COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON

ELECTORAL MATTERS

Reference: Conduct of the 1996 federal election

CANBERRA

Monday, 18 November 1996

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Members:

Mr Cobb (Chair)

Senator Conroy (Deputy Chair)

Senator Abetz	Mr Laurie Ferguson
Senator Minchin	Mr Griffin
Senator Murray	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

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Conduct of the 1996 federal election

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Monday, 18 November 1996

Present

Mr Cobb (Chair)

Senator Conroy	Mr Laurie Ferguson
Senator Minchin	Mr Griffin
	Mr McDougall
	Mr Nairn

The committee met at 10.40 a.m.

Mr Cobb took the chair.

MELHAM, Mr Daryl, 6 Blamey Street, Revesby, New South Wales 2212

CHAIR—I declare open the seventh 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 Mr Daryl Melham MP and the AEC. We have received from the AEC two new submissions, dated 14 November, on matters raised at the public hearing of 25 October and on the implementation of truth in political advertising. We have also received a supplementary submission, also dated 14 November, from Mr George Johnson.

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

That these submissions be authorised for publication.

CHAIR—I now call upon the first witness to give evidence. In what capacity do you appear?

Mr Melham—I appear in a private capacity to give evidence before the committee.

CHAIR—We give you, as a former member of this committee, a special welcome.

Mr Melham—Thank you.

CHAIR—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. A 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 to your submission?

Mr Melham—No, there are not, Mr Chairman.

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

Mr Melham—Thank you, Mr Chairman. I have just had the benefit of quickly perusing the supplementary submission by the Australian Electoral Commission that you have just released publicly this morning, and I see that the Australian Electoral Commission supports my proposals to amend the Commonwealth Electoral Act.

Basically, the proposals that I suggest the committee take on board will overcome, I think, what is an anomaly at the moment in a sense. Certainly the Electoral Act is very

specific, but I do not believe it was the intention of the parliament or indeed the Electoral Commission to disenfranchise voters. We have a situation where there are 146 electoral divisions in Australia at the moment. As a result of the abolition of subdivisions through the 1990s, there is a safety net provision so that any elector who moves within a particular division now will have their vote reinstated at a Commonwealth election. If their name is taken off the roll and they fill out a provisional declaration form and it is found that they still reside within the division, their vote gets reinstated.

The only exceptions to that now are the Northern Territory, where there are 25 districts, and the district of Cocos (Keeling) and Christmas islands. That is really as a result of a joint roll arrangement. Also, in Kalgoorlie we have two subdivisions. The subdivision in Kalgoorlie in the north is really for enrolment purposes.

I have no objection to the joint roll arrangement, and I have no objection to that extra subdivision in Kalgoorlie. I have spoken to the member for Kalgoorlie, Mr Campbell, and he supports my submission; that is, that the electors of Kalgoorlie and the electors of the Northern Territory should be treated the same as every other elector in the country. That can now be done only by an amendment to the Commonwealth Electoral Act, and that is what the challenge to those 1,594 provisional votes was about in the Northern Territory. In effect, the High Court, sitting as the Court of Disputed Returns, held unanimously—this is at page 10:

> Mr Snowdon's complaint is that an elector who moves from one District to another within the Northern Territory without transferring to another Roll should not thereby be disenfranchised and that this would not happen anywhere but in the Northern Territory (or Kalgoorlie). The complaint is understandable but the issue presented to the Court is a legal one, to be answered in terms of the Act.

The court held that the provisions of the act were too specific, that there was no other contrary intention that could be found, so those 1,594 voters were disenfranchised.

It is interesting that, even as the act stands at the moment under section 79(1), technically the Electoral Commissioner does not require in the Northern Territory or, indeed, Kalgoorlie an electoral amendment to the act. Section 79 says that the Electoral Commission may, by notice published in the *Gazette,* divide a division into such subdivisions, if any, as specified and has set out the boundaries of each subdivision. They have chosen not to do that for electorates other than the Northern Territory or Kalgoorlie. The 'may' proviso, I think, does apply also to the Northern Territory. Technically, what they could do is say at the next election, 'We are not going to divide the Northern Territory into districts.' But that would then destroy the joint roll arrangement.

