



**COMMONWEALTH OF AUSTRALIA**

**JOINT STANDING COMMITTEE ON  
ELECTORAL MATTERS**

**Reference: Conduct of the 1996 federal election**

**CANBERRA**

**Friday, 13 September 1996**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Members:

Mr Cobb (Chair)

Senator Conroy (Deputy Chair)

Senator Abetz  
Senator Minchin  
Senator Murray

Mr Laurie Ferguson  
Mr Griffin  
Mr McDougall  
Mr Nairn

Matter referred for inquiry into and report on:

All aspects of the conduct of the 1996 federal election and matters related thereto.

**WITNESSES**

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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

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Present

Mr Cobb (Chairman)

Senator Abetz

Mr Laurie Ferguson

Senator Minchin

Mr McDougall

Mr Nairn

The committee met at 9.01 a.m.

Mr Cobb took the chair.

**DONDAS, Mr Nicholas, MP, Parliament House, Canberra, Australian Capital Territory**

**CHAIR**—I declare open the second public hearing of the inquiry into the conduct of the 1996 federal election and matters related thereto and welcome the witnesses and others in attendance. We will be taking evidence today from the Hon. Nick Dondas MP, the Australian Labor Party and the Liberal Party.

Mr Dondas, I remind you that the proceedings here today are legal proceedings of the parliament and warrant the same respect as proceedings in the Senate and the House. The deliberate misleading of the committee may be regarded as contempt of the parliament. The committee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the committee will give consideration to your request.

You will appreciate that the Snowdon petition may still be sub judice, which restricts the question we can ask about the petition and the statements you can make in your evidence. In particular, we believe we should not discuss the legal arguments about subdivisions and the rejection of provisional votes. With that caution in mind, would you like to make an opening statement before we proceed to questions?

**Mr Dondas**—Obviously that restricts my ability to raise matters of concern in terms of the 1996 federal election in the Northern Territory. The points I wanted to bring to the attention of the committee are sub judice and make it very difficult for me to do that. However, there are other concerns I have which do not relate to the petition that exists between the two parties and I can discuss those particular concerns with you.

**CHAIR**—Perhaps we will deal with these other matters and see how we go. If you particularly want to raise the other points, the committee may determine that we could go in camera for that section of your evidence.

**Mr NAIRN**—Where is the court proceeding actually at? As I understand it, the argument has all been done and we are simply awaiting a decision. Is that correct?

**Mr Dondas**—It is a reserved decision.

**Mr NAIRN**—Does that have any effect on our position?

**CHAIR**—Until the decision is finalised, it is general procedure that we be somewhat cautious and do not discuss those matters.

**Mr LAURIE FERGUSON**—Would not another option be to have Mr Dondas back here at a later stage to deal with those aspects? Mr Dondas is far more available than

most witnesses.

**CHAIR**—We can do that and we can discuss the other matters now.

**Mr Dondas**—Another matter that concerned me during the last federal election was that, at the same time as the federal election was being conducted, an ATSIC election was being carried out in some of the remote electorates of the Northern Territory. I believe that did pose some particular problems in the area on the day.

**CHAIR**—Was that just coincidental?

**Mr Dondas**—It would have to have been coincidental. Using the same locations for the two elections certainly was very confusing on the day. In fact, in one particular instance the Australian Electoral Commission tried to put the polling booth for ATSIC into the same room as the federal election poll was to be conducted. We objected to that on the day and the ATSIC poll was relocated to another location in close proximity.

**CHAIR**—Approximately what percentage of the Northern Territory eligible voters are Aboriginal?

**Mr Dondas**—Of a population of 180,000 there are some 40,000-odd Aboriginals in the Northern Territory, which represents just under 25 per cent. It is very difficult to give you the exact breakdown. I do not have the figures of the number of Aboriginal people on the roll in the Northern Territory, but I would expect it to be some 12,000 or 13,000 people.

**CHAIR**—And these elections were in only part of the Northern Territory?

**Mr Dondas**—In part, yes. These were mobile polls—these were not even on the same day as the federal election—which were carried out prior to 2 March and you had a federal election going on there for the House of Representatives and the Senate and an election for ATSIC. It certainly was very confusing to some of the people that were voting.

**Senator MINCHIN**—What was set first, the date of the by-election or the date of the federal election?

**Mr Dondas**—It was not a by-election; it was an ATSIC election. It would have been set first. I think the Electoral Commission had the capacity to vary the day.

**Senator MINCHIN**—Did you seek to have it changed?

**Mr Dondas**—No; when we got out there it was going on. All of a sudden the

Australian Electoral Commission were starting to set up two polling booths. We were unaware of it until the day.

**Mr LAURIE FERGUSON**—Do you know how many people voted in the ATSIC election?

**Mr Dondas**—It would have been 500 or 600.

**CHAIR**—All Aboriginal votes would have been declaration votes in this ATSIC election; you vote and it is put in a double envelope. Do you know that to be the case?

**Mr Dondas**—They finished up having two separate polling booths, so obviously with the ATSIC election people got their names off the ATSIC roll and cast their ballot papers. They were not mixed up, if that is what you are asking.

**CHAIR**—Were you aware of any Aboriginal who voted once and thought they had fulfilled their responsibility for voting?

**Mr Dondas**—That could have happened. It was just very confusing because people were milling around. They did not go off. People tend to hang around polling booths. Sometimes you do not know whether they have voted even in the federal election.

**CHAIR**—How effective have mobile polling booths been at federal elections in the Northern Territory?

**Mr Dondas**—I can only speak of the one I was involved in. I have participated in other territory elections but more on a suburban basis because that was my area of concern. I would say that mobile polling can be somewhat confusing. You might remember that with the March election we had a delayed poll. We can talk about that later.

Mobile polls are somewhat efficient, but sometimes they can be exaggerated to the point where a whole mobile polling team will stop at a place for one hour where there are only four people on the electoral roll. You see that as an added expense to the conduct of the poll. I am not saying that those four people should be disenfranchised; they should have the capacity to receive an automatic postal vote.

You go to some communities and a notice goes up several weeks before saying there will be an election on such and such a day. There might be 200 people in the community and only 30 people turn up. The AEC have the power to extend the poll, as it has done in another instance where it kept the poll open longer. That makes it very difficult for people on polling teams to get themselves relocated to the next position, which might be another hour or hour and a half drive up the road.

We were unable to fly our aircraft into a place called Numbulwar, and that was the reason for the delayed poll. It was carried out after the election. We could not get our aircraft on the ground because of bad weather, and that made it very difficult to provide our constituents with how-to-vote cards and guidance. In those areas we had absolutely nobody on the ground because we were unable to fly in.

Mobile polls can be quite successful in providing people in remote areas with the capacity to cast their vote in a democratic system. But sometimes it can be very difficult for parties to be consistent in providing resources to be there on the day.

**CHAIR**—How do the mobile polls physically work in the Northern Territory? Do they pull a caravan to a place or do they rent a building for that short period of time.

**Mr Dondas**—The Electoral Commission will set up an itinerary for the day. You will fly from community to community. In those places they either use a school, a council chamber or some building suitable for the purpose.

**CHAIR**—Is a high turnout more likely because you are first on the list and early in the day or late on the list and late in the day, or doesn't it matter?

**Mr Dondas**—I do not think that really matters. There is a perception that there are too many mobile polling place locations. It has been said to me that, if you were a farmer or station owner in the Northern Territory and you were driving to go to the polling booth on the Saturday and could not get there because it was raining or the road conditions made it difficult, you missed out. That farmer should have applied for a postal vote.

I think the Australian Electoral Commission now has a system where it is starting to send out automatic postal vote applications to people living in remote areas. I think there should be another method whereby those people who are in remote areas, living more than 20 kilometres from a potential mobile polling booth, should not just receive applications but receive ballot papers.

In some instances, when you are out in the bush, the mail gets back the day before the election and is sometimes lodged with Australia Post. But on some occasions Australia Post have not sent the mail until Monday morning. On Monday morning it is too late.

**CHAIR**—I suppose lots of these places have only one mail delivery a week.

**Mr Dondas**—In some places less; one in 10 days. We think there are far too many mobile locations. I believe the postal vote mechanism could be used a lot more. I understand that the Australian Electoral Commission is working towards resolving some of the problems for people in remote areas.

**CHAIR**—You are suggesting you would get not only a higher compliance with



voting but also possibly a saving in cost to the Electoral Commission by encouraging postal voting in remote areas rather than conducting a high percentage of it by mobile booths?

**Mr Dondas**—If you go to a community where there are 30 people on the roll and only two to four people turn up, it makes it a bit difficult. However, those 30 people in that community could have all received a postal vote.

**Mr NAIRN**—Could I just pick up on a comment that you made regarding a station owner who drives towards town on polling day and finds that the weather has cut him off from getting there. Combining that with what occurred in the Northern Territory in the federal election—that is, quite a number of votes being cast well after 2 March—can you just explain that difference? We basically had a situation where people were probably disenfranchised because they could not get to the poll on Saturday but other people, because they were on a mobile polling run, were actually allowed to vote nearly a week after the election. Could you explain what has occurred in that sense?

**Mr Dondas**—The Australian Electoral Commission in Darwin advised us that it had the capacity to call, one would describe it as, a delayed poll. There were several communities in the Arnhem area that were unable to vote during the week. As I said earlier in my evidence, one of our polling teams could not get into one of the areas—and I think it was Numbulwar not Ngukurr. There were some other communities where the mobile team from the Electoral Commission could not get in because of bad weather. They then delayed that poll and had it the following Monday or Tuesday, I think it was, after 2 March. There were some 650 people on the electoral roll in those three or four different communities, but I think only 320 actually voted. But, because the results were so very close, in view of the Northern Territory, on Saturday, 2 March, the results could have been altered had the delayed poll consisted of some 2,000 people on the electoral roll.

**Senator MINCHIN**—What do you want us to do about that?

**Mr Dondas**—You do not have to do anything about it. The Australian Electoral Commission, when an election is called, should immediately get out into these places, especially in the wet season—because this will only happen in the wet season; it will not happen in the dry season—where you need aircraft to get into them. In other words, the land ones in central Australia could be done towards the last part of the poll during the campaign and the team could concentrate on just doing the top end straightaway.

**Senator MINCHIN**—But should the act prevent any votes being cast after polling day?

**Mr Dondas**—I do not think it is fair that the act should allow that to happen, or the discretion of the Electoral Commission should allow that to happen.

**Senator MINCHIN**—That is something we should look at. Just on your point about general postal voters, Michael and I, as part of the minority last time, recommended that general postal voters living 20 kilometres or more from a polling place can register to be sent ballot papers and a declaration envelope without a postal vote application form being required. That was in the minority report last time. Presumably, you would want to see that become part of this committee's report.

**Mr Dondas**—Obviously, if it was a minority report and was not accepted, it could be manipulated. A person, in the old days, would write to the Australian Electoral Commission and get an application. The application would then go out and you would then have to fill in the application and send it back to get your ballot papers. What should happen is that the Australian Electoral Commission automatically send out applications so that people in these areas do not have to write in for an application for a postal vote. Then they could send in the application form straight back to the Electoral Commission and the ballot paper would come. That would save one step in the process.

**Senator MINCHIN**—We recommended that if they are on the register, if they are registered and they are eligible—in other words, if they lived more than 20 kilometres from a polling place—they would be sent ballot papers straightaway.

**Mr Dondas**—I do not know whether I could accept that that would be the best course because of the movement of people between different communities—and there is a lot of movement by people from one community to another for various reasons. For example, if we are talking about Aboriginal communities, things may be normal 10 days before the election but then all of a sudden there could be a death in the family, there may be a ceremony, there may be all kinds of reasons why those people would move away from that community for a reasonable length of time. They may not get their ballot papers.

I would rather see a situation where the Electoral Commission sends out an application form, they fill it in and then a ballot paper is sent out immediately. So at least that saves one step in the process. If you are going to send 500 ballot papers out to a community, I do not think I would support that particular concept.

**Mr LAURIE FERGUSON**—But doesn't that create the problem that, where people are not going to be in the area for a variety of reasons, you are wiping out their option of mobile voting?

**Mr Dondas**—No, because if they go to another community they can vote in that community. They are still in the same subdivision. We are talking subdivisions. Some of these subdivisions are 50,000 to 100,000 to 200,000 square miles large; they are not small.

**Mr LAURIE FERGUSON**—I do not want to go into subdivisions.

**Mr Dondas**—Yes, but they could go from one community to another, which could

be 150 kilometres away, and not get their ballot papers, but they could then vote on the day at another mobile polling booth within that same area. So an automatic distribution of the ballot paper I think would be pretty risky because of the fact that the person may not get it or because they could get it and then go to another mobile polling booth and vote twice.

**CHAIR**—We have only two federal members down here from the Northern Territory. Senator Tambling made a comment that Christmas Island and the Cocos Islands should not be part of the Northern Territory. He felt that they had no real community of interest and that it was somehow hindering the Northern Territory's move to statehood, and he felt that perhaps these two islands should be connected to another division, similar to the ACT and Norfolk Island. Do you have any comment to make on that?

**Mr Dondas**—It is very unusual that you would find the Indian Ocean territories as part of the Northern Territory federal electoral boundaries—I think it came in in 1987. It is unusual, but I do not have any great problem with it. He has more problems with it than me in terms of the Western Australian laws and the Western Australian regulations, and so on. But if they have got to be somewhere, maybe the committee could look at re-evaluating so that they come into the ACT.

**CHAIR**—Do you know approximately how many voters are on those islands?

**Mr Dondas**—About 1,000 between the two.

**CHAIR**—In a close election is that a significant amount in the territory?

**Mr Dondas**—It is. But in my personal result, I actually made gains with the Cocos (Keeling) Islands, and I also picked up some ground on Christmas Island. I believe that it is a matter of servicing the electorate. If you service the electorate, obviously you would get support. I have never had the opportunity of servicing the electorate before. Now that I have three years to do it, I hope that I will be able to increase the vote there.

I do not have the same problems that Senator Tambling has. But it is rather unusual that something stuck five hours out in the Indian Ocean is part of the Northern Territory federal electoral boundary, which has no connection by way of transport, services or any provision of assistance. It is unusual.

If you really want to do something for the people on Cocos Island and Christmas Island, you should really attach them to one of the Western Australian electorates, which would then have the basis of a state electorate as well. They do not have any state representation; they have only federal representation. A lot of their problems are more of a local, state nature.

**Senator MINCHIN**—They are a federal territory. You cannot make them part of a

state electorate.

**Mr Dondas**—Why not? Where were they before?

**Senator MINCHIN**—The state has no jurisdiction over them.

**Mr Dondas**—But where were they before they became part of the electoral boundary of the Northern Territory?

**Senator MINCHIN**—I have no idea.

**Mr Dondas**—I think that they were part of the Western Australian electoral boundary. There are certainly problems there. Until the government resolves as to where they should be located, I am happy to look after them.

**Mr NAIRN**—One of the things that Senator Tambling mentioned was unnecessary assistance at polling booths in the Northern Territory under the guise of helping illiterate voters. I know from my experiences that there has been the use of a ‘friend’ in some of the communities to assist in voting. Could you explain to the committee how that works, and do you have similar concerns to those of Senator Tambling?

**Mr Dondas**—‘Friend’ is a very good expression. In a normal situation where people are getting assisted votes, the candidates’ scrutineers are called by the presiding officer of the polling booth to say, ‘I am assisting somebody to vote,’ and somebody is called from the parties to observe the technique and the procedure. So everybody knows that it is fair and above board. That is fine. That is how it should be.

But in the territory, there is the capacity for a ‘friend’ to keep on wandering people in from the community and help them with a vote. Obviously because they declare their friendship to the presiding officer, or the returning officer, there is no scrutiny by the candidates’ representatives in this. So that makes it very, very difficult. If somebody in a small community has a ‘friend’ and he is wandering 60 or 70 people through the polling booth during that period, it certainly has some impact.

It horrified me that in one of the communities one of the ‘friends’ was actually employed on a part-time basis by the Australian Electoral Commission on the day. He was working in the polling booth—‘Come on, I will give you a hand. He is my friend.’ That really does make it very difficult.

If the presiding officer is going to allow assisted votes, he should be the one who conducts the procedure for an assisted vote for people who are illiterate, incapacitated or whatever the case may be. But, at this stage, that process where it is set up in the act for the returning officer to help people can be by bypassed by the ‘friend’.

