the roll, a very dynamic document, is never up to date, because people move and the enrolment card is one of the low-level things on their list.⁴⁶

- 2.39 The AEC attempts to maintain the accuracy of the electoral roll through ongoing reviews of the roll. Reviews are increasingly carried out via data-mining of the AEC's RMANS, on which the publicly available name and address information of all electors is stored, data-matching with other Commonwealth and State-Territory agencies, mailouts and targeted fieldwork involving door knocks. Anomalies uncovered through data-mining and data-matching activities trigger further inquiries as to the accuracy of details recorded for a particular elector. If the AEC learns that an elector is no longer living at their enrolled address, a notice is sent to the elector advising them to update their enrolment details or risk being removed from the roll. On the basis of death notices and information from relatives or State Registrars of Deaths, the AEC also removes on a regular basis the names of those who have died.⁴⁷ In addition, the AEC engages in direct enrolment and enrolment marketing activities.
- 2.40 In 1997 the AEC introduced an address-based enrolment system, the RMANS Address Register. Previously addresses claimed for enrolment needed only to match known streets and localities. Under the Address Register, however, the AEC is able to strictly control the confirmation of addresses, 'as each address is now recorded separately on the Register, whether or not the address is occupied by electors'.⁴⁸ The Register identifies each separate address and 'lists a range of attributes including a land code use, occupancy status, an enrolment limit, the last review date, and whether the address is habitable and 'active', that is, valid for enrolment'.⁴⁹ In addition, the Address Register enables additional geographic data and related locality information to be stored against addresses and 'to include an enrolment turnover indicator'.⁵⁰ All addresses held by the AEC are matched with the Australia Post National Address File.
- 2.41 The RMANS Address Register enables the AEC to 'identify addresses that are incorrectly described or duplicated on the Register, those that have a high number of enrolments and/or an abnormally high turnover of electors, and those that have two or more groups of electors resident with

46 Transcript p 41 (AEC).

47 Australian Electoral Commission. 2001. *Fact sheet: Electoral roll review*. <http://www.aec.gov.au/pubs/factfiles/factsheet11.htm>

48 Submissions p S509 (AEC).

49 Submissions p S509 (AEC).

50 Submissions p S509 (AEC).

different family names'.⁵¹ These anomalies are then examined by AEC divisional officers through mailouts and fieldwork. The AEC believes the RMANS Address Register is:

an increasingly powerful tool available to the AEC to detect and deter fraudulent enrolment, enabling staff to check the validity of addresses and to take follow-up action when claims on enrolment forms are at variance with the information on the Register, such as in cases of possible suspicious enrolment at any particular address.⁵²

- 2.42 Prior to the implementation of the RMANS Address Register, the AEC conducted an Electoral Roll Review every two years to check the accuracy of the electoral roll. By the AEC's own admission, this periodic snapshot of the roll became rapidly dated.⁵³ The implication of this is that, prior to the implementation of the RMANS Address Register, the opportunities for enrolment fraud were greater than they are now. The AEC confirmed that this was the case, pointing out that the Ehrmann, Kehoe and Foster cases would have been detected using the currently available mechanisms, such as the RMANS Address Register.⁵⁴
- 2.43 Under section 84 of the Electoral Act the Commonwealth has entered into Joint Roll Arrangements with all States and Territories. Joint roll arrangements have been in operation with Tasmania since 1908, South Australia since 1920, New South Wales since 1927, Victoria since 1952, Western Australia since 1983, the Northern Territory since 1989, Queensland since 1992 and the Australian Capital Territory since 1994. The nature of these arrangements, however, differs among the States and Territories. Victoria and Western Australia, for example, maintain their own state rolls but the AEC has day-to-day responsibility for the collection and processing of roll information.⁵⁵ The other States and Territories do not maintain their own separate rolls, rather in each jurisdiction the AEC maintains a joint Commonwealth, State/Territory and Local Government roll with input from the respective State/Territory authorities.
- 2.44 Completed joint enrolment applications are processed into RMANS by AEC divisional officers. Information pertaining to the State/Territory rolls are extracted from RMANS and provided to State/Territory electoral

51 Submissions p S509 (AEC).

52 Submissions p S509 (AEC).

53 Submissions p S504 (AEC).

54 Submissions p S457 (AEC).

55 Australian Electoral Commission. 1999. *Commonwealth electoral procedures*. http://www.aec.gov.au/pubs/electoral_procedures/enrolment.htm

commissions. The Joint Roll Arrangements have provided a single national enrolment system with 'almost identical eligibility criteria, a common enrolment form and the single entry into RMANS of enrolments'.⁵⁶ This system enables the AEC and its State/Territory counterparts to continually improve the accuracy of the roll and to share some costs associated with maintaining the roll.

Continuous Roll Updating

2.45 CRU is a method of updating the roll using information sources that deal with changes of address, such as Australia Post, in order to pro-actively target with re-enrolment information electors who have moved. It also involves marketing of enrolment outside of election periods, and direct enrolment approaches at events such as citizenship ceremonies. CRU enables the AEC to 'effectively audit the moving population of electors'.⁵⁷ There are five key elements to CRU:

- Data-mining;
- Data-matching;
- Direct enrolment;
- Marketing enrolment; and
- Geographic Information System (GIS) technology.⁵⁸

Data-mining

2.46 The roll management system, RMANS, is the 'actual database' on which the roll is stored.⁵⁹ The AEC is able to 'mine our own data to do the sorts of checks we used to find by accident'.⁶⁰ The RMANS enables the AEC to analyse the data stored on RMANS in order to 'uncover aberrant data on the roll, which can direct fieldwork in a more cost efficient manner'.⁶¹ Both CRU data-matching and data-mining procedures are undertaken in regular cycles ranging from monthly to six monthly.

56 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. March 2000. *Report No. 19: Implications of the new Commonwealth enrolment requirements*. Brisbane, LCARC, p 3.

57 Submissions p S505 (AEC).

58 Submissions p S505 (AEC).

59 Transcript p 56 (AEC).

60 Transcript p 56 (AEC).

61 Submissions p S509 (AEC).

Data-matching

- 2.47 Data-matching is the 'large scale comparison of records or files of personal information, collected or held for different purposes, with a view to identifying matters of interest'.⁶² Section 92 (1) of the Electoral Act enables the AEC to 'demand information from other agencies in relation to the preparation, maintenance or revision of the Rolls'.⁶³
- 2.48 Following the endorsement by the Government of Recommendation 4 of the committee's 1996 Federal Election Inquiry Report suggesting an investigation into expanding the matching of enrolment data, data-matching has become 'an integral part of CRU'.⁶⁴ However, the AEC stated that:
- the prohibitive costs and the security issues involved have prevented the adoption of on-line connections to other departments and agencies for "live" interrogation of other databases'.⁶⁵
- Nonetheless, the AEC pointed out that CRU data-matching, 'at the level permitted by AEC resources, has yielded considerable benefits in improving roll accuracy'.⁶⁶
- 2.49 At the Commonwealth level the AEC is involved in data-matching activities with Australia Post which provides change-of-address data, Centrelink which provides similar data, and the Department of Immigration and Multicultural Affairs which provides data on the citizenship status of overseas-born applicants for electoral enrolment.⁶⁷
- 2.50 At the state level, the AEC is involved in data-matching with the Motor Registry authority in South Australia, the Residential Tenancy Authority in Queensland, the Western Australian Department of Land Administration and power utilities in Victoria through the State Electoral Commission.⁶⁸

62 Office of the Federal Privacy Commissioner. February 1998. *The use of data-matching in Commonwealth administration – Guidelines*. Sydney, Office of the Federal Privacy Commissioner, p 3.

63 Australian Electoral Commission. *Submission to the House of Representatives Standing Committee on Economics, Finance and Public Administration Review of the ANAO Report No. 37 1998-99 on the Management of Tax File Numbers*. paragraph 4.3.

64 Submissions p S506 (AEC).

65 Submissions p S506 (AEC).

66 Submissions p S506 (AEC).

67 Submissions p S507 (AEC).

68 Submissions p S507 (AEC).

- 2.51 Arrangements are generally negotiated separately with the agencies directly by the AEC or through the relevant State/Territory electoral commission. In addition, section 108 of the Electoral Act requires State Registrars-General to provide the AEC, through its DROs and the Australian Electoral Officer in each state and the Northern Territory, with death data in each Division.
- 2.52 Data-matching activities undertaken by the AEC are not regulated by the *Data-matching Program (Assistance and Tax) Act 1990* as these activities do not involve the use of Tax File Numbers. However, the Federal Privacy Commissioner oversees CRU data-matching activities 'as necessary'.⁶⁹
- 2.53 The AEC pointed out that by taking advantage of ongoing IT development the RMANS system could be upgraded 'to increase the frequency and improve the precision of reports generated for roll auditing purposes, to improve the accuracy of the roll and to detect enrolment fraud'.⁷⁰ The AEC noted that such an upgrade 'would be expensive and is presently beyond AEC resources'.⁷¹ The AEC estimated that an upgrade of RMANS to 'allow increased frequency and refinement of RMANS reports to track the moving population of electors, and the development of electronic signature verification online in Divisional offices, for example', would require extra ongoing funding of \$25 million per annum.⁷²
- 2.54 The AEC also pointed out that with additional legislative powers and appropriate privacy regulation, it could upgrade CRU data-matching to include the Australian Taxation Office for example.⁷³ The AEC suggested the committee consider recommending additional funding for upgrading RMANS data-processing and CRU data-matching.⁷⁴ The AEC indicated it will submit 'a more detailed accounting, and consult with the Privacy Commissioner about the legal requirements for extended data-matching'.⁷⁵
- 2.55 The committee supports the conducting of a study to ascertain the financial cost and legislative requirements for upgrading RMANS and expanding CRU data-matching.

69 Submissions p S506 (AEC).

70 Submissions p S522 (AEC).

71 Submissions p S523 (AEC).

72 Transcript p 58 (AEC).

73 Submissions p S840 (AEC).

74 Submissions p S841 (AEC).

75 Submissions p S841 (AEC).

Recommendation 1

- 2.56 That the Australian Electoral Commission investigate and report on the financial cost, legal requirements, privacy implications and priorities for upgrading RMANS data-processing and expanding Continuous Roll Updating data-matching.**

Direct enrolment

- 2.57 The AEC conducts a number of direct enrolment activities as part of the CRU process. The AEC has negotiated with a number of other Commonwealth, State and Territory agencies to incorporate enrolment cards and electoral information with their procedures.
- 2.58 Direct enrolment activities include the provision of pre-printed enrolment cards to all new Australian citizens at citizenship conferral ceremonies. At some citizenship ceremonies AEC staff are present to collect the enrolment cards and provide advice to new electors. Other types of direct enrolment are the use of a common change of address form for a number of state and territory government transactions as well as enrolment, and the provision of enrolment cards and electoral information in results packages sent to final year students in Queensland by the Board of Secondary Studies.⁷⁶ The Victorian Electoral Commission sends birthday cards with an enrolment card to all 18 year olds.⁷⁷ The AEC noted that 'all these CRU initiatives are providing excellent returns as people respond to the convenience of the enrolment facility being provided directly to them'.⁷⁸
- 2.59 In its report on the Continuous Roll Update program for 1999, however, the Electoral Council of Australia identified the following issues arising from Change of Address (COA) and Vacant Address Mailing (VAM) activities:
- The most effective response rate is in the two months after mailing;
 - Response rates for the different States and Territories over the response stages are sufficiently different to be further investigated for specific enrolment environment anomalies;
 - COA and VAM mailings are not reaching the 17 to 18 year olds;
 - Further national sources of data are required for CRU; and

76 Submissions pp S511-S512 (AEC).

77 Submissions p S512 (AEC).

78 Submissions p S512 (AEC).

- Follow up activities are likely to increase the response rate.⁷⁹

2.60 The Electoral Council of Australia stated that the 17 to 21 year old proportion of the population is 'well recognised as being under enrolled and difficult to effectively target enrolment activities'.⁸⁰ The Electoral Council noted that Australia Post advised that its research indicated that 18 to 21 year olds 'may not purchase change of address services', and 'may not respond to or be identified by vacant address mailings'.⁸¹ State and Territory CRU activities using external databases are, according to the Electoral Council, the 'most effective in targeting the youth enrolment sector through access to motor registry and education department records'.⁸² Accordingly the Electoral Council recommended that:

special enrolment services to reach the 17 to 21 year olds should be undertaken with emphasis on obtaining data from State and Territory agencies such as motor registries and education departments.⁸³

Marketing enrolment

2.61 The AEC pointed out that enrolment is 'not marketed other than in the context of roll closes for elections'.⁸⁴ In relation to youth enrolment, the AEC noted that 75% of new enrolments for the 1999 federal referendum came from 18 and 19 year olds.⁸⁵ Although encouraging people to enrol or update their enrolment details during the close-of-rolls period is 'vital to ensuring that all eligible electors are able to exercise their franchise', the AEC suggested that 'the early release of the election funds that pay for these enrolment drives might assist in raising the awareness of the

79 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 6. http://www.eca.gov.au/reports/1999_cru_report.pdf

80 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 24. http://www.eca.gov.au/reports/1999_cru_report.pdf

81 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 24. http://www.eca.gov.au/reports/1999_cru_report.pdf

82 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 6. http://www.eca.gov.au/reports/1999_cru_report.pdf

83 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 7. http://www.eca.gov.au/reports/1999_cru_report.pdf

84 Submissions p S512 (AEC).

85 Submissions p S511 (AEC).

Australian population as to their rights and obligations to enrol at the appropriate time'.⁸⁶

- 2.62 The committee is of the view that more information is required as to how the enrolment of groups such as 18 to 21 year olds and indigenous Australians, generally recognised as being under enrolled, can be enhanced and the costs involved.

Geographic Information Systems

- 2.63 The AEC stated that a 1995 consultancy report to the Electoral Council of Australia recommended the incorporation of GIS in the CRU processes.⁸⁷ GIS are replacing maps as the primary form of geographical identification. Two pilot studies incorporating GIS with CRU activities have been approved by the AEC, one in Queensland using an off-the-shelf GIS package that has been successfully implemented, and the other in NSW that will use a custom-designed GIS package that is not yet available. The AEC pointed out that 'the aim of the pilot is to test the value added by GIS technology to CRU in the management of the Roll'.⁸⁸ The AEC expects the evaluation of the pilot studies to be completed by mid-2001.

Removing deceased electors

- 2.64 The AEC noted that 'an essential part of CRU data-matching is to identify and remove the names of deceased electors from the rolls'.⁸⁹ Under section 108 of the Electoral Act the AEC receives, through its DROs and the Australian Electoral Officer in each state and the Northern Territory, death data in each Division from State Registrars-General. This information is matched with the enrolment information on RMANS 'on an ongoing basis', and the 'details of matches are forwarded to the appropriate DRO for manual deletion'.⁹⁰ In addition, DROs in each Division continually monitor death notices in newspapers and advice provided by relatives of deceased electors, and the 'confirmed information is applied to RMANS'.⁹¹ In 1999-2000 there were 99,637 deletions from the electoral roll as a result of death.⁹²

86 Submissions pp S512-S513 (AEC).

87 Submissions p S513 (AEC).

88 Submissions p S513 (AEC).

89 Submissions p S507 (AEC).

90 Submissions p S508 (AEC).

91 Submissions p S508 (AEC).

92 Australian Electoral Commission. 2000. *Annual report 1999-2000*. Canberra, AEC, p 23.

- 2.65 In his submission to the inquiry Mr Jim Lloyd MP pointed out the difficulty he has experienced in verifying the deaths of electors in his electorate as Members of Parliament do not have access to the records of Registrars of Births, Deaths and Marriages.⁹³
- 2.66 The Liberal Party expressed its concern with the removal of names of the deceased from the electoral roll and the 'slow rate' at which this occurs.⁹⁴ The Liberal Party noted the comments of Mr Lloyd MP with regard to his electorate of Robertson in which Mr Lloyd estimates it takes an average of five months for the name of a deceased elector to be removed from the roll.⁹⁵
- 2.67 The Government response to Recommendation 40 of the committee's 1998 Federal Election Inquiry Report stated that in order to 'facilitate the automated removal of names of deceased electors from the rolls, the Registrars of Births, Deaths, and Marriages in the States/Territories have provided the AEC with electronic information on deaths'.⁹⁶ The Fact of Death File, as this information is known, is being evaluated and 'new operation procedures will be implemented as soon as the systems for the electronic matching of death data are brought online'.⁹⁷ The Government believes the AEC will be able to match deceased electors across State/Territory boundaries and 'will allow the identification of deceased electors who are enrolled in a different State/Territory from where their death is registered'.⁹⁸

Return to sender mail

- 2.68 One method used by parliamentarians to gauge the accuracy of the electoral roll has been return to sender mail. As part of its submission to the 1996 federal election inquiry, the AEC emphasised how important it was for parliamentarians to use the most up to date version of the roll to minimise inaccuracies.⁹⁹

93 Submission p S622 (J.Lloyd).

94 Submissions p S398 (Liberal Party).

95 Submissions p S398 (Liberal Party).

96 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 16.

97 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 16.

98 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 16.

99 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 18.

2.69 Submissions to previous committee inquiries, in particular from Members of Parliament, have highlighted concern about high rates of return to sender mail and the accuracy of the roll.¹⁰⁰ The Liberal Party drew attention to its submission to the committee's inquiry into the conduct of the 1990 federal election in which it noted that 'parliamentarians report that 5-7% of the people on the roll who are written to, do not reside at their stated address'.¹⁰¹ The Liberal Party pointed out:

claims of this type cannot be dismissed as nonsense given the evidence which is provided constantly from large-scale mailing from parliamentarians to their electors.¹⁰²

2.70 In response the AEC noted the following:

- Not all electors are pleased to receive constituency mail from Members of Parliament and may seek to stop any further communication by RTS mail;
- The rolls are continuously amended and Members of Parliament have used out-of-date versions in addressing their mail in the past;
- The Australian elector population is relatively mobile, resulting in a high level of daily enrolment transactions; and
- Not everyone transfers their enrolments as promptly as they should, so that the rolls will never be 100% accurate at any point in time.¹⁰³

2.71 Hon Tom Stephens MLC, Leader of the Opposition in the Western Australian Legislative Council, stated that when mail from State and Federal Members of Parliament to electors is returned, they advise the AEC which sends a letter to the elector inquiring as to the person's enrolment status.¹⁰⁴ Mr Stephens noted that 'if the AEC mail is returned undelivered, the objection process is expeditiously completed and the voter's name removed from the roll'.¹⁰⁵ He was concerned that there is:

an unhealthy preoccupation with expeditiously removing the names of such people from the rolls; and no commensurate concern to inquire where such people could possibly be and how can they be assisted in ensuring their correct enrolment at their correct address and with postal addresses and contact details that

100 Submissions p S498 (AEC).

101 Submissions p S397 (Liberal Party).

102 Submission p S397 (Liberal Party).

103 Submissions p S1164 (AEC).

104 Submissions p S780 (T.Stephens).

105 Submissions p S780 (T.Stephens).

will ensure they can have their lawful electoral enrolments maintained.¹⁰⁶

- 2.72 In addition, according to Mr Stephens, many people in regional areas, because of poor literacy skills, no access to a mail collection service, or a disregard for mail of any sort, do not attend to their mail.¹⁰⁷ He suggested that when following up return to sender mail, the AEC should include contacting electors via telephone and checking with local state and federal MPs, local governments, Aboriginal community organisations and local post offices.¹⁰⁸
- 2.73 The committee shares the concerns expressed by Mr Stephens that the AEC does not appear to be pursuing all avenues for contacting electors when following up return to sender mail. Accordingly the committee supports the recommendation of Mr Stephens that the checking of enrolment details triggered by return to sender mail by the AEC should be broadened to include telephone checking and liaising with other local sources such as State and Federal Members of Parliament and local government authorities.

Recommendation 2

- 2.74 **That when following up return to sender mail the Australian Electoral Commission use all practical means in contacting electors to confirm their enrolment details.**

Full habitation review

- 2.75 Prior to 1995, section 92 of the Electoral Act required the AEC to conduct a two yearly habitation review or Electoral Roll Review (ERR) via a national door-knock.¹⁰⁹ The AEC stated that the ERR was ‘highly resource intensive’ and ‘because of the high mobility of the Australian population, this periodic snapshot of the roll became rapidly dated, particularly around the time of the close of rolls for an election’.¹¹⁰ In addition, there were tensions between the Joint Roll partners over the timing of ERRs,

106 Submissions p S780 (T.Stepens).

107 Submissions p S780 (T.Stepens).

108 Submissions p S780 (T.Stepens).

109 Submissions p S504 (AEC).

110 Submissions p S504 (AEC).

‘with each jurisdiction wanting the ERR as close as possible to their own electoral event’.¹¹¹

2.76 The committee recommended in its 1992 Report, *The conduct of elections: New boundaries for cooperation*, and 1993 Federal Election Inquiry Report that Section 92 of the Electoral Act be amended:

...to allow more flexibility in the timing of electoral roll reviews and so as to ensure that roll reviews are conducted between elections on an ongoing basis’.¹¹²

2.77 The *Electoral and Referendum Amendment Act 1995* amended section 92 of the Electoral Act to allow continuous updating of the roll by the AEC.

