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JOINT COMMITTEE ON ELECTORAL MATTERS

**Reference: Inquiry into the 1998 federal election**

TUESDAY, 17 AUGUST 1999

BRISBANE

BY AUTHORITY OF THE PARLIAMENT

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**JOINT STANDING COMMITTEE ON ELECTORAL MATTERS**

**Tuesday, 17 August 1999**

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

**Senators and members in attendance:** Mr Danby, Mr Laurie Ferguson, Mr Nairn and Mr Somlyay and Senators Bartlett and Mason

**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 9.02 a.m.**

**JOHNSON, Mr Lindsay Barry (Private capacity)**

**STEWART, Mr James Edgar (Private capacity)**

**CHAIR**—I declare open this hearing of the Joint Standing Committee on Electoral Matters inquiring into the 1998 federal election and matters related thereto. The committee is pleased it has been able to arrange this hearing in Brisbane to give some Queenslanders the opportunity to present their concerns first hand on a number of matters relating to the conduct of elections. As well as that, I think it was Alex Somlyay from Queensland who suggested that we should come here.

Queensland has produced the greatest number of submissions to this election inquiry of any state and those appearing before the committee today represent a wide cross-section of the views expressed in those submissions. The committee hopes to take from this inquiry a better understanding of the opinions and views of those who have made submissions from this state. As we have a fairly tight hearing scheduled today, I will move to our first witnesses.

I welcome Mr Jim Stewart and Mr Lindsay Johnson. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, parliamentary privilege applies, but I also advise you that any attempt to mislead the committee is a very serious matter and could amount of an contempt of the parliament. The committee has received your submissions numbered 85 and 213, and they have been authorised for publication. Are there any corrections or amendments you would like to make to your submissions?

**Mr Stewart**—I have picked up some typo errors and some other things which might not be clear from reading it, but I do not think it is worth trying to expand on those now. I can talk about them when they come up.

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

**Mr Stewart**—Yes. The basic reason for my submissions and my attendance here is my faith in democracy and the laws which can flow from properly informed participation of all electors. Of course, ‘properly informed’ is a major qualification, and that is the essence of what has got me so concerned and so active in this area. If voters are misled, deceived, intimidated and bribed, et cetera, you do not have properly informed voters and the whole system is corrupted. I believe that is happening in a major way.

I should add that the point of my second submission was that the rule of law means that people who are subject to laws are equally subject to them whether they are the Governor-General of Australia or whoever. The laws are for all Australians. If a law is for the people in the Electoral Commission, it applies only to them. I understand the meaning of the rule of law and I understand that it is essential for any civilisation that the rule of law be applied to everybody. That is one big concern that I have addressed.

**CHAIR**—Mr Johnson, would you like to say anything?

**Mr Johnson**—No, I am just here to advise Mr Stewart.

**Senator BARTLETT**—I understand the arguments you are putting forward in relation to optional preferential voting. It is something that a number of people have raised as part of this inquiry.

**Mr Stewart**—I did not raise them as optional preferential voting. I do not think I actually used that word explicitly. What I said was: the objection to compulsory preferences. There is a very big difference.

**Senator BARTLETT**—That is a good point I was wanting to ask you about. Are you specifically opposed to the parliament's decision to remove the Langer method of voting or remove its validity?

**Mr Stewart**—I did not think parliament did remove it.

**Senator BARTLETT**—The parliament passed amendments, the intention of which—

**Mr Stewart**—The parliament's intention was there, but it is the intention of the voters—the electors.

**Senator BARTLETT**—There are two threads I am trying to get at. One is: do you support the validity of the Langer method of voting?

**Mr Stewart**—It is not for me to support; it is what the law actually says applies if you have free elections.

**Senator BARTLETT**—So your main concern then is the interpretation that has been used by the AEC. You are not specifically arguing one way or the other?

**Mr Stewart**—Not just the interpretation but the publicity they have used to intimidate people who otherwise would have voted, if they were free to vote, into not voting.

**Senator BARTLETT**—Assuming the AEC's interpretation of the legislation, and the way they have interpreted what is a formal vote and what they believe to be a genuine vote, wouldn't it be reasonable for them to then make sure that the electorate is aware that, if they do vote this way, their vote will not count at all?

**Mr Stewart**—Why not?

**Senator BARTLETT**—So the public knows that, if they did vote that way, their vote would be counted by the AEC as informal?

**Mr Stewart**—But the law does not require that. The law just says the voter's intention is the most important thing. The whole essence of parliament is that you are legitimate if you have the intention of the voters properly represented in the polling system.

**Senator BARTLETT**—Do you have a particular preference for optional preferential voting over compulsory preferential voting?

**Mr Stewart**—I just want the law to be applied to everybody, whether it is electoral commissioners or anybody else. I might have a personal preference, but I think the law is clear enough. If you have free elections, and the intention is clear, then the vote is formal.

**Senator BARTLETT**—Have there been any legal challenges after the election to the AEC's interpretation?

**Mr Stewart**—I understand there is one. I have come across it. It has been referenced. I understand it has been pushed up to the High Court by the rather expedient thing of putting an interpretation on it. I think it is 268(1) where it says the voters 'order of preference for'. It has been argued in front of the judge, and the judge has accepted the argument that 'for' means the same as 'between'. To me, that is simply illiterate. I do not know whether the judge was illiterate, but that is what it implies. 'Between' comes from the word 'twain' meaning two. You can have a choice between things, but you cannot have an order of preference between things. You either have an order of preference for them or an order of preference against them. It is simply not even proper English to say what was said and what the judge accepted. More importantly, you cannot suppress free elections by saying that somebody must vote in a certain way and that otherwise that would be informal.

**Senator BARTLETT**—They did not say to people, 'You must vote this way'. They were saying, 'If you vote this way, it will be counted as informal by us, as the people who are counting votes.'

**Mr Stewart**—Yes, that is right. They did not say it was legally informal; they just said they will not count it.

**Senator BARTLETT**—I suppose to some extent we would be in a situation where the AEC is arguing interpretations of the legislation.

**Mr Stewart**—I suspect they are trying to put the will of parliament into the way they count the votes, but the will of parliament is only legitimate to the extent that it reflects the will of the people, and the will of the people has been based upon free elections and not constrained. They call it full preferences. It is not; it is limited preferences. Full preferences means you can put anything you like.

Full preferences which say you must go 1, 2, 3, 4, are limiting preferences, so people are obliged to vote for people they wish to vote against. That is the critical thing which has come out in so many submissions. They were not saying optional; they were just saying they do not want to vote for people but against them. I am sure you would be the same way. Any one of you would not like to give people that you do not like preferences which you know could end up going to those people.

**Senator BARTLETT**—That gets back a bit to the argument about optional preferential voting being preferable.

**Mr Stewart**—Yes, it does. My point is that the law does allow free voting. The vote is formal to the extent that the intention is clear. If somebody goes 1, 2, 2, 3, 4, 5, then it obviously gets exhausted at 1, and it cannot go past that first person. A Langer vote is not going 1, 2, 2, 3, 4, 5; it is going 1, 2, 3, 4, 4. Understand the difference. Langer is saying, ‘I am deliberately voting against people.’ That is a very important thing that people want to be able to do. That is what the Romans invented. They called it ostracism thousands of years ago, and the whole essence of democracy comes from what the Romans did.

**Senator BARTLETT**—From where I sit and from being involved in the debate in the parliament that passed the amendment, the aim of which was to remove the validity of the Langer vote, you are saying that, if that was the intention of the legislators, then they have stuffed it up and should have read it better.

**Mr Stewart**—I am not sure whether they stuffed it up or whether they knew that they would be breaching something more fundamental if they tried to reinstate those things which were taken out. I think Nos 8 and something or other allowed you to remove exhausted votes from the final count. That is the crunch point which the major parties are concerned about.

**Senator BARTLETT**—Speaking in terms of how I voted on it, if your interpretation is correct, then I stuffed it up because the intent of the amendment passed was to remove the validity of Langer votes. If people wanted to argue for optional preferential voting, then we should have an up-front through the front door method of optional preferential voting.

**Mr Stewart**—I am not arguing about methods of voting; I am arguing about freedom of voting. People should not be compelled to vote for something they do not want to vote for and that they want to vote against.

**Senator BARTLETT**—Either way, we are basically down to legal interpretation, which is before the High Court at the moment.

**Mr Stewart**—You can call it legal. Take a poll of everybody here about the difference between being forced to vote for somebody you do not want to vote for and then that person getting elected, even though you do not want them to represent you, or being told that your vote will not count unless you do vote for them. I invite the committee to just poll anybody in the room. If you had to choose, and you had a voting ticket which had Pauline Hanson and David Oldfield and others running on the ticket somewhere, you would not want to put them all in order of preference if you thought one of them might get elected, or even if you thought they were not going to get elected. That is the essential point. You have to be free to vote against people. Otherwise, it is not free.

**Senator BARTLETT**—But, from this perspective, the AEC role is simply to interpret the legislation.

**Mr Stewart**—And they have access to the lawyers who can make sure they are interpreting the law as it is read. They also presumably had help in drafting what then became the law. But I do not know whether when they did that it was just through stupidity, as Albert Langer was saying, or it was because they knew that to do it any other way would risk some High Court challenge. They have done it in a way which is designed not to make

our laws undemocratic, but to make them in a way where they can be misrepresented and people will be deceived and misled. In the case of political parties, they are being bribed.

Take the case of One Nation, for example. I do not represent One Nation. I have serious concerns about some of the things they are doing. I would vote for any party which is democratic and practises democracy. I am not sure that One Nation is doing that. I know that is one of the problems they are having now. The Democrats used to practise democracy, but I am not sure whether they still do.

What I am saying is that, if you believe in democracy and you practise democracy, you will get a very good nation and a very good society. In terms of our Electoral Act, clear intention of the voters is a saving provision. If somebody stuffs up and they put duplicate numbers, or they have changed their choice and you cannot tell whether the change is from a 2 to a 3, that vote is still a formal vote.

That is what actually happens when the votes are first counted by the ordinary people. Most of the counting in the first stage of polling is done by ordinary people who come in off the street; they are not AEC officials who have a career in the Public Service. The AEC process which goes on can be jeopardised by the simple process of taking out votes which are formal and not including them in the final count, so that a person who would not get the majority of the votes can actually get elected.

**Senator BARTLETT**—Can I just ask you one other question—which is slightly off topic, although related—and one which you have expressed concern about previously in terms of truth in political advertising and those sorts of issues.

**Mr Stewart**—Exactly. That is one of the things I was first made aware of by a former electoral officer whom I got to know when he was involved. He said that this was one of the most outrageous interpretations. If you look at the actual number of submissions, you will see that a huge number of people objected to the fact that people can publish misleading information as long as it is about other candidates and what they might say or do about each other. The only thing I know about that section—I do not remember the wording of it exactly and I have not actually seen it—is that there was a judgment made by the High Court. The parliament has never gone back and said, ‘No, we really do want you to allow people to be prevented or restricted in how much they mislead people.’ That has never happened even though it was recommended by this committee, I believe.

What does still stand is that, if somebody does what Langer does and goes ‘1, 2, 3, 3’, that then says to people, ‘If you vote that way, you are misleading people into thinking that that vote is formal and therefore you are breaching that part of the act.’ That is one of the things which I think is crucial. If the Electoral Commission is saying no, then they are breaching that part of the act. In that case, it is not just a few votes which are in jeopardy, but the belief of all those people that the Electoral Commission is acting properly and that therefore it is doing the right thing. People think Albert Langer is a former communist and that he is just trying to con us all; whereas they think the Electoral Commission are the good guys—‘They would not con us, would they?’ But that is exactly what they have done.



I have indicated that maybe it is just the One Nation swinging seats which were important but, when I reflect on it, there are probably a lot more. Mayo was a case where a lot of Democrat voters, if they had understood, might not have given their preferences to the person who got elected.

**Mr LAURIE FERGUSON**—Just one point. You speak of the ‘Canberra dodge’ and you talk about bribery by the AEC, the politicians, et cetera.

**Mr Stewart**—I do not know about the ‘et cetera’—just stick to the bribery.

**Mr LAURIE FERGUSON**—Briefly, you put forward a proposition that the AEC bribes the parliamentarians.

**Mr Stewart**—Not the parliamentarians; they bribe political parties.

**Mr LAURIE FERGUSON**—Right. The parliamentarians themselves decide the laws under which taxpayers’ money is distributed rather than the AEC?

**Mr Stewart**—No, I am saying that the AEC decides whether votes will be formal, and if a vote is formal it gets the money for a formal vote. If it is discarded as informal, then it will not get that money—not because the vote is informal but because the AEC has discarded it as informal.

**Mr LAURIE FERGUSON**—Who should decide taxpayer funding for elections in general?

**Mr Stewart**—I think that is something which democracy should resolve. If people understood that question and it was put to a free vote, people would decide for themselves. My opinion is only one vote in 12 million.

**Mr LAURIE FERGUSON**—Who should decide whether we have taxpayer funding—not the parliament?

**Mr Stewart**—I am saying that, if the parliament was representing people, it would truly reflect what the voters want. If it is not reflecting them, then you could have a referendum if you like and see what the result was.

**Mr LAURIE FERGUSON**—I am just trying to understand this aspect of taxpayer funding of elections. Have you a view one way or the other as to whether it is a good thing?

**Mr Stewart**—Of course I have a view, but it does not matter what my view is.

**Mr LAURIE FERGUSON**—I am interested in your view.

**Mr Stewart**—I do not see the relevance.

**Mr LAURIE FERGUSON**—You have made comments about it.

**Mr Stewart**—My comments are about democracy. If there are 12 million voters out there and seven million of them want to put money towards the funding of the politicians, they can put their hand in their pocket and do it as a lot of people do, or they can say, ‘Yes, you take it out of my pocket and put it into the tax coffers,’ and then they can give it back to you. I do not really mind, as long as it is being done in a democratic process.

**Mr LAURIE FERGUSON**—Given your complaints about our system, do you think for instance it would be preferable that we had no taxpayer funding and essentially the political parties were dependent upon hidden donations from unions and business? Would that be preferable? Would that be more democratic?

**Mr Stewart**—I have just tried to explain that it is not my opinion which matters in a democracy; it is everybody’s opinion properly collected in a proper process.

**Mr Johnson**—Could I ask you a question? Does it have to be an alternative of hidden donations or taxpayer funding, or could it be open donations? You gave two alternatives. It does not have to be those two, does it?

**Mr LAURIE FERGUSON**—Are you are saying that we could have a system whereby, on each issue around the place, we essentially decide individually whether to give money to defence or to electoral funding, or what are you saying?

**Mr Johnson**—No. I did not mention defence. I do not know what you are—

**Mr LAURIE FERGUSON**—Well, what is an example?

**Mr Johnson**—You said, ‘This is your choice: you’ve got this or this.’ I am saying that is not necessarily so. It does not have to be hidden funding; it can be open funding.

**Mr LAURIE FERGUSON**—I got the impression from Mr Stewart that his third option was that people actually indicate whether they want to give money.

**Mr Stewart**—No, I said it could be done that way, if you want to have a referendum, and obviously it is up to the parliament to decide whether they want a referendum. But it could also be done by a properly elected parliament making laws to say, ‘We want to take money off you.’ If they are properly elected, they will be reflecting the will of the people. My concern is whether they are properly elected.

**Mr LAURIE FERGUSON**—Conceptually, you have a concern that, in our system at the moment, people are forced by the AEC to vote for groups they do not want to vote for. Why isn’t there a valid argument that the current system essentially allows everyone to actually prefer those that they least like of the lot?

**Mr Stewart**—You can—you can give your order of preference. If you want to give your second preference to the Democrats and your third preference to the National Party, that is fine. But if you do not want to give your preference because you know that in the final process of counting it can go to somebody you do not want it to go to, you do not give them the vote. Optional preferential just means you abstain from voting for them. Langer was just

saying, 'I'm voting against them.' That is free democracy. People have the choice of abstaining or voting against.

**Mr LAURIE FERGUSON**—You were a scrutineer in the Moreton election—is that right?

**Mr Stewart**—Yes.

**Mr LAURIE FERGUSON**—Who were you a scrutineer for?

**Mr Stewart**—Vanessa Stewart.

**Mr LAURIE FERGUSON**—Who is she? Which party?

**Mr Stewart**—She was a candidate for One Nation.

**Mr LAURIE FERGUSON**—Thank you.

**Mr Stewart**—Could I just respond to that? This is the sort of thing which the AEC does. You will notice that when they claimed to have responded to all the previous submissions, they made a covering thing in the introduction about how they had responded to most of the people who were objecting to the way the voting was being counted. They said that they were asking for optional preferences and that most of these people were One Nation or put up by One Nation.

I want to make quite clear that I was not in any way acting on behalf of One Nation. I am sure Ian Petersen will come in strongly on that, if need be. Secondly, saying that these people were generally One Nation is very misleading. And what you are doing is exactly what the AEC does—you mislead people, you are misleading this committee, you are misleading the parliament into thinking that anybody to do with One Nation is somehow or other a loopy sort of person, is somehow or other dishonest, whereas in fact your biggest fear is that they are honest. I have the same concern. I want honest people to represent me. I want people I can trust to represent me.

**Mr LAURIE FERGUSON**—Quite frankly, I am suspicious of your motivations.

**Mr Stewart**—You are right to be suspicious.

**Mr LAURIE FERGUSON**—You have put your view across about what I might be doing on behalf of the AEC or some other plot. I put to you that a few minutes ago you tried to kind of distance yourself slightly from One Nation by saying they might not be democratic. I am just interested to know who you were scrutineering for at that election, and now you are saying One Nation. Let us just leave it on the public record.

**Mr Stewart**—Okay. I just made that clarification. I hope that has helped. Misleading, deceiving—those things are very critical, aren't they? You understand how important that is. You have already brought it up with the chairman at the beginning. I do not want to mislead parliament and you should not mislead parliament. None of us should mislead parliament. In

the case of an election, we should not be misleading electors because otherwise we have not got the free will of the people being reflected in the count. There is not much else to say apart from the rule of law.

**CHAIR**—Did anyone else have any questions?

**Senator MASON**—I think Senator Ferguson has clarified the issues.

**Mr DANBY**—No, I am fine, thanks, Mr Chairman.

**CHAIR**—Mr Stewart, do you support compulsory voting?

**Mr Stewart**—Personally, no, I do not really think it is relevant. But people should be concerned enough to vote. If you have to impose a duty on them, the chances are they will be doing it in the way that a lot of them are doing it now—not because they have actually had a chance to think, but because they have just been forced to go along there and vote. Again, if Australians are properly informed—and other people have said this besides me—they can make a clear decision as long as they are clear what the choices are.

**CHAIR**—Something which has been extremely clear in legislation for many, many decades is that federally we have a compulsory voting system and we have a full preferential voting system. That has been clear-cut in the law, in the legislation, for many, many decades. The impression that your submission gives is that, somehow or other, there used to be an optional preferential system and then, somehow or other, the parliament conspired to take this right away.

In fact, if you read the law, it has stated since the 1920s or 1930s that our method of voting at a federal election is full preferential. Mr Langer came up with a way to supposedly get around the law. This committee, after the 1996 election, made various recommendations in relation to changes to the law so that the original intent of the law that had been there since the 1920s or 1930s and had worked seemingly very well was actually carried out. That amended legislation was then put before both the House of Representatives, who are people elected by the people, and the Senate, and that was what was changed. I just give you that little bit of history because I got the impression from your submission that you believed there was always an optional preferential system and somehow or other we changed it.