**Mr LAURIE FERGUSON**—If your suggestion were to occur, would you agree that at all stages there would have to be scrutineers from the parties?

**Mr Dondas**—Yes, all parties.

**Mr LAURIE FERGUSON**—It could not be done without them?

**Mr Dondas**—Yes, I think that it should be done. At the moment, you have a returning officer helping someone with an assisted vote. He calls those candidates' representatives to observe that particular procedure. Fine. That is what he is there for. Some people do not really speak the language, they may be blind, they may be infirmed in some way. But all of a sudden a 'friend' now bypasses that returning officer's procedure. They go boom, boom, boom, and you do not know what they are doing.

**Mr LAURIE FERGUSON**—When you prefaced it by saying 'in the territory', it is not only in the territory; it concerns other electorates in Australia.

**Mr Dondas**—But all of a sudden this 'friend' thing has started to evolve more so in the territory in the last election than it has ever before.

**CHAIR**—Was there only one instance of the 'friend' who was also an official?

**Mr Dondas**—On the day, yes. I cannot remember the name of the place, but I know where it was. It was part of the delayed poll. In fact, I think it was on Hodgson Downs Station. I cannot remember. I do not want to give the committee evidence which may be wrong, but I would be happy to search my records and drop the committee back a note to say where it was.

**Mr LAURIE FERGUSON**—With regard to the specification that you are putting, would we limit that to the person in charge of the ballot? In one polling booth you can have about 50 clerks, if your suggestion were followed by the committee, would it be only the chief person in charge of the ballot place who could do this?

**Mr Dondas**—There are not that many people in the polling booth when you go to the remote areas. There is probably a team of five or 10 people.

**Mr LAURIE FERGUSON**—This might have applicability in places other than where you are talking about.

**Mr Dondas**—If you look in the major electorates where they have large polling teams, it could be the presiding officer, the returning officer or his assistant. But it would have to be somebody other than a worker who is a friend.

**Mr McDOUGALL**—On the basis of that discussion, do you believe that we ought

to require proof of identity for enrolment and for voting purposes? If we were to do that, would it have an impact on that problem that you have just been explaining?

**Mr Dondas**—If a person wandered into a polling booth, identification in some of the remote areas would be welcome. But people do not need to have identification in any other part. They have only to mention their name and their address. If you were to require identification, you would need to require it throughout the whole of the Northern Territory and the remote areas. That would really be disenfranchising a lot of people, because a lot of people out in remote areas just do not carry identification. At best a Social Security form is normally lodged with the storekeeper in terms of getting their assistance.

It can be confusing in some instances, however. If I register my name on the roll in a community I can have my European name, I can have my skin name and I can have my clan name. Sometimes it is very difficult for returning officers to find that person because they do not remember what name they put in at some particular stage of the game. What basically happens then is that, because they cannot find their name on the roll, they are given a provisional vote and they fill it out. It has always concerned me that, in some cases, some people could be inadvertently on the roll. They are not doing it intentionally, mind you. It is just that they have got a skin name and they have got a European name.

**CHAIR**—Shouldn't they be required to list all three?

**Mr Dondas**—But sometimes they are not aware that they are doing it. They are on the roll—somebody has got them on the roll—and someone says, 'Excuse me, are you on the roll?' some two years later or six months later. They say, 'Oh, I don't know whether I am on the roll.' 'Fill out this form. What is your name?' That is where identification really would come in.

**CHAIR**—So you are saying that they could be on the roll twice under a different name, even though it is legitimate, in a sense?

**Mr Dondas**—Yes.

**Mr McDOUGALL**—Several times.

**CHAIR**—Is there any way of overcoming it?

**Mr Dondas**—Picking up Mr McDougall's comment in terms of identification at the time of enrolment.

**CHAIR**—Are you suggesting that if someone who was enrolled with identification went to enrol again inadvertently—

**Mr Dondas**—They would not be able to because they would have their

identification.

**CHAIR**—But they would not be able to because of that. Are you aware of any instance where this has happened?

**Mr Dondas**—Only, obviously, hearsay. I would never know whether Robert Tipponwotti was Robert Smith or Robert Jardin; it is the same person. There are instances. We are not saying that there is abuse in that sense, but there is some concern that the rolls could be exaggerated in some cases if there was some duplication of names.

**CHAIR**—What per cent of Aborigines would this be likely to apply to? Where they would have multiple names?

**Mr Dondas**—All of them.

**CHAIR**—Even with urban Aborigines in Darwin? The same applies?

**Mr Dondas**—Yes, most of them.

**Senator MINCHIN**—Subsection 2341 sets out the conditions under which the presiding officer can enable a person to have some assistance in casting their vote. It does not provide for any observation or otherwise. It just says that if a presiding officer is satisfied that in this case they are illiterate, then they can have someone come in and cast their vote for them. What exactly are you suggesting by way of qualification to that subsection?

**Mr Dondas**—It should only be the returning officer who does it in the presence of the scrutineer. At the moment, that friend grabs them outside the polling booth and walks with them into the polling booth because they are friends. They say, 'Here is my friend.' The friend tells the presiding officer, 'This is Jack Smith.' He gets Jack Smith's ballot paper, Jack Smith wanders over and he fills it out for Jack Smith.

**Senator MINCHIN**—Are you suggesting the presiding officer fill in the—

**Mr Dondas**—The presiding officers do fill them in for assisted votes in the presence of scrutineers.

**Senator MINCHIN**—So you would amend this section to prevent anybody—

**Mr Dondas**—The friends. It would have to be a returning officer.

**Mr NAIRN**—The friend should only be used for somebody who has difficulty casting a vote. Is that correct?

**Mr Dondas**—Yes.

**Senator MINCHIN**—The presiding officer has to be satisfied that the voter's sight is so impaired or they are so physically incapacitated or illiterate that they cannot vote without assistance.

**Mr Dondas**—To use an example where a friend is good to be used: mum and dad of ethnic origin come in. They have been in Australia for a number of years. They speak English, they are on the roll, obviously, and they have difficulty, maybe, in understanding the one, two, three, four and putting a number in each. In some of the countries they come from they only need to put a one or a cross or something. In some instances, so that the vote is not an informal vote, they have a member of the family or a family friend. But that is on the one instance. Do you know what I mean? That person is not doing it all day. But when you get out to some of the remote communities you have the same friend helping 50 to 100 people.

**Mr NAIRN**—That was my question. Considering that this is supposed to be designed for somebody who does not have the capacity to cast a vote for themselves, what have you observed in some communities about how many people one particular person is a friend of and casts those votes? What sorts of examples are there?

**Mr Dondas**—I was on another polling booth—I will give you the name of the polling booth at some other stage—and, as I say, a friend probably helped 20 or 25 people.

**Mr NAIRN**—How many people voted at the polling booth?

**Mr Dondas**—Probably 50.

**CHAIR**—Should the person who needs assistance in some way go through a procedure in nominating a friend differently from what happens now?

**Mr Dondas**—I just think that there has to be a mechanism whereby people who have a genuine need have a friend there to assist them—but then their position is being abused where we have a friend helping a greater percentage of those electors in an electorate and then being employed in the polling booth, as well, as a staffer for the day.

**CHAIR**—When do they decide they need a friend? Is it at the time of enrolment on the voting day always or doesn't it really matter?

**Mr Dondas**—Where it does matter is having a friend on polling day. It could be to the detriment of either of the major parties. I think it is a very unusual thing that is happening out there and is reason for concern. I am not sure what the mechanism is in terms of closing the door, but I would have thought there may be a limitation to the number of voters a friend could help.



**CHAIR**—Could we leave that with you and, if you have further suggestions on it, you may wish to drop the committee a note.

**Mr Dondas**—I would be happy to.

**Mr LAURIE FERGUSON**—I have some concern with the limitation in numbers. Philosophically I have no problem with control by the returning officer and scrutineers, but my experience in a very urban electorate with high NESB is that this practice is not peculiar to the Northern Territory. It is very widespread and you could have a situation where there are vast numbers of people in some polling booths. I really do have difficulty if you suggest that there can only be 20 people, essentially, who can do it all day long or else you have to get 25 different friends. I really think the solution is better with the returning officer and the AEC officials than any friends at all, if we are going to solve it.

**Mr Dondas**—That would be the best result. It really is open to abuse. The other thing, of course, is they go in with a ballot paper, which is fair enough, and they can say to the presiding officer, if they are illiterate, ‘Me want to vote for that fella.’ Then the presiding officer will go and get another how-to-vote card, which he will have there. He will put the other how-to-vote cards down and ask them again which person they want to vote for. They have walked in with a how-to-vote card and know who they want to vote for but sometimes the presiding officer says, to make sure, ‘Are you sure you want to vote for that fellow?’ That can be horrifying. That was his clear intention. Sometimes the presiding officer, to make it all square said, ‘We’d better put the other candidates there.’

Our scrutineers observed a trend whereby, if the vote is not going the way he wants, he tries to gently persuade them. I think that is wrong. If you go in with a how-to-vote card, especially in remote communities—I am not talking about whether—

**Mr LAURIE FERGUSON**—You are only talking about the electoral officials?

**Mr Dondas**—Yes.

**Mr LAURIE FERGUSON**—That is an extremely serious claim and I think the committee would like to know where you are talking about.

**Mr Dondas**—I can’t say, once again. I am not prepared to. But there have been occasions where people have gone in with how-to-vote cards—and this is information from our scrutineers—and have almost been persuaded to go for another candidate because the other how-to-vote cards have been placed before them. Now whether or not you think that is a serious claim—

**Mr LAURIE FERGUSON**—We do.

**Mr Dondas**—It does happen in the bush sometimes.

**Senator MINCHIN**—Coming back to the ATSI thing, was the greatest confusion, in your view, occurring on 2 March?

**Mr Dondas**—No, it was before 2 March, with the mobiles.

**Senator MINCHIN**—It was during the polling?

**Mr Dondas**—Yes, the mobile polls.

**Senator MINCHIN**—So merely a prohibition on an ATSI election being held on the same day as a federal election would not solve the problem because you could still have overlapping campaigns as we had in Tasmania this time. The polling day was not the same, but the campaigns overlapped, causing problems.

**Mr Dondas**—That was not a problem. I just think the Australian Electoral Commission were trying to save money.

**Senator MINCHIN**—That is what I am saying: what legislative solutions—

**Mr Dondas**—They could have gone the day before or they could have had the elections the day after.

**Senator MINCHIN**—That would not solve the problem.

**Mr Dondas**—It does.

**Senator MINCHIN**—If the problem is in the mobile polling, you will have overlap and you still have polling occurring if the campaign—

**Mr Dondas**—No, if you have a mobile polling booth for a federal election on the Wednesday before the Saturday, why do you need to have an ATSI election on the same Wednesday? Why can't you have the ATSI election on the Thursday or Friday, or at a different time? They had it at the same time. Both polling booths opened at 10 o'clock. They are supposed to be there for three hours. They delayed the poll on that day because some members of the community were not there and because it was an ATSI election. Instead of the polling booth closing off at 2 o'clock, it closed off at 3 o'clock. I think they were more worried about the ATSI elections than they were about the federal election. Not only was there confusion but also there was a bias towards getting more people for the ATSI election than the federal election. All I am saying is that there should be a mechanism where, if the ATSI elections are going to be carried out on the same day, it should be during different hours of the day, at least. It can be the same location. I do not worry about the location, but they were running concurrently.

**Mr LAURIE FERGUSON**—On mobiles, are we to assume that at each election

they are at basically the same place?

**Mr Dondas**—Sometimes they vary between the territory election and federal elections.

**Mr LAURIE FERGUSON**—Let's just say federal elections.

**Mr Dondas**—For federal elections they are apt to be pretty consistent with minor changes depending on community needs and movement. I think the Northern Territory, in its territory election, will have fewer mobiles which will do the same job. Maybe the AEC could evaluate the number of mobile polling booths that the Legislative Assembly elections have. There seems to be a view that the AEC is sometimes going overboard in the number of locations it services.

**Mr LAURIE FERGUSON**—Have you done any statistical work on the turnout in the two elections at those kinds of areas?

**Mr Dondas**—No.

**Mr LAURIE FERGUSON**—That is relevant, is it not?

**Mr Dondas**—It is relevant but the thing is that I speak to other members of the territory parliament who, obviously, are involved in elections. Sometimes they are a bit concerned at the number of federal mobile polling locations compared to their own. As you would be aware, a lot of your assistance in your campaign comes from people of your own political persuasion. They are on the ground and they are aware of some of the benefits or the detrimental effects of the number of mobile polling booths.

**Mr LAURIE FERGUSON**—If there are particular sections of the Northern Territory where there is obviously a perceived need for mobiles, as opposed to South Darwin, if we found there was not much difference in the turnout of people voting, then I guess what you are putting to me would not be the end of the world. On the other hand, if there were indications that the turnout in Northern Territory elections was quite a bit less in those areas, then there would be some concern, for instance, on my part. You do not have figures on that?

**Mr Dondas**—There is no evidence that the turnout has been bad, with the exception of this last election in the remote areas where there was a delayed poll by virtue of the weather. There are some communities, though, where you have the major community and then other communities. For example, the major community may be community Y, and it normally has a population base of 700 people. That population base may have been eroded over the last three or four years and there are smaller communities as out-stations. Then you have A, B, C, D and E. The mobiles will not go out to A, B, C, D and E. They will go to Y, and people will drive in from the out-stations to the centre. If

the weather has been inclement, then those people have had problems getting in. In this election that may have involved a slight number, but at the same time there is a perception that there has been a higher incidence of applications for postal votes.

**Mr LAURIE FERGUSON**—Similarly on the mobiles and your suggestion about automatic postals, I think your original suggestion was 20 kilometres from a mobile site. I think you are putting a problem to us, but how do we determine these mobile sites? Are they understood for a decade long? It is a bit difficult, I think, to get the concept of a mobile site and 20 kilometres from it.

**Mr Dondas**—In relation to people living 20 kilometres from a mobile polling booth, they could be living at, for example, Brunette Downs stations. Brunette Downs has probably 30 or 40 people working on the stations. Up until this year, an Aboriginal community was living on Brunette Downs stations. That community has now moved off into its own settlement where they have had an incision onto the property, and they have now built their own community, which is about 20 kilometres away from Brunette Downs.

The suggestion would be that the mobile would go to the new location and those people on Brunette Downs would apply for postal votes. In other words, 20 kilometres is 20 kilometres. You have to have some boundaries, although I do not think the people of Brunette Downs would drive to that settlement. They would rather apply for a postal vote. Anybody can apply for a postal vote, whether they are 10 kilometres or five kilometres from a polling booth, for other reasons—they are sick, infirmed, blind, bedridden—

**Senator MINCHIN**—But the mobile polling places are fairly standard, are they not? They do not change from election to election?

**Mr LAURIE FERGUSON**—That is what I am getting at.

**Mr Dondas**—As I said earlier, it depends on the circumstances. A community may have moved off and there may not be a need for a mobile to go there. The local commission tries to give everybody a fair go, but there is a general feeling that this last one had too many.

**Mr NAIRN**—The actual locations seem to be a bit willy-nilly. I know that there are fairly large communities in that farms area 50 to 70 kilometres out of Katherine. There is quite a significant population, but it has no mobile poll. Those people are required to drive the 70-odd kilometres to Katherine on polling day, whereas you had mobile polls visiting places where there were less than 10 people on the roll. So the history of mobile polling is rather interesting.

**Mr Dondas**—Roper Bar is a classic example of that. Roper Bar has four people and they got a mobile polling booth.

**Senator MINCHIN**—One option would be to restrict the capacity of the commission to determine where mobile polling places are by requiring a minimum number of people in a place or something.

**Mr Dondas**—Four people at Roper Bar.

**Senator MINCHIN**—Yes; that is ridiculous.

**CHAIR**—I do not want to restrict the questions, but we are a little over time. Are there any other pressing matters?

**Mr LAURIE FERGUSON**—Just one point: I did some work in regard to the level of enrolment in the Northern Territory and Kalgoorlie. Given the fact that we do not have large numbers of new arrival non-citizens and non-permanent residents, there is a relatively low level of enrolment in those two electorates. Do you have any ideas about how we can improve the level of enrolment?

**Mr Dondas**—In the Northern Territory or Kalgoorlie?

**Mr LAURIE FERGUSON**—Both of them. They both have a very low level at the moment.

**Mr Dondas**—I could disagree with you because of the fact that the Northern Territory has, as of 2 March, some 102,000 people on the electoral roll compared with the 87,000 that were on the roll 10 or 15 years ago.

