COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 1998 federal election and matters related thereto

THURSDAY, 1 APRIL 1999

CANBERRA

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JOINT COMMITTEE ON ELECTORAL MATTERS

Thursday, 1 April 1999

Members: Mr Nairn *(Chair)*, Senators Bartlett, Faulkner, Lightfoot, Murray and Synon and Mr Danby, Mr Laurie Ferguson, Mr Forrest and Mr Somlyay

Senators and members in attendance: Senators Bartlett, Faulkner, Lightfoot and Murray and Mr Laurie Ferguson, Mr Forrest, Mr Nairn and Mr Somlyay

Terms of reference for the inquiry:

To inquire into and report on all aspects of the conduct of the 1998 federal election and matters related thereto.

WITNESSES

Committee met at 9.17 a.m.

CHAIR—I declare open this hearing of the Joint Standing Committee on Electoral Matters inquiry into the 1998 federal election and matters related thereto. Since 1983 the Joint Standing Committee on Electoral Matters and its predecessors have reported on every federal election conducted by the Australian Electoral Commission since its establishment in 1984. This committee is continuing that tradition by inquiring into the 1998 federal election and matters related thereto.

To date the inquiry has received about 180 submissions, well in excess of the number received in the previous federal election inquiry. Such a healthy interest in our electoral system is encouraging. The basic soundness of Australia's electoral law and the professionalism of the Australian Electoral Commission were again demonstrated during the 1998 federal election. Despite the great variety of circumstances and locations, over 11½ million Australians managed to cast a ballot in the election. Within just two hours of the closing of polling in the eastern states a result was obtained.

Notwithstanding the success of this election, Australia's outstanding electoral achievements require constant monitoring and fine tuning to remain relevant and contemporary. The Joint Standing Committee on Electoral Matters plays an important part in ensuring that Australia's electoral law remains relevant by providing a forum for the people who participate in the electoral process—candidates, parties and voters—to raise their concerns with the electoral system, expose problems and suggest improvements.

A number of recurrent issues have emerged from the submissions so far received by the committee. The most serious issue relates to assisted voting in remote Aboriginal communities. Other submissions address issues related to political campaigns. Of particular concern to some are second preference how-to-vote cards and 'dear neighbour' letters.

Today we hear from the Australian Labor Party and the Australian Electoral Commission. The Australian Electoral Commission has provided a substantial submission containing 29 recommendations canvassing a range of changes from the administrative to the potentially controversial. In addition to the issues already outlined above, the Electoral Commission has dealt with the problems of the distribution of postal vote application forms by political parties and with the security of the electoral roll, detailing advances in their roll management system and discussing international trends in roll security.

The second organisation appearing before the committee today, the Australian Labor Party, has provided a submission containing 80 recommendations dealing with financial matters, polling practices and constitutional change.

[9.20 a.m.]

BANKS, Mr Simon, Principal Legal Adviser, Senior Adviser to the Shadow Attorney-General, Australian Labor Party

GRAY, Mr Gary, National Secretary, Australian Labor Party

CHAIR—I welcome the witnesses to the table. The evidence that you give to the public hearing today is considered to be part of the proceedings of parliament, therefore I remind you of the laws of contempt of the parliament in relation to the evidence you are providing. The committee has received your submission No. 163 and it has been authorised for publication. Are there any corrections or amendments you would like to make to your submission?

Mr G. Gray—No.

CHAIR—Do you wish to make a brief opening statement before I invite members to proceed with questions?

Mr G. Gray—There are a few points I would make before addressing specifically the content of our submission. The Australian Labor Party views the Electoral Act as being a very good piece of legislation, a very good act, for administering elections and for administering parties. In many ways we think our act is, in international terms, exemplary—and the execution of that act is certainly a tribute to the quality and the capacity of the AEC. But we do need at all times to be vigilant to ensure the act is at all times up to date and able to do the things that we require of it. Therefore the process of the joint select committee, which has been operating since 1984, is an excellent process as a clearing house for the fine tuning that necessarily has to take place to the act. Both as a process and as a piece of legislation, it would be reasonable to say, and not with any modesty, that the Australian Electoral Act is in international terms a model of behaviour.

Now to our submission: Simon Banks, who is with me this morning, compiled the ALP submission and he may wish to make some comments or give some answers in terms of clarifying some of the detail. I will give a general overview and we can take it from there.

The first point we make is to do with the integrity of the public funding provisions of the act. Many of you will be aware, and many Australian voters will be aware, of the public comments made by the One Nation Party following the federal election. They essentially regarded the federal election as a money gathering exercise through public funding to fund their recent campaign in the state of New South Wales. That is unacceptable. Whereas political parties certainly gain freedom from the way in which current disbursement of public funding takes place, I believe we should be prepared to take some limitations on that freedom in order to prevent profiteering out of federal elections of the sort the One Nation Party engaged in last September and October. That kind of profiteering is outrageous.

Therefore, our first recommendation is to consider a change to the act whereby we move back to a system of reimbursement for outlays made by political parties. That form of reimbursement should not slow down the payment process to political parties but it should

add greatly to the integrity of both the spending of public moneys and those political parties that accept on the one hand the benefit of public funding but on the other are not prepared to engage in the spirit of the act and the spirit of the electoral process and spend that money to inform people of their policy views or their candidates. We believe that to be an important point.

Secondly, the operation of the financial and disclosure provisions have been significantly tightened over the period 1984 when they were introduced, through 1992 when they were significantly tightened, to 1995 when we created, in terms of disclosure, an exemplary piece of legislation. But we do need to be forever vigilant in the way in which that disclosure works.

We do see some possibility to simplify and to streamline the way in which parties report their financial transactions, in no way at all weakening the act but in every way making our work as parties a little easier. It would be fair to say that political parties are far and away the most regulated community organisations in this country. Whereas we agree that regulations and a strict framework should be there for our operations, there are occasions when we believe simplification may be possible.

Certainly electronic lodgment 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. It would also make it very easy for the parties, since all of our records are actually kept on computerised systems. Whether they be coalition parties or Labor parties or minor parties, accounting systems these days are highly mechanised and therefore we believe that we can move to a system of electronic lodgment.

We make the point quite clearly, as we have over the years, of the transparency of our act. If political parties are prepared to take between them up to $30 million in public funding for every federal election, then those political parties should be prepared to engage in the transparency that our act requires. When public funding was increased in 1995, it was increased as a consequence of the reduced income flow to political parties because of disclosure.

There is an obligation on political parties to be completely transparent in the way in which they provide information about their financial transactions. It is in that context that we mention the Greenfields Foundation, as we have consistently in this forum and in the parliament. In tightening provisions that relate to the way in which loans or other financial transactions take place, we believe that our act—which is already excellent—can be made even better.

I have one final point to make—but the rest of the submission stands on its own merits—and that is to do with Commonwealth advertising. In the last election campaign, which effectively started with the announcement of the coalition's tax policy, we saw the engagement of massive amounts of spending of public money in order to create a perception of the principle measuring that policy—the GST—and to present it as a worthwhile form of tax reform. We believe that spending of Commonwealth money for that overt political purpose is both wrong and unethical, and it should not happen. The spending of that public money had a marked effect on the outcome of the election and a marked effect on the

positioning of major public policy issues for debate during that campaign. We believe this committee should turn its attention to that form of spending, which we believe to be wrong and improper. It should not happen.

It is clear to see from the timing of the last election that, should there be a joint House of Representatives and half Senate election at the next Commonwealth election, then the election must fall somewhere between the first Saturday of July 2001 and almost certainly the first Saturday of October 2001. It is the first time ever that many of us in our political careers have what is effectively a fixed term parliament, barring a double dissolution election.

The reason we raise this point about Commonwealth advertising is that it is very easy to see how a coalition government would wish to increase the level of spending to reposition public issues through the months of May, June and even July 2001 moving into that election cycle. We make the point that we believe that is wrong, we believe that is improper, we believe that is a misuse of public moneys and we believe that this committee, as well as the joint public accounts committee, should take a view of that in favour of the taxpayer and in favour of the integrity of our democratic system.

Mr Banks—The members of the committee will obviously have had the opportunity to read our submission. They will have noticed that the majority of the other matters that we deal with really go to operational issues, by and large to do with the conduct of elections: ensuring that those elections are conducted on a fair basis and that ordinary Australian citizens have as much of an opportunity as possible to participate in the electoral process, subject to reasonable and appropriate checks.

They are the principal matters that I draw the committee's attention to. I draw the committee's attention particularly to the provisions that deal with the witnessing of applications for enrolment.

The committee would be aware that draft regulations have been circulated in relation to those provisions. Our concern is that, in their current draft form, they are unduly restrictive and also to some degree, particularly in the areas where they deal with public service matters, reflect a slightly outdated view of the contemporary nature of public service employment. Without going into any further detail on those matters, I would encourage the committee to look at those matters with particular interest.

CHAIR—Starting with the reimbursement of public funds, your suggestion there is that basically it should be a reimbursement of what is expended. How would you see that working? You talk of still maintaining a cap so that the formula for public funding would remain, and the party would demonstrate it had expended an amount up to that cap; or are you talking about reimbursement of expenditure in some other way?

Mr G. Gray—The first point I would make in discussing this sort of thing is to say that, as I look around at the members of this committee, it is a pleasure from the point of view of a party official to know that you are talking to people who know the engineering in political parties and know how campaigns are run and financed. In the last federal campaign, my own party received in the order of $14 million of public funds for its campaign.

By the time of election day, 3 October, we had expended from our office alone a minimum of $17.3 million. It would have been very easy for us to have provided a certificate to the Electoral Commission that would have attested to the value of our media buy, some $12.5 million, and our research buy, some $1.5 million, all of which subsequently we need to disclose to the Electoral Commission anyway in follow-up disclosure documentation.

In doing that, in those two bills alone, we would have demonstrated more than amply expenditure of the amount equal to the public funding claim that we were making. In addition to that, we could have quite easily demonstrated a $1.5 million spend on our production budget and a couple of million dollars on our marginal seats.

Those things, on the basis of properly run national political organisations with accounting systems and accounting standards, can be produced, in my belief, within hours of election day. That documentation should be sufficient to be able to claim public funding. If you cannot produce that documentation to a required level of integrity, required by the AEC and by the parliament—and, dare I also say, by the taxpayer who provides these funds—then I do not believe that you should get that money.

CHAIR—Do you see one of the debates arising being: what is legitimate expenditure on an election? For instance, do you include salaries of people employed by the party who may or may not be working on the election campaign? I am playing devil's advocate here, I suppose. An independent or a minor party might say, 'We don't have the capacity to employ people, but we have lots and lots of volunteers.' You could put a nominal wage against those volunteers to equate with the larger parties.

Mr G. Gray—If we chose to do such a thing and reimbursed parties on that basis, the National Party, the Labor Party and the Liberal Party between them would have well over 100,000 members, all of whom multiplied by their friends on election day would equal a work force of pretty close to quarter of a million. I think we could see off any challenge on the basis of that. But I do think we would need to consider very carefully those classes of expenditure that would be reimbursable; we would not wish to create a situation whereby there were classes of expenditure, such as employing staff, that were not seen as reasonable claims.

However, it would be possible, through certification and follow-up investigation or auditing by the AEC, to prove whether or not political parties did pay people. I do not believe we should get to the point of imputing voluntary work, voluntary time. That would be simply impossible. But I do believe it is possible for us to certify expenditure, to have that certification checked and audited by the AEC, to 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 election, to the advantage of the One Nation Party and to the disadvantage, I believe, of the Australian taxpayer and the Australian people, cannot happen again.

Mr SOMLYAY—How would this affect an independent member of parliament?

Mr G. Gray—In my view, it would have no impact at all, since for an independent the method of demonstrating expenditure would be as simple as that for a political party; that is, the independent would know how much money they had spent on pamphlets, on television advertising if they did some, on petrol for the motor car, on campaigning expenditure and on campaign expenses in general, and would be able to present, I presume, that certification by way of even Mastercard accounts, American Express accounts—auditable, genuine expenditure and documentation which the AEC could sight and be assured that that expenditure had taken place. It should make their task easier.

Mr SOMLYAY—The reason I ask the question is that there is an anomaly with independents at the moment in that personal expenditure on a campaign becomes tax deductible in the hands of the candidate. The candidate then receives public funding and that public funding is not taxable. The expenditure is a tax deduction against income, and public funding in the hands of the independent is not taxable. As you know, the candidates of the political parties do not get the public funding; the party gets the public money.

Mr G. Gray—I believe that the current working of the act in fact does advantage independents in many ways. It advantages them first because independents do not face the degree of regulation and scrutiny that political parties face. They do not have to endure the rigour of registration that the major political parties have to endure and they do not have to endure the public scrutiny which the major parties properly have to endure. So I do believe that the act currently does advantage independents.

Having said that, there may be some issues that need to be considered in terms of tax. I had not thought of those, to be quite frank. The particular concern that I have is to ensure the total integrity of the act and our spending of taxpayers' money in delivering a campaign which is about information and about democracy and not about profit-taking, which is what the One Nation Party, by its own presentation of its campaign and commentary afterwards, engaged in in the last federal campaign.

Senator MURRAY—The tax issue is an interesting one. The One Nation circumstance was an aberration; it was very unusual in political history. Your suggestion does involve more administration, although I recognise the point you make. One of the ways to deal with this is to consider any surplus as potentially taxable. Assume a party spent $100 and received $110. That $10 would be taxable at the corporate rate. That is one way to deal with it, and by and large for most political parties that would be easy to manage.

I would like your response. The difficulty with One Nation is that, if they took $3 million and their expenses were $1.5 million, even at the top rate they are still left with a substantial surplus. I would just like your response to that way of dealing with the issue. It also covers Mr Somlyay's point about the potential at the independent level for double-dipping through making tax deductible claims and at the same time receiving funds which are not taxable in the hands of the recipient.

Mr G. Gray—I believe that independents would argue that the act and the system militate against them in general execution, as frequently they do when they appear before this committee. I am pleased to hear two members of this committee making, I believe, the valid point accurately that, not just in terms of the administration of the act but also in terms

of some of the potential financial implications of campaigning, the operation of our political system is not just kind to such independents but on some occasions overly generous.

