5

Other issues

Funding and disclosure

Funding entitlements

5.1 Part XX of the *Commonwealth Electoral Act 1918* (Electoral Act) provides for public funding of election campaigns to be made available to candidates and political parties who receive at least four per cent of the formal first preference vote. This funding ensures candidates are not disadvantaged in their appeal to electors or unduly influenced in their subsequent actions by lack of access to adequate funding.

5.2 Mr and Mrs Whitton, Mr Arthur Tuck and Mr Goldstiver call for the elimination of public funding to political parties for election campaigns.[1] G W Spence and Mr Lockett suggest a restriction be placed on the amount that can be spent on election campaigns to reduce the amount of public funding necessary.[2]

5.3 The public funding entitlements for the 1998 federal election, including the Newcastle supplementary election, totalled $33,920,787.43. The funding rate was 162.210 cents per vote[3] and this has been paid to party agents and independent candidates as shown in Table 5.1.

1 Submissions pp S592 (H&M.Whitton), S667 (M.Goldstiver) and S1844 (A.Tuck)

2 Submissions pp S214 (GW.Spence) and S632-S633 (E.Lockett)

3 Australian Electoral Commission. 1999. *Electoral Pocket Book,* Canberra, AEC, p 57.

Table 5.1 1998 election funding payments

Payee	Amount - $
Australian Labor Party	13,959,511.97
Liberal Party of Australia	11,488,881.15
National Party of Australia	2,321,589.02
Northern Territory Country Liberal Party	116,916.10
Australian Democrats	2,247,677.46
Australian Greens	147,867.39
The Greens (WA)	172,137.25
Pauline Hanson's One Nation	3,044,525.97
Australia First Party	25,280.43
Australian Shooters Party	8,554.96
Tasmanian Independent Senator Brian Harradine Group	39,342.41
Christian Democratic Party (Fred Nile Group)	5,339.95
Progressive Labour Party	5,054.46
Unity – Say No to Hanson	48,692.20
Peter Andren (Calare, NSW)	47,887.64
Anthony Beck (Barker, SA)	6,464.07
Barry Cunningham (McMillan, VIC)	6,163.98
Robert Ellis (Mackellar, NSW)	7,670.91
Paul Filing (Moore, WA)	23,908.13
Philip Nitschke (Menzies, VIC)	11,100.03
Graham Nuttall (New England, NSW)	10,060.26
Allan Rocher (Curtin, WA)	22,587.74
Margaret Smith (Oxley, QLD)	4,952.27
Anthony Smith (Dickson, QLD)	10,697.75
Douglas Treasure (Gippsland, VIC)	6,611.68
Robert Wilson (Parkes, NSW)	14,042.52
Paul Zammit (Lowe, NSW)	18,978.57
Subtotal	**33,822,496.27**
Newcastle Supplementary Election Funding Payments	
Australian Labor Party	51,000.45
Australian Democrats	9,095.11
Australian Greens	9,675.83
Pauline Hanson's One Nation	16,976.90
Ivan Welsh	7,134.00
Harry Criticos	4,408.87
Subtotal	**98,291.16**
TOTAL	**33,920,787.43**

Source *AEC Submission, p S537*

5.4 Up until, and including, the 1993 election, election funding operated as a strict reimbursement of campaign expenses with the Australian Electoral Commission (AEC) examining the original documentation evidencing campaign expenditure incurred by candidates and political parties. Payment would be the amount of proven expenditure or the full funding entitlement, whichever was the smaller.

5.5 The funding scheme was amended after the 1993 election to the present system of automatic entitlement. Under s299 of the Electoral Act, the full funding entitlement is now paid automatically after the voting has been finalised, generally within five weeks after the close of polls. Registered political parties are now required to provide the AEC with evidence of election expenditure at the time of submitting their annual return.

5.6 There have been a number of calls, by the Australian Labor Party (ALP) in particular, for a reintroduction of the original reimbursement system for election funding.[4] This has arisen because there is a growing concern that as funding payments are no longer linked to disclosure returns there is the potential for parties and individuals to make a profit out of the election.[5] Wallace Brown, national affairs commentator for the *Courier Mail*, voiced these concerns on 5 February 1999:

> In the case of public funding, it is obvious that some parties and people are making money out of the system. They received $1.62 for each first preference vote they got in the 1998 election and yet did not have to prove the money had been spent during the campaign. Thus the One Nation party spent about $1.3 million on its campaign but received $3 million in public funding.[6]

5.7 The ALP believes that all political parties or candidates should be required to certify election expenditure within one week after the declaration of the polls and such certification is to be checked and audited by the AEC prior to payment being made.[7] As the ALP said in evidence such a system would:

> … provide for the taxpayer of Australia certainty that their money which they provide for us to run election campaigns is properly expended and profiteering of the sort that took place in the federal

4 Submissions pp S104 (B.Cox), S783 (ALP) and S1332 (ALP Adamstown Branch)

5 Submissions pp S783 (ALP), S1310 (T.Abbott MP, Member for Warringah), S1332 (ALP Adamstown Branch) and S1336 (T.Briggs)

6 W.Brown, 'Party funding and other touchy political issues', *Courier Mail*, 5 February 1999, p 17.

7 Submissions p S783 (ALP)

> election, to the advantage of the One Nation Party … cannot happen again.[8]

5.8 In response to this, the AEC points out that the reimbursement scheme is not a guarantee that profits could not be made on election funding. Profits can be achieved by various means, all of which involve claiming expenses that would not otherwise have been incurred. For example:

> …Contracts could be entered into which evidenced election related expenditure as having been incurred, but did not have to be paid on. Such contracts could be for services which would otherwise be provided on a volunteer basis.[9]

5.9 The Committee believes that it would be a rare occurrence indeed if returning to a funding system based on reimbursement of campaign expenses resulted in payments being anything less than the full entitlements. Therefore, as the AEC has made clear, such a move would realise little if any savings but would simply reimpose another layer of administration and cost and also delay the payment of funding entitlements compared to the present system.

Disclosure

5.10 Part XX of the Electoral Act also provides for financial disclosure by candidates, registered political parties, associated entities and donors. These disclosure provisions have been in operation since the 1984 election to ensure the transparency and integrity of our political system. Such transparency helps maintain public confidence and is a barrier to corruption of our political processes.

5.11 Registered political parties must submit an annual return disclosing details of amounts received and expenditure incurred during the financial year and all debts outstanding as at 30 June. The returns from associated entities, which are organisations controlled by, or operated wholly or to a significant extent for the benefit of, one or more registered political parties, must also disclose details of receipts, payments and debts along with capital deposits. Donors to a registered party must provide an annual return detailing each donation if the donations to that party total $1,500 or more for the financial year. Annual disclosure returns are made available for public inspection from 1 February in the following year.