**Mr LAURIE FERGUSON**—But I am looking at enrolment numbers vis-a-vis the census.

**Mr NAIRN**—Having 102,000 out of 186,000 does not sound low.

**Mr LAURIE FERGUSON**—It is very low compared with the Australian pattern.

**Mr NAIRN**—What is an equivalent?

**Mr LAURIE FERGUSON**—What I did was compare the numbers enrolled in the Northern Territory and Kalgoorlie with the over-18 population and then compare those two with the rest of Australia. Given the fact that some parts of Australia have very high numbers of non-permanent residents and non-citizens, the trend is even more pronounced.

**Mr Dondas**—I could not give you that comparison, I am sorry.

**CHAIR**—There being no further questions, we thank you for your attendance. You may wish to come before us at a later date when the other matters are concluded. You are

excused.

**Mr Dondas**—Thank you very much, Mr Chairman.

**GRAY, Mr Gary, National Secretary, Australian Labor Party, PO Box E1, Kingston, Australian Capital Territory 2604**

**CHAIR**—Welcome. I remind you that the proceedings here today are legal proceedings of the parliament and warrant the same respect as proceedings in the Senate and in the House of Representatives. The deliberate misleading of the committee may be regarded as a contempt of the parliament. The committee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the committee will give consideration to your request. We have received your submission, which is now publicly available. Are there any corrections or amendments?

**Mr Gray**—No, there are no corrections and no amendments.

**CHAIR**—Would you like to make an opening statement before we proceed to questions?

**Mr Gray**—Yes. Briefly, I would like to say that the presentation we have made to the committee is one that does in many ways drive off previous recommendations of the Joint Select Committee on Electoral Matters—recommendations which, for one reason or another, have not been picked up in legislation over the years. We also draw a couple of matters to the attention of the committee as a consequence of the last election and we make some points on new areas the act may wish to explore, such as the Internet. But, really, our submission is based on a body of evidence that we have presented over the years, varying from recommendations that have been contained in previous reports through to recommendations that derive directly from incidents in the last campaign.

**CHAIR**—To open with a general question, the Electoral Commission claimed that the 1996 election was the most successful election they had conducted since they had formed in 1984. Generally speaking, would you agree with that?

**Mr Gray**—I would agree with it in two respects. Firstly, I think the performance of this committee over the years has been a very valuable process in finetuning the Electoral Act. We now have one of the best electoral acts, I think, in a democracy like ours anywhere in the world. The Electoral Commission itself does a very good job of interpreting that act. I think there are ways in which the Electoral Commission can sharpen its performance and I think there are some areas where, if the legislative process can catch up with the recommendations of this committee, the act can be made even better.

We do refer on one or two occasions in our submission to difficulties that arose during the process of the election. The one that comes to mind most readily is election day itself. It could have been that people were queuing up at election booths out of eagerness to knock off the government, but we thought in 1993 we had addressed that queuing problem. There were significant queuing problems in 1990 and then we had

reports of that happening again in 1996. We hope that the Electoral Commission, having resolved some of those problems, does not rest on its laurels, as it were. But I think this committee is an important part of keeping the Electoral Act up to scratch and keeping us all performing as best as we can.

**CHAIR**—Do you know which areas those queuing problems in Brisbane that you refer to in your submission were in and at what time of day? I presume you are talking about early in the morning.

**Mr Gray**—They are in the morning and principally in the larger booths.

**CHAIR**—It was perceived to be a lack of staff at the time?

**Mr Gray**—Yes.

**CHAIR**—Do you know roughly how long they existed for? Did they dissipate after half an hour or so, or did they go on for the whole of the morning?

**Mr Gray**—One of the problems with queuing is that people will wander off, do their shopping and come back later on. That of course might be a rational choice the AEC feels it makes. But we feel that when a person turns up at a polling booth they should be able to get their vote over and done with quickly. That might mean that on some occasions the AEC pays attention to heavier staffing in the morning or pays attention to local events, perhaps sporting events or other local cultural habits. That might make them better able to attune their staffing to the requirements of the population which they serve.

**Senator ABETZ**—Are you aware of whether there is any mobility between the various polling booths and the staff? For example, if there is a queue at one polling booth and there is a quieter booth 15 minutes drive away, could the Electoral Commission make a call and bring some of the staff across from that quieter booth?

**Mr Gray**—That would seem to me to be a reasonable administrative solution for part of this from the AEC's point of view. I am not aware that they do carry that out, but I am aware that they are aware of the problem. My concern and my reason for placing this as a submission in our report is that we did have significant problems in 1990, reported by all sides, and the appearance of those problems in 1996, after they had been solved in 1993, was a little bit alarming.

**Mr McDOUGALL**—I want to ask you a question in relation to your comments on special hospitals.

**Mr Gray**—That is recommendation 5.

**Mr McDOUGALL**—You have made a comment that the prohibition apply only



while the polling is actually in conduct. Could you just expand a little bit more on what you perceive as the problem in relation to these special hospitals?

**Mr Gray**—The problem, bluntly, is that people who have administrative or other responsibilities at such locations frequently take on themselves an interpretation of the act and allow themselves to make judgments about what political parties may or may not do, which is also a judgment about what rights a hospital patient or another person might be allowed to exercise. So our recommendation is to try to tighten that up and to allow the process to work a little bit better. It is something that cuts both ways and I do think there is a substantial argument that, for the polling process itself, the act can in fact be applied in a way different than it is two or three weeks out from polling day.

**Mr McDOUGALL**—I had some complaints given to me by nursing home administrators that, because of the date and the time this last election was called, the nursing homes got bombarded on the Saturday morning by workers from political parties trying to get people to sign up postal vote application forms. The majority of administrative workers at these nursing homes or hospitals were not around because it was a Saturday. It caused not only confusion with some of the elderly patients but also quite a bit of disturbance to them and they got very worried and agitated. Do you think that sometimes there could be a little bit of an overreaction by the political parties that cause this? Maybe we should have more control.

**Mr Gray**—I do think what you have described is a possibility. Given that an election is announced five weeks before polling day at the shortest time line, it would seem to me that nursing home administrators, knowing full well when an election day is going to be, have five weeks notice of the election event.

It would seem to me that by way of allowing people to exercise democratic rights, it is not completely unreasonable to say, ‘Why not have nursing home administrators more open to the action of democracy within their nursing homes throughout the campaign?’—perhaps even saying to the parties, candidates and MPs, ‘If you want to come along and talk to our people, here are some good times to do it.’ There could be a little more give and take on either side.

I think what tends to happen is a feeling of suspicion on behalf of the parties. I think that would go for the majority of people trying to get access to places where we are refused. We naturally are suspicious as to why we get refused. Then I think there is a feeling of ownership and almost a proprietorial interest on behalf of some of the nursing home administrators as to what they will allow on their property. I don’t think that always takes into account the democratic process.

**Mr McDOUGALL**—If that nursing home has already been registered by the commission as going to be a mobile booth at some date prior to the election day, why would a party then have to bombard it on the day after the election is called on the basis

of trying to get these people to postal vote?

**Mr Gray**—I would agree with you. I am sure that any other party official from any other party would agree that if, on the day after the announcement of an election, party workers went out to bombard nursing homes to get their votes that would be a rather inappropriate use of party resources. I think the language that you used describes part of the problem; that is, a feeling of suspicion on behalf of party workers and a feeling of control and ownership by the nursing home administrators.

In fact, the last election was announced on a weekend. I don't think that on the Sunday nursing homes were bombarded. Perhaps nursing homes were visited, called upon, by both sides of politics throughout the process of that campaign. It is out of the ordinary behaviour for the normal conduct of the nursing home and therefore people who are administrators of nursing homes feel that this is an unnecessary intrusion. They may also have medical or other protocol reasons for not wanting to be interrupted. We understand that difficulty. Most people who want to win a vote don't want to cause offence. You never won a vote by offending someone.

**CHAIR**—You mentioned the incidence of the Swan nursing home. Which electorate was that in?

**Mr Gray**—It is in Bentley in WA.

**CHAIR**—Which federal electorate?

**Mr Gray**—From memory, I cannot recall.

**CHAIR**—Have you had any further correspondence?

**Mr Gray**—No.

**CHAIR**—I noticed also you had complaints about ATSIC elections being held at the same time as federal elections. The previous witness raised this matter. Do you believe these elections either should not be held on the same day or if, for example, they have mobile polling booths in remote areas, at least they have their voting at different times? What do you suggest?

**Mr Gray**—I would be interested in the views of Mr Dondas on that because, as a minister and as a Speaker in the Northern Territory parliament, his views would be pretty well in tune with the cultural politics of the Northern Territory. We would prefer a situation where those ATSIC elections did not take place during a federal campaign or a state campaign at all. I think the confusion that is created by them is significant and unnecessary. It does not help the ATSIC process and certainly does not help the federal electoral process either in terms of the resources of the AEC or the overlay of federal or

state party politics into an ATASIC election, and vice versa for that matter.

**Mr McDOUGALL**—If an ATASIC election had already been called, as I think was the case this time, and then the Prime Minister comes in over the top and announces the federal election, what happens then? Do you just abandon or postpone the ATASIC process? It is a bit tricky if the process has already been triggered for an ATASIC election or by-election and the feds come in over the top.

**Mr Gray**—I must confess the consideration I would give to this is that, if there is such a coincidence in the future, the ATASIC elections should be suspended until after the federal election. I think that is better for both processes, given that, from memory, the ATASIC election is executed by the AEC as well. The worst solution would be to have them simultaneously.

**Mr LAURIE FERGUSON**—Is it the case that there are some restrictions during the voting process on mobiles as to giving out election material? I don't know whether it is a mistaken interpretation of the act—I didn't follow it up because it is not exactly a marginal seat—but we had problems in restrictions on the rights of our canvassers to give out voting material during the election process. Do you know the act very well?

**Mr Gray**—Not in that area, no.

**Mr LAURIE FERGUSON**—You are not aware of any problem or any possible interpretation of that?

**Mr Gray**—I am aware that there are problems and possible interpretations but I am not aware of what they are other than the ones we have documented here and specifically that in relation to Bentley in WA.

**CHAIR**—You make some interesting suggestions on section 44 of the constitution. But you don't make a recommendation, if I remember correctly, that we put this to referendum at some stage to have it changed. Did you not do that simply because of the difficulty of passing it or do you just want to get around it by the suggestions you have made?

**Mr Gray**—I think there are two points we would make. The first one is that the AEC neatly steps around its responsibilities to assist people as candidates for public office. The AEC says blithely to candidates for public office, 'It is up to you to seek the advice of a constitutional lawyer to find out if you are a fit person, a proper person, to be a candidate for federal public office.' Frankly, the view of the Labor Party has always been that there is a responsibility on candidates to ensure that they are fit and proper to be candidates but there is also a responsibility on the AEC to assist candidates.

The parties do the best that they can do, as far as I can tell. I have a document

here that we circulated early in January. It is a note to our candidates. I read in the paper that Andrew Robb received these from our campaign office, so he should have got it too. It is advice on nationality requirements for candidates. We provide that. We tend to provide information, but the AEC itself does not attempt to provide that guidance.

**CHAIR**—Would you like to table that for the benefit of the committee?

**Mr Gray**—Yes, certainly.

**CHAIR**—Just briefly, what advice do you think the AEC should give that is not contained in the sheet of paper you have just tabled?

**Mr Gray**—The first point: I would imagine that, at the very least, the questioning of candidates would assist. We have argued in the past through this committee, and this committee has made recommendations and a series of papers has been produced both by this committee and the Parliamentary Library on recommendations for both legislative and legal ways that might assist in the problem.

I do not think we necessarily have to go to a constitutional change. There are some consequences of a constitutional change. There are some elements of the office of profit requirement that are quite helpful in ensuring, for instance, that senators do not run for seats in the House of Representatives and that members of state parliament or members of the judiciary do not run for elective office while holding those other offices too. So there are some elements where you would not want to throw the baby out with the bathwater, and we as a committee—and I would count the Labor Party as part of this process—have repeatedly recommended the tightening up of this section.

**CHAIR**—Your suggestion to me seems, at first sight, to have considerable merit, I have to say. I am just wondering whether there are any practicalities as to why the AEC would not want to get involved. It is not perhaps so much the candidates from the major parties but, if you get a rush of three or four Independent-type candidates at the last minute, whether this would in practice be able to be done. I cannot see any reason why it would not. We might put that to the AEC at a later date.

**Senator MINCHIN**—I would be worried about giving advice that was relied on by a candidate that proved to be wrong or inadequate or where a candidate ended up being in the poo.

**CHAIR**—That is true. Or where someone makes an honest mistake about answering the question.

**Senator MINCHIN**—Interpreting the advice. But certainly the AEC could do a lot more to warn candidates about the extent to which they have to be careful of these sections, and could simply state the case law on them, which it doesn't do.

We talked about the ATSIC overlap. The Liberal Party also raised with us the problem of the Tasmanian campaign overlap. They have suggested that the media blackout that applies to the state campaign which prevented federal campaign material being broadcast during that period should be changed somehow to ensure that the material that is not the subject of the particular ban, be it state or federal, should still be allowed to go to air. Presumably you would have no difficulty with that proposition.

**Mr Gray**—I think there are another couple of points. Firstly, I would have no difficulty with that proposition. I think that the Electoral Commission strayed a little outside their brief in making some of the interpretations they did. It seemed to us they did not have the authority to give the advice that they gave to parties, but both parties in good faith accepted the advice. This caused difficulty in Mundingburra, and it also caused difficulty with some instructions as we make out in our recommendations on printed material that we were trying to circulate in Tasmania. If Senator Abetz were here, he would probably be able to tell us of the prohibition in Tasmania of election material around polling booths on election day in the Hare-Clark system. So there were some elements of the overlap of that prohibition that proved to be, to be polite, inconvenient and, in practicality for a federal campaign, a bit silly.

So we felt that the AEC and the broadcasting people made interpretations on political advertising that were not based in law, but both sides of politics complied out of goodwill and, I suspect, out of more than a touch of confusion. They were not necessarily rulings. I might also say if you get a state campaign running over a federal campaign, so that an election day in a federal election might be 1 September and the state election on the 10th—it can't be the 10th—

**CHAIR**—The eighth.

**Mr Gray**—Yes. You would want to allow that state campaign to run over the federal campaign too.

**Senator MINCHIN**—Can I ask you about 329A which of course received a lot of publicity in the last federal campaign? Your submission, to put the best gloss on it, is somewhat equivocal. You don't actually recommend the abolition of that section—I am not sure what you recommend. Could you perhaps clarify the ALP's position on that section? If you are not recommending its abolition, why not? What are you saying about 329A?

**Mr Gray**—You are referring to the Lang clause?

**Senator MINCHIN**—Yes, the Lang section.

**Mr Gray**—What we will call from now on the Lang clause. Yes, I think there are some difficulties with the straight-out abolition of section 329A. The straight-out abolition

of the section creates a difficulty in that, under our current act, we have a full preferential voting system, and to simply repeal section 329A with no other consequential changes means that a one-two-two vote is counted as being a valid vote up until the point of its exhaustion, so you are effectively introducing an optional preferential voting facility in a federal election. So we would have some reservations about that, but I think it is something the committee over the next few months would have a fair bit of time to mull over.

**Senator MINCHIN**—Isn't the answer to that to fix up section 270 ?

**Mr Gray**—It is.

**Senator MINCHIN**—Which allows optional preferential voting?

**Mr Gray**—It is.

**Senator MINCHIN**—Do you have a view on that?

**Mr Gray**—If you were to straight-out repeal section 329A, then from my point of view I would see an amendment to 270 as being a necessary consequence of that. I think part of the difficulty of section 329 is that it ended up putting in gaol a person who merely encouraged people to vote in a way that is in fact legal. The problem was created by the behaviour of both Langer and the courts. We should not forget the fact that he was actually gaoled in the end for contempt of court. That is not a point that was lost on either party during the election campaign but was a point that was lost on the media from the time he was gaoled.

**Senator MINCHIN**—I am also interested in your referring to us presumably what is a complaint of your Kooyong conference about the location of the DRO in Kooyong. Presumably that is in the same building as the Liberal member's office.