Having listened to all of that, I would just like to bring it back to the central thesis of our submission, which is that we believe that, all of those factors notwithstanding, there are simple measures that we can take that improve the integrity of our act, that improve the delivery of public moneys to political parties for the proper purpose of campaigning in the community and of strengthening our democracy. They are the points that I would prefer to stay to.

Mr Banks—Perhaps I can make an additional point in respect of Senator Murray's comments. The principal concern obviously that the Labor Party has with this which particularly occurred in the case of One Nation was the fact that the party appears to have profiteered from a Commonwealth election for the purposes of using those funds for a state based election. One difficulty that you would create if you simply treated any excess that was acquired through that process as taxable income would be that, as has occurred in the current electoral cycle, those funds could be expended on a state election within the same financial year and the incurring of expenditure in the course of that state election could effectively wipe out the tax liability that might otherwise accrue. So treating it simply as a taxation issue may not address the fundamental problem that you are seeking to respond to.

Senator FAULKNER—As I understand it, what the Australian Labor Party is effectively saying, if you boil it all down, is that the principle of public funding of political parties and candidates is massively undermined if public funds are going to either parties or candidates who have not expended those funds in an election campaign. Isn't that really the nub of what we are talking about here?

Mr G. Gray—That is correct.

CHAIR—On an associated point which takes us into disclosure, the previous committee, in its report from the 1996 election, highlighted the duplication that takes place with returns whereby a political party is disclosing a donation from an individual and the individual also has to disclose it and then the political party has to put in a separate annual return anyway for the full year. I guess that in your submission you are supporting a rationalisation of that reporting exercise. Am I reading that correctly?

Mr G. Gray—You are certainly reading correctly that we believe that the processes could be simplified. Let us go to that particular point and make the following very important point from the point of view of the Labor Party. There is a particular piece of genius, we believe, behind the design of the act. The act requires that political parties disclose their receipts of contributions and then requires donors to disclose their contributions. The operation of the two edges of the scissors allows the Electoral Commission to make a judgment as to whether or not a political party is telling the truth. So the operation of both edges of the shears adds to the integrity of the act and makes the act a good act for ensuring transparency.

We acknowledge the duplication that is required on behalf of donors, and certainly in the past I have contemplated argument that says that is an unnecessary piece of bureaucracy.

Certainly, for company secretaries, who are burdened with all kinds of regulatory requirements and assurances, that is a difficulty.

In my position as the principal fundraiser for the Australian Labor Party, a service that we provide to our donors is that at disclosure time we go back to our donors and from our own records say to our donors, 'This is how much we believe you gave to us. Check your accounts.' There should naturally, I believe, be a service. Given that donors do this as an act of generosity and decency towards parties, I believe that there is both a prudent measure in an accounting sense to provide the information back to a company as to how much you have and there is also a politeness involved in saying to a donating company, 'This is how much money we have received from you and this is what we will declare.' That makes the job of company secretaries a lot easier. Also, it makes my job as the principal fundraiser for the Australian Labor Party a lot easier in getting donations.

Senator FAULKNER—Do you consider that the Labor Party is at a massive comparative disadvantage when you have the Liberal Party using mechanisms like the Greenfields Foundation to effectively subvert the disclosure provisions of the Electoral Act?

Mr G. Gray—I believe that the Australian people are at a massive disadvantage in that context because, when the act was agreed upon by four major political parties, it was agreed upon on the basis of the importance of transparency, and for transparency we received a significant gift of public moneys. I believe it is dishonest to accept that grant of public moneys and then not carry out your part of the deal which is total disclosure and total transparency. I argue, I believe accurately, that our act is a good act and that our disclosure provisions are excellent. Although I genuinely do not believe that we have seen financial corruption at the federal level in the Australian parliament at any time since our act came in and almost certainly not before it, this act is there as a guarantee of probity and transparency. Something like Greenfields comes along and casts a shadow over that transparency and it creates the appearance, by not having transparency, that there is a problem and something which is being shielded from the Australian people.

Senator LIGHTFOOT—Are you saying it is illegal, Mr Gray?

Mr G. Gray—We believe that the Greenfields Foundation was in breach of the disclosure provisions and we have argued that both within this forum and within the parliament. We have also argued for amendments to create an act about which there can be no ambiguity.

Senator LIGHTFOOT—Are you saying then that the Greenfields Foundation breaches the Electoral Act or other acts?

Mr G. Gray—From evidence given to this committee by members of the Australian Electoral Commission and from evidence given before the estimates committee, we believe the Electoral Commission has sufficient grounds to believe that the Greenfields Foundation warrants further investigation.

Senator LIGHTFOOT—Is it fair to draw a comparison between the Greenfields Foundation and the union movement generally, the ACTU, with respect to transparency?

Mr G. Gray—I think it is absolutely unreasonable to do that since for any union that makes a donation to the Australian Labor Party—and this has always been the case, even before disclosure came into place—the unions and their management committees need to report back to their members the financial transactions engaged in by unions. In fact, at the last election, of the $800,000 approximately that my office, the national secretariat, received from union contributions, that disclosure takes place to both the management committee and the union members.

If an equivalent level of disclosure were required by corporate donors, corporate donors would have to disclose to their shareholders the contributions that are given. I make the point that in the simple case of those union contributions of about $800,000 to our last federal campaign to the national secretariat, disclosure takes place, and it takes place properly. I do not believe that there can be any comparison between a $4.5 million so-called loan and straight-out financial contributions by, in our case, five trade unions properly and appropriately disclosed.

Senator LIGHTFOOT—I missed part of your answer with respect to the question: do you think that the Greenfields Foundation has breached other acts? You said yes. Could you expand on that?

Mr G. Gray—I am not aware of any other acts that the Greenfields Foundation may have breached. What I believe is that the loan which was made to the Liberal Party via Greenfields was a loan that should have been properly disclosed. The source of the income should have been properly disclosed and it has not. Therefore, the act that I believe they are in breach of is the disclosure provisions of the Commonwealth Electoral Act.

CHAIR—If a loan is taken out by a political party from a financial institution, such as a bank, et cetera, is it not the case that disclosure actually occurs when that entity, the political party—irrespective of who it may be—pays back that loan because it must disclose where its income comes from?

Mr G. Gray—In general, you would say yes.

CHAIR—Why is that different from any other loan?

Mr G. Gray—In the particular case of this loan, we believe from what we know—and what we know may not be the entire truth—that the repayment process is $100,000 per year over a 45-year period. We also believe that necessarily within that there is a forgiveness of commercial rates of interest. The first point of breach of disclosure is that the commercial rate of interest and the differential to the concessional rate obtained by Greenfields is a clear breach of the act.

Senator FAULKNER—Do you believe that in the view of the Labor Party the Greenfields Foundation is an associated entity of the Liberal Party? Is there any evidence to suggest that that might be the case?

Mr G. Gray—The Greenfields Foundation operates from a post office box from which the Free Enterprise Foundation operates. The Free Enterprise Foundation is now

appropriately and properly disclosed. The Greenfields Foundation has as trustees a number of people who appear as trustees to the Free Enterprise Foundation and we believe that that kind of match-up of personnel and post office boxes, and the gifting of money to the Liberal Party, creates undeniably and absolutely an associated entity.

Senator FAULKNER—Senator Lightfoot asked you earlier whether you thought the foundation was illegal. I think that was the word he used. It is fair to say, isn't it, that the Labor Party has really campaigned quite strongly on its view that the Greenfields Foundation and the so-called loan to the Liberal Party really does subvert the disclosure provisions of the Electoral Act? At the end of the day, that is the substance of the Labor Party's concern, which the Labor Party has taken very seriously and, in fact, publicly campaigned upon.

Mr G. Gray—It would appear that the Greenfields Foundation was designed purely for the purpose of subverting the act.

Senator FAULKNER—The question of illegality and the interface of the Greenfields Foundation with the act is something that obviously the AEC themselves seem to be taking very seriously and those matters are being currently addressed, as you would be aware, by the AEC. In my view, if it is not illegal, it is very sleazy. Would you agree with that?

Mr G. Gray—There is no doubt about that. If you take a situation where a party has a debt of $4.5 million, you remove that debt by a loan, do not provide the public with a view as to whether or not that loan is commercial and the source of the funds, you create the possibility that the word 'sleaze' is a kind word to use in reference to the Greenfields Foundation.

CHAIR—You also have to agree that the AEC has not ruled that there is anything illegal with the information provided in the annual return of the Liberal Party.

Mr G. Gray—I am not aware of that.

CHAIR—Also you mention that payment is being made to that organisation. You would also have to agree that the money used to pay off that loan is fully disclosed.

Mr G. Gray—There is no doubt that in both the Liberal Party disclosures and what we know of Greenfields, there is a $100,000 per annum payment made by the Liberal Party to Greenfields.

CHAIR—And the source of that $100,000 is effectively fully disclosed because the income to the party is part of that return, so it is fully disclosed.

Mr G. Gray—We fully concede that the $100,000 and the source of that $100,000 is fully disclosed but the nature of the commercial loan is not.

CHAIR—But isn't that the point of the act, to disclose where income comes from to run the party?

Mr G. Gray—It is to point out exactly that, where income comes from. Therefore, the act requires not only straight-out financial contributions but also gifts in kind. It is very clear that the provisions around the Greenfields 'loan' are not commercial. A $4.5 million loan paid off over 45 years at $100,000 a year is not commercial. If it were commercial, every last battling small business person in this country would be out there trying to get that loan. You know that and so do I.

CHAIR—It is for the AEC to ultimately rule on those aspects.

Mr G. Gray—Correct.

Senator MURRAY—Is not this the case where a specific instance helps develop a principle, if you like? The advantage of the AEC is that they are independently able to assess whether the principle that is espoused in the act and in what you have said has been breached; namely, that a gift in kind has been made. I think the real issue that we are faced with—and I would like to hear from Mr Gray—is whether the act needs to be tightened so that that principle can be better managed by the AEC. The Labor Party moved an amendment which has already—in my view and in the view of our party and it was passed by the Senate—done just that. Do you think it needs to go further?

Mr G. Gray—No. The amendments that we have currently got that passed the Senate a number of weeks ago and I believe are currently before the House of Representatives go a long way to tightening this up. They may be imperfect, but we believe they will deal with the matter of these forms of loans. The reason I opened my presentation by making the point about vigilance is that I do believe we have an excellent act. I firmly believe that we have not seen corruption at a federal level in this country in our political systems and this act underpins that. I believe that when we see, as you call it, an anomaly like this, we need to address it to maintain the integrity of our system, which I believe is an excellent system, but it is underpinned not just by the act itself but by the vigilance of the participants within our electoral system.

Senator MURRAY—My real question to you is whether the Senate amendment has in fact fixed the mischief that you believe was there.

Mr G. Gray—We believe it does.

Senator MURRAY—Then the second question is this: if we still stay with principle, the other side of this coin is that the key issue in disclosure is always to identify the actual source of money. So with any trust or club or institutional organisation which somehow conceals the real source of the money—it could be through a union or through an employers' organisation, anything, I am not pointing a finger at anything in particular—we should endeavour to ensure, in my belief, that that source is identified. I would like your comment as to whether you think the act is deficient in that respect as well.

Mr G. Gray—No, I do not believe it is. In fact, in the general principle of the Greenfields Foundation I do not believe it was deficient. But I do believe that the amendments make it absolutely clear that it is a better piece of legislation now to deal with these forms of loans. Although there may be some difficulties to do with the administration

of that, I believe those difficulties are well worth the pain in order to ensure that it is known to all participants within our electoral process that we are vigilant to ensure the integrity of our act and the integrity of the disclosure provisions.

Senator MURRAY—There have been instances during the last election campaign where an employer organisation in this instance—but it could have been others—spent a great deal of money during the political campaign. If that money was derived from their own funds and their own income, then obviously that is perfectly legitimate. However, if the money was channelled into there from an outside source and then used for a political campaign, in my view that should be disclosed. I am just not certain, and I seek your advice, as to whether you think the act at present does allow for that kind of disclosure.

Mr G. Gray—I believe it does. For instance, although we may be talking of different organisations, we would certainly believe that the moneys spent by the Business Council of Australia on its $4 million or $5 million campaign in the month of August 1998 will be disclosable. We believe they are. As I recall it, from Senate estimates of last year, the Electoral Commission also regards that campaign as being apolitical and therefore warranting disclosure.

Senator MURRAY—But in my view it is not self-evident in the act or to the AEC—that is my reading of it and I want your response—that the AEC would be required to go to the Business Council of Australia and ask for disclosure.

Mr G. Gray—I believe it is, but we would be more than willing to contemplate a situation where, if necessary, we need to attend to that.

Senator MURRAY—Frankly, I do not want to pick on the Business Council of Australia. I think it is legitimate for them to participate in the political process of those if they so desire. But I am searching for this principle of therefore the true source of those moneys always to be transparent. In my view, there is a growing practice across a wide range of organisations who are supportive of all sides of politics doing this and I am not at all certain that the AEC are catching them.

Mr G. Gray—If that is a concern, then we should attend to it. I would have thought that the appearance on our television sets during that three-week period of $4 million or $5 million of commercial advertising would have brought itself to the attention of the Electoral Commission and therefore would have warranted consideration by the Electoral Commission. Having said that, what we do not want to create in this country is the ugliness of the American PAC systems whereby political parties funnel donations through front organisations to carry out campaigning activity in a non-disclosable way.

Senator MURRAY—Which, in my view, is starting to happen.

Mr G. Gray—In our view, that is completely inappropriate and should be stopped.

CHAIR—In the New South Wales election just last week, for instance, I received in my letterbox publications authorised by various trade union movements. They will have to put in a return for the expenditure on that particular campaign under the federal rules.

Mr G. Gray—Are you referring to the federal campaign or the New South Wales state campaign?

CHAIR—I am giving an example of it happening just in the last week because there was a New South Wales election. But if the same thing occurred in a federal campaign, that particular political material which did not come from a political party—that came quite specifically from a union or you could have similar things from other organisations—would require a return to the Electoral Commission in what you are proposing. Presumably in that return there would have to be disclosure by that organisation as to where its income has come from to be able to fund that particular campaign.