5.12 In addition, following an election, key participants in the electoral process are required to lodge with the AEC various returns disclosing election campaign transactions. Candidates, Senate groups and third parties are

8 Transcript p 23 (ALP)

9 Submissions p S425 (AEC)

required to disclose details of donations and electoral expenditure within 15 weeks after polling day while broadcasters and publishers are to disclose details of electoral advertising within eight weeks after polling day. Election disclosure returns are made available for public inspection 24 weeks after polling day.

Streamlining disclosure

5.13 The *Electoral and Referendum Amendment Act 1998* of 17 July 1998 amended the Electoral Act and the *Referendum (Machinery Provisions) Act 1984* to no longer require registered political parties to lodge returns of electoral expenditure, and abolish the requirement to disclose the detail of expenditure in annual returns by political parties and associated entities. It also allowed for registered political parties to lodge their audited accounts in place of the annual return, subject to (a) the accounts containing a level of detail consistent with Part XX of the Electoral Act, and (b) the format of the accounts being approved by the AEC.

5.14 The *Electoral and Referendum Amendment Act (No.1) 1999* of 13 October 1999 amending the Electoral Act and the *Referendum (Machinery Provisions) Act 1984* has further simplified and streamlined disclosure requirements by increasing the minimum disclosure threshold for counting individual amounts received by donors to political parties from $500 to $1,500.

5.15 The Committee acknowledges both the difficulty and necessity of finding a middle ground between imposing an onerous administrative burden on political parties and ensuring that electoral financing is open and transparent.

Minimum disclosure

5.16 Section 314AC of the Electoral Act provides that political parties must disclose a sum of $1,500 or more received from any one person or organisation during a financial year. To ease administrative burden, the *Electoral and Referendum Amendment Act (No.1) 1999* has increased the threshold for counting individual amounts received from $500 to $1,500. This means that individual amounts of less than $1,500 need not be counted when calculating whether the $1,500 sum has been reached.

5.17 The Liberal Party proposes an increase in the minimum amount of receipts requiring disclosure to $10,000 arguing that as the budgets of political parties are in the millions, such an amount would represent a more realistic and contemporary threshold for disclosure of donations.[10]

10 Submissions p S775 (Liberal Party)

5.18 The AEC points out in response that the proposed lifting of the disclosure threshold has the potential to allow substantial donations to political parties to go undisclosed. For example, under the Liberal Party proposal, a party that has separate state branches could receive close to $90,000 per annum from a single donor without the donation being disclosed. For this reason, the AEC does not support raising the disclosure threshold for receipts to $10,000.[11]

5.19 The Committee notes that the proposed amendment to increase the disclosable sum received from a person or organisation during a financial year from $1,500 to $5,000 was removed during the passage of the *Electoral and Referendum Amendment Act (No.1) 1999.* As the minimum disclosure threshold for counting individual amounts received by donors to political parties has recently been increased from $500 to $1,500, the Committee believes it is appropriate to also increase the disclosable sum received from a person or organisation during a financial year from $1,500 to $3,000. The majority of the Committee also believes it is illogical for the minimum disclosable sum of donations to be the same as the minimum for individual amounts received, therefore the disclosable sum of donations should be doubled.

Recommendation 44

5.20 **That the disclosable sum received from a person or organisation during a financial year be increased from $1,500 to $3,000.**

Disclosure by donors

5.21 The Liberal Party believes the requirement for a donor to lodge returns is unnecessary as it merely duplicates the disclosure already made by a political party.[12]

5.22 The AEC points out that removing the requirement for a donor to lodge a disclosure return would effectively introduce a loophole which this requirement is intended to prevent.

> … Parties are currently not required to aggregate transactions of less than $500 when determining whether an individual has reached the $1,500 threshold (at which point the details of that person must be disclosed). Without a separate donor return it would be open to a donor to donate any amount to a party

11 Submissions pp S1186-S1187 (AEC)

12 Submissions p S775 (Liberal Party)

> without it being disclosed as long as that donation was made in lots of less than $500.[13]

5.23 The Committee believes that disclosures by donors to political parties must be retained to preserve the integrity of the current disclosure system, particularly given the existence of a threshold, below which amounts received by political parties do not have to be aggregated for disclosure purposes. The Committee notes that the *Electoral and Referendum Amendment Act (No.1) 1999* has recently increased this threshold to $1,500.

5.24 The Committee recommends, however, that the minimum donation before a donor is required to lodge a return be increased from $1,500 to $3,000. The Committee notes that an amendment to increase the minimum donation required for a return from a donor to $10,000 was recently removed during the passage of the *Electoral and Referendum Amendment Act (No.1) 1999,* but believes that $3,000 as a minimum donation is a more reasonable figure to require a donor to lodge a return. This proposal would have the advantage of minimising duplication and easing the burden on smaller donors, while still ensuring the disclosure of all donations above $1,500 through party disclosure returns.

Recommendation 45

5.25 **That the minimum donation before a donor is required to lodge a return be increased from $1,500 to $3,000.**

5.26 The Liberal Party has also made the suggestion that if the requirement for donors to make a disclosure return is retained then the time frame for reporting the donation should be equal to that applying for the lodgement by registered political parties of their annual financial returns – 20 weeks after the end of the financial year.[14] The AEC points out in response that in fact, donors already have 20 weeks in which to lodge their returns, whereas political parties currently have 16 weeks.[15] This extra four weeks allows the AEC to advise any donors who have been identified from party returns of the need to lodge a return.

13 Submissions p S1187 (AEC)
14 Submissions p S775 (Liberal Party)
15 Submissions p S1187 (AEC)

Electronic lodgement of returns

5.27 The ALP recommends the introduction of electronic lodgment of returns.

> Certainly electronic lodgement of our returns would make life a lot easier for the Electoral Commission and a lot easier for those people who choose to analyse our returns…[16]

5.28 The AEC supports this idea, so long as the option to lodge the returns by traditional methods is retained, as it would offer significant advantages including facilitating the release of disclosure information onto the internet. The AEC, while admitting that no feasibility study has been done, believes that a standard package could be developed that could interface with commercial software, which the AEC could then provide to political parties and others.[17]

5.29 The Committee believes that the introduction of electronic lodgement of returns could facilitate the process of disclosure and recommends that the AEC conduct a feasibility study into such a proposal.

Recommendation 46

5.30 **That the AEC conduct a feasibility study on moving to a system of electronic lodgement of annual disclosure returns.**

Disclosure compliance

5.31 The Liberal Party believes that because political parties rely heavily on volunteers, there is a strong likelihood of honest errors being made. They, therefore, recommend that s315, dealing with offences for failing to comply with the requirements of the disclosure legislation, should be amended to recognise substantial compliance.[18]

> The concept of substantial compliance is widely recognised in other fields and should be the basis for the application of penalties under the Electoral Act.[19]

5.32 The Committee, while seeing no reason to significantly relax the penalty provisions, believes that s315(2) of the Electoral Act could be amended to allow for substantial compliance. Technical or minor mistakes should not be caught up in this penalty.