**Mr LAURIE FERGUSON**—Which recommendation is this?

**Senator MINCHIN**—It is towards the end of the submission—recommendation 21. One of my great complaints as a senator based in Makin was that Mr Duncan's office was right next door to the DRO's office and I do not recall the ALP complaining about that. I think it is a serious issue. Whatever the reality, the appearance, certainly in the seat of Makin, caused a lot of concern. If it is the case in Kooyong, I can understand why, from your party's point of view, that might cause concern. I am just not sure what we can do about it.

Where does the prerogative apply? Do we say to the AEC that they cannot locate their offices next to members' offices or is it the other way around? Now we have a situation where in Makin, where the expensive location of Duncan's office was made,

Trish Draper has gone in there, so now she happens to be, through no fault of her own, alongside the DRO. How is that problem to be dealt with?

**Mr Gray**—I think we have to bear in mind that, in the case in Kooyong, there was more than a perception by our people that a restriction was being made on our people that was not applying across the board. That may well have been an overreaction by our people, but I think it does point to the same problem you have identified. We used to have a situation in Eden-Monaro where Jim Snow's office was around the corner from the returning officer. But it was around the corner and there was a car park and a street—sufficiently separated that it never became an issue. I do think it is something the AEC should pay attention to in terms of appearance.

It is also an issue that cuts over the way in which shopping centre proprietors tend to operate. They would love to have the Commonwealth as tenants and they like the Commonwealth guaranteed income. They like the stability and certainty of good Commonwealth tenants, but try setting up outside a Commonwealth electoral office in a major shopping centre.

Firstly, access is restricted because of the hours of the shopping centre being opened but, secondly, the management of the shopping centre places requirements and restrictions on party officials from both sides that are unreasonable, unnecessary and not in the spirit of allowing an election to happen as is the custom and practice in Australia. If there were an interpretation made on that, I would like to see the committee look at the effect of that in how other shopping centre proprietors interpret the act for us.

**Mr McDOUGALL**—You raised the question of shopping centres, but a lot of them are not in shopping centres. For many years the member's electoral office of Moreton was absolutely next door to the AEC office, so the front doors were about three feet apart. If you are suggesting that there should be controls, then you are also raising the question of restricting the owner of the building in relation to who can and cannot be his tenant. Is that the correct thing to be doing in a democracy?

**Mr Gray**—In relation to an electoral process, I think it is. By asking the Electoral Commission to be aware of the locational importance of divisional offices, I do not think we would be placing an unreasonable burden on other shopping centre proprietors. My major complaint in the past has been about simple access to large shopping centre locations.

**Mr McDOUGALL**—In Queensland there is a redistribution going on virtually after each election. That redistribution puts out of whack, in a lot of cases, where the AEC office is. For argument's sake, in my own seat of Griffith the electoral office has been outside the boundaries for two elections now. What do you recommend we say to the AEC in relation to moving offices? Where do we get into a position of suggesting where they should be in relation to the boundaries that are set down?

**Mr Gray**—I do not have a view on that. I am aware of the requirement that property owners would have to have leases signed up for a three-year minimum period and the difficulty that creates. I think that is a significant management problem for the AEC, one that we have looked at addressing in a number of ways over the years—for example, having AEC offices aggregate divisions and having divisional centres for AEC centres and then temporary locations for a campaign. Really, that is an administrative matter for the AEC and one in which we would take an interest if they get it wrong.

**Mr McDOUGALL**—Can I change the subject and go to postal vote application forms.

**Mr Gray**—What recommendation is that?

**Mr McDOUGALL**—It is recommendation 6, talking about putting restrictions on the postal vote application forms by political parties. Could we have your comments as to why you believe parties should not be printing postal vote application forms?

**Mr Gray**—It goes back to behaviour in the 1993 election campaign which we interpreted as being in breach of the Electoral Act, in that it included political information in information that dealt with provision of a ballot. We viewed that as not creating a sufficient separation between the political process and the balloting process. For that reason, we took court action in 1993. We pursued the matter through the joint select committee, and obtained a recommendation from the joint select committee.

The AEC attempted to protect its copyright in regard to postal vote application forms in November-December 1995 in Victoria against the Victorian branch of the Liberal Party. The AEC lost and the Victorian branch, and maybe other branches of the Liberal Party, produced voting material that contained the application form in addition to political material.

Our view of that remains our view from 1993, the view that we took to the courts, and the view that we brought to the joint select committee two or three years ago—that we believed there should be a separation of the provision of political material and the provision of a postal vote application form.

**Mr McDOUGALL**—You do not see it as a useful service to the voter?

**Mr Gray**—I do see postal voting as being a useful service to the voter. I, like every other party official worth their salt, do the most I can do to encourage a political process that is as effective as possible in order to ensure the democratic process operates in the most healthy way.

Both parties operate postal voting systems. Both parties, in areas, operate very effective postal voting systems because everyone properly engaged in the political process feels that the ballot is of central importance and that assistance to provide people with a ballot is therefore a useful function for political parties.



We just feel that the delivery technique could be sharpened. The separation of the political argument from the provision of balloting material, we have always felt, is important.

**Senator MINCHIN**—When you talk about separation, do you mean making it physically separate or would you object to a situation where the postal vote application form itself was a separate publication but included in a package of material that had political material? I share with you some reservations about postal vote application forms being printed as part of a party political piece of communication where it is one piece. But if there is a covering letter from a candidate to a separate postal vote application form and an invitation to send it back to the party, I cannot see any objection.

**Mr Gray**—And I agree with you.

**Senator MINCHIN**—So your objection is similar to mine, I suppose—the printing of it within a party-political piece of material?

**Mr Gray**—Yes, as you would be aware from your position as a party official, it is very frustrating as a party to go to the AEC, advise them that you have a proper postal voting process because the AEC would prefer that parties took no part in that postal voting process—I gathered that impression from them—so they ration supply of postal voting application forms.

The parties have an interest in maximising the vote. It seems to me that there is an almost ideal coincidence of market there on behalf of the parties and the AEC. The AEC does not take that view. The AEC, it seems to me, has a traditional view that the parties should not be engaged in postal voting. On occasions, I think that the AEC takes the view that things would be better if the parties were not involved in the process at all. Therein lies a fundamental conflict, which is a fine conflict and one we always deal with.

I think that the people who came up with this idea of joining political material with campaign material were trying to solve two problems. One was the physical supply problem of the postal vote application form; the other was a practical problem or political problem of the delivery of a message and a form.

I have no difficulty with combining the material in an envelope. But we also find frequently in election campaigns complaints from voters that political material from one side or the other arrived in an envelope in the letterbox at the same time and that one or other of the parties or both had put their how-to-vote material in with a ballot paper that arrived from the AEC. The AEC overreact to that kind of clearly inaccurate reporting of what people got out of their letterboxes.

**CHAIR**—If we are finished on that point we will move on to postal voting itself. You make some fairly serious statements, as I read it, on the quality of the envelopes,

saying that they break open. Can you tell us how you heard about that and whether you are aware of the extent to which it has happened?

**Mr Gray**—To the best of my reckoning, that incident occurred in New South Wales. The problem was caused by the quality of the sealing material used on the envelopes. It was advice provided to me by the then Minister for Administrative Services, Frank Walker.

My concern at that stage was: if sufficient numbers of ballot papers had been spoiled, what that would mean. At the same time, I had other priorities on my mind than the destruction of a handful of papers. At the end of the day, there were 11 million votes being cast.

**CHAIR**—Presumably, the quality of envelopes could vary throughout Australia if they had different glues and that type of thing.

**Mr Gray**—I am not aware of the tendering process the AEC engaged. It appears from the report given to me by the minister, or his office—I forget whether it was Frank or his office—that the AEC had discovered a difficulty in the way in which these envelopes were going through the sorting machinery of Australia Post. It might have been a problem associated with a particular machine at a particular location, although that was not the impression I obtained.

**Senator MINCHIN**—It was raised with me during the campaign too. I think we have to talk this through with the AEC. They have to make sure they have high quality material.

**CHAIR**—You also talk about the procedures adopted in the treatment of postal votes lodged after the clearance of the mail on the Friday before polling day but not processed before the close of the poll. Again, are you aware of that happening and, if so, to what extent?

**Mr Gray**—I was not aware of a particular case of that happening. It seems likely that somewhere between 6 p.m. on a Friday night and 6 p.m. close of polling stations people might drop ballot papers into the Australia Post receptacles around the country and, therefore, it is not unreasonable to cast a highlighter pen on that. How significant that issue might be, I guess, Australia Post and the AEC could tell us.

**CHAIR**—What do you understand the act says about that?

**Mr Gray**—My understanding of the act is that any ballot paper lodged with Australia Post by 6 p.m. on the day before the poll is counted and nothing after that—so the time stamp, or whatever electronic version of that they use these days.

**CHAIR**—Given that you vote in the conventional way, and you vote up until 6

p.m. on Saturday, do you think provisions should be made that post boxes are cleared up until then as a special one-off for elections?

**Mr Gray**—It is something that could be considered, but it could only be considered by Australia Post advising the AEC of the number of ballot papers it does collect in that 24-hour period.

**Mr McDOUGALL**—Is it a question because Australia post does not clear boxes on Saturdays?

**Mr Gray**—I think it is a question because the act makes it the final post on a Friday.

**Mr McDOUGALL**—I became aware just recently that—and I did not know this—Australia Post does not sort mail on Saturdays. I did not know that before. I just wonder whether that is part of the reason.

**Senator MINCHIN**—We have discussed this before, and I think we are coming to the view that the relevant date should be the date of the declaration of the voter, that they voted at a certain time, rather than because post marks are unreliable and the person may not have used it anyway.

**CHAIR**—Would you agree with that as a principle of fairness?

**Mr Gray**—Yes, I would.

**CHAIR**—Even if someone signs the envelope that they voted at a certain time, say on the Wednesday before, and it was not dropped in the box until Friday evening because no-one was going to town?

**Mr Gray**—But a ballot paper such as that would still be counted. If you signed off on a Wednesday, dropped it into a postal box on the Friday, and it was delivered to the AEC on the Friday, then that would get counted.

**CHAIR**—So if it was dropped in a post office box, it would still be counted; wouldn't it?

**Mr Gray**—I understand the point you are making. I am not quite sure how the act applies in that area. We do not know how many votes we are dealing with. If we are dealing with a handful of votes then probably, but if we are dealing with thousands of votes then it becomes a different issue.

**Senator MINCHIN**—Can I ask you about election funding and disclosure? I note that you basically are in agreement with the Liberal Party on the question of not having a

separate election return and just having an annual return. Obviously, the annual return covering an election year would pick up all the election expenditure. There is a bipartisan view on that. You indicate that should be audited. Just remind me, is there a requirement now that they be audited?

**Mr Gray**—The requirement currently is that we provide both an election return, which I would have something to say about—in answer to your first part of your question—and we also supply fully accurate documentation on our spending and on our income later in the calendar year.

**Senator MINCHIN**—The annual return.

**Mr Gray**—Yes, the annual return. We think, on about a three-year cycle, the offices are thoroughly audited by the AEC. That spot audit provision is now applied to all of the national offices of political parties and all our state branches since this act came in. I think it is good to report that all of us have come up complying with the act in every way.

There is a point to be made in favour of political parties—that is, that we are far and away the most over-regulated entities in Australia, and unnecessarily so in some ways. I do not see that there is any public interest served by the incomplete return that we had to furnish several weeks ago on our election campaign expenditure, given that the decision to provide that expenditure report seems to me a completely bureaucratic choice about the time at which we have to start making disclosure in that document and the time at which we end. So we could only report items of spending that were incurred from the day the election was announced to the day the election finished. That does not help you with the research, the advertising spending that you had done in the previous two years. Therefore, you get a figure at the other end that is interpreted by journalists in a way that is completely inaccurate.

The next difficulty is the weight of the information that we have to supply on our spending side is also misleading. We need to supply spending details on any aggregated item above \$1,500. That means that if we buy more than \$1,500 worth of television advertising it needs to be disclosed. There might be an argument for that, I am not sure there is. But if you buy more than \$1,500 worth of pens and pencils, that also needs to be disclosed. I cannot see the point of doing that.

I think the system will be better served by the parties simply disclosing a single dollar amount of their spending. That single dollar amount will be audited thoroughly by the AEC and found to be accurate. Parties then do not have to provide information, which can be extremely misleading to the public, and parties also then do not have to make disclosures about information that is private and commercial to a number of our suppliers.

**CHAIR**—Can you just give us an example of where something might be

misleading, as picked up by the journalists?

**Mr Gray**—Let us say that out of the last set of disclosures there is \$30 million provided to all political participants in public funding. Yet the political participants, through that disclosure document, disclose that they spent \$20 million during the period from the day the election was announced to election day itself without providing the information that \$10 million was spent, or \$15 million or \$20 million was spent, prior to the election being announced. Therefore, parties made a profit out of the electoral process. That is not true, it is misleading and completely unhelpful.

**Senator MINCHIN**—Just to clarify, do you agree that there should not be a requirement for a separate election return being picked up?

**Mr Gray**—Yes, I do.

**Senator MINCHIN**—There is a suggestion that if the parties are required to lodge independently audited accounts, then there is no need for the spot auditing process by the AEC. Are you aware of that proposition? Do you have any reaction to that?

**Mr Gray**—I am aware of that proposition. I have no difficulty with the parties lodging their audited accounts, but I do have a difficulty with removing the spot audit provisions. I think it is that spot audit provision—a series of AEC inspectors, as difficult as that can be for the management of the party office, coming in and going through your receipts and accounts—that provides the only policing of the act that will enforce compliance. We can have a certain degree of self-regulation on these matters. I think that knowing once every three years we will have three or four auditors wandering through our office looking at whatever they want to does place on us a requirement to be absolutely in compliance with the act at all times.

**Senator MINCHIN**—Have you looked at the other Liberal Party propositions relating to disclosure?

**Mr Gray**—Yes, I have.

**Senator MINCHIN**—Are there any others that you would be prepared to support; for example—this came up before—that donors no longer be required to lodge separate returns?

**Mr Gray**—In general, I think that the amount of disclosure and auditing of political parties is over the top. But to some extent that is comfortably over the top, and to another extent it is an unreasonable bureaucracy to place on candidates and parties.

Requiring donors to make a disclosure has two ramifications. One is that the current requirement on donors is for them to disclose every three years. The difficulty

with them doing it every three years is that if it is a good corporate citizen—and there are a number of them out there—making substantial donations to the political process, by the time you have aggregated donations over a three-year cycle, it will add up to over \$100,000.

That looks like a large amount. When you look at the \$150 million that both sides of politics consume in their running over a three-year cycle, it is a good contribution. It is helpful. It is the act of a good and helpful corporate citizen. But when it appears as a one-line statement over a three-year cycle, ordinary people would look at that and say that that is the cost of a house. It may be that you add a bit more regulation and make that requirement for reporting every three years.

There should be an equal approach by both sides. There are requirements placed by parties affiliated to the ALP that they report to their administrative committees and to their membership donations and affiliation fees that they pay. It would seem to me that any kind of additional requirements on any entity to report is a disincentive for them to make donations to the political process, and that should be considered in a practical sense.

The recommendation in the Liberal Party report of aggregation to \$1,500 for party units I think is completely sensible, and it is something that we had talked about in the past—by ‘we’ I mean the Liberal Party, the National Party, Democrats and us. But because of a series of logjams in the process, we did not get it carried through to any legislative form last time round.

I would stress that any change to that \$1,500 aggregation could not weaken the disclosure provisions. They are changes that simply mean that people out in the Buckleboo branch of the whatever-it-is party who raise \$1,300 from their membership fees and various fundraising activities would not need to report that. If they raise \$1,500 they would.

The Liberal Party made another point in their submission relating to substantial compliance. The compliance requirements for our organisations, which are completely voluntary, are quite unreasonable. To move to a position of substantial compliance to \$1,500 aggregation makes a lot of sense. The Labor Party would not support the lifting from the current \$1,500 to \$10,000—the disclosable threshold. The \$10,000 is a substantial donation, and as such we would regard that as being a disclosable amount.

**Senator MINCHIN**—Would you agree to it being increased to any other level?

**Mr Gray**—No.

**Senator MINCHIN**—You want to keep it at \$1,500?

**Mr Gray**—Yes.

**Senator MINCHIN**—What about the tax deductibility threshold?

**Mr Gray**—Tax deductibility is an interesting issue. It is one in which the Labor Party, the Liberal Party and the National Party have engaged in lengthy discussions over the last couple of years, even to the extent—through joint approach to KPMG Peat Marwick—of putting together a submission on tax deductibility for political parties.