Mr G. Gray—In my view, the way in which the disclosure provisions currently operate, for example, for union organisations which do disclose donations in kind and donations of financial contributions, I do believe that that sort of disclosure is both appropriate for those organisations and takes place. Should trade unions establish an organisation which carries out a campaign, then that organisation itself should disclose to the Electoral Commission its sources of funding in order for it to carry out its campaign. That is effectively what happened with the BCA.

Senator FAULKNER—At the end of the day, if someone is serious about subverting the intent of the act, if a person or a political party lacks probity and decency—it is true at the moment you could have someone acting as a bagman for a political party, and I think this is the point that Senator Murray makes, that donations or moneys might be channelled effectively into a bagman and that that bagman might use an entity to launder the money and be eventually, by fair means or foul, by direct donation or by loan, provided to a political party or a candidate—that is a major concern.

Is that the sort of concern that the Labor Party has in relation to the Greenfields Foundation? If it is, is there anything you can do, even closing loopholes in the act, that will get to the bottom line here and stop that behaviour? I am not suggesting that is necessarily the case in this instance. But at the end of the day, even though it may be illegal, if individuals or organisations intend to breach the spirit and the letter of the disclosure provisions of our Electoral Act in that way, it certainly is possible to do it, isn't it?

Mr G. Gray—It certainly is. Therefore, processes such as this joint select committee become central to maintaining the integrity of our act. Processes such as amendments to the act become essential. That is why my opening comment is to do with vigilance and it is to do with, as Senator Murray comments, when we see an anomaly, when we see a problem, we attend to it and we attend to it with goodwill. Frankly, if we were to wind back the clock to early 1998 we attempted to deal with the Greenfields Foundation in negotiations, to attend to that matter in a proper way, to get a piece of legislation that would close it. When we found that option was closed off to us we decided to go the next route which is to elevate the issue politically, which frankly does not help political parties.

It does not help political parties to have a blot on our copybook. Because it does not help political parties, we make the point very clearly that vigilance is important and therefore this joint select committee process is a vital engine room to ensuring the integrity of our act and transparency. If there is a flaw, whether it be in amendments that have currently gone

through the Senate or that are currently in the process of being dealt with, which I do not believe are flawed, it should be the business of this committee to make sure that we create legislation which is as good as it can possibly be to ensure the proper operation of the disclosure provisions of our act.

Senator MURRAY—Outside of elections, there is also the question of legal action. Legal action, as you know, is expensive and is sometimes conducted against political parties or members of political parties. That legal action may be sourced from persons who have a political interest in the matter—in other words, they fund somebody's action. As far as I am aware, that kind of involvement in the political process is not subject to disclosure, yet it does go on. I wonder what the ALP feel about that particular type of political activity.

Mr G. Gray—I appreciate the point which you are making. If you can be more specific as to the situation that you believe has taken place, that would help. But in a general comment, such transactions under the act as it is currently structured should properly be disclosed. They would be contributions in kind, as I would understand it.

Senator MURRAY—I will be as specific as I can with a few instances, but there may be many others that I am unaware of. There have been instances where particular campaigns are taken to the High Court about, for instance, the Langer style of voting. There is the campaign to challenge Senator-elect Heather Hill's election. There are legal processes under way with the Australian Democrats currently in Western Australia which, in my view, probably amount to some $80,000 so far.

In all those instances—and I specifically do not want to comment on the last one because it is sub judice, and I obviously would have a conflict of interest as a member of that party—there is the reality or the potential for someone else to be funding it for political purposes. It is entirely appropriate that people can take legal action, but in my view you need to know if it is part of the political environment. That is an area which it may be in the public interest to disclose. I wonder if you have a view on that.

Mr G. Gray—My general view would be to say that, if such transactions are happening, if we know of their existence, then they should be brought to our attention and a remedy sought through the act in order to make such funding disclosable, as they should be under the principles and proper functioning of the act. It would seem to me that, if we had evidence of that, we would act.

Senator LIGHTFOOT—Given the increase every election in the amount of funds allocated by the federal government for the election for reimbursement to political parties, at some stage do you not think that we would have to consider reducing that amount? It is increasing and it is going to increase with every election. Even if it remains static as a per capita reimbursement, because more people participate in our democracy it is going to increase.

Is it not logical to go to something akin to the rest of the developed world—or, indeed, the world that participates in a democracy—and have four-year terms and voluntary voting? This is not necessarily as a method of reducing that significant amount that the federal government finds from taxpayers' funds for political parties, but more as a way of having a

better system that operates with something that we know is a proven way of participating fully in the democracy, and that is four-year terms minimum and voluntary voting.

Mr G. Gray—The Leader of the Australian Labor Party, Kim Beazley, has made Labor's view of four-year terms clear. He has done that in a way that I think is both understood by the Australian people and is essential to an understanding of that issue from the point view of the Labor Party. We favour four-year terms.

In terms of the cost of public funding, it will go up and it will go up for two reasons. Firstly, the escalator that is built into it is related to a CPI of campaign expenses. Certainly, campaign expenses do not go down and, if we have elections in October, November and December, then media buyers go up in price, and necessarily that is not reflected in public funding.

Should the Liberal Party ever be successful in getting its GST through, then, of course, that will add 10 per cent to the cost of political campaigning which will not be reimbursed, unless the government recommended something as disgraceful as zero rating of political parties, which I do not believe it would.

You make a final point about voluntary voting. I do not believe the Liberal Party is in favour of voluntary voting any longer. If you considered the Liberal Party's own submission, the party is affirming its opposition to the abolition of compulsory voting. As a consequence of that, what we see is an important engine room for making changes to the Electoral Act. In my view, the most important principle is the decency of the act and the integrity of the act, with both sides of politics agreeing that that is a worthwhile thing to do. It would seem to me that certainly for the time being both sides of politics agree that we should retain our compulsory system of voting.

Senator LIGHTFOOT—But you would agree that significantly less than the 90-odd per cent of Australians who are eligible to participate in voting would participate if it was on a voluntary basis? It would be somewhere around 50 to 60 per cent.

Mr G. Gray—I do not know, and frankly, neither do you.

Senator LIGHTFOOT—But you would agree that it would be significantly less if it was voluntary?

Mr G. Gray—I do not know. In fact, the turnout rate in Sweden is very similar to the Australian rate and I believe that New Zealand also has a very high rate of turnout.

Senator LIGHTFOOT—But in the United States it is around 50 per cent to 60 per cent.

Mr G. Gray—I suspect that you are making points here for your own particular purpose—which I respect—but my own personal view is that Australians turn out to vote through a combination of compulsion and a desire to have a say in the formulation of governments.

Senator LIGHTFOOT—Of course. I am not saying they should not; I am just saying that a voluntary system would allow a full expansion of democracy as well.

Senator MURRAY—Mr Gray, you have made some submissions on constitutional changes, and the four-year term proposal is also a constitutional change. There are constitutional changes on which there is cross-party agreement and there are other constitutional changes on which there is probably a dispute, yet every government finds a reason not to have a constitutional referendum at a referendum or at an election when it occurs. My simple question to you is: where there is broad cross-party agreement on constitutional issues, do you think the committee should be recommending that the act be changed—because that is the only way you can do it—to require the government at the following election to put a particular question?

Mr G. Gray—I think that is a powerful point, and I personally would agree with that, but I have not consulted my party on that view. I would also make the point that we believe that there are two essential flaws in the way in which our Constitution interplays with the nomination of candidates, and they are, clearly, the office of profit provisions and the allegiance to a foreign power. We believe they should be addressed. We have been saying that for quite some time. Unfortunately, when all of the major parties agree on something, the Australian people view that with some degree of suspicion. That is unfortunate because the motivation—that I believe we would all have around this table—to clear up the confusion created by section 44 would necessarily stand the possibility of being confused in the popular mind simply because all the political parties getting together and agreeing on something generally raises a suspicious eyebrow.

Mr Banks—Senator, obviously if the act were to be amended in the way that you are suggesting, it would require the support of the government in the House of Representatives for that amendment to succeed. I would have thought that if a government was going to take that view, then hopefully an amendment to the act would not be required and the matter could proceed in any event.

Senator BARTLETT—Another point in your submission which I think would also require a constitutional change is the issue of a person resigning from a political party after they have been elected under the party banner—and I note your comment about the principled actions of Cheryl Kernot. How would that work in practice? I am assuming that you are not suggesting that, if a person was expelled from that party, they would also lose their seat; that it would only be in the case where they actively resigned. Is that correct?

Mr G. Gray—Due to the amendments introduced in 1977, the Constitution already recognises the existence of political parties for the filling of temporary vacancies in the Senate. You raised the point in regard to Cheryl Kernot. When Senator Kernot resigned from the Senate, the Australian Democrats chose their person to fill that vacancy. That is the principled way to behave. Unfortunately, not everyone in our system is principled. As I reflect back over the last few years, there have been very few people who have taken that kind of principled view. Integrity is essential here, and people who do not have integrity do not take principled views. Therefore, we believe that the only way to ensure that those parties and those people who voted for political parties get proper value is to make the kind of change that we advocate in our submission.

Senator BARTLETT—I can understand that, and I think a lot of people would have a lot of sympathy for the issue that you are trying to address. But in looking at how it would operate in practice, I would assume it would be very problematic to try to have that principle apply where the person is expelled from the party as opposed to resigning, which would lead to a situation where—certainly in the ALP's case—usually they would just need to cross the floor on something and they would automatically be expelled anyway and therefore circumvent the problem. Presumably, that could have been something that Senator Colston could have done if necessary to keep his seat. So it looks like a principle that has a lot of merit, but the operation of it would be fairly easy to circumvent.

Mr G. Gray—We believe the parties would find ways of dealing with the possibility of people crossing the floor. But when we talk about principle in the act and Senator Colston in the same breath, it sends my head spinning a bit, I am sorry.

CHAIR—Time is getting on, but one matter which was raised by the Australian Electoral Commission is in relation to postal vote applications. The AEC expressed some concern about political parties sending out material for postal votes and those postal vote applications coming back to political parties, and there are some delays in getting them from the political parties to the AEC.

If I can use my electorate as an example, the Labor Party did disguise where that application was going by using an address that said: The Electoral Officer, Electorate of Eden-Monaro, PO Box, et cetera. The uninitiated would assume that it was going back to the AEC and not to the Australian Labor Party, but the post office box was the Australian Labor Party's. There was nothing on it to signify that it was the Labor Party. The AEC have raised this in their submission. Would you like to make some comment on how you ensure that those postal vote applications sent out to people get back so that they have voted in time?

Mr G. Gray—Mr Chair, if I can recall how the count went in Eden-Monaro following election night on 3 October, your own postal vote campaign machine performed extremely well and increased your margin as a consequence of the postal vote campaign that you ran.

CHAIR—Correct. That is why I am here.

Mr G. Gray—All of us who are experienced in campaigning know the importance of having a good postal vote machine. None of us would have a postal vote machine that did not deliver the application forms to the AEC to ensure that ballots got delivered to voters so they can vote and the political parties can get a benefit from that action. I believe that both sides of politics from time to time look at methodologies to improve the harvest of postal votes for purely partisan reasons, and I believe that is a good thing. It is an active engagement of voters to encourage voters if they need to have a postal vote because they cannot get to the polling booth on election day for whatever reason.

Having said all that, there are occasions when the Electoral Commission takes a kind of Basil Fawlty-ish view of election campaigns—that, if political parties were not around, they could run a very fine election campaign, thank you very much. We have all had experience of the difficulty of getting application forms out of the commission. We have all had the experience and scratched our heads and wondered why the Electoral Commission cannot

open on weekends during a campaign or for longer hours to carry out the function that takes place once every three years or—if Senator Lightfoot, the ALP and every other like-minded person had their way—every four years. I can understand that, and I can also understand the difficulty that is sometimes created for the Electoral Commission by overzealous party members on both sides carrying out the commission's function, but we are the central machine participants in an election campaign, regulated by the AEC, for the people of this country. The AEC will disagree with that from time to time.

I have not mentioned the second area in my opening presentation, Mr Chair, but I will be very brief. It goes to the actions of political parties, not just about postal voting. It is also about access to places such as shopping centres where the AEC has its own offices during a campaign. Your party, my party and the Australian Democrats—and no-one else—can go to the polling place to hand out how-to-vote information. We are active participants in this process.

In my belief, where there is a person issuing a ballot paper there is equal right of the political parties to have a person issuing a piece of campaign literature. That is a right of political parties that I believe exists and I believe it extends not just through postal voting but also to every aspect of the campaign. There are times therefore that the AEC and political parties do not always agree. I apologise to the AEC if I create offence by describing that as a Basil Fawlty-ish view, but it is.

CHAIR—That is all right. I wanted to give you an opportunity to comment on the processes because it was raised by the AEC.

Mr FORREST—The question about the address on the return form was not answered. It is a little inappropriate to have an address that a person thinks is going back to the Electoral Commission via an address which is going via a party organisation. That was actually the question asked.

Mr G. Gray—I thank you for bringing the discussion back to that point. I did not mean to avoid answering that; I will do that precisely. It came in a package that was clearly and obviously from the Australian Labor Party, a package that was clearly and obviously partisan and on behalf of our candidate. It was therefore a communication clearly from the Australian Labor Party, clearly gathering votes for the Australian Labor Party and therefore we would argue was clearly and obviously identified as such.

CHAIR—It was the return aspect that did not identify it was going to the Labor Party; that was the issue raised by the AEC and it was not the case in other party circumstances.

Mr G. Gray—I am quite prepared to concede that there may be people who would view that as a potential confusion, but I think they would not be doing that in an honest way. I do believe the package clearly identified itself as being from the party and from the candidate. Items of mail that are returned to the Australian Electoral Commission clearly state that they are returned to the Australian Electoral Commission. We would argue that there is a clear difference.

Senator FAULKNER—I would not concede too much, Mr Gray, because the Australian Electoral Commission does deal with this matter at length in its submission. It is critical of the major political parties, but I do not think you or the Labor Party or any of the political parties ought to be too defensive about this issue. It is one we ought to be exploring with the AEC, who seem to apply a general criticism to the behaviour of the major political parties in this area. I will be interested to hear what they might have to say in defence of that particular element of their submission. I am interested in progressing it with them.

Mr G. Gray—You have a significant advantage which I do not: you have seen the submission.