**Mr Stewart**—What was always there was 268. That has not changed at all. And 268(3) has a saving provision that the vote is formal to the extent that the intention is clear. If that intention becomes unclear because they have changed a few numbers and stuffed things up after putting one number on, as long as there is one No. 1 in there that is a formal vote. That is what section 268(3) says.

The other thing which was put in there which has since been taken out was really redundant but it was obviously intended to try and bring back some of those votes which were being pushed out. I would say they were being pushed out because, at some point in the past, they were making these votes exhaust by a process which is probably still going on. That is one of the things I alluded to in my second submission and that is what I was prepared to talk about in camera, if need be. Essentially, the evidence I have given in my

second submission is that this is still going on, that votes are being exhausted in order to get people elected on a minority vote, rather than not elected because they have not got a majority.

**CHAIR**—But they are being exhausted because they are not legal votes under the law.

**Mr Stewart**—No, under the Electoral Commission's decision not to count them.

**CHAIR**—No, under the law.

**Mr Stewart**—The law says they are formal to the extent that their intent is clear.

**CHAIR**—The law says that the voting system is a full preferential one.

**Mr Johnson**—Where does it say that? Which section? The section he just said does not; it actually says what is formal and what is not formal—that is 268. Under the Australian Electoral Commission versus Albert Langer in 1996, they said that, although expressed in mandatory language, section 240 does not impose a legally enforceable duty on the voter. That is fairly obvious.

**CHAIR**—The law that we operated under in the 1998 election clearly says that consecutive numbers need to be on the ballot paper. It is not an interpretation of the AEC. That is the law.

**Mr Johnson**—But it does not make a vote informal. What makes a vote informal is if its intention is not clear. That is what we are saying to you. We are arguing the law. That is not the law—that is what I am saying to you; it is not.

**Mr Stewart**—Section 268(3) decides whether a vote is informal. That is very clear. The whole essence of democracy is that the voter's intention has to be reflected, not parliament's intention. Otherwise you get a parliament which does not reflect the intentions of the electors, and that is what has been happening, as you said, ever since about 1920. That is why in 1979, when the Labor Party surveyed swinging voters, it came to the conclusion—and this has been published; I do not know whether you have seen it but I am sure you would have heard of it—that swinging voters regard politicians as irrelevant charlatans and the country survives in spite of them. If you think that is a good system, I am sorry, I cannot agree. I tend to agree with those swinging voters.

**Mr SOMLYAY**—If you asked that same question in any country, you would get the same answer.

**Mr Stewart**—Exactly, because they cannot vote against people. That is what America's problem is.

**Mr SOMLYAY**—If we have a ballot paper of 10 candidates, with empty boxes next to it, how would you express a vote against somebody?

**Mr Stewart**—Langer has given the obvious way.

**Mr SOMLYAY**—I asked you how you would.

**Mr Stewart**—They are asking you for your order of preference—that is the problem. You actually want to vote against somebody.

**Mr SOMLYAY**—You are talking about voting against somebody. Nominations are called for an election for a seat. Ten people nominate. There are empty boxes next to their names. How would you express a vote on that ballot paper which is a vote against one of those people on the ballot paper?

**Mr Stewart**—As I say, Langer has given one way of doing it, and that is a formal vote in terms of the act.

**CHAIR**—That is illegal.

**Mr Stewart**—No it is not illegal.

**Mr SOMLYAY**—We made it illegal, I am afraid.

**Mr Stewart**—But it does not make it informal.

**CHAIR**—I will just clarify a few more bits. I will read section 240 of the act, which either you are not aware of or choose to ignore. Section 240 says:

Marking of votes in House of Representatives election

240.(1) In a House of Representatives election a person shall mark his or her vote on the ballot-paper by:

(a) writing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference; and

(b) writing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the person's preference for them.

(2) The numbers referred to in paragraph (1)(b) are to be consecutive numbers, without the repetition of any number.

That is the law and that is the law with which we went to the election in 1998.

**Mr Stewart**—I understand that. All I am saying is that that law is not the law which decides whether a vote is formal or informal. What decides formality or informality is section 268, and it is quite clear. You must have read 268?

**CHAIR**—Yes.

**Mr Stewart**—And the saving provision in 268 is 268(3), where a vote is formal to the extent that the intention is clear, which basically means that there is a 1, and then something goes wrong at one stage because they had that intent. Whether that vote actually ends up being counted in the final count depends on whether that person stays in the count, but it is

still part of the total which has to be included for getting half of the vote plus one, and that is the fundamental thing.

**Mr LAURIE FERGUSON**—You have explained to us what you think 268 means. What do you think section 240 means?

**Mr Stewart**—Whatever it means, it is not relevant to informal or formal.

**Mr LAURIE FERGUSON**—Why isn't it?

**Mr Stewart**—It says—

**Mr LAURIE FERGUSON**—I ask you: what is 240 there for? Is it just to fill up space or something?

**Mr Stewart**—I would say that it is there to mislead the voters. That is what it is doing, isn't it?

**CHAIR**—So you are basically choosing to follow one part of the law and not another part of the law?

**Mr Stewart**—It is not of my choosing. That is what the court said.

**CHAIR**—No.

**Mr Stewart**—It did.

**CHAIR**—No, you are choosing.

**Mr Stewart**—The court said that that is the difference between a speed sign which says you will get a ticket if you go faster than this, and one of those yellow speed signs which says if you go faster than this you might run off the road but we do not give a damn because it is not breaking the law.

**Senator BARTLETT**—Can I just clarify something with 268(3)? You were saying, as I understand it, that that has always been there, or for a long period of time, but weren't changes made—I do not know whether or not it was after the 1993 election—that actually enabled the Langer option to be counted as formal for the first time?

**Mr Stewart**—Not really, no. Section 268(3) has always been there, but what has been happening—

**Senator BARTLETT**—Section 268(3) may have always been there but, if you had voted in a Langer style in 1987, that would have been informal. It was a specific change made to try to enable more votes to be counted formally where people seem to have made a mistake.

**Mr Stewart**—It was being moved into the informal pile, but it was not informal under the actual proper reading of 268(3), which is how you make votes informal or not.

**Senator BARTLETT**—Are you saying that a mistake was made in the 1980s as well?

**Mr Stewart**—Whether it was a mistake or whether it was deliberate, I do not know, but it was certainly happening, and it is still happening.

**Senator BARTLETT**—The only other question I want to ask is on 268 itself, which is the section that deals with informal ballot papers. It says you have to have an order of preference for all remaining candidates. Are you saying that if you put 3, 3, 3, that is an order of preference?

**Mr Stewart**—Without any 1s?

**Senator BARTLETT**—No, 1 too, but—

**Mr Stewart**—There has to be a 1. Obviously, that shows you have got somebody you are prepared to give your vote to.

**Senator BARTLETT**—But if you have 1, 2 and then 3, 3, 3 against the remaining candidates, you are saying that that is an order of preference?

**Mr Stewart**—It is an order of preference. It might have been screwed up because the person made a mistake; it might because they deliberately did it. The Electoral Commission is somehow or other saying that they realised that something can be mystically converted to the one you have taken out, but the reality is that the intention is clear enough to give it. And that is what actually happens. This is in the evidence I have heard. People actually do this; they are given instructions to do this by the Electoral Commission. They put those votes into the pile which that candidate has a run for, and they are formal at that point, but somehow or other they then become informal. There is no law which makes a vote go from being formal, because the intention is clear, to being informal because the Electoral Commission says so.

**Senator BARTLETT**—But subsection 3 says that it shall not be informal for any reason other than reasons specified in that section—section 268. And earlier in that section, it says that the ballot paper shall be informal if it does not indicate an order of preference for all the remaining candidates. Are you saying that having a number of them with the same number against them is an order of preference?

**Mr Stewart**—Yes. It may be mistaken, but that is what I think the intention was with that one that has been taken out. Somebody might have gone 1, 2, 2, 3, 4, 5, so the people who might have been in the No. 4 or 5 positions may be hoping to get their vote but they cannot get it. Then it can come back into the vote because there were two already numbered 2, but one of those people had already gone out because they had been taken out of the count and that vote can come back in again and still be counted. That is what is legally possible under that interpretation. What you have done in approving the legislation which became law last year has become party to this process of misleading the voters.

**Senator BARTLETT**—I guess I would say that I can understand the interpretation you are making.



**Mr Stewart**—I do not see what other interpretation there can be.

**Senator BARTLETT**—I have a different one. If it has gone to the High Court then the High Court will decide for all of us.

**Mr Stewart**—Hang on. It will never go to the High Court because the High Court ultimately is—

**Senator BARTLETT**—But it is going to, isn't it?

**Mr Stewart**—I beg your pardon?

**Senator BARTLETT**—Didn't you say at the start that it is before the High Court?

**Mr Stewart**—I think the matter that is before the High Court is something else.

**Senator BARTLETT**—Okay.

**Mr Stewart**—I do not want it to go before the High Court because, having seen what they did to the misleading voters, I do not have any confidence in the outcome. The fact that it got to the High Court is because the lower court actually agreed with an earlier interpretation.

**Senator BARTLETT**—Or they do not think the High Court—

**CHAIR**—I think we have covered these points. I can add only that most sections in legislation should always be read in conjunction with other sections of the legislation and not in isolation.

**Mr Stewart**—Exactly.

**CHAIR**—I am not a judge or High Court judge or whatever, but I think that that is a general commonsense rule that all aspects of the legislation should be read in conjunction with other parts of it. On that basis, I think that section you are referring to still should be read in conjunction with section 240, which is quite specific about what should go on the ballot paper.

**Mr Stewart**—Yes, but you have to read it in conjunction with sections 181(1), 274(7)(d)(iii), 274(10), 268(1)(c), 268(3) and—

**Senator MASON**—In our Constitution the High Court is the interpreter of legislation. Parliament makes it; the High Court interprets it. You are a defender of the Constitution. You have said that. The High Court interprets it—unless they are part of the web of treachery and deception as well.

**Mr Stewart**—I did not actually say that I defended the Constitution. I might have said it, because certainly I would like that Constitution to be law, but the High Court itself says that

it is law only because the majority of people go along with it. In other words, they are actually throwing the whole rule of law out. I do not know whether you are aware of that.

**Senator MASON**—So they interpret the Electoral Act as well as any other piece of legislation?

**Mr Stewart**—No, what they are saying is that their power to interpret the Constitution is based upon the people of Australia going along with it, not because it is actually a law of the land. In other words, this whole issue, which you may or may not be aware of, is that the Constitution does not actually have any legal force as far as the High Court is concerned when it comes to interpreting it. That is what the High Court itself has apparently said. All I know is that that has been said. I would like to think that the High Court does have that power to enforce free elections, and I am sure they would like to think they can enforce free elections, but what they should not be asked to do is to deny free choice to vote against people.

**CHAIR**—As there are no other questions, I thank you very much for appearing here today.

[9.40 a.m.]

**PETERSEN, Mr Ian Thomas, Senior Adviser, Queensland Parliamentary Team,  
Pauline Hanson's One Nation**

**CHAIR**—I welcome Mr Ian Petersen from the office of the leader of Pauline Hanson's One Nation Party in the Queensland parliament to today's public hearing. The evidence that you shall give at the public hearing today is considered to be part of the proceedings of the parliament and, accordingly, parliamentary privilege applies. I also 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 submissions numbered 144 and 212 and they have been authorised for publication. Are there any corrections or amendments you would like to make to your submissions?

**Mr Petersen**—No, they are fine as presented.

**CHAIR**—In that case would you like to make a brief opening statement before I invite members to proceed with questions?

**Mr Petersen**—Thank you. I thank the committee for the opportunity to present our point of view. Quite obviously I do not agree with the previous witness on some issues, although I do share his concern about compulsory preferential voting. I am certainly in favour of compulsory voting, otherwise the renowned Australian apathy would result in a lower voter turnout and, ultimately, an outcome which would be the product of the slickest campaign rather than one reflecting the will of a broad sample of eligible voters.

Having compelled voters to attend the polling booth, though, I see absolutely no merit—nor any justification—in forcing them to place every candidate in order. I have faith that, once compelled to make the effort to attend, the voters will then exercise their right as they see fit. The only consideration at that point should be their voting intent. Some may choose to cast an informal vote. As disappointing as that may be, it is certainly their democratic right. Some may wish to cast a vote for only one candidate. In many cases under the compulsory preferential system a voter's effective vote is actually instrumental in electing his or her least preferred candidate.

There is also the major problem that a significant percentage of voters do not understand how the preference system works. This then leaves them captive to the whim of their first choice candidate and his or her political party. I believe it is imperative that much greater effort and resources be applied to voter education. As part of that process, I believe that the system should be standardised across state and federal elections to avoid the abject confusion which currently exists.

The compulsory preferential system leads almost inevitably to a distorted result. In effect, it becomes a lottery where the winner is often decided by the finishing order of the minor placegetters—and I have included more detail in my submission. The federal half Senate election highlights the amazing aberrations delivered by our present system where 992,800

Australians voted One Nation, electing a solitary One Nation senator, while the 934,000 who voted Democrat enjoy the representation of four senators. It is also amazing that over one million Australians voted One Nation in the House of Representatives ballot and yet not one One Nation member was elected to that place.

In my submission I mentioned the lack of enrolment and voter identification. Despite the fact that this issue is often written off as inconsequential, I have no doubt that it is a major problem. I also made mention of misleading and deceptive political advertising. One Nation has introduced into the Queensland parliament the Electoral Amendment Bill 1999 to address this problem. I have passed a copy of that bill to the clerk for the committee's information. Similar legislation needs to be introduced in federal parliament to close the loophole which currently exists in the interpretation of section 329 of the Commonwealth Electoral Act.

Good government is created through good opposition and true representation of the people. Truer representation can be achieved through a fairer voting system, and I trust that members of this committee can clearly see that change is imperative. The compulsory preferential voting system is a strong threat to good government in Australia—to representative government and to public confidence in the political system.

**CHAIR**—Thank you. You said that you support compulsory voting. Don't you think that there is a bit of conflict there? You support the idea that it is compulsory for people to go and vote, but then you say, 'But it is not compulsory to vote preferential.' You cannot have it both ways.

**Mr Petersen**—I do not see any conflict. I believe that it should be compulsory to overcome the apathy that Australians are renowned for. Once they are in the polling booth they then have the right to vote as they see fit, or not to vote at all. I do not believe that there is anything wrong with compelling them to make the effort to turn up. Then they should have the right to do what they want to do.

**CHAIR**—If you run an argument that says that people should have the right to do what they want to do in the polling booth, how can you not accept that you must then extend that right to outside the polling booth and say that if they don't really want to come they shouldn't have to?

**Mr Petersen**—The only reason I would make the differentiation is for the good of the country. As I said, unless voter apathy were to be overcome, you would have a very low voter turnout and a very distorted result. In the interest of good government we have to require people to make the effort to be there. But, as I said—and I stand firmly by it—I do not believe we then have the right to instruct them that they must vote 1, 2, 3, 4, 10, 12, or whatever.

**CHAIR**—Have you done any research on the 1998 election as to the number of people who voted informally by using an optional preferential system?

**Mr Petersen**—I would have to diverge a little bit here: I have not done any specific research on the federal election, but I did some very specific research on the state election.

**CHAIR**—The state has a optional preferential system.

**Mr Petersen**—Yes, and a lot of people were utterly confused because they thought the system was the same as the one that applied in the federal area. They thought it was a compulsory preferential system. That is what I mentioned in the submission. There is an enormous need for voter education because, believe me, the average person in the street is totally confused. Since the state election a lot of people have come up to me and expressed their concern that they did not realise, when they cast their vote, what they were doing. I think that voter education is absolutely imperative.

**Senator BARTLETT**—Can I clarify something just to make sure I have got an idea of the status of the submission? You stated your position as the senior adviser to the parliamentary party, but is this a party submission endorsed by the whole party? Is it party policy?

**Mr Petersen**—It is a submission endorsed by the parliamentary wing of Pauline Hanson's One Nation.

**Senator BARTLETT**—But would it broadly reflect the party policy? I am trying to get an idea of how official it is as party policy and whether these issues had come up at federal level—that is all.

**Mr Petersen**—Yes. It was put together in consultation with the members of the Queensland parliamentary group.

**Senator BARTLETT**—Sure. Is this bill you have given us a copy of, which is to do with truth in advertising, as I understand it, based on the version that operates currently in South Australia?

**Mr Petersen**—There are some similarities. Actually that bill was reworked a couple of times before we put it in. We do want to go further and we will be going further with it by a separate bill, because it was getting too complicated to wind the whole lot into one. That is the first step in a process that we intend to take to improve the issue of truth in advertising. Also, we have got major concerns about voter identification and multiple voting and that sort of thing.

**Senator BARTLETT**—In terms of the truth in advertising aspect of it, is it basically similar to the South Australian model?

**Mr Petersen**—I cannot say for sure. I have not studied the South Australian model, but it is drawn from various other existing legislation in various other jurisdictions.

**Senator BARTLETT**—I was just curious. As you may know, this committee in the past has recommended some sort of truth in advertising measure which has not been adopted. Part of the reason I said that the South Australian one is useful to follow is because it has been in place for a while and has been tested in the courts so it seems to work—because you can never tell what the courts might do with something sometimes.

Your argument about compulsory preferential voting and the example you give in your submission of candidates A, B and C and the result being distorted by, in effect, who comes fourth, third or second actually determining who comes first—I certainly accept that. That probably is the main legitimate criticism of preferential voting in my view. But doesn't the same problem apply whether you have compulsory preferential or optional preferential? The outcome can still be determined by the order in which the lower candidates drop out.

**Mr Petersen**—Yes, that is true to a certain extent. I suppose the ultimate electoral system would be a true exhaustive preferential system, which is totally impractical. That would be a situation where you are electing a government and you have an election with X number of people where the lowest one drops out. Then you have another election and the lowest one drops out until there are two left. That is what that system is designed to imitate. But again, it is tied in with education, I guess, and the fact that people do not understand how that works. That would be the fairest system but it is just impractical to use. I believe that if you have optional preferential then at least those preference votes are cast deliberately and after some consideration, rather than just being thrown in there without due thought and thorough consideration.

**Senator BARTLETT**—I also very much back your comments about voter education on how the voting system works. This bill also tries to get around the problem of other parties putting in second preference how-to-vote cards. You have tried to do that by requiring how-to-votes to be lodged beforehand?

**Mr Petersen**—Yes, with the Electoral Commission.

**Senator BARTLETT**—Does that mean that only parties can lodge how-to-vote cards?

**Mr Petersen**—No, an individual could as well.

**Senator BARTLETT**—So an interest group—the Wilderness Society or CIR advocates, or whatever—could also lodge how-to-votes under that?

**Mr Petersen**—Yes.

**Senator BARTLETT**—So what would stop a political party basically using that mechanism and going through a non-political organisation and getting it to register a how-to-vote that is one for One Nation and two for the major relevant party, for example, and then just flooding those around the place?

**Mr Petersen**—That is something we would need to consider. You would have to have some sort of faith. On past performance you cannot have faith that the parties—

**Senator BARTLETT**—Faith in the integrity of political parties?

**Mr Petersen**—do not have that duplicity, I guess.

**Mr SOMLYAY**—We should have. Should how-to-vote cards be restricted to the candidates only?

**Mr Petersen**—To an actual candidate in the election?

**Mr SOMLYAY**—Yes.

**Mr Petersen**—Yes. I am sorry, I was missing your point. The how-to-vote cards should be applicable only to a candidate in the election.

