



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE ON ELECTORAL MATTERS

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

FRIDAY, 21 MAY 1999

DARWIN

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**JOINT COMMITTEE ON ELECTORAL MATTERS
Friday, 21 May 1999**

Members: Mr Nairn (Chair), Senators Bartlett, Faulkner, Lightfoot, Murray and Synon and Mr Ferguson, Mr Forreest and Mr Somlyay
Senators and members in attendance: Senators Bartlett, Lightfoot and Synon and Mr Ferguson, Mr Forreest, 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.

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Committee met at 9.34 a.m.

CHAIR—I declare open this fifth hearing of the inquiry of the Joint Standing Committee on Electoral Matters into the 1998 federal election and matters related thereto. The committee is pleased that it has been able to arrange this hearing in Darwin to give some residents of the Territory the opportunity to present their concerns first-hand on a number of matters relating to the running of the election in the Territory.

Appearing before the committee will be four witnesses. Unfortunately, today we are not able to hear from the Australian Electoral Officer for the Northern Territory, Mr Kerry Heisner, as he is assisting with important AEC work overseas. Mr Heisner will meet with the committee next month when he returns to Australia. At that time the committee will take up with Mr Heisner and other representatives of the AEC matters which arise from today's hearing.

As we have a tight schedule, I want to move on fairly quickly to our first witness. I welcome Mr Matt Coffey to today's public hearing. The evidence that you give at the public hearing today is considered to be part of the proceedings of the parliament. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. Do you have any comments to make on the capacity in which you appear?

Mr Coffey—I am a citizen who feels aggrieved that electoral roll data which had my name on it has been moved around the country illegally.

CHAIR—The committee has received your submission, No. 191, and it has been authorised for publication. That submission is taken to include your letters dated 12 May 1999 and 13 August 1998, the latter including two press clippings. Are there any corrections or amendments you would like to make to your submission?

Mr Coffey—At this stage, no.

CHAIR—Would you like to make a brief opening statement?

Mr Coffey—Yes.

CHAIR—And then I will ask members if they would want to ask any questions.

Mr Coffey—My brief opening statement is that I noticed at the 1996 federal election that there was quite a lot of phone polling. I was phone polled three times in one week prior to that election. It became of concern to me that I had never had a phone account in my name ever, that someone might have somehow obtained my phone number. So I looked into the issue of whether the electoral roll had been interfered with and complained to the Northern Territory Ombudsman. The Ombudsman, unfortunately, was not able to get any evidence on whether any offences or mismanagement of files had been committed.

But, since then, after that issue, the media then started printing issues in relation to the handling of a certain electoral roll and tape sent from the Commonwealth Electoral Commission to the Northern Territory Electoral Office under the provisions of the joint roll agreement. It started to look like something fishy had gone on at that stage, so I decided to start investigating

as a citizen because I was on that roll. That eventually led me to seek an FOI from the Federal Police, which I have supplied you all with. It alludes to a certain magnetic data tape sent from the Commonwealth Electoral Commission to the Northern Territory Electoral Office that seems to have been used for purposes outside the Commonwealth Electoral Act within the Office of the Chief Minister of the Northern Territory.

In the investigation the Federal Police even found that same said electoral tape in the offices of a company in Queensland—which is not in the Northern Territory, I am sure you are aware—in the possession of a company called Datasearch. I have put some paperwork to you from the 1996 Joint Standing Committee on Electoral Matters where someone else has also picked up news articles to show that there is believed to be a large database of electoral roll information that might not be legally used. It turns out that it is the federal Liberal Party now using the same company that received this data which they had no right to receive under the Commonwealth Electoral Act.

So what I would like to know is: why are the provisions of the Commonwealth Electoral Act 1918 to secure the roll data not working in this particular instance where we have had it being downloaded and cross-merged with various data systems around Australia. Why also are Commonwealth AEC officers giving information to contractors as set out in the Federal Police FOI? Why is the AEC giving contractors within the Chief Minister's Office profiling data on something they are not legally allowed to receive directly?

My concerns are that the Commonwealth government Electoral Act, the joint roll agreement and the intent of the Commonwealth Electoral Commission are unclear and unworkable. They are not working. The Federal Police say that a person or persons unknown illegally obtained data and sent it across the border into Queensland. No-one has been charged under the Northern Territory laws. It clearly states in the Federal Police report that there were breaches of law, but not one person has been charged. This is in a state where the theft of a towel will get you a year's prison sentence, and here we have a Commonwealth provision—not a state law—breached.

The Federal Police unfortunately were outside their 12-month limit on this investigation. I have not even bothered to receive information on the Northern Territory police. In the Northern Territory there are two things that we do not have: one is an FOI act and the other is a privacy act. My privacy has not been breached, because there is no law in this territory to prove that.

I would also like to quickly say that in the stuff I have given you this morning you will find that there is some Senate *Hansard* from Senator Sowada to the then Minister for Administrative Services, Senator Bolkus, alluding to the same thing happening with the ALP in 1992. There is also the *Hansard* from the parliament whose building we sit in now that clearly points out that in 1995 it was stated by the then Chief Electoral Officer of the Northern Territory Electoral Office, Charlie Phillips, that in 1990 mismanagement of the roll was occurring in the Northern Territory Electoral Office. So I ask the committee to review the provisions of the joint roll agreement and to review why the Northern Territory Electoral Office and the Commonwealth Electoral Commission are not securely looking after the roll data.

Senator BARTLETT—I want to mention a couple of different aspects. Firstly, just in terms of the use of this material, you would be aware, I imagine, that parliamentarians and, I think, political parties get copies of the electoral roll now on a monthly basis on CD-ROM which contains name and address and, as of very recently, date of birth and title. Does the sort of usage

you are concerned about involve the use of information beyond that, such as phone numbers and that sort of thing?

Mr Coffey—As is pointed out here, you will find that it seems that the Northern Territory government—or at least someone within the office of the former MHR Mr Dondas—has managed to get phone numbers, it is alleged by the Federal Police, out of the Territory Health Services and also out of the Commonwealth department of health and community services. Those phone numbers do not appear on any of their publicly available data systems. Yet, as this FOI sets out, they phone polled a person who did not even have a phone in his own name at a residence that he was not living in under the roll and knew all the details about him and knew that he would be at that phone number.

CHAIR—It was not a silent phone number?

Mr Coffey—I did not say whether it was silent.

CHAIR—Phone numbers can be matched through all sorts of ways, unless it is a silent number.

Mr Coffey—They can be matched by the person who pays the bill and in this case they were not.

Senator BARTLETT—There is a bit in here which I was not aware of but which is probably relevant to the Northern Territory, and that is the use of information. According to one AFP report, once information is released to the Northern Territory Electoral Office it is no longer covered under the provisions of the Commonwealth Electoral Act, the Crimes Act or the Privacy Act. You are saying, I presume correctly, that there are no similar acts at territory level.

Mr Coffey—Yes. I am saying that, although the tape is handed across the desk, so to speak, it does not change its format. It does not change the intent under which the Commonwealth electoral law delivered it to that desk to get handed over. Therefore, I fail to see the relevance of the joint roll agreement if the legislation does not manage to secure that information once it has been handed across.

I am concern that the Northern Territory population is a very transient population and you have a lot of Australian citizens from other states not willing to put up with this breach of privacy moving in and out because of employment and because of the Defence move north, not availed as citizens like the rest of Australia. It is unequal.

Senator BARTLETT—Your focus is on this particular usage in the Northern Territory, but you are also indicating that this practice may be happening around the country?

Mr Coffey—That is my main concern. In the FOI you will find that a contractor in the Northern Territory Chief Minister's office was able to speak with the Australian Electoral Commission and find out how their data tapes are profiled. This was while he was not under the joint roll electoral agreement. He was able to obtain this information—he was given the information by an AEC staffer. The NTEO then got a tape three or four weeks later and obviously gave it to this gentleman and he profiled it. I have been told that that tape is profiled in the same way as every other tape. Once that person knew how that tape was profiled, the security of the Australian electoral roll anywhere in Australia was breached.

Senator BARTLETT—There may be no privacy act in the Northern Territory but surely there is some confidentiality law or something to do with data on the Northern Territory electoral roll.

Mr Coffey—There are certain things under the criminal act and the public service act in relation to public servants handling data and then allowing it to go to private firms like Datasearch in Queensland.

Senator BARTLETT—I have not read it all yet, but in the bits I have seen the Federal Police have said that they are outside their 12 month limitation, et cetera, and have stated some other problems. They suspect that breaches of the Northern Territory criminal code may have occurred and those were submitted to the Northern Territory police for consideration. That was back in 1996. Was there any sort of Northern Territory police investigation into those suspicions of the AFP?

Mr Coffey—I made one inquiry by phone to the Northern Territory police. They said that the matter was finished and that there was nothing in it. They considered the matter closed and that was the end of the story. There is no FOI in the Northern Territory, but you can write a ministerial. My concerns were that, if I had written a ministerial at that stage, I would have been writing to Shane Stone, the then Chief Minister. He was the minister in charge of the Northern Territory Electoral Office when this occurred. He was the immediate employer of the contractor in the Chief Minister's office who obtained from the AEC the profiling of the tape and he was also the minister in charge of the Northern Territory police force. I took the better part of valour and did not even write to him. I considered that he should have stood down as police minister while this matter was being investigated because two portfolios of his own ministry were being investigated by another portfolio of his own ministry.

Mr LAURIE FERGUSON—For the sake of argument, we will assume the chair was correct in putting to you that people may have been able to obtain phone numbers. You are making an additional point: even if people had the phone numbers, the caller was aware of information about the individual that could not have been obtained from Telstra or anywhere else.

Mr Coffey—Yes, that is right.

Mr LAURIE FERGUSON—There is obviously a conflict of evidence and a loss of memory by Mr Dondas in the Australian Federal Police report but, on the basis that he could not remember where he got the information, do you know whether the Federal Police have had a look at Mr Dondas in regards to the matter, as opposed to the CLP? Is possession of it an offence?

Mr Coffey—The Federal Police obviously interviewed him. I interviewed him as well to find out what his story was. His story to me does not match up with any of the Federal Police report. It seems as though Mr Dondas did have a memory problem.

Mr LAURIE FERGUSON—I did not follow exactly the federal Liberal Party's interrelationship with this. Could you go through that again?

Mr Coffey—Yes. Submission No. 31 to the 1996 inquiry into matters to do with the federal election contains a news article titled, 'Police probes Liberal link to Orwellian database.' It goes on to mention that the company working for the Liberal Party of Australia was the company that was in receipt of the AEC data tape.

Mr LAURIE FERGUSON—Senator Bartlett made the point that members of parliament now have access to a level of information. Are you making the point that it was beyond what members of parliament have? Could it have been a legal list of the Liberal Party with names and addresses? Did it interrelate with any of these health department issues, et cetera?

Mr Coffey—I cannot really say that because the Federal Police would have been able to get what was received from Datasearch by the Country Liberal Party and look at that data. Inquiring with the Federal Police and reading this, it appears that the day they went there the Country Liberal Party's computer system crashed—the first time technology has ever worked in favour of someone, I would say—and the Federal Police did not even bother to take the hard disks out of the computer and read what information was on there. We will probably never know that.

CHAIR—You need to be a little careful, Mr Coffey, in giving evidence on behalf of the Federal Police—you are getting into a speculative area. We are also going back to an investigation of the 1996 election. This committee is investigating the 1998 federal election. The committee was probably quite generous in accepting your submission in relation to that because most of the information you have provided is in relation to matters prior to the 1996 election. I am just cautioning you about some of the things you are saying now.

Mr Coffey—Thank you for your caution.

CHAIR—You should tread very carefully.

Mr Coffey—I would like to make you aware that I put my submission in during the period of the 38th Parliament and, unbeknown to me, John Howard called an election and parliament was prorogued so that it could not be dealt with then. That is all I could do; I could not read the Prime Minister's mind.

Mr SOMLYAY—You can read the mind of the Federal Police because you are speaking on their behalf now.

Mr Coffey—I am not speaking on their behalf; I am merely alluding to their investigations.

Mr SOMLYAY—I found grossly offensive the suggestion in the letter you sent to the committee on 12 May that I might have a conflict of interest in this issue in view of the fact that my daughter had some time afterwards worked for the Chief Minister's Department.

Mr Coffey—Yes.

Mr SOMLYAY—I find that offensive.

Mr Coffey—Can I just say—

Mr SOMLYAY—Let me continue. If I asked you whether you have any relatives working for any political parties, what would you answer?

Mr Coffey—I would not be able to answer you. I do not know.

Mr SOMLYAY—Do you realise that misleading this committee could be a contempt of the parliament?

Mr Coffey—I do not think I was misleading the committee; all I was doing—

Mr SOMLYAY—I am asking you now: do you have any relatives working for a member of parliament or a political party?

Mr Coffey—Not that I know of, no. And I have never, myself, been a member of any political party. My concern was with raising a possible conflict of interest. I thought it was prudent of me to put forward that some of the evidence here was to do with an office where your daughter worked and also with a party that Gary Nairn was formerly the president of. I thought it was prudent to put that forward in case you were not able to see all that information, because I was not able to put it forward until today.

Mr SOMLYAY—I have made my statement. I find it quite offensive.

Mr Coffey—I am sorry you took that as offensive.

Senator SYNON—I think that the letter you wrote in the previous parliament probably reached us after we had finished deliberating on the 1996 election—just a point of explanation as to why it may not have been dealt with. Are there specific issues relating to the conduct of the 1998 election that you wish to raise?

Mr Coffey—In relation to the 1998 election, I am concerned about the ability to know the structure of the electoral roll as it is received. I understand it is a different format now, but the head start that was given by receiving that data before is still there.

Senator SYNON—Are you suggesting that members of parliament and political parties should not be able to receive the electoral roll data that they do?

Mr Coffey—No, definitely not. I think that with the intent of the Australian Commonwealth Electoral Act we have a very, very good electoral system. I am just pointing out that there was a failure of that act to contain a leak, if you like, of information.

Senator SYNON—Do you think this may have been a one-off situation, that it is not a usual occurrence replicated in subsequent elections all around the country?

Mr Coffey—I cannot say that. All I can point to is the *Hansard* of Senator Sowada, which is in there, and also the *Hansard* of the Northern Territory parliament that alludes to the incidents happening in 1992 and 1990.

Senator LIGHTFOOT—I do not have any questions, but I would like to say that I find it somewhat of a conflict that the committee should be listening to evidence from Mr Coffey, taking that evidence and broadcasting that evidence, when the Australian Federal Police and the Australian Electoral Commission have found nothing of substance to what Mr Coffey is saying.

If Mr Coffey wants to take it further, I would have thought that the Commonwealth Ombudsman would have been the best course for him to take, and not this committee.

