



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 ports 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.

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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.