**Mr SOMLYAY**—So a third party interest group could not put out their own how-to-vote card? As Andrew said, if the Wilderness Society wanted people who support their cause to vote a particular way, they could not hand out a how-to-vote card?

**Mr Petersen**—I support what I said.

**Mr SOMLYAY**—How-to-vote cards should be restricted to candidates in that election?

**Mr Petersen**—Yes. That is an aspect that would have to be looked at. I suppose it could be picked up in the Electoral Act because it does relate to the election, but it would need some careful analysis, for sure. I had not considered that aspect.

**Mr LAURIE FERGUSON**—You make a point about enrolment and voter identification. This committee has obviously received on occasion evidence from a variety of people about their concerns with possible double voting and people who have ceased voting et cetera. Have you ever as a party had a discussion with the AEC and gone through the procedures they utilise to try to combat that?

**Mr Petersen**—No. Not at this stage. But I do not see anything in the present system that is really a strong deterrent to that practice. There is a lot of anecdotal evidence. I tend to agree that it happens on a fairly big scale.

**Mr LAURIE FERGUSON**—I do not think anyone with half a brain would dispute that it happens. The question is about the size of it and the degree to which there is a conspiracy. Some people who are intellectually disabled might vote on more than one occasion. One conflict the committee has on this matter is the dispute between, on the one hand, an attempt to combat corruption and multiple voting et cetera and, on the other, systems which might deter people from voting by putting very great restrictions and requirements upon them. In the absence of a lot of direct evidence, it is very difficult to say that we should all of a sudden start insisting that people carry something on them before they vote or that they should do this or that.

**Mr Petersen**—Definitely. That is why we have withdrawn that aspect from the bill we presented. We originally had a bill encompassing voter identification and truth in political advertising. We have withdrawn that aspect because we feel it needs a lot more research. I certainly agree with your point. We cannot get to the stage where we are deterring voters from turning up at all. But we are confident that there are methods we can adapt and use that will improve the situation. We are working on it at the moment.

**Mr LAURIE FERGUSON**—You have said that you cannot trust political parties and that you have reason to doubt their bona fides.

**Mr Petersen**—That is other than One Nation.

**Mr LAURIE FERGUSON**—One Nation is a party. It, like the others, has self-interest; it is a fact of life. If there is a valid argument about your view about compulsory preferential voting and that it does temper the system towards the major parties, why is that more unholy than requiring people to vote for a number of Senate candidates and requiring Senate how-to-votes to occur in a certain fashion? A variety of changes have occurred to the system of election in this country through the parliamentary process. Is there not a degree of personalised concern by One Nation on this matter?

**Mr Petersen**—There is a degree of personalised concern by One Nation, I suppose, but it has been foisted upon us by the fact that the major political parties have embarked on a campaign of preferencing against us. They have demonstrated how unfair the system can be.

**Mr LAURIE FERGUSON**—You have made the point that One Nation received 900,000 or one million votes or whatever; it received a very large number of votes. That is not something the major political parties conspired to do before the last election. It could have happened previously, even without compulsory preferential voting. It is not necessarily an outcome of that factor, is it?

**Mr Petersen**—No, it is not. But compulsory preferential voting can exacerbate the situation, yes.

**Mr SOMLYAY**—I return to the how-to-vote cards issue that Senator Bartlett raised. Even for the major political parties, it is sometimes in their interest to clarify what the minor parties are doing with their preferences. I will quote my own case in Fairfax. One Nation had a how-to-vote card with two sides. On one side was how to vote One Nation with a preference to Labor and the other side said how to vote One Nation with a preference for the coalition. On the Labor side, it was 1 for One Nation, 2 for Labor and then the rest. On the coalition side, it was 1 for One Nation, 2 for the Nationals, 3 for Labor and 4 for the Liberals. Is that not misleading the public, because it was clearly preferencing the Labor Party, not the coalition? In that instance, should I not be able to hand out how-to-vote cards showing people the true way, where, if you must vote One Nation, you preference the coalition?

**Mr Petersen**—The solution would be to spend more money on education so that we will not even need to have how-to-vote cards. Therein lies the problem. Too many people do not understand that they are at the mercy of the Liberal Party, One Nation, the ALP or the Democrats or whatever when a how-to-vote card is handed out. They are not instructing them to do it that way, but because of their ignorance of how the system works, the only way they can do it is to follow.

**Mr SOMLYAY**—The voter or the party?

**Mr Petersen**—The ignorance of the voter. I do not say that in a derogatory sense. I mean a lack of knowledge.



**Mr SOMLYAY**—If it was ignorance of the voter, One Nation deliberately made their how-to-vote card like that and tried to confuse people by saying that they were voting coalition when they were voting Labor. That is if they followed your how-to-vote card.

**Mr Petersen**—In your situation, they knew how much you love the struggle and fight and they did not want to make it too easy for you.

**Mr SOMLYAY**—Nothing is worth having that you do not have to fight for.

**Mr DANBY**—I understand that the current ACT government recently stopped the distribution of how-to-vote cards at polling booths. Does One Nation favour a similar system?

**Mr Petersen**—I cannot speak for One Nation on that. Personally—this is only a personal belief; I have not conferred with even the parliamentary wing on this—I believe that a fairer system would be to not have how-to-vote cards and to have a list of various candidates in the polling booth and allow people to make their own decision. They would not be handed how-to-vote cards.

**Mr DANBY**—Would you have a how-to-vote card in the polling booth or just candidates listed without the parties indicating where their preferences go?

**Mr Petersen**—There needs to be how-to-vote cards. However, I do not think they should be handed out willy-nilly, the way they are at the moment.

**Mr DANBY**—Do you think many people might consider your concerns grew out of the fact that the preferences of the major parties in the last election disadvantaged One Nation and that perhaps some of your concerns with how-to-vote cards and compulsory preferential voting are prompted by that decision of the major parties to put One Nation last?

**Mr Petersen**—Some people may think that, but they would be wrong. I firmly believe that the compulsory preferential system is a bad system. It is leading to aberrations in electoral results. Therefore, we believe that something should be done about it.

**Mr DANBY**—You do not think it is fair that the major political parties perhaps thought the policies of One Nation were inimical to their views of the world and, therefore, they put One Nation last?

**Mr Petersen**—I do not think that is very relevant to our debate here at the moment. Certainly over one million people in Australia thought the policies were not too bad.

**Mr DANBY**—I am not criticising you or One Nation or the people who voted for you. I am saying that those political parties made a decision to put One Nation last. Their voters followed their compulsory preference cards. Some people might think that people who voted Labor or Liberal gave their preferences along those lines because they trust those political parties to work out with all the minor candidates where the interests of that political party or people with those views lie.

**Mr Petersen**—You are touching on the key to one of the major problems there. You are talking about the parties deciding where the preferences should go. To my mind, the people who cast the vote should decide where the preferences go. They are entitled to some guidance by their parties, but it is getting to the stage where the parties are making the decision and people are, again, through lack of education, possibly, following the direction of the parties rather than the advice of the parties. That is part of the problem we have at the moment.

**Mr DANBY**—You do not think Liberal or Labor voters who vote via those how-to-vote cards necessarily know what they are doing?

**Mr Petersen**—A lot of them do—probably the majority of them do—but a hell of a lot of them do not; I would have absolutely no doubt about that.

**Mr SOMLYAY**—I agree with you. I think by far the majority do not know how it works.

**Mr DANBY**—People may not know the exact details. For instance, they may not know of the tablecloth the upper house in New South Wales got, but they trust the major political party that they vote for to sift out the interests seen from the point of view of the people with those political views. You do not think that is a reasonable suggestion?

**Mr Petersen**—Some people certainly take that view, but there are a lot who do not. There are a lot of voters who are actually misled through a lack of education.

**Mr SOMLYAY**—But is not the how-to-vote card really a message to the electors that, if you want to vote Liberal, we recommend the best way to maximise the vote is to follow this ticket? That is all you are saying. You cannot make people vote that way. It is merely a guide. Ninety per cent of people follow a how-to-vote card; it is a proven thing. It is merely a guide. Nobody makes a secret of it. The how-to-vote card is structured in such a way as to maximise the vote for the party that is No. 1 on that how to vote card. It is no secret. It is no conspiracy.

**Mr Petersen**—No. I did not at any stage say that it is. I am saying that through a lack of education too many people are following it blindly. In a lot of cases, they are being coerced into voting that way through their uncertainty or lack of confidence in making up their own mind how they want to vote.

**Mr SOMLYAY**—But the majority of people go into a booth to vote for a member of a party. That party tells them that the best way to vote for that party is to follow the how-to-vote card. That is not misleading them. They have the option of voting differently. But they are choosing to vote Liberal, Labor or One Nation, and they accept the guidance from those who are supposed to know how that maximises their vote for One Nation, the Liberals or Labor.

**Mr Petersen**—But we are getting away from the argument for compulsory or optional preferential voting. We are starting to talk about how-to-vote cards. That is part of the

argument, but I do not see it as big a part of the argument as the compulsory versus optional preferential voting issue.

**Mr SOMLYAY**—The Chair is a well-known advocate of voluntary voting, by the way.

**Mr DANBY**—When One Nation did very well in the state elections here in Queensland, you received preferences from the National Party. In many cases, they were key to your being elected in a number of seats.

**Mr Petersen**—Yes. There were some members elected on National Party preferences. Some were elected on Labor preferences. Some very unfortunate ones had a National Party member elected ahead of them by Labor preferences, too.

**Mr DANBY**—At the same time, the National Party did hand out how-to-vote cards at that election?

**Mr Petersen**—Yes.

**Mr DANBY**—Many National Party voters would have followed it. In a number of seats, they would have helped elect One Nation. There was a controversy about whether the National Party should do that, was there not?

**Mr Petersen**—I was not particularly interested in the controversies within the National Party at the time. I did not take a lot of notice of it. They did preference us ahead of Labor on their how-to-vote cards, yes.

**Mr DANBY**—Before the federal election and between the Queensland election, did One Nation make its views about how-to-vote cards and preferences and that kind of stuff as strongly felt as you are now?

**Mr Petersen**—Possibly. It is hard to gauge that sort of thing. At all stages we have certainly been opposed to the notion of compulsory preferential voting, even before the state election, for that matter.

**CHAIR**—In the Queensland election, which has an optional preferential system, what percentage of voters adopting the optional preferential system—that is, only preferencing what they want—went beyond a first preference? How many only chose a first preference?

**Mr Petersen**—I do not have the figures. Not as many people exhausted their vote and just voted 1 as we thought there might be. There were quite a few people who went 1, 2 and stopped, and there were a lot of people who filled the whole card. As I said earlier, a lot of people thought, because it had been drummed into them, that you must number every square.

**CHAIR**—That has been the system in Australia, both federally and state-wise, for most of our history.

**Mr Petersen**—The number of people who gave a misguided full card would be far in excess of any of the others.

**Mr SOMLYAY**—I scrutineered in that election. One Nation voters tended to vote 1 and that is all far more than the Labor, Liberal or National Party voters, who tended to vote the whole ticket. One Nation voters voted 1 and perhaps distributed one preference. They voted 1, or 2 at the most. The use of optional preferential voting was far higher among One Nation voters than any other party.

**Mr Petersen**—Yes. One Nation voters are fairly switched on sort of people. They understand the system probably a bit better.

**Mr SOMLYAY**—They ran out of ink.

**CHAIR**—That brings up the point that the national extension of optional preferential voting is a first past the post system.

**Mr Petersen**—Yes.

**CHAIR**—I am not sure that you would be in favour of that, if you look beyond your own patch. You mentioned voter identification upon enrolment. This committee, in the previous parliament, recommended a change whereby voters enrolling for the first time would be required to provide one form of identification. Do you support that?

**Mr Petersen**—Yes. Our original intention was to have a point system for identification at enrolment and again at the polling booth on polling day. There are various other aspects that we are looking at as well, such as precinct voting and so on. But we have a lot of work to do on that yet. I firmly believe, and it is the opinion of the parliamentary group I am employed by, that there needs to be a fair bit of work done in that area to make it more accountable.

**Mr SOMLYAY**—It would be remiss of me not to raise the question of the eligibility standards of the candidates. It concerns section 44 of the Constitution.

**Mr Petersen**—I was appalled at the decision by the High Court in relation to Mrs Hill, as an enormous number of Australians were. I do not believe that you would find a more patriotic Australian than Heather Hill. I think it was a travesty of justice. I do not agree with the High Court decision that Britain is a foreign power. It just does not seem right to me, but that is again a personal opinion.

**Mr SOMLYAY**—How do you get over the problem? Do you want to suggest a solution?

**Mr Petersen**—It is probably a bit like the problem with voting. It probably comes back to education. If we have a system that everyone understands from the start, there will not be a problem. But there are too many grey areas. I believe that Heather Hill took reasonable steps when she took out Australian citizenship. But the High Court disagreed. The important thing is to get the rules laid down in concrete and clarified so that people understand them. If they are outside those rules, that is their problem.

**Mr SOMLYAY**—Do you agree with the proposition put by the Liberal Party that in signing a nomination form to contest an election for the House of Representatives or the Senate you renounce any political allegiance to any other power? The act of nominating is also a renunciation.

**Mr Petersen**—I had not been aware of that proposal. On the surface, I agree with it. I certainly agree with the philosophy of it. Someone nominating for office in Australia and in any tier of government is obviously a person who is fairly strongly committed to the future of the country. I believe that that is in itself an act of renunciation, yes. I think it is a reasonable philosophy.

**Senator MASON**—Senator Bartlett mentioned that the issues you have raised of better education and political advertising and the potential for fraud, in respect to voter identification, are all legitimate issues. I think all of us would share those concerns. Mr Danby and the chairman raised the issue about first past the post and compulsory preferential voting. I do not know what is a better system. The system varies throughout the world. In Great Britain, you have first past the post. That might elect the most popular candidate. On the other hand, when you have compulsory preferential voting, you might elect the least despised candidate. I am not sure what is better—and that is another huge debate perhaps. Thank you for your submission; it was worth while.

**CHAIR**—Thank you, Mr Petersen.

[10.17 a.m.]

**TUCK, Mr Arthur John (Private capacity)**

**CHAIR**—Welcome. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament and, accordingly, parliamentary privilege applies. I also 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 86 and it has been authorised for publication. Are there any corrections or amendments you would like to make to your submission?

**Mr Tuck**—No.

**CHAIR**—Would you like to make a brief opening statement before I invite members to proceed with questions?

**Mr Tuck**—I have an elaboration of that original submission which I was intending to read. It is rather long.

**CHAIR**—You might just highlight the points that you want to make.

**Mr Tuck**—Yes. The two basic points are that I do not support the present voting system and I am concerned at the electoral security aspects. I believe that the compulsory exhaustive preferential voting system, coupled with the predetermined preferences of party candidates, resulted in probably the biggest miscarriage of the clearly expressed will of the people in Australia's history. That is what I stated in my original submission.

I object very strongly to being required to vote for someone I do not wish to support. If the first person I do support is not elected, I object very strongly to that vote then being used as a full vote to elect someone I do not support. It was particularly galling to me then that my vote was taken as a vote for the GST. When you look at the electoral payments, you will see they made it quite clear that only 42 per cent of voters supported GST candidates in their primary votes. So there is no way in which it can be claimed that there was a vote for the GST. I even question section 24 of the Constitution which says:

The House of Representatives shall be composed of members directly chosen by the people—

if the selection is by a forced selection. I cannot see how being forced to put names down that I do not support is a free choice by the people.

I appeal to this committee to support the contention of the majority of the written submissions to this committee. In fact, I objected very strongly to the AEC submission. Although they admitted that the majority of the written submissions supported an optional preferential voting system, they then just dismissed them as part of the campaign of Pauline Hanson's One Nation Party. I am not a member of the One Nation Party. I do not agree with a lot of the One Nation Party platform. I regard that comment as offensive in the extreme. It strongly suggests that the AEC is politically motivated in favour of major political parties. In

any case, surely over one million ordinary people of Australia who voted for One Nation deserve to be properly represented.

The situation, as we have discussed this morning, is that I look for someone who is going to represent me in parliament, not represent a party to me. Graeme Campbell was dismissed by Keating because he did not represent the ALP in his electorate. That was actually stated. Since when was a representative elected to represent a party to his electorate? I am looking for a member of parliament who will represent the electorate to parliament and vote in accordance with the electorate's expressed wishes.

The rigid control of the party system has resulted in a subversion of our system. Even Bob Hawke in his Boyer lectures admitted that quite clearly. It prevents any proper review of legislation. Any scrutiny is behind closed doors. The minister introduces a bill which is prepared by the bureaucracy. It is not done to question your own party. The opposition do not have the numbers to do so. There is no proper debate in parliament.

Even more importantly, the major parties have prided themselves that they have kept out of the public arena any discussion on important matters which concern many ordinary people. It is because Pauline Hanson raised these issues that she became so popular. She raised issues such as immigration, multiculturalism, immigration and globalisation. Because of bipartisan support, the parties pride themselves that they have been kept out of the public arena. That is the reason I am so concerned about the rigid party discipline that does not allow these things to be debated in parliament.

I would like to just emphasise once more that I will not attend a polling booth next time at the federal election unless this matter of optional preferential voting is changed. After all, if I have voted 1, I have indicated a preference for that, and why should that one vote not be counted? Someone said—I think it was Senator Bartlett—that it has always been the same. It has not. The *Electoral Handbook* for the 1996 election clearly said: 1, 2, 2, 2, 2 was a valid vote. It was quite clearly stated in the electoral handbook to be a valid vote. So it has changed. I did that quite frequently in the past.

It goes on from that to compulsory voting. We talked about priority preferences. I believe that we should not have predetermined preferences at all. I do not believe that we need how-to-vote cards at all. I object very strongly to compulsory voting. I find it outrageous that I am obliged to cast a vote on pain of fine or gaol, then when I do vote, I am obliged to cast votes for people I do not want.

I have made some detailed proposals or suggestions which link with what I have just said. The other matter is security and vote fraud. Do you want me to speak on that now or do you want to ask questions?

**CHAIR**—You finish what you want to say and then we will go to questions.

**Mr Tuck**—I believe that the present voting system is widely open to fraud and abuse. I believe this is particularly important because of the coming referendum on the Constitution—the most important decision in the nation's history. I believe that those who are pushing the

referendum on the republic have stooped so low to political lies and chicanery already. I can elaborate on that if you wish.

**CHAIR**—You finish what you want to say first.

**Mr Tuck**—The rolls are patently not satisfactory. I commend to the committee the practice described by Dr McGrath, and her submissions. She is much more knowledgeable about this sort of thing than I; I have only one set of scrutineers at elections. But surely it is the responsibility of the electorate to make sure they are on the roll at a set time before the election. They should not be allowed to be put on the roll at the last minute by the returning officer. If they fail to check that they are on the roll, I believe that they should not be allowed to vote. There is nothing to stop me or anyone else voting in my own name or someone else's name at any polling booth I can get to. Even though I might be caught, the votes I had cast would still stand. There is nothing to stop me voting in someone else's name or in a dead person's name—or as a Jehovah's Witness who is a conscientious objector. I am convinced that this happens. I have spoken to people who have said they did it on a regular basis when they were party workers. I will not mention which party. I do not point a finger at any party. I am not even suggesting that parties would organise that, but I am quite certain that it happens.