Mr Coffey—With all due respect, I did. The first person I actually went to was the Ombudsman of the Northern Territory, who has, I believe, according to their information pamphlets, the ability to represent the Commonwealth Ombudsman here in the Northern Territory. They looked into the matter. Unfortunately, the Federal Police and the Northern Territory police investigations had not started at that stage. They considered the matter closed, so I have not gone back to that avenue yet.

Senator LIGHTFOOT—May I suggest you do, Mr Coffey.

Mr Coffey—I shall, thank you.

Mr LAURIE FERGUSON—In the case of the Australian Electoral Commission, I do not think that analysis or revelations about it are always taken as the end of the story, even by anyone on this committee. Mr Lloyd, for instance, has been pushing a lot of barrows that have been long refuted by the AEC; so I do not think we should get too holy about people covering areas that the AEC might have repudiated or argued against.

Mr Coffey—I also point out in the AEC's submission of 1996 that they make little or no mention of the handling of roll data at all, although there were quite a few media releases put out by the Commissioner of the AEC in relation to this matter.

CHAIR—Thank you very much, Mr Coffey.

[10.30 a.m.]

CHAIR—Welcome. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. Could you please state the capacity in which you appear?

Mr Martin—I am here as the Senate candidate for the Greens in the 1998 federal election.

CHAIR—The committee has received your submission No. 189 and it has been authorised for publication. Are there any corrections or amendments you would like to make to that submission?

Mr Martin—No.

CHAIR—Would you like to make a brief opening statement and then we can have questions?

Mr Martin—There are three matters I would like to bring to the committee's attention. I will start with the circulation of an unauthorised bumper sticker during the course of the 1998 election. In a letter to Mr Bill Gray, the Australian Electoral Commissioner, the Greens brought the matter to his attention. Some tens of thousands of these unauthorised bumper stickers were circulated around the Northern Territory. For the Australian Electoral Commission's own reasons, they decided not to prosecute the people who circulated this bumper sticker. We do not have freedom of information legislation in the Northern Territory so we will never know who paid for these bumper stickers. We do not know whether the taxpayer paid, or whether the Country Liberal Party paid for these party political bumper stickers. That is the first issue.

CHAIR—Before you go on, I understand that although you have given copies to the committee, we only got them this morning, so we have not had a chance to provide them to individual members.

Mr FORREST—For the purposes of *Hansard* though, reference should be made to what the bumper sticker says. To me, it looks like it is a state matter.

Mr Martin—It is a state matter. It says, 'It is our right: statehood January 1st 2001' with a flag of the Northern Territory. I was unable to ascertain the origin of these bumper stickers during the course of the election. The Northern Territory electoral commission could not tell me.

CHAIR—It would be in relation to a referendum, wouldn't it? Not a federal election.

Mr Martin—Most definitely. Central to the election was the issue of—

Mr FORREST—It has nothing to do with the 1998 federal election which is what the committee is investigating.

Mr Martin—No, sorry—it most certainly has. Statehood was a central plank in Nick Dondas's re-election platform. If you would like to have a look at the excerpt from the *Northern Territory News*—

CHAIR—Every electorate has issues that are a central plank to their election, but what Mr Forrest is pointing out is that the statehood aspect was a separate referendum. It was on the same day as the federal election, but constitutionally, legally—in every sort of way that you may want to put it—it has nothing to do with the federal election.

Mr Martin—No, I am sorry.

Mr BARTLETT—Wasn't the referendum administered by the AEC though?

CHAIR—Yes, it was.

Mr Martin—Under the Australian Electoral Act, all electoral material that is circulated in the course of an election must be authorised, right? It is straightforward. A prosecution would have told us whether or not we, the taxpayer, paid for those tens of thousands of bumper stickers.

Senator SYNON—Mr Martin, is that the breach that you refer to in the first paragraph of your letter?

Mr Martin—That is right, yes; I have given accompanying material there. So I would very much like the committee to find out the origin of these bumper stickers and to find out why the Australian Electoral Commission decided not to prosecute. Secondly, in relation to a matter brought before this committee in August last year, we wrote and asked the committee to investigate campaign donations made by Northern Territory landlords. Once again, I am going back to 1996, but there is a follow through.

CHAIR—Mr Martin, this issue has been dealt with by the committee. We referred it to the AEC and the AEC have dealt with it as well. So, as a committee, we have already dealt with that matter.

Mr Martin—Sorry, the AEC do not have the power to investigate that matter. They have written a letter back to me asking me to bring this matter back to you to consider broadening the powers of the AEC to investigate this matter.

CHAIR—Yes, okay.

Mr Martin—That is why I am talking here. We are looking at \$20,500 being donated from Northern Territory landlords to the campaign for the member for Eden-Monaro, Mr Gary Nairn.

Senator LIGHTFOOT—Sorry, is that an organisation or an incorporated body—the Northern Territory landlords?

Mr Martin—No. But we had three landlords making campaign donations from the Northern Territory to Eden-Monaro.

Senator LIGHTFOOT—It is a generic reference to—

ACTING CHAIR (Mr Laurie Ferguson)—The committee has dealt with the personalities and the nature of the allegations. The AEC has apparently told you they would suggest you put forward a proposition regarding widening of powers which is probably just to deal with the broader issue of what you feel the legislation should basically do.

Mr Martin—If the Australian Electoral Commission has the power to investigate, to find out whether the Northern Territory government are laundering taxpayers' funds through empty office space in Darwin for the benefit of the campaign of the member for Eden-Monaro—

Senator SYNON—Oh, come on.

Mr NAIRN—That is a pretty serious allegation, Mr Martin.

Mr Martin—Perhaps you could tell me about the pattern here. If I can table a proposal from the—

Senator SYNON—Mr Chairman, I think this is out of order.

Senator LIGHTFOOT—It is a breach of a privilege too, Mr Chairman, in my view.

Mr FORREST—It is a blatant abuse of parliamentary privilege to make an assertion like that.

Mr Martin—I am asking the question which I initially put to the committee. I have written to you and asked you to answer that question.

CHAIR—Mr Martin, the committee has dealt with it in the way in which we believe we have the power to; I think all members of the committee, not just I, as the chair—and I stood aside, as the chair, while this matter was dealt with and Mr Ferguson took over—

Mr LAURIE FERGUSON—There was a unanimous decision that technically, we could not deal with it in any other fashion. I do not think we should have a provocative argument today.

Mr Martin—No.

Mr LAURIE FERGUSON—People have been through the allegations that you have made and they are understood. Would you answer the question I put to you? It was not about Mr Nairn or the Northern Territory government. It was: what actual provisions of the legislation should be altered—to your mind? What—without getting into the nature of the specifics—should the AEC have the power to do?

Mr Martin—They should have the power to interview people as to the origins of funds and to find out whether or not taxpayers' funds are being used for party political purposes. It is as simple as that. We have got a pattern within the Northern Territory where it is common practice for developers to make campaign donations to the Country Liberal Party.

Senator SYNON—That is specific to the Northern Territory.

Mr LAURIE FERGUSON—It is a common pattern in a lot of places. That is your suggestion to the committee?

Mr SOMLYAY—And the Labor Party.

Mr Martin—In exchange for cheap crown land bills. The Northern Territory government break the Crown Land Act—

CHAIR—I am not going to allow this hearing to degenerate to a point where you sit here using parliamentary privilege to make wild allegations about the operations of the Northern Territory government. I am sorry, I will not allow that. Mr Ferguson has asked you a quite specific question in relation to changes to the Electoral Act and disclosure in a principle sense, and that is what this committee is about. If you cannot answer those sorts of questions, please go to your next point.

Mr Martin—I am quite happy to. Given that we do not have a freedom of information act within the Northern Territory and given the allegations of former senior ministerial adviser, Mr Andrew Coward, with respect to Dossier NT and the claims that taxpayers' funds are being used for party political purposes and for electoral purposes, you can see there is a pattern here.

CHAIR—I have asked you twice now. Have you got any suggestions to make in relation to changes to the act?

Mr Martin—The Australian Electoral Commission needs the power to investigate to determine whether or not taxpayers' dollars are being used for party political purposes. They do not appear to have the power at the moment. Given the issue I have raised with respect to Mr Nairn and the campaign contributions to—

Senator SYNON—Mr Martin, can I ask you about the second allegation in your substantive submission before the committee today regarding the ABC staff member?

Mr Martin—Yes, you can, most certainly. During the course of the polling day, an ABC staff member, at the same time as handing out how-to-vote cards for the Country Liberal Party, handed out an ABC business card. To me, there is a problem in that there needs to be a clear separation. Given there is federal legislation relating to the operation of the ABC, there needs to be a separation between whether a person is acting in his role as party president of the seat of Port Darwin for the CLP or whether he is actually an ABC staff member.

Senator SYNON—In what context though? He was handing out information at the polling booth and, with every bit of information, he was giving a business card?

Mr Martin—No. He spent the day handing out how-to-vote cards for the CLP. At the end of the day, the person involved handed out a business card and asked somebody to contact him—

Senator SYNON—Just one business card?

Mr Martin—Just one business card, that is right.

Senator SYNON—It was just an isolated incident? Is that right?

Mr Martin—We are talking about one incident. Yes, that is right.

Mr SOMLYAY—How was that related to the election?

Mr Martin—It was related to the election in that, as a Greens candidate, I felt offended by virtue of the fact that our taxpayers' dollars contribute \$500 million to the budget of the ABC. There must be a clear separation between the—

Mr SOMLYAY—We do not have an argument for that.

CHAIR—Was he being paid by the ABC to be there that day?

Mr Martin—On the day?

CHAIR—Yes.

Mr Martin—No.

CHAIR—What is the problem?

Senator SYNON—So he handed out one business card to one person?

Mr Martin—That is right. He identified himself as being a program director of the ABC. As I pointed out, was he asking someone to ring him at work to do party political work at the offices of the ABC which the taxpayers pay for? Fair crack of the whip.

Mr LAURIE FERGUSON—I think that is pretty minor, quite frankly, unless you are saying that the person he gave it to was significant in any manner. Was it just Billy Bloggs? Whom did he give it to?

Mr Martin—He gave it to another Country Liberal Party person handing out how-to-vote cards for the CLP.

Mr LAURIE FERGUSON—Is that the point you are trying to get to? Quite frankly, I would agree with the rest of the committee. The fact that someone works for this or that company, the department of agriculture or whatever is not significant unless you are trying to make a point about the person he gave it to. What is the thrust of your point?

Mr Martin—The point is that ABC staff on election day should be doing ABC business, not—

CHAIR—How different is that to any individual employed in any department? There were people who were employed in the Parliamentary Library handing out how-to-vote cards for my political opponent. What is wrong with that? There is nothing wrong with that.

Mr Martin—We are talking about the integrity of the ABC and the public perception of the ABC as a free, fair and independent body. I have raised the matter with the manager of the ABC in Darwin, and apparently this person was carrying out his duties as the president of the CLP on

the day. There is no problem with that. However, if he hands out an ABC business card, that is a totally different matter in my view.

CHAIR—You have made your point.

Senator SYNON—There was one business card; I think it speaks for itself.

CHAIR—I think you said you had three points. That might be the second one. Is there a third?

Mr Martin—Yes, there is a third point.

Senator SYNON—You have had the sticker and the business card.

Mr Martin—There are three points—the 'It's our right' stickers, the Gary Nairn campaign contribution matter and I have tabled a call for a royal commission of inquiry into corruption in the Northern Territory from Mr Andrew Coward. There is also Dossier NT, a dossier that was sent from Mr Coward to me in the course of the last election which alleges that taxpayers' funds are being used for party political purposes in the Northern Territory. I have also given you *Hansard* and a censure motion on the former Chief Minister, Shane Stone, with respect to taxpayers' dollars being used for party political purposes.

Mr SOMLYAY—You are talking about state taxes for state elections?

Mr Martin—No, this is a follow-through. We have a Country Liberal Party senator in the federal parliament. We are talking about an entire situation here that does not start and stop on the day on which John Howard calls an election.

Mr SOMLYAY—You are not talking about federal taxes, are you?

Mr Martin—Sure, absolutely. Denis Burke has decided that he is not going to call an inquiry. Unless the federal parliament, under the self-government act, starts looking at what is going on in this town, the situation is going to prevail. You have got a perverted political system occurring here in the Northern Territory. The whole system is perverted. You guys have got the responsibility to actually oversee what happens here under the self-government act.

CHAIR—We as a committee are investigating the 1998 federal election and the Electoral Act, not the Northern Territory (Self-Government) Act. Mr Martin, we have not authorised these materials because we received them only this afternoon. We have not had an opportunity to really look at them, but we will have to do that as a committee later on. Would you be happy for them to be an exhibit as part of your evidence here today?

Mr Martin—Yes, exactly. That is part of my evidence, if that could be included. I have included the items in alphabetical order and I have given a list of those items and a covering page with respect to that evidence.

CHAIR—Thank you.

Mr FORREST—Mr Chairman, it is a little difficult to cross-examine the witness if we have not had his submission and information put before us for pre-reading.

CHAIR—We got it only yesterday afternoon.

Mr Martin—I would be prepared to come back and have a chat if that is what you need.

CHAIR—If there are any further questions, we can probably write to you anyway.

[10.18 a.m.]

CHAIR—I welcome the Hon. Warren Snowdon to today's public hearing. The evidence that you give at the public hearing today is considered to be part of the proceedings of the parliament. As a member of parliament, you would be aware of the rules and regulations related thereto. We have not received your submission. The committee has given you the time today to appear before it, even though we have not received any submission. With the agreement of the committee, that has been decided.

We are at a bit of a disadvantage because we are not aware of what matters you want to raise. That makes it difficult for members to have been briefed and to ask you questions. Time is fairly tight for this hearing today, so I will ask you to be brief with the matters you want to raise. We will attempt to ask some questions but, when we do receive a submission from you, we may want to come back with some further questions at a later time.

Mr Snowdon—Thank you, Mr Chairman. I intend to deliver a presentation which will take about 15 minutes. We will be preparing a written submission based on the presentation, which will be made available to you as soon as possible.

Mr FORREST—Mr Chairman, I am wondering why Mr Snowdon is not prepared to give us a submission that we can consider and then expeditiously cross-examine his concerns.

Mr Snowdon—You will hear my concerns. If you just listen, you will get them. As the member for the Northern Territory I have detailed knowledge concerning the application of the Commonwealth Electoral Act in geographically remote and culturally diverse communities. The seat of the Northern Territory also contains large numbers of voters whose first language is not English. There are, for example, sizeable Greek and Chinese communities in Darwin. There are also many thousands of Aboriginal Territorians for whom English is a second, third or even fourth language.

I want to record at the outset my motivation, firstly, as a member of the Australian parliament and, secondly, as a representative of the Australian Labor Party for the seat of the Northern Territory. My primary motivation is to enfranchise people to vote. I want to emphasise what that motivation is. I make absolutely no apologies for arguing on behalf of the simplest, most straightforward electoral system possible, predicated on the belief that we—that is, members of parliament—have a duty to make voting as straightforward and uncomplicated as possible.