Senator FAULKNER—That is the point I am making.

CHAIR—You mentioned the four-year term. This committee in the previous parliament also recommended a four-year term, so that has been on the record for some time.

Senator MURRAY—Hence my view that we might consider whether we should recommend that it be legislated in the act to be put to the people.

CHAIR—That can be discussed later on. Thank you very much for your time this morning.

Proceedings suspended from 10.28 a.m. to 10.35 a.m.

BECKER, Mr Andrew Kingsley, Deputy Electoral Commissioner, Australian Electoral Commission

CUNLIFFE, Mr Mark Ernest, First Assistant Commissioner, Finance and Support Services, Australian Electoral Commission

DACEY, Mr Paul, Assistant Commissioner, Elections and Enrolment, Australian Electoral Commission

GRAY, Mr Bill, Electoral Commissioner, Australian Electoral Commission

HALLETT, Mr Brien James, Director, Information, Australian Electoral Office

HOWAT, Ms Frances Mary, Australian Electoral Officer for New South Wales, Australian Electoral Commission

LONGLAND, Mr Robert Lance, Australian Electoral Officer for Queensland, Australian Electoral Commission

CHAIR—I welcome Mr Bill Gray, Australian Electoral Commissioner, and other representatives of the Australian Electoral Commission to today's public hearing. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament, so I once again remind people of the normal laws of parliament, particularly in relation to contempt. The committee has received your submission No. 88 and then a supplementary submission which is numbered 159. They have been authorised for publication. Are there any corrections or amendments you would like to make to those submissions?

Mr B. Gray—No, but I do have an opening statement I wish to make. The Australian Electoral Commission has provided the committee with a major submission on the conduct of the 1998 federal election. It is reported that from an administrative and operational perspective the election was successfully conducted to the overall satisfaction of stakeholders. The commission has made some 30 recommendations proposing amendments to the Commonwealth Electoral Act and the Referendum Act. These recommendations are mostly of a technical nature to improve the efficiency and integrity of the conduct of the elections. The commission has also provided a second submission on the admissibility of provisional votes and proposes to provide further supplementary submissions in response to particular issues raised by submissions from other organisations and individuals.

The commission also welcomes the opportunity to respond to any specific requests for information and analysis from the committee itself. As the commission filed its major submission by the due date of 12 March 1999, the commission did not have the benefit of viewing submissions from the major political parties, which we understand have only just been publicly released. Consequently, our submission may not deal with all matters raised by those parties. As indicated, however, we would ask the committee to note that the commission will address any relevant issues by way of supplementary submissions as appropriate.

In our submissions we have raised a number of emerging problems in the federal electoral system for the consideration of the committee. For example, the number of candidates nominating for upper house elections at both federal and state levels is increasing significantly over time. This development is having negative impacts on the size of the Senate ballot paper on the procedures for declaration voting and on the provision of group voting ticket information. Nevertheless, the commission continues to support the democratic right of each and every citizen to nominate for election to the federal parliament despite the practical difficulties that may occur from time to time.

The mass distribution of postal vote applications by the major political parties is also of growing concern to the commission. It would appear that nationwide some 174 voters were disenfranchised at the last federal election as a direct consequence of this practice. Unless some urgent remedial steps are taken, this practice could result in more people losing their right to vote through no fault of their own. This in turn could lead to an increase in the number of petitions to the Court of Disputed Returns.

The commission is concerned about the present unsatisfactory level of access to the Commonwealth electoral roll that is afforded to citizens who wish to check for themselves that enrolment fraud is under control. This is particularly so given the increasing access to personal information on electors which is routinely provided to political parties and candidates under the legislation. Accordingly, the commission has recommended that the roll be placed on the Internet for universal access and inquiry without allowing any reproduction of or interference with the information contained on the roll.

The commission is aware that there is a view in some quarters that provisional voting is an avenue for electoral fraud, particularly in marginal divisions. The purpose of provisional voting is to preserve the franchise for those voters whose names might have been removed in error from the roll. The commission has no substantive evidence that there is any organised conspiracy to defraud the system by this means. Nevertheless, the commission suggests that the processing of provisional votes at the preliminary scrutiny is in need of reform and has made recommendations accordingly.

Finally, the commission has been the target of some very serious allegations of political bias in relation to the provision of voting facilities to Aboriginal communities in the Northern Territory. The commission categorically rejects these allegations and notes that the Court of Disputed Returns was not invited by those making the allegations to investigate and decide on the matter. Notwithstanding this fact, the commission will respond in detail to the various allegations directed against the commission and its officers in a supplementary submission now in preparation.

The commission notes that concerns have been raised with the committee in relation to assisted voting, particularly in the Northern Territory and South Australia. The commission will be aware that the government has already introduced legislation to amend the assisted voting provisions of the Electoral Act and that these proposed amendments have been the subject of recent parliamentary debate. The government's original proposal to amend the assisted voting provisions would have required any scrutineers present at a polling booth to observe the casting of an assisted vote, regardless of the wishes of the voters themselves. This proposal was rejected by the Senate. However, a compromise proposal to amend the

assisted voting provisions was put by Senator Harradine and the commission would be happy to discuss the practical implications of this compromise proposal with the committee.

The commission has long taken the view that this committee is a most important part of the entire federal electoral process, providing the accountability and transparency that characterises mature democracies. The process by which the commission is held to account for the way in which it meets and fulfils its responsibilities is not only welcomed by the commission but recognised by it as fundamental to ensuring that the parliament and the community at large can continue to place their confidence in the independent and neutral administration of elections. We stand ready to provide any assistance and advice that the committee may require in the course of its inquiry.

Senator FAULKNER—I ask for clarification so I am clear on Mr Gray's statistic. You gave that figure of disenfranchised electors because of political party postal vote applications. Can you just give us that figure again, Mr Gray?

Mr B. Gray—174.

Senator FAULKNER—That's what I thought.

CHAIR—130 plus 44.

Senator FAULKNER—I just wanted to understand how it related to paragraph 8.6.29 in your submission. I will come back to that. I just wanted to be clear on the number.

Senator LIGHTFOOT—Mr Gray, just on that one point of the 174 people that were disenfranchised at the last 1998 elections: none of those votes, had they been active, would have made any difference to any of the seats in the Commonwealth. Is that correct?

Mr B. Gray—That is correct. They would not have made a difference.

Senator LIGHTFOOT—There has been some talk this morning of the Greenfields Foundation, and I am sure you heard it. Is there any ongoing action being taken by the commission with respect to the Greenfields Foundation and any breach of the Electoral Act?

Mr B. Gray—There are ongoing inquiries being made of the Greenfields Foundation. We have sought information under the part of the act which authorises us to do so. We have sought some additional information. We have received information from the Greenfields Foundation; we have sought some additional information, so the inquiries are ongoing.

Senator LIGHTFOOT—My next question is with respect to perceived anomalies in the act, which I think everyone here is vigilant of. With respect to independents and reimbursement from the federal government and Treasury under certain conditions, it seems that if, say, an independent candidate earning $100,000 a year were to spend $50,000 or $60,000 of that on his election to parliament, that would be tax deductible. But if he received, say, 100,000 votes, that reimbursement—relating to that per capita—would be tax free. Is that correct?

Mr Cunliffe—I am not sure I can answer questions on the taxation liability. Those are matters that we could seek advice from the tax office on. Our role is related to the payment of any eligible amount of funding on the basis of numbers of votes, rather than the treatment of that as income or, in other terms, how a person's tax deductions may sit. I am sorry, I do not have that knowledge. If it is something that you want us to pursue, certainly we will seek that advice.

Senator LIGHTFOOT—From this angle, Mr Cunliffe, you look like a formidable repository of knowledge and I thought perhaps that might be one of the areas in which you were able to answer. Could I go on with respect to the cost of elections. Has the commission extrapolated figures in terms of savings with four-year terms and voluntary voting?

Mr B. Gray—The answer is no.

Senator LIGHTFOOT—Could you take that question on notice and perhaps come back to us, if that is an appropriate question for you to answer?

Senator FAULKNER—He just said no. There is no need to take it on notice.

Senator LIGHTFOOT—With respect to Senator Faulkner, can you take that question on notice and extrapolate those figures?

Mr B. Gray—I think there would be some difficulty in trying to estimate the voluntary voting turnout.

Senator LIGHTFOOT—What about the four-year terms?

Mr B. Gray—In relation to the conduct of elections, I take it that you are trying to compare that with the current cycle or rate of elections we hold in this country, as opposed to a set four-year term.

Senator LIGHTFOOT—Yes.

Mr B. Gray—I suppose we could make some assumptions about the frequency of elections and we could then compare those with a four-year term. But, in terms of voter turnout and so on, I think that would be very speculative.

Senator LIGHTFOOT—Delete that then; you are quite right. But with four-year terms, perhaps your computer model could extrapolate figures like that, taking in the average of elections over the postwar years, and you may be kind enough to do it on a four-year, fixed term basis as well.

CHAIR—I might start on one particular matter. It is in relation to provisional voting. I know that you have put in a supplementary submission in relation to that, suggesting changes to the procedures. But with the original submission I have to say I was a touch surprised that the commission felt that nothing unusual occurred in relation to provisional voting in the 1998 election. If you look at the national figures, that is probably a fair assumption but, in relation to New South Wales, that is not the case.

Just going to the figures you have provided, in fact in New South Wales there was something like a 36 per cent increase from 1996 to 1998 in the number of provisional votes issued and received, and a 35 per cent increase in the number of provisional votes actually accepted, which was starkly different from every other state. Most other states' figures were pretty much the same as 1996, some a little bit more and some a little bit less. But, when you look at individual seats within New South Wales, you see what appears to be an aberration.

Admittedly, I am taking these figures as a comparison between 1996 and 1998 and I do not have the figures going back to previous elections before that. But, if I can take my seat as an example of one of those aberrations, there was in fact an 85 per cent increase in the number of votes issued and received in 1998 compared with 1996 and in fact a 163 per cent increase in the number of provisional votes accepted in 1998 compared with 1996.

There were a number of other similar sorts of seats. In Hume there was a 140 per cent increase in the number of provisional votes received. There were five seats between us where there was a 70 to 80 per cent increase in the number of votes issued and received, two seats with over 100 per cent increases. That is with issued and received, and with actual counted there are similar sorts of comparisons. So I ask whether you might like to shed some light on this with some reasons why New South Wales was substantially different from the rest of the country and why some seats were quite substantially different from others.

Mr Dacey—The rate of provisional voting at any election very much corresponds with the cycle that the AEC undertakes in its roll review activity. Before the last federal election in New South Wales, there was a major electoral roll review and, just prior to the election, quite a lot of objection action was taken and quite a lot of people were taken off the roll. So the number of people taken off the roll that then claim a provisional vote—because they claim that they are enrolled for that address—is reflected in high provisional voting. It is very much a reflection of where a particular state might be at a particular time in terms of its roll review activity and its objection action.

CHAIR—If that is the case, doesn't that say there is something wrong in the way in which the roll review has been done? If the reason for the high provisional vote is that you did a roll review not that long before the federal election, surely that brings into question that review in that so many people were supposedly taken off the roll incorrectly?

Mr Dacey—A provisional vote does not necessarily mean that the person was taken off the roll incorrectly. We have information from a roll review that an elector is no longer resident at an address. We write to that elector—in fact we write three times to that elector—to seek confirmation as to whether they are there or not. If we do not get information, we are bound to take them from the roll.

The statistics in our submission relate to the number of provisional votes made; they do not necessarily relate to the number of provisional votes in fact counted or accepted. So quite a fair percentage of those provisional votes would not have been accepted.

CHAIR—But in the actual figures you provide you give both. They were the figures on which I gave the example of Eden-Monaro, my seat, where I said there was an 85 per cent

increase in the number of provisional votes issued and received, but a 163 per cent increase in the number of provisional votes actually counted. So a far higher proportion were in fact accepted than previously.

Mr Dacey—Yes. I have just sought some clarification on that. There are counted figures in there. The commission has always been of the view, and we have put it to this committee before, that there are problems when we admit provisional voters because of the rules of schedule 3 and because of the legislation. Under current legislation we do reinstate provisional voters to the address for which they claim to be enrolled. We send out an acknowledgment form to those electors and often those acknowledgment forms are received unclaimed. We have brought this to the attention of the committee in the past and we have made a substantial submission this time to the committee on one way of resolving that situation. Under the legislation, if someone is not on the roll, they still do have the right to cast that vote. We go through rigorous preliminary scrutiny procedures. As they currently stand, those procedures mean that a lot of those votes are accepted and, under current legislation, they are reinstated to the roll for that address.

Mr FORREST—Can you expand on that scrutiny procedure? I am thinking that, with somebody who resides in Canberra and votes in Queanbeyan, you might not be able to detect that they have already voted somewhere else, or is that part of the scrutiny? They may well vote in an adjoining division. How do you check that they have not voted on some other roll?

Mr Dacey—We have checks when we scan the rolls where we have apparent multiple voters showing up on the roll. These are people who are claiming a vote for the division in which they vote. As has just been pointed out to me, of course, under the current legislation, if you move within a division but do not update your enrolment and claim a vote for your previous enrolment, you will be reinstated to the roll for that division. Under current law, when you move within a division rather than from an address, you are reinstated to the roll.

CHAIR—I think the question Mr Forrest is asking is: is part of the scrutiny a check as to whether that person is on the roll in any other division?

Mr Dacey—That is absolutely correct. There is a national check, in fact.

CHAIR—Before that vote is accepted?

Mr Dacey—Before that vote is accepted, there is a check that the person is not enrolled elsewhere, that is correct.

Mr FORREST—And a check whether they have voted elsewhere?

Mr Dacey—That is correct.

CHAIR—Part of my concern with those increases was that there also seemed to be an increase in the acceptance. Not only did the number increase but the level of acceptance increased as well. My experience over time has been that generally speaking it is usually a small number of provisional votes that get accepted—that more get refused than accepted.

But here in a number of seats there was quite a marked increase in the number of provisional votes issued and then an even greater increase in the number of provisional votes actually accepted.

Mr Dacey—I do not have comparative figures, but we can certainly provide figures of acceptance rates for the past two elections. I do not have them with me at the moment.

