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Answer to Question on Notice

Submission No 007a

from the

**House of Representatives Standing Committee on Legal and Constitutional Affairs
Inquiry into the Machinery of Referendums**

by

Dr David Phillips, National President, FamilyVoice Australia

16 November 2009

I undertook to provide an answer on notice to the question "If no member of either house of the federal parliament votes against a bill for a referendum what provision, if any, should there be for the preparation of an official NO case?"

The Constitution of Australia deals in a significant way with the relationship between the Commonwealth and the States. Many proposals for changes to the Constitution are likely to have an impact, direct or indirect, on the governance of the States. It would seem fitting then to allow for the possibility that, even in the absence of a single member of either house of the federal parliament voting against a bill for a referendum, there could be significant opposition to the referendum proposal from some State members of parliament.

A practical formula could be to add to section 11 of Referendum (Machinery Provisions) Act 1984 as new subsection 2A the following:

(2A) Where:

- (a) no member of either house of the federal parliament voted against a proposed law for the alteration of the constitution; and
- (b) a motion opposing the proposed law has been passed by a simple majority by one or more houses of one or more State parliaments;

then a majority of all those members of those houses of parliament who voted against the proposed law and desire to forward an argument against the proposed law may forward to the Electoral Commissioner an argument authorised by them against the proposed law, consisting of not more than 2,000 words; and

- (c) the Electoral Commissioner shall treat such an argument as if it were an argument forwarded to the Commissioner under Section 11 (2) (ii) of this Act.