I referred to the Enterprise Council report. You have presumably seen that report which was given to the 1993 committee, and it has been referred to several times in the submission. There have been other reports, too.

How is it that I can vote with no identification at all? I just go along and say my name and I get crossed off. For so many much less important things I need to at least produce a driver's licence. Nothing like that happens. The present security is a joke. I believe a lot of the security could be corrected. It is not my position to say just how it could be improved, but I would like to commend the voting system in the United Kingdom where they have a unique numbered card mailed to every address for every elector. It would correct the rolls to some extent because they would get sent back if they no longer lived there. That was the system when I was last in the UK nearly 20 years ago. I do not know if it is still the same now. They only had to go to one voting booth. There was only one they could go to—I think you call it precinct voting—and their card was taken off them. No card, no vote. I would like to see a policeman on the ballot boxes. There is nothing to stop other people stuffing more than one vote in the ballot box if they have taken them along. That is what they have in the UK, too—or did have.

I would question why the ballot boxes are now only flimsy cardboard. Does that fulfil the Electoral Act requirements of being securely fastened? I would doubt it. Why can they not be steel as they used to be with multiple locks? I would also question whether the AEC is the correct body to investigate fraud because, after all, they are the ones responsible. They are not really going to be interested in exposing their own deficiencies. Should there not be a separate body to investigate fraud?

I would like to commend the recommendations made at the start of this submission. Particularly I would ask the committee to recommend to parliament that they change the Electoral Act to allow non-compulsory, optional, preferential voting, and that the security



aspects of our voting system be tightened up in perhaps the ways that I have suggested. I believe that if this was implemented it would result in a much fairer and more representative parliament which will more adequately represent the interests of ordinary Australians, rather than the interests of big business and powerful overseas finance interests as it does at present.

**CHAIR**—Present company included, I suppose, in that last comment?

**Mr Tuck**—I believe that is what happening at the present. I believe we have got issues, particularly multiculturalism and globalisation, which are something that the ordinary people are very concerned about. We do not get a vote on these issues. We do not get a chance to have a say on these issues and, because of the rigid party system, bipartisan system, it is not even debated in parliament.

**CHAIR**—I think this committee is not the place for debate on that aspect.

**Mr Tuck**—I accept that.

**CHAIR**—But I certainly take offence at those last few comments.

**Mr Tuck**—I apologise for that.

**CHAIR**—Could I ask you whether you have ever provided the AEC or anybody else with information relating to your allegation that, firstly, people who are Jehovah's Witnesses, conscientious objectors—and also dead people—have voted? Can you provide any specific information on that?

**Mr Tuck**—I am referring to the reports and in fact the submissions which you have before you. I do not have the information to judge. I am just saying that that is quite easily done, and I believe it is done. People have told me that they have done it in the past.

**CHAIR**—So the report you mentioned—

**Mr Tuck**—The Enterprise Council report?

**CHAIR**—That was the 1993 election. I was only elected in 1996 so I am not aware of that particular document.

**Mr Tuck**—This is only the summary of it. The main report was 400 pages long, which I have not got, which gave the facts and figures.

**Mr SOMLYAY**—Who is the Enterprise Council?

**Mr Tuck**—It was an unofficial body for the electorate of Dickson. The problem is that private people cannot do this investigation properly because they do not have access to the AEC figures. But the information they had was enough that should have triggered a proper investigation by the AEC.

**Mr SOMLYAY**—But who are they? What credibility do their figures have? I do not know; I have not seen that either.

**Mr Tuck**—I have three copies here; I can pass those over to the committee. I have not got enough for all the committee members.

**CHAIR**—We will take one for the secretariat.

**Mr Tuck**—I did not bring more because I assumed that it had already been given to the committee, and you would have it.

**Mr LAURIE FERGUSON**—Who is the Enterprise Council?

**Mr Tuck**—Geoff Moss, I think it was, was the one who actually had his name on that. It was an unofficial group of private people who did an investigation. I am not suggesting that the AEC should take action on that report, but they should do their own investigations.

**Mr LAURIE FERGUSON**—Who are they? Are they a group of people that ran into each other in a cafe, or is Mr Moss connected with the other people independently of—

**Mr Tuck**—I do not know; I cannot answer that. I have met Mr Moss. He is now down in Melbourne. I met him after he gave a paper at a seminar that I was at. That is when I obtained a copy of it. That is not the original copy I obtained, either; I lost it.

I am saying that the problem is that this can happen, and I believe it does happen. I am concerned that it is more likely to happen with the coming referendum than perhaps even in the—

**Mr LAURIE FERGUSON**—Can I put one point to you? We have heard of the allegations about the Macquarie election and other instances—Dickson, apparently. It is not your job to run around solving those problems. You did make a claim, I think, somewhere in there, and I think you repeated it. You say that people have actually indicated to you personally that they voted in the names of other people. Have you done anything about that if it is so serious?

**Mr Tuck**—I was present at a seminar in Inverell where Mr Moss had just given his paper and, over tea, a gentleman came up and said, ‘Yes, when I was a party worker some years ago, it was standard procedure.’ That is what they used to do.

**Mr LAURIE FERGUSON**—Standard procedure?

**Mr Tuck**—That is what he said. That is all I can say.

**Mr LAURIE FERGUSON**—You are repeating claims.

**Mr Tuck**—I can only repeat what he said.

**Mr LAURIE FERGUSON**—Are you aware that after each election the AEC goes through the number of multiple votes that occur in each electorate—and no-one is arguing for a moment that there are not multiple votes—and that the actual numbers are very minimal? So how does this happen? In one electorate if there were a thousand we would start worrying. Wouldn't you?

**Mr Tuck**—I think there is a lot more than that.

**Mr LAURIE FERGUSON**—There is not even that many in one electorate.

**Mr Tuck**—In one electorate, yes, but there was an average of about 700 in an electorate last time according to the AEC's own submission—an average of 700 in an electorate, I think the figures were. They were quite high. If you look in the AEC's submission—I have not got it here—you will find that their figures were quite high, which could, in many cases, be quite decisive.

**CHAIR**—But, if it was decisive, in fact there would be a by-election. If the number of multiple votes was greater than the result—

**Mr Tuck**—I would question that.

**CHAIR**—No. By the law, you would challenge the result and you would have a by-election.

**Mr Tuck**—In one of the submissions that I read, one lady who was a scrutineer in Dickson suddenly found there were another thousand votes from the polling booth that she was a scrutineer on. Where did they come from, because they were only seven votes out of the count and they suddenly found another thousand, she said?

**CHAIR**—We have received a number of submissions relating to that.

**Mr Tuck**—There are submissions on that.

**CHAIR**—I have not seen the investigation into that.

**Mr Tuck**—Was it 100? It may have been 100.

**Mr SOMLYAY**—It was on the recount?

**Mr Tuck**—No. They suddenly found another block of votes, either 100 or 1,000.

**Mr SOMLYAY**—It was in a recount?

**Mr Tuck**—No. They found some more votes from the booth.

**Mr LAURIE FERGUSON**—But, Mr Tuck, let us just say for the sake of argument that we are wrong and the law does not require it. If the Labor Party, for instance, wins an

electorate by less than anywhere near the number of people that multiple voted, do you not think the Liberal Party is going to challenge and do something about it?

**Mr Tuck**—They did in that case. The point is that what was not known in the Macquarie one was the fact that the Jehovah's Witnesses had voted. Do they check up on that? And dead people, for instance? How much checking is done on that sort of thing, because that is the sort of thing that the one who spoke to me did. They went down to the pub and said, 'Joe have you voted?' Joe is not going to vote; I will vote for him. And they look at the obituaries for the last weeks before the polls. It was a standard procedure according to him.

**Mr LAURIE FERGUSON**—It is a standard procedure by the AEC to actually chop those people off the roll from the obituaries too.

**Mr Tuck**—Not just before the election. How up to date are they? All I am saying is that I question the security of the polls. The more important one is the—

**Mr LAURIE FERGUSON**—No-one is disputing if someone is intent enough to do it that there can be some multiple voting and someone can probably vote in their aunt's name who died last week and the AEC has not caught up.

**Mr Tuck**—I would like to see the system improved so that that is not so easily done.

**Mr LAURIE FERGUSON**—But you cannot give the committee evidence?

**Mr SOMLYAY**—I think we would all agree with that. We do not want to see it happening.

**Mr Tuck**—I am sure you do not. I am not suggesting that this is something organised by the parties. I am not suggesting that at all. But I am suggesting that it goes on and I believe that we should have a system where this is less possible to do.

**CHAIR**—In this committee's report after the 1996 election on multiple voting—

**Mr Tuck**—Yes, I have read that.

**CHAIR**—multiple markings are examined to determine whether referral to the Australian Federal Police is necessary. Following the 1996 federal election, 302 cases of suspected dual or multiple voting were referred to the AFP for investigation. As at February 1997, three convictions had been recorded.

**Mr Tuck**—It is a very difficult thing. If I was to vote on every polling booth, how can you prove that it was me that did it. That is the problem.

**CHAIR**—It is very difficult from a conviction point of view.

**Mr Tuck**—I could do it in your name. That is the problem.

**CHAIR**—We accept that from a conviction point of view. The proof is difficult. The numbers are not high though.

**Mr LAURIE FERGUSON**—The point the chairman was trying to make is that we have no figures for the last election. You are citing figures of 700 from the AEC. They do not exist. They have not been supplied to us yet, so if you are aware of them, the rest of the committee is not. When they investigated all the cases of Laurie Ferguson being crossed off twice and Donald Ferguson in the same electorate not being chopped off—

**Mr Tuck**—I understand that.

**Mr LAURIE FERGUSON**—In other words errors and, as I said before, intellectually disabled people that might vote on more than one occasion or disoriented people all come to 302 that were worth while investigating in the whole of Australia.

**Mr Tuck**—I would dispute that.

**Mr LAURIE FERGUSON**—What do you mean by ‘I would dispute it’? That is the fact.

**Mr Tuck**—I think that that is just one aspect of the fraud that can go on.

**Mr LAURIE FERGUSON**—Of course, but this is one we are looking at—one of the possible paths of this dishonest political system. I am putting to you that the total number of people, at the end of these investigations, eliminating all the possibilities, came to 302 people throughout Australia. I do not think that affected the election very much.

**Mr SOMLYAY**—You are questioning whether or not someone eligible to vote did not vote and someone voted for them which would not appear as a multiple vote?

**Mr Tuck**—That is the major thing as I see it.

**Mr SOMLYAY**—That is different from people multiple voting.

**Mr Tuck**—I am just pointing out these are the possible ways in which I would like to see the security of the voting system tightened up. My more important concern is the one I raised in the beginning.

**Senator BARTLETT**—The only question I was going to ask was to refer you to the 1996 committee report in the section dealing with compulsory voting, because you mention in your submission that you understand the only other countries with compulsory voting are Russia and Cuba. Please correct me if I am wrong, and not having the report in front of me, I will not read it back to you. There are about 10 or 12 countries that are detailed in that submission.

**Mr Tuck**—I still object.

**Senator BARTLETT**—That is fine.

**Mr Tuck**—I did not do any research on that.

**CHAIR**—I support you on that personally, at least, but my party does not. I have been in favour of voluntary voting.

**Mr Tuck**—And optional preferential voting?

**CHAIR**—No, I support—

**Mr Tuck**—You would force me to vote for a person I do not wish to vote for.

**CHAIR**—I do not support compulsory voting.

**Mr SOMLYAY**—I would be happy with first past the post.

**Mr Tuck**—It would not help when you have two so-called conservative parties, as you do now.

**Mr SOMLYAY**—You would not have them for long.

**Mr Tuck**—That is the problem. You just get two power blocs and you do not get the opportunity of other groupings coming forward. I have lived under that. The Liberal Party in the UK got about 45 per cent of the vote and they still did not get in. I think that first past the post is not the way to go, but I do think we should have optional preferential voting. In fact, so much so, that I will not cast a vote.

**CHAIR**—That is why I do not support optional preferential, because I think the natural extension of that is first past the post.

**Mr Tuck**—Why?

**CHAIR**—It is based on what I have seen occur over a series of elections. Take the recent New South Wales election: the number of voters who just voted for one person and nothing more increased dramatically.

**Mr Tuck**—If that is what they want, that is fine.

**CHAIR**—I think in many electorates you effectively had a first past the post situation.

**Mr Tuck**—If the people just choose that, why not?

**Mr LAURIE FERGUSON**—I have one point. Let us say, for the sake of argument, that the committee tomorrow morning recommends that we get rid of the compulsion to extend preferences, that really does not solve one of your slants here that the One Nation party is severely under-represented in the parliament. It will not solve that, will it?

**Mr Tuck**—Why not?

**Mr LAURIE FERGUSON**—They will not obtain any more seats under the other system either.

**Mr Tuck**—Perhaps they would.

**Mr LAURIE FERGUSON**—You make a point about how under-represented those voters are in the system.

**Mr Tuck**—I am saying that there are two aspects there. One is the forced preferences by the parties, which I believe is wrong too. I believe that we should have a simple card giving people the option to put their own preferences, if they want to put any. I do not believe we should have any above the line voting at all so there are no last-minute backroom deals done as to who will get preferences. Most people do not know where their preferences go anyway.

**Mr LAURIE FERGUSON**—I am just making the point that even if the parliament went back to that brief period where people were allowed to, essentially, vote 1, 2, 2, et cetera, that is not going to help One Nation get any more seats, is it?

**Mr Tuck**—I do not know.

**Mr LAURIE FERGUSON**—What do you mean that you don't know? You are putting evidence as to the voting system. Tell me how they win you more seats.

**Mr Tuck**—I cannot say. Together with the preferences, I think there are two aspects to the One Nation situation. One was the forced preferences and the other was the ganging up on the One Nation by everyone else. Probably the second was the more influential than the first. I think everyone should be left to do their own preferences if they choose to and not have the preferences chosen for them and have this charade of how-to-vote cards.

**Mr LAURIE FERGUSON**—I accept your view on those matters, but I am putting to you that this other complaint by you in here that One Nation are unrepresented is not going to be solved by any reform of that sort.

**Mr Tuck**—I think it would.

**CHAIR**—Based on the figures I would doubt it very much. Do you support proportional representation?

**Mr Tuck**—No, not for the House of Representatives seat. The problem with that is then you do not have a candidate for each electorate.

**CHAIR**—Exactly.

**Mr Tuck**—That is the problem. I think we should not get away from that and there should be a candidate for each electorate. Otherwise, you do not have a candidate.

**CHAIR**—You do not have representation.

**Mr Tuck**—No.

**Senator BARTLETT**—I have one more question on the point that Mr Ferguson was asking you to have a look at. Perhaps you could look at the election results in 1990 where the Democrats gained a higher percentage than One Nation did in the last federal election in the House of Representatives. We still had preferences flowing to us. Even in those circumstances the Democrats did not win any lower house seats. I think shifting to optional preferential will not assist—

**Mr Tuck**—Perhaps you lost to One Nation at the last election.

**Senator BARTLETT**—I am talking about in 1990. If you look at those figures you will see the Democrats vote was higher in the lower house than One Nation's was in 1998. Without the extra disadvantage of being on the bottom of everybody else's how-to-vote card, the Democrats still did not win any House of Representatives seats. I do not think it is the preferential thing that was the problem. The Nationals, of course, got five per cent and won 20 seats. So, there is a lot more to it than that.

**Senator MASON**—I understand your concern about above the line voting in the Senate, and I do not want to discuss that now so much. I want to discuss the point flowing from Mr Ferguson's question before about how-to-vote cards. Are you saying you do not think that political parties should be able to hand out how-to-vote cards at polling booths? Is that your argument?

**Mr Tuck**—Yes. Political parties can certainly advise, as was said earlier, as to how they would like to see preferences go. It is a real charade, isn't it? I have done it many times. I think it is a real charade, trying to push cards at people. I agree with the suggestion of just putting up the information in the polling booths. Let them have it there so that people can see it, if they want to. If they wish to follow a party line, let them do it. They have got the information in front of them in the polling booth.

**Senator MASON**—Mr Tuck, how does that sit with Mr Danby's earlier question? If you are in favour of democracy and if people want to take those how-to-vote cards, what is wrong with that?

**Mr Tuck**—Why not just put them all up in the polling booth so they can look at them?

**Senator MASON**—In the booth itself? Sorry, I misunderstood.

**Mr SOMLYAY**—Why not do both?

**Mr Tuck**—Look at the expense. I object to having all those how-to-vote cards thrust at me when I go there.

**Senator MASON**—You do not need to take them.

**Mr Tuck**—I do not need to take them, but I still object to it. I object to having to stand there giving them out. I have done it; you have all done it too.



**Senator MASON**—For many years.

**Mr Tuck**—Why not just put the information up in front of them and they can do what they want with it? You can give them information, yes. It would save an awful lot of money and an awful lot of footwear, wouldn't it?

**Mr SOMLYAY**—Yes, it would.

**Mr DANBY**—You have hinted a number of times that there are dire developments with the November referendum and voter fraud. Can you elaborate as to why it will be worse this time?

**Mr Tuck**—Because of the pressure on this issue. I will quote one example. I took this off the web last night. It is up to date. The Prime Minister says:

The existing preamble, which is contained in the Commonwealth of Australia Constitution Act 1900 (UK), rather than in the Australian Constitution itself, would remain intact.

You may be aware that the states have all passed the Constitution (Requests) Bill which tells the Commonwealth, should the referendum go towards the republic, that they will repeal the Constitution Act and the preamble. We have not been told anything about that. There has been nothing in the press. None of the public knows anything about that. We are talking about repealing the Constitution Act and yet we are still told that that preamble will stay. I am saying this sort of thing is happening.

**Mr DANBY**—This is pressure from the Prime Minister to do what?

**Mr Tuck**—I am just saying that these are the lies that we are being told about the whole thing. I believe there is pressure from big business. They say they want a corporate head. The sort of pressure that we are getting—

**Mr SOMLYAY**—Mr Tuck, what is that web site?

**Mr Tuck**—That is the government of Australia's web site. That is the official government web site. You go into government and there is something on the republic. My quote is highlighted on the second page in yellow. This Constitution (Requests) Bill is going through all the states without any debate in the community whatsoever.

**Mr DANBY**—I do not get the connection with voter fraud.

**Mr Tuck**—All I am saying is that with the sort of deception that is going on I am just fearful that there is going to be tremendous pressure to do that sort of thing. I do not know, I am not saying it will happen, but—

**Mr DANBY**—What? To vote in favour of the constitutional monarchy or in favour of the republic?

**Mr Tuck**—The republic.

**Mr DANBY**—But the Prime Minister is an opponent of the republic.

**Mr Tuck**—He says so, but he has appointed committees for the no case that are made up mostly of republicans anyway.

**Mr DANBY**—Are you referring to the Joint Select Committee on the Republic Referendum?

**Mr Tuck**—No, I am referring to the no case committee.

**Mr LAURIE FERGUSON**—Which republicans are they?

**Mr Tuck**—There is Ted Mack and Phil Cleary. The ACM people are not even defending the constitutional monarchy. There is no representative of the Monarchists League on that no case committee.

**Mr LAURIE FERGUSON**—But there are people advocating a no case who are opposed to this referendum for different reasons. They have got a right to be represented too, haven't they?