CHAIR—The acceptance rates are here in your figures. That is what I am using.

Mr Dacey—But going back historically.

CHAIR—It would be interesting to look at several other elections because I am only making one comparison—from 1996 to 1998.

Mr Dacey—We could provide that.

Mr LAURIE FERGUSON—I am interested to note that, despite concerns about possible conspiracies—and I know that the complaint this time, as opposed to the last investigation, has been narrowed to New South Wales—I seem to recall that last time, as borne out by these figures, we asked questions about Tasmania being abnormal in a similar fashion. They have dropped fairly strongly this time.

It is interesting to note that in 1998 in Victoria, for instance, 12 of the 14 marginal seats were under average provisional. Even in this particular election, seven of the 12 marginals have a lower than average number of provisionals. For the previous election, eight of the 11 marginals in New South Wales have lower than average provisional voting. So your point about the extent to which there has been a recent update of the roll is more relevant than any kind of seemingly abnormal growth in Eden-Monaro and Dobell. On the question of the enrolment period, I noticed there was a very big drop in the number of people who enrolled during the campaign. Is there any reason for that?

Mr B. Gray—I do not think there is any immediate reason—or reason that we understand, I will put it that way. It was, I think, seen by the majority of our returning officers to be a fairly quiet move into the period in which we then went to the close of rolls. But during the campaign itself, despite our focus on encouraging people to get on the roll, that did not generate the same sort of flow that we had experienced in 1996.

Mr Hallett—If I can add to Mr Gray's comment, we do know that the greatest catalyst for an enrolment is an electoral event. We had an election in 1996, the Constitutional Convention election in 1997 and then the federal election in 1998. So for a period of three years, apart from roll reviews, we have had a national event with the close of rolls, with the associated public information campaign, that has spurred people to enrol. We have not done any detailed analysis of it, but we do believe that is a contributing factor to the lower level of transactions in 1998.

Mr LAURIE FERGUSON—Perhaps I did not listen closely enough to the response to the earlier questions on provisional voting. Australia wide, what was the distance between an enrolment update and this election as opposed to the previous election?

Mr Hallett—Sorry, do you mean the last roll review?

Mr LAURIE FERGUSON—For the 1996 and 1998 elections, what were the relative distances in time between a voting update and the election itself?

Mr Hallett—We have had minimum campaigns—33 day campaigns—to the nearest Saturday for certainly the 1996 election and the 1998 election. The Constitutional Convention election was obviously a different kettle of fish, but there was a seven-day close of roll period.

Mr LAURIE FERGUSON—No, sorry. If you compare the 1996 and 1998 elections, how long before each was the enrolment update?

Mr Dacey—This is the national door knock?

Mr LAURIE FERGUSON—Yes.

Mr Dacey—I cannot tell you. But I can find out for you.

Mr B. Gray—This would be different in various states.

Mr LAURIE FERGUSON—Can I get a bit of a resume of that situation? You provide provisionals by electorate. Could we also get the number of enrolments during the election period in each electorate?

Mr B. Gray—That is from the issue of the writ?

Mr LAURIE FERGUSON—Yes, for each electorate.

Mr Hallett—We did actually publish that.

CHAIR—Can I go back to the provisional thing. I accept that it appears that in New South Wales the reason there was a big increase was that this review occurred close to the actual election, compared with the other states. Doesn't the fact that there were so many claiming provisional say something about how this review is taking place? Is there some aspect of that that the AEC feels they should be doing differently to prevent the number of people who are being taking off the roll obviously incorrectly? If they have been admitted as a vote at the end of the day, then theoretically they should have been on the roll but somehow or other they have been taken off.

Mr Dacey—As I pointed out before, in terms of schedule 3 of the act they have been taken off the roll incorrectly; but for the roll review purposes, when they move from an address and we doorknock that address and that person does not live there, we are in fact, as far as electoral roll review procedures, taking them off the roll correctly. The difficulty is that, if they have moved within the division and those electors have not informed us or we have not picked them up in the review, their provisional votes are accepted and they are reinstated to the roll.

As this committee is aware, over some years the AEC has been working towards implementing a procedure of continuous roll update rather than doorknocking. I am pleased to tell the committee that we will be starting that nationally this month across Australia with mail-outs from our own system. This should be a procedure that will help us to ensure that, when people do move, we get that information more readily, more accurately and in a more timely fashion from those electors. So the number of provisional voters should drop if the continuous roll updating procedures we implement are successful.

CHAIR—That follows on with some of the recommendations of the previous committee about data matching with electricity companies, Australia Post and those sorts of things.

Mr Dacey—That is right.

CHAIR—Would you be able to provide some sort of breakdown on the difference between the provisional voters who have been accepted and who were taken off due to movement within the division as opposed to those just taken off incorrectly? Or is that getting too difficult?

Mr Longland—I do not believe so. The difficulty with the electoral roll review process where we knocked on all of those doors was that, if the person who responded at the door said, 'Mr Smith no longer lives here,' then we were bound under the act to take that person off. As Mr Dacey has mentioned, that was subsequently followed up by a number of letters through the objection process. On very few occasions do we find those people surfacing again. They have not disappeared; they have just not re-enrolled as they are obliged to do and they are living elsewhere.

What brings them out to have a provisional vote is the tremendous static that sets up when an election is announced: the advertising campaigns, the doorknocking and the canvassing that goes on. Those people turn up and have a vote. When they do not find their name on the roll, they are still entitled to have a vote. The law clearly specifies that. But the roll review process, with its imperfections, is the major reason why we have gone to continuous roll updates.

CHAIR—So those people who were accepted are then automatically put back onto the roll as a result of their vote being accepted in October. They would be included on the roll in the update.

Mr Longland—They would be included in the next update of the roll that is published monthly and sent to yourselves. I am dealing with a case now involving a person who has been reinstated and who has gone again. They were probably never there. They had moved but probably within the same division and we have not yet found the person. But the vote is correct. The person is a real individual—not dead—so the suggestion that the vote ought not to have been counted can be discounted, if we can say it that way.

Mr FORREST—It is incredible the effort that goes into cleansing rolls. I know that just in my own case. I note that you have had an opportunity to respond to some of the submissions. I note that you commented about Mr Lloyd's assertion that five dead people had voted. I have some sympathy with a submission from Senator Reid in which she

comments on the amount of returned envelopes she receives if she has done a mail-out. I receive a lot of that, even within a month of having participated in a roll cleansing process. It is amazing. I am wondering if you could make some comment that gives us some assurance that the process does work and that our rolls do have integrity, so that we do not continue to feed this conspiracy idea where people think that dead people are voting.

Mr B. Gray—What we have identified in our submission is that, notwithstanding the no doubt very sincere views held by various people as to whether some were or were not entitled to vote—that is, they are dead—through our actions, our follow-up and our efforts, we have been able to demonstrate quite clearly that those people were entitled to vote.

In terms of the processes for which we have responsibility, they are prescribed very clearly in the act. We try to ensure that we meet those obligations. The reform process which we are now engaged in of continuous roll update, which was an issue and indeed follows on recommendations made by this committee, we hope will ensure that the process is made even more effective. We will do all that we are able to do, within the bounds of our resources, to ensure that the integrity of the roll is maintained and is maintained in a timely way.

I am not overly optimistic as to whether or not any of our actions will ever stop or limit the conspiracy theorists in respect of what may or may not be happening behind those actions that we take. Nevertheless, we come before committees such as this and we seek to identify the procedures that we engage in. We try to identify the processes which we think will achieve the objectives of integrity and timeliness of the roll. The legislation, from time to time, is amended to give effect to those reforms and those procedures which we think will improve the situation. But we have never hidden behind the legislation, saying that it cannot be changed or that indeed our practices cannot be changed.

I can say to you, as you are seeking an assurance from the AEC, that all is being done that can and should be done to ensure the integrity of the roll. We are doing all that we can and we are being innovative in the way in which we are seeking to maintain the integrity of the roll. We are doing that in consultation and collaboration not only with parliamentary committees such as this but also with our state counterparts, who are also the joint owners of the electoral roll.

Ms Howat—I would like to make it clear that, in relation to the division of Robertson, subsequent roll review activity showed that those five people are actually alive. In relation to return-to-sender mail, all divisional returning offices take objection action if necessary. There are sometimes other reasons for the return-to-sender mail. Sometimes the fault lies with Australia Post. Sometimes it is an address issue. So it is not necessarily that those people are not properly enrolled; it may well be a mail problem. But we certainly investigate everyone.

Mr Dacey—In relation to return-to-sender mail, back in 1995 the AEC developed policy and procedures, which we have issued to all MPs and senators, in relation to return-to-sender mail. Sometimes the high return-to-sender percentage does not necessarily indicate the state of the roll. It depends on the timeliness of the dispatch, particularly in a close of rolls period. Senator Reid may have dispatched mail before the AEC had processed up to 5,000 transfers that had occurred in the ACT at the time.

Certainly, as Ms Howat said, we do have procedures in place and we do encourage members and senators to provide us with that information so that we can take the necessary action, which may well include objection action. In the main we find, when we get the information on return to sender, that by the time we have access to that those people have often already transferred their enrolment to another address.

CHAIR—I think the example that Senator Reid raised was a mail-out that she did from the latest update; that is, new people had just enrolled in that past period or had changed. She was commenting on the very large number of returns specifically in relation to those, not in relation to the whole electorate. I know I find that myself in my own electorate. You get an update and you send out letters welcoming those people to the electorate. They have just enrolled in the last month or so, and a very large number do return.

Mr Dacey—Senator Reid has written to us and we will be having an investigation, as we do encourage all members and senators to give us their information. We do look into those issues.

Senator MURRAY—You mean, give you the return-to-sender envelopes?

Mr Dacey—That is our policy and the procedures that we have established, and they have been distributed to all members and senators. We actually need the envelopes, because a lot of return-to-sender mail—particularly at election time—may not be official Australia Post return-to-sender mail. It might be people not wishing to receive political information and writing 'return to sender' on it. But, certainly, if it is official Australia Post return-to-sender mail, we do take action.

Mr FORREST—That is what I do with my local returning officer. But it is amazing sometimes, having received a new update to the roll—I could send out 500 in a month to new enrollees—to have such a huge amount returned. I know we are living in an age when we have a very mobile population, particularly with younger and even first time voters, but one aspect that I have discovered is difficult is the number of roadside delivery addresses that I have—and most rural members have—that can be the address for a number of families. There is difficulty in getting it actually to the person involved. What we obviously need is some form of better identification of a residential address. What requirements does the commission have about a residential location? I know it will not accept a post office box, for example, but RSD addresses are often the same.

Mr Dacey—You may be aware, Mr Forrest, that many local government authorities are now entering into rural road numbering and the AEC has been very proactive in picking up rural road numbering. Often the difficulty in rural areas is that Australia Post has not necessarily been quite as proactive as the AEC, because they claim that they know where that person is and they do not need to pick up the rural road number. But we are doing a lot of work with Australia Post in terms of continuous roll update to make sure both our address bases are aligned and that we do share, as far as possible, common addresses. So that should overcome to a great extent that situation where we know that some of the addresses that we use do not get out of the post office. Australia Post will admit that. They stamp them automatically 'return to sender' because the address does not agree with the address that

Australia Post has for that elector. But we are overcoming that by aligning, as best we can, our two address databases.

CHAIR—You made a recommendation in relation to the Internet and the roll on the Internet. Are you proposing that it would simply be used in a browser sense, the same as an individual walking into an AEC office and asking to look at the roll, which they can do at the counter, but not take away? Is that what you are trying to duplicate in an electronic form? If so, are you happy that you could do it in such a way that people could not download that roll? I guess you could do screen prints, screen by screen. Would you like to make some further comment on that?

Mr Dacey—These are preliminary investigations, of course, at this stage. But, in fact, we had in mind a system that would be tighter than that: if you wanted to check your own enrolment or the enrolment of another individual, you would need to know that person's name and key in that person's name and address—if you had the address—and there would be confirmation given that you are enrolled for that address and that division. There would not be a full scrolling or screen, so there would no potential for people to take screen dumps from that information. It is an actual inquiry into a particular elector's name and address. This is a system that we understand has just recently been put into operation in New Zealand, although New Zealand have gone one step further, I understand, and also require a date of birth. We are not suggesting that. We are suggesting that perhaps name and address is sufficient, so that you can inquire into your own enrolment or the enrolment of any other elector.

CHAIR—While we are on the Internet, I want to put on the record the fact that I think the AEC site on election night and in the weeks following was excellent, particularly from a candidate's point of view of actually getting the real story, rather than what was falsely being put in newspapers on some of those days immediately after the election. It was very good. It was very well done by the AEC. I know you had subcontractors involved, and it worked very well.

Mr Gray—Thank you, Mr Chairman.

Mr LAURIE FERGUSON—I have a minor point on electoral fraud. In relation to these kinds of claims by the member for Robertson, it is not quite clear whether the claim that dead people were alive was finally communicated to him.

Ms Howat—No, I do not think that is the case. I think he was not advised that they were alive. It is only recently following the submissions that we have actually been in contact with each of those people.

Mr LAURIE FERGUSON—Given the fact that, as you note here, not only has he been on radio a few times but articles have picked up the same kinds of bizarre claims, do you not think it would be worth while actually making sure he is aware of this?

Ms Howat—Yes.

Senator BARTLETT—There are a few issues I would like to pick up from your submission. You mention the potential problem of changing the Electoral Act late in the cycle and that presenting administrative problems. It would seem to me at face value that the easiest way around that would be to put some requirement in the act that any changes made closer than six months or nine months before the expiry of the parliament is due do not take effect. That may then lead to the problem that, if there are urgent technical amendments that need to be made, you get caught by it. Is there any other specific mechanism you can see to overcome that problem other than just generally urging parliamentarians to keep you in mind when they are looking at these things?

Mr B. Gray—That is pretty much the message that lies behind that part of our submission. That is, if we are going to make changes, we should try to do so as quickly as possible so that procedures, manuals, training and all that flows from it can be undertaken in a timely fashion. It is the case that on occasion we get caught with legislation that is changed, amended and does apply to the next election. There is nothing that disturbs a returning officer and the staff more than an indication that procedures with which they are familiar are now changed. I have certainly come to find that when I have suggested there might be a change to any sort of process, and I can see why that is so.