The fundamental right of Australians to cast their votes in private, free from interference and coercion, is a basic tenet of our society. What brings me before this committee today is my concern that, for partisan political purposes, this fundamental right is now under attack. Currently, section 234 of the Commonwealth Electoral Act, and other related legislation, provides that, if a voter's sight is impaired, or if they are incapacitated or illiterate, they can appoint a person to help them to vote.

Currently, the voter has all the say in who helps them. Appropriately, they are free to choose someone they trust. The legislative changes currently being proposed and debated before the parliament would see that fundamental freedom taken away. If the legislation proposed by the

Howard government becomes law, detrimental and radical changes will occur in the provision of assistance voters. The government originally proposed having the presiding officer marking the ballot paper, with party scrutineers being present when it was being done. The vote would no longer be secret. There would be at least three other people watching the marking of the ballot paper, and in the case of the Northern Territory that could be six or seven, depending upon the number of scrutineers at any one booth.

Quite rightly, the Senate rejected this approach. The proposal the government has now put forward would still have the presiding officer marking the paper and scrutineers being able to watch. Generally, scrutineers will now be able to watch if a voter is happy with that. However, the government has left in scenarios where scrutineers will be able to watch, whether the voter wants them to or not. By way of example, where the voter does not have a friend with them, scrutineers will be entitled to observe the vote, regardless of the voter's wishes.

The voter's secret ballot is seriously compromised by the government's current proposal. The voter's privacy is compromised and so is the integrity of the ballot. Any reasonable person concerned with maintaining the integrity of the process would support an appropriate level of control or supervision by the presiding officer, but one which would not compromise the integrity of the ballot. I would strongly argue, as does the Australian Electoral Commission, that we currently have a system which provides an appropriate level of control. Let us not forget that there has never been a substantiated case of the roting or manipulating of assisted votes.

The changes to the assisted voting process as proposed by the government would simply encapsulate the views of organisations such as the CLP, the Country Liberal Party, here in the Northern Territory, which are transparently political in motivation. I will read back to you later in my presentation observations made by Peter Slipper in the parliament last week when representing the government in the course of debate and who had carriage of the bill through the House of Representatives.

Maintaining and improving the integrity of our electoral system should be the only motivation for any legislative changes to our electoral system. Those who argue in favour of disenfranchising as many vulnerable voters as possible have a responsibility to produce credible evidence to support their contention that the existing system is broken and therefore needs fixing. They have failed this fundamental test. They have never produced any such evidence. Instead, we are left with baseless allegations, spuriously thrown around after the last election, spreading the myth that widespread abuse, collusion and roting occur in the electoral system of the Northern Territory, particularly relating to assisted voting. I want to read to you an extract from page 4920 of the House of Representatives *Hansard* of Wednesday, 12 May. The extract is part of the contribution by Peter Slipper who, as parliamentary secretary, had carriage of the legislation through the lower house. He said:

Regrettably, there is widespread abuse under the current provisions of the Electoral Act in that many people in the Northern Territory who wished to vote for one party or candidate may well have ended up having their votes cast in favour of the member for the Northern Territory, when the last thing those people wanted would have been for their votes to be put against the tally of the member for the Northern Territory.

He continued:

At the moment there is provision for widespread intimidation. One simply cannot say that the result as declared in the Northern Territory represented what those people in the Northern Territory actually wanted to do on polling day.

Senator BARTLETT—Was that the Electoral and Referendum Amendment Bill (No. 2) 1998?

Mr Snowdon—That is right. I am happy to furnish copies of the *Hansard* because I think it gives absolute expression to what this government is on about. I hope that members of the government on this committee do not share that view. If they do, I would ask them to declare it. Instead we are left with now baseless allegations.

It is my contention that this technique of making very serious allegations which impugn the reputation of the Australian Electoral Commission and its officers is a deliberate political strategy designed to bring about the right political climate to procure partisan legislative changes of the type that we have been debating in the parliament and desired by those who perceive they are politically disadvantaged by fair, free and reasonable assisted voting practices. In other words, they do not like the results that the system produces, so they want to change the system. It is a case of: if you throw enough mud then eventually some of it must stick.

Mrs Cavanagh, President of the Northern Territory CLP, in her submission alleges:

There would be no electorate in Australia where there are thousands of people so incapacitated or illiterate as to require this section—

that is section 234(1)—

to be used.

I believe that it is also the case in the Northern Territory; however there are many thousands who are given access to this section by the AEC officials.

There is at least one such electorate, and it is the electorate of the Northern Territory. In the 1996 ABS population census it was identified that 27.3 per cent of the Territory's population were indigenous Australians. This compares with two per cent indigenous share of the entire Australian population.

Literacy levels in the Northern Territory are the worst in Australia. Our school retention rates are abysmally bad, being the lowest in the country at 42 per cent and significantly behind the national average of 71.8 per cent. There is a very low participation rate in secondary education in remote areas amongst Aboriginal people, principally because successive governments have failed to provide the necessary access to educative facilities. Of those who attempt secondary education, only nine per cent of indigenous students complete their education, compared with 54.5 per cent of non-indigenous students, which is, again, the lowest in Australia.

Today it is estimated that at the end of the primary school years the level of literacy for indigenous students is equivalent to year 3. It is of course true that most Aboriginal people of voting age received even less formal education than their children, if any at all, and their literacy levels would be substantially lower again. It is therefore entirely reasonable to reach the conclusion that there are legitimately thousands of Territorians who would and should qualify for voter assistance under the existing 234(1). The spirit of the Commonwealth Electoral Act is rightly about enfranchising as many people as possible to exercise their democratic rights as Australian citizens. Mrs Cavanagh asserts:

They allow anyone and everyone to have a vote assisted by anyone else.

This conclusion, that this is somehow inappropriate or is an inaccurate interpretation of the act by the presiding officer, is a misinterpretation—and I would suggest a deliberate misinterpretation—of the intent of the legislation. The fundamental principle is and should remain to construe the franchise in favour of the elector.

Is it not better to offer assistance to those voters who need it, rather than not? In a democratic society we have to ask: what are we trying to achieve? Are we fundamentally trying to let people franchise their rights or, for political purposes, trying to put hurdles in front of them and disenfranchise them? The ALP and I do not accept the proposition that having a person the voter nominates, whether it be a friend in the public or a scrutineer or a presiding officer, is an attack on the electoral system. There is an assertion contained in the CLP submission that assisted voters are somehow incapable of making up their minds about who they want to assist them to cast their vote. The submission of the CLP makes the following highly emotive statement:

The result is that political activists trawl through the crowd, seeking voters to assist.

This statement is patronising and inaccurate. The assertion is that a person who has English as a second language is unable to think for themselves and needs 'assistance' from authority figures to cast their votes demonstrates substantial cultural insensitivity and, dare I say, bias and ignorance.

The criteria for selection of a voter's friends in indigenous communities, as I am sure you have discovered after speaking to people, is often very difficult for non-indigenous Australians to identify. Any number of complicated reasons can determine why a person is selected to act as a voter's friend. Reasons can range from a single individual that the voter feels comfortable with, a trusted friend; the role that particular relations play in family structures, which is something quite different from what we non-indigenous Australians understand; membership of particular skin groups; and increased proficiency in English; to a better understanding of the Western political system.

Dare I say that I do not know of one instance where an Aboriginal person, entering the voting booth, does not know whom they want to vote for. But what they often ask for is assistance to cast the vote, not to be told how to vote. On this basis, it is sometimes appropriate—culturally or practically—for a voter's friend to assist multiple voters. It is wrong to conclude that this is a manipulation of the process. AEC submission No. 92 correctly points out:

... there may be only a few people with language and literacy skills who are capable of providing that assistance to as many other members of the communities as are in need.

I further support the AEC's contention that 'there may be a limited number of fully literate members, Aboriginal polling staff or Aboriginal scrutineers who can communicate in language'. As much of these discussions occur in language, it is simply impossible for an English-only-speaking scrutineer to ascertain the appropriateness of the appointment process. The CLP submission chooses to conclude, in the absence of evidence, that this process is automatically unsound.

It is a delicate balance to be maintained between the rights of the candidate and the rights of the voter. Ultimately, in my view, we must always err on the side of the voter's rights. It is difficult to imagine a more important process in a democratic electoral system than the right to

cast a secret ballot, where the voter also has a right to be able to cast their vote free from pressure or intimidation.

I might just point out what is happening across the Timor Sea: East Timor and Indonesia are struggling today to have what we have, and we have people in our community trying to limit the right of individual members of our community to cast a vote in secret.

Conversely, political party scrutineers are often very experienced in these matters. It is clear that in this legislation the government has introduced a new set of rights in favour of the candidate over the voter by empowering scrutineers with rights they currently do not have. A partisan motivation is evident in the written submission presented by the Northern Territory CLP. Even more troubling is the fact that these partisan motivations are reflected in parts of the proposed legislation. I accept that it is open to anyone to make balanced criticisms of the act. However, the CLP submission would appear to be based on the principle that an Aboriginal assisted vote for the CLP is an informed vote, whereas an Aboriginal assisted vote for anyone else, including the ALP, is a manipulated vote.

The CLP's proposals picked up in the draft bill before the Senate have arisen out of their frustration, disappointment and anger resulting from the loss of the federal seat of the Northern Territory at the last election and, dare I say, losing the referendum on statehood. The CLP mind-set is quite clear from its submission. It makes unsubstantiated allegations, it is inflammatory and emotive and its political opportunism is overtly apparent. There is no evidence to support the contention that there is systematic or widespread rorting of or interference in the assisted voting process. Indeed, in paragraph 30.3 of its submission of 4 May to the Joint Committee on Electoral Matters, the Australian Electoral Commission says:

At the outset it should be noted that: (a) The AEC has received no formal complaints from Aboriginal voters themselves about the conduct of assisted voting in remote mobile polling in the Northern Territory or elsewhere in Australia; (b) The AEC does not accept that there is any balanced or credible evidence to support generalised claims that assisted voting in remote mobile polling in Aboriginal communities has been conducted improperly or illegally, either at the last federal election or at previous federal elections; (c) The NTCLP did not put its allegations about illegalities under the Electoral Act before the Court of Disputed Returns for judicial consideration following the 1998 federal election.

Indeed, the AEC notes that in the submission of Mrs Cavanagh, of the CLP, her complaint is 'limited to a few specific people' and that the 'problem seems to be lack of control in a few people'. It would appear that these are drastic changes if this is the extent of Mrs Cavanagh's complaint and if we are dealing with only a few people. In fact, of the 21 polling teams visiting 241 communities over six days the CLP submission only refers to two of these teams and occasions.

I want to now concentrate on the issue of assisted voting and privacy. The CLP submission seeks to increase the rights of the candidate but diminish the rights of the non-literate, non-English-speaking or physically handicapped elector who is the most vulnerable person in the community, susceptible to intimidatory tactics.

Let us look at scenarios. Instead of simply dealing with a person they trust, there will also be a strange presiding officer and, not only that, each candidate is entitled to have a scrutineer crowding into the booth. You may have a young Aboriginal woman, for whom English is a second, third or fourth language who has five male scrutineers to look over her shoulder and to observe the translation of her words to the presiding officer and back again. That is on the

assumption that there is someone who is conversant in her language in the booth. People may be intimidated and indeed frightened by this throng of people watching what is happening and no doubt playing a part. If one party scrutineer observes another becoming involved, then that person will become involved as well. You can see a stressful situation occurring here where the voter is caught in the middle.

Many voters will be concerned at the loss of privacy of their ballot, should party scrutineers be entitled to observe their ballot. In many small communities, the risk of losing confidentiality could have severe outcomes. I might say that in the Northern Territory it is not past the CLP to seek people out and victimise them. Aboriginal people and urban voters alike could legitimately fear some sort of retribution should their voting choice emerge as different from the one which is proposed by the CLP.

In the Northern Territory elections there have been occasions where Aboriginal people have decided not to run this intimidation gauntlet and they choose not to vote. The assisted provisions of the Northern Territory Electoral Act did not allow for a secret ballot, and scrutineers have rights over the voters. The CLP champions the act as a model for the Commonwealth. The reality is that the Electoral Office in the Northern Territory is not an independent body as the AEC is. It is part of the department of the Chief Minister. The NT legislation has been developed by the ruling party to suit their own partisan political purposes. I might say, they think it has served them well.

In section 71, part 7 of that act it states:

Nothing in this act shall prevent a candidate's representative from being present, if he or she desires while the ballot paper of a voter is marked, folded and deposited in accordance with this section.

That gives the scrutineers the absolute right to stand over and watch as assisted voters have their ballot papers marked. No other voter in Australia would contemplate having anyone oversight them as they mark their ballot paper; yet what we are proposing here is something which effectively discriminates actively against people who might have English as a second language, be physically handicapped or visually impaired.

In the Northern Territory case, the balance between voters' rights and the candidates' rights is tipped markedly towards the candidate. A number of problems exist at federal polling booths every election as CLP scrutineers are misinformed about the provision of the Commonwealth Electoral Act and believe that the provisions of the Northern Territory Electoral Act prevail. They were exhibited during the last Northern Territory election, and particularly at the booth at Tangentyere or the Railway Side and at Papunya. The scrutineer from the CLP who was acting in one instance as a scrutineer for the pro-statehood campaign was one John Elferink, the Northern Territory CLP member for the seat of Macdonnell.

A number of problems exist at federal polling places. This tactic has been used often by the CLP and they want that ability to be extended to the federal arena. They take great delight in the use of intimidation to try and force people in their own way not to submit a vote which the CLP thinks is not in compliance with their views.

The CLP admits in its submissions that there have been complaints about the Northern Territory legislation but places the blame for the complaints not with the legislation but with the

fact that the act is not administered properly, presumably by the Northern Territory Electoral Office.

I want to now talk about assisted voting and the integrity of the AEC. The AEC enjoys an unblemished international reputation. I am concerned by the unsubstantiated attacks upon it, principally by the CLP in the Northern Territory in their submissions to your committee. The claims of collusion, dereliction of duty and rotting by the Australian Electoral Commission lack absolute credibility. The AEC is recognised worldwide as electoral experts. Their officers have helped in observer roles in elections in Namibia in 1989, in Mozambique and in South Africa in 1994 and in Papua New Guinea and Fiji. They have been involved in Cambodia—and I was fortunate enough to see officers of the Commonwealth Electoral Commission active in their role in Cambodia. Currently, they are involved with the United Nations for the vote in East Timor. Indeed, as we speak, the head of the AEC in the Northern Territory, someone whom I hope you will seek to speak to when he comes back to Australia, is in New York to organise, as part of the UN delegation, the 8 August ballot in East Timor.

You have to examine the motives of the CLP calling into question the AEC's integrity. I have stated that I believe it is designed to create the right climate to bring about partisan political changes to the Commonwealth act to their perceived political advantage. I put it to this committee that continuing unsubstantiated, baseless attacks on the AEC will, if let go unchecked, damage the confidence of our voters in our electoral system. The NT CLP have not exercised their legal right to present their so-called evidence to the Court of Disputed Returns because, frankly, the evidence does not exist.