2.78 Following a successful trial of continuous roll updating in Queensland in 1996 and 1997, and the negotiation of agreements with Australia Post and other Commonwealth and State/Territory government agencies for access to change of address information, the AEC was able to commence CRU in 1999. In that year the rolls for the Commonwealth, States, Territories and Local Government were updated using CRU activities by both the AEC and its State/Territory counterparts. At the national level this involved:

- Mailing of letters to persons who changed addresses by completing an Australia Post (AP) Change of Address (COA) form and where RMANS did not show an enrolment change had occurred; and
- Vacant Address Mailing (VAM) where letters were mailed to addresses on the RMANS Address Register with no current enrolment with the aim of contacting eligible electors who may live at those addresses.¹¹³

At the State and Territory level CRU activities included:

...receiving data from energy authorities, motor registries and mailing to people who have changed their address or became eligible to enrol and incorporating enrolment forms into all government change of address forms.¹¹⁴

111 Submissions p S504 (AEC).

112 Joint Standing Committee on Electoral Matters. 1994. *The 1993 Federal Election: Report of the Inquiry into the conduct of the 1993 Federal Election and matters related thereto*. Canberra, AGPS, p 48.

113 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 5. http://www.eca.gov.au/reports/1999_cru_report.pdf

114 Electoral Council of Australia. December 1999. *Report of the 1999 Continuous Roll Update Activities to update the electoral roll for the Commonwealth, States, Territories and Local Government*. p 5. http://www.eca.gov.au/reports/1999_cru_report.pdf

- 2.79 CRU 'is still maturing and full implementation is some 18 months away'¹¹⁵, according to the AEC. The AEC noted that midway through the implementation process 'the level of enrolment activity nationally exceeds that generated previously under full ERR door-knocking', and, importantly, electors are 'increasingly being enrolled when they become eligible' as opposed to when they choose to 'initiate contact with the AEC'.¹¹⁶
- 2.80 The AEC stated that CRU has replaced the ERR.¹¹⁷ The AEC also points out that 'targeted door-knocking is an integral part of the plan for the eventual full implementation of CRU'.¹¹⁸ Fieldwork in the form of door-knocks continues at the divisional level in 'a more cost-efficient targeted form, to confirm address information and enrolment details, particularly in areas of high elector turnover', and where there has been no response to CRU mailout letters.¹¹⁹
- 2.81 A number of DROs have expressed their discontent with the replacement of periodic national ERRs with CRU.¹²⁰ In response to an AEC request for comments from DROs on the first AEC submission to the current inquiry, nine DROs, out of the ten DROs who responded, expressed their concerns with CRU and indicted their preference for ERRs.¹²¹ Most of these DROs believe ERRs to be more effective than CRU.
- 2.82 Mr Mark Lamerton, DRO for McPherson, believes that CRU relies too heavily on a continuous mail review at the expense of habitation reviews using door-knocking.¹²² There is no standardised approach by the nine State and Territory electoral bodies to fieldwork, according to Mr Lamerton.¹²³ Queensland and Western Australia, for example, apply targeted fieldwork only to those addresses that have failed to respond to AEC mailouts, whereas in 2001 NSW is conducting a full door-knock of 8-10% of each electorate.¹²⁴ Mr Lamerton recommended that in conjunction with CRU activities, there should be 'a full door-knock review in all urban

115 Submissions p S851 (AEC).

116 Submissions p S851 (AEC).

117 Submissions p S851 (AEC).

118 Submissions p S851 (AEC).

119 Submissions p S505 (AEC).

120 Submissions pp S1109-S1111 (AEC), p S563 (M.Lamerton), p S575 (G.Smith), p S650 (R.Patching) and p S660 (M.Lamerton).

121 Submissions pp S1092-S1107 (AEC).

122 Submissions p S569 (M.Lamerton).

123 Submissions p S569 (M.Lamerton).

124 Submissions p S569 (M.Lamerton).

areas once every election cycle with an emphasis on updating the Address Register'.¹²⁵

- 2.83 Mr Graham Smith, DRO for Forde, believes CRU as it currently operates 'does not go far enough'.¹²⁶ Mr Smith pointed out that CRU 'does not provide total coverage of each Federal Division whereas the "old style" door-knock provide substantially more coverage'.¹²⁷ Mr Smith recommended that CRU 'be part of an overall strategy which involves a full door-knock of the urban areas of each Federal Division once each election cycle'.¹²⁸ Mr Smith also recommended this full door-knock should be conducted over a period of 18 months rather than the three month period used in the periodic national door-knock.¹²⁹
- 2.84 Mr Robert Patching, DRO for Rankin, recommended 'an immediate in depth habitation review' be undertaken in 2001 to restore public confidence in the integrity of the roll.¹³⁰ Mr Patching suggested that this habitation review be combined with 'a complete update of the AEC's RMANS Address Register'.¹³¹ Mr Patching believes CRU should be replaced by an ongoing door-knock, in which each DRO would conduct a habitation review 'over 10 months of the year using 6 to 8 habitation review officers'.¹³² He provided a number of reasons to justify his recommendation including:
- Guaranteed employment for a large part of the year will ensure that your 6 to 8 habitation review officers will to a large extent be the same individuals. This will in turn provide the AEC with an additional 6 to 8 vigilant experts who will constantly be in the field;
 - The constant presence of electoral officials in the field will generate more voluntary enrolment;
 - The RMANS Address Register will be continually updated; and
 - The information provided by Australia Post and Centrelink should cease immediately as the quality and authenticity is questionable.¹³³

125 Submissions p S571 (M.Lamerton).

126 Submissions p S590 (G.Smith).

127 Submissions p S591 (G.Smith).

128 Submissions p S590 (G.Smith).

129 Submissions p S591 (G.Smith).

130 Submissions p S657 (R.Patching).

131 Submissions p S657 (R.Patching).

132 Submissions p S658 (R.Patching).

133 Submissions p S658 (R.Patching).

- 2.85 The AEC noted that many of the DROs who have expressed their dissatisfaction with the replacement of the periodic national ERR by CRU 'may be experiencing problems in adapting to the fundamental changes in approach to roll maintenance that are now expected of them'.¹³⁴ The AEC also acknowledged that the 'expressed discontent by some DROs' may indicate a failure on the part of the AEC to 'properly inform some Divisional staff about the complexities involved in implementing CRU'.¹³⁵ The AEC said it is now engaged in activities to improve its consultation with Divisional staff.¹³⁶ It pointed out that other divisional staff are 'generally supportive of CRU'.¹³⁷
- 2.86 Other submissions from Mrs Cherie Reimer, the Liberal Party, the Australian Labor Party (ALP), and Dr Amy McGrath support habitation reviews in the form of door-knocks in conjunction with CRU.¹³⁸
- 2.87 The AEC has expressed its confidence in detecting 'any inexplicable surge in enrolments leading to an electoral event'.¹³⁹ The AEC pointed out that with the implementation of CRU over the past several years the AEC 'should be' able to detect and prevent the type of enrolment fraud associated with internal party plebiscites recently exposed in Queensland.¹⁴⁰
- 2.88 The committee supports the ongoing implementation of CRU by the AEC.

Roll audits of selected Divisions

- 2.89 A more infrequent method used by the AEC for maintaining the accuracy of the roll, and preventing and detecting fraudulent enrolment are roll audits.¹⁴¹
- 2.90 According to the AEC, internal audits into the integrity of the rolls at the time of the close of rolls have been conducted previously by the AEC and reported to the committee.¹⁴² An example of one such audit was presented

134 Submissions p S852 (AEC).

135 Submissions p S852 (AEC).

136 Submissions p S852 (AEC).

137 Submissions p S852 (AEC).

138 Submissions pp S357 (C.Reimer), p S394 (Liberal Party), p S401 (ALP), p S412 (A.McGrath), and p S613 (A.McGrath).

139 Australian Electoral Commission. *Submission to the Joint Standing Committee on Electoral Matters Inquiry into the 1998 Federal Election and matters related thereto.* p S1692.

140 Submissions p S457 (AEC).

141 Submissions p S522 (AEC).

142 Submissions p S522 (AEC).

to the committee following the 1993 federal election, and involved an investigation into return to sender mail in the Division of Gilmore.¹⁴³

- 2.91 The Electoral Commissioner indicated at the 3 April 2001 hearing that the AEC is considering similar audits following the next federal election. These audits would check the accuracy of the roll, so would not necessarily be directed at detecting fraud. However, fraud may be detected as part of the process.¹⁴⁴
- 2.92 The AEC suggested that one mechanism for improving the prevention and detection of fraud might be for the committee to recommend increased funding for the purposes of upgrading the RMANS system to allow an increased frequency of roll audits.¹⁴⁵ The estimated cost of such additional funding for roll auditing would be around \$25 million per annum.¹⁴⁶

Section 85 of the *Commonwealth Electoral Act 1918*

- 2.93 Section 85 (1) of the *Commonwealth Electoral Act 1918* provides that ‘new rolls for any Subdivision, Division, State or Territory shall be prepared whenever directed by proclamation’. Section 85 (2) provides for the proclamation to ‘specify the manner in which the rolls shall be prepared’. Section 85 (2) also states that an enrolled elector shall not be required to complete a further claim for enrolment ‘in connection with the preparation of a new Roll’.
- 2.94 In his submission, the former Australian Electoral Commissioner Professor Colin Hughes recommended the use of section 85 of the Act to undertake a pilot project in a Division such as Herbert in North Queensland to ascertain the impact of the new enrolment procedures.¹⁴⁷
- 2.95 Professor Hughes noted that the Electoral Act makes it ‘impossible to conduct a controlled experiment’.¹⁴⁸ Professor Hughes ‘would like to see more experimentation, which may entail legislative change’.¹⁴⁹ The proposed revision of the roll in Herbert in accordance with section 85 of the Act, would enable the AEC to:

143 Submissions pp S1233-S1236 (AEC).

144 Transcript p 559 (AEC).

145 Submissions p S839 (AEC).

146 Submissions p S840 (AEC).

147 Submissions p S387 (C.Hughes).

148 Transcript p 236 (C.Hughes).

149 Transcript p 236 (C.Hughes).

check things on the ground and to try something that is slightly different without having to say 12 million people and 148 electoral districts are having to do this all at once'.¹⁵⁰

Revising the roll in Herbert would enable the AEC to uncover any irregularities that have not been picked up through the RMANS and CRU processes.

- 2.96 De-Anne Kelly MP, Member for Dawson, believed the evidence presented to the Shepherdson Inquiry reveals that the integrity of the electoral roll in Queensland has been compromised.¹⁵¹ Ms Kelly recommended that 'there be an exhaustive cleansing of the electoral roll in Queensland'.¹⁵² The cleansing process, according to Ms Kelly, should involve both an AEC mailout to all electors 'requesting an immediate confirmation of their enrolment' at their declared address and subsequent 'Statewide house-to-house visits by AEC staff to confirm those enrolment details'.¹⁵³ Further to this recommendation, Ms Kelly suggested the committee recommend supplementary funding for the AEC to undertake the revision of the electoral roll in Queensland.
- 2.97 The AEC pointed out that section 85 of the Act has 'never been tested'.¹⁵⁴ Therefore the AEC noted it would be necessary to obtain legal advice on how section 85 of the Act should be interpreted in terms of the type of review that could be undertaken.¹⁵⁵ The AEC agreed that a review of the roll for a division such as Herbert may be 'useful activity', but could not be justified in terms of the level of fraudulent enrolment uncovered in recent inquiries.¹⁵⁶
- 2.98 Given the need to resolve the interpretation of section 85, the AEC suggested that rather than creating a new roll the AEC conduct a 'highly resource-intensive door-knock and letter-drop across the whole of the Division, and refresh the roll through the consequent AEC objection action and follow-ups'.¹⁵⁷ The advantages to this proposal are that these procedures are already in place, could be 'managed by the AEC with

150 Transcript p 236 (C.Hughes).

151 Submissions p S390 (D.Kelly).

152 Submissions p S390 (D.Kelly).

153 Submissions p S390 (D.Kelly).

154 Transcript p 583 (AEC).

155 Transcript p 584 (AEC).

156 Transcript p 583 (AEC).

157 Submissions pp S1352-S1353 (AEC).

sufficient special funding' which the AEC estimates to be roughly \$320,000, and could be conducted within a very short time frame.¹⁵⁸

- 2.99 The committee is of the view that further information is required as to how a review of the roll in accordance with section 85 of the Act in a Division such as Herbert might be undertaken and its cost implications.

Recommendation 3

- 2.100 **That the Australian Electoral Commission investigate and report on the possible conduct in accordance with section 85 of the *Commonwealth Electoral Act 1918* of a revision of the Electoral Roll of a Division such as the Federal Division of Herbert.**

Identity checks at enrolment

- 2.101 As a result of the recommendations in the committee's 1996 Federal Election Inquiry Report the Government introduced amendments to the enrolment provisions in the *Commonwealth Electoral Act 1918* by the *Electoral and Referendum Amendment Act (No 1) 1999*.¹⁵⁹ The *Electoral and Referendum Amendment Act (No 1) 1999* was passed by Parliament on 23 September 1999 and assented to on 13 October 1999. The amendments are to section 98 (Addition of names to rolls) of the Act. These new enrolment requirements mean that:

- The identity of a person enrolling for the first time must be verified through forms of proof of identity documentation prescribed by regulation which may include an Australian birth certificate, passport or photographic driver's licence;
- A person claiming to be an Australian citizen because of the grant of Australian citizenship under the *Australian Citizenship Act 1948*, must have their citizenship verified in the manner prescribed by regulation before they can enrol; and

158 Submissions p S1353 (AEC).

159 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, pp 7-9.

- All enrolments, including transfers of enrolment, must be witnessed by a person who is currently enrolled and in a class of electors prescribed by regulation.
- 2.102 The detail of the new enrolment procedures is set out in the *Electoral and Referendum Amendment Regulations 2000*. Regulation 12 provides that the identity of a person applying for enrolment must be verified by providing the AEC with the original of at least one document mentioned in a prescribed list outlined in Schedule 5 of the *Electoral and Referendum Amendment Regulations 2000*. The identity of a person applying for enrolment may also be verified by providing the AEC with a written statement from one person on a prescribed list of witnesses outlined in Schedule 4 of the Regulations that the witness is satisfied about the identity of the applicant. Regulation 13 enables persons applying for enrolment who are unable to verify their identity in accordance with Regulation 12 to provide a written reference from a prescribed witness to the AEC. Regulation 14 provides that the Australian citizenship of a person applying for enrolment must be verified through several means including the provision of relevant documents such as a certificate of Australian citizenship or current Australian passport.
- 2.103 On 2 November 2000 the Special Minister of State advised the committee that the draft Regulations have been finalised and released to the State and Territory governments for consultation. The Minister noted that it was hoped that the regulations would be tabled in the Federal Parliament by the end of 2000 and would take effect in 2001. In April 2001 the AEC noted that the States and Territories have not given their full support to the amended regulations and therefore these are still to be promulgated.¹⁶⁰
- 2.104 The provisions contained in the *Electoral and Referendum Amendment Act (No 1) 1999* face opposition from the States and Territories.¹⁶¹ Queensland, in particular, has indicated it would re-establish a separate State Electoral Roll when the Commonwealth regulations are promulgated.¹⁶²
- 2.105 The Premier of South Australia, Hon John Olsen, indicates that South Australia is 'supportive of efforts to reduce electoral fraud, including the 1999 amendments to the Commonwealth *Electoral Act* dealing with

¹⁶⁰ Transcript p 566 (AEC).

¹⁶¹ Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. March 2000. *Report No. 19: Implications of the new Commonwealth enrolment requirements*. Brisbane, LCARC, p 14.

¹⁶² Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. November 2000. *Report No. 28: The prevention of electoral fraud: Interim report*. Brisbane, LCARC, pp 12-13.

verification of identity and citizenship'.¹⁶³ However, Mr Olsen asks the committee to consider 'the impact of any proposal for legislative reform on the joint roll arrangement'.¹⁶⁴

- 2.106 In evidence the AEC pointed out that it has not received any indication that 'States such as Queensland have in any way resiled from their original reluctance to pass complementary legislation' necessary for the implementation of the amended Commonwealth regulations within the joint roll framework.¹⁶⁵
- 2.107 The AEC noted that should the amended regulations come into force this may result in the States and Territories deciding to opt out of the Joint Roll arrangements and establish their own separate State/Territory rolls.¹⁶⁶ The eventual outcome, according to the AEC, could be 'nine separate rolls to cover the nine separate electoral jurisdictions'.¹⁶⁷ Such an outcome would, according to the AEC, adversely affect the accuracy and integrity of the roll.¹⁶⁸ The inconvenience of dual compliance for electors would affect the accuracy of the rolls and lead to disputes over the issues of accuracy and 'which elections best reflect the will of the electorate'.¹⁶⁹
- 2.108 In addition to the potential impact on the joint roll arrangements of the implementation of the provisions of the *Electoral and Referendum Amendment Act (No 1) 1999*, the AEC noted the similar concerns raised by the former Australian Electoral Commissioner, Professor Colin Hughes¹⁷⁰, Counsel Assisting the Shepherdson Inquiry, Mr Russell Hanson QC¹⁷¹, and the Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee (LCARC) in its report into the implications of the new Commonwealth enrolment requirements, published in March 2000.¹⁷²
- 2.109 In its report the LCARC pointed out that the inconvenience and potential cost to them of requiring applicants for enrolment to produce an original form of identification and have their enrolment form witnessed by someone on a list of prescribed persons could deter eligible voters from

163 Submissions p S1144 (J.Olsen).

164 Submissions p S1144 (J.Olsen).

165 Submissions p S824 (AEC).

166 Submissions p S824 (AEC).

167 Submissions p S824 (AEC).

168 Submissions p S824 (AEC).

169 Submissions p S824 (AEC).

170 Submissions pp S821-S822 (AEC).

171 Submissions pp S822-S823 (AEC).

172 Submissions p S483 (AEC).

enrolling. The LCARC believed that the new electoral requirements present a significant obstacle to enrolment. The LCARC cited one example of the effect of making enrolment requirements more stringent.¹⁷³ Between 1979 and 1983 enrolment applications in Western Australia were required to be witnessed by a restricted group of people. During this period the number of people on the State roll dropped significantly.

- 2.110 The Australian Electoral Commissioner, Mr Andy Becker, stated that the AEC's position on the enrolment provisions of the *Electoral and Referendum Amendment Act (No 1) 1999* is as follows:

The AEC has no objection to such a reform of the enrolment system, provided it imposes no cost or inconvenience on electors and provided that there is a sufficiently broad class of enrolment witnesses.¹⁷⁴

- 2.111 The Attorney-General's Department stated that a potential problem with requiring proof-of-identity documentation for enrolment is that 'the reliability of documents that people produce is increasingly under threat'.¹⁷⁵ The ability to forge, create or modify documents is increasing with rapid technological developments, and 'there are some signs of greater retailing of false identities'.¹⁷⁶ The AEC noted the Attorney-General's Department's:

...preference for strengthening personal identity verification through improvements in computer systems and electronic technology, rather than through reliance on personal identity documentation that is increasingly vulnerable to forgery.¹⁷⁷

- 2.112 The ALP indicated its continued opposition to the amended enrolment provisions, believing the amended provisions will 'discourage and frustrate the genuine enrolment of many voters'.¹⁷⁸

173 Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. March 2000. *Report No. 19: Implications of the new Commonwealth enrolment requirements*. Brisbane, LCARC, p 13.

174 Transcript p 6 (AEC).

175 Transcript p 472 (Attorney-General's Department).

176 Transcript p 472 (Attorney-General's Department).

177 Submissions p S838 (AEC).

178 Submissions p S402 (ALP).

- 2.113 A majority of submissions, however, supported the implementation of the enrolment provisions of the *Electoral and Referendum Amendment Act (No 1) 1999*.¹⁷⁹ In response to an AEC request for comments from DROs on the first AEC submission to the current inquiry, four DROs, out of the ten DROs who responded, indicated their support for the new enrolment provisions.¹⁸⁰
- 2.114 Dr Amy McGrath recommended the Commonwealth Government override the concerns of the States and Territories about the implementation of the enrolment provisions of the *Electoral and Referendum Amendment Act (No 1) 1999*.¹⁸¹
- 2.115 In order to alleviate public concerns about the potential for enrolment fraud and restore public confidence in the integrity of the roll, the committee supports the *Electoral and Referendum Amendment Regulations 2000*. The committee notes the various improvements by the AEC to maintaining the integrity of the roll through the RMANS and the CRU process and supports further enhancement of this process. The committee believes the amended regulations assist the continuous audit of the roll process by requiring more effective identity verification at the beginning of the enrolment process.
- 2.116 The committee also encourages the States and Territories to co-operate with the Commonwealth in implementing the amended regulations prior to the next federal election and in maintaining the Joint Roll Arrangements. Even if some States and Territories remain concerned with the potential impact on the franchise of the amended regulations and prefer to retain their enrolment criteria as it stood prior to the October 1999 Commonwealth amendments, which in effect would mean the (re)establishment of separate State and Territory Electoral rolls, the committee believes the Commonwealth should proceed with the implementation of the amended regulations.