It is my view that the legislation should be amended to specifically say that we will continue with the joint roll arrangement but there should not be that disenfranchising of voters. The reason I say this, Mr Chairman, is that in my view the qualifications for electors or the right to vote should be uniform throughout the whole of Australia. The

reality is under section 122 of the constitution—and what this case also confirms—that territory voters are second-class citizens and also the right to vote, which we get under section 41 of the constitution, does not extend to territories. Indeed, pages 12 and 13 of the judgment are worth quoting. The court says:

The protection of a right to vote contained in s 41 of the Constitution does not avail Mr Snowdon. To begin with, it relates only to the right to vote in a State.

It then cites Brennan in Muldowney v. Australian Electoral Commissioner. It says:

[A] right to vote in an election for the Senate or the House of Representatives now depends entirely on the Act.

I am saying to you that what has happened as a result of the joint roll arrangement is that we all forgot about the impact of keeping those districts that then become subdivisions, and 1,594 people have been disenfranchised.

I seek to table before the committee a table that I asked the Electoral Commission to prepare. I understand the secretary has copies of that table which is a breakdown of provisional votes throughout the whole of Australia. This will show that what we should be about is allowing as many votes into the pool as possible—enfranchisement, not disenfranchisement. The abolition of subdivisions, if you look at the end of the table, has resulted in the column APS—admitted provisional scrutiny. So there were 88,808 votes at the last federal election that were reinstated into the count. When they went there and when there were subsequent checks, they were found to stay within the division—and so their vote was reinstated.

In the Northern Territory you still had some because, in the Northern Territory, if you stayed within your district or subdivision you got reinstated. So 1,257 got reinstated but where they fell foul was if they went from one district to another. Given the nature of the Northern Territory, that is why there were 1,594 extra votes that could have been admitted but for those subdivisions.

CHAIR—We might just pause there to incorporate this table in the transcript of evidence. Is it the wish of the committee that the document be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The document read as follows—

Mr Melham—The reason I had that table produced, Mr Chairman, is that in the submission to you dated 23 October from the Australian Electoral Commission they said at paragraph 7.5 that this committee might give consideration to the underlying policy question as to whether declaration votes should be continued to be reinstated.

My view is that you should give that consideration but you should endorse the current practice, which is that there is a safety net that, if people move within a division, their vote is reinstated. The second column is the number rejected at provisional scrutiny. So there are 88,587 votes that are rejected. Those votes that get rejected are voters who actually move from division to division or have enrolled too late, and I am sure there are other factors as well. Then there is the third column, part admit, and there are 17,024 of those votes. The partial admission are votes that are admitted to the Senate count only. Those votes should, in my opinion, still be readmitted. They are voters who move from one division to another. They might go from Banks to Blaxland, so they will lose their House of Representatives votes because they have not moved within the division, but their Senate vote is counted because they are still in the state.

My view is that that practice should continue. That does not require any extra legislation, but that is what partial admission is: those that were extra votes and were included for the Senate vote. I would argue that the principle is that what has happened in the Northern Territory, I do not believe, is intentional. What has happened in Kalgoorlie is not intentional. Also, given the nature of the Northern Territory—the large indigenous population and the fact that people do move—I think you should, as a committee, consider changing the Electoral Act.

I notice that Mr Dondas, after the High Court decision, was quoted on AAP as saying that, if there is an anomaly, then obviously it should be rectified. What I am saying to you is, if you recommend changes to the Electoral Act, then you can at least quantify that 1,594 extra people would have got a vote. So I would strongly urge that on the committee.

The other question, with your indulgence Mr Chairman, and I am happy to answer questions, is to do with Norfolk Island electors. I was on the House of Representatives Standing Committee on Legal and Constitutional Affairs that reported in March 1991 and our recommendation was, at that time—

CHAIR—We want to deal with that separately, after we have asked questions on this. That might be the best way to go. Just before we get into questions, what was the source for the figures?