16 Transcript p 21 (ALP)
17 Submissions p S1192 (AEC)
18 Submissions p S776 and Transcript p 173 (Liberal Party)
19 Submissions p S776 (Liberal Party)

Recommendation 47

5.33 **That the AEC ensure that technical or minor mistakes are not brought within the provision of s315(2) of the *Commonwealth Electoral Act 1918*.**

Annual returns by Commonwealth departments

5.34 Section 311A of the Electoral Act currently requires all government agencies to submit with their annual report, information detailing how much was expended during the financial year on advertising, market research, polling, direct mail, and media advertising. This provision was incorporated into the Electoral Act as a result of amendments made to the *Political Broadcasts and Political Disclosures Act 1991* during its transit through the Senate. The AEC states that it has no role in administering this provision, and recommends it would be better placed in the *Public Service Act 1999*.[20]

5.35 Section 63 of the *Public Service Act 1999*, the section relating to the production of annual reports, indicates that annual reports from departments must be prepared in accordance with the guidelines approved on behalf of the parliament by the Joint Committee of Public Accounts and Audit (JCPAA). The Committee believes the requirements contained in s311A of the Electoral Act would be more appropriately contained in the JCPAA guidelines. Section 311A of the Electoral Act also applies to parliamentary departments, which are now covered by the *Parliamentary Service Act 1999*. Parliamentary departments are required to use the same JCPAA guidelines for the preparation of annual reports as departments covered by the *Public Service Act 1999*, so an amendment to the guidelines will also apply to the parliamentary departments.

Recommendation 48

5.36 **That section 311A of the *Commonwealth Electoral Act 1918*, concerning annual returns by Commonwealth departments, be deleted and inserted in the Joint Committee of Public Accounts and Audit guidelines for the production of annual reports.**

20 Submissions p S428 (AEC)

Disclosure concerns

Greenfields Foundation

5.37 The ALP has raised concerns about the use of the Greenfields Foundation by the Liberal Party as a means of avoiding disclosure under the Electoral Act.[21] While the ALP concedes that the money the Liberal Party is paying to the Greenfields Foundation as repayment of the loan is fully disclosed, it believes that the Greenfields Foundation nevertheless breaches the Act.[22]

5.38 The recently passed *Electoral and Referendum Amendment Act (No.1) 1999* contains an amendment to prevent a political party from receiving a loan of $1,500 or more from a person or entity other than a financial institution unless the terms and conditions of the loan are disclosed, as well as the name of the organisation or association and the names and addresses of the members of the executive committee.

Failure to disclose associated entities

5.39 The Electoral Act defines an associated entity as an entity controlled by one or more registered political parties or an entity operated wholly or to a significant extent for the benefit of one or more registered political parties.[23]

5.40 The Liberal Party alleges that a number of companies, all of which are associated entities of the Queensland ALP, failed to lodge returns with the AEC.[24] The six companies in question are: Labor Resources Pty Ltd, Labor Holdings Pty Ltd, Labor Enterprises Pty Ltd, New Labor Pty Ltd, Labor Legacies Pty Ltd, and Texberg Pty Ltd. The Liberal Party points out that these companies share the same address and a number of common directors, all of whom are office holders in the ALP Queensland Branch or the labor movement. It is asserted by the Liberal Party that only two of these companies associated with the Queensland Branch of the ALP have lodged annual disclosure returns as 'associated entities', while the other four have failed to do so.[25]

5.41 The AEC, however, has stated in evidence to the Committee that:

> … in the view of the AEC, there has been no failure of disclosure by those four companies.

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21 Submissions p S785 (ALP)

22 Transcript p 28 (ALP)

23 *Commonwealth Electoral Act 1918*, s287.

24 Submissions p S1558 and Transcript pp 174-175 (Liberal Party)

25 Submissions p S1559 (Liberal Party)

> While … these companies had not themselves lodged disclosure returns, their transactions had been fully incorporated into the disclosure returns lodged by another company of which they are all subsidiaries. Consolidated disclosure in this form is in accordance with section 287(6) of the Electoral Act, which deems related bodies corporate to be the one entity for disclosure purposes.[26]

Imposition of a more comprehensive system of disclosure

5.42 The Australian Democrats, rather than advocating further streamlining of disclosure requirements, are concerned that there is inadequate transparency of the funding of parties and therefore believe that a more comprehensive regulatory system is required. Tightening the provisions and requiring the publication of explicit details of the true sources of donations to parties will help prevent, or at least discourage, corrupt, illegal or improper conduct in the formulation or execution of public policy.[27] To do this, the Democrats recommend that any donation over $10,000 should be disclosed to the AEC shortly after it is made so that it can be made public quickly rather than awaiting disclosure in an annual return.[28] They also recommend tightening the disclosure provisions for trusts and clubs, which they view as screening devices for hiding the true source of donations.[29] Mr Ken Lawson and Mr Peter Cork are also in favour of such measures.[30]

Tax deductibility of donations

5.43 Section 30-15 of the Commonwealth *Income Tax Assessment Act 1997* has been amended so that donations to a political party of up to $100 annually be tax deductible, whether from an individual or a corporation.

5.44 The Liberal Party believes the maximum tax-deductible contribution should be increased to $10,000. They argue that support for the democratic process through contributions to political parties is a worthy objective which should be encouraged. More realistic tax deductibility provisions would increase the number of Australians who are stakeholders in the democratic process through their support for the ongoing activities of political parties.[31]

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26 Submissions p S1709 (AEC)
27 Submissions p S1614 (Australian Democrats)
28 Submissions p S1615 (Australian Democrats)
29 Submissions p S1615 (Australian Democrats)
30 Submissions pp S1093 (P.Cork) and S1350 (K.Lawson)
31 Submissions p S776 (Liberal Party)

5.45 The Committee does not believe a further increase to the maximum tax-deductible contribution is necessary at this time.

Tax deductibility of donations to independent candidates

5.46 Mr Peter Andren points out that donations to independent candidates do not receive tax deductibility status in the same way that donations to political parties do, putting independent candidates at a significant disadvantage.[32]

5.47 The issue of tax deductibility for donations to independent candidates was dealt with at recommendation 62 of the 1996 federal election inquiry report, and the *Taxation Laws Amendment (Political Donations) Bill 1999*, currently before the parliament, addresses the anomaly raised by Mr Andren.[33]

5.48 However, another issue in relation to independent candidates and tax is that an independent candidate is able to claim their election expenses as tax deductions, but if they attract enough support during an election, they are also eligible for public funding which is not taxed as assessable income. If the electoral funding received by a candidate exceeds the deductable election expenses they incurred, the excess is not assessable income.[34]

Registration of political parties

5.49 To be eligible for federal registration, political parties must have either 500 members or at least one member who is a member of a state, territory or the federal parliament.

