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30 June 2002

To: The Secretary  
Joint Standing committee on Electoral Matters  
Parliament House  
Canberra ACT 2600

Joint Standing Committee on Electoral Matters	
Submission No. ....	77
Date Received .....	2/7/02
Secretary .....	Salm

Dear Sir,

Enquiry into the Conduct of the 2001 Federal Election

The purpose of this Submission and the Submissions dated 12 October 2000 and 28 February 2001 to the previous Joint Standing Committee on Electoral Matters (JSCEM) (Refer submission No. 18 paragraph 7.8) is and has been to draw the attention once again of the Australian Electoral Commission (AEC) through the JSCEM to looseness in the current electoral system and in particular to the opportunities for multiple/fraudulent voting provided by the present practice and procedures for pre poll voting.

I continue to be concerned that valid identification at enrolment and at the polling booth are still not incorporated in the Australian electoral system, that Senate opposition has removed in May 2002 the requirements for better identification at enrolment as set out in the Regulations following passing of the Referendum and Electoral Bill No. 2 in September 2000 and that cases of fraud and loose management which can topple an elected government, as indicated in the 1995 Mundingburra election, are still relatively easily able to be perpetrated.

The AEC is to be congratulated on the detailed reports circulated following the 2000-2001 Inquiry into the Electoral Roll and thanked for distributing these reports to those who made submissions, most of which were answered. However, since I did not receive a response to matters I raised in respect of the 1995-96 Mundingburra election and by-election, I have added a relevant section to this submission.

A comment was noted on pages 96/ 97 in the "Minority Report" section of the report "User Friendly not Abuser Friendly" that "Never at any stage did the AEC demonstrate that it was anything other than circumspect and open to constructive criticism in relation to its management of the electoral roll".

Accepting this to be a valid endorsement, I trust that this Submission will be received as a constructive attempt to be helpful.

For the record, neither this submission nor that of the 24 October 2000 were seen by Dr Amy McGrath or other members of the H.S. Chapman Society prior to being submitted.

Yours sincerely,



W. Bruce Kirkpatrick

**STATUTORY DECLARATION  
NSW OATHS ACT 1900**

I, .....William Bruce KIRKPATRICK.....  
of .....709/87 Yarranabbe Road Darling Point.....  
in the State of .....New South Wales.....  
do hereby solemnly declare and affirm that:-

I am an elector registered to vote in the Federal Electorate of Wentworth.

On Tuesday 6 November 2001 I entered the Australian Electrical Commission office at 24 Campbell Street Sydney to enquire about voting at the Pre Poll booth.

THE INCIDENT

There were notices fixed to the counter listing the rules for prepoll voting. These included the advice that to be eligible to vote, the voter had to be absent from the State (of New South Wales) on election day (10 November 2001), or to be unable to attend a polling booth on election day because of expected absence due to hospitalisation, work or religious commitment.

The woman attendant behind the counter asked me if I were intending to vote and offered me a form to fill in.

Having read the rules, I replied that it seemed that I was not eligible to prepoll vote as I expected to be in the State on 10 November 2001 and so presumed I would have to vote as an Absentee voter if not in the Wentworth electorate on that day, or else to submit a postal vote.

The attendant replied that that was unnecessary as I could prepoll vote at the Campbell Street PrePoll booth and again proffered the relevant form to be completed in order to be given a voting paper.

As this seemed to be a clear abuse of the law and regulations covering prepoll voting, I declined to proceed and withdrew from the prepoll voting booth.

.....Valerie A. Keyse.....  
JUSTICE OF THE PEACE

.....*William Bruce Kirkpatrick*.....

## 1. Pre Poll Voting

The attached Statutory Declaration records an incident in which a voter was encouraged to pre poll vote when not entitled to do so under the Regulations set down by the Australian Electoral Commission.

The Statutory Declaration does not have a photograph attached of the multiple notices on the top of the counter setting out the regulations, nor a copy of the notice as the request for a copy had been refused, nor a corroborative statement from one of the officials behind the counter. While it may be claimed that this report is therefore an "unsubstantiated allegation" or "anecdotal only", it is submitted in the hope that it will be treated as genuine and action taken to correct the procedure.