People are not permanently with us. We engage some 60,000 people on a temporary basis on the day of the election. We have to actually in a sense retrain, re-educate or re-inform those people as to the changes that might have occurred. That is a very significant task and, more often than not, when people are learning new procedures, they may not get them right. All we are saying in relation to the submission is, if there are to be changes recommended by your committee, we would hope that that is known sooner rather than later and, moreover, that the legislative processes are such that we actually see those amendments through.

It is very long—and I do not need to tell you the complexities of that process—but sometimes it does catch us and we find ourselves in some difficulty. Introducing some limit of the kind you just mentioned has, as you pointed out, the obvious flaw that, if they are amendments which clearly are going to improve and assist the process, not having them in there is probably unwise. All we are saying is that, 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.

Senator BARTLETT—On another issue, you mentioned the issue of the Senate ballot paper and, to a lesser extent, the group voting tickets displayed. It is probably an issue given greater note by the recent New South Wales upper house situation. You talk about being given more scope to modify the outline of the ballot paper, and I would be interested in a little bit more fleshing out about how much extra flexibility you think you might need.

Mr B. Gray—In the recent experience in New South Wales, my counterpart Mr Ian Dickson had some very considerable difficulty in trying to design that ballot paper. He needed some degree of flexibility and, indeed, discretion in the way in which he would set out that particular paper.

There are specifications and there are limits in the way in which we can actually set out and develop the design of a ballot paper. When you get to a point where candidates or groups are of such a number, a design issue arises. What we are saying is that there needs to be sufficient flexibility and discretion with the Electoral Commissioner to ensure that, like our colleague in New South Wales, we are able to actually design a ballot paper that accommodates the number of candidates that might be standing.

Senator BARTLETT—You have similar issues with the group voting ticket. You are talking about possibly putting that into booklet form.

Mr B. Gray—Yes.

Senator BARTLETT—As I understand it, those displays of all the candidates' group voting tickets now only need to be displayed at polling booths. If it was produced in booklet form, how would you make that available? Would it be available just to the polling booth? Would you just have it on the tables for people to refer to, or would it be something you could actually distribute more widely beforehand?

Mr B. Gray—Certainly we could provide it in that format at polling booths. But it certainly would enable us also to distribute it more widely, particularly on inquiry, for example. At the last election we found some difficulty in being able to respond effectively to people inquiring as to the groupings and the preference distribution in respect of those groups. We believe that the booklet form would clearly provide us with an opportunity to facilitate the distribution of that information in a much more effective way.

Mr Dacey—It also means that we could provide that information more readily on the Internet, because it is reduced to an A4 page. In fact, a booklet was the system we used for the Constitutional Convention election. It was

much more accessible for electors, rather than trying to find some very small names of parties or groups over on the back corner on the wall in a polling place. We are running out of wall spaces to put these group voting tickets up, in some of the very small polling places.

Mr Hallett—If I could add to Mr Dacey's comments, in the 1998 election we did actually place a form of the voting tickets on our webpage, but it obviously had to be modified to be in a format that people could access on the screen. We found it useful through our inquiry service where people phoned us up. If they had access to the net they could actually look at it. So that is something we will certainly investigate further.

Senator BARTLETT—Linked to this overall issue that is obviously driving some of your concerns is that the main reason for the increasing number of candidates is perhaps to do with the ease of registering as a party—with New South Wales again being the prime example. You mention somewhere in your submission that you are currently reviewing all the existing registered parties. How adequate do you think the existing requirements for people to be able to register a party name are?

Mr Cunliffe—I should clarify that the existing review is not of all registered parties. We have used some criteria which limit it to those who were put on the register before a certain

date and obviously excluded those who clearly have parliamentary representation, since that is one basis of continuing entitlement. But we are reviewing a large number—that is certainly correct. In terms of the process, we have not ever had the considerable mushroom of numbers of parties as has happened in some places. No doubt in part that is related to what the vote requirements are to be elected. But it is also the case that the registration process is already more challenging in the Commonwealth than it is, certainly, in New South Wales, in terms of numbers of members of the party and other such steps.

There have, in previous reports in relation specifically to funding and disclosure, been issues raised about some charging regime. Again, I notice charging regimes have been mentioned in the aftermath of the New South Wales poll. Ours has always been in a different context, though. It has been to defray the cost of registration, which at the moment costs probably in excess of $5,000 per party just in outgoings and all up a total cost of probably closer to $10,000 if you included the internal steps that are required.

In both the 1993 and 1996 funding and disclosure reviews there was some questioning about whether some form of charge for registration might be introduced, but that has not been in the context of a sudden growth of parties and at the moment at least that has not been a concern to us. Obviously, it is something which this committee may wish to consider in the light of the experience of New South Wales and we would have some thoughts about steps that could be considered in the process. We have not been, and we are not currently being, overwhelmed by applicants. The criteria already seem to be sufficiently more rigorous, so we would not on our own suggestion be looking into that in any detail right now.

Senator BARTLETT—There is one more issue related to the registration of political parties, again highlighted by the New South Wales experience. As I understand, even at the federal level your power to knock back proposed names is very limited. There is a specific set of criteria that you can use, but otherwise you basically have to accept them. Certainly in the New South Wales context there were concerns expressed publicly about a number of parties being registered under names which implied they had an association with particular organisations.

The Animal Liberation Party is one that comes to mind. It had no connection with the existing organisation. Obviously, at face value people would assume that the Animal Liberation Party would have something to do with the organisation Animal Liberation. That organisation expressed significant concern about the problem from its perspective—potentially having their good name besmirched by things this party might do. The other thing is that there is no guarantee that this party actually stood for anything even remotely related to what the organisation spent all its time campaigning on. That is just one example, but that sort of situation could extend to other circumstances. Do you see any way to deal with that sort of problem?

Mr Cunliffe—Again, it has not been a particular concern in our experience at the Commonwealth level until now. It is the case that, if a title is in use in some other way or in some other jurisdiction, for instance, no-one is necessarily precluded from seeking to register a political party under the same title in the Commonwealth jurisdiction. Unlike the situation with the formation of a company, there is no scope to reserve a name prior to formal

incorporation processes being taken. It is not an issue yet in relation to party names nor has it caused us the same concern as mentioned elsewhere in the submission in relation to individual names, which are also dealt with. There is the same scope potentially for that to perhaps create a misleading impression in some circumstances.

Senator MURRAY—Following on from that, the Labor Party secretary earlier on quite properly emphasised the good qualities of the act and the desire of the Labor Party to continue to ensure that the act promotes transparency and full disclosure in our system. A question amongst the Independents and political parties has emerged in New South Wales, but it is also a question at the federal level. Fraudulent, misleading and deceptive conduct—almost in the trade practices sense—occurs where individuals or parties are actually fronts or are tactically placed and are really attached to an existing political party or some other organisation. We have sought on the financial side to try to ensure that disclosure is open and transparent and that whoever is the source of the money can be identified.

Is it your view that this committee should start to address that same problem with individual candidates? It is anecdotal largely, but 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 and so on. Sometimes those persons who are supposedly independent or divorced may even be members of other political parties. Has the AEC addressed this emerging and growing problem or do you intend to? Would you address a recommendation to that effect to this committee?

Mr Cunliffe—You will note from chapter 11 of the submission from the AEC that a funding and disclosure return will be separately required under the act as a report which will be submitted to the minister during the course of the year and which will also be available to the committee. If that is a matter that the committee was to seek our views on, we certainly can address it. Section 129 of the act already rules out some party names and is intended to avoid some of those confusions, but I have seen the press coverage of the New South Wales election. Whether there was a matter of confusion is a matter which is harder to assess, but there certainly were allegations of the risk of confusion. There were certainly further allegations that it was the intention of some of the people behind the parties that there be this confusion.

The registration process at this stage relates only to parties. If I understood you correctly, your question also went to individual candidates. That is something in which at this stage I will defer to my colleagues. Thinking about introducing registration in relation to individual candidates is a more challenging starting point. The concepts which are in the act at the moment for the registration of parties—requirements, for instance, for 500 members and such things—are very much more difficult to apply, at least as they stand, to some registration process for potential political party candidates. It would be something on which I would seek the views of my colleagues. The existing nomination process, for instance, could be the starting point, where I guess there are some similarities, in fairness, but it is certainly a far cry from the party registration process that we have previously applied.

Senator MURRAY—My request to the AEC as an independent commission is: would you consider whether it is appropriate for there to be a declaration in the nomination process

whereby somebody would declare that they are truly independent and not a member of or a front for another political party or organisation? I do not know how that can be addressed; I am simply saying to you that in my view it is misleading and deceptive conduct and can result in a distortion of the political process. The example that Senator Bartlett gave of the Animal Liberation Party would be a typical example where you are saying you are one thing but you are actually another. Rather than try and guide us immediately, would you be willing to look at it as a problem of principle?

Mr B. Gray—We will undertake to give you our best thinking on that particular issue in a supplementary submission that can come before this committee. If you feel that is appropriate we will certainly do that. It gives rise to a range of questions which would need to be given some fairly thorough consideration before responding to the notion that you have put forward today. We would prefer to take that on notice, give it our consideration and come back to you in a supplementary submission.

Senator MURRAY—I appreciate that. My second question refers to your ability to assist the parliament and this committee in periods between elections when particular issues are raised. At the moment we have a very admirable process of a thorough submission process and we arrive at a report. But before we get to the stage where the actual legislation appears, inevitably other issues emerge, through Senate estimates committees and so on, where quite often a further submission or further input from the AEC would be desirable. I want to know the process from your point of view. Does the commission as a matter of process keep an eye on the issues which the parliament is throwing up and is concerned with over time to see whether in fact you should be providing a briefing note and assistance to the committee and to the parliament as a whole? I am particularly thinking of a couple of instances which emerged subsequent to the report, focusing on a government advertising problem and the issues there and, of course, the Greenfields issue.

Mr B. Gray—There are a number of processes by which we can in a sense advise the parliament of a view we may have in respect of an electoral matter. Firstly, one of our functions under section 7 of the act is to advise the minister in relation to matters of electoral consequence. He or she can seek such information as they require that falls within that category. Secondly, the minister can give a reference to this committee and we can service this committee, as we do today, in providing our best thinking on any particular issue that may be the subject of that reference.

We have appeared on a range of matters which go to the conduct of the electoral process in this country. We appear at Senate estimates where specific issues can be raised and to which we are bound to respond, and we do. We provide such information as we can at that level. That has, at least in large measure, been the means by which we have made known the AEC's views on a range of subjects which go to the electoral process. I suspect that what you are saying is that of our own initiative and when we think, quite independently of any of those processes, that there is a matter which you think the AEC might wish to comment upon, does it do so and by what means. I think that is really what you are coming to.

Senator MURRAY—That is right. Perhaps I can explain a little more. There are at least three members of this committee who are familiar with the Joint Parliamentary Committee of Public Accounts and Audit. The Auditor-General of his own volition will come to the

committee and say, 'Here is a problem,' because the act requires him to do so, and the committee will respond. As far as I understand the Commonwealth Electoral Act, it does not place the same obligation on you to come to the committee as a statutorily established body. You have the obligation to go to the minister. In your opinion, would the reactiveness to current events be improved, as it is for the Auditor-General to the public accounts committee, if you had the same legislative permission to approach this committee in the same way as you approach the minister? Perhaps you might like to give that further thought.

Mr B. Gray—I think I would like to give it further thought. With regard to the processes that have existed to date, I think the general view is that that has been adequate for the task, and indeed to meet the responsibilities and to inform the parliament. But whether or not we want, in terms of a general provision, an explicit authority to be able to approach this committee for the purposes of communicating, in a sense, directly with the parliament is a matter I would like to take on notice, if I may.

CHAIR—Senator Murray, there is nothing to stop this committee at any stage throughout the term of the parliament asking the AEC to come in to discuss matters with us. In fact, we have done that on several occasions.

Senator MURRAY—I appreciate that, and I have also appreciated the two-way flow on the public accounts committee. I thought that it worked very effectively. I just wanted to know whether they thought that that approach should be beefed up when you are dealing with an independent statutory body that operates in a very sensitive area.

My last question goes to the postal vote issue. In your main submission, at 8.6.12, you give the statistics for postal vote applications. You said that there were nearly 607,000 postal vote applications processed for the 1998 federal election, compared to 414,000 in the 1996 federal election—an increase of 47 per cent, and an increase of 68 per cent since 1993.

In my own state of Western Australia, when the local government act was changed, there was a huge increase from, say, an average of six per cent voluntary voting turnout to something like 35 per cent, and more at times, because of the postal vote provisions that are there. We know that the Constitutional Convention postal vote process was quite popular. My expectation is that postal voting is becoming more and more attractive to voters and the question is: how large could it grow? Notionally, it could become the major form of voting. Yet I see dangers within that.

One of the attractions of the public voting process is that there is the individual booth into which an individual can go and cast a secret ballot. The problem with the household is that the ballot may not be secret. We all know from the Family Court and other sources how many households have abusive relationships. It is perfectly possible to conceive of numerous situations in Australia where a domineering person within that household may in fact oblige young adult children and a partner to vote in a particular way which they might not otherwise vote.

There is also, of course, the question of the immediacy of the piece of paper before them which may come from any political party or may, in fact, be the first and last kind of

political interaction there is as opposed to the polling booth. So I can see some dangers here, that there is a potential for voting practices to be distorted. I wish to know whether that is a concern of yours in terms of the voting process and the polling purpose, and whether and at what stage we should become alarmed by the increasing use of postal voting, both by the populace at large and through the machine tactics of the parties.

Mr B. Gray—There are two aspects that I would like to address. One, the increase is certainly identifying, as you have put it, the preference of many people to cast their vote by way of post. It is convenient and, in a sense, it allows them to do it at a time of their choosing. Indeed, we think that, because of the increased use of postal voting at local government elections and the experience of the Constitutional Convention, there is a greater comfort on the part of the voter now using postal ballot. That is something that we believe is a trend. In relation to this increasing trend of postal voting, I think there does need to be at least some question raised as to whether that is a trend that the parliament wants to continue to encourage or, indeed, increase, because most people continue to cast their vote by way of attendance at a polling place—in other words, it is an attendance ballot.