Political parties suffer a significant disadvantage because of the way in which the tax laws apply to political donations. If a donation is made to a fighting fund—a fighting fund established by whatever organisation—then the chances are that that donation is tax deductible. If the donation is made to the formal, proper and legitimate political process, it is not tax deductible. So parties to that extent are at a significant disadvantage.

There would be elements that will need to be considered by the Treasurer in terms of the implications of the approach of tax deductibility. I would certainly not want to have unlimited tax deductible donations. I would see the \$1,500 mark as being a reasonable line to apply the tax deductible donations to.

An interesting amendment was made to the act in 1991, I think, to make contributions of \$100 tax deductible. It is interesting that the word ‘contribution’ was chosen, because the word ‘contribution’ appears to have a separate definition so far as the tax people are concerned. So a payment of \$100 to attend a party dinner is regarded as tax deductible; \$100 in terms of our membership is tax deductible; buying \$100 worth of raffle tickets is tax deductible. That is a fine way of operating a political party.

Perhaps the word ‘contribution’ would need to be used instead of ‘donation’, because it does appear to have some implications. It is something that we would need to talk about at greater length. It is also something that we could apply to the fighting funds as well, so you do not make unlimited donations and obtain a tax advantage to fighting funds. That would be a good contribution to the process, too.

**CHAIR**—Before the election, the Democrats made some noise about supporting truth in advertising during campaigns. If my memory serves me right, I think that both the Labor and the Liberal parties in general terms said that they may go along with that.

**Senator MINCHIN**—Labor did not.

**Mr Gray**—That is not true, Senator; we did.

**CHAIR**—I thought that Kim Beazley did; I may be wrong. Would you support the creation of a special tribunal or some such body to examine political advertising? Do you think that that is feasible or desirable?

**Mr Gray**—We would certainly support a provision for truth in advertising. The

difficulty always became how you would go about implementing it and giving examples of how a real election campaign works as opposed to point scoring—which I think the Democrats were involved in on most occasions on that issue.

The first point is that, before you can get a television advertisement on air, it does have to go through the facts process and you do have to prove substantial factual backing for whatever claims you make. In the last election campaign the Liberal Party complained about a series of ads the Labor Party ran and the Labor Party ran a series of complaints about ads that the Liberal Party ran. But, in the end, there was a tribunal in the middle and a decision making process that could work on the way in which our television advertising operated. Perhaps that process could be looked at again. Perhaps that process could be improved. But I think that process is somewhere where you would need to be because you do not want to get into an area, it seems to me, where political comment and debate is limited by what a person might regard as being a truthful or untruthful statement.

Both political parties, I think, operate at the margins on many occasions, but on neither occasion do I think it is in the interests of political parties to go and out and tell lies. So, to some extent, having a process there that we can interlink with might be an advantage to us, but I have already made the point that I think we are already the most regulated entities in the country. We do not want to be regulating that to a ridiculous extent, although the Labor Party did place on record—as part of the joint select committee's consideration of the push polling issue—our support of some moves to tighten this area up.

**CHAIR**—So if something reasonable and practical that could be seen to work was put in place, you have got no objection to moving towards the goal, at least, of truth in advertising?

**Mr Gray**—Provided it was practical and could be made to work, clearly we would have no difficulty with that. The difficulty that we have had in the past is finding a system that could be made to work. We have the case where a set of advertisements make a particular claim, we argue against that claim or the Liberal Party argues against our claim. There is currently a process to check the integrity of information that we put into our public advertising. I do not think you would want a process that limited or contained the use of rhetoric or colourful language by politicians in the course of debate, and so we would need to be careful as to how such a thing could be implemented.

**CHAIR**—The Electoral Commission recommended that nomination deposits be increased from \$250 to \$500 for the Reps and from \$500 to \$1,000 for Senate nominees. Do you have an opinion on this? In particular, if you agree with an increase, are they the sorts of figures that you have in mind?

**Mr Gray**—No, I would disagree with this entirely. In fact, I do not see why there needs to be a deposit paid at all. Again, you get to a point of: what is a disadvantage for a



major party? For the Labor Party or for the coalition—or for the Democrats, for that matter—to field candidates, we need to be nationally registered political organisations, so we have provided lists of names of people who belong to our parties to the Electoral Commission. In addition to that, we have the option of providing a series of signatures before a candidate can be nominated for public office.

For Independents to simply sign a cheque for \$250 or \$1,000 and then run candidates is quite an easy administrative burden to meet. It would seem to me that removing the dollar amount and requiring of them that they find several hundred natural people at location addresses in an electorate to sign their nomination forms before they can stand for public office removes the odium of having a wealth or money requirement that does place a significant burden on them to show some level of support in the electorate for the views that they want to put on election day.

**CHAIR**—So you are still moving towards the goal of perhaps getting rid of—for want of a better word—‘frivolous’ candidates, but by different methods?

**Mr Gray**—Yes. We had 21 candidates in the Wills by-election; we will probably get a very large field in the Lindsay by-election. A number of those candidates will be frivolous. I would see a way of limiting that as not being based on wealth but being based on the level of support a candidate might be able to demonstrate in the community.

**Mr LAURIE FERGUSON**—‘Several hundred’ in a very short time might be a bit demanding.

**Mr Gray**—It may be a bit demanding, and it may be that you change it to 50. In some states you require 30 signatures. To compete federally you require six. It is six for an Independent candidate, whereas a political party has to have 500. Each candidate then has to gather six. Then there are other requirements on us to prove that we are operating entities.

**CHAIR**—I think the Electoral Commission said that, with three or four coming in at the end of the nomination period, they have to check that their signatures are bona fide signatures. It could be administratively very difficult.

**Mr LAURIE FERGUSON**—That is why I was suggesting that, if they had more time to—

**Mr Gray**—The solution to that is to increase the period between close of nominations and ballot draws. Also, I think a solution to that is the way in which the AEC operates. There is no reason why the AEC cannot operate weekends. There is no reason why the AEC cannot operate extended hours for the duration of the 33-day election campaign.

**CHAIR**—When you require 50 signatures, that is usually the number that you get. You do not necessarily get 100. If you required, say, 50 signatures, and in going through the list someone had signed who was not eligible and the potential candidate fell short by one or two, it would seem to me that, in the eyes of the public, it would seem a little unfair that they were disenfranchised because of what would be seen to be a technicality. Perhaps we would have to give some thought to that.

**Mr Gray**—I throw the idea up as a potential suggestion because I think the idea of simply making a dollar requirement is an easy one and an easy way out for the AEC rather than policing a more rigorous solution to the problem. If you are going to make it \$1,000, why not make it \$5,000? If you really want to rub out vexatious candidates, then why not make it a ridiculously high threshold? The reason we do not do that is because there is a principle in democracy: a principle of the person having the right to put themselves before the people. What I would say is: relate that to the level of support you receive from the community that you seek to represent.

**CHAIR**—Of course they get their donation back if they get more than four per cent—I think it is four per cent.

**Mr Gray**—Yes.

**Senator MINCHIN**—Just on that: are you relaxed about the proposition from the AEC that they be given a 24-hour period to check nominations rather than the few hours they currently have? They want reduced by a day, I think, the period for nominations so that they have 24 hours to—

**Mr Gray**—Yes, in the past I have argued that there is no difficulty at all in providing that period or even a slightly longer period. Also, I have argued in the past for a reduction in the period of the campaign itself—both to add to efficiencies and whatever else.

**Senator MINCHIN**—The previous government did not agree to that 24-hour thing, though. I think the majority on this committee would not agree to that. I am just wondering if that—

**Mr Gray**—If you are asking me whether or not I put a spoke in the wheels, I did not. If we are making the requirement that the AEC provide advice and assistance on section 44 of the constitution and other such requirements, then I think it is reasonable that we provide them with the proper time to do that.

**Mr LAURIE FERGUSON**—I apologise if this was dealt with when I was absent, but concerning the claims about Mr Dondas—I do not have attachment H—could you elaborate on exactly how he intimated that he had access to these records and what was the nature of the information given?

**Mr Gray**—The information was the subject of a lengthy debate in the Northern Territory and was confidential information available from an electoral roll. Our argument was that, in the case of the Northern Territory where that roll is maintained by the Northern Territory, then some process had been engaged by the candidate for the CLP to obtain information. Attachment H was information about individual voters. It says:

Today on CAAMA Radio NICK DONDAS said he obtained the information about the age of these people through the Australian Electoral Commission enrolment forms.—INFORMATION WHICH IS SUPPOSED TO BE ABSOLUTELY CONFIDENTIAL!!!!

"If what Mr Dondas is saying is true, then he may have committed serious breaches of both the Electoral Act and the Privacy Act.

That was a press release issued by me during the election campaign. Clearly, Mr Dondas claimed to have obtained that information from the electoral roll in the Northern Territory.

**Mr LAURIE FERGUSON**—You gave a brief response to the concept of increased figures for tax deductibility. What is your response to the Liberal Party contention that, 'This would strengthen our democratic system by reducing the reliance on a relatively small number of large donations?'

**Mr Gray**—The Liberal Party relies on a relatively larger number of large donations than the ALP does. I make that as a political point. I think that the fabric of our political process is strengthened by corporate and private donations. I have always argued that case and it is one that the Labor Party and, I think, the coalition would support absolutely. I am not sure that the principle of extending unlimited tax deductibility is a principle that would be a good one to pursue in that context, Mr Ferguson, because the principle of making a donation and obtaining a tax deduction for it are two completely different statements. You make a donation because you support the political process; you do not make a donation because you are seeking a tax preferred position.

I made the point earlier on that there is an absolute inconsistency that donations to fighting funds, which frequently get used in a political process, are tax deductible and it is unfair that a potential donor should seek a tax advantage in a donation to a fighting fund as opposed to a political party.

**Mr LAURIE FERGUSON**—What is the ALP's response to suggestions about tightened requirements in regards to registration and election day voting?

**Mr Gray**—We would see the enrolment process itself as being an important part of the democratic process and we would not want to see restrictions or difficulties attached to the way in which people registered to cast their votes. The electoral roll is a roll of all people who are eligible to vote and, as such, anybody who has a right to vote should be able to get onto that roll as easily and efficiently as possible.

**Mr LAURIE FERGUSON**—Election day itself—evidence of identity?

**Mr Gray**—There has long been a preferred position from people saying if people can vote they should be able to produce some identity to prove that they are the person claiming to be on the electoral roll. That would create a significant difficulty in many parts of Australia where people do not have the required level of documentation. Given what I understand to be the most recent round of investigations by the Federal Police into what are alleged to be multiple voting, there does not appear to be a lot of it going on—there appears to be a lot of jumping at shadows on that issue. I would see restrictions, especially for mums and dads turning up at a polling booth with two or three kids, in trying to exercise their vote and trying to rifle through a purse to find a required piece of documentation, as being a difficulty for people for a problem that is largely in people's imaginations rather than substantiated.

**Mr McDOUGALL**—But if a person under the current system decided to enrol under a fictitious name and not necessarily create what you just suggested, a double vote, because it certainly would not but it would be creating a false vote, and if there is a requirement in the community at the moment that you have to have 100 points to be able to have a bank account, don't you think there is a need to ensure that there is some sort of guarantee that the person who is enrolling does actually exist, and exists at the place where they are enrolling or claiming to be enrolled?

**Mr Gray**—The requirement for 100 points to open a bank account is a requirement to police the cash transaction reporting agency's requirements to reduce tax avoidance, potential laundering of illegally obtained money and, therefore, also has implications in terms of the policing of other criminal acts—drug sales or income from illegal activities. You are not comparing like with like when comparing opening a bank account with exercising a vote. Exercising a vote is something that people should do as easily as is practicable. Whereas for everyone around this table producing a driver's licence with a photograph on it may not be a difficult task for some of us, when you lose your wallet or your licence that does become a difficulty, especially if the election is to be held tomorrow.

The incidence of multiple voting appears to be rare and, certainly, whatever information I have ever seen on it from the latest round of investigations, as reported in the press, does not suggest that to be a significant problem.

**Mr McDOUGALL**—Let us take this a bit further. This morning we had some evidence from Mr Dondas, who raised the problem of people in the Aboriginal community in the Northern Territory having up to three different names and being able to enrol, technically under the current enrolment system, potentially three times. How do you see that being avoided under the current system?

**Mr Gray**—I do not see that as being a significant issue since if, Mr Dondas claims

that to be the case, let him produce a person who has enrolled three times. Presumably from the information Mr Dondas has, he also has their dates of birth, so he will be able to verify whether or not three people exist. Let him do that. There is a lot of allegation, a lot of rumour and there are a lot of unsubstantiated claims on the issue. It is not sufficient to simply turn up to a committee and say an Aboriginal person—it has to be an Aboriginal person, doesn't it?—has enrolled three times. Let him produce evidence of that being the case.

**Mr McDOUGALL**—What he was saying is that the potential is there, because it is a known fact that an Aboriginal person can have three names.

**Senator MINCHIN**—He was saying there is nothing to prevent that occurring.

**Mr McDOUGALL**—There is nothing to prevent it. I am not suggesting that that person should not have those three names—that is a part of their culture—but, if that is part of their culture, don't you think it should be recognised and therefore some system put in place to prevent the potential of that problem?

**Mr Gray**—In the early 1980s for five years I lived and worked in the Northern Territory during the time which Mr Dondas was a minister of the Northern Territory government. The culture and practice on the ground, as I noted on numerous occasions, in Aboriginal communities was that people being enrolled several times was not a possibility since the person who would normally be working with the Electoral Commission—doing enrolments, ticking off or assisting in a mobile polling situation—were people who actually knew community members. Therefore, I think that informal cultural or community policing of that matter is a much more effective way of going about it than trying to impose other solutions to problems that we never saw existing.

**Senator MINCHIN**—I wish to ask about date of birth information. I am not sure, but you seem to be very upset about Mr Dondas's activities on that score. In South Australia date of birth information was available—I think nationally—up until the 1987 elections. Certainly as state director there, I retained all the date of birth information that I had and just kept rolling it through. Obviously, the percentage of names with a date of birth is declining, but for a significant number of them we still know the date of birth as a result of it having been available up to that time. Presumably, that is how Mr Dondas had such information.

**Mr Gray**—Mr Dondas did not claim that was the way in which he obtained the information.

**Senator MINCHIN**—He may not have, but I am just saying that that may well have been how he had it. That is certainly how we had it. Do you really think there is anything fundamentally wrong with the parties being provided with date of birth information? Doesn't it contribute to more effective political campaigning and activity and

better targeting of messages, and don't you think it is not really an invasion of privacy?

**Mr Gray**—I see it as a completely separate issue, Senator. In relation to the information that is available, currently only Queensland provides date of birth information at a state level. I think both sides of politics regularly farm that information into their federal rolls to improve the efficiency of how their members would work as federal members.

There are two issues to bear in mind with this. The first one is that the electoral roll itself is a highly valuable document and whenever information is coded to the electoral roll it adds value to that document—value in both political terms and commercial terms. The Liberal Party requires, through its submission, four pieces of additional information, including the salutation. It has also asked for date of birth, gender, and name and address. I would see absolutely no difficulty at all in complying with salutation, since to provide salutation is to simply make it easier to address people by their preferred addressing form, with the difficulty that Miss turns Ms or Mrs at some point or fashions change. In addition, gender is probably also provided by providing salutation.

**Senator MINCHIN**—I think we agreed on gender. Didn't we put that amendment in?

**Mr Gray**—I think that comes about from previous agreements at this committee that have not yet necessarily been legislated for. Providing date of birth adds such potential political value to a roll that it should be considered, but it also adds significant commercial value to a roll. A superannuation or an insurance firm would view such a roll, I think, as being a very significant commercial asset.

The committee should think carefully before making any decision on attaching date of birth as a formal measure. The ways in which political parties deal with that information now is imprecise, imperfect, and the material ages and dates. But, if we had formal rolls minted whenever we wanted them minted with date of birth attached to them, we would end up with a document with significant commercial value. As I understand it, there is a case before the courts right now of some potential use of a roll. I would worry about it from that point of view.

**CHAIR**—I suppose, without wanting to sound sexist, there may be some women who would want that information available now.