5.50 There is considerable concern that the requirements in place for a group to register as a political party are not stringent enough and may leave the system open to abuse. The Australian Democrats draw attention to the recent NSW state election as evidence that clearer and more stringent requirements need to be put in place in order for a group to register as a political party:

> The abundance of groups on the Upper House ballot paper who clearly could not meaningfully be called legitimate political parties risks bringing the democratic electoral process into disrepute.[35]

32 Submissions p S83 (P.Andren MP, Member for Calare)

33 Submissions p S1133 (AEC)

34 Submissions p S2412 (ATO) and Transcript p 24 (Hon A.Somylay MP, Member for Fairfax)

35 Submissions p S1611 (Australian Democrats)

5.51 The AEC is confident that the more stringent requirements attached to party registration at the federal level, the higher quotas needed for election, and the current review of the continued eligibility of registered parties, provides strong safeguards against the fraudulent registration of political parties and has been a factor in preventing the considerable mushrooming of numbers of political parties that has taken place at the state level. The AEC nevertheless believes that the party registration process could be strengthened further to safeguard the integrity of the system.[36]

5.52 The Committee believes that to strengthen the party registration process effectively, a number of changes need to be put in place. Several recommendations to achieve this are outlined below.

Eligibility for registration

5.53 The AEC suggests that the Electoral Act should clarify party membership status for the purposes of party registration, particularly as members are crucial to the registration of a political party as well as having the power to deregister their party. In addition to the current provision requiring persons to be eligible for enrolment for federal elections in order to be recognised for party registration purposes, the AEC recommends further requirements for the definition of party membership for the purposes of registration. These include, that a person must be accepted as a member of the party by the parties own rules, have joined the party or renewed their membership within the previous 12 months and paid a minimum annual membership fee of $5.[37]

5.54 The Committee recommends changing the requirements for federal registration to only allow registration by political parties which have at least one member who is a member of the federal parliament (as opposed to the current federal, State or Territory member of parliament) or 500 members (all of who meet the definitional requirements of membership of a political party under s123(3) of the Electoral Act).

5.55 The Committee also recommends that the definition of a member of a political party be expanded.

36 Submissions p S1205 (AEC)

37 Submissions pp S1206–S1207 (AEC)

Recommendation 49

5.56 **That eligibility for federal registration by a political party requires that political parties must have either 500 members as defined under section 123(3) of the *Commonwealth Electoral Act 1918* or have at least one member who is a member of the federal parliament.**

Recommendation 50

5.57 **That the definition of a member of a political party at section 123(3) of the *Commonwealth Electoral Act 1918* be expanded to include the requirements that a person must:**

- **have been formally accepted as a member according to the party's rules;**
- **remain a valid member under party rules;**
- **not be a member of more than one registered political party unless the parties themselves have sanctioned it; and**
- **have paid an annual membership fee.**

Party constitutions

5.58 The AEC notes that most political party constitutions are scant, and inadequately address the internal functioning of membership-based organisations.[38] For example, the definition of what constitutes a member and the terms and conditions of membership are entirely set by the individual parties and are rarely specified.

5.59 Many suggestions have been made for registration of political parties to be dependent on tighter regulation of the structures and internal activities of political parties. Mr Jack Jones suggests registration of parties be limited to those parties which have more than one policy, are organised in more than one state, and that have had regular meetings for more than 2 years.[39] The Australian Democrats recommend standard items be required in a political party's constitution and that party constitutions be approved by the AEC as a condition of registration.[40]

38 Submissions p S426 (AEC)

39 Submissions p S155 (J.Jones)

40 Submissions p S1613 (Australian Democrats)

5.60 The AEC, however, believes that as the Electoral Act allows for parties to be regulated by their own constitutions and rules, it would be inappropriate for it to attempt to impose its interpretation of what is a democratic structure on a political party. Nor does it believe it should have the power to impose itself upon the internal operations of political parties.[41]

5.61 Section 126 (2)(f) of the Electoral Act currently requires a political party to lodge its constitution with the AEC as part of the registration process. The Committee endorses this approach.

Registration fee

5.62 The AEC has suggested introducing a fee of $500 for the registration of political parties to cover some of the costs of party registration services including advertising costs.

> The Electoral Act requires such applications to be advertised in at least one major newspaper in each State and Territory, as well as the Commonwealth Gazette. These advertising costs alone exceed $5,000.[42]

5.63 The AEC argues that such a nominal fee, representing $1 for every member on the registration form, should not be onerous for an established political party and may have the advantage of discouraging frivolous applicants.[43]

5.64 The Committee supports the introduction of a registration fee but believes it should be in line with the real costs incurred by the AEC in completing the registration of political parties, including the advertising costs. A more realistic cost is $5,000.

Recommendation 51

5.65 **That a fee of $5000 be required to accompany an application for the registration of a political party and $500 for an application to change either the registered name or abbreviation of a political party.**

41 Submissions pp S426-427 (AEC)

42 Submissions p S1206 (AEC)

43 Submissions p S1206 and Transcript p 52 (AEC)

Party names

5.66 Mr Salter expressed concern about the registration of a party called The Unity Party - The Answer To Hanson [Unity – Say No To Hanson]. He considers the registration of this name a slur on Australian fairness as the party name denigrates a person whose name appears in another party.[44]

5.67 Concern has also been expressed by the Australian Democrats over the potential confusion caused to voters by the registered names of some political parties, some of which are misleading or misrepresenting of the party's policies and nature. The Democrats suggest broadening the criteria for objections to party names as a way of reducing the possibility of inappropriate and unrepresentative party names being registered.[45]

5.68 The Committee agrees that there is a need to tighten the criteria for the registration of party names.

Recommendation 52

5.69 **That the AEC investigate and report on the effectiveness of the current criteria for the registration of party names and how the AEC might improve the criteria for the registration of party names to disallow inappropriate and unrepresentative names being registered.**

5.70 Concern has also been expressed in regard to a party's abbreviated name. A party is allowed to register both a name and an abbreviation. Under the present provisions the abbreviation a party registers may be an alternative to, and even be longer than, the registered party name. In effect, a party can register two quite unrelated names. The AEC recommends that the alternative registered name be restricted to an abbreviation of, or at least bear a meaningful connection to the registered party name. Such an abbreviation should also be no longer than the registered party name.[46]

5.71 The Committee supports this proposal.

44 Submissions p S1553 (F.Salter)

45 Submissions p S1611 (Australian Democrats)

46 Submissions p S1208 (AEC)

Recommendation 53

5.72 **That the registered abbreviation of a political party be restricted to either an acronym, or a shortened version, of the party's registered name and it should be no longer overall than the registered party name.**

Front parties

5.73 Senator Murray commented that:

> …there is a belief in the political world that independents and political parties are put up by another political party or organisation for tactical purposes during an election, to influence preference distribution or to disperse the vote or to confuse voters…[47]

5.74 The Committee also received submissions which expressed concern that some minor parties are no more than 'fronts' for larger political parties seeking to maximise their second preference vote.[48]

5.75 The AEC points out that the federal party registration scheme has not experienced the problem of front parties to date. The AEC suggests that this is probably due to the high quota for election in the Senate and the stringent requirements attached to party registration at the federal level. The Committee considers that the current requirements, enhanced by the implementation of the recommendations made in this report in relation to party registration are sufficient to prevent the federal party registration system being exploited by front parties.[49]

AEC review of registered parties

5.76 The AEC is currently undertaking a review to ensure that only political parties that continue to be eligible for federal registration under the current requirements are allowed to remain registered. Under review are all parties registered before 1997 that do not have a sitting member in a federal, state or territory parliament, those parties that lost sitting members of parliament at the 1998 federal election, along with parties which were registered on the basis of having a state member of parliament where the parliamentary list records that person as belonging to a differently named party.