There is clearly some speculation within the community, and I think within political circles as well, as to whether moving increasingly towards the postal vote might not be a useful and more convenient trend for the population generally. If that is going to be the case—and we are not suggesting that it will be, but certainly the trends are moving in that direction—then we have to consider some of the administrative aspects which attach to that trend and how we as the AEC and as the administrators of the election will need to modify our processes and improve and ensure the integrity of the ballot if that is going to be the way in which most people cast their vote.

So in summary I do think we are trending towards a greater use of postal voting than there has been in the past. That seems to be a trend based on a greater comfort on the part of the community in using postal votes. Secondly, to the extent that that occurs, there is a need to consider review and reform of the administrative procedures which apply in relation to postal voting.

Senator MURRAY—But I am concerned that we can't ensure a secret ballot with postal voting.

Mr B. Gray—I don't see how that would be possible.

Senator MURRAY—There is therefore the potential, particularly in marginal House of Representatives seats, for a result to occur which might not have otherwise occurred with a normal attendance ballot. In statistical terms I have seen a report of the 1996 election which indicated that, for every 100 people who declared on a polling basis that they would vote for a particular party, they actually voted differently because they didn't want to tell their wife or their husband or their mother or their father or whoever it was how they actually felt. This was in households which had domineering partners.

A three per cent difference, as you know, in a marginal seat is crucial. When it is down as low as the statistics are at present—607,000 out of 11 million or whatever it is—it may not concern us, but if it rises and we get substantial numbers of postal votes, it has the

potential to erode the secret ballot, the virtue of our system. I am asking you to give attention to that issue as much as to the administrative issues.

Mr B. Gray—The concern you have in a sense can only be addressed by preventing people from voting by way of the post.

Senator MURRAY—Precisely.

Mr B. Gray—We are not suggesting that. We are not supporting or endorsing the view that there ought to be no postal voting. What would concern us is if the parliament sets certain eligibility rules and it is meant to constrain the number of people who exercise a right to vote by post, then those eligibility criteria ought to be properly applied.

Senator MURRAY—The critical thing about our system is that there is a secret ballot. That is the major virtue of our political system. I am asking whether your commission might desire in due course to do some qualitative empirical research as to whether a secret ballot approach is affected at all and by how much in terms of postal voting. If it were to be a significant percentage, then it could well materially affect the outcomes of elections.

Mr B. Gray—Clearly, we can indicate the number of postal votes that we have received, but I understood your concern in relation to the secrecy of the vote to be about the influence that some people within a household might be able to exert on the voter.

Senator MURRAY—Over the remaining members of the household, yes. It is almost the same as the Northern Territory problem that you have outlined in your submission.

Mr B. Gray—What is that?

Senator MURRAY—Where there have been allegations within the Northern Territory that some of the assisted voting has resulted in people being told how to vote—that is the allegation, and you have responded to it.

Mr B. Gray—But the corollary of that would be having officials in each household at the time that the ballot is being filled in, and I do not see how we are going to do that.

Senator MURRAY—I do not suggest that. But I am searching for whether there is any way in which the parliament could be advised by the AEC, on the basis of research, whether this is a problem or not—that is all—simply in terms of the secret ballot provisions.

CHAIR—Senator Murray, I think we have canvassed that fairly well. I think you are asking the AEC to go into a very hypothetical area. I could equally argue, 'Let's do research on how much additional thinking goes on if somebody is voting at home.' They are possibly in a far better position to sit down, without all the stresses of going into a ballot box and voting and getting out, and go through all the material that they might have and debate the pros and cons of one person over another person. And that could be argued with equal strength as a reason for which you should have more.

I think you are asking the AEC to take an issue into very much a hypothetical circumstance. A lot of the increase in postal voting in the 1998 election was clearly due to the long weekend that took place in October in many of the states—as, I suggest, was the increase in pre-poll voting. I think the debate about these increases should, in fact, if you are going to look at some of these matters, go into the pre-poll area, where I am certainly finding that more people are wanting to go and pre-poll and are saying, 'Oh, no, I will not be around on Saturday,' and how do you prove that they will not be? I question the length of time we are giving people to pre-poll, because it seems to be just opening up a capacity for people to vote prior to the day, and maybe that is an aspect that could be looked at. But I am conscious that we need to give other members an opportunity to ask questions.

Senator FAULKNER—In relation to paragraph 3.6.5, which goes to the increase in the number of unanswered calls at the inquiry service from 310,825 in 1996 to 610,171 in 1998, which is a pretty dramatic increase, you say:

Investigations are under way to determine how many of these unanswered calls did successfully connect to the inquiry service on a later attempt.

How are you conducting those investigations?

Mr Hallett—Those statistics come from Telstra Software. We have been engaged in discussions with Telstra and CSC, who also are involved in the outsourcing of the voice and data side of our operation, to see if we can find out more information so we can do it better next time. I do not have a final answer on that at this stage.

Senator FAULKNER—Are you saying that the primary statistics come from Telstra?

Mr Hallett—Yes.

Senator FAULKNER—Yes, but I am asking about investigations about the unanswered calls. How are you doing that?

Mr Hallett—We have gone back to our suppliers and asked them if that bottom line figure they gave us of calls that were unsuccessful on the first attempt can be amplified and whether there is anything in their equipment and their software that can tell us whether the person tried the first time and got an engaged signal but tried five minutes later, or whenever, and got through. We do not have an answer at this stage. We are still working that through. But when I do get more information, I can supply it.

Senator FAULKNER—Is that a matter you might address in your supplementary submission?

Mr Hallett—We certainly will.

Senator FAULKNER—That would be interesting. If you find you are able to trace it, I really would be interested in the methodology.

Mr Becker—It is my understanding that after the last election Telstra, off their own bat, did an analysis and looked at the numbers that were calling in to the number, as well as how many of those could not get through the first time and how many were successful the second time. That was a fairly expensive exercise which they undertook on their own behalf. I do not know whether they are going to do it the same way this time.

Senator FAULKNER—As I said, if you could let me know how one arrives at it, I would be interested. You may not be able to get any further information, but if you do the methodology is of interest to me.

Paragraph 4.10.6 goes to change of names or unusual names at times of nomination, for example the candidate in Bennelong. What are you doing in relation to names like that? I should know the answer to this question, but as I read the submission I wondered how it was appearing on the ballot paper.

Mr Dacey—That is exactly how it did appear on the ballot paper.

Senator FAULKNER—In full? I assumed that.

Mr Dacey—That is correct, because it is the person's enrolled name. What we are suggesting is that we have the discretion to not accept particular enrolled names.

Senator FAULKNER—But in the case of that candidate in Bennelong it appeared in that form on the ballot paper.

Mr Dacey—That is correct.

Ms Howat—It actually impacts then on the ballot paper because we use the same font size for everybody's name. So it is becoming more of an issue as some of these names get longer and longer.

Senator FAULKNER—So what did you do in relation to ballot paper layout in this case with Bennelong?

Ms Howat—The ballot paper layout was the same as every other ballot paper, but the names of the candidates were reduced to a font size that enabled all of the names to fit in.

Senator FAULKNER—On one line or two lines or what?

Ms Howat—From memory it was one line.

Mr Dacey—I am not sure whether we can provide that but I think it did go over two or more lines.

Ms Howat—It was two lines.

Senator FAULKNER—The issue has been raised by Senator Bartlett about your recommendation 11 in 7.3 about discretion for the Senate ballot paper. Mr Gray, you spoke

about the difficulties faced by your counterpart in New South Wales, Mr Dickson, in relation to the recent Legislative Council ballot paper there. Would you agree with me that it might be useful or worthwhile for the committee and yourselves to give further consideration, when we have a clearer indication from New South Wales, of what impact the ballot paper may have been on voting patterns, if any, or the level of informal vote? I use the word 'patterns' deliberately because I am very concerned about the layering of above the line votes.

This is a personal concern that struck me as I voted in the New South Wales election. As I used the opportunity to follow my own party's how-to-vote ticket and vote above the line, it did strike me that, given the nature of some of the advertising that we have seen over many years in relation to the options available to electors for the Senate particularly in relation to above the line and below the line voting, there might be a degree of voter confusion if there was effectively a layering of options for grouped voting tickets above the line.

These concerns may prove to be without foundation. There is a little anecdotal evidence, and working on a polling booth raised some questions for me also. Could I ask you to have a look at that? It might even be useful, if you are able to, to talk to Mr Dickson. I know that that count is in its early stages, but this is quite a significant change to the act that this committee and no doubt yourselves have given a lot of thought to. I assume you would have given a lot of thought to it before you came forward with this recommendation.

I read carefully what you are suggesting and it is not dissimilar to the approach that Mr Dickson took in difficult circumstances in New South Wales. Would you agree that, to some extent, we have a situation where this has been road-tested in very recent times and that it might be worth while having a very close look at that and possibly commenting on that in a supplementary submission if there is adequate time?

I appreciate that it will take quite a while for a lot of this to become clear in New South Wales but, if there is adequate time, please have a close look at that also because it is a significant change to the act and it would be worth while for all of us to closely examine the New South Wales experience.

Mr B. Gray—I agree entirely that we should all learn from the experience of New South Wales. I think it is the case that not only I but our other state colleagues are all rather keen to analyse the experience of the electoral office in New South Wales to look at the impact that ballot paper had and what lessons can be learnt from it.

What I think will be identified there is that there does seem to be this growing trend of increasing numbers of candidates and/or parties and that we do need in a sense to provide ourselves with the opportunity to deal with that when it comes to design and layout of ballot papers. But there are, no doubt, a number of lessons to be learnt and we will be working in very close collaboration with the New South Wales Electoral Commission with a view to learning those lessons. We would be very happy to share what we learn with the committee by way of including it in a supplementary submission.

Senator FAULKNER—At the end of paragraph 7.3.3, you say:

The only viable variation to the format to maintain efficiencies . . . is to extend the depth of the Senate ballot paper, allowing vertical layering of candidate names.

I have no idea whether the state electoral office in New South Wales road-tested this in any way, but I assume they would have before they went down this track. It may be that is the only viable variation but, before we make such a significant change to the Electoral Act, I really think it is worth a close examination of what the experiences were there. We are lucky in the sense that we have an opportunity to do this in the light of the experience in New South Wales.

Mr B. Gray—I agree wholeheartedly and we will ensure that we will give close consideration to the experience of the New South Wales Electoral Commission and provide our analysis of that to this committee.

Senator FAULKNER—Thank you. Can I take you to chapter 8. Mr Gary Gray, who appeared before the committee a little earlier, was asked about postal vote applications that have been produced by the Labor Party. There were specific questions in fact about Eden-Monaro. I noted some of the comments that you have made in your submission—and this is not to be too defensive about this. In chapter 8—in subsection 8.6 on postal vote applications—you talk about the increasing practice of the major political parties since the 1993 federal election.

Firstly, I want to be assured that the spirit of what you are putting forward to the committee does not have any particular spin in relation to any of the major political parties. From what I read, what you are talking about here is a growing across-the-board trend, which is the point I was making to Mr Gary Gray. I wonder if you might indicate to me whether that was a reasonable deduction for me to draw from the submission in front of us.

Mr B. Gray—It is a reasonable deduction. We are talking generally. We are not seeking to target or to identify a particular party. We are identifying a growing trend and, in light of that trend, trying to draw attention to what we see as some issues that will need to be addressed.

Senator FAULKNER—The reason I asked you that just before Senator Lightfoot asked his questions about paragraph 8.6.29, which identified the number of electors, is that it was not entirely clear to me from your submission whether those electors were from Eden-Monaro because that is the electorate you pick up and used as your case study—which is fine—or whether it was 130 electors nationwide. Let's be clear for the record that these are 130 electors nationwide that you have identified.

Mr B. Gray—Yes, they are.

Senator FAULKNER—And there are 44 other electors nationwide in the other category.

Mr B. Gray—That is correct.

Senator FAULKNER—I must admit that from the submission that was not entirely clear to me, but I appreciate that now. You talk about those electors being disenfranchised, and

that is I think a reasonable point to make. Would it be reasonable for a political party operative—a most honourable profession, I assure you—to make the point to you that the postal vote campaigns that the major parties and other candidates conduct do actually also have an impact, and a very significant impact in our system, of actually ensuring that very many more than 130 electors are enfranchised?

Mr B. Gray—That is a point that is self-evident. Many people may be encouraged, reminded or given a facility to vote who may otherwise not have done so. That is not really the point of our submission. If you take what the AEC is required to do in the administration of postal votes—sending out applications, having those applications returned and accounting for them, and forwarding ballot papers and accounting for those—these are processes that are prescribed under the act, but they do not apply in relation to the political parties.

We do not know, and I suggest that very few people would know, how many applications were actually despatched or invited by the major political parties. Similarly, we do not know how many they get back. We certainly cannot trace them. All we are identifying is that our experience on this occasion was that we found at least that number of people disenfranchised.

I know that the secretariats of the major parties will say that they are so motivated to get every elector to the booths that it is beyond comprehension that such oversight might occur in relation to getting an application form back to the AEC in sufficient time for the ballot paper to be despatched and returned by the given times under the legislation. We have to say to you that that has not been our experience. And we have to say to you that if that is not our experience, then a committee such as this ought, with us, to try to consider the means by which we try to reduce or minimise that particular occurrence.

We concede absolutely that the campaigns that are run by the major parties and by others now include as an integral part of them mail drops and the applications being forwarded to everybody—very large numbers of people across all electorates, not just marginal electorates. That, in effect, is inviting people to use the option of postal voting when in fact they may not be eligible to. When in fact they may well be capable of attending a polling place they are, nevertheless, invited to consider a postal application.

The other problem we have is that, because more than one party engages in the particular campaign tactic, there are multiple applications being received by the voter. Many do not understand, I think, what it is that they are actually doing by returning that particular application. Some may feel it is a registration activity; some may feel that it is something else. The bottom line is that we at the AEC when those applications are returned receive multiple applications, and then we have to engage in some administrative activity to try and ensure that, notwithstanding the multiple applications, only one vote is cast. So what we have sought to do is not say that you must not engage in this activity. In a sense, that is an argument long lost on the part of the AEC. You know that we had this discussion before in previous joint standing committees. We accept that and we take it as part of the overall activity. What we seek is merely to draw attention to the increasing difficulties that we are experiencing as a result of that activity.