On the subject of the integrity of the AEC, the CLP goes on to complain specifically about the AEC's use of the Tangentyere or railway side booth in Alice Springs as a polling place. It is said that until polling day 'the council buildings had anti-government and anti-statehood propaganda on the walls and windows'. The CLP's submission explains at length why it believed that the use of the venue was inappropriate but astonishingly claimed 'the AEC colluded with Tangentyere council and others to provide a polling place for Aboriginals rather than a polling place for all persons'.

This is fundamentally an outrageous claim. It is an astonishing claim given that the CLP admitted in its submissions that it had objected to the provision by the AEC of polling booths in town camps in Alice Springs, Tennant Creek and Katherine for Aboriginal voters and that the AEC withdrew on legal advice following the threat of legal action. I ask the committee to note that the Tangentyere council is a well acknowledged meeting place for Aboriginal people. Other service and government organisations have similarly recognised the Tangentyere council as a culturally appropriate and public meeting place. For example, Centrelink, another Commonwealth agency, has established an office at the council to service town camps and town camp residents. Frankly, Centrelink has adopted the same logic that the AEC correctly did in choosing this site for a booth.

In submission No. 78, the AEC reports the fact that the Tangentyere council is the organisation responsible for the town camps and that the council chambers building is a natural gathering centre for Aboriginals from those camps. The AEC rented one of the Tangentyere council's buildings in exactly the same way that it rents or hires other council chambers or town halls and static polling booths in locations convenient to voters elsewhere in Australia.

I want to ask this committee: is the CLP asserting that this polling place was not a neutral polling place for the purpose of taking the ballot for Aboriginal voters, for whom it was primarily intended? The point also needs to be made that this was a public polling place. The contention of the CLP appears to be that it is acceptable for booths to be set up in urban schools and other buildings, such as local government buildings, that are convenient for non-Aboriginal voters to access by car but that it is not acceptable for town camps to be used. Yet the CLP cannot see the transparency in its argument because of its inherent racism and its anger that many Aboriginal voters rejected the CLP outright. It is this attitude that colours its submission. I was going to talk about the activities of certain CLP scrutineers in polling places, but I am happy to leave that for my submission to explain.

CHAIR—That would assist because, as I said at the start, we did not have your submission. We could have asked for the submission and then organised a time for you to appear before the committee in Canberra in future weeks, but the deputy chair asked me whether I would allow you to appear today. We have now taken a fair amount of the time that we allocated. Perhaps I should allow people to ask some very quick questions. When we have the full submission, we may want to ask some further ones. In relation to assisted voting, under the current act, if a voter asks the presiding officer to assist in casting that vote, there is provision for scrutineers to observe that vote. Is that correct?

Mr Snowdon—Yes. Frankly, it is my strong view that scrutineers should not be allowed to oversight someone's vote, irrespective of whether it comes under the current act.

CHAIR—Fine. But, under the current act, that facility is quite legal.

Mr Snowdon—I have told you my point. It is very clear. I do not believe that scrutineers should be allowed to oversight a person's vote being cast. As a committee chair, would you want people watching you cast your vote?

CHAIR—We have heard your comment on that.

Mr Snowdon—You respond to my question.

CHAIR—I am not here to answer questions, Mr Snowdon; I am here to ask them. I am trying to ensure that there is no misapprehension as to the differences between the various acts of the Commonwealth and the state. Currently, under the federal legislation that sort of circumstance is quite legal. In addition, if somebody has a friend to assist them to vote, there are no scrutineers involved. If the person asks for an employee of the AEC to assist them, then scrutineering is allowed under the current legislation. Do you have any questions, Mr Forrest?

Mr FORREST—I think Mr Snowdon will have an opportunity when it is more convenient in Canberra. There are witnesses here that we need to hear. Canberra is a long way away. I would like to read his comprehensive submission before I ask questions.

Senator BARTLETT—I take that point, but I have a couple of quick questions. The first one concerns a broad issue arising from our visits yesterday. What is your view on the importance of the AEC education program that used to exist and now does not exist. What do you think about its termination?

Mr Snowdon—That is an issue that will be raised in my formal submission. In my view, we saw an unprecedented interference in the operation of a Commonwealth statutory authority when the Howard government directed that the Electoral Commission cut that particular program. That was, in my view, the first stage of the political interference in the processes involved in by the Australian Electoral Commission. It is absolutely detrimental. If this committee is fair dinkum about improving the capacity of people to exercise a free and valid vote in privacy, they will ensure that they make a recommendation that there be a re-establishment of that education team within the Australian Electoral Commission.

Senator BARTLETT—I am not sure of the progress of the bill you quoted from, which was debated in the Senate previously, as you said, and has gone back to the House of Representatives. I ask this question in case it comes back to the Senate before we get a chance to question you. The Senate knocked out provisions that were put in. The government has not put them back in again, has it?

Mr Snowdon—No. They have come back with another proposal, which is just as offensive, frankly. They are attempting to make the presiding officer the bunny. This is a significant issue. If the presiding officer or the delegate is the only person who can assist a voter in voting, a number of things flow from that, not the least of which is the capacity of the presiding officer or his or her delegate to communicate with someone who might not have the same language and be aware of cultural appropriateness issues or whatever. A very practical point concerns some of these places where there are large numbers of voters. Typically, in remote polling booths, people will vote early in the morning. Straight after the booths open there are huge queues of people. For assisted voters we normally have a presiding officer and two assistants. If we have a situation where, say, there are 700 voters and 200 of them need assistance, people will not vote. It would be like the MCG with one gate open.

Senator BARTLETT—You stated that the integrity of the ballot is compromised by having scrutineers. When we debated this in the Senate the first time around, there was a balance between the important principle of secrecy versus the important principle that people's vote reflected their intentions. Your suggestion is that the presence of scrutineers may sufficiently intimidate people so that they either will not vote or their vote will change, is it?

Mr Snowdon—They may change their vote. Let me just explain. I obviously have not been inside any Commonwealth polling booth for five elections. I have been previously. I have been in many Northern Territory polling booths. I can tell you that what happens in the Northern Territory polling booths would happen in a Commonwealth booth if you allowed this proposal to proceed. It is open to the scrutineers to object to the way in which a person marks the ballot paper. They can say, 'That is not what the person said. That is not the way they wanted their vote cast.' This happens.

It is not my wont to name or pillory people using parliamentary privilege, and I will not. However, I will say to you that there are cases where scrutineers act in what I think is a malicious and intimidatory way. I have been a witness to polling practices in Western Australia and the Northern Territory. I was involved in taking affidavits from people in the classic Ridge vs Bridge cases in the late 1970s where lawyers were used as scrutineers so that they could challenge every vote.

Senator BARTLETT—As they were cast?

Mr Snowdon—They would challenge them as they were cast.

CHAIR—There is nothing in the Northern Territory legislation that says you can do that. You are alleging that some people will challenge it as they are making it. But there is nothing in the legislation that says they can do that.

Mr Snowdon—I am telling you that they do it. It comes about because scrutineers are overlooking the person who is assisting the voter. It would not happen if the scrutineers were not present when the person's vote was being cast. I ask you again: why do we not then, if we think this is an appropriate way to proceed, say that we will disband the secret ballot and allow anyone to watch anyone else vote?

Mr SOMLYAY—I have a question that is not related to your submission. Do you or the ALP have a view about putting photographs on the ballot paper at a federal level for remote communities? It might not help fellows like you and me.

Mr Snowdon—Good-looking blokes. A couple of very positive things could be done which could assist the process. One is a return to the Electoral Commission's voter education teams and enrolment teams. The other, importantly, would be to put photographs on ballot papers. That would be a very positive step. It would diminish a lot of the angst that goes into polling places. Clearly, it affects the illiterate. I am not Greek or Chinese, but if someone put a ballot paper in front of me with a series of boxes and no photographs against them and I was asked to vote for a candidate I would not know what I was doing, and I have had a fair amount of Territory education.

CHAIR—We got strong submissions yesterday from communities that photographs would certainly help. They found the Northern Territory system where there are photographs much easier than the federal one where there are no photographs. We certainly took that point on board.

Mr LAURIE FERGUSON—I have one point to make with regard to Mrs Cavanagh's submission. On page 5, she looks at the outcome at this place called Tangentyere with places where the AEC decided not to proceed with mobiles, such as at town camps at Alice Springs, Tennant Creek and Katherine. What is your view on the fact that the AEC desisted from having those mobiles?

Mr Snowdon—It would have been a very positive thing for them to do it. But they did not do it because there they were threatened with a legal challenge from the CLP.

Mr LAURIE FERGUSON—Why a positive outcome? What happened? Was there a smaller attendance or turnout?

Mr Snowdon—I could not tell you because I did not do a count of the people in those communities. But, as I understand it, people are comfortable in those town camps. You need to understand that culturally it may not be appropriate for people to visit other places. But more importantly there is a certain amount of intimidation when you rock up to the town council or any one of the schools to cast a ballot. There are a whole lot of things going on around the place.

As for this process at Tangentyere, they may well be able to improve the logistics of it. But it seems to me it is a very good idea to ensure that there is a place which people feel comfortable in

when they go to vote. Because Tangentyere is a service organisation for the town camps, it was an entirely appropriate place to site a booth. I recommend and very strongly endorse the view that you use this as an example of where similar booths should be located in other places not only in the Northern Territory but around Australia. We should be making the vote accessible. Again, I emphasise that this exercise should not be about the candidate or the political party. This exercise should be about the voter and the voter's right to cast a valid vote in secrecy.

CHAIR—Thank you very much for your attendance.

Mr Snowden—My pleasure.

Proceedings suspended from 11.25 a.m. to 11.36 a.m.

[11.06 a.m.]

\DB\WLBCAVANAGH, Mrs Suzanne Patricia, President, Northern Territory Country Liberal Party

SINCLAIR, Ms Jennifer Jane, Party Scrutineer, Northern Territory Country Liberal Party

CHAIR—I welcome representatives of the Northern Territory Country Liberal Party 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. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament.

The committee has received your submission numbered 92, and it has been authorised for publication. Are there any corrections or amendments you would like to make to your submission?

Mrs Cavanagh—There are no corrections or amendments but there is an addition to that submission. Mr Chairman, you have it there before you. I do seek to have that included in your papers.

CHAIR—This is additional information that you are going to address in evidence today, presumably.

Mrs Cavanagh—Yes, we can do that, or you can ask us questions. I realise you have not had a lot of time but we are happy to address issues that are there.

CHAIR—We will take that as additional material to your submission. At a later time we will deal with that as far as public authorisation is concerned. If you would like to make a brief opening statement, we will then move to questions.

Mrs Cavanagh—To start off we would like to thank you for the opportunity to appear here before you today. You have our supplementary submission before you. It is not our intention to complain about the result of this election. The investigations we have carried out have not been widespread, but we do believe that the evidence we have obtained indicates impropriety by some persons in official positions which at least should give those with responsibility for electoral matters cause for concern. At worst, it amounts to vote rigging and corrupt practice.

I would also like to make this statement. Generally speaking, we enjoy a good working relationship with the majority of officers of the Australian Electoral Commission. I have to say that our concerns are really confined to one individual in the Australian Electoral Commission. Because he wields quite a considerable amount of power and influence it does cause us some grief. They are the issues that we want to address today in addition to the particular problems we had with one of the mobiles.

The Australian Electoral Commission has submitted a supplementary paper to you addressing the matters raised in our original submission. We take issue with a lot of the matters that have

been raised in their response. I am actually in your hands as to how you want me to deal with this. We only received the copy of that submission, their response, yesterday. I am not complaining that we have not had a lot of time to actually go through it, but we could probably come up with far more cogent responses—I know you have had it for a while—if you are able to ask us questions and we can respond.

There is one matter I would like to raise that is not included in their response or in ours. They did refer, in both the AEC submission and verbally to us, to the so-called manual that the Australian Electoral Commission uses. On the face of it, this appears to be the bible of the AEC. This manual is a secret document which none of us had access to, but which is referred to on a regular basis to justify any concerns that we may have. In some cases it appears to us, on the face of it, that this manual actually contravenes the Commonwealth Electoral Act, for example, allowing party scrutineers to assist people to vote and giving the district returning officer the power to have one set of laws for one group of people as opposed to another set of laws for another group of people when determining whether provisional votes are to be accepted or not accepted to the count.

We were very interested—and thank you for the opportunity of sitting in this morning—in the briefing you received from the office of the AEC. It seemed very simple, but in practice it is not. You have to be there to appreciate exactly what goes on in those rooms. Once a vote goes into the accept box or reject box, it has to be checked by the Divisional Returning Officer, but there is also the box in the middle where the people are uncertain.

The AEC has said that there is full and open scrutiny. There is not full and open scrutiny. Once those votes go into the 'don't know' box, that is the last we see of them. The further scrutiny of those votes is not open to the public. If it is, we do not know where. We are never advised; there are never any posters put up or anything. These are the sorts of issues that we are taking up.

Mr Heisner advised us that he would be allowing up to 11 years discrepancy in the dates of birth for Aboriginal voters as opposed to no discrepancy for other voters. When we challenged this, he told us that it was in the manual. The point we are making is that this manual is obviously there as a ready reckoner for officers of the AEC. What we would like to know is what status it holds and is it available to the general public. If it is, well and good; if it is not, why not?

There is another matter I want to raise with regard to that officer, and it is a matter which I consider to be one of impropriety. On the day of the declaration of the poll, Senator Tambling was unable to be present. I am citing these instances not just to complain about the officer but to give you a bit of an idea of the attitude that we have had to deal with over quite some considerable time with this individual. Senator Tambling was unable, for health reasons, to be in Darwin for the declaration so he asked that I read a statement on his behalf, which I did.

Senator Tambling had telephoned Kerry Heisner earlier in the day and read his prepared statement to him as a matter of courtesy because there were a couple of criticisms, if you like, of the conduct of the election in Senator Tambling's statement, which is actually there included in the papers in our submission. After Mr Heisner had addressed the Senate result, he proceeded to read a statement that he had prepared to refute the comments made by Senator Tambling. What he did, though, was attribute those statements to me in the full knowledge that they were, in fact, the words of Senator Tambling.

I consider it to be inappropriate for a public servant in such an environment to make such a public statement. I took issue with him at the time and made media comment later that day. We sought a copy of Mr Heisner's statement from the AEC and it was forthcoming. What surprised us was that at least one of his comments that he made on that day was not contained in his written speech. He stated that we had never complained about the activities of the Tangentyere polling day. This was a complete fabrication and was the very matter that I had taken issue with him over on the day of the declaration of the poll. In the papers, where there is a copy of his written statement, you will notice the heading is entitled, 'I wish to comment on the comments of Suzanne Cavanagh', when he knew full well that they were actually the words of Senator Tambling. This incident was one of many where we felt that this officer was not inclined to deal with us in a fair and reasonable manner.