179 Submissions p S357 (C.Reimer), p S362 (L.Hewett), p S368 (B.Kirkpatrick), p S394 (Liberal Party), p S412 (A.McGrath), p S523 (G.Lucas), p S563 (M.Lamerton), p S575 (G.Smith), p S613 (A.McGrath), p S621 (J.Lloyd), p S650 (R.Patching), p S690 (K.Ehrmann), p S697 (P.Lindsay), p S726 (E.Brooks Maher), and p S1144 (J.Olsen).

180 Submissions p S1112 (AEC).

181 Submissions p S615 (A.McGrath).

Recommendation 4

2.117 **That the States and Territories support the *Electoral and Referendum Amendment Regulations 2000* and the Commonwealth proceed to implement the amended regulations in time for the next federal election.**

Should any State or Territory prefer to retain their enrolment criteria as it stood prior to the October 1999 Commonwealth amendments and (re)establish separate State or Territory Electoral Rolls, the Commonwealth should proceed with the implementation of the *Electoral and Referendum Amendment Regulations 2000*.

- 2.118 Professor Colin Hughes believes the existing identification measures are adequate.¹⁸² Professor Hughes believed that if the aim is to introduce more effective identification measures ‘to protect the integrity of the electoral process’, the amended enrolment provisions are merely ‘halfway measures’ and that a more comprehensive photographic based identification system would have to be implemented for both enrolment and voting.¹⁸³
- 2.119 A number of witnesses and people making submissions have argued that voters should be required to show some form of appropriate formal identification at a polling place before they are provided with ballot papers as a means of preventing fraud.¹⁸⁴ The AEC argued that while the introduction of such a system is not impossible, it would have significant start up and on-going costs, voter inconvenience, possible disenfranchisement and possible delays in the delivery of election results because of an increase in the level of declaration voting.¹⁸⁵ The committee is of the opinion that with the implementation of the new enrolment provisions, the introduction of voter identification is not warranted as a measure to deter fraud.
- 2.120 The DROs for Berowra, Banks and Werriwa suggested an alternative to voters showing some form of formal identification - the inclusion of date-of-birth on the Certified Lists of Voters for elections.¹⁸⁶ The AEC noted that the inclusion of date-of-birth and gender information on the Certified

182 Submissions pp S678-S679 (C.Hughes).

183 Submissions pp S678-S679 (C.Hughes).

184 Transcript p 337 (P.Lindsay), Submissions p S1098 (AEC). For other support for this measure, see also Submissions p S363 (L.F.Hewett), p S370 (B.Kirkpatrick), p S411 (P.Brun), and p S1063 (R.Johnston).

185 Submissions p S516 (AEC).

186 Submissions p S1112 (AEC).

Lists is 'technically feasible'.¹⁸⁷ The AEC indicated it would conditionally support the introduction of date-of-birth information on the Certified Lists.¹⁸⁸ The committee is of the view that the inclusion of the gender and date-of-birth of electors on the Certified Lists would provide an instant and improved check on identity when voting. The inclusion of this additional information on the Certified Lists would enable polling officials to easily verify the identity of electors if required.

Recommendation 5

2.121 That the gender and date-of-birth of electors be included on the Certified Lists of Voters for elections.

Early close of rolls

2.122 The primary catalyst for enrolment is an electoral event. Section 155 of the Electoral Act provides that the rolls for an election close seven days after the issue of the writ. This statutory period was introduced following the 1983 election, when the rolls closed the day after the election was called. During this seven-day period the AEC receives the largest number of enrolments at any one time, 428,000 during the 1996 federal election and 351,913 during the 1998 federal election. Given the increased volume of enrolments during this period and the limited time frame, the AEC has admitted that detailed checking is 'virtually impossible'.¹⁸⁹

Previous JSCEM federal election inquiry recommendations

2.123 In its reports on the conduct of the 1996 and 1998 federal elections the committee expressed its concern with the potential impact on the integrity of the roll of a large number of enrolments occurring during the seven-day period and the AEC's inability to carry out detailed checking. In its 1998 Federal Election Inquiry Report the committee noted that between the issue of the writs on 31 August 1998 and the close of rolls on 7 September 1998, the AEC received a total of 351,913 enrolment forms and that

187 Submissions p S881 (AEC).

188 Submissions p S1112 (AEC).

189 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 14.

processing of these forms was completed by 9 September 1998.¹⁹⁰ In processing these forms the AEC admitted that:

There was checking done within the system that it is a legitimate address, but in that close of Roll period there is no field checking done.¹⁹¹

- 2.124 As part of the 1996 Federal Election Inquiry Report, the committee recommended that the rolls for an election close to new electors on the date of the issue of the writs, and for existing electors three days after the issue of the writs.¹⁹² In response, the Government proposed an amendment to the Electoral Act in the *Electoral and Referendum Amendment Act 1998* to make the close of the Roll three working days after the issue of the writ. This amendment was rejected during the amending Act's passage through the Senate. The committee made this recommendation again in the 1998 Federal Election Inquiry Report. In its response to the Report the Government supported this recommendation as 'the potential for enrolment fraud at the time of the close of rolls is sufficiently high to warrant this change'.¹⁹³

Submissions to the current inquiry

- 2.125 The AEC noted that an early close of rolls:

would shut down a last-minute opportunity for electors to amend their enrolments to secure their franchise, and for new enrollees, particularly young people, to take up their franchise.¹⁹⁴

Many electors will not keep their enrolments up-to-date at all times, and it has long been recognised that many electors will not attend to this legal requirement until it is absolutely necessary.¹⁹⁵

The AEC also noted that no evidence has been produced to substantiate claims of widespread and organised conspiracies to defraud the roll

190 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 14.

191 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 14.

192 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 14.

193 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 2.

194 Submissions p S515 (AEC).

195 Submissions p S515 (AEC).

during the close of rolls period.¹⁹⁶ The AEC summarised its concerns regarding an early close of rolls as follows:

- The AEC believes the emphasis in the committee's 1996 and 1998 federal election inquiry reports on the lack of field checking during the close of rolls needs to be balanced by the ongoing improvements to the accuracy of the rolls through the developments in the RMANS and CRU processes and the absence of evidence of enrolment fraud during the close of rolls period;
- The early close of rolls 'will not improve the accuracy of the rolls for an election, simply because the need for field checking or any other kind of checking will be eliminated', and the AEC expects the rolls to be less accurate because there will be less time for existing electors to correct their enrolments and for new enrolments to be received;
- The AEC expects an increase in the level of declaration voting which would delay election results;
- The AEC is concerned with the potential impact on young people who typically are motivated to enrol for the first time during the close of rolls period; and
- The early close of rolls would 'place the federal electoral system out of line with some State and Territory close of rolls legislation, possibly leading to public confusion and complaint'.¹⁹⁷

2.126 Professor Colin Hughes highlighted several problems with an early close of rolls.¹⁹⁸ Firstly, an early close of rolls 'prevents electors who have moved from re-enrolling for their new addresses and consequently being removed from their old addresses', thus increasing 'the pool of departed electors whose identities can be falsely assumed'.¹⁹⁹ Secondly, Professor Hughes noted that those who wish to engage in an activity that is regulated only within fixed time limits will simply do so outside the regulated time period.²⁰⁰

2.127 A number of submissions supported an early close of rolls in line with the committee's 1998 Federal Election Inquiry Report recommendation.²⁰¹ Dr Amy McGrath implied that the AEC's inability to check all enrolments

196 Submissions p S515 (AEC).

197 Submissions p S516 (AEC).

198 Submissions p S679 (C.Hughes).

199 Submissions p S679 (C.Hughes).

200 Submissions pp S679-S680 (C.Hughes).

201 Submissions pp S88 (A.Viney), p S365 (A.Viney), p S412 (A.McGrath), p S621 (J.Lloyd) and p S697 (P.Lindsay).

during the close of rolls period provides an opportunity for enrolment fraud.²⁰²

- 2.128 In response to an AEC request for comments from DROs on the first AEC submission to the current inquiry, two DROs, out of the ten DROs who responded, indicated their support for an early close of the rolls.²⁰³ Mr Chris Goodwin, DRO for Berowra, recommended the close of rolls occur on the same day as the announcement.²⁰⁴ Mr Gray Franklin, DRO for Werriwa, recommended the close of rolls period be reduced from the present seven days.²⁰⁵
- 2.129 Mr Allan Viney noted that section 101 (4) of the Electoral Act provides that anyone entitled to enrol and transferring enrolment must do so within 21 days from the date of entitlement or transfer or be guilty of an offence.²⁰⁶ Mr Viney pointed out that many last minute enrolments lodged during the close of rolls period would be in breach of section 101 (4) of the Act.²⁰⁷ In addition, he noted an AEC submission to the committee in 1983 acknowledging the difficulty in verifying enrolments during the close of rolls period.²⁰⁸ Mr Viney recommended an ongoing advertising campaign to 'promote civic responsibility' in terms of encouraging those eligible to enrol or electors transferring enrolment to do so within the period specified in the Act.²⁰⁹
- 2.130 Mr Jim Lloyd MP, Member for Robertson, stated that the level of transactions during the close of rolls period provides 'little opportunity for a Member to contact new enrollees or to check the validity of such enrolments'.²¹⁰ Mr Lloyd recommended closing the roll prior to the calling of writs, 'enabling the Member to check on the genuineness of enrolments within a reasonable timeframe'.²¹¹
- 2.131 Mr Peter Lindsay MP, Member for Herbert, recommended the closing of rolls 'immediately an election is called'.²¹²

202 Submissions p S422 (A.McGrath).

203 Submissions p S1112 (AEC).

204 Submissions p S1094 (AEC).

205 Submissions p S1097 (AEC).

206 Submissions p S365 (A.Viney).

207 Submissions p S366 (A.Viney).

208 Submissions p S366 (A.Viney).

209 Submissions pp S366-S367 (A.Viney).

210 Submissions p S621 (J.Lloyd).

211 Submissions p S621 (J.Lloyd).

212 Submissions p S697 (P.Lindsay).

- 2.132 To preserve the integrity of the roll, the committee reiterates the relevant recommendations of the 1996 and 1998 federal election inquiry reports.

Recommendation 6

- 2.133 **That section 155 of the *Commonwealth Electoral Act 1918* be amended to provide that for new enrolments, the rolls for an election close on the day the writ is issued, and for existing electors updating address details, the rolls for an election close at 6.00pm on the third day after the issue of the writ.**

Access to the electoral roll

- 2.134 Another issue on which the committee has received a number of submissions is the public availability of the roll. Under section 90 of the Electoral Act, any organisation or person is entitled to inspect or purchase the latest prints of the Divisional rolls.²¹³
- 2.135 The AEC is aware that the publicly available roll is being used for a range of mostly commercial purposes that are not consistent with the intention of the Electoral Act:

There are a range of uses which over time have grown from the existence and frequency... of the electoral roll. Some you might say have a greater community good than others, but most of them are not electoral.²¹⁴

- 2.136 The production of microfiche copies of the roll for the purposes of sale was stopped by the AEC in March 2000 on the basis that there was no clear legislative basis for the sale of microfiche rolls, and in response to increasing privacy concerns about the commercial exploitation of enrolment information.²¹⁵
- 2.137 The withdrawal of the microfiche roll prompted a number of organisations to make submissions to this inquiry. These included:
- the National Missing Persons Unit, which pointed out that regular access to the microfiche roll by Non Government Organisations

213 Submissions p S1077 (AEC).

214 Transcript p 586 (AEC), and Submissions p S1081 (AEC).

215 Submissions p S1077 (AEC).

involved in tracking missing persons provided them with the most reliable and current information available;²¹⁶

- the Public Trustees Office of South Australia, which stated that it used the roll on microfiche to track will beneficiaries;²¹⁷ and
- the Australian Bankers' Association, which indicated that banks have used the roll for the purposes of processing finance applications and combating fraud.²¹⁸

2.138 A number of other organisations also expressed a similar concern about access to the microfiche roll.²¹⁹

2.139 The proposed use of the rolls by the above organisations is not encompassed within the purpose for which personal elector information is collected by the AEC under the Electoral Act, that is, to establish a public roll of those people eligible to vote at elections for the federal parliament. Neither are they one of the permitted purposes inserted in the electoral and referendum regulations in recent years, which mainly relate to Commonwealth activities in the protection of revenue and the prosecution of crime:

If personal elector information... is made available to organisations for purposes unrelated to the electoral process, it is possible that an increasing number of electors will avoid electoral enrolment because of the decreasing personal privacy entailed...In general, the AEC is opposed to proposals that seek to expand the permitted uses for personal elector information, because a reduction in the completeness and accuracy of the Electoral Roll is a likely outcome.²²⁰

2.140 According to the Privacy Commissioner, because it is compulsory to provide personal information for inclusion on the roll, citizens have a strong expectation that this information will only be used for the purpose for which it was collected:

One of the fundamental principles of information privacy is that personal information that is provided by an individual for one purpose should not be used or disclosed for another unrelated

216 Submissions p S7 (National Missing Persons Unit).

217 Submissions pp S553-S555 (Public Trustee).

218 Submissions p S360 (Australian Bankers' Association).

219 Submissions pp S768-S769 (Benevolent Society), p S783 (Vanish) pp S799-S800 (Rite Recovery Service), pp S1067-S1068 (Salvation Army SA Division), and pp S1279-S1302 (Sacred Heart College Foundation).

220 Submissions p S1078 (AEC).

purpose unless the individual has consented or there are sound public interest reasons for doing so.²²¹

- 2.141 The Privacy Commissioner stated that there is increasing evidence to suggest that the existing privacy regime, constituted in the privacy and electoral acts, is no longer effective in preventing inappropriate use of the roll.²²²
- 2.142 Recommendation 53 of the committee's inquiry into the 1996 federal election was that sections 89 to 92 of the Electoral Act be reviewed to take into account developments in computer technology.²²³ These sections also cover public access to enrolment information. The AEC indicated it had delayed the review because of intervening electoral events and committee inquiries, including the current inquiry.²²⁴
- 2.143 When completed, the AEC will publish the review, entitled *Review of the Legislation governing Access to Enrolment Information*, as a research report on its internet site. The review will be provided to the committee, the Minister, and the Privacy Commissioner for consideration.²²⁵ Judging by the comments of the Privacy Commissioner in his submission to this inquiry, the committee believes action on this issue should not be delayed much longer.

Recommendation 7

- 2.144 **That the Australian Electoral Commission complete its review of sections 89 to 92 of the *Commonwealth Electoral Act 1918* in sufficient time for the committee to consider this matter during the next federal election inquiry.**

221 Submissions p S630 (Federal Privacy Commissioner).

222 Submissions p S630 (Federal Privacy Commissioner).

223 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 94.

224 Submissions p S1083 (AEC).

225 Submissions p S1084 (AEC).

Enrolment fraud management

- 3.1 Having discussed the Australian Electoral Commission's (AEC's) strategies for managing the Commonwealth Electoral Roll (the roll), the committee will now examine the effectiveness of the AEC's processes for detecting, investigating and prosecuting enrolment fraud, as well as the level of external scrutiny of the AEC.
- 3.2 The detection, investigation and prosecution of fraud in Commonwealth agencies is governed by the *Fraud control policy of the Commonwealth*, which sets out a Government wide policy framework for dealing with fraud.¹

AEC fraud control plan

- 3.3 The foreword to the *Fraud control policy of the Commonwealth* states:
- ...The development of a comprehensive approach to fraud control issues reflects the importance that the federal government places on combating fraud against the Government.²
- 3.4 The comprehensive approach adopted by the Government in the *Fraud control policy of the Commonwealth* applies to all Commonwealth agencies, and provides for Commonwealth agencies to:
- adhere to the Government's directions on fraud prevention (including acceptance of the value of risk assessment);

1 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, 60p.

2 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p iii.

- report information on all instances of fraud against Commonwealth programs to the Australian Federal Police (AFP);
- refer to the AFP for investigation all cases of fraud except those routine and minor matters either investigated by agencies under their own legislation, or as agreed with the AFP and the Director of Public Prosecutions (DPP), or multijurisdictional organised crime fraud referred to the National Crime Authority (NCA); and
- adhere to the standards and guidelines set by the Minister for Justice for fraud prevention, investigation of fraud cases, collection and reporting of fraud related information, and the training of agency fraud investigators.³

3.5 The *Fraud control policy of the Commonwealth* makes it clear that each agency's fraud control plan must implement the Government's requirements in relation to fraud prevention, its detection, investigation, and prosecution.⁴

3.6 Both the AEC's *Fraud control plan 1997-1999*⁵ and the *Fraud control policy of the Commonwealth* are currently under review (with the AEC's plan now 18 months out of date). In the AEC's case, a new fraud control plan is in the final stages of development.⁶ As outlined in chapter 1, the new *Commonwealth fraud control policy and guidelines* is currently in the consultation stage, with a second consultation draft released in April 2001.⁷

3.7 As discussed in chapter 2, enrolment fraud falls within the wider definition of fraud identified by the AEC. The committee is of the opinion that the AEC's approach to enrolment fraud should reflect the seriousness with which the Government and community takes enrolment fraud. Roll management is clearly within the current fraud control plan. However, the committee would like to see the AEC develop a more comprehensive approach to dealing with enrolment fraud as part of the new AEC fraud control plan.

3 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, pp 1-3 and p 17.

4 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 5.

5 Australian Electoral Commission. 1998. *Fraud control plan 1997-1999*. Canberra, AEC, 34p.

6 Submissions p S892 (AEC).

7 Law Enforcement Coordination Division, Attorney-General's Department. April 2001. *Commonwealth fraud control policy and guidelines: Consultation draft no. 2*. 28p. <http://law.gov.au/aghome/commprot/olec/LECD/FCPConsultDraft2.htm>

Recommendation 8

- 3.8 **That the Australian Electoral Commission develop a more comprehensive approach to enrolment fraud as part of any new fraud control plan.**

Issues relating to AEC staff

- 3.9 The *Fraud control policy of the Commonwealth* makes it clear that agencies are responsible for fostering an environment amongst agency staff that makes active fraud control a major responsibility of all staff. This includes developing training programs that are targeted at fraud control issues.⁸

Training of AEC staff

- 3.10 The AEC advised the committee that divisional staff have primary responsibility for ensuring that the enrolment details of people changing enrolment or newly enrolling are correct.⁹ Divisional staff are guided in applying the enrolment procedures by the *Divisional Office procedures manual* and the *General enrolment manual*. In many cases, it is the diligence of divisional staff that has led to the detection of enrolment fraud.¹⁰
- 3.11 The AEC *Fraud control plan 1997-1999* indicates that all staff should be provided with fraud prevention and awareness training.¹¹ However, the *Fraud control policy of the Commonwealth* indicates that effective handling of fraud cases requires a high level of training for personnel, such as divisional staff, involved in fraud prevention, detection and investigation.¹² The draft *Commonwealth fraud control policy and guidelines* indicates that compliance with the training requirements in the guidelines will be mandatory.¹³ Such high level training for divisional staff does not

8 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 2.

9 Submissions p S502 (AEC).

10 Submissions p S843 (AEC).

11 Australian Electoral Commission. 1998. *Fraud control plan 1997-1999*. Canberra, AEC, p 8.

12 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 48.

13 Law Enforcement Coordination Division, Attorney-General's Department. April 2001. *Commonwealth fraud control policy and guidelines: Consultation draft no. 2*. pp 19-20. <http://law.gov.au/aghome/commprot/olec/LECD/FCPConsultDraft2.htm>

appear to be provided for as part of the current AEC *Fraud control plan 1997-1999*.

- 3.12 Given that training has been identified as effective for personnel involved in fraud prevention, and it is likely that the Government will require that training will be mandatory for staff involved in fraud detection and prevention, the committee believes that as part of an overall fraud control plan, the AEC should ensure that all AEC staff involved in the prevention and detection of enrolment fraud, including divisional staff, receive appropriate training in the prevention and detection of fraudulent enrolment.

Recommendation 9

- 3.13 **That, as part of an overall fraud control plan, all Australian Electoral Commission staff involved in the prevention and detection of enrolment fraud be trained in appropriate prevention and detection strategies.**

Staff security checks

- 3.14 All new AEC staff are subject to political neutrality checks:
- All staff, ongoing, non-ongoing and election casuals, are made aware that it is a condition of employment within the AEC that they must not be politically active...¹⁴
- 3.15 The standard employment contract for all staff contains a clause stating:
- Please note that the AEC must maintain strict political neutrality, any person who is, and is seen to be, active in political or electoral affairs, and intends to publicly carry on this activity, cannot be considered for engagement.¹⁵
- 3.16 The AEC indicated that no checks are made in relation to this clause, and that the employee's undertaking in relation to this clause would be taken at face value. According to the AEC, an employee's connection with a candidate or party would not take long to come to light.¹⁶
- 3.17 According to the AEC, all staff are also required to sign a secrecy undertaking with regard to information held by the AEC. This is based on

14 Submissions p S899 (AEC).

15 Submissions p S899 (AEC).

16 Transcript p 8 (AEC).

section 323 of the *Commonwealth Electoral Act 1918* (the Electoral Act), the breach of which attracts a penalty of a \$1,000 fine.¹⁷

- 3.18 Political neutrality, particularly of casual staff, was an issue discussed during the inquiry into the 1998 federal election. As a result, in the 1998 Federal Election Inquiry Report, the AEC was asked to:

...assess the effectiveness of its staff selection procedures to ensure that it continues as an independent, professional and ethical organisation that is respected by the people who use its services.¹⁸

- 3.19 The AEC stated that, in relation to that recommendation:

...an updated policy on political neutrality has been drafted to cover all AEC employees under the *Public Service Act 1999* and the *Commonwealth Electoral Act 1918*. This draft policy incorporates a revised political affiliations undertaking for employees to sign. The draft policy is currently passing through internal consultation processes prior to consideration and endorsement by the Electoral Commissioner...¹⁹

- 3.20 The political neutrality of AEC staff was again raised as an issue during this inquiry following an allegation by Ms Karen Ehrmann, subsequently discredited by the Shepherdson Inquiry,²⁰ of an AEC staff member providing enrolment cards to individuals during preselection contests in Queensland.²¹ The focus of concern for the committee on this occasion is the level of security checks applied to AEC staff who have access to the roll.²²

- 3.21 The AEC indicated that the roll is not accessible to casual AEC staff or to many permanent AEC staff. In addition, the AEC's IT security system is able to detect any internal manipulation of the roll for fraudulent purposes.²³ Nevertheless, the AEC indicated it would consider security and character checks under section 22 of the *Public Service Act 1999* if the committee believes this is necessary.²⁴

17 Transcript p 9 (AEC).

18 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 11.