**Mr Gray**—There might be some men, too.

**Mr LAURIE FERGUSON**—Just one final point about the perception of there being people illegally enrolled and corruption in the process. I am without the background of you or Senator Minchin, so I am a bit unclear. What access to enrolments do both political parties have now—and I assume you are talking about marginal seats, because

that is what really matters—when candidates are not the sitting member? What I am getting at more specifically is being able to check addresses for large numbers of people with different surnames. Does a challenging candidate have access to computer records?

**Mr Gray**—We obtain that through a duty Senate system. In fact, senators for each state have the capacity to obtain whole state rolls. The AEC now provide them on compact disk. So the exact system is now very well refined. Both parties have ideal systems for coping with that. The information on non-held seats is available to political parties.

**CHAIR**—There being no further questions, I thank you very much for coming before us. We appreciate the trouble you have gone to. You are now excused from the committee.

**Mr Gray**—Thank you very much.

[11.15 a.m.]

**CROSBY, Mr Lynton Keith, Deputy Federal Director, Liberal Party of Australia, PO Box E13, Queen Victoria Terrace, Australian Capital Territory**

**SMITH, Mr Dean A., Manager, Parliamentary and Policy, PO Box E13, Queen Victoria Terrace, Australian Capital Territory**

**CHAIR**—Welcome and thank you for coming. I remind you that the proceedings today are legal proceedings of the parliament and warrant the same respect as proceedings in the Senate and the House of Representatives. The deliberate misleading of the committee may be regarded as a contempt of the parliament. The committee prefers that all evidence be given in public, but should you wish at any stage to give evidence in private you may ask to do so and the committee will give consideration to your request. We have your submission, which is now a public document. Are there any corrections or amendments to this submission?

**Mr Crosby**—There are no corrections or amendments.

**CHAIR**—Would you like to make an opening statement before we proceed to questions?

**Mr Crosby**—Thank you, Mr Chairman. Many of the proposals in the Liberal Party submission are an extension or a repeat of propositions put by us after the conduct of the 1993 election. In some cases propositions we put forward then were able to be implemented. Others, whilst supported by the committee and even the government, were unable to be implemented because there were some bills before the parliament that failed to be passed before the most recent election.

I would like to draw the committee's attention to some key aspects of our submission in governing the areas that we think are particularly important and which, again, following the conduct of the 1996 election with which we were generally happy, have become the subject of some discussion. The first relates to postal vote application forms and continuing debate about the use of postal vote application forms or the reproduction of those by political parties.

We very firmly hold to the view—and it is consistent with the view expressed by Mr Gray on behalf of the Labor Party earlier today and by the Electoral Commission on a number of occasions—that the voting process should be as simple and as straightforward as possible for people. One of the most important ways of achieving that is to ensure that they have ready and easy access to postal vote application forms. So where they are entitled to vote by post—and that is the key point; only people entitled to vote by post should exercise that entitlement—they should have that capacity to vote by post made available to them as simply as possible. We have always been frustrated as a party by the



rationing of postal vote application forms by the Electoral Commission. It becomes a difficult process for those who seek to vote by post in conducting their voting activity in that way.

We also believe that, increasingly, there is a need to give greater information to members of parliament in terms of salutation, gender, date of birth and so forth to enable them to communicate with their constituents. We advocate some reform in that area.

We reiterate our views in relation to donations to political parties. We oppose what is at present quite a degree of duplication. Having said that, however, I make the point that the Liberal Party is firmly committed to the notion of disclosure and takes all steps to achieve its obligations under the Electoral Act.

However, we are concerned there is duplication. There is a requirement for donors as well as political parties to lodge returns. There is a requirement to have not only a return lodged each year but also an additional return lodged after an election. It brings about a lot of duplication. This has been compounded, too, by an increase in the application of disclosure laws to the state operations of political parties—in states such as Queensland. There is also state disclosure legislation.

So there is an increasingly onerous burden on political parties, which are—we must never forget—essentially voluntarily based organisations. We are imposing and we continue to impose quite significant burdens on volunteer workers to meet quite stringent provisions under the Electoral Act. We have made the point at previous inquiries by this committee and we make it again that political parties have more onerous and stringent controls placed on them in relation to reporting and procedures governing the handling of income and expenditure than even the largest of public companies in Australia.

We believe that there should be some modification to the disclosure threshold for individual donations. The requirement at present is such that you have constantly to aggregate small amounts to see whether the threshold of \$1,500 is being achieved. We have strongly argued for some time for the benefits of tax deductibility. I noted Mr Gray's comments in relation to this a little earlier today. We do not advocate an open slather arrangement for tax deductibility, but we believe there should be a reasonable provision to enable any entity that wishes to participate in the democratic process through contributing to political parties to do that by way of a tax deductible donation.

We also believe there needs to be a tightening of provisions regarding the electoral roll to protect the integrity of the electoral process. It has been our view that not only must justice be done, it must be seen to be done. The argument put by some, 'Show me the examples where there have been breaches,' is not sufficient. If there is the potential for fraud, then that potential should be minimised.

There is a quite clear argument that there is the capacity for there to be fraud. We

have noted the recent CEPU elections, with which the Electoral Commission was involved and which elections are still a matter of discussion before the courts, where clearly there has been electoral fraud. The AEC was involved. The AEC, as I understand it, did not detect that fraud. So clearly there are problems that can occur. We cannot close our eyes to that. There is form on the board in terms of it having occurred elsewhere. We have to make sure that it does not occur in relation to the process of determining the Australian government.

Recently and currently the issue of office of profit under the Crown and citizenship or foreign allegiance has again come to the fore. I remind the committee that in 1993 we drew attention to the uncertainty and confusion that exists in relation to this provision. We do support the need to try to come to grips with an improved arrangement there so that this uncertainty can be removed.

We draw attention to a particular problem that occurred at the most recent federal election, which happened to coincide with the Tasmanian state election. There was mixed interpretation as to the conflict that exists between state and federal laws governing broadcasting and advertising. The Tasmanian Electoral Act essentially prohibits advertising for quite a period of time. That period overlapped with the federal election and gave rise to uncertainty. That ought to be, in our view, clarified.

**CHAIR**—Thank you for your opening statement. I might just move to this matter of section 44 of the constitution—the office of profit under the Crown and the other matter of dual citizenship. Mr Gray of the Labor Party has made a suggestion that the AEC should be more involved in informing candidates of their rights and responsibilities in this regard, perhaps more than having that changed through a referendum. What is the Liberal Party's position on that?

**Mr Crosby**—I am not sure that it is the role of the AEC. I think it should be more clearly understood than that. We have always found in other areas, where there are presently penalties or other impositions in the Electoral Act in relation to certain behaviour, that the AEC quite rightly says, 'Well, we can't give you a legal ruling on this because we can only give you an assessment under the act; ultimately a court will decide.' I think it is not a case of putting it to the AEC so much as taking such steps as are possible through the act, through referendum, to try to eliminate the problem once and for all.

You will note at page 7 of our submission we suggest that the proposition that the very act of nominating for election could be deemed to be a sufficient or reasonable step in seeking to renounce foreign allegiance. I think we need to look at some simple, effective way that does not constantly require the interpretation of the AEC or anybody else, but makes it clear once and for all what the situation is.

It has been our experience that what on face value looks like a simple solution to

the potential office of profit conflict, once you start getting lawyers involved, becomes a very complicated issue, and a new avenue of concern arises where once you may not have thought this could ever have been alleged to have been an office of profit, or fall under that provision, it suddenly becomes open to question. Our preference would be for a conclusive resolution to the issue.

**CHAIR**—But, specifically on, say, the office of profit one, what do you think would be a good suggestion?

**Mr Crosby**—I think it would be a good issue for the committee to grapple with because I am not sure what the answer to that question is. It may be a referendum. I am aware, however, that whenever you exclude something you open up something else. It is a difficult issue. It certainly needs to be investigated, and I think it requires more than just an AEC interpretation if that is what they are advocating.

**Senator MINCHIN**—The problem is the application of it to a candidate from the close of nominations to polling day, isn't it?

**Mr Crosby**—That is right.

**Senator MINCHIN**—I would have thought the only way is a constitutional amendment that deals with that problem. The office of profit should obviously continue to apply with sitting members, but there is the poor bastard who is a candidate in that period. Have you had legal advice on the suggestion that the nomination form be the mechanism by which foreign allegiance is extinguished, whether that would in fact be effective?

**Mr Crosby**—We have had informal advice but, being an organisation that relies on donations and voluntary support, we are not in a position to spend thousands on legal advice. It is something I would encourage the committee to look at.

**CHAIR**—The Electoral Commission did claim that the last election in their eyes was the most successful they had conducted since they were formed in 1984. Generally speaking, would you concur with that?

**Mr Crosby**—Yes. From a personal point of view, having worked on every campaign since 1984 and lost, I thought it was particularly successful. I think in general terms it was well run. We did not have a significant number of problems at all. In fact, other than one or two arguments beforehand in relation, for example, in Victoria, to the use of postal vote application forms and so forth, we were pretty comfortable with the conduct of it.

**Senator MINCHIN**—Just on the postal vote application forms, Mr Gray indicated his—

**Mr Crosby**—Bill or Gary?

**Senator MINCHIN**—Sorry. Gary Gray indicated his support for allowing parties to send out postal vote application forms that they had printed together with other party political material, but is resistant to the idea of that being incorporated into party political material in a printed form, a position with which I have some sympathy. But is the Liberal Party saying there should be absolutely no restriction on the printing of a postal vote application form in the one piece of material that includes a whole lot of party political propaganda?

**Mr Crosby**—I think the important thing is that we make a distinction between purpose and process. The purpose of an application form is to ensure that individuals who seek a postal vote application are legitimately doing so, and that that application is granted—that is, they have to satisfy a range of information. That is the key. I think that the AEC in a way has confused purpose and process here.

Mr Gray said in his submission at one stage that parliament determines the requirements that they have to administer, and that is right. Parliament determines that certain information is required to process postal votes, or certain requirements have to be met if someone is eligible to vote by post. That is what we should be focusing on, making sure that the voting process is simple and easy for people, and that those who are entitled to vote in this way can vote in this way—and only those who are entitled.

So, from our point of view, we would not want to mislead people in any way, but we want to facilitate the capacity for people to vote by post, which is a right that exists for them. I acknowledge that there are some mixed views within our party on this. Some people say there should be simple reproduction of the entire form with no party material put on it, but personally I cannot see any problem because it is at an early stage of the voting process.

I cannot see any problem if there is party material on or adjacent to the form. It is an early stage. It is just an initial application form. They still have to get the ballot papers back from the commission. The commission has to determine that they are eligible, and there are other steps further down the road, therefore, that are actually closer to the voting decision and are more likely to have an impact on a person's voting decision. All they are getting is the application form; they are not getting the ballot papers provided by a political party, so I do not think it has a significant effect or influence.

In fact, I note that the Electoral Commission itself, which so regularly says to political parties like ours, 'Well, you show us where the fraud is and then we will respond to it', has not been able to quantify any element of confusion. It says that there is confusion, but I think when Mr McDougall asked a question they were not actually able to specify any examples of complaint or confusion of which they were aware. It is easy to make the claim that people could be confused, but there is no evidence on their part.

Increasingly, we have found people find it a valuable community service, just as they find the promotion of the ease of voting by more pre-poll voting and increased numbers of polling places at airports and so forth which the commission has instituted an effective means of making it easier for them to vote as well.

**Mr McDOUGALL**—Particularly in relation to the general running of the election, the AEC felt that there were no major queuing problems, but Gary Gray certainly indicated that to his knowledge there had been considerable problems in Brisbane. How did you find that area of conducting the election? Do you have any comments on that?

**Mr Crosby**—There are always isolated problems particularly in relation to queuing brought about by two things, in my experience. The first is shared booths or areas where boundaries have changed, so you have a whole range of people who are queuing to vote absentee because they have come from what is now a new electorate even though it was part of another electorate. The second is where you have outer suburban growth areas, which is often a problem, in my experience, in places like Brisbane and in earlier times Adelaide—electorates like Makin. In growth suburbs people are surprised by the number of voters that turn up and so they undercater, if you like. Our experience with queuing is that if people queue early then they are out to change the government and they are motivated. So I was quite pleased to see the extent of queuing in Brisbane.

**Senator MINCHIN**—Let's hope they're not queuing next time around.

**Mr Crosby**—I hope it is a steady pace all day. It really depends. We do not have major concerns about it. It is a management issue, which is difficult given that you have 12½ million people or whatever voting. It is not such a problem that it leads us to want to make a whole host of recommendations.

I should have indicated at the start that this submission is presented on behalf of the Liberal Party of Australia and all its divisions. In the discussions with our divisions there was no concern expressed in any major way about queuing.

**CHAIR**—You make some comments in your submission about the need to upgrade people who are coming on to the electoral roll for the first time. Could you just expand on what you would like to see occur?

**Mr Crosby**—Do you mean enrolments?

**CHAIR**—Yes.

**Mr Crosby**—It is a point we have made before, and it is a point we reiterate, that it is easier for me to get on the electoral roll in any name than it is to go down to the Mawson Video 2000 and become a member of the video club and try to hire videos, yet voting is the most fundamental right in a democracy. Yes, it has to be simple and

available to all, but it seems strange that there are, in the Electoral Commission's own acknowledgment, very limited checks. You can put down a citizenship number and the day you allegedly became a citizen and they do not actually check whether they are legitimate numbers or whether that is a legitimate date.

We believe there needs to be some improvement most certainly in the enrolment process. We are well aware of the opposition to a notion such as an Australia card, so it needs to be something the community has already demonstrated it supports and is comfortable with. The suggestion we make in this submission—we made other suggestions in our post-1993 election submission—is the use of some witnessing requirement in a similar vein to passports, where there are some 23 categories of person who could witness and verify an enrolment application. By having such a large number it is not onerous, but it does provide a reasonable balance and a check.

The fact that in the government's own legislation an electoral enrolment has much less value than any other form of identification—when you come to open a bank account and you are trying to achieve your 100 points—suggests that the government itself, regardless of what the AEC may say, treats with some suspicion the integrity of electoral enrolment.

**Mr LAURIE FERGUSON**—From our side of things, there would be a concern that—there is past experience, particularly in the Northern Territory—you could have a situation where JPs tend to have a political alignment to some degree and there could be difficulties between the police and blacks. Unless we had a very wide ambit of people that could sign, there could be difficulties. Your original document speaks only about JPs, police officers, et cetera. So you would be prepared to go as far as passport criteria, would you?

**Mr Crosby**—That includes teachers and a range of people who have some position of responsibility in the community. It was because of remote and Aboriginal communities that our thought focused on passports because obviously you cannot have a chief justice or somebody and you do not want people who have a particular bias, and that was a reasonable compromise. Most communities will have a teacher and a police officer and a range of other government firms, and they are all covered by the passport.

**Mr LAURIE FERGUSON**—Is date of birth currently mandatory before a person can be enrolled?

**Senator MINCHIN**—Yes.

**Mr LAURIE FERGUSON**—With regard to new citizens, I personally see no problem with the AEC having to check out the person's citizenship figure. On re-enrolment of that person, once they are clarified from the original birth date, are you saying that each time they move house they would have to provide the citizenship number

or just the original enrolment?

**Mr Crosby**—When they re-enrol they put their old address and their new address. The theory should be that the Electoral Commission actually checks their old address to make sure they were there. If that is followed through, there should be no problem.

**Mr LAURIE FERGUSON**—Most people prize their citizenship form. They have got it at home, I guess, but on the other hand—

**Mr Crosby**—It is the initial case. From there onwards, the AEC should be able to track it anyway.

**Senator MINCHIN**—Presumably if you had a passport you would simply need to produce that as the form of ID.

**Mr Crosby**—If you had one, you could use that. Our view was that there is some concern. We have to have an improvement, but we do not want too onerous a provision. The sort of person who can verify your attractive photo when you are applying for a passport is the sort of person who can verify a form. If you had a passport, presumably you could make the passport one means of doing it.

**Mr McDOUGALL**—What would your comment be in relation to taking that further to proof of identity at time of voting?

**Mr Crosby**—As I recall, we called for this to be investigated in our previous submission after the 1993 election. At that time, certain members of the committee and others discussed the option of a voting card or something which is surrendered on polling day. That would be costly and complex.

Subdivisional voting has an attraction to many people as a means of improving integrity on polling day without going down the path of having to have a card or taking a licence, or anything like that. You have to make it as easy as possible for people to vote but you need some checks.