**Mr Tuck**—But they have got no representative from the Monarchists League on that committee, the only group that is defending the Crown. ACM is not defending the Crown; they made a decision they will not do so. They just say this is not the right model. I wrote to the Prime Minister's office and his office said that they were the best people for the job. Yet the person leading the ACM, Kerry Jones, says that the Prime Minister is head of executive government. She said it on television. I wrote to her pointing out that is not the case, and she repeated in a letter to me that the Prime Minister is head of executive government. They are the people spearheading the no case.

**CHAIR**—A committee of both houses of parliament held extensive hearings all around Australia on the referendum question.

**Mr Tuck**—Yes, I know.

**Mr SOMLYAY**—Mr Chairman, it is hardly fair to say this is all secret when it is on the web.

**Mr Tuck**—What is not secret? I am saying what is on the web is wrong. I am saying that is on the web and yet we have got a bill that is repealing that. That is what I am saying. The web is wrong. That is still public and yet the Constitution (Requests) Bill is going through all the states. Are you not aware of this?

**Mr SOMLYAY**—No.

**Mr Tuck**—It is requesting the repeal of sections 1 to 8 and the preamble. That document there is the Queensland act. It is done in each of the states. It is a request act to the Commonwealth to repeal the Constitution Act, sections 1 to 8, and the preamble. It takes effect if the referendum goes to the republic.

**CHAIR**—But that is up to the states.

**Mr Tuck**—This has actually come from the Commonwealth to the states. This is Beattie's second reading speech, which you can read.

**Mr SOMLYAY**—Again, it is public.

**CHAIR**—We are getting away from the matters of this committee, I am afraid. I will close this part of the hearing.

Resolved (on motion by Mr Laurie Ferguson):

That Mr Tuck's supplementary submission be received and numbered No. 220

**Proceedings suspended from 10.53 a.m. to 11.16 a.m.**

**BRUNCKHORST, Mr Graham, Chairman, Voters Against Legal Unfair Elections****SMITH, Mr Mark Leslie Chapman, Secretary, Voters Against Legal Unfair Elections**

**CHAIR**—Welcome. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, parliamentary privilege applies. I also 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 submissions numbered 77, 78 and 211, and submissions 82 and 214 from other representatives of your organisation. They have been authorised for publication. Are there any corrections or amendments you would like to make to your submissions?

**Mr Brunckhorst**—I have condensed the submissions for this hearing because of the limited time.

**CHAIR**—But do the actual submissions stand and are they authorised? Do you have no corrections to those submissions?

**Mr Brunckhorst**—Only the variations that we are putting forward today.

**CHAIR**—Okay. You can make a brief opening statement and then I will invite members to ask you questions.

**Mr Brunckhorst**—As we were not allotted sufficient time for our five speakers, we have reduced the speakers to two, but we would like to submit a condensed version of our original submissions. We have supplied this in writing to be recorded. The lack of sufficient time allocated to groups, compared to single participants, could be rectified. The desire to participate or not should be part of the submission. The JSCEM could then place the necessary time allocated beside the number of the submission in their publication.

The result of previous elections by the JSCEM, the parliament and the High Court do not instil confidence in our membership. We do not expect the outcome of this hearing to be any different from previous hearings. People are fed up with major parties overriding their wishes. With the help of the Internet and email, we will send Australia-wide the results of the hearings and how much notice parliament takes and try to establish democracy.

Submission 4 is: equal opportunity must be given to all citizens who wish to contest elections. The need to resign from public office to sit in parliament is fair. To be made to resign from your job or renounce your income as a pensioner or get a discharge from the service to be elected does not seem fair when it does not apply to politicians. Not much thought has been put into this area. There is sufficient time to resign from these positions after they are elected and before they are sworn in.

Submission 5 is: eliminate compulsory preferential voting by just filling in consecutive numbers as far as you wish and then leave the rest blank. Submission 6 is: colours should be allocated to political parties to clearly distinguish their advertising literature. This colour system could carry on to electronic voting or machine voting by dropping single-coloured cards to match a set of coloured and numbered buttons that light up. The Aboriginal and

non-English speaking people can follow colours easily. The coloured how-to-vote cards could be displayed in the polling booths.

Submission 7 is: if machine or electronic voting is not introduced, then we maintain the same procedure. The ballot papers should be counted by the scrutineers into bundles of 50 under the supervision of the AEC. The AEC should then check the count under the supervision of the scrutineers. This would reduce the amount of error. The hearing has given Mr Hugo some extra time and our secretary, Mr Smith, will explain submission 3. With your permission, I will go on with submission one, which I believe will correct a number of the complaints you are receiving.

Submission 1 is: to eliminate the two candidate preferred voting system. We believe the aim of the JSCM and the parliament is to give the majority of the people the right to choose the member to represent them. This is what happens when the primary vote is counted. However, when the No. 2 first preferential vote is counted, under the two-candidate preferred system, the minority of voters have the use of their No. 2 vote.

We believe that, if all the No. 2 votes are not counted, giving all voters an equal choice in the outcome of the election, then the greater number of No. 2 votes should be counted to give a bigger majority of voters a chance to use their preference vote, not the lowest number. Most voters I have spoken to do not know that the No. 2 vote has not been used in the outcome of the election. This is the main submission I would like to address, as it eliminates the unfairness in many of the other submissions.

**Mr Smith**—Submission 3 is: to maintain open freedom of speech and commercial competition from the electronic Australian media, the Australian Broadcasting Authority must release new television and radio frequencies that have been legislated by the Broadcasting Services Act for the last eight years. Eight years have passed since the Broadcasting Services Act became law and the Australian Broadcasting Authority have completely stalled the planning process at the behest of lobby groups such as the Federation of Commercial Broadcasters for radio and television. These powerful media groups have emerged in a totally protected electronic media environment, with current market share guarded jealously against any new service providers.

Channel 9, known in the broadcasting industry as fortress nine, can direct Australian consumers in every walk of life with an incredible ability to skew voter opinions. In the recent federal election, Channel 9 deemed that only the Labor and Liberal parties were eligible to take part in the high rated Sunday night program debate one week before polling day. This immediately sent out an underlying message that these two parties, in the end, were the only players in the election. This Sunday night scripted event between the major players was the vital moment in the election from a marketing standpoint. Consumer lack of access to the minority party messages at this exact moment of collective Australian consciousness relegated them totally to a minor role.

The new digital broadcasting spectrum has been handed to the existing broadcasters and broadcast service providers in an effort to maintain the current status quo. A fair and proper release of digital broadcasting signals would see 30 television stations in every market and up to 250 radio signals in every single market in Australia. This situation would diminish

audience market share from a handful of operators who at this time are able to wield enormous power that they are simply not entitled to.

Legislation for broadcasting is in place now and should be enacted now and swiftly. The eight-year moratorium on new service providers for digital television, and the same mooted legislation for radio, should be removed. The Federation of Australian Commercial Broadcasters say they will be financially disadvantaged if they are not granted an eight- to 10-year grace period against new service providers. This argument holds absolutely no credence in the light of massive profits to the handful of current television and radio service providers. New service providers can offer the smaller political parties a conduit to the general public at critical times in an election.

The Australian Broadcasting Authority has been given the task of releasing the broadcasting spectrum to be used at its full capacity. They have failed to achieve this over the past eight years, to the detriment of voters and the general public. Current radio and television service providers hold a handful of licences in every market enjoying a totally protected broadcasting environment.

**CHAIR**—Thank you. Before we go to questions, can I add that I forgot to mention that we also authorised your most recent submission, which is submission 219. I did not mention that in my introduction.

**Mr DANBY**—My question does not relate to the two particular submissions that VALUE have made and your oral submissions, but one of the written submissions from Mr Trewartha who, I understand, is associated with your group.

**Mr Brunckhorst**—Yes. He could not speak today.

**Mr DANBY**—His submission suggests that the members of this committee be elected directly by the public. Do I understand his submission?

**Mr Brunckhorst**—Yes. What he says is that you are members of parliament, you have this hearing, and then it goes to parliament—in other words, the same people are getting a double shot at the cherry. It is just the same as saying to the pieman, ‘You make the pies; now you be the inspector to see if they are any good.’ So it is a bit of a double whammy. That is what he is saying.

**Mr DANBY**—So there should be a separate election for this committee—because it is so important—by people around Australia?

**Mr Brunckhorst**—No. I say either this committee is binding in its decision and it goes straight to law, because it is a parliamentary committee or—

**CHAIR**—It does not, though. All this committee can do is report and make recommendations to the parliament.

**Mr Brunckhorst**—I understand that.

**CHAIR**—The government of the day is then required to respond to that report by either accepting or rejecting the recommendations, and then the government—or the opposition, for that matter, or any independent—could put to the parliament changes to legislation based on those recommendations if they want. And then the parliament may or may not support it. For instance, after the 1996 election this committee made a variety of recommendations in relation to identification for people getting on the roll. The government accepted that particular recommendation and put it into some legislation, but that has not passed through the parliament, because it has not been accepted by the Senate. So the process is very different and we do not have any supreme power to immediately put into law what this committee might do. It is up to the parliament.

**Mr Brunckhorst**—Rather than have members of parliament in this committee, what he is saying is that if it was autonomous you would get a different view, whereas you people sit again on this in parliament and you vote again on the same things that you have submitted.

**Mr DANBY**—Mr Brunckhorst, on the point that the Chairman just made, I have just come off sitting on the Joint Select Committee on the Republic Referendum. We made a unanimous recommendation, against a lot of people's predictions, and the government did not go along with that. So what committees recommend, some of which you may agree with, some of which you may not agree with, is then not supported by the parliament who sometimes you would probably agree with and sometimes not agree with. So it is a lot more complicated than saying we get a double bite at the cherry, because we are not the same people, and other people who judge what we put in are not necessarily in agreement with us, even though they might be in the same political party.

**Mr Brunckhorst**—I can understand that, but I am saying the parliament that sits at the present time is a coalition government, and the final outcome is going to be a coalition decision. So what happens here is negligible compared to what the coalition want at the end of the day. That is why the JSC has not been successful, even though their submissions have been great. They have not been successful, because whichever parliament, whether it be Labor or Liberal on the day, is going to get a Labor or Liberal decision.

Mr Ferguson asked the last speaker: how would it make any difference? In Pauline Hanson's case, she was put No. 6 on how-to-vote cards. If you had an optional preferential vote, it would have made some difference because her vote being No. 6 never got to a count, because they count No. 2 votes, they count No. 3 votes, they count No. 4 votes. So she never got a count in any vote because she was put No. 6.

**Mr LAURIE FERGUSON**—We have been through this. All I can urge you to do is go through the figures at the last election and maybe write us a letter about which seat in Australia One Nation would have captured if that had not happened. If you can do some electoral research on that, you can come back to us and tell us which seat in Australia that really affected. You might be against it and it might be undemocratic from your point of view, but there is another argument as to whether it actually caused One Nation not to get seats.

**Mr Brunckhorst**—Can I give you an example on that?

**Mr LAURIE FERGUSON**—Yes.

**Mr Brunckhorst**—In your electorate, if the Democrats, the Greens, One Nation and every one of those, put you last on the ballot paper, you would get knocked out by your Liberal opponent.

**Mr LAURIE FERGUSON**—No, I would not.

**Mr Brunckhorst**—Yes, you would.

**CHAIR**—Not in his case. He got 78 per cent of the vote.

**Mr LAURIE FERGUSON**—A lot of others would not have, either. Can I ask you a question about this green slip, red slip, purple slip? Can you just expand on that a bit more?

**Mr Brunckhorst**—Yes, I can. To give a simpler example to explain why I came up with that system, I was working loading jibs onto cranes and things down on the Gold Coast some years ago. When I delivered the jib, the bloke said, ‘Give us a couple of 12-foot slings.’ I looked in the sling box and there were about 40 slings, because they had all been lifting weights. They looked like curly hair. They were all tangled up and there were no pegs to hook them on to see how long they were. I had all these blooming slings with no idea how long. It took me ages to find two 12-foot slings for the bloke. So when I got home I got the boss to buy me some paint and I used snooker colours. I made a code—one for red, yellow, green, brown, pink and black, and a couple of extra colours right up to nought—and then I painted the slings red and yellow if it was 12 feet. I painted all the slings and, as soon as the bloke went out on the crane, he came back and told the boss and they got some paint and they painted all the slings. You just had to look in the box and you could see whether there was a 12 foot or a 14 foot.

**Mr LAURIE FERGUSON**—Fair enough, but can you just explain how it would work? I come in to vote. What happens then?

**Mr Brunckhorst**—You set a machine up like your EFTPOS machine. Even if you have to extend your voting time, you set an EFTPOS machine up and you have got all your votings in number 1s along here in the different colours of the electors, so that when they press No. 1, that means that they have made a legal vote, so the voting system starts. There is a computer in front of your AEC member with all the electoral roll on it. So when you come in, you cannot get a duplicate person on the roll because, when you hit it on the computer, it will only read one. So that duplicate voting you were talking about gets eliminated. Everyone has got computers, so there is no trouble to plug into that. These buttons can hook up to the computer but, on a different program that an operator cannot see, they register their votes—1, 2, 3, 4—by pressing lit buttons, and they go out when they press them and a card drops into wherever they go.

**Mr LAURIE FERGUSON**—So there are no slips; you just press a button?

**Mr Brunckhorst**—Just press a button and the card drops for that person. Then there is no cheating on the ballot box because you do not have to open the ballot box because the



computer counts the numbers of votes counted. If there is any argument, then the box can be tipped out and opened. There is no disputing elections; there is no double voting for anybody. It eliminates a million anomalies in the system.

**Mr DANBY**—Do you have any idea how much the introduction of machine voting would cost? I know they have it in the United States.

**Mr Brunckhorst**—Probably about the cost of an election, or two elections at the most. All the people you have would now be doing the same job. Otherwise you would not have computers in offices today, if they were not viable.

**Mr DANBY**—That is a good answer.

**CHAIR**—Electronic voting has certainly been raised quite often and was looked at during the last inquiry as well. It is something that the AEC constantly looks at. I think we will eventually get to that.

**Mr Brunckhorst**—It will eventually come.

**CHAIR**—There are a number of privacy things and a number of other security aspects that need to be followed through. The multiple voting one is an interesting one. If somebody goes and votes in your name at another booth and then you rock up to vote and they say, ‘Sorry, you cannot have a vote, you have already voted,’ but you have not actually voted, there is that aspect of it. That comes into the identification part of it and all that sort of thing.

**Mr Brunckhorst**—Everybody has got a drivers licence or a Medicare card or something that they could show. You have to do it if you want to go and draw money out of a bank or anything, so it is not an impossible dream.

**Senator MASON**—You mention in your submission the discrimination against pensioners, soldiers and school teachers with respect to article 44 of the Constitution about offices of profit under the Crown. I think it is an important issue and I commend you for raising it. When the Constitution was first drafted, offices of profit under the Crown were very few and government tentacles very small. Now, the tentacles of government are very large and offices of profit under the Crown are very many. I was one of them, potentially—even as a university lecturer. Your point is well argued because in my case I had three legal opinions saying that a university academic is an office of profit and three saying it is not. It is an issue that I think we will address as a committee one day. With the tentacles of government getting larger and larger and larger, it potentially discriminates against more and more people. I want to commend you for raising it. I think it is a fair issue.

**CHAIR**—I think it is a matter that this committee will probably be having something to say on. Currently, in most government departments, if you want to stand for election you are guaranteed your job back if you are not successful. That has basically been a traditional thing that has been put in place.

**Mr SOMLYAY**—Not in Queensland.

**CHAIR**—Isn't it?

**Mr SOMLYAY**—No.

**CHAIR**—In most parts of Australia governments have recognised that you should not lose your job because you want to put your hand up and stand for parliament; therefore, in most cases, they have guaranteed those jobs back. So it is something that has been looked at. I do not understand, though—

**Mr Brunckhorst**—Could I just speak on that before you go any further?

**CHAIR**—I was just going to ask you a question on this point. I am not quite sure I understand why you then put the rider on the end of that by saying it does not apply to politicians. If we are not re-elected, we do not have a job, so, effectively, it does apply in the same sense.

**Mr Brunckhorst**—If, for example, at an election there is a sitting member that goes out at the end of his term, he can sit again for that election, can't he?

**CHAIR**—He stands for election.

**Mr Brunckhorst**—He stands to be re-elected, yes.

**CHAIR**—For an election? For re-election?

**Mr Brunckhorst**—His pay does not stop at that time.

**CHAIR**—Okay, I see—when the election is called.

**Mr Brunckhorst**—When the election is called his pay does not stop. It stops when he finishes his term. Yet a school teacher's stops or a pensioner's stops. That is why it is not a very hard problem to solve. All you have to do is put it into the law: instead of putting that you cannot be a candidate, all you have to change it to is you cannot be sworn in. It is as simple as that. The whole problem is solved with about three hits on a typewriter.

**Mr SOMLYAY**—It would not really. It would be a constitutional change.

**Mr Brunckhorst**—I am saying if you pass the law to just change those few words—

**Mr SOMLYAY**—It has to be a referendum.

**CHAIR**—It is a constitutional change. It has to be a referendum.

**Mr Brunckhorst**—They do not worry about that. You just put in an amendment into the constitution. You have got the Australia Act without a referendum. You have got millions of things changed in the Constitution. The meaning has been changed a hundred times in the Constitution, with amendments.

**CHAIR**—No changes have been made to the Constitution without a referendum of the people.

**Mr Brunckhorst**—The amendments are changes, as far as I am concerned. If you say that book is blue and amend it to be red, even though it has not changed the book it has changed the name on the front if you print red on it. That is what I think about the Constitution. It gets changed so many times it is not funny.

**CHAIR**—We will not argue the point, Mr Brunckhorst. I am sorry, but the Constitution does not change without a referendum.

**Mr DANBY**—I would like to ask Mr Smith about his views on the electronic media. I would have thought it was normally outside the bounds of this committee to deal with some of the claims he makes about digital television and that kind of stuff. Are you making similar submissions to parliamentary committees that deal with communications?

**Mr Smith**—Yes. I have been in constant written contact with Bob Greeney of the Australian Broadcasting Authority in Canberra for many years. For probably five or six years, we have been regularly conversing about broadcasting. They have a big convention coming up in Canberra later this year, which I am looking forward to going to.

**Mr DANBY**—Who is ‘we’ as in ‘we have got a big convention’?

**Mr Smith**—The Australian Broadcasting Authority are having a big convention on digital broadcasting. It struck me the night that the opposition leader and the Prime Minister were on TV that that was the moment in time that people in Australia decided which way they were going to vote. There were only two of them there, and how many political parties are there? The leader of the Democrats was excluded, the leader of One Nation was excluded, the leader of the Greens was excluded and other reasonably well followed parties were completely excluded from that scenario.

No-one can deny that Channel 9 is the most powerful conduit to the people that this country has. It is owned by the richest man in this country, and he has got there because he has an exclusive conduit to the people. It is an incredible marketing situation that has evolved here at the turn of the century when we have fantastic technology—30 service providers in every marketplace—to be able to individually influence people in freedom of speech. That is what we are talking about here because the focus now is on the electronic media. It is the most powerful thing in the world. The transfer of information now has left the industrialists in its wake in terms of money. The major players, the people who are earning the big money—and where the power lies—are in the electronic media. There is absolutely no doubt about that. In Australia it is focused on a handful of people who have control over what happens in the marketing of the message to the people. It should not be allowed.