19 Submissions p S1350 (AEC).

20 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. pp 37-38. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

21 Submissions p S811 (AEC).

22 Transcript pp 8-12 (AEC).

23 Submissions pp S809-S810 (AEC).

24 Submissions p S899 (AEC).

- 3.22 While the roll is a public document and therefore does not attract a security classification, the unauthorised compromise, misuse of, or damage to it might be considered to cause harm to the country. The Commonwealth *Protective security manual* indicates that documents of this sort attract a classification of 'Protected'.²⁵ The appropriate level of security clearance for access to 'Protected' documents is 'Position of Trust'.²⁶
- 3.23 The *Fraud control policy of the Commonwealth* indicates that there is a great deal of commonality between protective security and fraud control. It also indicates that clearance of staff for 'Positions of Trust' is an important fraud control mechanism.²⁷
- 3.24 While not wishing to imply that AEC staff act with anything other than the highest integrity, the committee recommends that all AEC staff who have access to the roll as part of their work be required to obtain a 'Position of Trust' security clearance.

Recommendation 10

- 3.25 **That all Australian Electoral Commission staff who have access to the Commonwealth Electoral Roll as part of their work be required to obtain a 'Position of Trust' security clearance.**

Staff – management communications

- 3.26 At the request of the committee, the AEC provided all Divisional Returning Officers (DROs) with an opportunity to express their views on the AEC's first submission to the inquiry. These responses were provided verbatim by the AEC to the committee as part of submission 74. Ten DROs responded to the opportunity provided by the AEC. The submissions from the ten DROs, along with those from DROs Mr Mark Lamerton, Mr Graham Smith, and Mr Bob Patching, indicated a marked divergence of opinion between divisional staff and the AEC central office over issues such as the usefulness of the national door

25 Commonwealth of Australia. 1991. *Protective security manual*. Canberra, AGPS, pp 33-34.

26 Commonwealth of Australia. 1991. *Protective security manual*. Canberra, AGPS, p 83.

27 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 48.

knock.²⁸ The AEC recognised this difference during the 3 April 2001 hearing, with the Electoral Commissioner indicating:

We have a problem that there is this them-and-us attitude and it is something I definitely want to make sure we break down. It is not going to be an easy process...There is a lot of old attitudes that have yet to be broken down but the other thing is that we have to have a decent communication plan within the AEC so that we can bring our people along with us.²⁹

3.27 At that hearing, the Electoral Commissioner announced the AEC had started a process of developing a strategic plan that will contain a communication plan to improve consultation between AEC management and staff.³⁰ The committee looks forward to a positive outcome from this process and will follow up this issue during the next federal election inquiry.

Enrolment fraud investigation

3.28 The *Fraud control policy of the Commonwealth* provides a framework for enrolment fraud investigation. Agencies are to investigate routine instances of fraud against agency programs. All serious instances of criminal conduct are to be referred to the AFP, and the AFP is to conduct all investigations into instances of criminal conduct.³¹

AEC investigation process

3.29 In line with the *Fraud control policy of the Commonwealth*, the AEC indicates that, once detected, it has:

...a statutory responsibility to institute investigations and prosecutions where it has uncovered possible breaches of the Electoral Act that might indicate enrolment fraud.³²

28 Submissions p S1109 (AEC) p S586 (M.Lamerton), p S590 (G.Smith), and p S658 (B.Patching). Differences of opinion between DROs and AEC management were also discussed at Submissions p S418 (A.McGrath).

29 Transcript p 568 (AEC).

30 Transcript p 568 (AEC).

31 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 10.

32 Submissions p S842 (AEC), and Submissions p S501 (AEC).

- 3.30 The AEC identified the tracking down and interviewing of suspects, the examination of evidence and the providing of a brief to the DPP as the responsibility of the AFP.³³
- 3.31 The AEC said that information on possible enrolment fraud can arise through:
- written complaints;
 - Continuous Roll Updating (CRU) procedures such as data matching;
 - mail outs derived from the AEC's roll management system (RMANS);
 - electronic scanning of the certified list of voters;
 - return to sender mail from Members of Parliament;
 - the enrolment objection process; and
 - the observations and deductions of experienced AEC staff.³⁴
- 3.32 According to the AEC, the vast majority of false enrolment cases are resolved administratively because they disclose no more than an innocent error on the part of the elector or the staff member. In other cases, for example false enrolment as a result of infirmity or low levels of literacy, prosecution is not warranted in the public interest.³⁵
- 3.33 The AEC indicated that:
- Those enrolment fraud cases that do disclose sufficient evidence to indicate a deliberate intention to defraud the electoral system are referred to the AFP for investigation and the DPP for advice on prosecution...³⁶
- 3.34 A number of agencies, such as the Australian Taxation Office, can investigate cases of serious fraud. Currently, the AEC does not have a specialised fraud investigations unit. It indicated that it is a small agency of roughly 800 staff, and is therefore too small to set up a dedicated fraud investigation unit.³⁷ When questioned by the committee, the AEC indicated that it was not seeking any amendments to the Electoral Act to provide any extra funding dedicated to the establishment of a centrally organised electoral fraud unit, or investigative powers for divisional staff

33 Submissions p S843 (AEC).

34 Submissions p S843 (AEC).

35 Submissions p S501 (AEC).

36 Submissions p S501 (AEC).

37 Transcript p 541 (AEC), and Submissions p S843 (AEC).

on the basis that the current processes for detecting enrolment fraud were sufficient.³⁸

3.35 The AEC said it uses sections 74-75 of the *Interim Ministerial Direction on fraud control* issued as part of the *Fraud control policy of the Commonwealth* to provide a threshold requirement for reporting fraud to the AFP.³⁹ The threshold reporting requirements are:

- where the monetary value of the fraud case exceeds \$A500; or
- where any non-financial benefit or advantage gained results in a significant loss or disadvantage to the Commonwealth; or
- where the fraud undermines confidence in a program or system.⁴⁰

Relationship between AEC and AFP

3.36 The *Fraud control policy of the Commonwealth* indicates that service agreements can be agreed between an agency and the AFP in order for an agency to meet its obligations and requirements in support of Commonwealth fraud control policy.⁴¹

3.37 The AEC indicated that it does not have a service agreement with the AFP in relation to electoral fraud because during non-election periods there is a great deal of uncertainty as to the number of investigations required.⁴²

3.38 Contact between the AFP and the AEC has tended to take place at the state head office level, with the number of cases under investigation driving the level of contact.⁴³ The AFP also provides the AEC with quarterly reports on the progress of investigations. Both the AFP and the AEC appeared to indicate that there has not been any consultation between the two agencies specifically related to detecting and investigating enrolment fraud.⁴⁴ However, the AFP indicated that from its

38 Transcript p 541 (AEC), and Submissions p S842 (AEC).

39 Australian Electoral Commission. 1998. *Fraud control plan 1997-1999*. Canberra, AEC, p 11.

40 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, p 3.

41 Commonwealth Law Enforcement Board. 1994. *Best practice for fraud control: Fraud control policy of the Commonwealth: Incorporating an Interim Ministerial Direction on fraud control*. Canberra, AGPS, pp 14-15.

42 Submissions p S1346 (AEC).

43 Submissions p S1346 (AEC), and Transcript p 555 (AEC).

44 Transcript p 542 (AEC).

perspective, ‘...there is an understanding of each other’s roles and responsibilities...’⁴⁵

- 3.39 The AEC said that as a result of the committee’s inquiry, there has been renewed interest within the AEC, AFP and the Attorney-General’s Department about the overall conduct of electoral fraud investigations.⁴⁶ At the public hearing on 2 March 2001 the AFP reported that it is now in consultation with the AEC on how both agencies can deal with matters of enrolment fraud:

...In our last lot of discussions we initiated some procedures between us and the AEC whereby specific types of electoral matters could be included in our case categorisation and prioritisation model. At the present time, it refers in fairly broad details to different types of crime. We thought it would be useful for both agencies to include some examples in that model for guidance for our people and for the AEC in terms of what should be referred. We have also explored with that organisation and offered them the opportunity to speak to the decision makers in our organisation who decide on a regular basis which matters will be accepted or not be accepted. We have also offered to speak to officers of the AEC around the country so that we can ensure there is a common understanding.⁴⁷

- 3.40 According to the AEC, the AFP contacted the AEC on 8 March 2001 to arrange a meeting between the AEC, the DPP, and the AFP in Canberra to establish a protocol for the referral of electoral offences for legal advice, investigation, and prosecutions.⁴⁸ However, the AEC reported that:

...in the context of those electoral offences now included in the *Criminal Code*, to come into effect on 24 May, and the possibility of further amendment to the Electoral Act to increase penalty levels for other electoral offences before the next federal election, it would seem prudent to defer any further inter agency discussions until the JSCEM Report is tabled, and if necessary, until the formal Government Response...⁴⁹

45 Transcript p 501 (AFP).

46 Submissions p S1347 (AEC).

47 Transcript p 501 (AFP).

48 Submissions p S1347 (AEC).

49 Submissions p S1348 (AEC).

- 3.41 The committee is of the opinion that, given the framework provided in the *Fraud control policy of the Commonwealth*, and the enthusiasm of the agencies involved, the negotiation of a service agreement should proceed as soon as possible.

Recommendation 11

- 3.42 **That, as a matter of immediate priority, the Australian Electoral Commission, the Australian Federal Police, and the Commonwealth Director of Public Prosecutions develop a service agreement to cover the referral of electoral fraud offences for legal advice, investigation and prosecutions.**

AFP investigative process

- 3.43 Once a case has been referred to the AFP, it reported that it:

...applies an objective test to all matters that are referred to it. It is our case categorisation and prioritisation model, and that is a public document so that all interested parties know the basis upon which, in general, we accept or reject matters for investigation. The number of matters referred to us clearly exceeds our capacity to investigate all matters, and we do not believe it is appropriate for us to investigate all matters.⁵⁰

- 3.44 In applying the Case Categorisation and Prioritisation Model (CCPM), the AFP considers seven dimensions:
- the type of incident that is involved in the matter;
 - the impact of the particular referral on the Australian community;
 - the priority of the matter (the degree of urgency or interest or exceptional circumstances);
 - the resources that would be required for the AFP to investigate the matter;
 - the budget that would be necessary for the AFP to take on a particular investigation;
 - the length of time it will take to complete; and

50 Transcript p 500 (AFP).

- where relevant, the property value that can be identified.⁵¹
- 3.45 Once these seven criteria have been applied to the case, an operations committee determines whether or not a matter will be accepted.⁵²
- 3.46 In addition to the application of the CCPM, the AFP recognised the need to investigate a number of lower priority matters to ensure there is an effective criminal deterrent for people committing routine types of offences.⁵³
- 3.47 If the matter has been accepted by the AFP, it is assigned to an operational team and that team carries out the investigation under the direction of a relevant general manager. The team in the area is required to report the progress of the investigation to the AFP head office.⁵⁴
- 3.48 In terms of the number of cases that were accepted by the AFP for investigation, the AFP was able to report that between 1 July 1995 and 1 February 2001, approximately 145 serious or complex cases of electoral fraud were referred of which 69 were accepted for investigation; and approximately 300 lesser matters were referred of which 80 were accepted for investigation.⁵⁵ It should be noted that these are figures for all electoral fraud, which includes matters such as multiple voting as well as enrolment fraud.
- 3.49 The AEC has for some time expressed a concern about the level of priority accorded cases of electoral fraud referred to the AFP. At the hearing on 3 April 2001, Mr Paul Dacey, Assistant Commissioner, Elections and Enrolment, indicated that:
- ...it has been one of our concerns...over the many years I have been in the organisation that we do not get that priority...⁵⁶
- 3.50 The level of investigation of electoral fraud is affected by the level of the penalty for the relevant offence. The level of the penalty has an impact on the CCPM to the extent that, in an environment of limited resources, the AFP accords a low priority to lower penalty offences.⁵⁷ Low penalties are also associated with a short period within which prosecutions can be initiated (in the case of enrolment fraud, one year), which means that some
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51 Australian Federal Police. *Case categorisation and prioritisation model*. 6p. <http://www.afp.gov.au/services/cst/ccpm.htm> and Transcript p 500 (AFP).

52 Transcript p 500 (AFP).

53 Transcript p 500 (AFP).

54 Transcript p 503 (AFP).

55 Transcript pp 500-501 (AFP).

56 Transcript p 543 (AEC), and Transcript p 81 (AEC).

57 Submissions p S519 (AEC).

cases investigated by the AFP cannot be prosecuted because the time limit for prosecutions has expired.⁵⁸ The relationship between penalty levels in the Electoral Act and the levels of AFP investigation were raised in both the 1996⁵⁹ and 1998⁶⁰ federal election inquiries.

Tied funding

- 3.51 One suggestion made by the AEC to overcome the relatively small number of investigations into electoral fraud undertaken by the AFP is for tied funding to be made available to the AFP for electoral fraud inquiries, given that it has the skills and training to conduct this sort of investigation.⁶¹ The AEC was not aware of any other tied funding arrangements with the AFP of the sort that the AEC has suggested.⁶²
- 3.52 The Attorney-General's Department indicated that tied funding is possible, but that it is always difficult for an organisation to operate because the organisation needs the flexibility to adjust to rapidly changing circumstances.⁶³ The committee believes that these inhibiting factors make this a less attractive solution to the problems of investigation of enrolment fraud cases than the one outlined below.

Penalties for enrolment offences

Offences

- 3.53 Prior to 24 May 2001, the offence and penalty provisions under the Electoral Act that are relevant to enrolment fraud included:
- false witnessing (sections 337 and 342);
 - personation (339(1)(a)(b) and 336);
 - false and misleading statements (339(1)(k)); and

58 Submissions p S842 (AEC).

59 Joint Standing Committee on Electoral Matters. 1997. *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 89.

60 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 95.

61 Submissions p S843 (AEC).

62 Transcript p 543 (AEC).

63 Transcript p 472 (Attorney-General's Department).

- forging and uttering (344).⁶⁴

3.54 The penalties associated with these offences range from a \$500 fine to \$1,100 fine and six months in prison.

3.55 It is widely accepted that the penalties for electoral fraud offences in the Electoral Act are relatively low compared to some offences in other Commonwealth legislation.⁶⁵ This has most recently been expressed in the report of the Shepherdson Inquiry, which argued that:

It is difficult to understand why the Commonwealth offence of making a false claim affecting the electoral roll is not an indictable offence....After all, the integrity of the electoral roll is fundamental to the legitimacy of our democratic system.⁶⁶

Transfer of offences to the criminal code

3.56 On 24 May 2001 the offence of forging an electoral paper or using such a forgery (sections 339 and 344 of the Electoral Act) were replaced by general forgery offences in the *Criminal Code*, which carry a penalty up to 10 years imprisonment. Similarly, the false statement offence, section 339 of the Electoral Act, was replaced by the false statement offence in the *Criminal Code*, which carries a benchmark penalty of 12 months imprisonment.⁶⁷ These changes are part of a broader process to consolidate key Commonwealth criminal offences in the *Criminal Code*.⁶⁸ The changes were made as part of the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*.

3.57 The Attorney-General's Department pointed out that one of the advantages of moving these offences to the *Criminal Code* is that, because the benchmark penalty for these offences will be 12 months or more imprisonment, there will be an unlimited period in which to prosecute.⁶⁹ Enrolment fraud investigated under the *Criminal Code* will also be accorded a higher priority in the CCPM process.

64 Submissions p S501 (AEC), and Submissions p S527 (Attorney-General's Department).

65 Transcript p 549 (AEC), and Transcript p 285 (T.Gillman), p 464 (Attorney-General's Department), and p 528 (Liberal Party of Australia).

66 Law Enforcement Coordination Division, Attorney-General's Department. April 2001. *Commonwealth fraud control policy and guidelines: Consultation draft no. 2*. p 172. <http://law.gov.au/aghome/commprot/olec/LECD/FCPConsultDraft2.htm>

67 Transcript p 464 (Attorney-General's Department).

68 Transcript p 464 (Attorney-General's Department).

69 Transcript p 466 (Attorney-General's Department).

Disqualification from parliament

- 3.58 Another approach to penalties has been advocated by Professor Colin Hughes, who argued that, as attacks on the integrity of the rolls are perpetrated by ‘careerists who seek advancement in elective office or within party hierarchies,’⁷⁰ the most appropriate remedy for enrolment fraud might be to remove them from or deny them access to such positions:
- ...The way to hit careerists is to blight their careers, to make the offence a disqualifying offence.⁷¹
- 3.59 Professor Hughes pointed out that under section 44 of the Constitution, anyone who has been convicted of any offence punishable by imprisonment for one year or longer is disqualified from nominating as a candidate for the Commonwealth Parliament.⁷²
- 3.60 The idea that people convicted of an offence in relation to enrolment fraud be banned from holding public office was likened to a corporate licensing arrangement by the Attorney-General’s Department. The Department said it would always encourage people to look at those alternative punishment mechanisms because they often provide quite a different deterrent to the straight offence or penalty.⁷³
- 3.61 The AEC indicated that the removal of the offences of forgery and false and misleading statements from the Electoral Act to the *Criminal Code* will have the effect of raising the penalty levels to the benchmark level of 12 months imprisonment, which will have the effect of bringing any person convicted of forgery or false and misleading statements within the disqualification provided for in the Constitution.⁷⁴

Increasing penalties for the remaining offences

- 3.62 A number of clauses relating to enrolment fraud still remain in the Electoral Act (sections 339(1)(a)(b); 336; 337; and 342). These clauses will retain their low penalty level.
- 3.63 The Attorney-General’s Department indicated that, when considering an increase in penalty levels, the principles to think about in terms of whether these penalties should be increased are: what are the incentives you need

70 Submissions p S674 (C.Hughes).

71 Transcript p 226 (C.Hughes).

72 Submissions p S386 (C.Hughes).

73 Transcript p 466 (Attorney-General’s Department).

74 Submissions p S522 (AEC).

to overcome in order to deter the offence from being committed; and also what is the potential harm that could come from committing the offence.⁷⁵

3.64 The report of the Shepherdson Inquiry argued that, in the case of enrolment fraud offences, the deterrent value of the penalties are not sufficiently high, and that:

...it appears that penalties including maximum terms of imprisonment should be reviewed and consideration given to increasing them...⁷⁶

3.65 Given that the motivation for committing enrolment fraud is often the pursuit of a career in parliament or a political party, as discussed above, the committee believes that an appropriate deterrence to overcome the incentive to commit such offences would be to disqualify people convicted of these offences from running for the Commonwealth Parliament.

Recommendation 12

3.66 **That the benchmark penalty for the enrolment fraud offences remaining in the *Commonwealth Electoral Act 1918* be increased to 12 months imprisonment or a fine of 60 penalty units.**

External scrutiny of fraud control activities

3.67 The AEC's *Fraud control plan 1997-1999* indicates that the AEC is required under the *Fraud control plan of the Commonwealth* to report all prima facie cases of fraud to the AFP, and to provide an annual report on fraud in the AEC to the Commonwealth Law Enforcement Board.⁷⁷ The proposed reporting guidelines for Commonwealth agencies in the draft *Commonwealth fraud control plan and guidelines* are similar.⁷⁸

3.68 In addition to the fraud reporting requirements, the AEC identifies a number of bodies to which it is accountable for the management of the roll:

75 Transcript p 465 (Attorney-General's Department).

76 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p 175. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

77 Australian Electoral Commission. 1998. *Fraud control plan 1997-1999*. Canberra, AEC, pp 11-12.

78 Law Enforcement Coordination Division, Attorney-General's Department. April 2001. *Commonwealth fraud control policy and guidelines: Consultation draft no. 2*. pp 19-20. <http://law.gov.au/aghome/commprot/olec/LECD/FCPConsultDraft2.htm>

- the Australian National Audit Office (ANAO);
- the Commonwealth Ombudsman;
- the Federal Privacy Commissioner;
- the Joint Standing Committee on Electoral Matters;
- the Joint Statutory Committee of Public Accounts and Audit;
- the Senate Estimates Committees; and
- the High Court, sitting as the Court of Disputed Returns.⁷⁹

- 3.69 As a further mechanism for external scrutiny of the AEC, Dr Amy McGrath advocated the creation of an electoral ombudsman, whose task would be to act as a recourse for grass roots complaints from party workers, officials, candidates, and voters at large.⁸⁰ A similar proposal was made by Professor Colin Hughes, who argued that, in light of the considerable damage done to the reputation of the electoral system, consideration might be given to the creation of an inspector-general to receive and investigate complaints.⁸¹
- 3.70 At the hearing on 3 April 2001, the AEC rejected the establishment of either an electoral ombudsman or an inspector-general, on the basis that there is currently sufficient external scrutiny of the AEC to detect any administrative flaws or electoral offences.⁸²
- 3.71 In relation to additional external scrutiny, the committee is of the opinion that, properly employed, the current mechanisms for external scrutiny should prove sufficient, the committee is therefore not inclined to advocate the creation of another mechanism for external scrutiny.