We would be interested in propositions put to us. We think tightening the process is a worthy objective to ensure the veracity and integrity of the electoral roll before and on polling day. But as to the means of achieving that, we recognise that there would be a lot of opposition to a very strict tightening up on polling day. I would prefer to come back to specific propositions.

**Mr LAURIE FERGUSON**—One of your perceived problems is solved by registration.

**Mr Crosby**—That is a large part of it but there is still the issue of multiple voting.

If you can clean up the process of getting on the roll in the first place, that would go a long way. Many believe that subdivisional voting and other approaches can help tighten up polling day. As a collective range of measures, I think that would be sufficient.

**Senator MINCHIN**—What about subdivisional voting?

**Mr Crosby**—It is fair to say that it is not a unanimous view in the Liberal Party but it is certainly a strong majority view that subdivisional voting is a healthy means of trying to minimise the prospect of any person going into a federal electorate and doing the rounds of the polling booths. At least with subdivisional voting you are confining the voting process. And bear in mind that 90 per cent of people vote at their local booths. Therefore, there would be no imposition for them.

**Senator MINCHIN**—I think what we mean is precinct voting.

**Mr Crosby**—Yes. The majority view in our party would be in support of that. I personally see merit in it.

**Mr LAURIE FERGUSON**—Are we allowed to talk with Mr Crosby about the Northern Territory subdivisions?

**CHAIR**—It is a matter of some sensitivity—

**Senator MINCHIN**—The Dondas case.

**Mr LAURIE FERGUSON**—I want to know whether I can ask something.

**CHAIR**—You can ask a question but the witness may not want to answer.

**Mr LAURIE FERGUSON**—I have not followed the case as closely as some people in my party. I can understand what you are getting at as regards restricting cheating on the election day. I gather that, because of the existence of subdivisions, a large number of people have actually been deprived of a vote. Is that what it is all about?

**Mr Crosby**—I do not have a good knowledge of it. I am happy to take it on notice and come back. My understanding of that aspect of the case is very limited. I was aware of the original claim made by Mr Snowdon but I have not followed the matter beyond that.

**Mr LAURIE FERGUSON**—That is the by-product problem that would concern me, that in attempting to avoid having people voting 20 times in an electorate, you set up a process whereby a large number of people, because they are enrolled in the wrong subdivision, or something, are deprived of a vote.



**Mr Crosby**—Not even 20 times, but twice; just speak to Chris Gallus and her former opponent in Hindmarsh where 14 votes made the difference. If just 14 people voted twice it could have changed the outcome.

**Senator MINCHIN**—It is all explained in an attachment from the AEC that we have in our folders. It explains why these people had their names taken off the roll. It was because they moved from one subdivision to another and they were forced to re-enrol.

**Mr LAURIE FERGUSON**—So we are asking everyone to know what subdivision they are in?

**Mr Crosby**—We are not addressing that issue in this discussion. We are not saying that people should re-enrol every time for a different subdivision. You are enrolled for a federal electorate—

**Senator MINCHIN**—But you can only cast your vote at the polling booth for which you are enrolled. That is the only place where you could cast an ordinary vote, otherwise you would have to cast a declaration vote.

**Mr LAURIE FERGUSON**—So there is not a consequential, interrelated requirement whereby, if you move, say, from Granville to Guildford in my electorate, on election day you cannot vote—

**Senator MINCHIN**—You would have to cast a declaration vote.

**Mr LAURIE FERGUSON**—Do we have figures on how many declaration votes there used to be under the old process?

**Mr McDOUGALL**—That is a question I asked the AEC when I requested some information regarding the difference between declaration and absentee votes prior to abolition. They were to get back to me on that.

**Senator MINCHIN**—I want to ask you about 329A. You called for its abolition, which I am pleased to see. We had a discussion with the ALP about that. That discussion revealed that, while the ALP submission looked equivocal, there was a reluctance by the ALP to abolish that section—I hope I am not putting words in the ALP's mouth—if section 270 remained. Section 270 is that section, which I find very odd, that effectively allows preferential voting. Section 329A is there only because of 270. Garry Gray said that if 329A went, he was inclined to the view that 270 would also have to go. That is certainly something that I agree with. Has the Liberal Party formed a view on that?

**Mr Crosby**—I am forming a view as we speak. I understand the point, yes. It has always struck me as a strange provision. My immediate reaction would be to say, yes, clean the two out.

**Senator MINCHIN**—Your submission is also silent on a matter which is the subject of a number of submissions to us—that is, the removal of Australia's undemocratic system of compulsory voting. Do you want to just explain your position on that, because you do not refer to that matter at all?

**Mr Crosby**—As you would be aware, it is a matter of some debate within the party. There are two schools of thought. One is that the fundamental proposition that should drive it is a philosophical one—that is, should people be compelled to vote—and the second is that, in a democracy, shouldn't they be free to decide that right themselves. We have a more practical consideration—and that is, if you introduce voluntary voting, does that impose a whole range of other burdens like getting out to vote, does it impact on public funding for receipts and all those sorts of things? I think it is really an argument, when it occurs, of philosophy in the first instance versus practical implications in the second. But the Liberal Party's Federal Council, which is the national governing body, has on its books the resolution of support for voluntary voting.

**CHAIR**—The ALP made a recommendation that the prohibition on canvassing at special hospitals should apply only when polling has been conducted rather than at the time of the issue of the writ. Does the Liberal Party—

**Mr Crosby**—This is the Swan Cottage Homes?

**CHAIR**—They made a complaint on Swan Cottage Homes, but that was somewhat separate. They said that you should be able to canvass special hospitals throughout virtually—

**Mr Crosby**—Firstly, people who happen to be in special hospitals should not be deprived of communication from members of parliament, particularly in writing. They should be entitled to be exposed to that type of material. If they watch TV or listen to radio, they are going to have a political environment being exposed to them. What you must ensure though is that, if people are unwell and do not want to be hassled, they should not be hassled.

Having looked at the Swan Cottage Homes example, the question of where you draw an acceptable line of behaviour, our view is that many of these people in hospitals, nursing homes, are old and do not want to be heaved. So you have to protect them from that. But we have to ensure that they receive the same arguments in relation to the issues of an election as anyone else.

**Mr McDOUGALL**—If we just take that a bit further, there have been some complaints where a particular hospital was going to be a mobile booth and, because of the timing of the election called, it was then raided for postal votes. Do you see that there should be some control by the AEC—

**Mr Crosby**—What do you mean by ‘raided’?

**Mr McDOUGALL**—People just went in there on the Saturday morning and confused the elderly people in the place by wanting them to fill out application forms for postal votes knowing that the place was going to be a mobile booth closer to the election. That sort of thing was very disturbing to a lot of elderly people. Do you see that there should be regulations, without stopping them from getting information, to control that sort of thing?

**Mr Crosby**—I am always confused between state and federal acts, so you will have to excuse me. I was thinking of declared institutions under the South Australian act where there are some prohibitions on that. I would want to think about that. What we do have to minimise is people being exploited because of their age and because of lack of information. If people being are exploited by the ‘first in best dressed’ approach and are being misled as to what is going to occur later on, then I would have a concern about that.

There is obviously a responsibility on the part of the nursing home to ensure that the interests of their residents are protected. Those in charge of the nursing home should be making it clear to the residents that the opportunity will arise for them to vote at a mobile booth. Therefore, I am not sure how this situation can develop unless those distributing postal votes do not consult with the management of the nursing home and go in under the cover of darkness, with balaclavas on and postal vote application forms under their arms and try to get them completed and move on before anyone discovers them. It is my view that reasonable practice—even where you are looking to get application forms—is to introduce yourself to those in charge of the nursing home and tell them that you are visiting, even if they are aged homes where there is a cluster arrangement.

**Mr LAURIE FERGUSON**—Whilst it is thought that people can be intimidated to fill out postal votes, I would have a concern that these people have restricted access by the power of people who have a certain control over their lifestyle—the management. That would be a concern outside—that people are subject to their power, they live under their kind of central authority. To say that they should restrict access to parties—

**Mr Crosby**—No, I didn’t say—

**Mr LAURIE FERGUSON**—I am not saying you did. That would be the concern of the other side of things.

**Mr Smith**—My understanding of the ALP’s comments in regards to this matter is that there was some confusion over when canvassing in special hospitals would be allowed—whether it would be allowed before the gazetting of special hospitals. Some campaigns were using previously gazetted hospitals as some way getting an indication. I think what the problem highlighted was that at a grassroots level Divisional Returning Officers were making interpretations of the act which may not have been in keeping with

the intention of the act at all. This highlights the problem that at a grassroots level we can get varying interpretations of the act. The AEC needs to ensure that the training of its officers is at a level where these discrepancies are not allowed to occur.

Going back to the point about the conduct of the election, I think at a grassroots level there was some inconsistency, even in neighbouring electorates or neighbouring polling booths, about the application of the six-metre rule and those sorts of things. So I think the AEC needs to place greater emphasis on the training of its officers to ensure that there is a consistency of understanding the interpretation of the Electoral Act across the country.

**Mr LAURIE FERGUSON**—My understanding—and Mr Gray said he was unaware of this kind of problem—was that we had a situation where there was a very stringent reading of who can distribute electoral material during voting. In my electorate, the returning officer expelled both parties' helpers because it technically says that the actual returning officer will give out material.

**Mr Crosby**—That is right. I agree with you on that.

**Mr LAURIE FERGUSON**—I am not sure that that should be the way it operates.

**CHAIR**—There seems to be broad agreement that truth in advertising is desirable—understandably. But with regard to what happens in election campaigns, it seems that there is controversy at some stage. Do you think that there are practical ways of implementing it, at least in the election period, that are perhaps not dissimilar to what is used in the commercial world?

**Mr Crosby**—The commercial comparison is a difficult one because commercial entities are poised in a range of ways and have a whole range of criteria that apply to them and which cannot apply to a political party. In a sense we are a commercial operation. But we are not.

The whole participation of the voting process in a democracy is something that needs to be nurtured and encouraged, and a healthy democracy must necessarily involve an environment in which people are not afraid and do not feel intimidated to debate the issues. So you cannot have a rigidly legal approach to debate.

We certainly drew attention to the 1993 election when we as a coalition—the Liberal and National parties—felt that on many occasions our policies and propositions were being seriously misrepresented. There needed to be an improvement in the control of that. We drew attention, and I draw the committee's attention again, to the provisions within the South Australian Electoral Act that govern truth in advertising. You have to get the difference between healthy debate and downright lies.

I note that the Labor Party in its submission draws attention to the use of the Internet. I think the AEC, too, raises the issue of how to control the Internet and how that fits in with the current controls that apply. I agree that that needs to be investigated.

The former member for McEwen, Mr Peter Cleeland, at present is on the Internet. He is using the parliamentary crest and in effect is promoting himself as a member of parliament, although he does put in the dates at which he was a member of parliament. He has made some quite outrageous claims against people who supported our candidate at that election. If not in breach of the act, it is certainly a breach of certain provisions of the act in spirit, in my view. There is a need to return to this whole question of what is said and what is claimed and how you police it. The Internet is a new area that we have to investigate.

I draw the committee's attention to the South Australian provisions, which have worked effectively. Mr Cameron of the ALP knows only too well their effectiveness, given some of the claims he endeavoured to make in the lead-up to the 1993 state election in South Australia. Those provisions of the act were invoked and he was found guilty in the courts.

**CHAIR**—Do you think that the South Australian act is a reasonable model?

**Mr Crosby**—It is because it has been shown that it can work. I am not in favour of an obsessively controlled political environment where you have to go through the whole process of analysing everything that is said and done in a campaign. But there needs to be some bounds. From my perspective, the South Australian act sets some bounds and is worth looking at.

I acknowledge that there are practical problems. The courts have always taken the view that one cannot say that something is untrue historically, but one can be prospective in their claims about their opponent's policy for the future and can basically say anything. They argue that you do not know whether that is going to be the case or not, because they have not come to the fore. Therefore, you should be entitled to say anything. So it is a difficult issue.

**CHAIR**—The AEC has recommended that nomination deposits be increased to \$500 for candidates for the House of Representatives and \$1,000 for candidates for the Senate.

**Mr Crosby**—We would certainly support an increase in the nomination deposits. I do not think it is particularly substantial; I think it could go higher. The fact is that we cannot stand in the way of anyone who is wanting to run for political office. They should be encouraged to do so. But we have to minimise frivolous and vexatious claims and attempts and those that are of nuisance value. The reality is that \$500 does not buy you very much at all in terms of running an election campaign. If you cannot find the \$500 for

a deposit, you cannot run a campaign in which you come into contact with any voter.

**Senator ABETZ**—Although, there is one argument against that, and that relates to the fellow in New South Wales in the upper house. He had a campaign titled ‘A future for children’. I cannot remember his name.

**CHAIR**—The Labor Party argued that there should be more signatures on the entry form.

**Senator MINCHIN**—Rather than increase the deposit.

**Mr Crosby**—Instead of being ambivalent about it, one should be frank. Presumably they are saying that if you cannot get a decent number of signatures, then you cannot demonstrate that you have community support. That is probably a fair argument. As an election develops, the last thing you want is to be in a position of having to go through and check lots and lots of names.

I note that the Electoral Commission is seeking this 24-hour period from the close of nominations until the names are officially listed to enable them to check. If they then have to check a whole swag of names as well, it just becomes more difficult for them at a pressured time. We would support the 24-hour provision, provided—repeating the point we made in our post-1993 submission—that if there is a discrepancy that is established in that 24-hour period you have the capacity to rectify it.

**Mr LAURIE FERGUSON**—Would a combination of increasing the number of signatures and increasing the registration fee—less than \$500—be reasonable?

**Mr Crosby**—From our party’s point of view, we could live with an increase in both provisions. Obviously members representing some of the more widely flung electorates may have a concern about their capacity to get the required numbers of signatures and making sure that they are all eligible people and all that sort of thing. But with faxes and other technology these days, I do not think it is a major problem.

**Senator ABETZ**—Do you think that nomination fees for senators is reflective of the extra value of senators?

**Mr Crosby**—It gives them an opportunity to outlay some funds on public good, even if it comes back later.

**Senator ABETZ**—That has woken a few people up.

**Mr Crosby**—I thought it reflected salary differentials.

**Senator MINCHIN**—Can I ask you about the Pauline Hanson issue? The ALP put

something in their submission about that. I do not know that you refer to it at all. Was it a problem for the Liberal Party that you had a disendorsed candidate running as the Liberal candidate? If so, what was the nature of that and what, if anything, should we do about it?

**Mr Crosby**—It is a pretty difficult issue. I think you have just got to put up with it at the end of the day. If the ALP were trying to say that having ‘Liberal’ alongside her name in the electorate of Oxley was an advantage, then I think they are clearly mistaken, given the voting history of that seat. It is very difficult. Timing is critical in all this. If it was the case that the person had nominated, was well in advance of the close of nominations, they were rubbed out in the metaphoric sense by their party and there was still time to change the printing of all the ballot papers, then that would be okay. In fact, the party could then nominate a new candidate, presumably.

But this situation occurred, as I recall, after nominations closed. People had already started pre-poll voting and alongside Pauline Hanson’s name was ‘Liberal Party’. In those circumstances you have just got to live with it. It is one of those things that, once you open it up, a new question arises and then you have to change and change. It is better to say, ‘Yes, there is always going to be this sort of difficulty that occurs,’ but I think we just have to love it and leave it.

**Senator MINCHIN**—The solution, of course, would be to go back to the previous position when party labels were not on the ballot papers at all.

**Mr Crosby**—I am sure there would have been a lot of marginal Labor seat members who would have been very happy with that option last election.

**Senator MINCHIN**—But I do put it seriously.

**Mr Crosby**—So do I.

**Senator MINCHIN**—I have always had a philosophical problem—

**Mr Crosby**—I am sure Jim Snow would put it very seriously as well.

**Senator MINCHIN**—There is a good argument against having party labels on the ballot paper.

**Mr Crosby**—I think that, if you nominate on behalf of a party, you wear that on your sleeve and on your ballot party.

**Senator MINCHIN**—So you would not want us to entertain the possibility of recommending removal of party labels from the ballot paper?

**Mr Crosby**—No, we are quite happy with the status quo.

**Senator MINCHIN**—Have you had a good look at the ALP's submission?

**Mr Crosby**—I have had a look. Someone said to me that they had worked out why the Labor Party had lost: because Mr Gray spent all his time writing letters to the Electoral Commission. There seem to be a lot in the attachments. I have looked at their summary document, but not at all the attachments.