I have noted the AEC's paragraph 7.8 in their 17 October 2000 submission quoted in the "User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Roll" page 96 - 'The Role of the AEC in the Inquiry' - stating that the AEC "welcomes well informed and unbiased criticism of electoral law and procedures".

There have been many examples given at previous Joint Standing Committee enquiries about the concern of voters and some AEC officers that opportunities for electoral fraud have been facilitated by the changes to the Australian voting regulations since 1983.

Where voters are able to vote at any of many polling booths in their electorate without being properly identified and not just on polling day but over an extended period of weeks, where the votes go into envelopes at points from which scrutineers are excluded and where the envelopes are sometimes opened without scrutineers present despite regulations allowing them to be present at that stage of the vote counting, there has to be increased opportunity for the unscrupulous to perpetrate voting fraud. This practice further limits the ability of candidates for election to implement effective scrutineering of the voting and counting process.

Practices in Trade Unions of illegally securing postal vote envelopes have been adequately shown to exist by the Cooke inquiry\* into some Queensland branches of Trade Unions and do little to reassure voters that these practices by one political group have not been used in Federal elections.

\*(Although "comprehensively addressed in the October 1997 JSCEM Report entitled "Industrial Elections" that report remains on the record as evidence of fraudulent electoral practices.

I refer to my Submission to the JSCEM dated 14 October 2000 (Submission no. 18, section 2 penultimate paragraph) in which reference was made to pre poll voting at the Bondi Junction electoral office/Divisional Returning Office polling booth.

"The voting papers have been seen as the voter left the table, not being immediately placed in the envelope by the electoral official in front of the voter, nor put into the ballot box in front of the voter. These incidents were observed at busy times in the Bondi Junction polling booth. In Wentworth the combination of Pre poll, Postal, Absentee and Section votes has risen since 1993, when Pre poll votes first appeared in the statistics, from 16.34% to 30.63% of the total votes."

Pre poll voting then accounted for over 11% of the electorates votes. As scrutinising in the pre poll booth is not permitted, the electorate is dependent on having both scrupulously honest AND efficient staff counting these votes. With electorates changing hands by a handful of votes and such a change in the opportunities for personation, it should be of great concern to all citizens.

Reference was also made to discussions with some of these pre poll voters who used the facility as a convenience and were not going to be out of the State, in hospital or at work or be prohibited by religious constraints from voting on polling day.

Although the AEC's Supplementary Submission to the JSCEM Inquiry into the Integrity of the Electoral Roll contained comments at paragraphs 7.7 and 7.8 on that section of the 24 October submission and the report was dismissed as "anecdotal", no constructive suggestion was made as to how such incidents could be proven with no scrutineers present, to the satisfaction of

the AEC sufficient for remedial action to improve the integrity of the vote to be introduced.

It seems evident that concerns about the widened opportunities for fraud as a result of the change to subdivisational voting and, later, pre poll voting would be largely overcome if valid identification at enrolment and at the polling booth were introduced.

## **2. The July 1995 Queensland State Election in Mundingburra**

A State government was elected as a result of fraud, discovered subsequently in at least one electorate and fell as a result of that discovery.

### **2.1 Some Background**

On 15 July 1995 Wayne Goss and his team, elected by Queenslanders, won government by one seat.

The election result in Mundingburra, won by the ALP's Ken Davies, was taken to the Court of Disputed Returns by the losing candidate Frank Tanti. This was resisted by the ALP and the Electoral office. However, when it was discovered that twenty two soldiers from the Mundingburra electorate serving in Rwanda had been disenfranchised because the Queensland Electoral Office had not ensured that they received their voting papers in time, Justice Ambrose ruled on 8 December 1995 that a by-election be held, without finally resolving all the claims concerning false votes, voters and other irregularities.