ANAO performance audit on the AEC management of the electoral roll

- 3.72 In mid year 2000 the Joint Statutory Committee on Public Accounts and Audit sought suggestions from other parliamentary committees on suggested audit topic for the next financial year. As part of that process the JSCEM suggested an audit into the integrity of the electoral roll. That suggestion was picked up and included in the ANAO's audit program for 2000-2001.⁸³

79 Submissions p S500 (AEC).

80 Submissions p S615 (A.McGrath).

81 Submissions p S683 (C.Hughes).

82 Transcript p 541 (AEC).

83 Australian National Audit Office. July 2000. *Audit work program 2000-2001*. Canberra, ANAO, p 61.

- 3.73 On 19 July 2000 the ANAO advised the AEC of its planned Audit Work Program for the financial year 2000-2001. A proposed performance audit signalled in the ANAO advice was into the integrity of the electoral roll.⁸⁴
- 3.74 The ANAO is currently undertaking a preliminary scoping study on the roll with a view to undertaking a full performance audit shortly. The committee understands that the audit will have two objectives: to provide the Parliament and the AEC with an opinion as to the accuracy, validity and completeness of the roll; and to examine the effectiveness of the AEC's management of the roll, in particular, the effectiveness of the AEC's processes for ensuring the roll's accuracy.
- 3.75 The committee notes that, as part of its performance audit of the Management of Tax File Numbers, the ANAO conducted a number of special data-matching exercises to test the quality of the Australian Taxation Office's database.⁸⁵ These data-matching exercises were conducted under section 32 of the *Auditor-General Act 1997*. The committee feels this would be a useful exercise to test the accuracy of the roll.

Recommendation 13

- 3.76 **That the Australian National Audit Office conduct a data-matching exercise with a sample of the Commonwealth Electoral Roll as part of its current performance audit of the Australian Electoral Commission's management of the roll.**
- 3.77 The committee will examine the audit report and, if it considers it to be necessary, will seek to conduct an inquiry into the outcomes of the audit and any additional policy matters that need to be addressed.
- 3.78 The committee believes that the ANAO data matching exercise is a useful external check on the accuracy of the roll and that such an external check should be undertaken annually.

84 Submissions p S1310 (AEC).

85 Australian National Audit Office. 1999. *ANAO Audit Report No.37 1998-1999: Management of Tax File Numbers*. Canberra, ANAO, p 36.

Recommendation 14

- 3.79 **That the Australian National Audit Office conduct an annual data-matching exercise on a sample of the Commonwealth Electoral Roll as a regular check on the accuracy of the roll.**

Scrutiny by the committee

- 3.80 In relation to this committee, the AEC reported that it does not routinely report cases of possible fraudulent enrolment to the committee after every federal election because there are relatively few cases.⁸⁶ However, the committee believes that enrolment fraud is serious enough to warrant regular reporting of cases. The committee also believes that the AEC should report to the committee on the progress it is making in implementing the recommendations contained in this report.

Recommendation 15

- 3.81 **That, during each federal election inquiry, the Australian Electoral Commission report all cases of enrolment fraud detected during the previous parliament.**

Recommendation 16

- 3.82 **That the Australian Electoral Commission report its progress in implementing the recommendations contained in this report to the committee at the next federal election inquiry.**

86 Submissions p S835 (AEC).

Regulating political parties

- 4.1 The focus of chapters 2 and 3 of this Report has been upon the question of how best to manage the Commonwealth Electoral Roll (the electoral roll) so as to lessen, or even eliminate, the possibility of fraudulent practices contaminating the roll. Thus chapter 2 looked at roll maintenance, while chapter 3 dealt with the question of fraud management. In short, the focus in these chapters was on managing the roll. In addition to managing the roll, the committee collected considerable evidence on the regulation of political parties as a mechanism for preventing enrolment fraud. The regulation of political parties was at the basis of many of the recent fraud investigations in Queensland.
- 4.2 Much of the discussion of the roll and fraudulent practices focussed upon party activities. This was seen most explicitly in Queensland, where the Australian Labor Party (ALP) preselection ballot procedures for selecting candidates for local, state, and federal elections require party voters to be on the roll.¹ An associated question, therefore, is whether there should be any effort by the Commonwealth Parliament to endeavour, by legislation, to control the behaviour of political parties. Is there a case for regulating the political parties?
- 4.3 Although Australian political parties have been firmly of the view that they are private bodies that run their own affairs, it is clear that this status has altered subtly in recent years. A number of legislative and legal factors have combined to suggest that the position of political parties within the Australian polity is altering. This has opened up the question of whether there should be a formalisation of their place in the political system.

1 Submissions p S458 (AEC); see also Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p XIII.
www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

- 4.4 The committee believes that recent events involving parties suggests that such a discussion is pertinent to this inquiry. This section therefore looks first at current practice, it then asks if controls should be extended, and finally, outlines some possible changes to the position of political parties within the Australian political system.

Regulation of parties—current practice

- 4.5 Apart from a temporary example during World War I,² Australian political parties were not given any statutory recognition until Senate casual vacancies amendment to the Constitution in 1977. The major references since have been the inclusion of registration requirements in the *Parliamentary Electorates and Elections Act 1912* (NSW) and the *Commonwealth Electoral Act 1918* (the Electoral Act), both necessitated by the introduction of public funding of election campaigns.
- 4.6 Part XI of the Act deals with the registration of eligible political parties, all of which are listed in the Register of Political Parties (section 125).
- 4.7 To be eligible for funding, a political party must:
- *either* have at least one member in either the Commonwealth Parliament or a parliament of a State or Territory, *or* have at least 500 members; and
 - be established on the basis of a written constitution that sets out the party's aims (section 123 (1)).
- 4.8 Members of political parties are defined as persons who are formal members of specific political parties (or related political parties). They must also be entitled to be enrolled under the Electoral Act (section 123 (3)).
- 4.9 An application for registration of a political party must give the name of the party, the preferred abbreviation of that name (if desired), give the details of the registered officer of the party, state whether or not the party wishes to receive public moneys, and include a copy of the party's constitution (section 126 (2)). The Australian Electoral Commission (AEC) has discretion to refuse an application for registration if the party's name is believed to infringe certain requirements. These include the number of words in the title (six), a belief that the name is obscene, or the similarity of the name to the name of another registered political party (section 129). It is open to people who oppose the registration of a political party to challenge its registration (section 132 (2)).

2 *Commonwealth Electoral (War-time) Act 1917.*

- 4.10 Parties can be deregistered voluntarily (section 135). A registered political party can also be deregistered if it has not endorsed an electoral candidate for more than four years, or if four years have elapsed since the last election for which the party endorsed a candidate. For a 'parliamentary' party, deregistration can occur when it has ceased to be a parliamentary party and the party has fewer than 500 members (section 136 (1)). Deregistration can also occur on other grounds, including amalgamation of the party with another, or if the original registration was obtained 'by fraud or misrepresentation' (section 137 (1)). The Register of Political Parties is open for public inspection.

Regulation of parties—a need for tighter control?

- 4.11 Most of the submissions made to the committee were concerned to discuss the roll—its centrality to Australian elections, the need to protect its integrity, and how best this might be done. With the focus so much upon the roll, relatively little was said about parties in the wider context of the political system.
- 4.12 The role of political parties in enrolment fraud was discussed in greater detail during the public hearing process, with evidence gathered from: Ms Karen Ehrmann; Mr Les Scott and Mrs Margaret Scott; Mr Brian Courtice; Mr Terry Gillman; Mr Tony Mooney; Mr Lee Bermingham; and Mr Nick Berman and Mr Steven Simat.³
- 4.13 In the wider community there has also been discussion of the future of the political parties. Implicit in these references has been the question posed in the research of former Labor MP, Mr Gary Johns:

...to what extent are the parties, and to what extent should the parties any longer be, the arbiters of their own destiny?⁴

Parties as private bodies

- 4.14 The ongoing problem of party preselection controversies opens up the question of whether there should be some type of legislative controls over the parties. If there is to be, it would signal a major change within the political system which only relatively recently has been even prepared to refer to parties by name in election reports. In 1996 the Western

3 Transcript pp 139-183 (K.Ehrmann), pp 185-213 (L.Scott and M.Scott), pp 241-283 (B.Courtice), pp 284-310 (T.Gillman), pp 311-336 (A.Mooney), pp 355-429 (L.Bermingham), and pp 430-462 (N.Berman and S.Simat).

4 Johns, Gary. Party democracy: An audit of Australian parties. *Australian Journal of Political Science*, vol. 35, no. 3, November 2000, p 405.

Australian Commission on Government stated that the question of whether political parties should be constrained by the Western Australian Constitution was contentious, and would require 'much debate and detailed analysis'. It made no recommendation to that end.⁵ Four years later, the Queensland Constitutional Review Commission's Issues Paper raised three seminal questions:

- Should the importance of political parties in the political process be recognised in the Queensland Constitution?
- If so, what form should that recognition take?
- Should there be some legislative regulation of the internal affairs of registered political parties to require:
 - ⇒ democratic election of the parties' office-holders and candidates to contest parliamentary and local government elections?
 - ⇒ greater transparency of party income and expenditure?
 - ⇒ other matters?⁶

4.15 In the event, the Commission took the view that the question of moving to achieve tighter legislative control over parties was one 'whose time has not yet come in Australia'.⁷

4.16 Parties in liberal democracies including Australia have tended to remain private organisations.⁸ In its 1955 defence of parties as private organisations, the ALP National Conference was probably also expressing sentiments held by both the Liberal and Country (National) Parties:

We emphasise that, with a few isolated exceptions, the history of our Party discloses that we have functioned on a basis of complete determination in accordance with our own rules and our own interpretation of them.

4.17 The Conference continued:

5 Commission on Government Western Australia. 1996. *Specified Matter 24: State Constitution*. Perth, Commission on Government, p 128.

6 Queensland Constitutional Review Commission. July 1999. *Issues paper for the possible reform of and changes to the acts and laws that relate to the Queensland Constitution*. Brisbane, The Commission, p 1107.

7 Queensland Constitutional Review Commission. February 2000. *Report on the possible reform of and changes to the acts and laws that relate to the Queensland Constitution*. Brisbane, The Commission, p 88.

8 Queensland Constitutional Review Commission. July 1999. *Issues paper for the possible reform of and changes to the acts and laws that relate to the Queensland Constitution*. Brisbane, The Commission, p 1104.

We insist we must continue to create our own procedures, taking care of our own business without the introduction of lawyers and law courts.⁹

- 4.18 This view had long been supported by the High Court case, *Cameron & Ors v Hogan* (1934), which said *inter alia*; that the principles of the law were 'against interference in the affairs of voluntary associations which do not confer upon members civil rights susceptible of private enjoyment'.¹⁰ The culture of Australia's political parties, therefore, has been what Antony Green has called that of 'self-governing fiefdoms'.¹¹ They have subscribed to the view expressed in Mr Alan Ware's analysis of parties in liberal democratic systems, that:

The idea that they should be controlled, or even influenced, by the state is contrary to the liberal idea of competition of ideas, leaders, and policies.¹²

Political parties in other liberal democracies

- 4.19 Australian parties have therefore been largely free to operate as they have wished. Not all political systems allow the same degree of freedom. Many see parties as public organisations that have not only a responsibility to their members, but also to the wider electorate. Various nations recognise this principle. As early as 1949 the Basic Law of the Federal Republic of Germany (Article 21 (1)) stated:

The political parties participate in the forming of the political will of the people. They may be freely established. Their internal organisation must conform to democratic principles. They have to publicly account for the sources and use of their funds and for their assets.¹³

- 4.20 In Norway, there is a requirement for party registration. An application for registration:

must be supported by the minute book of the constituting meeting, the names and signatures of those elected to the party's central

9 Submissions p S37 (R.Clarke).

10 Submissions p S39 (R.Clarke); see also *Cameron & Ors v Hogan* (1934), 51 CLR 378.

11 Green, Antony. There's just no accounting for party animals. *Sydney Morning Herald*, 30 November 2000.

12 Ware, Alan. 1987. *Citizens, parties and the state*. Cambridge, Polity Press, p 92.

13 http://www.uni-wuerzburg.de/law/gm00000_.html.

committee, and the signatures of at least 3,000 electors who declare they wish the organisation to be registered as a party.¹⁴

- 4.21 In New Zealand, section 71 of the *Electoral Acts 1989–1995* requires registered parties 'to follow democratic procedures in candidate selection'. Democratic procedures for candidate selection are defined in this Act as being: selection by current financial members of the party; or their elected delegates; or a combination of both.¹⁵
- 4.22 Mr Dan Avnon has looked at the characteristic features of legislation relating to parties in Austria, Finland, Germany, Israel, Poland, Spain and Venezuela, and has found the following characteristic features:
- a general declaration concerning the role of political parties, and an explicit recognition of the right of association in political parties;
 - a definition of a political party;
 - registration requirements;
 - the democratic character of association in political parties;
 - regulation of party finance; and
 - legal sanctions for the violation of laws.¹⁶

Changes in Australian society

The receipt of public money

- 4.23 One important alteration in the relationship of the political parties to the electorate came with the introduction of public electoral funding for the political parties. With this change, the private nature of parties was likely to become the focus of public concern. Would the receipt of public money mean that the recipient would be seen as having some type of public obligation, hitherto largely ignored?
- 4.24 Former Labor MP, Mr Les Scott, is one who claims that it does. Because parties receive public funding, Mr Scott believes that parties should be required to have 'rules and procedures that make them accountable' to the Australian public.¹⁷ South Australian Labor MLA, Mr Ralph Clarke,

14 Ware, Alan. 1987. *Citizens, parties and the state*. Cambridge, Polity Press, p 91.

15 www.rangi.knowledge-basket.co.nz/gpacts/actlists.html.

16 Avnon, Dan. Parties laws in democratic systems of government. *Journal of Legislative Studies*, 1, 2, Summer 1995, pp 283-300.

17 Submissions p S92 (L.Scott).

speaks of the need for 'a proper legislative framework governing our political parties'.¹⁸ He believes, for example, that the Electoral Act should state that the rules of parties that receive public funds should provide for 'their democratic control by their members'.¹⁹ The *Courier Mail* has attacked the 'ridiculous anachronism' that parties are not governed by any laws specifically designed to deal with them. The public has 'a real interest' in the organisation and practices of political parties, 'because taxes raised from the public are handed over to political parties to subsidise their electoral operations'.²⁰

Changes in the law

- 4.25 The provisions for public funding have meant the introduction of compulsory legislative arrangements for parties, and it can be argued that regulation of political parties has advanced a long way in the past few years and that few changes need to be made to areas already covered by the Electoral Act.
- 4.26 The 'protection' that parties believed they were given by the *Cameron* judgment seemed to disappear with the 1993 case of *Baldwin v Everingham*. In this case, it was stated that the decision of the Commonwealth Parliament in conferring legislative recognition of parties in the Electoral Act had 'taken them beyond the ambit of mere voluntary associations'.²¹ It seems that parties will find themselves increasingly required to defend themselves in court over matters once considered part of their private operations, and that they might find it increasingly difficult to withstand calls for greater accountability.
- 4.27 The latest example of the internal activities of political parties being subject to judicial scrutiny was that of Mr Ralph Clarke MP, Member for Ross Smith in South Australia. Mr Clarke took the South Australian Branch of the ALP to the Supreme Court of South Australia twice over that party's handling of an internal dispute relating to the 1999 preselection for the state seat of Ross Smith. In both instances the Court found in favour of Mr Clarke, and in so doing established that the rules of a political party were justiciable.²²

18 Submissions p S13 (R.Clarke).

19 Submissions p S14 (R.Clarke).

20 Editorial. Rules for party organisations. *Courier-Mail*, 19 August 2000.

21 Johns, Gary. Clarke v Australian Labor Party. *Australian Journal of Political Science*, vol. 35, no. 1, January 2000, p 137.

22 Submissions pp S10-S11 (R.Clarke), see also Johns, Gary. Clarke v Australian Labor Party. *Australian Journal of Political Science*, vol. 35, no. 1, January 2000, pp 139-140.

- 4.28 The committee believes that there are pressures building within the community for there to be some type of legislative oversight. If the parties seek to retain their independence, they will have to be seen to be putting in place changes that guarantee inner-party democracy and the rights of rank-and-file party members.
- 4.29 The parties can all point to the fact that their constitutional documents spell out democratic forms. If a constitution is to work, however, there must be a reasonably good fit between its provisions and the practices of the organisation involved. Too large a contrast between the provisions claimed in the constitution and actual practice 'can lead to cynicism and a crisis of authority at critical moments'.²³ Gary Johns has noted that the closed nature of electoral competition, combined with the public status of parties, implies that 'their internal affairs should be conducted democratically'²⁴.
- 4.30 Australian parties may well be facing a watershed. They have functioned as private bodies, but public demand may soon force them to be more directly accountable for their activities. The conundrum of just whether—and how—this might be done is not easily solved. Nearly forty years ago the dilemma was posed by the editors of the *Harvard Law Review*:
- ...it seems impossible to create procedural devices which would protect against abuse and yet permit the requisite degree of autonomy [of political parties].²⁵
- 4.31 Ten years ago, Canada's Royal Commission on Electoral Reform and Party Financing also faced the dilemma. The Royal Commission noted:
- that Canadian political parties were 'essentially' private organisations;
 - they should remain so 'for very good reasons';
 - citizens had 'the right to associate freely for political purposes'; and
 - any legislation to control parties must therefore 'be careful not to invade their internal affairs or jeopardise the right of individuals to associate freely'.²⁶
- 4.32 Having said that, though, the Royal Commission also said that:
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23 Royal Commission on Electoral Reform and Party Financing. 1991. *Final Report Volume 1: Reforming electoral democracy*. Ottawa, Canada Communications Group, p 237.

24 Johns, Gary. Party democracy: An audit of Australian parties. *Australian Journal of Political Science*, vol. 35, no. 3, November 2000, p 401.

25 The Editors. Judicial control of actions of private associations. *Harvard Law Review*, 1963, p 1060.

26 Royal Commission on Electoral Reform and Party Financing. 1991. *Final Report Volume 1: Reforming electoral democracy*. Ottawa, Canada Communications Group, pp 231–232.

- political parties are responsible for 'a number of critical functions in the electoral process'; and
- political parties therefore 'constitute an integral component of democratic governance'.²⁷

4.33 The conclusion drawn by the Royal Commission was that:

For certain purposes, then, parties deserve special acknowledgment in law and must be subject to some public regulations.²⁸

4.34 The committee believes that a similar situation is now facing Australian parties.

Regulation of parties—how might it be strengthened?

4.35 If there were to be any increased parliamentary regulation of parties in regard to electoral matters how might this be achieved? A survey of evidence given to the committee, buttressed by data from the political science literature, suggests a number of possible approaches might be made to tackle this matter.

Tightening existing arrangements

4.36 The minimalist view, that seems to underline AEC attitudes to this issue, is that the existing system is essentially sound. If there are any problems they are small, and their eradication is simply a matter of modifying the existing arrangements so as to tighten the requirements. Such a view notes that recent proposals announced by the Liberal Party of Australia and ALP to introduce pre-selection reforms in Queensland 'suggest that it is not the federal electoral system that requires major reform'.²⁹ Such a view favours the parties being left largely to get their houses in order by their own, unaided, efforts.

4.37 This is not to suggest that a defender of the minimalist approach would see the present arrangements as without flaw. There are a number of areas where improvements could be made. For example, in a submission to the committee's inquiry into the 1998 federal election, the AEC noted that party constitutions tend to be scant, giving insufficient information on

27 Royal Commission on Electoral Reform and Party Financing. 1991. *Final Report Volume 1: Reforming electoral democracy*. Ottawa, Canada Communications Group, pp 231–232.

28 Royal Commission on Electoral Reform and Party Financing. 1991. *Final Report Volume 1: Reforming electoral democracy*. Ottawa, Canada Communications Group, pp 231–232.