We have the technology now to change that situation, yet the Australian Broadcasting Authority just refuses. They snuck the legislation for TV broadcasting through the Senate on the night the Aboriginal legislation went through the Senate. It went over on the back of that. Everyone was focused on the legislation for Mabo and no-one saw that the same

night—or there was hardly any mention of it in any of the newspapers the next day—digital television legislation went through the Senate.

This legislation excludes a service provider such as me starting up a niche television service, say, on the Gold Coast or any other market for the next 12 years. In 12 years time I will be thinking about retiring. I have had 30 years in broadcasting and I am totally excluded from taking part in the digital revolution, which is a fantastic technology for everybody in this country. The existing service providers demonstrated in the last election the power they have to organise and skew opinion whichever way they want it to go. They are incredible tools. The average man in the street and probably a lot of people do not realise the power that these people have. It is awesome. There is no other way to describe it.

**Mr DANBY**—Your submission is a bit unusual in the sense that most submissions to this committee that I have heard before deal with the iniquities of people involved in politics. Is there a widespread value in the community or in your group in particular about the power of people in the media to skew politics?

**Mr Brunckhorst**—I would like to answer this. A little while back we had a show on TV called *The Inventors*—everyone used to tune in to it—and there would be a discussion on different things in front of the public. If a committee like this were on TV with some sort of identification for voting that could be scrambled on an email—where you asked people for submissions on whether they like certain subjects, yes or no—you would find the public view this way, which would be helpful to parliament. If you ran a show like *The Inventors* used to be run, you would find the public view. That is what he is saying about the media: it has the means to have so much input from the people that it is a shame you are wasting its use.

**Mr DANBY**—I am sure the chairman would like to have this committee shown live on television. But, because of the ratings of parliament, *Order in the House* is put on after midnight because they say that people are not interested. So how do you answer that?

**Mr Brunckhorst**—It is a disgrace.

**Mr Smith**—It is a disgrace. It should be on TV. There is room on the spectrum in Australia for that program to go on television. I used to watch the Australian parliament in prime time on cable TV in America when I lived there, and yet you cannot do that in your own country. I used to watch Bob Hawke in parliament when I lived in Charlotte, North Carolina. I come back to the Gold Coast to live: not a chance of seeing parliament on television, except on Channel 2 at three o'clock in the morning.

**CHAIR**—Question time is broadcast live.

**Mr Brunckhorst**—I can add to that on why question time is not watched. If you had a fine of, say, \$100 per person every time someone interjected, you would find in about four weeks you would have everyone watching it because it would be interesting. You cannot even get up and say what you want. If you people all started shouting at me and shouting me down it would not be very interesting what I am saying here today. That is what is wrong with your TV show.

**Mr SOMLYAY**—I can assure you that when you stand up to answer a question and get shouted down it is not very pleasant either.

**Mr Brunckhorst**—I know. But if you put a \$100 fine on each one it would not last long, you would see.

**Mr DANBY**—I do not think the interjections are the reason it is not high rating. That is a different argument.

**CHAIR**—Thank you very much, Mr Brunckhorst and Mr Smith, for your submissions. We have all of your written submissions.

**Mr Brunckhorst**—Could I just bring up the proxy votes? That was not mentioned.

**CHAIR**—Proxy votes?

**Mr Brunckhorst**—In the Senate. You had a proxy vote for the parties along the top of the line and you had no proxy vote for the independents.

**CHAIR**—The above the line and below the line voting?

**Mr Brunckhorst**—Yes.

**CHAIR**—You mean that you had to be in a group to be above the line?

**Mr Brunckhorst**—You were just given the Labor government, the Liberal government, or whatever—a proxy vote. Proxy votes are not mentioned in the electoral acts.

**CHAIR**—Are you talking about group voting?

**Mr Brunckhorst**—Yes, which becomes a proxy vote.

**CHAIR**—Whereas, an independent, because they are not part of a group, therefore are not above the line but are below the line, and if you want to vote for that individual you have to vote below the line.

**Mr Brunckhorst**—Why shouldn't the individual be able to fill in a form for what he wants as the selection, the same as a party can, if you have to have proxy votes at all?

**CHAIR**—It is not proxy voting. It is called group voting.

**Mr Brunckhorst**—It is proxy voting when you give someone the right to use a proxy vote.

**Mr LAURIE FERGUSON**—It is simply because of the mechanics of the ballot paper. Say that there were 20 different independents unrelated to each, unconnected to each other, and we had to give them all a box so they could vote above the line: we already have

complaints in Australia about how big the ballot paper is, and it is the mechanics of that that is the main reason.

**Mr Brunckhorst**—That is why we should not have it.

**Mr LAURIE FERGUSON**—So you are basically against above the line voting?

**Mr Brunckhorst**—I am basically against putting more than six or eight numbers on the vote. When you get an old person, 80 years of age, having to come in and fill in 54 numbers to get a reasonable vote for what they want, it is not fair.

**Mr SOMLYAY**—That is why we have above the line voting.

**Mr Brunckhorst**—Well, above the line voting should be for every candidate. It should be equal.

**CHAIR**—Independents can form a group of independents, if they want, and then they can be above the line.

**Mr Brunckhorst**—Why can't they be above the line and they could fill in their preferences before the election?

**CHAIR**—They could be, if they are part of a group.

**Mr Brunckhorst**—But why can't they as an individual? Why should they be discriminated against? You are trying to get a fair voting system and now you are arguing that this is fair, that you should give preference to the parties. The parties should not have a preference.

**Mr SOMLYAY**—At the moment we have a ballot paper with all the candidates on it. If you want to vote for a party, you can do it by voting above the line. If you don't, fill out the ballot paper.

**Mr Brunckhorst**—But why don't you give the independent the same right? He can fill in the under part for you then.

**Mr SOMLYAY**—Then he would not be independent.

**Mr DANBY**—I think you will find that what happens is that individual candidates are sometimes well organised enough to get their submissions in in time to the AEC and that there are group votes of individuals who are above the line and who do indicate their pattern of preferences. There are laws that govern us that say that you have to have these things in by a certain time, and individuals do not necessarily always do that.

Perhaps political parties are better organised, but all of the minor political parties as well as the major political parties and some groups of individuals do that. So it is very much up to individuals to group themselves with like-minded independents and do that. But they have to comply with the same regulations that the parties do.

**Mr Brunckhorst**—Why don't you legislate that no laws can be passed to change the Electoral Act 12 months before an election? With the last election, they would not have had time anyhow because they brought in that compulsory preferential voting just before the election. It did not give anyone else time. They all knew it was coming up—you parliamentarians had been working on it for months—and then a little bit before the election the independent gets a new law to say, 'This is what you are going to vote under this time.'

**Mr LAURIE FERGUSON**—Despite what a lot of people have been saying today, we understand that that was the system some years previously. We went through a period when we allowed that, basically to make it easier for a large number of people to vote, because a lot of people accidentally voted 1, 2, 2 or 1, 2, 3, 3. They did not intend to, but they accidentally did it. We went through that period. Before that, we had the system we have now. This is not some new invention; it had previously existed. The change was an interregnum when we had the other system.

**Mr Brunckhorst**—If the two-candidate preferred system is not got rid of, the two major parties get preference above everybody else in the electorate because their number 2 votes are never counted. If you want to keep the two-candidate preferred, then you should change it to count the major one, the one most voters passed, and count their number 2s to see if you like it when the number 2s go to the ones right down the bottom.

**CHAIR**—Thank you very much for your time.

[11.52 a.m.]

**DWYER, Mr James Francis (Private capacity)**

**CHAIR**—Welcome 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 and, accordingly, parliamentary privilege applies. I also advise you that any attempt to mislead the committee is a very serious matter and could amount to the contempt of the parliament.

The committee has received your submission, No.127, and it has been authorised for publication. I note that you have provided us with a supplementary submission, No. 221, and it has been authorised for publication. Are there any corrections or amendments you would like to make to your submissions?

**Mr Dwyer**—No. They are pretty right, thank you.

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

**Mr Dwyer**—I will work off this second submission, which is only supporting the points that I brought up in my original submission. Although I am somewhat surprised at the invitation to appear before this hearing, I thank the committee and appreciate the opportunity to expound upon my original submission, which was tendered in good faith with the trust that the committee would take my concerns into account when you are making your report.

On the subject of optional versus compulsory preferential, most of the arguments that I have read in the nine volumes of submissions that came gave me the impression that they tended to boil down to 'I am being compelled at times to vote indirectly for a candidate whom I do not wish to support, if, in fact, I wish my vote to be counted at all.' This is a very valid point, which unfortunately seems to have fallen upon deaf ears, to date. It should be taken into account by the committee.

Today I would like to draw the committee's attention to the marked increase in informal votes under compulsory preferential at federal level compared with optional preferential at state level. The figures in percentages quoted here are directly from the Electoral Commission of Queensland, the AEC, and the New South Wales State Electoral Office, and are the official results for the 1998 and 1999 elections respectively. I lodged the details, drawn off the Net, with your secretary this morning.

At the 1998 Queensland state election, under optional preferential voting, the state average of informality was 1.45 per cent. In the New South Wales state election in 1999 the state average—even though there is a correction there which I had better clarify—was three per cent, on the thing that they faxed me yesterday. When you do your maths, it is actually 2.505 per cent, or something like that.

At the 1998 federal election, under the compulsory or full preferential, the informal vote in Queensland was 3.3 per cent; in New South Wales it was 4.01 per cent; in the ACT, 2.87 per cent; for Victoria, 3.51 per cent; in Tasmania, 3.09 per cent; in South Australia, 4.54 per



cent, which somebody mentioned this morning—I think it was Senator Woodley—and that was an interesting remark about South Australia. WA had 4.10 per cent and the Northern Territory, 4.16 per cent. The overall Australian average of informal was 3.78 per cent. Because New South Wales and Queensland have optional preferential, I averaged those two state percentages and came up with a 1.98 per cent average under optional preferential.

Given that the national voter turnout was about 11½ million, it would appear that some 207,000 voters are being disenfranchised, in my view, as a direct result of the compulsory preferential compared with the alternative of optional preferential. Of particular note is our local Aboriginal community in Cherbourg, where the informal vote jumped from 0.76 per cent at the state election to 3.81 per cent at the federal election, five times as many informal votes from the same community; and the people at Cherbourg said to bring that up.

Under optional preferential, voters who choose to allocate their full preferences are not disadvantaged but, under compulsory preferential, it is obvious that many voters are disadvantaged. I therefore reiterate my earlier request that the committee recommend the adoption of optional preferential voting at federal elections.

Regarding the information made available by the AEC originally to booth workers and scrutineers and, again, in my reading of many of the submissions that have already gone to the committee, there were a number of submissions indicating that the writers believe that the two-candidate preferred calculation conducted on an election night is the way the preferences are actually distributed. That further reinforces my earlier observation that the AEC information available to booth workers needs to be more comprehensive.

Again, thank you for the opportunity to be here today. I sincerely hope that my requests are adopted by the committee in the interests of what I believe would be a more equitable electoral system for the people of Australia.

**CHAIR**—Thanks, Mr Dwyer. I am interested in your comment that, because the informal vote went up at a federal election compared with a state election where optional preferential was allowed, 207,000 voters are being disenfranchised. Would the votes of many of those people, who presumably were not prepared to number it right through on their ballot paper and therefore were deemed informal, have mattered anyway? Say that a person wanted to vote for an independent or a Green or One Nation or whoever but did not want to have to be forced into putting a preference for a major party: if you follow that argument through, unless that person had the majority of first preference votes then that particular vote would not flow anyway.

Some of those ones would have voted possibly for the person who won the ballot in a particular seat but by far and away the majority—following your argument—of them were probably people voting for an independent or a minor party and were not prepared to extend their preferences to a major party. So, although it has been counted as informal, if it had been included it would not have allowed that person to get elected.

**Mr Dwyer**—I am not concerned about who gets elected; I am more concerned with the inequities in the system and the obvious disparity between the number of informal votes under full preferential compared with optional preferential.

**CHAIR**—But being disenfranchised means that their vote does not count.

**Mr Dwyer**—It is not counted because it is informal.

**CHAIR**—That is right; but in an optional preferential system an enormous number of votes, by the very nature of optional preferential, will not be counted, because they will be for people who finish below the first or the second primary vote holder. Therefore, they will be exhausted.

**Mr Dwyer**—Mr Chairman, I do not want to argue, but with optional preferential, some people will still allocate their full preferences. Some people, when they are attempting to allocate full preferences, end up missing a number or whatever. There will be votes that become informal whether it is full preferential or optional preferential. You cannot argue, honestly, with the figures. It doubles and triples the number of people whose votes are declared incorrectly filled in because of the full preferential system.

**Mr SOMLYAY**—Mr Dwyer, in researching these figures did you have a look at the states where they do not have optional preferential voting to see how the informal level of votes at a state election compare with a federal election? That is my first question. Secondly, did you take into account the fact that voting in the Senate is above the line and people only put a 1 and then get confused? Some people do get confused when they vote for the House of Representatives when they get their ballot paper and vote 1 only, as well. There is confusion in their minds. That is a significant factor in informal votes in the House of Representatives.

**Mr Dwyer**—These are House of Representatives figures.

**Mr SOMLYAY**—That is why I am saying the House of Representatives is higher than the state election to a certain extent: because people get confused. When they pick up the ballot paper and vote for the Senate they only have to put 1. They think that that is all they have to do on the next ballot paper as well, for the House of Representatives. There is confusion there. That is a factor in those figures being inflated. To be fair, did you have a look at the other states to see what their level of informal vote is, where they do not have optional preferential voting?

**Mr Dwyer**—No, I only pulled these figures down last night, to be honest. From my observations, over the years, so many votes are missed out because there is a square missing and that type of thing. I was invited along today and I thought I had better get a bit more ammo together because I really do want to convince you people—

**Mr SOMLYAY**—We appreciate that.

**CHAIR**—I appreciate you giving us that additional information.

**Mr DANBY**—Mr Dwyer, I think you are on the right track with this, but I want to go off in a slightly different direction. Is there any indication that the informal votes in previous federal elections have increased from what they were before?

**Mr Dwyer**—I did not go into that.

**Mr DANBY**—I think it would be interesting to see whether there has been a change over time in that informal vote.

**Mr Dwyer**—What I was looking for—and it just jumped out and hit me in the face—was the marked increase in informal votes with full preferentials. I will reiterate that point: under optional preferential, nobody is disadvantaged; they can still allocate all their preferences, but if they do not want to they are not forced to.

**Mr DANBY**—What I am suggesting is that you might be slightly miscomparing things. You are comparing lower house state election candidates with lower house federal election candidates.

**Mr Dwyer**—Yes.

**Mr DANBY**—Perhaps one of the other variables that you have not considered is that in federal elections there are more candidates per seat than there are in state elections.

**Mr Dwyer**—Not necessarily.

**Mr DANBY**—That would therefore confuse people more, and you would get a higher informal vote. I am not saying that that is the only factor and that you are not right to some extent, but it would be more valuable to compare all the federal elections than to compare state with federal.

**Mr Dwyer**—Australia-wide I could not comment, but in our own local state electorate there were nine candidates at the last state election and either eight or nine at the federal election in Blair, and seven in Wide Bay, I think it was.

**Mr DANBY**—There was a fair amount of attention given to Blair at the last state and federal elections, wasn't there? You might have had more candidates than most normal state seats.

**Mr Dwyer**—More candidates? I was advised the other day by somebody from the AEC that a resident of Victoria was a candidate in Blair at the last federal election.

**CHAIR**—What did you say?

**Mr Dwyer**—A lady at the AEC office told me that one of the candidates in Blair at the last state election was actually a resident of Victoria.

**Mr SOMLYAY**—I think they show a lot of commonsense in wanting to move to an area like Kingaroy.

**Mr Dwyer**—Apparently the same person nominated in five different electorates.

**CHAIR**—That is not illegal if you are a resident of Australia.

**Mr Dwyer**—I never said it was.

**CHAIR**—You can live wherever you like: the chances of getting elected are a lot slimmer, though.

**Senator BARTLETT**—I take the point you made about the need for greater education for political parties and candidates about how the provisional two-candidate preferred process actually works, because it does seem that there is a bit of confusion amongst some of the other submissions about how that operates.

Concerning the argument you are putting forward in relation to optional preferential voting, whilst taking on board other possible variables, I guess it is pretty self-evident that your level of informality tends to drop with optional preferential, because it is virtually impossible to vote informal unless you really want to. Is that the basic thrust of your support for optional preferential? Is it just that it maximises the number of people who get to cast some sort of vote, or is that just one amongst a number of reasons why you support optional preferential?

**Mr Dwyer**—My main reason for supporting it is that it reduces the number of people who lodge an invalid vote. They might have missed a number. They might go 1, 2, 4 and miss out the 3. Quite clearly they are in favour of candidate No. 1 and if he does not get up they want candidate No. 2; but, because they did not say who they wanted third and only said who they wanted fourth, their vote for their preferred candidate is thrown out the window. That is why I keep saying to give them the advantage or the option. You are not taking anything off anybody but you are doing the right thing by more people who take the trouble to turn up at the polling booths.

**Senator BARTLETT**—So your support predominantly is because it maximises formality.

**Mr Dwyer**—Yes: effective votes or counted votes.

**Senator BARTLETT**—You made mention of a 13-year-old handing out how-to-vote cards at a booth. I am not aware of any specific legal restrictions on age for people handing out them. I think I handed them out when I was about nine, although I did have my mother with me, so I did not get up to too much mischief. Do you believe that there should be some sort of limit on age?

**Mr Dwyer**—Except for that particular group of people, I personally have always been of the belief that you were required to be of voting age to be working at a polling booth. That may be a Victorian idea, because that is where I come from originally.

**CHAIR**—Standing outside a polling booth is everybody's right. To stand in the street and give material to people is everybody's right. Working as a scrutineer inside the booth, or something like that, is a different matter. You have to be of voting age. Simply handing out how-to-vote cards is all right.

**Mr Dwyer**—This particular instance was rather outstanding because the lad concerned was deemed to be autistic, according to his mum, and that made it particularly bad for everybody on the day.

**Senator BARTLETT**—That is probably getting more to an issue of parental responsibility of looking after kids and leaving them alone doing anything, rather than specifically one of handing out how-to-vote cards. Do you believe there should be an age limitation on handing out electoral material?

**Mr Dwyer**—Personally, yes. I would be in favour of people being 18 years of age before they are involved in that type of activity.

**Mr DANBY**—The committee secretariat has found that informal votes were 6.3 per cent in 1984, 4.9 per cent in 1987, 3.2 per cent in 1990, three per cent in 1990 and 3.2 per cent in 1996. These are national figures. The figure may have gone back up a bit, but it has certainly come down from 6.4 per cent in the House of Representatives in 1984. That is partially due to public concern about how the electoral system works and the fact that the AEC has done some work in the meantime in trying to educate people. That informal vote has come down over time, but that is no reason why we should not be concerned with keeping it at a very low level.

**Mr Dwyer**—At the moment, there are approximately 400,000 informals Australia-wide. I would hope that the optional preferential would only see 200,000 informals Australia-wide.

**CHAIR**—Thank you very much for coming along here today. We did have quite a number of submissions. Because we could not possibly see everybody, we thought it would be appropriate to at least get some sort of cross-section of people who had made submissions from the area.

**Mr Dwyer**—As I said, I was surprised to be invited, but I really appreciate it. I know we are running over time, but could I just make a couple of comments on some of the points and put in my two-bob's worth while I am here?