47 Transcript pp 51-54 (Senator Murray)

48 Submissions pp S1094 (P.Cork), S1344 (K.Lawson) and S1472 (N.Jameison)

49 Submissions p S1207 (AEC)

5.77 As part of this review, parties are required to supply a current copy of their constitution and evidence that they have either 500 members entitled to vote at federal elections or a sitting member of a federal, state or territory parliament. The standard of documentation and the verification undertaken by the AEC is the same as if the party were first applying to register. In instances where parties fail to provide the requested documentation or the AEC is unable to verify a party's ongoing entitlement to registration, the AEC will initiate deregistration action.[50]

5.78 The AEC believes a review such as this is vital to the integrity of the register of political parties and, as such, the AEC should be expressly authorised to undertake such reviews under the Act. This review power should entitle the AEC to specify the documentary evidence it requires political parties to produce in the course of the review. Failure to produce the required evidence should be a sufficient basis for the party to be deregistered.[51]

5.79 The Committee does not oppose giving the AEC authorisation to conduct such reviews. Further reviews will be especially important to incorporate the new requirements made as a result of this inquiry. The Committee believes it would be productive if such a review was conducted after every federal election.

Recommendation 54

5.80 **That the AEC be authorised to conduct reviews of the continuing eligibility of registered political parties after every federal election. The AEC should be able to require parties to produce documentation in support of their application for registration and their continued right to remain registered. The standard of documentation and the verification undertaken by the AEC can be the same as if the party were first applying to register. The AEC should also have the power to deregister a political party if it fails to produce the documentation requested by the AEC in support of its continuing right to remain registered.**

50 Submissions p S426 (AEC)

51 Submissions p S1205 (AEC)

Section 44 of the Constitution

5.81 Section 44 of the Australian Constitution sets out disqualifications which prevent a person from being chosen or of sitting as a senator or a member of the House of Representatives.

5.82 A candidate nominating for a federal election is responsible for ensuring that they qualify under the provisions of s44 of the Constitution. The candidate is required to make a declaration on the nomination form that he or she is not disqualified by s44, the full text of which is printed on the form.

5.83 There have been some suggestions made that the AEC should take more responsibility and provide more guidance to ensure nominating candidates qualify under s44. The ALP, in particular, does not believe:

> …it reasonable or appropriate to expect candidates or prospective candidates, in doubt about whether a position or activity in which they are engaged or occupied falls foul of section 44, to go to the considerable expense of obtaining advice from a constitutional lawyer.[52]

The ALP recommends the government and the AEC cooperate in organising guidelines for the assistance of candidates in the future.[53]

5.84 The AEC disagrees, arguing that in accepting the nomination, a Divisional Returning Officer (DRO) is required only to check that the nomination has been properly made; that is, that all questions have been answered, that the nominees if any are enrolled, and that the form is signed and dated.

> It is not the role of the AEC to provide legal advice to intending candidates on the application of section 44 of the Constitution to their personal circumstances. Intending candidates needing legal advice must consult their own lawyers. This is a long standing position, and is based on the legal framework of the Electoral Act, on practical consideration relating to the nomination process, and on the conclusions of parliamentary committees that have inquired into this issue.[54]

5.85 The AEC has for many years, published clear warnings on constitutional disqualifications in the opening pages of the "Candidates Handbook" provided to all candidates. In addition to this, the AEC published an electoral backgrounder entitled 'Candidate Disqualification: Section 44 of

52 Submissions pp S796-797 (ALP)
53 Submissions p S797 (ALP)
54 Submissions p S361 (AEC)

the Constitution' three months prior to the 1998 federal election. This provided a detailed discussion of the constitutional disqualifications for candidates at federal elections, reviewing relevant High Court cases, provided information on the resignation and reinstatement rights of public servants, including information on how British subjects could divest themselves of dual citizenship, and providing guidance for further research. This backgrounder was provided to all candidates and made available to the public in hard copy from all AEC offices and on the AEC internet site.[55]

Sections 44(i) and 44(iv)

5.86 At recent elections the requirements of sections 44(i) relating to dual citizenship, and 44(iv) relating to office of profit under the crown, are the primary cause of constitutional disqualification and have caused considerable difficulty for many candidates.

5.87 The purpose of these subsections is to protect the parliamentary system by eliminating candidates whose performance might be affected by a conflict of loyalty. However, these particular subsections are widely considered to be no longer relevant in meeting this end. There has thus been an increase in the number of calls for a referendum to amend this part of the Constitution.[56] The AEC is one such advocate, asserting that "a national referendum is needed to amend the Constitution so that the difficulties that currently face intending candidates are properly and finally addressed."[57]

5.88 Section 44(i) states that any person who:

> …is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power … shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

5.89 The Australian Democrats raise the point that in its current form, s44(i) of the Constitution is wholly unsuited to achieving its aim of allowing only Australians to sit in the Australian parliament. The Democrats argue that in view of the multicultural nature of Australian society, contemporary standards necessitate that Australian citizenship be the sole requirement for being chosen for parliament under s44(i).[58]

55 Submissions p S1941 (AEC)
56 Submissions pp S361 (AEC) and S796 (ALP)
57 Submissions p S1200 (AEC)
58 Submissions p S1620 (Australian Democrats)

5.90 The ALP and the Liberal Party also raise concerns with this provision. The ALP points out that there is no satisfactory definition of what are reasonable steps to renounce foreign citizenship in order not to be disqualified from standing for parliament. The ALP argues that the absence of appropriate guidelines or understanding of these particular constitutional requirements is a serious problem.[59] The Liberal Party proposes that the act of nomination by a candidate for the House of Representatives or Senate should be recognised as immediately extinguishing any allegiance to a foreign country.[60]

5.91 Section 44(iv) states that any person who:

> …holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth … shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