29 Submissions p S878 (AEC).

the internal functioning of the political parties. Information on what constitutes a member, let alone the terms and conditions of membership, were felt to be generally inadequate. If there is to be any point in parties lodging such documents, it seems to follow that they should be more informative, both for party members and for the general community, represented in the Parliament.³⁰ The AEC has also noted that there is not even a requirement that the party constitution that must be lodged with a registration application be up to date.³¹

- 4.38 At the hearing on 15 November 2000, the AEC indicated that some registered party constitutions held by the AEC may date back to sometime after 1984³² As part of the 1998 federal election inquiry the committee recommended that the AEC be authorised to conduct reviews of the continuing eligibility of political parties to remain registered following each federal election. As part of these reviews, the committee recommended that the AEC be able to require parties to produce relevant documents, such as party constitutions.³³ This recommendation was supported in the government response to the 1998 federal election inquiry.
- 4.39 The AEC also believed that the Electoral Act should be amended to make political party membership status clearer. This is particularly important as party numbers are crucial to a political party's registration, but they are also important with regard to the power to deregister a party. The AEC therefore recommended the addition of further requirements:
- a person must be accepted as a member by the party's own rules;
 - a member must have joined a party (or renewed membership) within the previous twelve months; and
 - must have paid an annual membership fee of at least \$5.³⁴
- 4.40 The AEC also noted that under the Electoral Act the abbreviation of a registered party's name may be an alternative to the registered party name. The AEC recommended that the alternative name be 'restricted to an abbreviation of, or at least bear a meaningful connection to the

30 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 136.

31 Transcript pp 16–17 (AEC).

32 Transcript pp 16–17 (AEC).

33 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 140.

34 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 135.

registered party name'.³⁵ This was supported by the committee in its report on the 1998 Federal election,³⁶ and has been supported by the Government in its response to the report.³⁷

- 4.41 Another AEC suggestion as part of the 1998 Federal Election Inquiry was that a \$500 fee be levied for the registration of political parties. The AEC pointed out that such a move would be in line with many other official applications, such as the fee required for the lodgment of a trade mark application with the Trade Marks Office. Such a fee would help cover AEC advertising costs and might also discourage frivolous applications. In the 1998 Federal Election Inquiry Report, the committee agreed with the principle, but has suggested that it should be in line with what a registration really costs the AEC, suggesting a 'more realistic' figure might be \$5,000.³⁸ This recommendation was supported in principle by the Government, and a registration fee of \$500 was introduced as part of the *Commonwealth Electoral Amendment Act (No. 1) 2000*.³⁹
- 4.42 On balance, then, this approach sees a need only for small changes. Other voices have called for other, rather more significant alterations to Commonwealth regulation of parties.

The AEC and party preselections

- 4.43 Some House of Representatives and Senate seats are considered safe for either the Coalition or the ALP. The preselection of the candidate for the party likely to win a particular seat is therefore a crucial ballot. One obvious focus of public concern with political parties lies with the way in which party preselections are conducted. Scott Emerson and Stefanie Balogh, writing in *The Australian*, have suggested that the step from fraudulent enrolments for influencing party pre-selections to

35 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 138.

36 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 138.

37 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 20.

38 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 137.

39 Government Response to Joint Standing Committee on Electoral Matters Report: The 1998 Federal Election. p 20.

fraudulent enrolments for influencing Commonwealth or State elections is a small one.⁴⁰

- 4.44 The Hon Tom Shepherdson QC argued in the report of the Shepherdson Inquiry that:

What seems to me to be important is that the preselection process within a political party is such that it is transparent and transparently exercised free of any taint of electoral fraud or coercion, and one in which party voters at plebiscites and voters at general elections can know with confidence that fair means produced a candidate.⁴¹

- 4.45 In building up a case for what former South Australian Premier and Commonwealth MP, Steele Hall, has described as 'an ethical system of candidate selection',⁴² some have focussed on the possibility of using the AEC as an independent arbiter in the administration of party pre-selections.

- 4.46 In particular, the proposal has been made that the AEC should actually run party preselections. If the AEC can handle industrial elections, the argument runs, surely they can handle political party internal ballots?⁴³ Senator Andrew Murray proposed this in 1998, stating his belief that this could not only 'help secure an authentic ballot', but also bring about public assurance that the preselection process 'was not some private, corrupt, dishonest, and rigged intra-party affair, and that the successful candidate got up fairly'.⁴⁴ In its submission to the 1998 federal election inquiry, the Australian Democrats called for:

All important ballot procedures within political parties to be overseen by the AEC to ensure proper electoral practices are adhered to.⁴⁵

- 4.47 Senator Murray's approach was supported by the report of the Shepherdson Inquiry, which suggested that :

...it may be thought that the time has come for Governments, both State and Federal, to consider imposing a suitable system and

40 Emerson, Scott and Balogh, Stefanie. Mayor denies a role in theft, rorts. *The Australian*, 7 October 2000.

41 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. p 170. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

42 Hall, Steele. Making members count. *Advertiser*, 24 October 2000.

43 Transcript p 229 (C.Hughes).

44 Senator Andrew Murray. June 1998. *Submission to Finance and Public Administration Legislation Committee, consideration of Electoral and Referendum Amendment Bill (No. 2)*. pp 9–10.

45 Australian Democrats. 1999. *Submission to the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. p S1614.

procedure for conducting (where necessary) preselections of persons to represent political parties at an election. Whether there should be such imposition will depend on balancing the need for transparency and independent and proper monitoring with a party's right to conduct and to determine the manner of conducting its own internal preselection process.⁴⁶

- 4.48 In fact, the AEC has expressed itself 'not inclined' to support Senator Murray's call. Apart from its belief in the improbability of the Liberal or Labor parties welcoming such external regulation of their preselection ballots, the AEC's concern seems to be with the maintenance of its reputation. Its fear seems to be that no matter how carefully the Commission acted in such matters, there would be an ever-present danger of the AEC compromising its hard-earned political neutrality, even inadvertently.⁴⁷ Professor Hughes has modified the Australian Democrat call by suggesting that if a party preferred, the relevant State electoral body could run internal ballots, rather than the AEC.⁴⁸
- 4.49 Despite the AEC's caution on this, the committee believes the benefits for Australian society might outweigh the Commission's concern. Political party preselections are sometimes controversial. They sometimes produce a bad press for both the party concerned as well as the political system as a whole. Yet as Professor Hughes observed when giving evidence, this vital part of the electoral process ought to be as transparent and respectable as it can be.⁴⁹ The committee therefore thinks that the use of the AEC to conduct party ballots would have the potential to bring about significantly increased transparency to internal party processes, though the AEC's own doubts suggest that such a move should be carefully introduced.
- 4.50 If the AEC was to conduct party preselection ballots, the committee believes these should be conducted on a cost recovery basis. Sections 7A and 7B of the Electoral Act respectively allow the AEC to supply goods and services, and to extract a fee for the supply of goods and services. Using these sections, the AEC regularly conducts ballots on a commercial basis. The AEC's *Annual report 1999-2000* indicates the AEC conducted 40 such ballots during that financial year, including the NRMA's demutualisation ballot.⁵⁰ The committee is of the opinion that political

46 Queensland Criminal Justice Commission. April 2001. *The Shepherdson Inquiry: An investigation into electoral fraud*. pp 171-172. www.cjc.qld.gov.au/shepinquiry/finalreport.pdf

47 Submissions p S521 (AEC).

48 Submissions p S383 (C.Hughes).

49 Transcript p 216 (C.Hughes).

50 Australian Electoral Commission. 2000. *Annual report 1999-2000*. Canberra, AEC, p 155.

parties should be provided the option of using the AEC to conduct party preselection ballots on this commercial basis.

Recommendation 17

- 4.51 That the Australian Electoral Commission allow political parties to use its services to conduct internal party ballots. Such services should be provided on a cost recovery basis.**

External influence upon parties

4.52 Some observers see a change in the nature or use of a party's constitution as a way forward. There would seem to be two possible, and probably interrelated, approaches to this.

4.53 On the one hand, there could be more emphasis on requiring that party practices match the words of the party constitutions so as to ensure that public perceptions match party rhetoric. In Canada, for instance, the Royal Commission on Electoral Reform and Party Financing recommended that parties have constitutions:

...that promote democratic values and practices in their internal affairs and that are consistent with the spirit and intent of the *Canadian Charter of Rights and Freedoms*.⁵¹

4.54 The Australian Democrats has gone further, arguing that the AEC 'must refuse' a registration application if 'the constitution of the party does not sufficiently provide for the affairs of the party to be conducted in an open, democratic and accountable manner'.⁵²

4.55 Professor Hughes has gone further than this, making various recommendations that attempt to lock parties into the legal system in a more obvious fashion.⁵³

4.56 The Liberal Party is opposed to 'any further involvement by the Australian Electoral Commission in the affairs of political parties'.⁵⁴ Mr Lynton Crosby, the Federal Director of the Liberal Party, states that

51 Royal Commission on Electoral Reform and Party Financing. 1991. *Final Report Volume 1: Reforming electoral democracy*. Ottawa, Canada Communications Group, p 246.

52 Senator Andrew Murray. June 1998. *Submission to Finance and Public Administration Legislation Committee, consideration of Electoral and Referendum Amendment Bill (No. 2)*. Appendix A, p 2.

53 Submissions p S383 (C.Hughes).

54 Transcript p 533 (Liberal Party).

greater involvement by the AEC in the affairs of political parties would remove the AEC:

from an umpire position in the community interest into someone who can influence and participate in the affairs of a political party in the way that could have political outcomes.⁵⁵

- 4.57 The ALP has stated its concern that 'any intrusion into the ability of political parties to draft their own rules may not be appropriate', and could have unintended consequences.⁵⁶
- 4.58 Plans for improving the operations of both the ALP, and registered political parties more generally, were made by the Premier of Queensland, the Hon Peter Beattie MP on 21 January 2001 following the release of the Shepherdson Inquiry closing submission by Mr Hanson QC. Details of these proposals are set out in chapter 1.
- 4.59 In suggesting a different approach to the handling of the party constitutions, Gary Johns has suggested that a compromise between the need for parties to be more transparent, and their desire to retain their privacy, perhaps needs to be found. He wonders if there would be a way of using the party constitution as a public pledge of faith. What he calls a 'reasonable compromise' between the private nature and the public responsibilities of political parties would be, as part of the registration process, to make party constitutions available to the public:
- If the parties' candidate selection rules were, as a condition of funding, to be made available to the public so that voters may judge for themselves the fairness of the processes, then the parties would, insofar as their formal practices are concerned, be more likely to comply with basic democratic standards.⁵⁷
- 4.60 One of the aspects of the enrolment fraud detected in Queensland was the extent to which the fraudulent enrolment problem was caused by the influence of an external organisation, in this case the Australian Workers Union (AWU) Queensland Branch, on a political party. Ms Karen Ehrmann, in her evidence before the committee on 14 December 2000, indicated that the enrolment fraud practices she was involved in were a tactic of the AWU faction of the Queensland ALP.⁵⁸

55 Transcript pp 533-544 (Liberal Party).

56 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, p 160.

57 Johns, Gary. Party democracy: An audit of Australian parties. *Australian Journal of Political Science*, vol. 35, no. 3, November 2000, p 423; see also Johns, Gary. Clarke v Australian Labor Party. *Australian Journal of Political Science*, vol. 35, no. 1, March 2000, p 141.

58 Transcript p 159 (K.Ehrmann).

4.61 Mr Brian Courtice, appearing on 29 January 2001 in Townsville, described the link between the AWU faction of the Queensland ALP, and the AWU:

The fact is that the AWU faction is the AWU union's faction and is there to maintain the political influence to protect the industrial power that the AWU has...⁵⁹

4.62 The committee was provided with a description of how the AWU faction operated by Mr Lee Bermingham, who had been an organiser for the AWU faction. Mr Bermingham indicated that the AWU faction dominated the decision making bodies of the Queensland ALP. He said the faction was run by an unelected executive that would meet privately to make decisions about the direction it wanted to take things in the ALP. Overall, the picture was of:

...an organisation that has such vast influence over both federal and state politics yet it is unanswerable to anybody. It is not audited, it is not expected to account for itself publicly or indeed to the party...⁶⁰

4.63 The debate about the influence of external organisation on the internal democratic practices of political parties has been discussed in a wider sense for some time. Dr Carmen Lawrence MP, Member for Fremantle, has noted of the ALP that:

While I do not intend to single out my own party for criticism, it is clear that unions—honourable contributors to Labor history and policy—exercise disproportionate influence through the 60:40 rule and through their affiliated membership, many of whom have no direct connection to the party. One vote, one value—the prime condition for a democracy—is not observed in the party's rules...⁶¹

4.64 One vote, one value as a principle within political parties was discussed by the Australian Democrats in its dissenting report to the 1998 federal election inquiry. The Australian Democrats indicated that when translated into political parties, one vote, one value would mean that no member's vote would count more than another's would, and would do away with undemocratic internal party ballots.⁶²

59 Transcript p 268 (B.Courtice).

60 Transcript p 371 (L.Bermingham).

61 Lawrence, Carmen. A democracy in crisis, *The Age*, 23 August 2000; see also Transcript p 161 - comment by Senator Murray referring to speech given by C Lawrence on 17 August 2000 at the Sydney Institute.

62 Joint Standing Committee on Electoral Matters. 2000. *The 1998 Federal Election. Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*. Canberra, CanPrint, Recommendation 6.9, p 179.

- 4.65 While it would not completely eliminate the prospect of enrolment fraud as a result of internal party ballots, a one vote, one value principle would at least end the use of enrolment fraud by organisations external to political parties as a mechanism for exerting influence within a political party.

Recommendation 18

- 4.66 That the *Commonwealth Electoral Act 1918* be amended to ensure that **the principle of one vote, one value for internal party ballots be a prerequisite for the registration of political parties.**

Christopher Pyne MP,
Chairman
25 May 2001



Minority report— Mr Laurie Ferguson MP (Deputy Chair), Senator the Hon John Faulkner, and Mr Robert McClelland MP (ALP)

From Witch-Hunt to Wimp-Out

A case study in abuse of the Parliamentary Committee system

The Commonwealth Parliament's committee system is an integral part of Commonwealth administration and is among the basic building blocks of our system of government. Along with the integrity of independent authorities such as the Australian National Audit Office and the Commonwealth Ombudsman, a strong Parliamentary committee system is critical for effective and accountable government.

Within the Commonwealth Parliament's committee system, the Joint Standing Committee on Electoral Matters (JSCEM) carries a number of important responsibilities, including inquiring into and reporting on the conduct of elections, and recommending reform to electoral laws. Appropriately, the focus of JSCEM has always been to propose substantive recommendations to improve the *Commonwealth Electoral Act*. Historically, JSCEM has handled that brief well and has not allowed political differences to corrupt the fair conduct of its work.

Controversial references to JSCEM have traditionally come by way of a reference from both Chambers, with non-controversial references coming from the responsible Minister. Adherence to this important convention has bolstered JSCEM's credibility.

However, on 23 August 2000 the then Special Minister of State, Senator Chris Ellison, broke from that practice and referred a controversial and blatantly partisan reference to JSCEM regarding the integrity of the electoral rolls. Senator

Ellison abused his position of trust as a Minister by referring this contentious reference to JSCEM without any consultation with the Parliament.

The reference by Senator Ellison was politically motivated. The Government wanted to smear the Federal Opposition with events in Queensland surrounding the Shepherdson Inquiry and it also wanted to bludgeon State Governments and the Senate into accepting their fundamentally flawed enrolment witnessing regulations.

The Prime Minister personally slotted Mr Pyne into the chairmanship of JSCEM on 7 November 2000. The Government obviously believed that the former Chairman, Mr Gary Nairn, was not up to the job. Opposition members suspect he was removed because he was too much in the mould of a traditional Parliamentary Committee Chair.

It did not take long for the new Chair of JSCEM to show his partisan colours. At his very first meeting on 7 November 2000 the JSCEM Inquiry into the highly important area of funding and disclosure was put on ice for 6 months. Even though the Special Minister of State had referred the funding and disclosure issues to the Committee in June 2000, and even though the Committee had advertised for submissions and in fact had received an extensive submission from the AEC with over 20 important recommendations, Mr Pyne stepped in and used his casting vote to postpone the inquiry.

Mr Pyne's riding instructions from the Prime Minister's office were quite transparent. It was not in the Liberal Party's interests for JSCEM to look into the Liberal Party's murky arrangements with the Greenfields Foundation and other questionable funding entities or devices. It was also not in the Liberal Party's interests for the rules on disclosure of donations to political parties and candidates to be tightened. So, over the opposition of the Labor Party and the Democrats, the funding and disclosure inquiry was junked. Instead, the Committee's sole focus became a witch-hunt into the Australian Labor Party.

The significant errors of fact, confusing discussion and analysis, and weak and poorly thought through recommendations in the Majority Committee Report come as no surprise to Opposition members. The Majority Committee Report is an appropriate and lasting testimony to both the Prime Minister and Mr Pyne.

Witnesses

Liberal MP's were not invited to appear before JSCEM even when serious issues had been raised about their involvement in enrolment rorts. Labor Party witnesses were dragged willy-nilly before JSCEM and faced the threat of a summons if they didn't attend. Different rules applied to Liberal Party witnesses

such as leader of the Queensland Liberal Party (Dr Watson), who deliberately avoided the Committee's public hearing in Brisbane and was merely excused for non-attendance.

In the history of the Australian Parliament very few summons have ever been issued. A summons by the Parliament effectively deprives an Australian citizen of their liberty for the duration of the summons. Normally, the issuing of a summons is a very serious step for a Committee to take, yet the trigger happy Mr Pyne was happy to take that step without a proper assessment of the evidence the witness may be able to give JSCEM or any consideration of the actual need for the summons.

Against the strong opposition of ALP members, the Committee resolved to summons, if necessary, nine witnesses. Three summonses were actually issued – all to members or former members of the ALP. Not only were the summonses unnecessary, one of the summonses was not personally served and no conduct money was tendered with it. In actual fact, no attempt had been made to ascertain the availability of that witness to attend at the time required. Nevertheless, Mr Pyne was intent on referring the non-compliance with the summons to the Parliament for punishment for contempt. There is little doubt that if that summons had been issued by a Court of Law it would have been set aside. Such was the partisan zeal of Mr Pyne that the rights of citizens took second place to his blatant political objectives.

The farce surrounding Mr Brough and Ms Kelly

Mr Pyne's response to revelations that the Member for Longman, Mr Mal Brough, was aware of the false enrolment of a staff member was instructive. He simply declared Mr Brough to be "entirely innocent" before the police and the AEC had even finished investigating the matter. Mr Pyne's high-sounding words about the need for JSCEM to "investigate roting wherever it may be found" were shown to be hollow and smacked of double standards. Mr Pyne and the Committee's behaviour drew highly critical editorials from the Australian, the Courier Mail (twice), the Sydney Morning Herald and the Age newspapers (attached). For the first time since its establishment in 1983, JSCEM's reputation was publicly tarnished.

Not mentioned in the Majority Committee Report were the extraordinary steps the Government took to protect Liberal MP, Ms Jackie Kelly, from appearing before the Committee. Mr Pyne twice used his casting vote to veto Minister Kelly's appearance - firstly on 5 December 2000, then on 9 January 2001. On 18 January the Committee minutes record, for a third time, Senator Faulkner's view that Minister Kelly should be invited to appear.

Opposition members believed it was reasonable to expect Minister Kelly to appear and respond to serious allegations that she and two of her staff members were

involved in electoral enrolment fraud and other potentially criminal conduct in relation to local Government elections in Penrith. The Committee was entitled to expect Minister Kelly to provide answers to its questions and entitled to ask why the Government had gone to such extraordinary lengths to protect her. The fact that Coalition members of JSCEM would not even agree to *invite* Minister Kelly to appear before the Committee became a matter of public notoriety.

Comparing the time allocated for examination of witnesses called at the request of Mr Pyne and the time allocated to receive evidence from Ms Kelly's former staff members, Mr Simat and Mr Berman, is instructive. Mr Pyne arranged for Mr Simat and Mr Berman to give evidence at the same time, with less than an hour allotted for their evidence.

The inability of the Committee to examine Ms Kelly and the blatantly partisan choice and timing of witnesses has left fundamental flaws in evidence gathered by this Committee.

Improper interference by Mr Pyne in the Queensland election

Not only did Mr Pyne corrupt the balance of witnesses appearing before the Inquiry, he also politicised the timing of JSCEM's hearings when he insisted on holding a hearing in Townsville during the Queensland election campaign. Opposition members of the Committee note the culmination of this ill-fated strategy. Premier Peter Beattie's Government was returned to office with a record majority of 66 seats.

The Liberal Party of Queensland now has only three out of the 89 seats in the Queensland Parliament, the same number of seats held by the Pauline Hanson One Nation Party. Labor's candidates in the seats of Townsville and Mundingburra, who received a swing to them of 7.9% and 4.2% respectively, thank Mr Pyne for his contribution.

A cursory reading of the Committee Hansard shows the Government members' attempts to discredit the Queensland Premier in the lead up to the Queensland election and to implicate Federal Labor members of Parliament in the matters which were the subject of consideration before the Shepherdson Inquiry. Government members failed completely on both counts. However, in the course of trying to manipulate evidence, witnesses were denied any concept of procedural fairness.

No witness was forewarned of any allegations that were to be made against them and the procedures adopted by the Committee were more akin to the Star Chamber of medieval England than to the standards that could be expected from a Committee of the Australian Parliament. The procedures of the infamous Courts of Star Chamber were to use an inquisitorial oath - "this was compulsorily

administered so that a person might be examined and himself provide the accusation to be made against him.”

In that context, a good example of Mr Pyne’s “Star Chamber” at work is reflected in the following transcript extract from evidence taken in Townsville on 29 January 2001.

CHAIR [Mr Pyne]—Therefore, what are the allegations in front of the CJC about fraudulent enrolment involving you? I defer another question to when the CJC’s interim report recommends that you be referred to the DPP. So what are the allegations before the CJC regarding your role?