The Mundingburra By-election was eventually held seven months after the 1995 election on 3 February 1996. Many reported false enrolments and unethical practices carried out in the July 1995 election were extinguished; e.g. many names in the 500 identified by Tanti and his supporters as having possibly voted illegally, disappeared from the roll after the court case; votes at a retirement village which had been 40:16 in favour of Davies were reversed, coincidentally, to 16:40 in favour of Tanti once Liberal Party scrutineers were in place to supervise the Australian Electoral Commission (AEC) employees on the polling booth who had allegedly previously been advising some voters that they were not eligible to vote there and then. The Labor candidate lost by 1084 votes and the Goss Government was replaced by that of Rob Borbidge and the National / Liberal Coalition.

**However "anecdotal" or "an unsubstantiated allegation" the Australian Electoral Commission may claim the above to be, a government had been elected on a basis, proven to be unsound if not fraudulent in at least one electorate and it fell when many of the instances in that fraud were dealt with.**

The Federal Police in 1997 investigated evidence sent, allegedly by a disgusted and vengeful ALP member, to a Brisbane Courier Mail reporter, Tanya Target and to Frank Tanti in April 1997, which had been passed on by Tanti to Peter Lindsay, Federal member for Herbert and by him to the Federal Attorney General. It revealed, in effect, that the ALP had won the 1995 State election with an electoral roll containing fraudulent and ineligible voters assisted by irregularities in the rolls and the management of polling booths. Unquestionably fraud had been on a large enough scale to elect the wrong State Government. Mundingburra provided the opportunity to expose what had been happening.

The AEC had reportedly claimed that, in October 1996, it had separately investigated enrolments by the ALP's Andrew Kehoe, an AWU faction party official and former policeman. As a result, he was sentenced in July 1997, on ten charges of forging and uttering, to 3 months in jail, suspended for two years with a \$1000 good behaviour bond. **Was this the first time a prison sentence had been imposed for an electoral fraud by an Australian court, despite numerous earlier claims of fraudulent electoral practices?**

It was soon followed by the discovery of further fraud in enrolments in Mundingburra and Thuringowa involving Karen Erhman and in Townsville involving Mike Reynolds, subsequently elected and appointed Premier Peter Beattie's "Representative in the North". From 1997 through 1998 pressure for this matter to be investigated met stiff resistance from

Premier Beattie who said that their own Tribunal had been satisfied that there were no problems with Karen Erhman. He later withdrew this claim and Karen Ehrman's pre selection for Thuringowa was then withdrawn. In the meantime Townsville City Councillor Shane Foster, elected from the same "adjusted" roll, had also been caught in the net.

On May 27 1998 he was formally charged with forging and uttering enrolment claim forms in the names of people delivered to the AEC between September 2 1993 and July 25 1996. Karen Erhman had also been charged at that time on 62 similar offences. Shane Foster was sentenced on 17 March 1999 to 3 months jail, suspended for 5 years with a \$500 good behaviour bond.

Over two years later on 11 August 2000, Karen Erhman pleaded guilty to 47 of the original 62 charges and was sentenced to a 3 year jail term with a non parole period of 9 months. Under Section 339 of the Electoral Act the penalty for defrauding the Australian electors - robbing the honest voters of their representation at the ballot - is 6 months imprisonment and, as in other sections, a fine of \$1000 for each of 35 offences.

On 20 January 2001 The Brisbane Courier Mail reported that the Shepherdson Inquiry had found no evidence of false enrolments in the **February 1996 by-election**. However, the report added that the commission limited the analysis by investigating only people who had moved out of Mundingburra **by the end of 1996**, (i.e. 10 months after the by-election and 16 months after the fraudulent election. (see attached newspaper clipping).

No official follow up attempt was made at the time to investigate the names removed from the roll following the 1995 election or the 500 names and addresses of the those on the roll to whom letters had been sent prior to that election which had been returned marked "Not at this address" or the 39 possible "personation" names who voted but whose votes were not ruled invalid.

It would have been difficult for the Shepherdson Inquiry to uncover names which did not belong to genuine voters in 1995, since the Terms of Reference of the Shepherdson Inquiry limited the Inquiry to the 1996 year - a convenient cut off point for some parties.