5.92 The Committee has received strong opposition to this section of the Constitution from a variety of sources. The Australian Democrats argue that this provision is also out of date as the growth in the machinery of government has meant that in contemporary society the effect is to prevent thousands of citizens employed in the public sector from standing for election without real justification;[61] the ALP recommend an amendment to the Constitution to apply the office of profit exclusion from office from the start of a Member's or Senator's term of office rather than from the date of nomination;[62] the Liberal Party suggest a referendum on the issue;[63] Mr Neil Gillespie argues that elected officials, specifically ATSIC counsellors, should not have to resign in order to contest an election;[64] and the Voters Against Legal Unfair Elections (VALUE) group believe that the discriminatory requirement for pensioners, soldiers, school teachers and other people who are not allowed to contest an election without foregoing their income should be removed.[65]

5.93 The House of Representatives Standing Committee on Legal and Constitutional Affairs report of July 1997 recommended that s44(iv) be deleted and replaced by provisions preventing judicial officers from nominating without resigning their posts and other provisions

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59 Submissions p S797 (ALP)
60 Submissions p S774 (Liberal Party)
61 Submissions p S1621 (Australian Democrats)
62 Submissions p S796 (ALP)
63 Transcript p 177 (Liberal Party)
64 Submissions pp S265-266 (N.Gillespie)
65 Submissions pp S276, 278, 292,1835 (VALUE)

empowering parliament to specify other offices that would be declared vacant if the office holder is elected to parliament.[66]

5.94 The Committee recommends that, in relation to s44(i), the act of nomination by a candidate for the House of Representatives or Senate be recognised as immediately extinguishing any allegiance to a foreign country.

5.95 The Committee accepts that constitutional and legislative action is needed to overcome the problems associated with sections 44(i) and 44(iv) of the Constitution. The Committee supports the Government response to the House of Representatives Standing Committee on Legal and Constitutional Affairs report of July 1997 which stated:

> …Given adequate support for a suitable proposal, the government would be disposed to put the constitutional issue to a referendum at an appropriate time.[67]

Recommendation 55

5.96 **That given adequate public support, a referendum be held to amend the constitution so that the act of nomination by a candidate for the House of Representatives or Senate be recognised as immediately extinguishing any allegiance to a foreign country provided the candidate is also an Australian citizen.**

Election litigation

5.97 Nine election petitions were filed with the High Court of Australia, within the 40 day period after the return of the writs for the 1998 federal election, under the provisions of Part XXII of the Electoral Act. All nine petitions have now been decided by the High Court sitting as the Court of Disputed Returns. The decision in two related petitions resulted in the disqualification of an elected Queensland Senate candidate on constitutional grounds. The seven other petitions were dismissed by the Court.[68]

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66 Standing Committee on Legal and Constitutional Affairs 1997. *Aspects of Section 44 of the Australian Constitution – Subsections 44(i) and (iv)*, Canberra, AGPS, p 93.

67 *Government response to the Standing Committee on Legal and Constitutional Affairs report into Aspects of Section 44 of the Australian Constitution – Subsections 44(i) and (iv)*, p 3.

68 Submissions p S1919 (AEC)

Heather Hill petitions

(Sue v Hill, Sharples v Hill)

5.98 A petition was filed with the Court of Disputed Returns on 1 December 1998 by Mr Henry Sue disputing the election of Senator Elect Heather Hill, of Pauline Hanson's One Nation Party, for the Queensland Senate at the 1998 federal election. On 2 December 1998, Mr Terry Sharples filed a similar petition also disputing the election of Ms Heather Hill for the Queensland Senate.

5.99 Both petitions challenged the election of Ms Hill on the grounds that, at the date of her nomination, Ms Hill was a subject or citizen of a foreign power, namely, the United Kingdom.

5.100 On 23 June 1999, the Court ruled that Ms Heather Hill was not capable of being elected as a Senator for Queensland under section 44(i) of the Constitution.[69] A full recount was ordered resulting in Mr Harris of the One Nation Party being elected in place of Ms Hill. All other candidates elected were unchanged from those elected at the original election.[70]

McClure and related petitions

(McClure v AEC, Polke v AEC, Vaughan v AEC, Garcia v AEC, Heathorn v AEC)

5.101 A petition was filed on 8 December 1998 by Mr Malcolm McClure, an unsuccessful independent candidate for the Victorian Senate at the 1998 federal election, disputing the election of all Senators for the State of Victoria. Four other identical petitions were also filed in December 1998 by unsuccessful independent Senate candidates, disputing the half-Senate elections in their respective states and the Northern Territory. These petitioners were: Mr Jonathan Polke (Northern Territory); Mr Lauriston Heathorn (Tasmania); Mr Adrian Vaughan (New South Wales); and Mr Roderick Garcia (Western Australia).

5.102 All petitioners claim they have been disadvantaged by not being given media coverage and not having a right to a "ticket vote", significantly affecting the outcome of the election.

5.103 On 24 June 1999, the Court dismissed the petition by Mr McClure on the basis that, in regard to lack of media coverage,

> … the freedom of communication implied in the Constitution is not an obligation to publicise …it is not a right to require others to provide a means of communication.[71]

69 Submissions p S1931 (AEC)

70 Submissions p S1935 (AEC)

71 Submissions p S1952 (AEC)

In regard to group ticket voting, the Constitution

> …gives no warrant for the Court declaring void an election conducted in accordance with valid legislative requirements.[72]

5.104 On 23 July 1999, the Court dismissed the four other identical petitions.[73]

Ditchburn petitions

(Ditchburn v AEO Qld, Ditchburn v DRO Herbert)

5.105 A petition was filed on 3 October 1998 by Mr Donald Ditchburn, an elector for the Division of Herbert in Queensland, disputing the election of all Senators elected at the half-Senate election for the State of Queensland. A second petition was also filed by Mr Ditchburn on the same day, disputing the election of the Member for Herbert in Queensland.

5.106 Mr Ditchburn argues that aspects of the current voting system contravene the Constitution as members of parliament are not being directly chosen by the people. Mr Ditchburn asserts in his first petition that group ticket voting contravenes the Constitution as voting above the line amounts to electors choosing a party by means of a group voting ticket rather than directly electing Senators. In his second petition, Mr Ditchburn contends that the full preferential voting system used in the House of Representatives also contravenes the Constitution as members are indirectly chosen by electors whose votes were transferred from excluded candidates.

5.107 On 23 July 1999, the Court dismissed the two petitions on the grounds that Parliament's provision for a complex system of voting does not contravene any section of the Constitution, rather it only addresses the manner in which direct voting is conducted.[74]

A further petition

(Rudolphy v Lightfoot)

5.108 On 11 May 1999, a further petition, *Rudolphy* v *Lightfoot* was filed with the Court, disputing the casual vacancy election of Senator Lightfoot in May 1997, on the basis of alleged anomalies in the Western Australian Parliament at the time.