We can actually go on and on and on with instances of the treatment that was meted out to us by Kerry Heisner, particularly in the days after the election, and I can appreciate the fact that he was probably feeling a bit stretched, as we all were, after a long five-week election campaign. But one matter I would like to bring to your attention, which I think also emphasises the attitude towards us that we were dealing with, was that one of our scrutineers was a man who had had a serious illness in the last six months and he actually required a chair to sit down at the count. We asked if there were some chairs and we were told no, that Kerry Heisner had instructed there were to be no chairs there for the scrutineers, that they did not want to make us too comfortable. So bearing in mind the fact that we actually did count for 10 days afterwards, we had to stand for 10 days, and the AEC officials, of course, had their chairs, but the rest of us did not, which I think showed a bad attitude anyway to party workers.

I went next door to the Northern Territory Electoral Office and secured a chair for our scrutineer. Kerry Heisner came and told me that he was going to evict our scrutineer from the booth because he was sitting too close to the counter. I spoke to our scrutineer and asked him to move. I apologised to the girl and said, 'I am sorry if you felt that your space was being eroded because of our scrutineer.' She was most embarrassed, and she said to me, 'I didn't complain; I have no problem with that man. Mr Heisner suggested to me that I am complaining.'

Mr SOMLYAY—When you say the girl, who do you mean?

Mrs Cavanagh—She was one of the casual staff on the counter employed by the commission to do the counting. I can draw another couple of issues to your attention as well. I was actually away for the beginning of the federal election; I was on holidays. It was when they actually flagged that they were going to have the mobile booths in the towns. Mr Snowdon has already alluded to that. We never at any time suggested to the Electoral Commission we would take legal action about the booth.

We complained to the Electoral Commission about the setting up of those extra mobiles within the towns—particularly when you looked at Alice Springs, some were only 50 metres or less away from static booths, and one booth in Alice Springs, Yirara College, which is a wholly Aboriginal college, was also a static booth. It is not as if it would have been culturally inappropriate for any Aboriginal person to have attended that Yirara College booth when you think that all the children who attend there come from diverse Aboriginal communities right across the Northern Territory. It would not have been culturally inappropriate for anybody to have attended that booth. I do take issue with Mr Snowdon on that.

We complained, and they came back to us and told us that they had legal advice to suggest that those booths could have been subject to legal challenge. The legal challenge was not on our part; we only complained.

Then we heard on the grapevine that Tangentyere was going to be set up as a static booth on polling day. We waited four days to be advised by the Australian Electoral Commission. We were advised by a letter from them to say that they had set up Tangentyere. I rang Kerry Heisner to object. He laughed and he said, 'I was expecting this call.' Now it is just an attitudinal thing, but it is something that really erodes our confidence in that officer to conduct his duties in what we consider to be a fair and open manner. We are the first to admit that the voters are the most important people in all this, that the voters have to be given every opportunity to vote. What we are saying is that, unfortunately for them, we are part of that process and we think that we should be dealt with in a fair and reasonable manner because we are, after all, citizens of this country as well, irrespective of what flags we fly.

I will refer to a couple of things now in the response from the Australian Electoral Commission. One of those relates to the comments made by Warren Snowdon when he said that the AEC has received no complaints from Aboriginal people about the voting process. That is fine. The point I want to make is that he also said that we obviously did not really consider it all that important because we did not go to the Court of Disputed Returns. You would all know that the terms of reference for going to the Court of Disputed Returns are very, very narrow and that you can only go there if you have overwhelming evidence that the result will change as a result of your submission. I have already said to you before that we are not contesting the result of this election; we are objecting to some of the processes that we consider we had to experience.

We do think that there were a number of votes, particularly through mobile 16, that were manipulated, if you like. We feel there is a case to answer to there, and that, if you really stretch it out, there probably would have been other instances in other mobiles across the Territory.

I also want to say at the outset that I suggest that you look at the results or the numbers of Aboriginal people who voted in mobiles in previous Territory elections and compare them with the number of Aboriginal people who vote in federal elections. I think you will find that the numbers are very much the same. There was a slight weighting in favour of this last federal election, but we would suggest that that was mainly because of the activity that was generated in the bush by the land councils against the referendum rather than the federal election. There is always a high percentage of Aboriginal people who do not vote. We know that. But we also note that there are significantly lower numbers of informal votes in Territory elections than there are in federal elections.

We do not consider that the Northern Territory legislation is racial in any way, shape or form. What we consider is this: people turn up to vote and, under our legislation, the presiding officer assists. Fair enough, I know that it is hard for people to accept that other people might be observing their vote. But we do not see it as us observing their vote. We see it as making sure that the wishes of the voter are actually followed through. It is not that we want to know who voted for us and who did not vote for us; it is that we want to know that the numbers that have been put in that ballot box are the numbers that the voter tells that person to put in the ballot box. We do not consider that the current federal legislation ensures that.

We also recommended in our original submission that you go to the photos. I think the photos are a much easier way, particularly for electorate voters. If they do not know the candidates, that is the candidate's problem. If they have not got themselves around the electorate well enough for people to know them, too bad.

We are disappointed that that legislation has been watered down. We think it works well in the Northern Territory. I think that it will create less hassle at the polling booths. We think this voter's friend is a bit of a rort. It sounds all very well when you sit in a room like this to talk about people identifying their friend. But when you are out there on the ground, it is an entirely different picture, I can assure you. I have been there; I have seen it. Our comments about ALP people going through the crowd and soliciting votes are not an overstatement. It is absolutely true even to the point where one of the Electoral Office staff, I think it was at the Papunya booth, was actually removing CLP cards from the voters' hands before they went into the polling booth. These are the sorts of things that we are complaining about—the unfair treatment that we see that we get in the bush.

It is interesting to note—and you will see in my submission—that in the last Territory election we actually increased our vote quite considerably in the bush areas. Even the ALP themselves had to acknowledge that when they said in their post-election report:

The number and size of the swings in the bush distort the overall picture substantially, but the size and nature of the swings against us in the bush make it clear that our bush vote is soft and the Country Liberal Party have developed a method (or methods) of taking it from us.

We believe that the only reason that the ALP are strongly defending the status quo is that they actually see that the system we have got is much fairer and that it is going to leave them in a much more vulnerable position in the bush. If you are talking about bully boy tactics out there in the bush in the last federal election, I do not particularly believe that it was the CLP people. I have to tell you, we counsel them quite strongly about any of those sorts of tactics.

In the latest submission that I have put to you we have talked further about Tangentyere, which you have already got a whole lot of stuff on. We have talked about the selection of casual staff. We believe that people should go out there who have experience. If you can get somebody who has contacts with the Aboriginal people to do the job, that is fine. But we really believe that, particularly in the case of the officer who was in charge of that mobile 16 and then on the Saturday was also in charge of the Tangentyere booth, we had somebody who was very politically biased. But I will leave it to Charlie Taylor to talk about that because he has some further information about that particular mobile which I think you have not heard before and which I think you might be particularly interested in.

I just want to restate the fact that we are not critical of Aboriginal voters. They are part of the Northern Territory electorate, the same as anybody else, and we want them to vote, but we want to make sure that the way they vote is the way they want to vote, not in some secret little bolthole where somebody else votes for them, particularly when you know those people are aligned politically.

The other thing is that if you look on page 15 of that submission, when Warren Snowdon says, 'They think people should have the absolute secrecy of the ballot box,' that is a mobile polling booth. You went yesterday to Maningrida and Bathurst Island, where you have buildings that people actually vote in. On page 15 you have reference to a mobile polling booth which is

pretty typical amongst lots of small mobiles that go across the territory. If you look at the schedule you will see that, for anything below about 50 people on the roll, which are significant numbers, they are the conditions under which those people vote. If that is a secret ballot—I just cannot believe that you can think that that is a secret ballot.

CHAIR—Does Mr Taylor want to say something before we go to questions, because I want to give it as much time as possible? If you have something particular to add, maybe you could do that now, and maybe then we can get into the questions.

Mr Taylor—Jenny might like to speak about Tangentyere.

Ms Sinclair—I do not have a submission or anything with me. With your leave, I will just tell you exactly how it happened and my concern with the conduct of the Australian Electoral Commission on that day. I note in their response that the Australian Electoral Commission did say that the officer in charge of the Tangentyere booth on the day was a very experienced officer. Mr Chairman, I would like to tell you and your committee that I am also very experienced, with some 20-odd years as a scrutineer for the Country Liberal Party, both in mobile polling and in town polling. Quite frankly, and I am trying to compose myself, I have never experienced anything so distressing as I did on that day. It will take me a long time to ever scrutineer again. You have the submission there and the fact that I was assaulted, but that will come later.

Being an ex-resident of 20 years of Alice Springs and knowing the nature of the Tangentyere council, which I admire in lots of ways, I was very concerned as the booth captain that there was going to be a polling booth at Tangentyere. My concern was that the gentleman who rang me to organise to show me where the polling booth was located was, to my knowledge, still a member of the Labor Party—and at one stage had been president of the Alice Springs branch of the Labor Party—and, I might state, is a good friend of mine.

Three of us went to have a look at the area where the polling was to take place at Tangentyere. That was another big concern for me. It was a very small part of a demountable building. We are talking about October in Alice Springs, which is pretty hot. I knew that there would be well over 300 people who would go through that booth. I also knew the pattern of how Aboriginal people come to vote, having done it for 20 years, and had been advised by this gentleman from Tangentyere council that they would be bussing in the people from the town camps early in the morning. My concern was that, from 8 o'clock onwards, we were going to have lots and lots of Aboriginal people in this tiny polling booth. I am not being nasty or facetious but, and I mentioned the heat, some Aboriginal people at that time in the morning have not had a shower and a lot of them are still quite drunk. Again, I say this from experience. That was my concern—that it was not going to be a very pleasant atmosphere for anybody. I knew it would not be for us and I knew it would not be for anybody else.

CHAIR—Did the person you said you knew as a member of the ALP have an official role?

Ms Sinclair—I do not know whether it was his official role but he rang me, not the Electoral Commission. Michael Bowden rang me and said, 'I want to show you where the polling will be held.' I went because I wanted to know where that polling was going to be held. I would like to go on to that because it is another concern, and I believe it disadvantaged us as well on the Saturday. Mr Bowden said to me, 'Here's where we will all set up. You know where I'm coming from and I know where you're coming from,' meaning that we know our political affiliations. I said, 'Yes.' He said, 'So we're all going to be fair. I will open the gates at 7 o'clock and we will

set up at 7 o'clock.' I said, 'That's fine, Michael, we agree with that.' But I did not quite believe him. So, at six thirty, my colleague and I went there to see what was happening, maybe thinking the gates might open a bit early, and the Labor Party had already been set up in their spot. The gates were not opened until 7 o'clock, when we were allowed to go in and set up. Mr Bowden later told me himself that he had had to set up early in Tangentyere because he had other booths to set up. So there was an advantage that the Labor Party had inside Tangentyere council.

Other things I observed that distressed me on the day were that the buses belonging to the Tangentyere council that brought in the Aboriginal voters had people on them with the Labor Party, and 'Vote no to statehood' cards were being handed to the voters on the bus. So when those voters got off the bus they just bypassed the CLP and did not take our cards.

The assault that happened on me, I admit, happened outside the six-metre line. I am probably going away; I am just telling you as it comes to me. I believe the assault could have been prevented because the gentleman who assaulted me had been around the polling booth for well over half an hour after he had cast his vote. Our scrutineers inside the booth had asked for him to be removed. He was not removed. When he finally left the booth, it was unfortunate that I just happened to come around the corner when he came out. He was clearly agitated because he had been asked to leave—I believe, three or four times—so he attacked me. It was not me personally, it was that I was the first person in his sight.

At that stage, I had been called back to the booth, I had gone off to other booths to deliver material, and I wanted to go in to see my scrutineers inside to find out what their problem was. I did not realise at that stage that it was this gentleman who had just assaulted me. I had my properly endorsed scrutineer form. I also take issue with some of the comments from the officer in charge of that booth, who said that we did not have the proper forms. I go back to my experience of 20 years. I am a pretty neat and tidy person as far as having the right forms goes. I have been there and done that, and I obviously go back and get the right thing early in the piece. I most definitely made sure that all my scrutineers inside were properly endorsed, as I intended to be. I had my form but I was refused entry because it was absolute pandemonium inside that booth. There were people fighting, there were people covered in blood, there were drunks—it was absolute pandemonium. The officer in charge had absolutely no control over what was happening. It was the worst experience in my 20 years. That is why I believe the Tangentyere polling booth was totally inappropriate. I understand Mr Heisner's reasoning behind it—there was a lot of work to be done with the referendum voting and everything else—but it was an inappropriate place to have it.

When I did get inside for a few minutes I observed, and I objected to the fact, that voters were coming in and the officers behind the desk were not asking the name of the voter. They were saying, 'Hello Billy, you're here. I'll tick you off.' I said, 'Excuse me, there are questions you have to ask the voters.' That was just totally ignored. That did not happen. Billy came in, got his name ticked off, then someone took him off and said, 'How do you want to vote?' and wrote the vote down for them. I was only in there very briefly so I cannot comment on the whole day in there. My reason for being here is to say how inappropriate that polling booth was from my point of view and the fact that the electoral officer did not listen to our concerns. He told us that it was gazetted and that was it—that is how it would happen.

CHAIR—Given the pandemonium as you describe it, did you consider requesting the AEC to close the booth down?

Ms Sinclair—After I had been assaulted, which was quite early in the morning, I rang Suzanne and my first words were, 'I'm out of here,' which I would never do in normal circumstances. I love polling day normally. I love the camaraderie and I love the little bit of bickering that goes on between the parties because we all know each other. I rang Suzanne and I said, 'I'm going to pull us out. This is just impossible.' Suzanne said that she would ring Mr Heisner, which she did. She came back to me and said that that particular officer was going to be removed from the polling booth. When I came back later in the day she was still there. We made our objections known. I knew the sort of atmosphere I would be going into.

There are other things I have not touched on. I know they were outside the six-metre line, but we were in a lion's den. We were in Tangentyere council. Members of the Central Land Council—who were handing out the 'No to statehood' cards—are associates of the people at Tangentyere council. I had the unfortunate circumstance where the Chief Executive Officer of the Central Land Council dropped his pants and bared his buttocks at me. That was at the end of all the taunting that he and his colleagues from the Central Land Council had subjected us to most of the morning. It was very unfriendly.

CHAIR—Ms Sinclair mentioned that you requested closing the booth?

Mrs Cavanagh—Yes, Jenny rang me. I spoke to Kerry Heisner on probably three or four occasions that morning about Tangentyere. I complained. I said, 'You've got to do something about that booth. It's obviously far too small.' He came back to me and told me that he had spoken to the assistant returning officer in Alice Springs and that he had confirmed our concerns with the presiding officer. He told me that they were going to try and find somebody else to take her place, which they never did. He also then indicated to me that because things started to get really bad there they might have to close the booth. It was far too small and things were totally out of control.