Mr Melham—The Australian Electoral Commission. What that shows is the safety net provision, moving within divisions, and 88,800-odd votes is a lot of votes to reinstate. My view is that that principle should be maintained and it should be extended to the Northern Territory so that anyone who moves within the Northern Territory should be able

to be treated. Technically, the other way of solving the problem is if the Electoral Commissioner were not to proclaim districts. I think that is unsatisfactory because that would then have consequences. I think there is a benefit for the joint roll arrangement and I think there is a benefit in enrolling people into districts because they then assist in terms of the Northern Territory elections. The unintended consequence is that we have had 1,594 people lose a vote.

CHAIR—Have you had an opportunity to discuss your proposal with the Northern Territory electoral office?

Mr Melham—Not with the Northern Territory Electoral Office themselves. I have read the submission of the Australian Electoral Commission. My view is that the interest of the Northern Territory Electoral Office is the joint roll arrangement and the Australian Electoral Commission enrolling people into districts. Under my amendments, we still have that. I cannot think that they would oppose my proposal. I am saying we keep the joint roll arrangement. We still allow the Electoral Commission to enrol in districts because it is part of the joint roll arrangement but we have a provision that, at the moment, the way the Electoral Act reads is it is those rolls for each of the districts that make up the division. So I cannot see how the Northern Territory Electoral Office could argue against us. Really it is up to the federal parliament to determine for the purposes of federal elections.

Senator MINCHIN—What about the member for the Northern Territory? You mentioned that you had seen some reference to what he said, but have you talked to Mr Dondas?

Mr Melham—We have had some informal discussions. Mr Dondas's view is, like all of us, that he is not frightened of people getting the vote. In fairness to him, we have had some private discussions and I do not think it is appropriate that I reveal them.

Senator MINCHIN—Fair enough.

Mr Melham—I personally do not think that he would have any problem. I think it would be very hard for any member of parliament anyway to be arguing, 'My electors should be disenfranchised compared to other electors.' In fairness to him, I do not think he is unsympathetic to what I am saying.

CHAIR—Are you aware whether this was a problem in other electorate divisions before subdivisions were abolished?

Mr Melham—It was. This was a problem for all of us until subdivisions were progressively abolished throughout the 1990s when we just created divisions. When I used to have the electorate of Banks with a Padstow north subdivision and a Panania north subdivision, or whatever, all those people who moved from one subdivision to another all got knocked out. When I went to scrutineer in the Northern Territory after the last federal

election, I saw what the Electoral Commission was doing and I said, 'Hang on, in my electorate, all these people got reinstated as long as they remained within the division.' So this happened to all of us. It is now not a problem because, in 146 electorates, the subdivision is the division—there are no subdivisions, there are no districts.

CHAIR—Do you know why it was not addressed back then when it was a problem? It would have been for many elections.

Mr Melham—I just do not believe that people's minds were drawn to it at the time, to be honest with you. As I say, I believe this is not an intentional consequence by the Electoral Commission to disenfranchise people. The act is fairly specific and it is specific in relation to the Northern Territory because of the joint roll arrangement. The other problem for the Northern Territory is that they are a territory, not a state, so they only draw their entitlement to vote out of the provisions of the act. The act is so specific because it was aimed at the joint roll arrangement. What I say to you is that we did not legislate to abolish subdivisions, the Electoral Commission did it of their own volition because the act itself says that they may.

Senator MINCHIN—It was amended to allow them to do it.

Mr Melham—Yes—that is the point—and they have done everywhere but Northern Territory and Kalgoorlie. I have no problem with the joint roll arrangement. I have no problem with a subdivision in the northern part of Kalgoorlie for enrolment purposes, but I do have a problem that people are losing their right to vote in those electorates, where they are not anywhere else.

Senator CONROY—Concerning the joint roll arrangement, there seems to have been a police investigation into how Mr Dondas obtained information through the—

Mr Melham—But that is a separate issue, Senator Conroy. My understanding is that the allegation—and I understand that has now been finalised—was that he obtained information in relation to—

Senator CONROY—Age, I think, it was.

Mr Melham—Age or whatever, and that he might have got that from another department, not from the Electoral Commission. The joint roll arrangement is a separate arrangement.

Senator CONROY—You are saying that you are happy with the joint roll arrangement as it stands at the moment.

Mr Melham—Yes.

Senator CONROY—In the light of these claims and allegations, would you continue to be happy if there were something substantial that came out of that police inquiry indicating a lack of integrity in the department, in the Premier's ministerial responsibility?

