

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.