It is interesting because he then rang me later in the morning and asked me would I consider reducing the number of our scrutineers in the booth because the booth was proving to be far too small to put the people through. I said I would think about it and then I thought, 'No way, because you created this booth, boyo, against our wishes,' or against our recommendations. Just so you know, the people who were in there actually scrutineering the referendum were holding scrutineer forms signed by members of the Northern Territory Legislative Assembly, not by the candidates for the federal election. They had Central Land Council people in there who were holding scrutineer forms signed by members of the ALP, the Northern Territory Legislative Assembly members of parliament.

CHAIR—In relation to the referendum.

Mrs Cavanagh—In relation to the referendum. The way I saw it was that, although there was a limited number who could be in there, depending on the number of seats they hold—which is not significant; fair enough—there still could have been that many people in the room. We knew they were working with the ALP on the House of Representatives and the Senate. We did what we thought was the right thing. We had scrutineering there for the House of Representatives, two for the Senate and one for the referendum. We thought that was the fairest way to go. We had one person for the referendum in each of the polling booths. So I thought 'If we reduce our numbers we are just going to do ourselves in the eye even further' because the CLC was still in there handing out their how-to-vote cards, doing their bit for the referendum and working for the ALP on the side. So I said no.

But at the end of the day I understand that the returning officer actually went to that booth eight times following complaints on polling day. I think in anyone's language that is a lot of times for a returning officer to be recalled to a booth to try and sort out the problems. That man, whose name is Joe and whose other name we do not know, the day they closed the count here in Darwin, spoke to Charlie and me. He said that that booth was an absolute root, that it should never have been there in the first place. It certainly was not put there at his recommendation.

Ms Sinclair—Can I just say one other thing concerning Joe? It is also contradicting something that the Electoral Office investigation said. At about midnight after polling closed a colleague of mine and I went to where the count was happening. There was a mix-up. We were given the wrong information when the mobiles were being counted. So we went and we asked the lady if we could have the previous figures that had already come out. This gentleman, Joe, came in. She asked him, 'Could we have those figures?' He said, 'You give these girls what they want. They have been to hell and back today.' Now I see that they dispute that and say, 'We have all had a hell of a day.' I tell you he did not, Mr Chairman, because I felt vindicated when he said, 'Give them what they want. They have been to hell and back today.'

Mr Taylor—In my statement at page 22 there is a comment about a person who rang me up. I think that is extremely important and the committee really should speak to this person. He was a temporary employee of the AEC. I have never met. I do not know him and only knew of his name on a remote mobile polling schedule until the day he rang me up. He had been contracted at that stage by the AEC, I believe by Kerry Heisner. He rang up and said he did not trust him and he did not know what to say to him. There is an account of our two phone calls in my statement. I believe this committee should contact that man. Rather than talk to the man in charge, you should talk to the people who were on the ground.

Joe is the assistant divisional returning officer from Alice Springs. The account given by the AEC in their response to our submission does not support what Joe told us originally. Certainly, this Joseph told me that he has further evidence and that he did not like the way he was being treated by Mr Heisner. As it says in there, he is a member of the Bahai faith. He is not prone to telling lies. His faith prohibits that. He did not know what to say to this man. We have not visited him. We do not know him. This committee should contact him in an effort to ascertain some of the things that actually happened without any party political bias. Talk to the people who were there and find out what happened.

One other thing that is worth noting in the response from the AEC is that they talk about one of our scrutineers, who was overbearing, and a couple of other things that I cannot recall. If you look at page 17, this super-officious, overbearing man is the 64-year-old gentleman in the cloth hat, second from the left in that photograph. I find it impossible to believe that he was overbearing and standing over the polling officials. It is just something that I cannot believe. In the photo, he has got a terry-towelling hat on. I will not take up any more time.

Senator LIGHTFOOT—I do appreciate your evidence here this morning, Ms Sinclair, Mrs Cavanagh and Mr Taylor. I want to get through as many questions as I can so I can defer to my colleagues, who no doubt will have some questions to ask you. You are aware that whatever you say is privileged. It does make it a bit difficult if we do not have names. It makes it difficult because there could be some confusion as to who you actually mean, even though you give some descriptions of these people. Mr Chairman, with your permission, I want to ask if the witnesses

can actually give names. Would you be kind enough to identify by name the person who assaulted you, Ms Sinclair?

Ms Sinclair—Yes. His name was Peter Palmer.

Senator LIGHTFOOT—What position does Mr Palmer hold in the Northern Territory, if any?

Ms Sinclair—He was a voter. I believe he lives in Santa Teresa.

Senator LIGHTFOOT—What about the CEO of the Central Land Council? Who was he?

Ms Sinclair—That was Bruce Tilmouth, known as Tracker Tilmouth.

Senator LIGHTFOOT—Yes. I think Tracker is well known. The other one was the electoral officer at Tangentyere.

Ms Sinclair—That was Elna Williams.

Senator LIGHTFOOT—And she came from Alice, or she came from—

Ms Sinclair—I know her to come from Hermannsburg.

Senator LIGHTFOOT—She was a permanent employee at Hermannsburg?

Ms Sinclair—No. She was an employee at Tangentyere council.

Senator LIGHTFOOT—Where is her permanent domicile?

Ms Sinclair—I am reading it wrong. Sorry. At the time, Ms Williams—who was obviously on her day off and not working for Tangentyere council—was an employee of the council. I think her home town is Hermannsburg.

Senator LIGHTFOOT—And one other was the gentleman that you referred to, Mr Taylor, with the cloth hat. Did you say his name? If you did, I missed it.

Mr Taylor—No. Russell Lynch.

Senator LIGHTFOOT—Where is his domicile?

Mr Taylor—Alice Springs. There is a statement from him in this—

Senator LIGHTFOOT—He lives in Alice Springs. We can refer to those. It is appalling that, in terms of one of the great privileges that we have in Australia—and that is the privilege to vote for our leaders—any assault or intimidation should take place. I am sure I speak for the whole of the committee when I say that we all find that most distressing and appalling, and we empathise with Ms Sinclair, in particular.

With respect to eliminating some of these problems that occur at these booths, the committee has heard evidence that photographs of the candidates may be more appropriate than having

people enter the booths. We found out, of course, from your evidence that not just one person but several go into the booths. That, obviously, is not the intent of the act. The intent of the act on secret ballots is to ensure that person's vote is free from any coercion whatsoever and reflects precisely whom she or he wishes to vote for. Do you think that a photograph attached to all of the candidates would eliminate some of these problems if it in fact eliminated the assistance that people, who are illiterate or otherwise infirm, would require to identify a candidate?

Mrs Cavanagh—Most definitely and, in actual fact, that is what we have in the Northern Territory. We have photographs beside our candidates on our ballot paper. I think that would go a long way towards ensuring that the voters actually knew whom they were voting for.

There is just one point regarding your comment about assistance. We also dispute the fact that people are offered assistance. The act is quite specific. It does not say that people should be offered assistance. I personally think that is an affront. People should seek assistance; they should not be offered it. That is also something that happens out there.

Senator LIGHTFOOT—What about the mobile polling booths? It seems to me on reading some statistics from your submission that to have mobile pooling booth personnel, aircraft and other infrastructure fly into isolated areas where there have been zero voters is not something of an anomaly, and it is quite wrong that costs of this nature should be accrued.

Is there some way that the mobile polling booths can be better utilised to the point where they reflect the same amount of assistance and information that people have on the Saturday of the general election, whether it is state or federal? For instance, voting on the Wednesday four days prior to the actual date seems to me to be depriving the voter of proper information. You know that information comes out in the two or three days prior to the Saturday that may in fact change a voter's mind. More often than not, elections are won or lost in the last three days. Do you think you can improve on the mobile polling booth? Do you think we should have static areas where there are now mobile polling booths, or do you think we should have postal votes or some other method to replace the mobile polling booth?

Mrs Cavanagh—In the first instance, it was the Northern Territory government that instituted mobile polling booths, mainly because of the roting that was going on out in the bush with the postal votes. All people who lived outside urban areas or who did not have access to a static booth used to get only a postal vote. Apart from the fact that a lot of people did not vote, far more did not vote then.

We have submitted on a number of occasions—through letters we have written to the relevant federal minister and also to the Northern Territory—that, where there is less than a certain number of people living in a community, they should not send a mobile booth. If they did that, you would probably be able to shorten the time you would actually have to have mobiles going around. As you say, from the results, you see lots of places where they turn up and there is no-one there. Even in the case of that mobile 16, there were so many places that she said they did not go to because there was nobody there, they were drunk or something happened. It is a mess, to be quite frank. We think it should be tightened up in some way, shape or form. It is probably the best opportunity for people to actually get to vote because a lot of those people would never go to the post office to pick up a letter.

Senator LIGHTFOOT—I speak from having spent most of my working life on stations or in mining camps. We often had 30, 40 or 50 people on stations or mining camps—the larger

number have been in mining camps—where no mobile polling booth ever came in, but somehow people got to vote.

Mrs Cavanagh—The same thing applies in the Northern Territory. If you are not Aboriginal, you do not get a mobile booth. The one exception was Dundee Lodge where there was no proper mail delivery, so they actually allowed them to have a mobile booth. I suppose another complaint we have is that, because of the vagaries of the postal system, quite often a lot of the people who get postal votes are not counted because the votes do not leave their communities in time to be stamped prior to the day of the election. It is a bit discriminatory in some ways. We have addressed it in the Northern Territory as far as our legislation is concerned, but I do not know whether they can do something about it on the federal scene.

Senator LIGHTFOOT—Would you recommend to the committee that it have a look at the system of postal voting and improve it?

Mrs Cavanagh—I think it has improved. They have introduced the register of postal voters. You automatically get a postal vote if you live outside a certain area, unless you are in an Aboriginal community where they know that you get a mobile.

Senator LIGHTFOOT—Your recommendation would be, if I am not misreading you, that we eliminate some of the mobile polling booths and replace them with a more up-to-date and responsible form of postal voting. Is that what you are saying?

Mrs Cavanagh—I would say that the whole situation needs looking at. I would say that sending mobile teams out to places with eight and five people on the roll costs thousands of dollars, because the Electoral Commission goes around in aircraft which means that anyone else who is on the track has to go by aircraft as well. It costs us thousands and thousands of dollars to actually get around, which is probably not a consideration because it is our choice to go. Some of those communities are not all that far apart, and they could arrange to have buses to take them all to one place where they could perhaps vote on one day in one area.

Senator LIGHTFOOT—I just have one more question. I would have a number but time restrains me, and I will defer to my colleagues. With respect to the change from the security of steel boxes to the corrugated cardboard boxes: does that need to be looked at? You make some comment in your submission—I forget just which page, but it is well into your submission—about some cardboard box either allegedly or actually being tampered with. Are you inferring by that that the cardboard boxes are not appropriate for certain areas of the Northern Territory?

Mrs Cavanagh—No, it was not that the box was tampered with; it was that the box was opened, and that was actually part of—

Senator LIGHTFOOT—You mean it was not sealed?

Mrs Cavanagh—Yes, it was sealed. The box we were referring to, which Charlie mentioned before, was with regard to the Joseph man who—

Senator LIGHTFOOT—Sorry, Mrs Cavanagh: are you saying that the box was sealed; it was received open?

Mrs Cavanagh—Yes.

Senator LIGHTFOOT—And yet it was not tampered with?

Mrs Cavanagh—It was, I suppose, but it was not tampered with. I will explain to you what happened. According to the information we have received from Joseph Tarwala, who was the person who worked on that mobile 16, that one day—

Senator LIGHTFOOT—He was from the AEC?

Mrs Cavanagh—Yes, he was a casual employee of the AEC. They were told in the morning that there would be no polling that day, and he and another young member of the team were given a driver and an AEC vehicle and taken out to have a tour through Palm Valley. They did that, and when they came back, they were asked to sign off resealing the box. And he said, 'I do not want to do that because we were told there was no voting today.' The electoral commissioner said, 'Oh, we did some.'

She sent her staff away for the day to go on a tour. The box had been sealed the night before. Our man was never asked to witness the resealing of the box. They came back and they were asked to witness the resealing of the box that was never supposed to be open in the first place. I think that is what Charlie was saying about the seriousness of his allegation.

He was asked to read our submission and then to sign a form to say that what we said was wrong. He rang us and said, 'I cannot say that what you said was wrong. What you said was absolutely right, and I can tell you more.' That was one of the things that he told us. But he was feeling very intimidated by whoever the AEC officer was who was in Alice Springs. He was feeling very frightened.

Senator LIGHTFOOT—Do you know the name of that officer?

Mrs Cavanagh—No. We assume it was Kerry Heisner, but we do not know for sure. But that man was very nervous. He was not prepared to sign. They told him to go away and think about it and come back at 11 o'clock.

Senator LIGHTFOOT—Thank you very much.

Senator SYNON—With your permission, Chair, I am wondering if I could some questions on notice to these witnesses?

CHAIR—Yes.

Senator SYNON—I will do that.

Mr LAURIE FERGUSON—Can I just remark at the outset that I am in a bit of a situation similar to Mr Forrest on points he made earlier about reading submissions. By a bit of an unfortunate situation, I have not been given access to an AEC response to this document, for example. I did not receive mine. It was a bit of a balls-up.

CHAIR—No, we had it at the last committee meeting.

Mr LAURIE FERGUSON—I did not get one there. I made the point earlier this morning. So I think I would probably be indicating later that I would like to have further questioning of Mrs Cavanagh at a later stage.

Ms Sinclair, you have told us how you are concerned that some people would come to the polling booth unshowered and that alcohol was a problem, et cetera. You broadly described the atmosphere there as 'unfriendly.'

Ms Sinclair—That is right.

Mr LAURIE FERGUSON—Could you give us an alternative analysis to the taking of photographs of people voting, an alternative analysis of that being an act of intimidation?

Ms Sinclair—I am sorry, I do not understand you.

Mr LAURIE FERGUSON—You had spoken about the unfriendly atmosphere on the day at this particular polling booth.

Ms Sinclair—Yes.

Mr LAURIE FERGUSON—Could you possibly give to me an alternative analysis of the taking of photographs of voters, an alternative to it being attempted intimidation?

Ms Sinclair—You are saying that we intimidated people by taking photographs? Is that what you are saying?

Mr LAURIE FERGUSON—I am interested in the alternative analysis of what you were doing—the purpose of it.

Ms Sinclair—What was I doing?

Mr LAURIE FERGUSON—The purpose of taking photographs of voters.

Ms Sinclair—I did not take photographs of voters.

Mr LAURIE FERGUSON—No CLP workers did?