## 2.2 Investigation by the Court of Disputed Returns - Ambrose J. : 15 November - 8 December 1995

The Court identified 21 cases of Multiple Voting or Personation, of which 7 votes were found to be **not valid** as no voter could be identified for the name crossed off and 14 votes which had been accepted erroneously due to Electoral Commission Officers' mistakes.

There were 3 voters whose names were marked off the Roll as having voted, who were thought initially to have voted twice but, because they were not enrolled on the electoral roll for the district, they were not entitled to vote.

### Detail of Court Findings:

Electorate of Mundingburra -	Enrolled	22035
	less No Vote Cast	2513
	Total Votes Cast	19522
	Informal Votes	287
	Expected Valid Votes	19235

Votes counted	Primary	1st Preference	Total
Frank Tanti (Lib)	8541	751	9292
Ken Davies (ALP)	8429	879	9308
Other Candidates			635
Result			19235

Ken Davies won by 16 votes

Frank Tanti arranged an investigation of the roll and addresses which led to a petition to the Court of Disputed Returns. This resulted in a By-election in February 1996 which Tanti won by 1084 votes, 1100 more votes than he had gained at the July 1995 election.

## 2.21 FINDINGS OF THE COURT

### I. Multiple Voting or Personation

1. "Barry William Anderson" of Aitkenvale - voted (provisional) while not entitled to vote at Aitkenvale (name had been deleted - one vote disallowed)
2. Peter Jeffrey Heuke of Hermit Park voted at Rosslea while another voted in same name at Mundingburra (one vote invalid).
3. An "Elemo Tapin" voted twice at Mundingburra in name of Elemo Douglas Tapin although name removed from roll (one invalid vote had been counted).
4. D'Arne Gay Greenway of Aitkenvale voted at Aitkenvale and someone else voted in same name at Rosslea (vote should be disallowed).
5. William Raymond Standfast of Cranbrook voted at Curragong and was recorded as voting also at Heatley booth (second vote disallowed).
6. Robert Bakkers voted at Hermit Park and Mundingburra but stated he had not voted at Hermit Park ((vote invalid).
7. Erin Marie Bunting - voted at Vincent polling booth plus Declaration vote (Mother voted). Mistake by polling booth officer (vote allowed).
8. David Edwards - received 2 voting papers at Heatley and also at Cranbrook - 4 of that name were all on Commissioner's "Non Voting" list. 2 voters at Cranbrook not traceable (one vote disallowed -why not both ?).
9. Kathryn Anne Fryar - name crossed off twice - error.
10. Katrina Anne Gentner - mother voted and her name crossed off in error.
11. Megan Maree Gray - AEC clerical error.
12. Jacqueline Lazzaroni - AEC clerical error.
13. Michael John Malpas - AEC clerical error.
14. Lorraine Gail McLean - AEC clerical error.
15. Heather Mary Pardon - AEC clerical error.
16. Jodie Michelle Sampson - AEC clerical error.
17. David John Scott - AEC clerical error.
18. Leigh-Anne Williams - AEC clerical error.
19. Bradwin James Wilson - AEC clerical error.
20. Robert Winterburn - AEC clerical error.
21. Rolley Woodfield - AEC clerical error.

7 Invalid (maybe 8)

14 Error (maybe 13)

21.

- II . Personation      After the election letters had been sent to 22035 voters by F. Tanti.  
500 letters returned "Not at this address".  
187 names marked as having voted were investigated.
- 1 voted but forgot she had
  - 13 recorded as having voted but could not be located (but nothing proved)
  - 1 not voted - but recorded as voting
  - 14 not able to be interviewed but Judge not persuaded of personation.
  - 10 made Declaration votes but signature not checked by handwriting expert
  - 39 - Judge not persuaded of personation. (No follow up made to finalise)

III Declaration Votes Not Counted - 15 votes claimed by Petitioner as wrongly rejected