**CHAIR**—Sure.

**Mr Dwyer**—The chap before was talking about radio communication and that type of thing. I had not brought it up in either of my submissions, but I was personally concerned that on the Saturday morning of the federal election—and we always listen to ABC radio at home; it is about the only one we get—the political commentators were on the go after the polls had opened saying who was going to win, who was not going to win and who was doing what at the moment and that type of thing. I grew up in an era where there was an absolute blackout from midnight Wednesday night. I personally think that ought to come back in again.

**CHAIR**—That is the law for paid advertising. We take your point about commentary on those matters.

**Mr Dwyer**—That was pretty crook, really. People were on their way to the polling booth, and here was a fellow over the radio telling them how to vote or that the person they were thinking of voting for was not going to win anyway. That was a good one.

The other one that came up was about holding office of profit under the Crown. Someone said that it is not the case in Queensland, but it is. If you are a policeman or a schoolteacher in Queensland, you are not required to resign your position to nominate for state parliament.

**Mr SOMLYAY**—I think you misunderstood. What was said was that people got their jobs back after they resigned and were unsuccessful. That is the usual practice and convention. I said that does not necessarily happen in Queensland. I can quote you many examples of schoolteachers who have stood for a party and been unsuccessful and could not get their jobs back after the election.

**Mr Dwyer**—Yes; we thought we might have another Phil Cleary on our hands in Blair, because the National Party candidate there was a schoolteacher. He was unsuccessful, but he was back at school on the Monday morning. The department did look after him in Queensland.

**Mr DANBY**—When you said ‘we’, are you speaking as an ordinary member of the public or as a member of a political party?

**Mr Dwyer**—I was speaking from my own point of view.

**Mr SOMLYAY**—Are you a member of a political party?

**Mr Dwyer**—Yes. Are you?

**Mr SOMLYAY**—Yes, I am a member of the Liberal Party.

**Mr Dwyer**—The name has been mentioned too many times today. I used to support the Liberal Party and I used to support the National Party. I am now a member of One Nation, and proud of it, too. But what I am putting here has absolutely nothing to do with One Nation. On that subject, I think there seem to be so many people who are pro optional preferential whom you want to associate with optional preferential because they are from One Nation. Maybe you have the cart before the horse. Maybe they are One Nation because they are pro optional preferential.

**Mr LAURIE FERGUSON**—Mr Dwyer, can I question that proposition? I put it to you that the previous witness made some comments about exposing this committee on the Internet if they did not take notice of the submissions and ignored them. Why couldn't the rest of the Australian people, and other parties, perhaps put it to you that there seems to be a convenience of a significant number of witnesses today all belonging to One Nation and coming here under different guises and trying to give the impression that this groundswell in regard to compulsory preferential is somehow the view of the Australian people, rather than a move by One Nation to have us construe it as that rather than the view of their party? It

seems a bit strange to me that so many people connected with One Nation are coming here today as individuals or as this or that group.

**Mr Dwyer**—I reiterate that I am here as James Dwyer. I submitted my submissions as a person, and they have absolutely nothing to do with One Nation. The question was asked. I am a fair dinkum person. To take up the point you raised, the people who have appeared here today did not select themselves to appear here. They were invited by the committee.

**Mr LAURIE FERGUSON**—They made submissions. We did not pick them out of the telephone book.

**CHAIR**—And we chose a cross-section of those people who made submissions to appear here today.

**Mr Dwyer**—The only two members of One Nation that I am aware of that you invited were Ian Petersen - that was an obvious one - and me. Mine was just absolutely out of the blue. I was surprised to be invited to attend and I really appreciate the opportunity of attending. I am quite strong on the points that I raised and I really appreciate the opportunity.

I cannot stress enough to the committee that this is not a One Nation orchestrated takeover to try and overly influence the findings of the committee. That is just not the case, absolutely not the case. Thanks very much.

[12.20 p.m.]

**McDERMOTT, Mr Brian Patrick, Secretary, Patriotic Movement of Australia**

**CHAIR**—Welcome 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, parliamentary privilege applies, and 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, No. 170, and it has been authorised for publication. Do you have any corrections or amendments you would like to make to your submission?

**Mr McDermott**—No corrections or amendments. We will make some comments on it, no doubt.

**CHAIR**—In which case, I will ask you if you want to make a brief opening statement before members ask questions.

**Mr McDermott**—Thank you, Mr Chairman and members of the committee. This is not a prepared or written speech. It comes straight from the heart. It will be somewhat different from what you have heard this morning, although there will obviously be some overlapping, no doubt. I missed the first one. I was a little bit late because of the traffic. I have got no idea what the first speaker had to say.

Our main concern, as you will see from our submission, has to do with the question of compulsory voting and compulsory preferential voting. It also has to do with the blatant bias of mainstream private media—I say 'private' media here—to do with slanting the statements, submissions and innuendoes leading up to the last federal election. They are some of the main areas of concern.

If we go back a bit—I think we will probably run out of time if we do that—No. 3 refers to the bussing of voters around the electorates. That is something that was brought to our attention a few years ago. I am not aware, to be perfectly honest with you, whether that happened in the 1998 election. We will try to keep it to the 1998 election, otherwise we will be here till midnight. It is a fact that bussing has happened in the past and, although I do not have it with me, I feel certain that I can dig up documentation to prove that, if and when required.

One of the other big areas of concern is the abolition of what has come to be known as precinct voting. That is not only a road to disaster but leads to blatant corruption in the voting system and led to the corruption and abuse of the counting of preferences after the 1998 federal election, at least in one or two electorates that I know of. Again, I was not quite in time to get the documentation backing this up here today but, given the opportunity, I would be happy to post it to you or whatever at a later date, and as soon as possible after this day, if you so request.

It is no exaggeration to say that the business of compulsory voting, particularly compulsory preferential voting, leads to corruption. In our view, there is no other word for it but corruption. What do we mean by corruption? We are not talking about corruption in the



bribery sense of the word; we are talking about corrupt thinking. We are talking about this insane struggle for power rather than the genuine objective of carrying out the will of the people in accordance with our Australian Christian traditions.

One very small example of this was the statement by Johnny Howard, even before the ink was dry on the votes, when he claimed 'a mandate'—his words, not mine—to bring in the GST. Any person who has reached the age of reason who is not mentally retarded—and in traditional Christian teaching the age of reason is somewhere about the age of seven years—will determine very clearly that Johnny Howard has no mandate for the GST with a vote of only 40 per cent. Well over 50 per cent voted against the GST, yet he is out there claiming he has a mandate to inflict the GST on us.

What was not mentioned was that, not long before that, something like 100 top international bankers arrived secretly, or semi-secretly, in Sydney for a meeting and virtually instructed Johnny Howard to be there. The man elected to chair the meeting and to give Mr Howard his instructions was Mr John Corzene of Goldman Sachs, one of the top international banks. He virtually told Johnny Howard the terms and conditions under which those international bankers would allow him to govern this country.

Prior to this meeting, a reporter from one of the mainstream paper—I do not have the paper with me but I can dig it up and prove it—said that Johnny Howard could not have known that a trap was being laid for him. But one of John Corzene's conditions was that John Howard had to bring in a GST. Since then, we have had the third protocol, I think it was called, or the fifth protocol, that was signed earlier this year without our knowledge. This is no mandate.

**CHAIR**—Mr McDermott, can I ask you to stick to what this inquiry is about, so that we do not get into a debate about totally extraneous matters. I am sure a number of committee members would love to take issue with you on a number of those points, but they have nothing to do with the workings of this committee and the inquiry into the 1998 election. Could you come back to that, so that we can get on to some questions?

**Mr McDermott**—Okay. As a result of this compulsory preferential voting, over 50 per cent voted against John Howard, and he is claiming a mandate—dead wrong. I am here not so much to talk on numbers. I notice a lot of numbers were discussed here this morning—3.5 per cent, 4.5 per cent, 5 per cent—and whether this or that person might have got into parliament if we had changed this or that. We are not so much into number crunching as into principles.

We are talking here about principles. In other words, we are talking about what is right and what is basically wrong: what is a clean, sensible, fair system and what leads to a corrupt system. I put it to you that compulsory preferential voting did not come in by accident. There are some very clever number crunchers who have gone to work on this, and they have said, 'Yes, you must vote this way. If you leave 1 out or if you put three 2s or three 3s or 3, 3, 4 and 4—even if they are well down the document—we will throw that vote in the bin, and it will not count at all.'

We submit to you, Mr Chairman, that this is inherently wrong. If a person wants to come along—forget about the number crunching—and say, ‘I want to vote for Joe Blow first and, if Joe Blow does not get in, I will vote for Mrs Jones second, but the rest I would not give room to: you can boil them down for the pigs,’ he should have that right. He should be able to exercise his franchise in the way he wants to exercise his franchise. That is what we are saying, in a nutshell. With the abolition of precinct voting—but you can tell me when you want me to stop and go on to questions.

**CHAIR**—We have limited time, so I asked for a brief opening statement. We have got your submission and have read all the detail in it. The purpose of the opening statement is simply to give you an opportunity maybe to highlight the things that you think are most important, and then we get more value out of questioning in relation to your submission—rather than you going over the submission, which is already authorised to become part of the whole proceedings.

You made a statement just before the introduction, using the words ‘compulsory preferential voting’. You used the words ‘since the introduction of compulsory preferential voting’. As far as you are concerned, when was that introduced?

**Mr McDermott**—Compulsory preferential voting?

**CHAIR**—Just before the last election, are you saying?

**Mr McDermott**—No. It has been in for some time. As a matter of fact it has been in a long time. I am not quite sure of the exact date.

**CHAIR**—I just wanted to clarify that, because the context in which you said it was as if it were something that occurred just recently. It has been our system since the 1920s or something.

**Mr McDermott**—A long, long time. I am not quite sure of the exact date, but you would know better than I.

**CHAIR**—It seems to have worked pretty well since the 1920s, I might add.

**Mr McDermott**—Can I just take you up on that point. It has worked pretty well for the major parties.

**Mr DANBY**—I am going to start off with some tough questions and move to slightly easier ones. Lachlan Murdoch, you say in your written submission, gave instructions to ‘Kill the cow’, referring to Pauline Hanson. Where did he say that?

**Mr McDermott**—That has been quoted in the media. An awful lot has been quoted in the media.

**Mr DANBY**—It is a pretty strong allegation.

**Mr McDermott**—It is indeed, and we take strong exception to it. In fact, we are outraged by it.

**Mr DANBY**—I say this without any disrespect: if you could find that and send that to the committee, I would be interested.

**Mr McDermott**—I certainly will.

**Mr DANBY**—The second question concerns the comments you make about Mr Lavarch taking his place in Canberra illegally. That is again a pretty radical statement.

**Mr McDermott**—I do not know about ‘radical’; it is strong.

**Mr DANBY**—Your submission says that a group of concerned citizens said that the percentage of illegal votes was as high as 15 per cent. Again, is there any evidence for that?

**Mr McDermott**—Yes; I can send you that, too. That was Geoff Moss, an earlier speaker. He called himself at that stage the Enterprise Council. My understanding is that he is in Melbourne now. I tried to contact him a fortnight ago, and he was travelling out in the country areas somewhere.

**Mr DANBY**—We have got a copy of that report. If we are relying on that, I can have a look at that.

**Mr McDermott**—My report?

**Mr DANBY**—No; we have got Moss’s report.

**Mr McDermott**—You have? I was unaware of that.

**Mr DANBY**—You are talking about media laws. Senator Bartlett can confirm this better than I, but Senator Lees and indeed the leader of Labor Party, Mr Beazley, following the Laws controversy, have suggested perhaps that members of the Canberra Parliamentary Press Gallery might be forced to do what all parliamentarians are forced to do, and that is to give declarations of interest. Would the Patriotic Movement support Senator Lees? Is that her view, Andrew? Do you think that would be a valuable thing for Australian citizens—knowing who the people writing things were and why they said certain things?

**Mr McDermott**—You mean who they are connected with and who they are working for, for example?

**Mr DANBY**—If you have to give a declaration of interest and you have got major shareholdings in X, Y and Z, that might indicate that you were saying or writing certain things or broadcasting things because you have a certain interest in them. I think that was the allegation that emerged out of the Laws program.

**Mr McDermott**—Do you mean the actual writer—in other words, the reporter?

**Mr DANBY**—Yes.

**Mr McDermott**—I think it would be a bit benign, to be honest with you. I am not against it—don't get me wrong—but I do think that it would be benign, because instructions come down from the top in these large private media corporations. For example, they come down from Packer and Murdoch—and the same in Fairfax for that matter. But Packer and Murdoch are the two greatest offenders, as I am sure you would be aware. What a reporter's personal interest would be would have nothing to do with what he is told to write and which way to slant it.

**Mr DANBY**—So you think it is okay for parliamentarians to declare their interests, but you are not interested in journalists whom you are complaining about doing the same thing.

**Mr McDermott**—No; I did not say that. I did not say I am not interested in it. I said to do it by all means but that I am not convinced that it would serve a great deal of purpose. I am not saying the introduction of any legislation is easily done; I am saying it should be brought in so that there is fair and unbiased reporting on electoral matters, particularly in the last, say, six or eight weeks prior to an election. It is the worst keep secret in the world, for example, that Packer wants to dismantle the media cross-ownership laws in Australia. That is well known.

**Mr DANBY**—I understand your concern, and the concern of a number of people here today, about the unfair treatment of Pauline Hanson at the last federal election by the media. Did you, or any of these groups, avail yourselves of the opportunity of complaining to the Australian Broadcasting Authority or, in the case of the ABC, to the Independent Complaints Review Panel? In other words, did you use the existing avenues of complaint?

**Mr McDermott**—I personally have not and I do not know who has. I only know what is going on in our group. I cannot answer that question. As a matter of fact, I am not au fait with the various areas where a complaint might be made. You might be able to enlighten us there. I would value any communication that you might have between your organisation and ours as to where these complaints can be made, because absolutely outrageous things were said.

While we are on that point—and I know there are a lot of other points—there were just so many quotes that I could mention from the media leading up to the 1998 election that we would be here until midnight if I were to. But what I would recommend to you is to get hold of the book, *Murder by Media*, if you have not already got it. If you like, I can put you in touch with where to get it. It is written by Scott Balson. Yes, it is heavily One Nation oriented, because he is the One Nation web provider. We are not One Nation, I hasten to add. As a matter of fact, there are a number of things in One Nation that our organisation strongly disagrees with, and others that we do agree with.

If you get hold of that book, it is thoroughly documented. In fact, it is one of the best documented books I have got. There are web pages everywhere. You will be reading for six months to absorb it all. He has done a brilliant job, I might add, in compiling all this. That is the beauty of the Internet. It is all on archives. You can dig it out whenever you like, as much as you like, and print it out, squirt it out. It is all there.

To give you an idea of just how much is there, and I would like this to go on record, Scott Balson, the author of this book, placed it in Dymocks bookshop and sent a copy to Jamie Packer. He arranged for Dymocks bookshop, a large bookshop network throughout Australia, to sell the book. They told him, 'Yes, that's fine; we would be happy to do it.' They then put it in every bookshop in Australia. He sent a copy down to Jamie Packer and, within two or three days, the Australian manager or managing director, a lady, got instructions from the managing director of Dymocks to pull the book. That is the first time it has happened in the history of Dymocks bookshop.

**Mr SOMLYAY**—Why?

**Mr McDermott**—On further research, it has been discovered that the top man in Dymocks happens to be a good friend of Mr Packer. You do your homework. I am putting this to you. You do your homework.

**CHAIR**—Did you take it to the ACCC?

**Mr McDermott**—I have not yet, but I believe he has.

**CHAIR**—If that is the case, he has an open and shut case under the restrictive trade practices legislation

**Mr McDermott**—That is exactly right. The manager, the lady herself, nearly fell off the chair. She said, 'This has never happened to me in X number of years.' She was flabbergasted. I am telling you what is going on behind the scenes.

**Mr SOMLYAY**—It is not unusual for books to be withdrawn if they contain defamatory material.

**Mr McDermott**—I understand that, but this is the first time—

**Mr SOMLYAY**—Is there an action?

**Mr McDermott**—Do you mean a defamatory action?

**Mr SOMLYAY**—Yes.

**Mr McDermott**—No, there is not. The story was put out that there is, but there is not. According to Scott, no action has been taken. It has just been pulled. If you would like to follow it up, he can show that there are far more defamatory books in Dymocks book store than this one. There is nothing defamatory about that; it is just quoting the news, what has already been published. That is not defamatory; it cannot be.

**Senator BARTLETT**—I have a question in relation to page 5 of your submission. You make the statement, I presume in relation to post-election counting:

We have had legal opinion from the highest authorities on these practices, and the unanimous opinion is that they are both unlawful, and unconstitutional.

**Mr McDermott**—Where are we?

**Senator BARTLETT**—On page 5, in the second paragraph. Can you provide us with a copy of that legal opinion at all?

**Mr McDermott**—It would be difficult, but I will ask him. That was a verbal opinion. I am not sure, but I will certainly undertake to ask him.

**Senator BARTLETT**—We do not have any other opinions that the two-candidate preferred voting practice on election evening is illegal. If you are able to provide us with some indication that that is the case, that would be handy.

**Mr McDermott**—My understanding is, and I am no constitutional expert, that one of the big reasons for this opinion is that parties are not mentioned in the Constitution, except as a tack-on in recent years. Political parties are not mentioned in the Constitution.

Whilst we are on that subject, I might add that we would like to see the party political system disbanded completely. That is what we would like to see: the same as it is in shire councils—although party corruption is sneaking in. It used not to be; they used to be independent people. There is an organisation that has submitted a pro forma of a new Constitution, if it is going to be changed, suggesting in one part that, if any member of parliament votes not in accordance with his own electorate, he goes to gaol. That is not our organisation, by the way.

**CHAIR**—So that would make the Patriotic Movement of Australia illegal as well, then?

**Mr McDermott**—No. What do you mean?

**CHAIR**—You just said outlawing political parties.

**Mr McDermott**—We are not a political party.

**CHAIR**—What constitutes a political party?

**Mr McDermott**—My understanding is that a political party is an organisation that is registered as a political party and endorses, runs and supports candidates for election.

**Mr SOMLYAY**—Are you saying you cannot register it?

**Mr McDermott**—You cannot register what?

**Mr SOMLYAY**—Nobody can register as a political party.

**Mr McDermott**—No. We did not have it. I am saying that there is another movement that I know of, in Victoria—I think it is headed up in Victoria—that has put this to the International Court in Brussels or somewhere.

**Mr LAURIE FERGUSON**—Mr McDermott, I think the transcript will show that you readily agreed with the chairman earlier that you appreciate, unlike previous witnesses, that compulsory preferential voting has been around for quite a while. That seems somewhat in conflict with point 5 of your document on page 4, where you say:

The law was changed in 1998 because the Prime Minister's attitude towards the possibility of some small party candidates . . .

I find it a bit difficult to marry those two. There is your ready concession that, in actual fact, this has been around for many decades, and then there is your statement that we changed it in 1998 for the first time.

**Mr McDermott**—Let me clarify that. You are reading it wrongly, with respect. What I am saying here is—and maybe I did not explain it very well; I have to re-read it—the law was changed in 1998, as I understand it, prohibiting the so-called Langer system of voting specifically. Am I right? It applied specifically to that Langer system of voting. That is what I am saying there.

**Mr LAURIE FERGUSON**—Could I put two things to you? If you examine the transcript of this committee, you will find that, rather than it being aimed at the growth of One Nation, there was an investigation of this matter long before they became an issue.