Ms Sinclair—We took one, as we do at every booth, a photograph of the booth itself. That was when Mr Tilmouth challenged me and said, 'You're not allowed to do that'. Bearing in mind that we were outside the six metre line. I said, 'We're taking a photograph of the polling booth,' which is a normal thing. We have got records to prove that we have photographs of all of our booths. I said, 'The handbook tells me that as long as I am not intimidating the voter,' and I was nowhere near any voters. That was when Mr Tilmouth said, 'Take a photograph of this,' which I did. And he dropped his pants.

Mr LAURIE FERGUSON—You are saying you only took one photograph?

Ms Sinclair—Of the polling booth. We took two of Mr Tilmouth.

Mr LAURIE FERGUSON—No, one photograph of anything that day at the polling booth.

Ms Sinclair—No, I took two more of Mr Tilmouth when he dropped his pants in front of me.

Mr LAURIE FERGUSON—Yes, I understand that.

Ms Sinclair—I took photographs of my party workers.

Mr LAURIE FERGUSON—Voters?

Ms Sinclair—No, no voters. I have not got one photograph of any voters.

Mr LAURIE FERGUSON—Although he is experienced like you—you said 20 years—Mr Tilmouth is reacting to something you do every polling day and he knows that?

Ms Sinclair—Yes, Mr Tilmouth knows that very well. That was at the end of his taunting us two hours previously.

Mr LAURIE FERGUSON—Mrs Cavanagh, you attempted to counter the suggestion from committee members—a similar contention that might have been put to you that was put to a few other previous witnesses—in regards to alternative recourse to the legal system by speaking about the question of why you did not go to the Court of Disputed Returns. In that manner you said:

There have been no complaints by Aboriginals. That's fine.

Given all of these widespread complaints about the problems with assisted voting, is it not a bit interesting that there is not one complaint? Do you think 'That's fine' is a good enough response?

Mrs Cavanagh—As far as I am concerned it is fine that they have not complained, but we are. We are an interested party in this the same as they are.

Mr LAURIE FERGUSON—Yes, you are an interested party and, in the same manner as Mr Snowdon, you have a partisan interest, right? Both of you?

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—The people in the middle are the people who wish to cast assisted votes because of illiteracy or other reasons. I find it interesting—and I want a response from you—as to why in this whole Territory election we have not got one complaint from a person who was intimidated?

Mrs Cavanagh—I think before you say anything or perhaps before I answer your question, I would really like to invite you to come to one of these mobiles. Aboriginal people are not usually in the business of sitting down and writing letters, I have to tell you. I am not being disparaging about them when I say that. They vote in all different sorts of elections. They vote more than we do, because of the different things that they do. I know each election is different, because when they are voting for ATSIC none of us is there. When they are voting for their local government, none of us is there. I would imagine that the argy-bargy that goes on between

scrutineers of political parties is probably part of entertainment value for them on the day. The thing is that they are probably happy enough to walk into a booth and have somebody else vote for them.

Mr LAURIE FERGUSON—You have come here today and you have written a submission to this committee, the basic thrust of which is intimidation.

Mrs Cavanagh—That we are intimidating them?

Mr LAURIE FERGUSON—No, that the Labor Party scrutineers and even electoral officers are intimidating people.

Mrs Cavanagh—No, I will be really frank about this, Mr Ferguson. You go out to one of these mobiles. You have people say, 'The man with the red shirt is the one that's going to help you fill in your ballot paper.' It is intimidation. We do not have that close contact because, unfortunately for us, most of the people who are involved out in those communities are ALP voters, unfortunately for the CLP. So they have a lot more influence over those people. A lot of our people go out there cold; they go out there with good intentions. They hand out the how-to-votes. They do not have the same level of influence on those people as the people in the communities that they work and live with.

I think it is an insult to Aboriginal people to be offered an assisted vote, because I know Aboriginal people. I work at a school here in Darwin where we have a high number of Aboriginal students. A large number can fill out a basic form. One of the people we have quoted here is a woman who required an assisted vote. She actually read her name upside down on the list. She was told she needed an assisted vote. Then she stayed in the polling booth and assisted other people to vote. We know it is a rort. It is very hard to explain to you what actually goes on on the ground unless you are there. You have to see it to believe it.

Mr LAURIE FERGUSON—This all sounds very monstrously dreadful. We are hearing what you are saying.

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—You are using very strong language about the problem in regards to the individual. We are not here today to really worry about you and Mr Snowdon, and your alternative views—

Mrs Cavanagh—I do not care a thing about Mr Snowdon.

Mr LAURIE FERGUSON—We are not here today basically to have only you two parties as the picture. The picture also involves those people out there who are getting assisted votes. I still find and I still put it to you that, despite all of your statements, the Labor Party supporters know these other people better, have got more access to them and all this kind of stuff. Perhaps you might even go on to allege that land councils intimidate them—I do not know. After all that, I do find it interesting, to be honest with you—I would be dissatisfied if you only had one complaint—that you have not even got one.

Mrs Cavanagh—What do you mean I have not got one complaint?

Mr LAURIE FERGUSON—You conceded that 'not one Aboriginal complained about being intimidated.'

Mrs Cavanagh—We do have an Aboriginal complaint.

Mr LAURIE FERGUSON—You have got one?

Mrs Cavanagh—Yes, I can tell you.

Mr LAURIE FERGUSON—Great.

Mrs Cavanagh—It was one of our booth workers. Alison Hunt was intimidated by the Aboriginal Central Land Council man who said, 'I am taking a photo of you and I am going to show it around your community.' Warren Snowdon talked about intimidation. We are not in the business of intimidation.

I can give you another example of a failed member of the Northern Territory Legislative Assembly, Mr Cartwright, who, when he lost the election, wrote to Miriam Rose Baumann. I have a copy of the letter that he circulated right throughout that electorate, telling people that that woman did not deserve to be listened to, that she was a traitor to the cause, because she had actually voted for the CLP and she had actually had the temerity to work on a polling booth for the CLP. It happens right across the Territory.

Mr LAURIE FERGUSON—I have got no doubt that some Aboriginal voters are intimidated by the presence of the CLP government and the federal coalition government—they might be intimidated. Similarly, other people might be intimidated by the power of the land council. They are givens—that people can be intimidated. But I still find it—and I still put to you—that you are trying to change the assisted voting legislation in this country to a provision in this state which no other state has in regard to scrutineers watching people's vote, and you are coming here today without one person saying they are intimidated.

Senator LIGHTFOOT—I just wonder whether Mr Ferguson thinks that the assault on Ms Sinclair was not an intimidation?

Mr LAURIE FERGUSON—The assault on Ms Sinclair, as I understand it, is very sad, very unfortunate, but it is something that happens to voters in my electorate too.

Senator LIGHTFOOT—With respect, that—

Ms Sinclair—It never happened to me in 20 years.

Mr LAURIE FERGUSON—A voter, as I understand it, not a paid party supporter—do I misunderstand this?—who was drunk or whatever spat in your face?

Ms Sinclair—Yes, but we had asked several times to have him removed from that area.

Mr LAURIE FERGUSON—He should have been removed.

Ms Sinclair—He was not by the Electoral Commission.

CHAIR—I think the point in that evidence, because it was outside the booth, is ultimately the way in which the operation of the booth took place—that if it had been better organised those sorts of things may not have been a consequence. I think that is the submission.

Ms Sinclair—And that those concerns are listened to.

Mrs Cavanagh—Just one point on that. I think I really want to stress this point, Mr Ferguson. We are not reassured that the voters' wishes are being followed. In most cases with the Aboriginal people, it is not that they are physically incapacitated or that they are blind; it is the fact that they are illiterate voters.

We are not convinced, when you have one person who is voting for vast numbers of Aboriginal people, that their wishes are being followed. I will give you an example, seeing that it is the 1996 federal election being referred to. After the 1996 federal election, they had some post-election polling because of the wet weather. One of the places was Miniyeri, and I was actually at the scrutiny of the count of Miniyeri.

I cannot remember the exact number but over 100 people actually cast a vote that day. There was one for the CLP. The rest of the votes were completed by one individual with a back-to-front 5, I think it was. It was a funny way of doing a 5. We sat there and watched them going down that ballot paper. And every single ballot paper was scrupulously completed and there were no informal votes. They just went down one after the other, and we just stood there and we thought, 'This is just not right.'

Those sorts of things bring us to the view that we need reassurance. We need to know. If the Aboriginal people do not want to vote for us, that is their business. We want to know that their wishes are being followed. There are no guarantees under this system, I am sorry. You have an illiterate voter who is relying on somebody else. Even the way that the preferences flow is exactly identical. You cannot tell me that everybody follows a particular line. They do not.

Mr LAURIE FERGUSON—They could have broadly said that they wanted to vote Labor. The person might not give a stuff who they voted for after Labor 1.

CHAIR—But you are making the point that, in that particular case, all but one of the ballot papers—and that was in excess of 100—were filled out by the same person.

Mrs Cavanagh—By the same person.

Mr SOMLYAY—Can I ask you the same question I asked Warren Snowdon about photographs on the ballot paper?

Mrs Cavanagh—Yes. We support that absolutely, Mr Somlyay. That is currently in place in the Northern Territory.

Mr LAURIE FERGUSON—Getting back to the question of not launching this dreadful series of complaints around the questions of mobiles and assisted voting, you pushed the argument that you had not gone to the Court of Disputed Returns because you are doing this out of altruism, not because you were upset about the result, et cetera. When you go to the other allegations here, for instance, one we have not touched on today, and add up all of these numbers, the numbers that you have probably had from all of these complaints, surely we are

getting in the marketplace of this election being able to be challenged. Especially since, on page 11, you start complaining that:

The AEC in its conduct of the election admitted to the count ballot papers that were not initialled . . .

and that were the wrong colour.

How many of those are you saying were admitted?

Mrs Cavanagh—We did not count them.

Mr LAURIE FERGUSON—You did not count them.

Mrs Cavanagh—No. You can shrug if you like, but the reality of the situation was this: we stood there and saw ballot papers that were a different colour. We had an explanation from the AEC that they photocopied some because an insufficient number came in for pre-poll voting, so they photocopied them in the AEC office. They were not done by the government printer. They had quite a few that were not initialled on the back. We were not the only ones who challenged those. Some of those were our votes. The ALP also challenged that on the day when we were counting.

We are saying to you that there were anomalies that we did not think should happen. I will go back to your comments about us not going to the Court of Disputed Returns. As you will know, I think you have a responsibility not to go to the Court of Disputed Returns unless you are pretty sure of your outcome, to be honest. We had an uncertain outcome there because, even if they had taken all the votes from Tangentyere and Mobile 16 and all these other votes, there was a discrepancy of over 1000 votes. They amounted to more than 1000 votes. Fine.

Realistically, they are not all going to come to us. They are not going to say, 'They are all really yours, not his.' Even if you had split them down the middle, we still would not have had a victory for Nick Dondas. That is why we did not go to the Court of Disputed Returns. That is why we chose to come to this body to express our concerns. We felt that it would have been absolutely irresponsible of us to have gone to the Court of Disputed Returns if we were not pretty much sure of the outcome being in our favour.

Mr LAURIE FERGUSON—One other matter you raised on the way through is the 'don't know' category. You have apparently never been told that you can scrutinise those.

Mrs Cavanagh—In 1996 anyway, the 'don't know' category was definitely done after hours. We were not given access to the scrutiny of those. This time, we were not told when they were going to be done. The Northern Territory Electoral Commission offices here in Darwin—and we were counting on about three different levels of a building that is not even owned by them—were upstairs, on the second floor and on the ground floor. We would all turn up in the morning and say, 'All right. What's on today?' We would get there really early, and it was like a moveable feast. They would walk in and say that we were about to start counting in 10 minutes up on floor whatever or next door in those offices, and we had to do a recount of our scrutineers and get them in and out. There was no what I would call structured method in the way that it was done.

Mr LAURIE FERGUSON—How many 'don't knows' do you think were at this election that were admitted later?

Mrs Cavanagh—You do not know that; that is the thing. You do not know.

Mr LAURIE FERGUSON—Sorry; I thought you would have had the broad category, the total.

Mrs Cavanagh—You try to get that sort of information out of Mr Heisner! You do not get told that sort of information. They say that they do not have it. They have these baskets: they have the people who are admitted, the people who are rejected and then all the 'don't knows'.

Mr LAURIE FERGUSON—You do not have a count pre the examination of the 'don't knows' and a final count?

Mrs Cavanagh—No. They do not count them.

Mr LAURIE FERGUSON—So you could not—

Mrs Cavanagh—No, they just flip them into the basket. I am not trying to make excuses for us, but we had a couple of scrutineers working there. They had about five or six computers going, and our people wandered around and watched what was going on just as an observation thing. You are not allowed to speak to the people working on those computers and, I might tell you, Mr Ferguson, in the last election your people were evicted from that room because of their behaviour. We went voluntarily because we felt that it was an intimidation of the process. Kerry Heisner admitted in his own words that there is a different way of assessing one particular group of voters to another.

Mr LAURIE FERGUSON—Is that the 11-year thing?

Mrs Cavanagh—Yes. When Wayne was giving his presentation this morning, we heard it can be up to 25 years.

Mr LAURIE FERGUSON—I did not understand the thrust in logic of your comparison of the outcome between Northern Territory elections and federal elections in regard to mobile booths. You made some comments on the informality level and the turnout level. Could you go through that again?

Mrs Cavanagh—We have gone back over the last few Territory elections and looked at the number of people who voted on the mobiles. We have done a statistical analysis on it. The level of voting is a bit fluid, but there are no big dips or highs.

Mr LAURIE FERGUSON—Between state and federal?

Mrs Cavanagh—Yes. In fact, in the last election about 900 more people voted on the mobiles than they did in the previous Territory election. Considering the fact that there were something like 4,000 people who went on the roll during that time, you can imagine that there would have to be some increase in the Aboriginal vote. What we are saying is that the number of people who voted in the Territory and federal elections was pretty much similar, but the interesting thing was that there was a significantly smaller number of informal votes in the Territory election—I think there were 700—compared to 1,100-and-something in the federal election, when there was only less than a 900 discrepancy.

What we are saying is that we do not think that the Northern Territory system is a discouragement for Aboriginal people to vote. We think that they will still turn up to vote anyway. I do not think that there have been any complaints to the Northern Territory Electoral Office by individual Aboriginal people about the way the mobile pollings are conducted under the Northern Territory Electoral Act.

Mr LAURIE FERGUSON—You also made reference to informality levels between the two.

Mrs Cavanagh—Yes. The informality levels are slightly lower for the Territory election than they were for the federal election.

Mr LAURIE FERGUSON—Slightly?

Mrs Cavanagh—Yes. They are not significantly lower, but they are slightly lower.

Mr LAURIE FERGUSON—Obviously the two political parties have a partisan interest in this matter.

Mrs Cavanagh—Yes, absolutely.

Mr LAURIE FERGUSON—You have put your case regarding your concerns with the current system. You cited a Labor Party document that spoke of the Northern Territory government's 'methods'. A person makes a choice, whether you like it or not, that they want to be assisted. You made a complaint that some do not seek assistance and that they are perhaps pushed towards it, and I take that on-board. But why isn't there an alternative concern when, under the NT system, people's vote, being subject to watching by scrutineers, can lead to intimidation equally?