- 1 - Chadwick - form not witnessed by AEC officer
- 2 - Lysaght - voters signature omitted - AEC error
- 3 - Macauley - vote not counted - AEC error
- 4 - McLaughlin - vote not counted - AEC error
- 5 - Pendergast - vote not counted - AEC error
- 6 - Rogers - signature omitted - AEC error
- 7 - Rowse - Name wrongly spelt by AEC error
- 8 - Thomas - disenfranchised - AEC error
- 9 - Thompson - enrolment error AEC
- 10- Alberdi - Name wrongly spelt by AEC officer
- 11 - Doyle - Not accepted as disenfranchised
- 12 - Guirao Ferez - AEC error
- 13 - Hockaday - signatures did not match but vote not accepted
- 14 - Flanagan/Smith - not accepted
- 15 - Wilson - not marked off roll but accepted.as genuine rejection by AEC

Court did not reinstate any of these Declaration votes claiming AEC error is not grounds for reinstating votes - Section 137 (1) (b)

- IV. Denial of Votes to 22 Australian Defence Force Personnel  
Ruled that 22 were disenfranchised due Army and AEC error.

V. Summary

Petitioner defeated by 16 votes but after checking Declaration votes position:

- 5(a) - 7 votes invalidly cast
  - 5(d) - 22 votes not received by soldiers due AEC
  - 5(e) - 6 denied Declaration votes due AEC
  - 5(f) - 2 formal votes for Davies were informal
  - 5(g) - 4 informal votes for Tanti were formal
- (Plus 11 Declaration votes not counted)

Court Summary

- 39 votes not counted which should have been
- 7 votes counted which should not have been.
- Second respondent be taken not to have been elected
- A new election to be held.

(Extract from 1995 Court Report)

**2.3. Arising from some questions asked in submission of 24 February 2001 but not answered.**

Mr. Longland has claimed that "targeted interference cannot make a difference" (to an election result). - Refer exchange with Senator Mason, section 6 'Upgrading RMANS and CRU', paragraph 6.5. The results in the Mundingburra electorate in the July 1995 election

and its sequel the February 1996 by-election show that targeted interference can gain a party government and further that when the "interference" is removed, that the government can be removed. This can happen and has happened with a State government election and can also happen with a Federal election.

Mr Dacey, in response to Senator Robert Ray's question "Do you have evidence that the current electoral rolls are rorted?" Mr Dacey replied "No we do not" (Hansard, Tuesday 16 June 1998).

At that time the rolls had been rorted and no indisputable evidence was provided to show that it had not happened again.

It seems evident that

- the 1995 election, won by 16 votes while there were 39 votes not counted which should have been and 7 votes counted which should not have been, apart from votes excluded from the count due to AEC officers' errors, was achieved with votes which were illegal and therefor fraudulent.
- the 22 soldiers from Mundingburra who were denied a vote because their voting papers were not delivered in time were disenfranchised largely by the poor management of the AEC in not ensuring that the Army was given the papers in adequate time.
- that the improved scrutineering at the 1996 by-election by the Liberal Party workers reduced the fraud being perpetrated at polling booths where voters were being incorrectly turned away by polling booth officials.
- the significant difference of 1084 votes at the 1996 by-election - a total of 1100 increase over the result for F. Tanti at the 1995 election - suggests that many of the false names identified by F. Tanti after the 1995 election had been removed before the 1996 by-election.
- these fraudulent enrolments and polling booth practices may not have been limited to limited to Mundingburra while a similar pattern could have been found on the rolls and in the polling booths of other electorates.

**Despite the "convenience" to the voting public from prepoll voting, the introduction of prepoll voting has extended the time for organising rorts. The reported decline in numbers voting in November 2001 would appear to offer more opportunities for the use of genuine names by those such as the Queensland rorters to organise further voting fraud. (see newspaper clipping attached - "Australian" December 10 2001)**

WBK

30.06.02



# Mundingburra poll 'a clean fight'<sup>20.1.01</sup>

THE 1996 Mundingburra election was a clean fight as far as enrolments went, according to an analysis by the Shepherdson inquiry.