**Mr McDermott**—I am aware of that also.

**Mr LAURIE FERGUSON**—And that in actual fact, as I said earlier, the Langer change post 1998 was really a reaction to his exploitation of a loophole that emerged with an earlier change when the Labor Party, in particular, was concerned that a large number of people were accidentally getting eliminated because they were voting 1, 2, 2 or 1, 2, 3, 3. It was not a deliberate act. It was an accident by large numbers of voters.

**Mr McDermott**—Can I ask you a question? How do you know it was accidental and that it was not a deliberate act?

**Mr LAURIE FERGUSON**—Some were deliberate.

**Mr McDermott**—Are you suggesting to me for one moment that a person cannot count 1, 2, 3, 4 and can only count up to 2 or 3 and then he goes 3, 3, 3 after that? Come on, get real.

**Mr LAURIE FERGUSON**—I am real. I am saying that some of those people were deliberate. There is no doubt about that. Right?

**Mr McDermott**—Yes.

**Mr LAURIE FERGUSON**—If you look at the figures in 1996, they did a correlation of those people actually following the Langer how-to-vote, per electorate. The number of people who specifically followed the Langer how-to-vote was very minimal. Apart from a few seats like Melbourne, Melbourne Ports, Sydney and, I think, Bronwyn Bishop's seat, it

was very minimal. But there are large numbers of other Australians who might be able to count to 20,000 but who can make mistakes. There was a concern that a large number of people who had an intention of 1, 2 clearly shown, whose votes were being eliminated because further on they voted 4, 4 or 3, 3. So it was reformed at that stage to basically bring those votes in.

**Mr McDermott**—I understand that: ostensibly.

**Mr LAURIE FERGUSON**—And then Langer exploited that loophole to push this alternative how-to-vote. That is the history of it.

**Mr McDermott**—When you say ‘exploited that loophole’, do you think he might have been trying—and I do not know this Langer from a bar of soap—to reduce the effect of the deliberate corruption and the attempt to get this compulsory voting through? It is an alternative to optional preferential voting, is it not?

**Mr LAURIE FERGUSON**—I would not dispute with you for one moment that the larger parties see this as a preferable system; it helps them. There is no doubt about that.

**Mr McDermott**—The compulsory preferential?

**Mr LAURIE FERGUSON**—Yes.

**Mr McDermott**—Absolutely. That is what it is there for.

**Mr LAURIE FERGUSON**—But I am just putting to you that this kind of line of argument that somehow it is all a conspiracy against One Nation and the impact they made in the Queensland state election is historically wrong. This debate preceded that.

**Mr McDermott**—Nowhere in this submission did I say it was a conspiracy against One Nation. We hold no flag for One Nation or anybody else.

**Mr LAURIE FERGUSON**—You were ‘stunned by the results of that election when many One Nation, and a number of independents were elected to the Queensland parliament’.

**Mr McDermott**—That is right.

**Mr LAURIE FERGUSON**—That implies that it was done as a reaction to One Nation.

**Mr McDermott**—No, it might imply it from the way you are reading it, but we are making no suggestion that it was a conspiracy against One Nation. However, something I do believe was a conspiracy against One Nation, now that you bring that up, was that in a number of electorates—from memory, in Queensland, and probably interstate too; I did not take a great deal of notice because, being a Queenslander, we are fairly patient and we realise that the rest of Australia will catch up eventually—there were a number of exchanges of preferences between the major parties, and they put One Nation at least well down the list if not last in a number of instances. That, I believe, is a conspiracy. What else do you call



it? That does not mean to say it is cloak and dagger or that they go around in darkened rooms or anything like that. But it is a 'breathing together', which is where the word 'conspiracy' comes from.

**Mr LAURIE FERGUSON**—It is a public intention of those parties to prefer one party to the other. That is life.

**Mr McDermott**—I understand that.

**Mr LAURIE FERGUSON**—That was publicly out there and in the media.

**Mr McDermott**—I understand that, but officially one is on one side of the House in parliament and the other one is supposed to be the opposition. They are supposed to be, we are led to believe, diametrically opposed to each other. That is nonsense. They are all in bed together.

**Mr LAURIE FERGUSON**—On some issues, they might see a closer affinity with each other than they do with other parties.

**Mr McDermott**—They are all in bed together. They are all financed by the one group of banks. If you do not buy that—

**Mr SOMLYAY**—Give me the address; I am very short of funds.

**Mr McDermott**—Let us have an examination. Do an examination of the donors to the major parties. That, in my view—while we are on that subject—does not go far enough.

**Mr LAURIE FERGUSON**—We agree with you.

**Mr McDermott**—I would like to see the finances of all parties out on the table: who is funding them, including who lends them money. For example, back in 1994 and 1996—in that era, anyway—the Liberal Party was theoretically bankrupt to the tune of \$4 million. All of a sudden, a brown paper bag lands on the table with \$4 million in it.

**Mr LAURIE FERGUSON**—I am not just saying this for the sake of polemics. I do not comprehend fully why it is so dreadful in the political system that, if a voter even slightly prefers Greens to One Nation, or One Nation to Greens, or Liberal to Democrat, whatever, that preference comes through the political system to show that they prefer the fifth candidate to the sixth candidate. No, they might not love the fifth candidate but still they prefer them to the sixth. Why is it so dreadful that that gets expression?

**Mr McDermott**—That is fine. You have got me wrong. If he wants to vote that way, hey, that is fine. This is what preferential is all about. He has the preference. I exercise my preference. I can put him as 5 or 6 or 7 or I can leave him blank and say, 'No. He's not worth two bob. I'd sooner have my dog in parliament.' That is my preference. For example—I do not want to start talking about myself—you may not agree with it but I exercised my preference last election by not voting. What are you going to do? Throw me in gaol?

**CHAIR**—Probably.

**Mr McDermott**—What for? Because I did not think you were worth voting for? Come on; get real!

**CHAIR**—So you are in favour of voluntary voting? That is fine.

**Mr McDermott**—Voluntary voting and voluntary preferential voting; if you want to, list the whole lot, Mr Ferguson. Absolutely. That is your privilege. That is all we are saying. We are not counting 2.5 per cent or anything like this. We are saying what is morally right and what is morally wrong—taking freedoms away: ‘You must do it this way, otherwise we will slap you in gaol or slap a fine on you.’ That is communism.

**CHAIR**—Mr McDermott, the committee seems to have asked all their questions in addition to the submission that we have from you, so thank you very much for the submission and for appearing here today.

**Mr McDermott**—Thank you for your time, Mr Chairman and gentlemen.

[12.52 p.m.]

**HUGO, Mr John Richard (Private capacity)**

**CHAIR**—Welcome. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, parliamentary privilege applies. I also 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 81, and it has been authorised for publication. Are there any changes, corrections or additions that you would like to make to that particular submission?

**Mr Hugo**—In the second paragraph, I have crossed out the second sentence, because there is no public here. This is not so much for your benefit but for the unthinking voters who blindly and knowingly follow the voting patterns of their ancestors.

**CHAIR**—So you would like that sentence taken out?

**Mr Hugo**—Yes. They are not here, are they, to be informed?

**CHAIR**—Okay. You may like to make a brief opening statement, and then we will have questions.

**Mr Hugo**—First of all, I would like to thank you for the opportunity to be here. For those who are not aware, I was a very late starter and I appreciate the effort that was made to include me on this list. Things that I have to say have probably been discussed to some degree. I hope to add a slightly different slant to some of it and later on I would like to take up some of the questions that you asked some of the other speakers.

Please accept this objection to the manner in which the rules of the last Federal election were changed less than three months beforehand. I will start by recapping what the voting choices were before the dastardly changes were brought into effect.

**CHAIR**—Mr Hugo, if I could stop you there: you are reading your submission that you gave us, but it has been authorised for publication and therefore is already part of the proceedings of the committee. To enable committee members to explore any of the things that you have raised, it would be preferable if you want to highlight particular points without reading the whole submission, because we have read the submission and the submission is part of the proceedings, as I said, so you do not have to read it in so that it is on the record. It is already on the record, so let us use our time more for discussion.

**Mr Hugo**—Part of my argument was that the High Court and the Federal Court prior to 17 July last year had already ruled that section 240 could only be interpreted as if it gave directions to a voter as to how the voter was to discharge a statutory duty to vote in a federal election. It was not mandatory. Then you came and changed it and took no account of other sections of the act, particularly section 268(3). That section very clearly states that a ballot paper was not to be informal for any reason other than the reasons specified in that

section, but should be given effect according to the voter's intention—in so far as that intention is clear. What I am presenting in that case is that the Langer style of vote was a very clear intention: there is no argument about that.

As a matter of fact, as another speaker mentioned, the AEC handbook that was handed out prior to 17 July did state that the Langer style would be used in the next election and that it could be used. So you changed the act. You ignored section 181, which was the section to bring in a new election if there was not any 50 per cent plus win. Along with section 274(7)(d)(iii), it supported the idea that someone would not get a 50 per cent plus vote. Therefore, they both supported the idea that preferences could be exhausted in that situation.

Then you also handed out the *Electoral backgrounder No. 6* which told us that the—

**CHAIR**—The Australian Electoral Commission handed it out.

**Mr Hugo**—The AEC handed it out—thank you. It stated that we in general, the public, could not interfere with anyone else's vote. Then the AEC and yourselves go ahead and interfere with our vote by telling us that we can only vote one particular way. If we did not vote that way, our votes could not be counted. I thought that was a little bit rude. It went against section 327(1), which states:

A person shall not hinder or interfere with free exercise or performance, by any other person, of any political right or duty that is relevant to an election—

No other person can do it, but apparently the AEC can. They forced us to vote in a particular manner. We were forced to do that. All those sections were added to that.

Section 274(10) also recognised that formal votes can be exhausted. Section 268(3), which we have just discussed, recognised that a formal vote can exhaust to the extent, of course, that a vote be made clear. At the finish of my submission I pointed out quite bluntly that voters were lied to and forced to vote in such a manner that only the Liberal or Labor party and a one-world government could benefit. My question at this point is: what gave the Liberal Party or the Labor Party divine right to govern?

**Mr DANBY**—Did you say 'divine right'?

**Mr Hugo**—Yes, I said 'divine right'. It seems to be what we have. The result of this scam is that if you continue to bulldoze your way through there can only be civil disobedience at future polls, or civil war. Margaret Robinson stated that the injustices of today will become tomorrow's conflicts. I would also like to give you a quote which says:

It does not require a majority to prevail but rather an irate, tireless minority keen to set brushfires in the people's minds.

That is what will eventually win the day for democracy in Australia. Gentlemen, you have the opportunity to set the stage. What you have to do is give the people a fair go. Thank you.

**Mr DANBY**—I just got elected to this committee after the last election and I want to know whether you are really serious about suggesting that members of this committee have committed an offence under the Crimes Act, as you say in your written submission?

**Mr Hugo**—In that they stood over the people.

**Mr DANBY**—I stood for election in Melbourne Ports in Victoria at the last election under the same rules that everyone else did, and I was elected, as I understood it, by the people. I did not stand over anyone and I want to know why I am being accused, as are all other members of this committee—it is a fairly serious thing to say—of a criminal offence.

**Mr Hugo**—At the time of writing that, that is how I felt about it so I have to stand behind my words. The implication at that time, as I said, was that the parliament had separated itself from the law. It stood over the people. It seems that the people can be pulled up by the law and punished, but the parliament cannot for some reason or other.

**Mr DANBY**—Isn't the real essence of the difference between what you perceive are the views of a lot of people in parliament and yourself and other submissions the fact that One Nation did not get sufficient support—

**Mr Hugo**—Who mentioned One Nation?

**Mr DANBY**—and that people from the major political parties got elected and other people did not? Isn't that really what it is? It is a political difference, and it is really silly to accuse people of criminal offences when you have a political difference between people.

**Mr Hugo**—It is probably a political difference, but may I say—

**Mr DANBY**—Yes, please.

**Mr Hugo**—I am not a young person, obviously, and I started work as an apprentice fitter in the New South Wales government railways. There I was indoctrinated into the Labor Party. After I finished my apprenticeship, I joined the RAAF and I was there for 20 years. While I was in the RAAF I had no need to be in the union and so I grew away from the influence of the unions and the Labor Party. Because the Menzies government supported the services so well, we in turn supported them.

In 1972 when Whitlam came in, there was the great cry 'It is time', and I was one of those who were caught up with that cry and felt that it was time. So I voted Labor again. After three years of watching what Whitlam did to this country—and, by the way, I am an active christian—with a lot of immoral situations, particularly the Family Law Court that came through from Mr Murphy—a totally immoral situation—I went away from Labor. I joined the Liberal Party and was a member for a few years until the end when John Howard brought in that tax—the one that puts a 20 per cent tax on your bottle of tomato sauce now. It is there.

**Senator BARTLETT**—They were trying to tax the necessities of life; the Democrats stood up against it.

**Mr Hugo**—Yes, thank you. He brought that one in.

**CHAIR**—The wholesale sales tax was brought in in the 1930s, Mr Hugo.

**Mr Hugo**—No, it is one that John Howard brought in.

**CHAIR**—He is getting rid of the wholesale sales tax and bringing in a GST. I do not know what other one you are referring to.

**Mr Hugo**—Okay, I am sorry. At the time there was a big kerfuffle.

**CHAIR**—This is all nice history, but can we get back to the issues.

**Mr Hugo**—I am trying to explain that I have had many allegiances to political parties, and now I am getting old enough to pick out the differences of what is good for me, my family and what I feel for the nation.

**CHAIR**—That is why we have this committee and this inquiry to ensure that we maintain the excellent electoral system that we have and the democracy that we have—

**Mr SOMLYAY**—And any changes that we need to make.

**CHAIR**—and changes get made. Mr Hugo, Do you want to make a comment?

**Mr Hugo**—Can I make a comment on some of the questions that were asked previously?

**CHAIR**—Okay.

**Mr Hugo**—We were asked about the vote—how people felt about it. Personally, I feel that the system of compulsory voting is a necessity. I cannot say that I agree with it in principle, but I believe it is a necessity when we take into account, for example, that in America, when Mr Clinton was elected to office, he was voted in by less than 25 per cent of the people. I think it is rather appalling that that should happen—

**CHAIR**—They have a very different system in the United States.

**Mr Hugo**—that the people just do not care. By the same token, there is only one other nation that I am aware of that has had compulsory voting and that was Russia, but they were more honest about it. They only had one candidate.

**Mr LAURIE FERGUSON**—Once more, that is actually incorrect. There are a significant number of countries with compulsory voting.

**Mr Hugo**—Are there? That is the only one I am aware of.

**CHAIR**—You even have countries like the Netherlands, which did have compulsory voting and then went away from compulsory to voluntary—and still something like 85 or 90 per cent of the people exercise their right to vote in a voluntary sense.

**Mr Hugo**—Okay, I am saying that I agree, to a point, about it, but I disagree with the other system that you brought back in, because the courts had more or less said, ‘The Langer system is a viable method of voting.’

On another question that was brought up, I would like to ask: will there be no changes made to the Constitution if the no vote wins in the referendum?

**CHAIR**—It is not relevant to this inquiry but, if the referendum is not passed, you are right; no changes can be made to the Constitution. You can make constitutional changes only following a referendum.

**Mr Hugo**—If it does change, are you aware that 69 changes are planned by the pro-republicans?

**CHAIR**—There might well be.

**Mr Hugo**—I have a list of them here.

**CHAIR**—That is fine, but the Constitution cannot be changed, whether it be once or 69 times, without a referendum of the people of Australia beforehand. It is not possible to change the Constitution without that referendum.

**Mr Hugo**—Okay. One last comment: the act that we are talking about came into being in 1918 when Australia was a colony.

**CHAIR**—In 1918?

**Mr Hugo**—Yes.

**CHAIR**—No, Australia was not a colony in 1918.

**Mr Hugo**—Yes, it was.

**CHAIR**—It depends on your definition.

**Mr SOMLYAY**—We became a federation in 1901.

**Mr Hugo**—We federated when the states were joined together under the colony of the Commonwealth of Australia. Let us get this right!

**CHAIR**—What is your point, Mr Hugo?

**Mr Hugo**—What I am saying is that we were a colony until 1919. We are members of the United Nations and, because we are members of the United Nations, we have been recognised as a sovereign nation since 1919. And, because of that, by other nations.

**CHAIR**—What is the relevance to this act?

**Mr Hugo**—The relevance is that the Australian people have never been told that and have never had the opportunity to hold a plebiscite on a new Constitution for a new nation—a new free sovereign nation. In 80 years we have never had that opportunity.

**CHAIR**—I see, okay.

**Mr DANBY**—Is that an advertisement for the coming referendum, or an opposition to it? I did not quite get the point.

**Mr Hugo**—I cannot vote either yes or no.

**Mr DANBY**—I just thought you were making a point about the current referendum by saying that we never had a chance to vote and we are getting one now.

**Mr Hugo**—Whatever vote you make, if you vote yes, you are voting for a politician; if you vote no, you are voting for another politician.

**CHAIR**—That is your opinion.

**Mr Hugo**—I do not believe that we can allow the politicians to control any new Constitution. The people have to do that, not the politicians. When we get a referendum—

**CHAIR**—So we elect a separate parliament or something or other for the Constitution, but then you have another parliament for all the other laws—like we have now?

**Mr Hugo**—Yes. When we have a referendum, the agenda for the referendum is normally set by the government, the politicians. The people have no say in what goes in the referendum. That is a sad situation.

**Mr DANBY**—For the record, there was a constitutional convention. It was elected, at least partially, by the people.

**Mr Hugo**—But they were all politicians.

**CHAIR**—No, they were not.

**Mr SOMLYAY**—They were not.

**Senator MASON**—Mr Hugo, it is a function of representative democracy. People elect parliamentarians to represent them in parliament. I understand what you are saying, but it is a function of representative democracy.

**Mr Hugo**—But the people have never been told the truth. People have never been told that in *Hansard* of 10 September 1919 when Mr Hughes reported to the government—may I quote from *Hansard*?

**Senator BARTLETT**—Do you have the date and page reference?



**Mr Hugo**—Yes.

**CHAIR**—Is it a long quote, Mr Hugo? Why don't you just leave it with us and we will incorporate it in *Hansard*.

**Mr Hugo**—It is about two minutes.

**CHAIR**—We will finish on this point.

**Mr Hugo**—It is on pages 12169a and pages 12171d. The speech is by Mr Hughes, Prime Minister and Attorney-General, moving this motion:

That this house approves the Treaty of Peace between the Allies and the associated powers and Germany, signed at Versailles on 29 June 1919.

The next quote says:

It was necessary, therefore—and the same applies to other dominions—

that was Canada, South Africa and New Zealand—

that we should be represented. Not as at first suggested, in a British panel, where we would take our place in rotation, but with separate representation like other belligerent nations. Separate and direct representation was at length conceded to Australia and to every other self-governing Dominion. By this recognition Australia became a nation and entered into a family of nations on a footing of equality. The League of Nations comprises at the onset some thirty-two nations including the Dominions of the British Empire and India, and we have signed a covenant as separate nations.

To do that, we have to be a sovereign nation and recognised by the international community as such. The people of Australia have never been told that.

**CHAIR**—Thank you, Mr Hugo; you have made your point. Thank you for your submission and for being here today. Before I give you an opportunity to informally make some comments, I will finish the public hearing. I wish to thank witnesses who have appeared before the committee today.

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

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 1.17 p.m.**