**Senator ABETZ**—He did not have to talk to Paul Keating, so he did have a lot of time.

**Mr Crosby**—He could not get through on the phone.

**Senator MINCHIN**—On disclosure and funding, I must say, there is a reasonable level of agreement between parties which the committee will take note of. The ALP also expressed its concern about the location of AEC offices and MP's offices. I pointed out to Mr Gray the situation in Makin with Mr Duncan alongside the DRO there. Their complaint is about Kooyong, I think. Do you have a view on what, if anything, we ought to do about this issue?

**Mr Crosby**—Kooyong was always a chance for them that they missed out on, of course. Having looked at it Australia wide there are, in fact, more seats—or were, until the last election—where Labor members had offices directly adjacent to the Electoral Commission, including their leader, Kim Beazley, who, as member for Swan for many years, and sometimes controversially, had been located right next to the electoral offices. Gary Gibson in Moreton, Michael Lavarch, Peter Duncan in Makin and, as you have said, Paul Elliott in Parramatta. They were fortunate.

**Senator MINCHIN**—Literally right next door?

**Mr Smith**—Yes. Frankly, you say they cannot be next-door: can they be above? Can they park a caravan out the front? It is another one of those issues where, for a short-term political gain sometimes an individual electorate says, 'We ought to do something.' But I think it is one of those you have just got to let lie.

**Senator MINCHIN**—In the context of your side now having a lot of these situations where your actual electoral offices are near AEC offices, do you think there might be a suggestion that the AEC be asked in future—which is not going to hurt your side of politics—to consider this in the way they locate? Doing nothing about the current situation.

**Senator ABETZ**—Is it they that locate in history or MPs thinking there might be—

**Mr Crosby**—They locate when there are redistributions. Obviously, even in the



short-term that is going to have implications in Western Australia and Queensland where there will be 40 new divisional electoral offices if the boundaries are significantly changed, because they will make the change. They may not all change, of course. I, frankly, do not see it as a particularly significant issue, for the same reason that I do not have a problem with people having electoral material on or adjacent to the forms for postal votes.

**Mr LAURIE FERGUSON**—You did make an inference about the leader of the opposition—and I think it might be valid—that people do see the MP on whichever side of politics as being connected with government and authority. I am not suggesting for a moment that tomorrow morning we—

**Mr Crosby**—I think it is swings and roundabout stuff, though, really. Sometimes that would be good for you and sometimes it would be bad. For some people the last thing they want to be is connected with government.

**Senator MINCHIN**—It can lead to the appearance of prejudice to the impartiality of—

**Mr Crosby**—I do not think it is something that ought to be in the—

**Senator MINCHIN**—No, but it could be that we as a committee—

**Mr Crosby**—Surely the Electoral Commission would apply its own assessments to these things now and say, ‘Well, it doesn’t look good: there is a Liberal state member on one side and a Liberal federal member on the side or a Labor state member and a Labor federal member. This is not conducive to our integrity or impartiality.’ I think it should be a matter for them and you should ultimately always ensure that you have people in the commission about whose judgment you are comfortable.

**Senator MINCHIN** - This committee could recommend to DAS and the AEC that they work closely together to minimise the extent to which the AEC and members’ offices are collocated. That may be as far as we want to take it.

**Mr Crosby** - I would hate a situation arise where every time someone moves next door you had to spend hundreds of thousands of taxpayers’ funds to relocate.

**Senator MINCHIN** - Sure.

**Mr LAURIE FERGUSON** - Again on registration, we were talking about passports, et cetera, but could you speak a bit more about cross-checking details with the electoral roll and state government utilities, et cetera? My concern is, again, Kalgoorlie and the Northern Territory where the level of penetration by Telstra is far less than the rest of Australia. So people are not going to have telephone bills. If you look at the

figures, both Kalgoorlie and the Northern Territory have a high proportion of people who are not permanent residents. Do you want to elaborate on that?

**Mr Crosby** - This is where those who are transient in their behaviour are helped because Australia Post, for example, maintains a very detailed database of redirections. It seems ironic that you have one arm of government, the AEC, trying to police where someone lives now, whether they still live there and so forth, and then you have another arm that already has a lot of that information. So if Graeme McDougall moves - over 70 per cent of people do redirections - Australia Post has all that information.

**Senator ABETZ** - What about privacy conditions?

**Mr Crosby** - Australia Post already has the information, so I am sure they can protect the integrity of people's privacy, unless they are CEP Union voters, in which case they do not seem to be too protected. As a political party, we view the integrity and the use of the Electoral Act very seriously. There is a lot of information, even such as it is in its limited form, that could be of commercial value, as others have seen. When we get the electoral roll we give an undertaking that it is not to be used for commercial purposes, and we are very strict about that. What we are talking about here is within the government. Yes, it could be commercially valuable and, yes, it has privacy implications, but we are not suggesting that it be broadcast or published. If fundamental to a democracy is a well-worked and effectively operating voting process with accurate electoral rolls, then any steps available to the government to ensure the accuracy of those rolls ought to be explored, and we recommend looking at this as a possibility.

**Mr LAURIE FERGUSON** - You have asked for tightened requirements in witnessing and you have just said that 70 per cent of people apparently have this contact with Australia Post.

**Mr Crosby** - That is my recollection of redirections.

**Mr LAURIE FERGUSON** - That is a fair bit short of 100 per cent - 30 per cent is a very significant proportion of the population who might have difficulties. The penetration of Telstra is far less in the Northern Territory and remote Australia. Once again, I would put to you that, if this is to be considered, there should be a substantially wider -

**Mr Crosby** - They were possibilities that we thought existed. If there are others of which anyone is aware, perhaps they ought to be investigated too.

**Mr LAURIE FERGUSON** - Could you expand upon 'increase the level of scrutiny of details provided to the AEC during habitation reviews'?

**Mr Crosby** - I can knock on a door and Mr Cobb can say he is Barry Smith and I

walk away. He does not have to show me that he is Barry Smith.

**Mr LAURIE FERGUSON** - What do you want us to do?

**Mr Crosby** - Again - I think we discussed this at previous hearings - there should be some device with his name and address on it.

**Senator ABETZ** - Or a driver's licence.

**Mr Crosby** - Yes, or even a couple of accounts. There are a range of things that are quite acceptable for other purposes in the community and that is all we are saying. I recall one other Liberal Party staffer, at an earlier hearing, making the point that he had been at a friend's house when the AEC person had doorknocked. The AEC person said, 'Are you so-and-so?' and he answered, 'No,' and went to get the person. That person was then asked, 'Are you so-and-so?' and he said, 'Yes, I am.' Then off the AEC person went. There was no check. He didn't even use his Mawson Video 2000 membership card to verify whether he was the person he said he was.

**Senator MINCHIN** - I think the problem with habitation reviews at the moment is that the focus is on maximising the number of enrolments, not checking the actual accuracy of those who are enrolled. It is the culture of the undertaking of reviews that I think you have to look at.

**Mr Crosby** - Yes. It is a difficult issue for the commission because it is a large task.

**Senator MINCHIN** - It would be made a lot easier if we had adequate enrolment with ID at the first -

**Mr Crosby** - It would be a lot easier if we improved the enrolment provisions.

**Senator ABETZ** - Was there any evidence of push polling?

**Mr Crosby** - There was in the Queensland state election.

**Mr LAURIE FERGUSON** - Concerning privacy, you heard earlier Mr Dondas's claims - I think you were here.

**Mr Crosby** - I was not here.

**Mr LAURIE FERGUSON** - His claim was that he approached the AEC and received what is strictly confidential material regarding voters. Would you respond to that? If this is sub judice, fair enough, but could you give us an update on this matter of

Datasearch Queensland and all this type of stuff?

**Mr Crosby** - I will give you a very limited response on Datasearch.

**Mr LAURIE FERGUSON** - Is it still sub judice, or is it all over?

**Mr Crosby** - As I understand it, the matter is still before the courts, but I have not been following it closely in recent times. There were a couple of newspaper articles that discussed the issue involving Datasearch and other individuals and entities. We heard of this particular matter first in the media. We had investigated it from our point of view, because there was some suggestion of an involvement; there is none on our part. We have had no inquiries from the Australian Federal Police, the Electoral Commission or anyone in authority, because they have no concerns about whether or not the Liberal Party was involved in this. It has nothing to do with the Liberal Party. It is a commercial matter. Some claims have been made in court. I think it will resolve itself in court. I had better leave it at that.

In relation to the Dondas issue, during the election we were aware that in the Northern Territory claims were made about date of birth information being obtained. Since then, there has been an inquiry in relation to that and the Australian Federal Police have been involved. We have ensured that, where we or any contractors operating on our behalf have been involved, there has been full and open participation with that inquiry. I think the inquiry is still going, but the point I make is this: firstly, there is a bit of crying wolf in all this because, as I understand it, the Labor candidate in the Northern Territory wrote an age specific letter that seemed to go to only those people of the relevant age; namely, older people.

Secondly, in Victoria the Labor Party have boasted they have date of birth information for something like 50 per cent of people, and the sources of that information one can only speculate, given that it is no longer collected on their poll file system. To avoid all these sorts of claims and concerns, I think we should go down the route that we are advocating; that is, the best way for political parties and members of parliament, who have an obligation to communicate effectively with and represent their constituents, is to know some base information about their constituents. People in an electorate may have a particular concern following the budget, and whatever party would be very interested in communicating to them the implications for a particular age group of, for example, an initiative, good or bad.

We have a situation now where MPs and parties have a very limited capacity to communicate in a more effective way, so they have to always deal with broad messages or they cannot get to people who have a particular concern that needs to be addressed. So my response to all the debate about this issue is: let us have a system which has worked well. I am not aware of any circumstance where any political party has been found guilty of breaching the provisions under which it is provided the electoral roll. Quite strict

provisions are provided for in the Electoral Act. We sign off on the conditions in the treatment of the roll we receive.

All political parties have shown to date that they are responsible in dealing with the information they currently receive. We have anomalies in Queensland and elsewhere where there is a hangover. I think Senator Minchin said date of birth information used to be available in South Australia. Some states have date of birth information and some do not. I think a much more effective system that would enable things to be properly policed and would enhance communication between members of parliament, a registered political party - only registered parties get the roll - and their constituents would be for gender, date of birth and salutation to be provided.

**Mr LAURIE FERGUSON** - You have indicated the view that the Datasearch-AMP allegations are a dead waste of time, but -

**Mr Crosby** - No. What I am saying is that they have nothing to do with the Liberal Party and that the connection between the Liberal Party and Datasearch - I have to be very careful here because it is before the courts - is a matter that was raised by a participant who is subject to prosecution. I could, if I was in a position to, go chapter and verse on all that. All I can tell you is that it is a commercial matter, the court will run its course, and we have had no inquiry from the Federal Police, the Australian Electoral Commission or any officers of the court with regard to the involvement of the Liberal Party in this matter or of its contractor, who happens to be Datasearch, who acts on our behalf with regard to the electoral roll that we as a registered political party receive.

**Mr LAURIE FERGUSON** - Accepting all that, why can't the public still be concerned that some of this information - a good example being age - is commercially relevant to companies and there is that potential interest?

**Mr Crosby** - They can be concerned but the reality is that, if you give it under strict rules to a political party and a member of parliament, then I think you can be well satisfied, based on previous experience and on the fact that members of parliament are elected representatives who have a responsibility to communicate with their constituents and they are entrusted by their constituents to do that, then surely they can be entrusted to know, for example, their constituents' age.

**Mr LAURIE FERGUSON** - Whether someone is male or female might not be that commercially relevant - it has some importance - but you are suggesting a scale of increase.

**Mr Crosby** - Hang on. No, it used to occur. It occurred for 18 years - and occupation was also available in Queensland. I was the state director of the Liberal Party in Queensland for the best part of three years. I never had a complaint from one member of the public about having been written to with a message that we knew would be relevant

to them because we knew their age and therefore we could help them better understand government policy by dealing direct with them rather than giving out just some broad, general message.

**Mr LAURIE FERGUSON** - I put it to you that what happened in 1923 in regards to marketing potential and expertise in contact through advertising, et cetera, is not the situation in 1996. This material can be far better utilised now.

**Mr Crosby** - All of that is true, except that the Electoral Act makes it clear you can use the electoral roll for only certain purposes. We would be quite happy for the penalties to be magnified as much as you want. You can send me to gaol if you want to - and you might; you might not, too. I think the key is to make sure the penalties reflect the crime, if you like. Penalties are already there. Strict guidelines apply. I am very comfortable with those being increased.

**Mr McDOUGALL** - With my being a Queenslander and being in another role for nine years in a local government electorate, I would just like to comment on that. I never received a complaint from a constituent because I directed specific information based on their age. I have received a lot of complaints over the years because I got their gender wrong and have actually insulted people. As we have considerable change happening in our society with regards to immigration in relation to names, it is getting more and more difficult to be able to be correct in relation to gender. I think it is insulting not to be correct.

**Mr LAURIE FERGUSON** - You were saying that in that capacity I gather you were undertaking actions on behalf of local governments, were you?

**Mr McDOUGALL** - It was local government.

**Mr LAURIE FERGUSON** - I don't have a problem with government authorities writing to people in the context -

**Mr McDOUGALL** - No, it was political. I was an elected member.

**Mr LAURIE FERGUSON** - What I am saying is that I am concerned about its use by private corporations.

**Mr Crosby** - We agree entirely. It is presently excluded. We would support any tightening of the provisions that people felt were necessary.

**Mr LAURIE FERGUSON** - To give you another example - it came from our side of politics as a matter of fact - I would have concerns if candidates gained access to who has dogs in the electorate and writing to them in regards to the GST price of dog food, for instance.

**Senator ABETZ** - It would have gone down. There is a 22 per cent sales tax on dog food. It would have gone down.

**Senator MINCHIN** - At the moment the penalty is only \$1,000. You could make it a criminal offence to use it.

**Mr Crosby** - Prohibit them for 10 years from ever handling electoral rolls again. Do whatever you want.

**Mr NAIRN** - The other example is that many of the rolls list occupation. If anything was going to be used commercially in a marketing sense it would be people's occupation before their age, in a more global sense. That has been the case for a long time as well. There is no evidence that I know of of complaint or abuse in that area.

**Mr LAURIE FERGUSON** - Where is occupation listed?

**Mr Crosby** - It used to be. It is no longer -

**Mr NAIRN** - It still is in some states.

**Senator MINCHIN** - In Queensland, but it is retained on old rolls that you can carry forward.

**Mr Crosby** - I recall reading an article where an entity that was employed by the Labor Party in the lead-up to 1990 did massive telephone canvassing of 23-odd federal seats and gained all this data anyway. We have never had cause to be concerned that the Labor Party clearly has this information on those seats. We have never had cause to complain about their misuse of it.

**Mr LAURIE FERGUSON** - What's the claim? What did they say when they rung up? How did they do it?

**Senator ABETZ** - They were polling what age group you fit into, I suppose.

**Mr Crosby** - They ring up and say, 'I am calling on behalf of Laurie Ferguson, the outstanding member for your local area. He is keen to know more of your views on these issues. By the way, how old are you and what do you do for a living and how did you vote last time?'

**Mr LAURIE FERGUSON** - They are indicating where they are coming from. I don't think that is what we are talking about here. We are talking about the potential of this information to be provided to the public sector for advertising purposes. I think it is a little bit different.

**Mr Crosby** - Yes, it has a commercial advantage. The private sector can already obtain information in a whole range of ways, merging census data with the electoral rolls - you can do all sorts of things, which they do. There is a commercial benefit to them in having a name and address but there are conditions applied under the Electoral Act. We think political parties have behaved responsibly in the past. We, as the Liberal Party, take very seriously the obligations we have to control the usage of the electoral roll and we think we could improve communication with constituents and therefore better represent them in a democracy, which is so important, if we had that information.

**CHAIR** - We might check with the Electoral Commission what transgressions have occurred in the past when that information was available. Thank you very much for your attendance, Mr Crosby and Mr Smith. We are appreciative of your attendance.

**Mr Crosby** - If there are any matters you want to come back to us on at a later stage, we would be more than happy to respond as you would wish.

Resolved (on motion by Senator Minchin, seconded by Mr Laurie Ferguson):

That the document tendered by Mr Gray be authorised as an exhibit to the inquiry.

Resolved (on motion by Mr McDougall, seconded by Senator Abetz):

That this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 12.28 p.m.**