Mr MOONEY—Mr Chairman, the allegation is that I was made aware of, and encouraged Mr Kehoe in his, fraudulent activity. As I said to you before, my counsel James Douglas comprehensively rebutted that evidence. I table the submission that he made before Mr Shepherdson QC, especially in view of what you have just said, which to me clearly shows that you are unaware of the allegations made against me. I am offended by that. I will table this. I would like every member of the committee to be able to read it so they can be fully informed before such mistakes are made in the future.

Mr McCLELLAND—I would like to ask the chairman why this witness was called to give evidence if the chairman did not know what allegations had been made against him. Why have taxpayers paid money for us to fly up here and take evidence from this witness if you do not know the allegations?

CHAIR—That is a spurious question. You are not here to ask me questions.

Senator FAULKNER—Just as well really, isn’t it?

Fortunately Mr Pyne was without the coercive powers of the Star Chamber, which had power to enforce its decisions by penalties that included “pillory, whipping, clipping off the ears and branding the face”. Nevertheless, Mr Pyne was quite prepared to use the powers of the Parliament to publicly vilify Australian citizens without any recognition of a basic concept of natural justice.

We can only have sympathy for witnesses who were called to give evidence before the Committee. The partisan atmosphere was truly unpleasant and the rights of witnesses to be forewarned of the matters about which they would be questioned were shamefully overridden by the Government’s political objectives.

Under the partisan stewardship of Mr Pyne, JSCEM has become a biased and corrupted forum whose choice of witnesses and proceedings are governed by the short-term political interests of the Liberal Party. Predictably, JSCEM’s inquiry

became more intent on pursuing a political witch-hunt into the Labor Party than investigating and properly assessing risks to the integrity of the electoral roll. The reference into the integrity of the electoral roll became a complete fiasco for the Committee and a humiliation for Mr Pyne.

We hope that the Committee can move on and in time resume its proper Parliamentary function.

The role of the AEC in this inquiry

The AEC is internationally renowned as an independent, authoritative body. It made a comprehensive initial submission to this Inquiry and provided six detailed responses to other submissions and questions on notice from the Committee. Despite the contemptuous way in which Government members of the Committee treated the AEC, Opposition members would like to acknowledge that throughout this Inquiry the AEC has remained both professional and helpful, consistently providing independent, timely and expert advice to JSCEM.

All parties have in the past, supported the use and development by the AEC of Continuous Roll Updating (CRU), data matching and other roll management tools. However, an early signal of the Government's attitude toward the AEC came when Senator Ellison, in his capacity as Special Minister of State, stated in his press release of 30 August 2000 that CRU was "a half-hearted patch-up job that will do nothing to prevent enrolment fraud".

The AEC stated in its 17 October 2000 submission (at paragraph 7.2) that "this is not a view that is shared by the AEC". Relevantly, at paragraph 7.8, the AEC went on to say that it

welcomes well-informed and unbiased criticism of electoral law and procedures as an important contribution to public debate about the health of Australian democracy. Such constructive criticism usually results in progressive electoral reform. However, ill-informed and possibly partisan criticism of the electoral system has the potential to undermine public confidence in the integrity of democratic processes and the legitimacy of governments.

Opposition members believe that the various improvements that have been developed by the AEC on the computerised RMANS system, such as the Address Register, and the significant improvements that are occurring with CRU data-matching and data-mining, should not be lightly dismissed by anyone, especially the responsible Minister.

Contrary to the gratuitous comments in paragraph 2.27 of the Majority Committee Report, never at any stage did the AEC demonstrate that it was anything other

than circumspect and open to constructive criticism in relation to its management of the electoral roll. Unlike the unsubstantiated and ill-considered outbursts of the Minister and the Government members of JSCEM, the AEC's assessment of risk to the integrity of the electoral roll was realistic and based upon tangible evidence.

As well as the Government's ill-informed criticisms of the AEC and its operations, another unfortunate theme that developed during this Inquiry was the preference Government members gave to the advice of the HS Chapman Society over the advice of the AEC.

Opposition members note the JSCEM Chairman, Mr Pyne, relied upon incorrect information provided to the Committee by the HS Chapman Society in issuing a Media Release on 2 March 2001 regarding the alleged enrolment of, and voting by, a "Mr Michael Raton". Mr Pyne could have checked the facts of this matter with the AEC before putting out a misleading Media Release. We hope that Mr Pyne learns from this embarrassing episode.

On 14 March 2001, a similar approach was taken by another Liberal Party Committee member, Senator Jeannie Ferris who, along with some other Coalition Committee members, was often unable to conceal her enmity towards Mr Pyne. Senator Ferris issued a media release in relation to the enrolment of "Curacao Fischer Catt". Like Mr Pyne before her, Senator Ferris did not let the facts stand in the way of a good story. Senator Ferris said in her Media Release that the Catt case "demonstrates ...the ease and low priority at present given to enrolment fraud". Mr Pyne said in his Media Release that the Raton case "shows ... that the AEC needs to review its procedures for detecting electoral enrolment irregularities".

In response, the AEC noted in its 27 March 2001 submission that

The AEC is committed to ensuring that the Electoral Roll is kept as accurate as possible, within the legal framework provided by the Electoral Act, and within the resource base provided by Government. The AEC cannot uncover enrolment fraud that does not exist. The two cases of identity fraud that have received so much attention in this JSCEM inquiry as indicators of a possible underlying problem with the Electoral Roll, might equally signify, by their very rarity on a database of 12.47 million electors, that enrolment fraud does not exist at a level sufficient to require major reforms to the electoral system.

It is also of some significance that these identity fraud cases both involved individuals "testing the system" by enrolling as "pest exterminators" in the Division of Macquarie after the defeat in 1993 of the Liberal Party candidate Mr Alasdair Webster, an associate of Dr Amy McGrath [President, HS Chapman Society].

The AEC believes that public accountability in the federal electoral system is enhanced by the inquiries conducted by the JSCEM. This JSCEM inquiry has proved that point by exposing to public scrutiny the activities of those who would fraudulently "test the system" in an attempt to demonstrate that the electoral system is failing and requires change in a particular direction.

After being unable to attend the 3 April 2001 public hearing, Senator Ferris placed a number of questions on notice for the AEC. It is apparent to Opposition members that Senator Ferris' questions on notice were essentially questions that had been drafted by the HS Chapman Society. That the AEC has to waste its time and tax-payers money in preparing detailed answers to the HS Chapman Society's baseless accusations in relation to a wide range of electoral matters is one thing, but for the Government to give succour to them is another.

Not only did Government members rely on the baseless accusations of the HS Chapman Society over the course of this inquiry, they also foolishly relied upon Dr David Watson, leader of the Queensland Liberal Party, to lay some *factual* foundations in their report. Without qualification, Dr Watson is quoted at paragraph 1.3 of the Majority Committee Report stating, "Mr Kehoe is believed to be the first person in Australia to be convicted of enrolment fraud". However, Mr Denis Hinton (National Party Member for Broadsound in the Queensland Parliament) was convicted on 23 November 1987 for forging a signature on an enrolment application form. Mr Hinton was convicted and fined \$400 in his absence. It is worth noting that Mr Hinton subsequently stated in the Queensland Legislative Assembly that he had not attended the sentencing hearing "because the charge was of a minor nature" and subsequently repeated, "I have been convicted of a very minor charge". Mr Hinton was later re-endorsed by the National Party.

There is no excuse for such an obvious factual error making its way into the Majority Committee Report. Earlier AEC submissions to JSCEM have noted the case of Denis Hinton. That those submissions have been ignored or overlooked only emphasises the disregard Government members have for the AEC.

The AEC's reputation as an independent, authoritative body provides an important stabilising element for our parliamentary democracy. However, in recent years many analysts and politicians have expressed concern with the perceived decline of public support for our parliamentary system. Partisan and unbalanced assaults upon the AEC further exacerbate this problem. Efforts to denigrate its work, such as those by the Government and the HS Chapman Society, cause the Opposition serious concern.

Opposition JSCEM members believe that the attitude of Government members toward AEC Officers has been both inappropriate and unacceptable. It is incumbent on the Committee to improve its working relationship with the AEC.

The Recommendations by Government members

In this Minority Report, Opposition members have identified six recommendations by Government members that they do not support, namely Recommendations 4, 6, 10, 13, 14 and 18.

Government Recommendation 4

That the States and Territories support the *Electoral and Referendum Amendment Regulations 2000* and the Commonwealth proceed to implement the amended regulations in time for the next federal election.

Should any State or Territory prefer to retain their enrolment criteria as it stood prior to the October 1999 Commonwealth amendments and (re)establish separate State or Territory Electoral Rolls, the Commonwealth should proceed with the implementation of the Regulations.

Opposition Committee members oppose this Recommendation and also remain opposed to the *Electoral and Referendum Amendment Regulations 2000*.

Put simply, Opposition members strongly believe that the Regulations will discourage and frustrate the genuine enrolment of many voters. The proposed Regulations are deliberately designed to erect bureaucratic, social or cost barriers in the way of enrolment. Further, not only will the Regulations disenfranchise people by placing significant barriers in the way of new enrolments, they will also have little or no effect on the problem of fraudulent enrolments.

Opposition members are particularly concerned about the impact of the new enrolment procedures on many groups in the Australian community including young people, low-income earners, people in rural or remote areas, disabled people and the homeless.

Professor Colin Hughes (a former Australian Electoral Commissioner) has argued strongly against the proposed Regulations. Importantly, he has noted that the tightening of the enrolment procedures “would have costs that would operate to the detriment of relatively disadvantaged elements of the community”.

The AEC has clearly stated on a number of occasions that it is very concerned at the impact the proposed Regulations will have on the franchise (especially of the young and socially disadvantaged), enrolment costs and the accuracy of the Rolls. Paragraph 2.110 of the Majority Committee Report deliberately misrepresents the AEC stating “the AEC has no objection to such a reform of the enrolment system.” At best, the AEC is very critical of the proposed Regulations.

In his closing submissions to the Queensland CJC's Shepherdson Inquiry on 19 January 2001, Mr Russell Hanson QC also expressed doubt about whether the new legislation is directed at the right target. Hanson QC observed that:

The evidence suggests that in the vast majority of detected cases of false enrolment, a requirement for the person when initially enrolling to provide more detailed proof of identity would have had little impact on the conduct disclosed. It was at the point of change of enrolment that the possibility arose of false details being provided. The evidence is overwhelming that persons had originally been lawfully enrolled at an address at which they resided. Being lawfully enrolled, sometimes for many years, it is alleged they changed their enrolment to a false address to enable them to vote at a particular plebiscite.

Hanson QC also noted that "disenfranchisement is a significant issue" in relation to the Government's proposed Regulations.

Opposition members are deeply concerned by the creation of financial disincentives to enrolment as a consequence of changes to proof of identity requirements. The deterrent effect to enrolment would be exacerbated in cases where eligible electors did not already have proof of identity and it would impose costs on them to obtain this proof. Imposing payment as a pre-condition to the right to vote is antithetical to our democratic system of government.

The proposed Regulations will create a new mischief while failing to deal with the perceived problem of fraudulent enrolment.

Although all of the incidents of fraudulent enrolment uncovered in Queensland were in relation to people transferring their existing enrolment, the Government's proposed Regulations will only affect new enrolments. As such, the Regulations will not affect the problem, but will create another by discouraging and frustrating the genuine enrolment of many voters.

It is worth noting that paragraph 2.113 of the Majority Committee Report incorrectly states, "A majority of submissions ... supported the implementation of the enrolment provisions". This is simply not true, as evident from the relevant footnote that lists 15 submissions in support out of a total of more than 86 submissions to this inquiry.

Government Recommendation 6

That section 155 of the *Commonwealth Electoral Act 1918* be amended to provide that for new enrolments, the rolls for an election close on the day the writ is issued, and for existing electors updating address details, the rolls for an election close at 6.00pm on the third day after the issue of the writ.

Opposition Committee members oppose this Recommendation.

The Government has previously proposed the provisions contained in Recommendation 6. The Senate rejected this proposal as it was concerned with the potential for disenfranchising thousands of voters at each election by early closure of the rolls.

The material presented to JSCEM over this inquiry has not allayed the Opposition's view on this issue. In fact, evidence from the AEC has reinforced our view. The weight of the evidence presented to the Committee was clearly against the early closure of the Rolls.

Currently, the rolls are left open for seven days after the issue of the writ for a Federal election. Closing the rolls as soon as an election is called and not allowing any new enrolments would disenfranchise about 80,000 new enrollees at each election, mostly young Australians and new Australian citizens. Further, evidence given by the AEC to JSCEM shows that a majority of the 320,000 people who notified a change of address did so at the last available opportunity. If the window of opportunity for those people is cut from seven days to three days, it is estimated by the AEC that 200,000 voters would be affected. This would cause massive confusion on election day, long queues for declaration votes and significant delays in declaring the results in many seats.

The restriction on enrolment recommended by the Government would massively distort the electoral rolls, leading to a totally unacceptable situation where 80,000 Australians were disenfranchised and more than 200,000 voters were enrolled at a non-current address.

The Government has only minimal support for its proposal for the early closure of the Rolls. Paragraph 2.127 of the Majority Committee Report states that "A number of submissions supported an early closure of the rolls". In actual fact, the number of submissions in support is five, two of which are from the same person.

The Government's motives in doggedly pursuing this matter in the face of the considered and persuasive evidence from independent experts leads Opposition members to question the bona fides of Government members on this issue.

Government Recommendation 10

That all Australian Electoral Commission staff who have access to the Commonwealth Electoral Roll as part of their work be required to obtain a 'Position of Trust' security clearance.

Opposition Committee members do not support this Recommendation.

Recommendation 10 is fatally flawed. It is ill-considered, vague and badly worded.

During the hearings, Government Committee members' expressed apparent concern about the political neutrality of the AEC (see Majority Committee Report, paragraphs 3.14 – 3.20). No credible evidence was presented to substantiate such serious allegations. The Committee members relied only upon the discredited evidence to the Shepherdson Inquiry of convicted rorter Karen Ehrmann.

The Government Committee members' views reflected in paragraphs 3.22 – 3.24 of the Majority Committee Report suggest that very little thought has gone into considering the implications of Recommendation 10. Perhaps this is because Government members have not seen fit to ask the AFP, the AEC or the Attorney General's Department for their considered views on the Recommendation.

This lack of thought (by Government members) is demonstrated by the clumsy wording of Recommendation 10. Surely, "all AEC staff who have access to the Commonwealth Electoral Roll as part of their work" may include nearly all staff working for the AEC on polling day. The Opposition believes adoption of this Recommendation would be a risky step in terms of the AEC's internal organisation. Further, the cost implications of Recommendation 10 do not appear to have been considered. Opposition members are surprised that JSCEM did not request views from the AFP or the Attorney General's Department on the impact of such a fundamental change to the AEC's procedures.

It is unhelpful to the AEC and, more generally, to the faith the public has in the management of the Roll for such ambiguous and ill-considered recommendations and discussion to be thoughtlessly floated by JSCEM.

Instead of Recommendations 8, 9 and 10, a more useful approach would have been to request the AEC prepare an electoral fraud control plan that could be examined by JSCEM.

Government Recommendation 13

That the Australian National Audit Office conduct a data-matching exercise with a sample of the Commonwealth Electoral Roll as part of its current performance audit of the AEC's management of the roll.

Government Recommendation 14

That the Australian National Audit Office conduct an annual data-matching exercise on a sample of the Commonwealth Electoral Roll as a regular check on the accuracy of the roll.

Opposition Committee members do not support these Recommendations.

According to paragraph 3.74 of the Majority Committee Report, the ANAO is currently undertaking a preliminary scoping study on the roll with a view to undertaking a full performance audit shortly. The objectives of the audit are to examine the accuracy of the roll and the effectiveness of the AEC's management of the roll and the methods by which it ensures its accuracy.

Opposition Committee members are concerned that Recommendations 13 & 14 are pre-emptory, particularly if the ANAO reports that data-matching may not be the most efficient or effective way to check the accuracy of the roll.

The Committee has not been provided with any information from the ANAO as to what data it will match with the roll to ascertain the accuracy of the roll.

However, we know that the Tax Office itself prefers the electoral roll to its own database of names and addresses (as was shown when the ATO wanted to use the roll for its unlawful mail-out of the Prime Minister's letter promoting the GST).

The Opposition believes that the Committee should wait for the ANAO's report on the most effective and efficient methods of auditing the accuracy of the roll (including the feasibility of conducting data-matching for that purpose) before recommending a course of action.

Government Recommendation 18

That the Commonwealth Electoral Act 1918 be amended to ensure that the principle of one vote, one value for internal party ballots be a prerequisite for the registration of political parties.

Opposition Committee members do not support this Recommendation.

No analysis of the impact of “one vote, one value” on the internal operation of political parties has been undertaken. Without any consideration of the wide range of methods that registered political parties use for internal ballots and how such a decision might affect them, it is ludicrous for the Committee to propose this Recommendation.

Many registered political parties have collegiate voting structures and it is absurd to apply the principle of “one vote, one value” in these circumstances. For example, the Australian Democrats’ internal ballot for its National Executive is not conducted on the basis of “one vote, one value”. Most of the members of that Executive are *ex officio* and provision is made for the balance of the Executive to be chosen by the Divisions. Each of their Divisions has two representatives and under their Constitution it would not matter if Division A had 25 members and Division B had 100 members, they both would get two representatives on the Executive. While both Divisions would get the same number of representatives on the National Executive, it is clear that a member’s vote in Division A has four times the weight of a member in Division B. While this is not “one vote, one value”, it does represent an attempt by the Democrats to balance other democratic principles, such as representation for minorities or smaller States.

As the Chairman of this Committee would be aware, similar issues would arise in most State Divisions of the Liberal Party, where there is a range of different models for conducting internal party ballots. The Liberal Party most commonly pre-selects candidates using a combination of rank and file voting, panel voting and Branch executive voting.

This Recommendation is mindless and represents a new low-point for JSCEM. Perhaps a research paper can be commissioned from the Parliamentary Library or the AEC, where all the issues and the impact on all the parties can be properly surveyed.

Mr Laurie Ferguson MP (Deputy Chair)

Senator the Hon John Faulkner

Mr Robert McClelland MP

Cutting both ways

The Federal Government is finding that investigating electoral roting can be a doubled-edged sword. Despite internal dissension in the Joint Standing Committee on Electoral Matters which he chairs, the ambitious South Australian MP Mr Christopher Pyne has chosen to pursue its inquiry into electoral roting at the height of the Queensland election campaign. That election follows resignations in the Beattie Government forced by revelations in the Queensland Criminal Justice Commission inquiry into electoral roting. Mr Pyne's decision to continue hearings during the Queensland election campaign has prompted the Premier, Mr Beattie, to call the committee a "political witch-hunt" and demand that the Prime Minister, Mr Howard, rein in his man. Now the Federal Government is facing an apparent electoral roting scandal of its own.

One of the Federal Government's rising stars, Mr Mal Brough, has been forced to turn down a ministry position and resign as a parliamentary secretary over claims that three of his former staffers were compromised by their involvement in false electoral enrolments in his marginal seat of Longman. It makes little difference whether Mr Brough decided to fall on his sword or if he was pushed on to it by Mr Howard. Either way, the move makes good political sense. It lessens the exposure of the Queensland Coalition to attack by Labor. While maintaining that Labor's extensively exposed roting is worse, the State's Opposition Leader, Mr Borbidge, has conceded the Brough allegations are damaging his campaign.

The ALP has been digging vigorously for the past two months trying to find some vote-rigging skeleton in the Coalition cupboard. Labor's aim has been to counter the revelations, politically damaging to the Federal Opposition and the Beattie Government, that were coming out of the CJC inquiry. Three State Labor MPs have resigned, causing Mr Beattie to lose his majority in Parliament. In addition, the Federal Opposition frontbencher Mr Wayne Swan has stepped aside after Australian Federal Police began to investigate an alleged \$1,400 contribution he made to the Australian Democrats in 1996. Labor wanted to show roting is not party-specific but firmly bipartisan. The decision by one of Mr Brough's former staffers, Ms Andrea Chitakis, to admit falsely enrolling in Longman therefore was pure manna from heaven for Labor.

Ms Chitakis, who left Mr Brough's office last February, said she decided to come clean after evidence of false voter enrolments emerged at the CJC. She went to the Australian Electoral Commission in Longman in December. After a preliminary investigation, the matter is now with the Federal Police. Ms Chitakis said that in August 1998 she had falsely enrolled in Longman, the seat Mr Brough won in that year by less than 1 per cent. Subsequent AEC investigations showed that another Brough staffer, Ms Helen Pearce, and her partner, Mr Bradley Bell, had both also falsely enrolled at the same Longman address, a flat in the Brisbane suburb of Morayfield that was the home of a third staffer, Ms Lisa Lawlor. Mr Brough confronted Ms Pearce about this on Monday after he learnt the matter would become public. She resigned immediately. Mr Brough said neither Ms Pearce nor Ms Lawlor had told him about the false enrolments and he rejected Ms Chitakis's claim that she had informed him of her actions while she worked for him. With differing versions surfacing, the manner in which the allegations of electoral roting by Brough staffers have been unveiled raises questions about just who will benefit from the scandal.