Senator FAULKNER—It might surprise you, but I would not share the secretariats' views as you have described them. I am actually quite surprised that the figures are as low as they are. I think that that number of failures in the sorts of major postal votes campaigns that are run in this country is very low. I am, as I say, a little surprised that it is not greater than that. So the figures do not surprise me in any sense.

Mr B. Gray—We would say that that is a minimum.

Senator FAULKNER—I appreciate that you would say it is a minimum. I accept the figures that you have provided and do not doubt them for a moment, even if party secretariats do. So there we are. I do not have enough time today to do this, but I would like to understand in greater detail the administrative processes that you engage in when you do get multiple applications. There are a couple of other things I want to touch on today. I am not quite sure how to do it but at some later stage I would like to address that with you.

Mr B. Gray—We will address that in the supplementary submission and go to the detail of our processes, and then we will take it from there.

Senator FAULKNER—Yes. At a later stage too I would like to hear, apart from the recommendations that you have provided, how you feel—I am just not convinced that what we have in front of us is going to solve this particular problem.

CHAIR—Can I clarify that the postal vote application actually details on the application the criteria under which you can lodge that application?

Mr B. Gray—Not on the actual application form.

CHAIR—For a postal vote.

Mr B. Gray—That is right.

CHAIR—I wonder whether that is something that might be looked at to get over this problem of people feeling, 'Here is an opportunity to vote,' when they legally are not eligible to use that form. Something could be included on the application.

Mr B. Gray—We make that recommendation. Indeed, we show, for example, a New South Wales postal application from a party which identifies the need to actually tick off the criteria which you are satisfying in order that you might make the application for a postal vote. So, yes, we agree that there ought to be some explicit act on the part of the voter which requires them to identify under what criteria they are taking that vote.

Senator FAULKNER—As I read your recommendation 17 in 8.6.20 it recommends that the act:

. . . be amended to require the Divisional Returning Officer to consult with multiple postal vote applicants, in order to avoid the issuance of multiple sets of postal voting materials.

I do not know quite what you mean by that. I could read that in one or two—perhaps even three—different ways. With respect, I do not think that is a very clear recommendation and I think it would be worthwhile perhaps for you to explain this in a little more detail, if you seriously think there are some solutions. What is not a solution, obviously, is in the highly charged and partisan atmosphere of an election to be expecting any political party—major, minor, Callithumpian—or any non-political party candidate, to find themselves at a comparative disadvantage in a postal vote campaign.

I know you would accept that as a reasonable principle for those of us who are involved in the political process. But I think we can do this at a later stage, because I assume the AEC will come back before us again. You have identified this in your submission as a significant problem. You are concerned that it impacts on the integrity of the electoral process. I think you are flagging something that has only really come to light over very recent elections and, if we can work on a range of mechanisms that might ensure that it does not become a bigger problem than the one you have already identified, I think that is a useful contribution that the committee can make. But I do think it requires more time to expand on this issue than we have got. I would have liked to have done it today, but I do not think we have got enough time to work it through in the sort of detail it actually deserves and warrants.

Mr B. Gray—Mr Chairman, like you, we do see it as an important aspect. We are very happy to expand on what we have in our current submission so that we address and, indeed, try to facilitate a focused view on what we do see as an important issue.

Senator FAULKNER—Let us call it 174 electors in 8.6.29. If I compared them with the 64,014 persons in paragraph 4.2.1 which I would like to do, would it be right to suggest that those 64,014 persons who had not previously been on the roll would have been actually disenfranchised if the Electoral and Referendum Amendment Bill (No. 2) had passed the parliament prior to the last election?

Mr Dacey—Senator, unless a great percentage of those 64,000 managed to get on the roll before 6 p.m. or 8 p.m. that first day, that would be the case.

Senator FAULKNER—That is the point we were making. I am sorry, I am saying that to Senator Bartlett and Senator Murray across the table about a point we were making in the debate. That is just a political point, and I should not have wasted a question on it.

Senator MURRAY—I am glad we have quantified it. I had not picked that up. That is an interesting observation, frankly.

Senator FAULKNER—I want to go now to chapter 11. Mr Gray, you answered some questions from Senator Lightfoot previously about the Greenfields Foundation. You said that you had sought information. I wonder if you could inform the committee what information you sought. You also said that you had received a response and then you told us you had sought some additional information. I would like to know what information you sought, what the response was from the Greenfields Foundation, and what additional information you sought.

Mr Cunliffe—I will answer that in general terms. I regret that the Director of Funding and Disclosure has been ill the last two days, so he is not able to assist you in detail in terms of a response. But we sought, consistent with the provision in the legislation, to seek material from the foundation which would allow us to form a judgment of whether the organisation is an associated entity. In our last discussion at the estimates round of another committee, we went into some detail on that and the usage of the new provision which was inserted into the legislation. The Greenfields Foundation produced for us a considerable amount of records of the foundation and material and that led us to a further series of specific questions, which we have written seeking a response to.

Senator FAULKNER—Could you make available to the committee that letter that you have written in response to the Greenfields Foundation?

Mr Cunliffe—Can I seek the opportunity to come back to you very quickly with a response on whether that is appropriate? I do have a concern—and I think I mentioned it in that other committee forum on the last occasion—that, in the nature of these things, this is in the form of an investigation which potentially has serious consequences for those involved. My starting point is that it is very difficult and potentially unfair to those who are being investigated to have such inquiries pursued in the public arena, in the same way as the Australian Federal Police, any other state force or the Director of Public Prosecutions would not wish to have material which may be in the form of an investigation—which may or may not go anywhere, but there is the potential under the legislation—because there could be a difficulty if some level of prejudice were suffered by the early release of bits and pieces of material.

I accept that there is a balance in terms of the role of the commission in relation to this committee but, equally, there are balances to be observed in relation to proper processes which do not prejudice either the investigation itself or the inquiries or the parties—and I use that not in a political sense—organisations or individuals who are potentially at risk depending on certain approaches and certain responses.

But if I could have the opportunity to talk the matter through with the commissioner and potentially to take some advice, I will undertake to have a letter to the chairman of the committee and copied to members of the committee—if that is the appropriate form—giving an indication of whether we think that is something we should do at the stage that we currently are. I will undertake to do that, subject to the commissioner overruling this, by 5 o'clock next Wednesday, if that is not too inconvenient. I recognise that that is a little bit away, but it is—

Senator FAULKNER—Let us be clear what I am asking. By all means seek whatever advices you need to seek and undertake whatever processes you need to undertake—I just accept that you are taking the question on notice at this point. I am seeking a copy of any communication from the Greenfields Foundation that was referred to earlier in answer to Senator Lightfoot's question and any copies of correspondence seeking additional information that went from the AEC to the Greenfields Foundation. That is what I would like to have provided to the committee. I am interpreting your answer—but I am looking at the commissioner—that you are probably taking that question in that form on notice and will respond accordingly.

Mr B. Gray—I will take it on notice and seek advice in relation to it.

Senator FAULKNER—I have a lot more questions that I would like to progress with you, but we will have to do it at another time.

Mr FORREST—Likewise, Mr Chairman, but I assume we will have an ongoing opportunity to talk to the commission.

CHAIR—We will, yes.

Mr FORREST—Perhaps if consideration could be given to the evidence that has been provided from Mr Wakelin from the division of Grey who has made some very strong assertions—somewhat unsubstantiated at this stage, but they are very serious ones. Perhaps you might give some attention to addressing them in subsequent responses to us or you may even be able to comment now.

Mr B. Gray—We are addressing those particular allegations and we will provide the committee with a very detailed response in relation to those matters. It is in preparation now.

CHAIR—I have a question which may help the committee with some of our other hearings and it relates to the assisted vote issue raised in a submission from the Country-Liberal Party. The part of the act which relates to the assisted vote, section 234(1), states:

If any voter satisfies the presiding officer that his or her sight is so impaired or that the voter is so physically incapacitated or illiterate that he or she is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter's ballot-paper.

What sort of training and what sort of procedural matters are given to presiding officers as to how they actually implement that? What processes are they supposed to go through to be satisfied that an individual is eligible for an assisted vote?

Mr Dacey—We have face-to-face training for our staff. We can provide copies of that training package to the committee. We also provide training manuals to our staff, particularly those staff operating in remote areas where the issue of assisted voting is specifically covered. We could include extracts of those manuals and packages with the submission we are preparing which will address that issue. Is that satisfactory?

CHAIR—Yes, that would certainly help.

Mr Dacey—We will approach it that way. Basically we point out the requirements of an assisted vote to our staff and go through the aspects they must take into consideration when they are providing that assistance.

CHAIR—Somebody cannot just rock up and say, 'I want an assisted vote and this person with me is going to assist me.' It is not automatic.

Mr Dacey—Not necessarily. It is certainly up to the judgment of the presiding officer as to whether the person fulfils the category of requiring assistance. Those categories are specified in the training we give them.

Mr B. Gray—Our training manuals make it quite clear that the presiding officer or polling official should not assume the person requires assistance. It requires them to be satisfied. The issue then is the means by which people become satisfied that someone requires an assisted vote. Those matters are considered in the training manuals. At the end of the day it comes down to a judgment.

CHAIR—I appreciate that. Saying that somebody has to be satisfied is a broad thing and the circumstances under which they work differ between electorates and different categories of people. I was trying to get a feel for how the AEC ensures a presiding officer goes through some sort of procedure to become satisfied rather than just accepting that someone needs an assisted vote.

Mr B. Gray—It is not entirely left to the voter to say that they must be assisted. The presiding officer and the assistants we use to support and to assist, particularly in those remote areas where Aboriginal people may have cultural and language issues which need to be addressed, must be satisfied. Consequently it is a combination of factors which lead to a judgment being made by the presiding officer. It may be by trying to converse with someone and not making communication clear. The presiding officer then knows he or she will require some assistance in order to make the communication and to facilitate the casting of the vote. Others may not be quite so obvious. But it does come down at the end of the day to a judgment based on an understanding of what the act requires and of the spirit in which assisted voting should be provided.

CHAIR—It is a matter that the AEC reviews? Do you get feedback from presiding officers about situations that they might be placed in so that sort of aspect is kept under review so any procedural changes are incorporated into any new training manuals, et cetera?

Mr B. Gray—It is. We review our practices and our manuals on a very regular basis after every election—whether it is a federal election, an ATSIC election or a state or territory election. We are very conscious and very active in trying to ensure the procedures required by the act are given full effect. Obviously we rely entirely on the individual when, at the end of the day, they are out there giving effect to those procedures. In our training and in all that we have by way of communicating the need to give full effect to the act, we try to impress upon people that there is a legal foundation for the work they are undertaking and that that has to be recognised and that all that they do falls within this legal framework. The AEC in no way takes a cavalier attitude towards trying to inform their officers, albeit temporary officers, of their responsibilities.

CHAIR—Is it the presiding officer who has that responsibility to allow an assisted vote, not a polling clerk?

Mr Dacey—It is a presiding officer or in a mobile situation a team leader, who is the equivalent of the presiding officer. The officer in charge of that particular poll makes that

decision. It is quite clear in our instructions that anyone seeking assistance has to be referred to the officer in charge.

CHAIR—I have a question in relation to second preference voting and how-to-vote cards. I have not read the full judgments you quote in your submission, but there were two circumstances in relation to second preferences. There was a how-to-vote card in Western Australia which was withdrawn under threat of injunction. From what I read it was possibly deemed to be contrary to the act. There were also how-to-vote cards in a number of other electorates doing similar sorts of things that were not deemed to be contrary to the act because they tended to fall into Justice Gaudron's decision in the Webster v. Deane case.

Could you explain the crux of those decisions? It seemed to me that it all centred around one political party handing out a how-to-vote card on behalf of another political party or candidate. That seemed to be the problem with the how-to-vote card which was deemed to be contrary to the act. I just cannot see how it is really any different from the other ones, which were effectively doing the same thing in a slightly different way.

Mr B. Gray—You said you had not read right through those judgments; they are particularly complex. In order to overcome the complexities of those judgments, can we take that on notice and come back to you in a written format? We can address it more directly after our litigation area has been able to address some of those issues. They are complex and the distinctions between two judgments and the particular circumstances in the cases have to be fairly closely considered.

CHAIR—That would be good. Once again, like a number of things, it seems to be an increasing practice. I noticed that in the New South Wales election last Saturday it was also used extensively.

Mr B. Gray—Yes. Obviously the purpose of our submission is to draw attention to the fact that, particularly with the growing number of minor parties and individuals, it is this second preference that now becomes particularly important. I think the means by which people seek to secure it is worthy of consideration by this committee.

Senator MURRAY—You are quite right; it is a problem in the WA state elections also. I notice that the WA Electoral Commissioner is going to use many aspects of the Commonwealth Electoral Act as a template. Therefore, if we can fix it at the federal level, in due course it will flow down through to the other acts.

Mr FORREST—I would just clarify a point. A number of submissions have raised issues—and I am quite humoured by the one from Mr Morris in the division of Newcastle who had some fairly unfortunate circumstances with which to contend with his own re-election. He has made a suggestion about the process in other countries where a by-election would only need to be held if the deceased person ended up being elected. I am quite humoured by that; it does not indicate much faith in the democratic process. There are a number of submissions like that that you could not follow up on with your first submission. But you will follow through with all of those and make appropriate comments.

Mr B. Gray—Yes, we will. Mr Chairman, as I have indicated to you, we will go through every submission and, to the extent that we think there are relevant issues that ought to be the subject of further submission, we will do so. This is very much the process we followed after the 1996 election, and I think it worked reasonably well.

CHAIR—Thank you very much for your attendance. We look forward to the supplementary submissions. We will meet with you, Mr Gray, and other officers at a later time after we have conducted further hearings with some of the people who have made submissions.

Mr B. Gray—In the event that there are potential witnesses within the Electoral Commission with whom you may wish to have direct contact, we will facilitate that in respect of any matter that arises in our further submissions.

CHAIR—Thank you. In closing, I thank all witnesses who have appeared before the committee today.

Resolved (on motion by **Mr Somlyay**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 12.42 p.m.