It found no evidence of false enrolments in the poll which saw the Coalition win government after Liberal Party candidate Frank Tennil took the seat.

In his submission, counsel assisting the inquiry Russell Hanson, QC, said the analysis took place after jailed former Kersh Ehrmann gave evidence of systematic electoral fraud.

Ms Ehrmann claimed that while visiting the ALP campaign

office in early 1996, organiser Lee Birmingham and party activist Craig Wallace asked her to witness enrolment forms filled out in pencil and already signed.

Ms Ehrmann said there was talk of people who lived in Brisbane and elsewhere being telephoned and asked to supply names of people who could be enrolled to vote in Mundingburra without moving there.

Former ALP returning officer Joan Budd said Mr Birmingham had rung Ashley Musgrove, the brother of Springwood MP Grant Musgrove, and asked him to put some numbers in for

Mundingburra. Ashley Musgrove could not recall the conversation.

Nevertheless the commission began the investigation of rorting during the election.

First, it obtained from the state electoral commission the details of all enrolments between December 8, 1995, the date Justice Ambrose ruled the 1996 Mundingburra result void and the new election became a certainty, and the closing of enrolments on January 6, 1996.

The commission limited the analysis by investigating only people who had moved out of Mundingburra by the end of 1996.

1995



Frank Devine

**R**EADING the Australian Electoral Commission's report on voter turnout at the federal election has been quite heartwarming.

For the first time, the total of no-shows passed half a million this year — in a gallop, way up to 582,000, and on the rise, I predict. A like number botched their ballots, most of them probably deliberately. About 1.1 million over-18s never registered. The young dominated these cop-outs, it is speculated.

This adds up to more than 2 million Australians, out of a little over 13.4 million, in rebellion against our futile and, in any case, iniquitous compulsory voting laws.

A Newspoll survey after the election revealed that 80 per cent of Australians say they would vote without compulsion. This means a count of a little more than 2.6 million stay-at-homes. The way things are going (*mirabile dictu*), it won't be long before scofflaws overtake them.

I know that I grind away on compulsory voting as relentlessly as Richie Benaud on the front-foot no-ball rule.

But Richie and I are both right. To lay off would be negligent. Vainglorious authority has laid down the law in cricket in a way that harms the game by imposing constant irritating, non-productive delays.

With a casual wave of the hand in 1926, parliamentarians imposed on the people whose right it is to choose them, a compulsion to do so.

It's a serious (not to mention irritating and non-productive) interference with democratic principle. Aimed at increasing people's participation in politics, it seems now to be having the opposite effect.

When you step into the voting booth, you should experience a feeling of being the bloke or sheila in charge. The government will be your government, the Opposition your Opposition.

Instead, you are conscious of a miasmic overriding presence. You are being *made* to choose, under pain of nagging from the electoral commission or monetary penalty — even prison, if you are not a very noticeable person.

As a consequence, the government — or even the local member — is never quite yours. It's one of the reasons for the easy hostility towards politicians that disturbs the peace in Australia.

I was pleased last week, to read a newspaper article by Duncan Kerr, attorney-general and justice minister in the Keating government, in which he attributed to compulsory voting significant blame for the Labor Party's decline.

Since the vote was being turned out by legal assertion, there was no need for local branches to do the job — thus no need for local branches. (Public funding of election costs is also seen by Kerr as helping to diminish the community involvement and "excitement and challenge" Labor once represented.)

"Too many branch meetings," Kerr wrote, "are now indistinguishable from meetings of the local golden years club. Young people who join often leave quickly. The few who stay are either sustained by dogged faith, knowing they have no real influence, or are hungrily looking for party jobs or preselection."

Kerr lays less blame on compulsory voting than I would for "Australia's mean and shrunken democracy . . . sick with cynicism". However, I probably would not diagnose it as quite so sick and shrunken.

But look at the way the ripples from compulsion spread.

# Cynical electorate votes with its feet

Federal election figures reveal record no-shows



Frank Devine

**R**EADING the Australian Electoral Commission's report on voter turnout at the federal election has been quite