72 Submissions p S1953 (AEC)

73 Submissions p S1955 (AEC)

74 Submissions pp S1961-S1962 (AEC)

5.109 This petition was dismissed on 10 November 1999 on the basis that the petition was not filed within the 40 day period after the return of the writs for the 1998 federal election.[75]

Costs in election petitions

5.110 The AEC plays an advisory role in election petitions and normally seeks leave to join as a party in order to make submissions on the facts of the election under dispute.

> In its *amicus* role in election petitions, the AEC does not seek costs against other parties and does not expect costs to be awarded against it…[76]

Indeed, no costs were ordered against the AEC in any of the petitions filed with the Court of Disputed Returns for the 1998 federal election.[77]

5.111 The AEC has reported that the Department of Finance and Administration has advised that under new financial arrangements, the AEC is responsible for the payment of Commonwealth costs in all electoral litigation.[78] In this context, the AEC has recommended that the Committee seek a reference to inquire into the powers and functions of the AEC and the powers and functions of the Court of Disputed Returns. The Committee is willing to consider that suggestion at a later time.

Responsibilities in Electoral Litigation

5.112 The AEC recommends that the relevant sections of the Electoral Act be amended to allow injunction applications to be made to the Federal Court rather than the Supreme Court of a state or territory. The AEC believes that as the Electoral Act was written before the establishment of the Federal Court of Australia it would be more appropriate for injunction applications relating to federal elections to be decided by the Federal Court of Australia. A practical advantage of such a change would be that similar injunction applications could be heard simultaneously in the one court venue and that decisions are more likely to show greater consistency.[79] For similar reasons, the AEC also argues that the High

75 R.Campbell, 'Challenge against WA Senator rejected', *The Canberra Times*, 11 November 1999, p 4.
76 Submissions p S1923 (AEC)
77 Submissions p S1919 (AEC)
78 Submissions p S1943 (AEC)
79 Submissions p S435 (AEC)

Court, sitting as the Court of Disputed Returns, should remit a federal election petition to the Federal Court only.[80]

5.113 The Committee supports this recommendation.

Recommendation 56

5.114 **That in section 354 and 383 of the *Commonwealth Electoral Act 1918* and section 139 of the *Referendum (Machinery Provisions) Act 1984*, "Federal Court of Australia" be substituted for the "Supreme Court of the State or Territory."**

5.115 On a related issue, the AEC also recommends that s382 of the Electoral Act be deleted. Section 382 provides that:

> The Electoral Commissioner shall, in every case where the Crown Law authorities so advise, institute legal proceedings against any person committing any offence against this Act.

5.116 The AEC argue that the establishment of the office of the Commonwealth Director of Public Prosecutions, with which the AEC routinely liaises on possible offences and prosecutions makes this provision unnecessary. The Committee accepts this recommendation.[81]

Recommendation 57

5.117 **That section 382 of the *Commonwealth Electoral Act 1918* be deleted.**

Redistributions

5.118 It has become obvious during this inquiry that there is considerable unawareness about the process of redistributions and the level of public consultation throughout the process.

5.119 A number of people voiced their concerns and questioned the reasons behind the abolition of the Division of Oxley in Queensland (formerly held by Ms Pauline Hanson), prior to the 1998 federal election.[82]

80 Submissions p S435 (AEC)

81 Submissions p S435 (AEC)

82 Submissions pp S174 (Pauline Hanson's One Nation, Logan Branch), S205 (D.Carrington-Smith), S238 (D.McNaughton), S264 (C.Hewson), S568 (S.Jackson), S596 (B.Hudson), S606 (C.Bevan), S677 (A.Di Santo) and S708 (M.Sawers)

Ms Carrington-Smith, in her submission, sums up the scepticism that exists:

> [It] seems an extraordinary coincidence that the new seat of Blair was created by a redistribution involving the seat of Oxley held by Pauline Hanson, this being the only new seat created at this election.[83]

5.120 The AEC strongly attests that this redistribution creating a new Division of Blair, was, like all other redistributions, conducted lawfully under detailed instructions contained in the Electoral Act.[84]

5.121 On 28 February 1997, the Electoral Commissioner determined that as a result of population changes between the states and territories, the representation entitlements of Queensland and the Australian Capital Territory in the House of Representatives would have to change. It was clear that Queensland would gain a new Division because of population increase in that state. On 28 July 1997, following an extensive public consultation process, the Redistribution Committee for Queensland published its findings. It proposed a new Division of Blair to the west of Brisbane. Maps of the new boundaries were published in the *Sunday Mail* on 27 July and the *Courier Mail* on 28 July 1997. Objections to the proposed redistribution were invited by 25 August 1997. Following the objections process some minor changes were made, and the final redistribution was determined.[85]

5.122 The Committee received submissions suggesting the redistribution of particular federal electoral boundaries.[86] Determinations of State and Territory representation in the House of Representatives occur approximately one year after the commencement of each new Parliament.[87] In 1999, redistributions took place in New South Wales, South Australia and Tasmania, resulting in changes to the boundaries of Divisions in these States.[88] Redistribution Committees in the Northern Territory and Western Australia have also announced their proposals, with the proposal for the Northern Territory involving the creation of two

83 Submissions p S205 (D.Carrington-Smith)

84 Submissions p S1144 (AEC)

85 Submissions p S1144 (AEC)

86 Submissions pp S186 (M.Gray) and S1333 (Liberal Party Kalgoorlie North Division)

87 Submissions p S358 (AEC)

88 Australian Electoral Commission. 2000. *Electoral Newsfile, No 89.* Canberra, AEC, 7p; Australian Electoral Commission. 2000. *Electoral Newsfile, No 90.* Canberra, AEC, 7p; and Australian Electoral Commission. 2000. *Electoral Newsfile, No 91* Canberra, AEC, 5p.

new Divisions from the current one, and the proposal for Western Australia involving the creation of a new Division.[89]

5.123 The Committee has recommended in Chapter 4 that the AEC conduct better targeted public education programs prior to the next federal election, specifically in relation to the full preferential system of voting. The Committee suggests that public unawareness of the redistribution process of electoral boundaries be another area targeted.

Recommendation 58

5.124 **That as part of its public education program prior to the next federal election the AEC target as an education priority the process and outcomes of the redistribution of electoral boundaries in those electorates where a redistribution has occurred since the previous federal election.**

Four year terms

5.125 A number of submissions were received calling for the introduction of four year parliamentary terms.[90] It is argued that the current system of three year or less parliamentary terms does not allow a political party the time to introduce changes and allow their effects to take hold. It results in the introduction of short-term policies that are detrimental to the wellbeing of the country.[91]

> Parliamentary terms for both houses should be changed to four years to allow time for policy changes, implementation, assessment and review.[92]

5.126 A substantial number of submissions also advocated fixed terms:[93]

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89 Australian Electoral Commission. 2000. *Electoral Newsfile, No 94.* Canberra, AEC, 6p; and Australian Electoral Commission. 2000. *Electoral Newsfile, No 92.* Canberra, AEC, 7p.