Mrs Cavanagh—I concur with that up to a point. But what I think is that at least if they have voted 'no' and they are illiterate, they know that their wishes are being observed. Warren Snowdon mentioned something about scrutineers interjecting. The only time that scrutineers would ever interject when a vote is being cast by the presiding officer is if the presiding officer is either leading the voter along a track or not putting down what the voter asked for. That is the only reason why we think that our system is fairer: there is a guarantee that the voter's wishes are actually being followed. Under the other system there is none, unless, of course, they choose the presiding officer.

Senator BARTLETT—I have a few questions. You are talking about one person casting the votes for a whole lot of people. With this assisted voting, is it usual for the 'voter's friend', as the term goes, to actually fill out the ballot paper?

Mrs Cavanagh—Yes.

Senator BARTLETT—What has come up a few times today and also yesterday in our visits to a couple of communities is the AEC education program that has been discontinued. Do you see that that is a problem as well? Do you think that was a valuable program and it would be better if it were still around?

Mrs Cavanagh—I would have to say yes. I think it is important, particularly when you are having such a high level of assisted vote, that there is an ongoing education program for those people. But the bottom line is that, if the people cannot read and write, it does not matter how much education you give them on how to vote. They are still not going to be able to do it if they cannot read and write.

Senator BARTLETT—Sure. I just want to clarify a statement I think you made earlier in your evidence today. You were talking about Aboriginal people voting at ATSIC elections, council elections, et cetera, and about the scrutiny in federal elections and the fact that contests are part of the entertainment. You said something along the lines that Aboriginal people are happy to have someone else vote for them. I might not be getting the words exactly right but it was something like that. I want to clarify exactly what you meant by that statement.

Mrs Cavanagh—What I was saying was that Aboriginal people are familiar with the concept of voting. It is not an alien thing to them because, as I said, they vote in local government elections, ATSIC elections, territory elections and federal elections. With the local government elections and the ATSIC elections, it is not a party political scene, so we are not there. During the territory and federal elections, we are obviously there. We usually fly in from somewhere and we get on pretty well. The Aboriginal people really make you feel welcome, there is no doubt about it.

I find it very paternalistic the way that they turn up and people tell them that they need someone to help them. They talk about us putting them down, but I think that is the biggest put-down there is. I have seen Aboriginal people take a ballot paper and go to a box. They are having difficulty and you can see they are looking around. The presiding officer will go up and ask, 'Are you all right?' I think that is right. I think that should happen—because they are obviously a bit lost—instead of them saying, 'Jenny is here to help you.' That should not be the case. They have all voted before lots of times. Particularly in an NT election where you have a photo, they know who to put number 1 beside. It does not seem right to me. I think it is very paternalistic and patronising the way that they are treated when they get there. It is almost like there is a base assumption that none of these people can do it for themselves and they all have to be helped. I do not think that is right, because a lot of them can do it for themselves.

Senator BARTLETT—The statement finished off with something about them being happy to have someone else vote for them. I was not quite sure what that meant.

Mrs Cavanagh—What I am saying is that it has almost become part of what happens. Instead of the basic assumption being, 'These people are all going to vote for themselves,' the basic assumption is, 'These people are not going to vote for themselves; someone else is going to vote for them.' Instead of them really letting the people be the ones who make the decision, knowing that they need help, perhaps that has to be part of their process. Perhaps they have to be made aware of their rights so that they can say, 'I don't want anyone to help me, thank you. I am quite happy to do it myself.' Because it has been happening for years that they were all getting this assistance, they just think it is all part of the process.

Senator BARTLETT—Do they get that sort of assistance at ATSIC elections and local government elections?

Mrs Cavanagh—I would assume that they would. They are both conducted under the auspices of the AEC.

Mr LAURIE FERGUSON—During the last parliament, I took the opportunity to observe ATSIC elections in Sydney because there was some controversy about a number of aspects of that in the Aboriginal electoral help education committee. The turnout was not impressive, to say the least. What is the turnout to the ATSIC elections in the Northern Territory?

Mrs Cavanagh—ATSIC? I do not know, I am sorry.

Mr LAURIE FERGUSON—Would you concede that, if we discovered that the turnout there was very low and that the turnout for the Northern Territory local government elections was very low, it would to some degree refute what you are pointing out about them being so accustomed to elections and voting?

Mrs Cavanagh—I do not know that you can draw the two of those together. What I would say is that there is a lot more heat generated from Territory and federal elections, which probably means you get a bigger turnout. When the planes all fly in—obviously the communities are small—they know that there is something on, even if they did not know they were voting, so they all come to where it is happening anyway.

Mr LAURIE FERGUSON—Even in New South Wales, despite the fact that it is, supposedly, technically compulsory, the turnout in local government elections is far lower than in federal elections because councils do not prosecute.

Mrs Cavanagh—What I am saying is that the opportunity to vote is there; whether they take it or not is another issue.

Mr LAURIE FERGUSON—I thought you were putting to us the argument that they were far more accustomed to voting than other people.

Mrs Cavanagh—Not 'far'; I said 'more'. They are accustomed to voting more than others.

Mr LAURIE FERGUSON—If we found that the turnout in reality was extremely low, then that might not be the case?

Mrs Cavanagh—In some people's case it is; it is still more. The opportunities are still there.

CHAIR—This was raised informally in the communities yesterday. ATSIC voting is not compulsory and, therefore, you do have a lower turnout there. Also at council elections as opposed to Territory and federal elections, the turnout is usually between 50 and 60 per cent at the compulsory elections and it is lower than that for the non-compulsory elections.

Mr LAURIE FERGUSON—You have heard some figures produced by Mr Snowdon earlier. I want to follow up the last census figures up here with the Parliamentary Library for people who do not speak English well or do not speak it at all. A personal anecdote from a friend of mine who has worked in the Northern Territory for a town council or community government was that, when he went on his annual holidays, the whole town was basically deprived of social security because of the inability of virtually anyone in the town to fill out forms in English. The forms had to be completed and he normally did that during the year, but when he went away there was virtually no-one in the town who could write English. He made the comment that, despite his initial attitude, since he came to the Northern Territory—he deplored the way in

which the missionaries were here—English levels have deteriorated in parts of the Northern Territory from that period. When you look at the Territory, we really do have a major problem with regard to illiteracy in English compared to the rest of Australia.

Mrs Cavanagh—I would agree with that, particularly with regard to the Aboriginal people and the fact that you have got to look at the basis in which they live and the lack of access to the same educational opportunities that people who live in the towns have as well. I think that is a fairly big factor.

Mr LAURIE FERGUSON—It is a factor in this issue too, isn't it?

Mrs Cavanagh—Yes, it is. What I would suggest to you is that there are probably some people in this room who do not like filling out forms. I am one of them. I hate filling out forms. I do not know where he has come from or where he works, but that would be a very unusual situation, I would say. That would not be a typical situation in communities across the Territory.

Mr LAURIE FERGUSON—It is very remote from Alice Springs—quite a few hours out from there. That gives you some description.

Mrs Cavanagh—The interesting thing is that a lot of the older people are the ones who like to fill in their own forms because a lot of those people have had a basic education at some stage.

Mr LAURIE FERGUSON—He agrees with you on that point. He is not involved in politics; he just is a person I know from school and university. You say that you really are not attacking the AEC; that it is essentially this one person, Mr Heisner. I must say that the overall submission does seem very critical. You say on page 12:

The most widespread of the complaints reported to us relate to assisted voting, whether by AEC officers . . .

You talk about collusion on other pages.

Mrs Cavanagh—There are two different groups we are talking about there. We are talking about what we call the casual staff that are employed for election purposes, who do not normally work for the AEC. I think I made the point earlier in my presentation that, generally speaking, we have enjoyed a good working relationship with the majority of people in the AEC. We have not enjoyed a good working relationship with Mr Heisner. We find him arrogant and he is quite contemptuous of us, even in the way he speaks to us. Someone did suggest to me that probably in my case it is because I am a woman. They are the facts, Mr Ferguson. There is no elaboration here. If we really wanted to sit down and go through the number of times that we have considered that we have been inappropriately dealt with by him, it would probably fill quite some considerable pages.

Mr LAURIE FERGUSON—You made the clarification that you did not threaten legal action in regard to mobiles at Alice Springs, Tennant Creek and Katherine.

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—You said you only objected and complained and, therefore, they did not go ahead with them. What is the main complaint?

Mrs Cavanagh—The main complaint that we had was this. Here you have towns that have static mobile booths which Aboriginal people have been attending now for years and years. They go there for Territory elections, federal elections and local government elections if they live in those towns. I would actually like to quote to you from the letter from the Electoral Officer. I think I might have it here.

CHAIR—You are going to have to be quick.

Mrs Cavanagh—Yes. He says:

With this in mind the establishment of this booth will assist a group of voters that may require more assistance than other voters.

The thing is, as I have explained to you, they did not go and establish any other static booths in Katherine and Tennant Creek. They only did it in Alice Springs, which I thought was interesting because of the fact that in Alice Springs they actually did have an Aboriginal booth, if you like, at Yirara College, which would have more than adequately accommodated those Aboriginal people because they were bussed to Tangentyere anyway. Tangentyere is not in a residential area; it is actually in a commercial area, so the people had to be bussed there. Just so you know, they also had the added inducement of having a free barbecue on that day for all the people who turned up to vote at Tangentyere, which was something else that got under our saddle a bit as well, I can assure you.

Mr LAURIE FERGUSON—Are you saying that what happened at Tangentyere is so disgraceful, that the organisation is so discredited in your eyes politically as an opponent and that they used it for political purposes? Is it so way out that it would not happen in these other towns—Katherine, Tennant Creek, et cetera? Are there no parallel organisations that would have been as big a threat to you electorally?

Mrs Cavanagh—Tangentyere council itself was obviously promoting the 'no to statehood'. You have the photographic evidence there to show it. They are unashamedly not our way politically. We know that, we deal with that, and that is one of the things we felt. It was not neutral. I think polling booths should be places that are absolutely neutral. They should not put them into places that are politically charged. That place is a place of political activity.

Mr LAURIE FERGUSON—I understand that. But are you saying to us that they are in your eyes so way out that there would not be parallel groups in these other towns?

Mrs Cavanagh—Yes, because most of the other places are at schools.

Mr LAURIE FERGUSON—You say that.

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—Can we then get to your complaint about the mobiles in these other towns?

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—What is your concern?

Mrs Cavanagh—Have you been to Tennant Creek and Katherine?

Mr LAURIE FERGUSON—No, I have not.

Mrs Cavanagh—You have got a town camp in Katherine that is just on the other side of Katherine River, which is in the middle of town, where they were going to have a mobile booth. It is within walking distance of a static booth. I am saying that I think it was a total overreaction on the part of the AEC. They obviously got legal advice to say that they could quite easily have been charged quite successfully as being discriminatory.

Mr LAURIE FERGUSON—Given the fact that you have put to us that there were not organisations as worrying as that at Tangentyere at these other towns, why couldn't your detractors argue that you are very intent upon essentially making it difficult for people to vote rather than encouraging voting, given your actions in the other towns?

Mrs Cavanagh—I do not understand the thrust of your question.

Mr LAURIE FERGUSON—We have heard allegations about Tangentyere. Let us just say for the sake of argument that it looks worse than a lot of other polling booths in the Northern Territory.

Mrs Cavanagh—Yes.

Mr LAURIE FERGUSON—You have said that you would not see organisations like that present in these other towns as worrying to you, as politically motivated, as organised—

Mrs Cavanagh—You can. For instance, if you had a polling booth in Tennant Creek—

Mr Taylor—Kalano.

Mrs Cavanagh—It was at Kalano in Katherine, which was the Aboriginal community in Tennant Creek. If you had it at the Julalikari Council or something, we would say exactly the same thing.

Mr LAURIE FERGUSON—Did they hold it there?

Mrs Cavanagh—No, they had it at the school.

Mr LAURIE FERGUSON—Was there a suggestion by the AEC that it be held there?

Mr Taylor—In Kalano it was.

Mrs Cavanagh—No, it was somewhere else in Tennant Creek.

Mr LAURIE FERGUSON—So it was not going to be held—

Mrs Cavanagh—That was a mobile.

Mr LAURIE FERGUSON—at a place like Tangentyere?

Mrs Cavanagh—Tangentyere was a static booth; it was not a mobile booth. That is the difference.

Mr LAURIE FERGUSON—I understand that. Given that, wouldn't your detractors—the Labor Party—submit that you seem overintent upon reducing the possibilities of people voting? You seem intent on making sure that people find it difficult to vote.

Mrs Cavanagh—No, what we are saying is that we do not think a group of people should have a polling booth streamlined expressly for their own purposes, if you like. If they had wanted to create another polling booth—look at that map in there and see how close Tangentyere council is to another polling booth that was already in Alice Springs.

Mr LAURIE FERGUSON—I think the other side of the debate is saying that—

Mrs Cavanagh—He admitted it in his letter. That polling booth was set up for a particular group of people. Kerry Heisner says that in his letter. It is there in your papers. You can read it. Quite frankly, we object to that because we think we are all Territorians together and that any separation on the basis of race is not acceptable to us. That is basically where we were coming from.

Mr LAURIE FERGUSON—You understand the alternative argument of why other people are against that, don't you?

Mrs Cavanagh—I do understand their argument as far as them saying it, but the fact is that in Alice Springs you still had an Aboriginal booth there or a booth that Aboriginal people would have felt they could go to. Warren Snowdon felt that people could not culturally go here, there or anywhere, but none of them would take exception to Yirara, because they have their children go to school there, for goodness sake.

Mr LAURIE FERGUSON—Let us go back to Tennant Creek and Katherine. Why do you lose so much sleep over the possibility that there might be a mobile polling booth there? You say they can walk there, but why are you so worried about it?

Mrs Cavanagh—It is the principle of the matter.

Mr LAURIE FERGUSON—It is the principle that it should be difficult for them to vote.

Mrs Cavanagh—The principle of the matter is that, once again, we are being divided by race.

Mr LAURIE FERGUSON—That is one argument.

Mrs Cavanagh—That is our argument.

Mr LAURIE FERGUSON—The alternative argument is that a lot of people might feel it is difficult to vote in certain circumstances, and you seem intent upon basically making it difficult for them to vote otherwise.

Mrs Cavanagh—Who says that they do?

Mr LAURIE FERGUSON—Why are you yourself so worried about the fact that they might have a polling booth closer to where they are?

Mrs Cavanagh—I am sorry, but I do not understand what you are talking about.

Mr LAURIE FERGUSON—Don't you?

Mrs Cavanagh—No.

CHAIR—I think we are going to have to cut it short. We are out of time, I am sorry. Other questions are going to come out of the additional submission and we have to work out how we handle that. I wish to thank all witnesses appearing 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 12.38 p.m.