The Coalition will be hoping that the investigation will clear Mr Brough, that his reputation and career – and his position in the Howard Cabinet – will be restored, and that the Coalition will be able to reclaim the high ground in the electoral rots squabble. It may not be that simple. The Federal Government has frequently expressed concern at electoral roting. But its decision to replace Mr Garry Nairn with Mr Pyne to chair the Standing Committee on Electoral Matters was partly in recognition of his acute political sense. Even if the Federal Police clear Mr Brough, the committee will be bound, in fairness, to continue its investigations, wherever they may lead.

Howard's way on rorts politically risky

EVERY vote counts — and no one knows that better than an ambitious politician and his loyal staffers in a marginal federal seat. But realistically, how many votes does it take to affect a result? Even in the Tasmanian seat of Bass — Australia's most marginal seat — Michelle O'Byrne elbowed in by 78 votes in the 1998 election. That makes allegations that an employee of Liberal MP Mal Brough and the partner of another of his staffers wrongly enrolled in his electorate in order to vote for him all the more incredible. If proven, this would be one of the most amazing acts of political farce ever seen in Australia. But no matter how ludicrous it appears, it should be dealt with seriously to deter others from doing the same. Rorting is not a problem confined to any one party and cannot be allowed to tarnish the integrity of the electoral system.

Mr Brough was correct to defer his appointment as employment services minister until federal police conclude their investigations. He claims he knew nothing about his staffer's alleged actions and has said he is standing aside for the good of the party — superb survival instincts for a budding minister in his late 30s with the prospect of an illustrious political career ahead of him. It's good politics too for a prime minister in

a multiple-election year who doesn't want his criticism of Labor's handling of its own rorts flying back in his face.

But unfortunately for John Howard, the matter does not end there. We beg to be shown the difference between a politician with a staffer wrongly enrolled in his electorate — Mr Brough's case — and a politician with a staffer falsely listed on the electoral roll as living at her home — as in the case of Sports Minister Jackie Kelly. Ms Kelly denied involvement in any rorting, even though she admitted one of her employees was enrolled at her address. She is still in the ministry, Mr Brough is not. Yet both cases involve potential breaches of electoral law.

While visiting the NSW south coast town of Bega yesterday, Mr Howard said the Liberal Party would not tolerate "any kind of illegal behaviour, full stop". But to make good that commitment he can't be seen to be raising and lowering the bar when it suits him. The Peter Reith telecard affair and the Kelly case show that Mr Howard has yet to come up with a consistent yardstick to determine whether a minister or MP measures up or not. With the ALP rorts scandal flowing like water off Peter Beattie's back ahead of the Queensland election, Mr Howard must get serious about keeping his house in order.

Pyne vulnerable to charge of hypocrisy

THE decision of the chair of the Joint Standing Committee on Electoral Matters, South Australian Liberal MP Christopher Pyne, to pursue its inquiry into electoral rorting at the height of the Queensland election campaign predictably was attacked by Peter Beattie as "political witch-hunting". It was an unsurprising reaction from the Premier given that the committee appeared to be ploughing the same field comprehensively turned over by the Shepherdson inquiry. Nonetheless, Mr Pyne was able to claim the high moral ground, countering that the dates of hearings in Queensland had been set long before the state election was called and that his solitary intent was to investigate rorting wherever it might be found.

Mr Pyne's high-sounding words, however, have come to take on a distinctly hollow if not hypocritical ring following his refusal to call fellow Liberal MP Mal Brough before the joint committee in the wake of the confessions by his former electoral staff that they were involved in vote-rigging. Having seemingly not been satisfied with the extent of the Shepherdson's investigation of rorting in the Labor Party, Mr Pyne seems content to sit back and not involve the joint committee in a case of Liberal

rorting, allowing the police and the Australian Electoral Commission to do all the running on the Brough matter. "I'm sure that he'll be entirely exonerated by that investigation and hopefully take his rightful place on the front bench," Mr Pyne announced this week. At this moment, however, it is premature to say Mr Brough's place in the Ministry is "rightful". To claim, as Mr Pyne did, that Mr Brough would not be called to give evidence because he was innocent of any wrongdoing is not only absurd but prejudicial.

Indeed, for the sake of Queensland, which otherwise will have only three representatives on the federal front bench, it is to be hoped Mr Brough is cleared to take up the Employment Services portfolio. In the meantime, however, there is still the matter of the discrepancy between Mr Brough's recollection of what and when he was told of one false enrolment and the account of one of his staffers. This area of investigation would seem to fit comfortably inside the wide parameters Mr Pyne set for his committee when it was only the Labor Party under the microscope. The ambitious South Australian might just now be realising that in standing on the high ground, he has made a conspicuous target of himself.



Electoral rorts and winning votes

Policies, not point-scoring, will determine the outcome of the federal election.

FEDERAL Government backbencher Christopher Pyne did himself few favors on Wednesday when he declared fellow Liberal MP Mal Brough "entirely innocent" in a controversy involving false electoral enrolments. The Australian Federal Police and the Australian Electoral Commission are investigating the Brough affair, which involves former members of Mr Brough's staff allegedly enrolling in his Queensland seat of Longman when they lived outside the electorate. Every vote counted in Longman, which Mr Brough held with a margin of less than one percentage point at the 1998 election. Mr Brough insists that he knew nothing of these enrolments, but the disclosures early this week were enough to cause him to stand aside shortly before he was to be sworn in as a minister. If Mr Pyne were simply another Coalition MP, his comments could have been interpreted as a predictable show of political support for a colleague. But Mr Pyne is not just another MP — he is chairman of a parliamentary committee that has been examining the electoral rorts that have been endemic to the Queensland branch of the ALP. His knee-jerk rejection of the need to call Mr Brough as a witness diminished the committee's status and only encouraged suspicions that Mr Pyne is involved in a political exercise to exploit the failings of the ALP. Ultimately that sort of behavior will backfire. Voters are not fools and they react badly when politicians treat them as if they are. The Labor Party in at least one state has been seriously compromised by the widespread practice of rorting. But there is also a question mark over the conduct of people with links to some Liberal MPs. Government attempts to explain this away can only lead electors to conclude that there are rorting problems on both sides of politics.

While it is essential that these matters are cleaned up and everyone involved be brought to account, they appear to be of less consequence to voters than some might have expected. By any measure, the Labor government headed by Peter Beattie in Queensland should be in cinders now. But it appears to have a chance of holding on to office at the February 17 election. That is because Queenslanders know that government is about service delivery and the economy above all else. Voters will take the same approach at the federal election later this year. The extent of the economic slowdown, the effects of tax changes on basic goods and the competing plans for the future put forward by the Coalition and Labor will be the key issues weighed up by voters when making their choice. Just how honest in their dealings the respective party organisations and individual MPs have been will rightly have some influence but it should not be overstated. Politicians from either side who try to be too clever, or slippery, are hurting — not helping — their chances.

The Courier-Mail

Tuesday, March 6, 2001

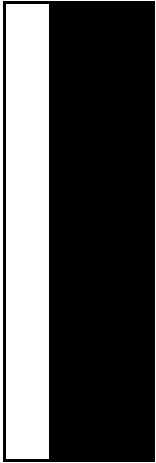
Rorting remains an issue

THE fact real and alleged electoral rorting made little difference to the outcome of the Queensland election should not dissuade Premier Peter Beattie from persevering with his campaign to clean up the Labor Party's organisational wing, and to ensure MPs and others associated with the Labor Government are free from the taint of electoral misbehaviour. It seems he may have a fight on his hands. Already the factions, particularly the predominant AWU faction, are demanding their share of the spoils of government and seem intent on scuttling the pre-election deal demanded by Mr Beattie as part of his campaign to get rid of people who have broken the electoral laws and to establish outside, independent scrutiny through the Electoral Commission to require all recognised political parties have truly democratic procedures.

There are, unfortunately, some ominous signs. There are moves to have the ALP abandon the June conference at which it was going to adopt the proposals drawn up by two federal officials imported by Mr Beattie to reform the party's preselection and disputes settling systems. Appointments are occurring in ministerial offices that demonstrate family and factional alliances are still influential. And the making of scapegoats of those who paraded before the CJC inquiry into electoral malpractices is being directed at a few individuals (for example, Mike Kaiser) rather than all those whose behaviour was shown to have been questionable (even though the elapse of time prevented some from being prosecuted).

While the machinations of the AWU faction activists and their non-observance or positive breaches of federal electoral laws seemed to have changed few if any votes in the state election, what did have an impact was the stance taken by Mr Beattie and his promises to drive out the rorters and reform the system. What is now at stake is Mr Beattie's reputation. During the election campaign he was able to escape the accusations of his political opponents that he must have known what was happening when the law was being broken. The position now, however, is he has made promises about cleaning up the Labor Party and the preselection system in all parties. He must deliver, or his political standing will suffer.

He should be prepared to act as soon as former judge Tom Shepherdson delivers his report to the CJC on his inquiry into electoral rorts. That is well and truly due. Meanwhile, it seems the federal Coalition's interest in electoral rorts has evaporated. Months ago the Parliamentary committee on electoral affairs was re-invigorated by the Prime Minister and given a new chairman, Liberal MP Christopher Pyne, to conduct public inquiries into allegations against ALP MPs named at the Shepherdson inquiry or by witnesses at that inquiry. But now the Federal Police are investigating, for the second time, allegations against a Liberal Minister, Jackie Kelly. Mr Pyne has used his casting vote to shut down the inquiry. This cynical misuse of a parliamentary inquiry can only backfire. Politicians have to learn to be upfront and honest.



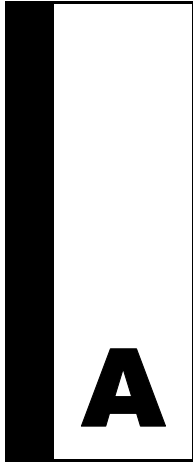
Supplementary remarks—

Senator Andrew Bartlett and Senator Andrew Murray
(Australian Democrats)

The Australian Democrats do have a larger agenda on matters of electoral law and practice. We have expressed these most recently and formally in the reports into the 1996 and 1998 federal elections, and in other remarks on the record. I do not intend to repeat these here and refer readers to those other reports.

Senator Andrew Bartlett

Senator Andrew Murray



Appendix A – List of submissions

| Submission No. | Individual/Organisation |
|-----------------------|--|
| 1 | Mr Frank Carroll |
| 2 | Confidential |
| 3 | Australian Bureau of Criminal Intelligence |
| 4 | Mr Ralph Clarke MP Member for Ross Smith, SA |
| 5 | Mr Allan Viney Convenor Scrutineers for Honest Elections |
| 6 | Mr Les Scott |
| 7 | Mrs Margaret Scott |
| 8 | Mr Fernando Blander |
| 9 | Ms Nola Frawley |
| 10 | Mr Peter Wilkinson |
| 11 | Mr Paul Johnstone |
| 12 | Confidential |
| 13 | Ms Emma Brooks Maher |
| 14 | Mrs Cherie Reimer |
| 15 | Australian Bankers' Association |
| 16 | Dr Lynley Faith Hewett |

| Submission No. | Individual/Organisation |
|-----------------------|--|
| 17 | Mr Allan Viney Convenor Scrutineers for Honest Elections (Supplementary Submission) |
| 18 | Mr Bruce Kirkpatrick |
| 19 | Professor Colin Hughes |
| 20 | Ms De-Anne Kelly MP Federal Member for Dawson |
| 21 | Cr Caroline Stott |
| 22 | Liberal Party of Australia Federal Secretariat |
| 23 | Australian Labor Party National Secretariat |
| 24 | Mr Peter Brun |
| 25 | Dr Amy McGrath OAM Convenor and Researcher H S Chapman Society Inc. |
| 26 | Australian Electoral Commission |
| 27 | Mr Gary Lucas |
| 28 | Attorney-General's Department |
| 29 | Mr Steve Tully Electoral Commissioner State Electoral Office of South Australia |
| 30 | Hon Don Harwin MLC Member of the Legislative Council, NSW |
| 31 | Dr Brian Hughes |
| 32 | Public Trustee South Australia |
| 33 | Mr Ralph Clarke MP Member for Ross Smith, SA (Supplementary Submission) |
| 34 | Mr Matthew Ridgeway |

| Submission No. | Individual/Organisation |
|-----------------------|---|
| 35 | Mr Mark Lamerton |
| 36 | Mr Graham Smith |
| 37 | Department of Family and Community Services |
| 38 | Mr Jim Lloyd MP Federal Member for Robertson |
| 39 | Dr Amy McGrath OAM Convenor and Researcher H S Chapman Society Inc. (Supplementary Submission) |
| 40 | Mr Jim Lloyd MP Federal Member for Robertson (Supplementary Submission) |
| 41 | Liberal Party of Australia Federal Secretariat (Supplementary Submission) |
| 42 | Federal Privacy Commissioner |
| 43 | Mr Peter Snowdon |
| 44 | Mr Robin Spratt |
| 45 | Mr Geoffrey Moss The Enterprise Council |
| 46 | Mr Rodney Gamon |
| 47 | Mr Robert Patching |
| 48 | Mr Mark Lamerton (Supplementary Submission) |
| 49 | Professor Colin Hughes (Supplementary Submission) |
| 50 | Mr Les Scott (Supplementary Submission) |
| 51 | Ms Karen Ehrmann |
| 52 | Mr Peter Lindsay MP Federal Member for Herbert |
| 53 | Mr Steve Simat |

| Submission No. | Individual/Organisation |
|-----------------------|---|
| 54 | Mr Nicholas Berman |
| 55 | Ms Emma Brooks Maher (Supplementary Submission) |
| 56 | Proportional Representation Society of Australia |
| 57 | Mr Greg Byrne |
| 58 | Benevolent Society |
| 59 | Mr Michael Doyle |
| 60 | Dr Amy McGrath OAM Convenor and Researcher H S Chapman Society Inc. (Supplementary Submission) |
| 61 | Dr Amy McGrath OAM Convenor and Researcher H S Chapman Society Inc. (Supplementary Submission) |
| 62 | Hon Tom Stephens MLC Member for Mining and Pastoral Region, WA |
| 63 | Victorian Adoption Network for Information and Self Help |
| 64 | Mr Harold Franks |
| 65 | Rite Recovery Service |
| 66 | Australian Electoral Commission (Supplementary Submission) |
| 67 | Mr Cameron Thompson MP Federal Member for Blair |
| 68 | Ms Chris Gallus MP Federal Member for Hindmarsh |
| 69 | Mr Alan Skyring |
| 70 | Mr Ron Johnson |
| 71 | The Salvation Army, South Australia Division |
| 72 | Mr Roy Clark |
| 73 | Australian Electoral Commission (Supplementary Submission) |

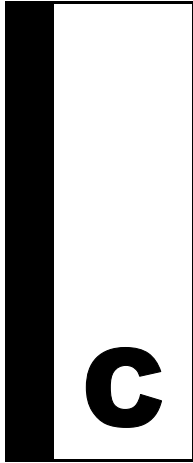
| Submission No. | Individual/Organisation |
|-----------------------|--|
| 74 | Australian Electoral Commission (Supplementary Submission) |
| 75 | Hon John Olsen MP Premier of South Australia |
| 76 | Australian Electoral Commission (Supplementary Submission) |
| 77 | Mr Neil Weedon |
| 78 | Mr Bob Horne MP Federal Member for Paterson |
| 79 | Sacred Heart College Foundation Inc. |
| 80 | Mr Tony Mooney Mayor of the City of Townsville |
| 81 | Australian Electoral Commission (Supplementary Submission) |
| 82 | Mr Francis Freemantle |
| 83 | Mr Cameron Thompson MP Federal Member for Blair (Supplementary Submission) |
| 84 | Confidential |
| 85 | Australian Federal Police |
| 86 | Australian Electoral Commission (Supplementary Submission) |
| 87 | Society of Australian Genealogists |



Appendix B – List of exhibits

| Exhibit Number | Description |
|----------------|--|
| 1 | Australian Electoral Commission. July 1998. <i>Electoral backgrounder No. 9- Multiple voting</i> . 6p. Provided by the Australian Electoral Commissioner, Mr Andrew Kingsley Becker. |
| 2 | Australian Electoral Commission. Undated. <i>Costings for upgrades to the enrolment process</i> . 1p. Provided by the Australian Electoral Commissioner, Mr Andrew Kingsley Becker. |
| 3 | Queensland National – Liberal Coalition. Undated. <i>Restoring honesty to Government (A fresh start for Queensland)</i> . 8p. Provided by Dr David Watson MLA, Parliamentary Leader of the Queensland Liberal Party. |
| 4 | Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee. November 2000. <i>The prevention of electoral fraud: Interim report. Report No 28</i> . 8p. Provided by Dr David Watson MLA, Parliamentary Leader of the Queensland Liberal Party. |
| 5 | Letter from Mr Leslie James Scott addressed to Mr Tom Shepherdson QC dated 12 December 2000. 3p and attachments. Provided by Mr Leslie James Scott. |
| 6 | Letter from Mr Leslie James Scott addressed to the Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee, dated 25 October 2000. 5p. Provided by Mr Leslie James Scott. |
| 7 | <i>Hinkler linked to vote rigging</i> . News-mail, 6 November 2000, 1p. Provided by Mr Brian Courtice. |

| Exhibit Number | Description |
|----------------|--|
| 8 | Australian Labor Party Returning Officer – Herbert. July 1994. <i>Plebiscite – Delegates for 1994 State Conference</i> . 5p. Provided by Mr Christopher Pyne MP. |
| 9 | Hellaby, David. Smith’s threat throws Labor into disarray. <i>Sunday Mail</i> , 8 December 1996. 1p. Provided by Mr Christopher Pyne MP. |
| 10 | Transcript of Radio 4QN Townsville Radio News on 4 December 1996. 8p. Provided by Mr Christopher Pyne MP. |
| 11 | Correspondence from Mr Christopher Pyne MP to Senator the Hon John Faulkner dated 25 January 2001. 2p and attachments. Provided by Mr Christopher Pyne MP. |
| 12 | <i>Mooney, Tony. Submission on behalf of Anthony John Mooney to the Criminal Justice Commission</i> . January 2001. 12p. Provided by Mr Anthony Mooney. |
| 13 | Senator Stephen Conroy. <i>Media Statement</i> . 30 January 2001. 1p. Provided by Mr Christopher Pyne MP. |



Appendix C – List of hearings and witnesses

Public hearings

Wednesday, 15 November 2000 - Canberra

Australian Electoral Commission

Mr Andrew Kingsley Becker, Australian Electoral Commissioner

Mr Steve Brown, DRO for Herbert

Mr Mark Ernest Cunliffe, Acting Deputy Electoral Commissioner

Mr Paul Dacey, Assistant Commissioner, Elections and Enrolment

Mr Robert Lance Longland, Australian Electoral Officer for Queensland

Ms Bronwyn Madden, DRO for Hinkler

Dr David Muffet, Australian Electoral Officer for Victoria

Mr Greg Shields, Divisional Clerk for Fisher

Tuesday, 5 December 2000 – Canberra

Mr Mark Lamerton, Divisional Returning Officer for McPherson

Mr Robert Edwin Patching, Divisional Returning Officer for Rankin

Mr Graham Francis Smith, Divisional Returning Officer for Forde

Thursday, 14 December 2000 – Brisbane

Ms Karen Lynn Ehrmann

Professor Colin Anfield Hughes

Mrs Margaret Anne Scott and Mr Leslie James Scott

Monday, 29 January 2001 – Townsville

Mr Brian William Courtice

Mr Terry Noel Gillman

Mr Peter John Lindsay MP, Member for Hinkler and Mr Bruce Herbert Bellette

Cr Anthony John Mooney, Mayor of the City of Townsville

Tuesday, 30 January 2001 – Sydney

Mr Nicholas Berman and Mr Steve Simat

Mr Lee Michael Bermingham

Friday, 2 March 2001 – Canberra

Attorney-General's Department

Mr Karl John Alderson, Principle Legal Officer, Criminal Law Branch

Mr Ian Gregory Carnell, General Manager, Criminal Justice and Security

Mr Anton Maurice Schneider, Senior Adviser, Fraud Policy and
Coordination Unit, Law Enforcement Branch

Australian Federal Police

Federal Agent John Adrian Lawler, General Manager, Eastern Operations

Federal Agent Gordon James Williamson, Director, Technical Operations

Dr Amy McGrath OAM, Convenor and Researcher, H S Chapman Society Inc.

Tuesday, 27 March 2001 – Canberra**Liberal Party of Australia**

Mr John Burston, Deputy Federal Director

Mr Lynton Keith Crosby, Federal Director

Mr Bruce Allen Edwards, Manager, Parliamentary and Policy

Tuesday, 3 April 2001 – Canberra**Australian Electoral Commission**

Mr Andrew Kingsley Becker, Electoral Commissioner, Chief Executive Officer

Mr Mark Ernest Cunliffe, First Assistant Commissioner, Finance and Support Services

Mr Paul Dacey, Assistant Commissioner, Elections and Enrolment

Mr Robert Lance Longland, Australian Electoral Officer for Queensland

Mr Timothy Pickering, Assistant Commissioner, Information Technology

Private briefing**Tuesday, 3 October 2000 - Canberra****Australian Electoral Commission**

Mr Mark Ernest Cunliffe, Acting Electoral Commissioner

Mr Paul Dacey, Acting Deputy Electoral Commissioner

Mr Robert Lance Longland, Australian Electoral Officer for Queensland