90 Submissions pp S94 (N.Peck), S97 (A.McMullin) and S1471 (N.Jameison) See also Transcript p 33 (ALP)

91 Submissions p S97 (A.McMullin)

92 Submissions p S1471 (N.Jameison)

93 Submissions pp S97 (A.McMullin), S223 (G.Wadsworth), S226 (Australian Democrats south Australian Division), S229 (R.Kowald), S236 (D.McNaughton) and S655 (Electoral Reform Society of South Australia)

> I believe it is basically inequitable for the incumbent prime minister to be able to call an election at a time deemed advantageous for his political party.[94]

Set election dates would make:

> …it easier for the Electoral Commission to perform its task smoothly and for the voters being able to vote with the minimum of disruption to their lives.[95]

Governments should remain in power for a fixed term with 1 to 2 months flexibility. Exceptions would be a double dissolution or as directed by the Governor General due to exceptional circumstances.[96]

5.127 The AEC has estimated what cost savings may arise as a result of moving to a fixed four year term for the House of Representatives. The conclusions are speculative only and are limited to data available since the establishment of the AEC in 1984. Since 1984 the AEC has been involved in six federal elections. During this fourteen-year period, federal elections have taken place on average every 2.3 years. If a fixed four your term had been applied during this time there would have been only 4 federal elections, with the next federal election scheduled for December 2000. Some $398,464,000 has been expended on the conduct of six federal elections since 1984. By contrast the lesser amount of $243,295,000 would have been expended during the same period with fixed four year terms. This translates into a reduction of some $155,169,000 in government outlays over the 1984 to 1998 period.[97]

5.128 The Committee reiterates the previous JSCEM's unanimously supported proposal to amend the Constitution to provide for four year parliamentary terms for the House of Representatives so as to facilitate better long-term planning by government and ensure consistency with state jurisdictions and cost savings.[98]

94 Submissions p S97 (A.McMullin)

95 Submissions p S226 (Australian Democrats South Australian Division)

96 Submissions p S229 (R.Kowald)

97 Submissions p S1202 (AEC)

98 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto.* Canberra, AGPS, p 114.

Recommendation 59

5.129 **To amend section 28 of the Constitution to increase the House of Representatives term from three years to four years.**

ANAO audit of the AEC

5.130 In late 1997 to mid 1998 the Australian National Audit Office (ANAO) undertook a performance audit of the AEC.[99] The audit examined the corporate governance framework of the AEC, primarily the planning processes, performance information and the efficiency and administrative effectiveness of management procedures and practices. The audit also incorporated the use of activity based costing and benchmarking methodologies to examine certain areas of the AEC to identify opportunities for achieving cost savings or efficiencies.

5.131 The ANAO found that the AEC generally had a sound corporate governance framework in place. As well, the AEC had established a sound basis for planning, risk management and performance monitoring. There were some areas, such as the AEC's performance assessment framework and the AEC's control structures, which the ANAO identified as needing improvement to facilitate a more cost effective corporate governance framework.

5.132 The ANAO Audit Report made 15 recommendations aimed at improving the AEC's corporate governance framework. These related to:

- The need for the AEC to use an overall business oriented approach to determine the extent to which the AEC should be involved in new work under the expanded s7A of the Electoral Act;
- The need to improve the AEC's performance assessment framework by activities such as ensuring direct links between goals and performance indicators as the hierarchy of plans are completed;
- Improving the AEC's control structures by, for example, explicitly linking financial planning to the Commission's operational plan etc; and
- Achieving possible administrative savings in areas such as corporate management by the use of an activity-based costing methodology to compare the AEC's accounts payable and pay and condition functions

99 Australian National Audit Office, Performance Audit Report No.1 1998-99. *Corporate Governance Framework, Australian Electoral Commission.* Canberra, ANAO, 136p.

with established benchmarks. Overall the ANAO estimated that the AEC could achieve annual savings of approximately six-full time equivalent staff or $260,000 in salary and allowances.

5.133 The AEC accepted all these recommendations.

Process of election review

5.134 The AEC entered the 1998 federal election with amending legislation having only passed through parliament the month before. While implementing these changes was not difficult because the majority were technical in nature, the AEC is concerned about the difficulty of implementing a reform bill if passed by the parliament immediately prior to a future election. Such an occurrence would be profoundly disruptive from an organisational perspective.[100]

> …if we are going to make changes, I hope that we will be able to make them in a timely fashion such that we can ensure that those processes are given full effect by our people at the next election.[101]

5.135 The AEC is keen that steps be taken to ensure that there is at all times, and in relation to all issues, an appropriate mechanism which will enable the AEC to perform its statutory function of providing information and advice to the parliament. This is particularly so on matters that might require a cooperative political approach not immediately relating to the conduct of the last election.[102] The AEC therefore recommends that the resolution of appointment of the JSCEM be broadened to allow it to inquire into and report on such matters as may be referred to it by the AEC, as well as the parliament and Minister.[103]

5.136 The Committee does not support the AEC's suggestion as the JSCEM is a committee of the parliament and therefore its inquiries should be referred to it by the parliament or the Minister.

5.137 There was some concern expressed about a lack of publicity about the 1998 federal election inquiry.

> Why is there never any mention in Federal Parliament that this inquiry is to be held? Those interested in making submissions are left to rely on newspaper advertising … or word of mouth. … A mailing list needs to be developed to include all candidates at the

100 Submissions p S330 (AEC)

101 Transcript p 50 (AEC)

102 Submissions p S1208 (AEC)

103 Submissions p S1209 (AEC)

> election, and those who have made submissions to previous inquiries etc.[104]
>
> As is so often the case with government inquiries, the very fact that there is Committee investigating voting and electoral matters, and that the public may submit to this inquiry, is almost totally unknown to the general public. … I ask that …the Committee itself apply itself to government to ensure that all future committees and inquiries are well advertised…[105]

5.138 The Committee reassures these submitters that every effort is made to ensure that inquiries such as this are effectively publicised. New initiatives to better promote parliamentary committees have recently been introduced. These include:

- monthly advertisements in the *Australian* promoting committee hearings;
- a new publication 'About the House', with the latest information about committee inquiries and hearings;
- the conduct of a House of Representatives seminar series on committees;
- use of the internet site to regularly update the progress of inquiries and times of public hearings;
- more direct contact with the media to publicise the work of the committees; and
- a new form of advertisement to advertise inquiries which is more eye-catching.

5.139 Many of these strategies were used throughout this inquiry to maximise public awareness of the inquiry. See Chapter 1 for more details.

5.140 The Committee emphasises the need to continue to have inquiries into federal elections and continually update the Electoral Act so it stays at the international forefront.

Gary Nairn MP,
Chairman
20 June 2000

104 Submissions p S659 (The Electoral Reform Society of South Australia)

105 Submissions p S1090 (P.Cork)