Mr Melham—I think that is a separate issue. I think that is a question of privacy matters and whether you release particulars in relation to individuals. The joint roll arrangement is something that all we are doing is, for Northern Territory purposes, utilising resources. When I was on the joint standing committee in the parliament before last, we had an inquiry into sharing of resources. We went around the countryside and we heard what happened in the Northern Territory, Western Australia, whatever. My experience is that the Australian Electoral Commission is far and away the most professional organisation in this country when it comes to electoral matters.

The state electoral commissions will tell you how great they are, but we only have to look at what happened in New South Wales recently, because they do not have full-time officials. I think that is a separate issue. This is just about getting people on the roll.

I am sure that part of the problem is the way our federal system operates. There is a lot of confusion. The benefit is that we are getting them on the federal electoral roll by a joint roll arrangement. We are also accurately getting them on the territory roll. I think there is a lot to be said for keeping it. Those other allegations relate to information. My understanding is that the allegation is that that information did not come out of the Electoral Commission.

Senator MINCHIN—Senator Conroy is just trying to use your evidence to make cheap political points.

Senator CONROY—No, he is going to be raising it with the Electoral Commission next.

Mr Melham—I believe it is a separate issue. I have come here because 1,594 people have not been included in the count. The High Court, sitting as the Court of Disputed Returns, has determined it. I do not believe it is the deliberate intention of the Electoral Commission to disenfranchise them. I do not believe it is the deliberate intention of this parliament and I do not believe it is the deliberate intention of Mr Dondas, the current member, that they continue to be disenfranchised. I think the signal we send is that, as far as the federal parliament is concerned, we are interested in a uniform franchise, we are interested in all electors being uniformly dealt with in terms of their entitlement.

Senator CONROY—I want to clarify this, just for your information, by reading a quick paragraph from Mr Gray's press release. It says:

Mr Gray said the AFP investigation has shown that the computer cartridge containing the date-of-

birth information was transferred to a Brisbane based data management organisation called Feedback Services from the Department of the Chief Minister by a person or persons unknown.

That is the department which administers their electoral roll rather than an independent like New South Wales or the AEC. So it is not completely separate in the way the other states handle it.

Mr Melham—We have provided them with the information and then it has been passed on. The reality though is that, with the greatest of respect, that information would have been accumulated anyway independently, even if there was not a joint roll arrangement, and it could have been passed on as well. The same problem would have occurred. It is the recipient using information. If there was no joint roll arrangement, I would assume that the Northern Territory would have had enrolments where they required people to put their date of birth and other particulars on it and it still would have been passed on. Whoever released that information has to answer for that, not the Electoral Commission.

Mr LAURIE FERGUSON—Cocos Island and Christmas Island are not in the Northern Territory elections, are they?

Mr Melham—No, they are not. They are territories of the Commonwealth, so they vote federally.

Mr LAURIE FERGUSON—So, on the way through, we do not have any complications involving them by changing the other 25—

Mr Melham—My view is that they would still remain distinct subdivisions, unless you wanted to change them.

Senator CONROY—Within which electorate are they?

CHAIR—The Northern Territory.

Mr Melham—They are Commonwealth electors. They are subdivisions.

CHAIR—So the 25 applies to the mainland.

Mr Melham—There are actually 27. There is Cocos—

Mr LAURIE FERGUSON—You said 25 before this—

Mr Melham—No, there are 25 on the mainland plus two others—Cocos and Christmas. They are dealt with differently. Section 79(2) specifies that they shall be distinct districts.

Mr GRIFFIN—The figures are particularly glaring. Those rejected totalled 2,529. Just looking at the comparison of those rejected, we see that is basically double that for any other electorate in Australia. Not only that, but also normally you would get this movement across divisions more often in metropolitan areas because of the distance. When you compare it with larger geographical divisions throughout the rest of Australia, it is at least five times the situation in seats like Mallee or—

Mr Melham—Mr Chairman, with your indulgence, the Electoral Commission, in their submission to this committee of 29 July, points out in paragraph 4.10.9 that, where the national divisional average for rejection of provisional votes was 39.63 per cent, in the Northern Territory it was 67.13 per cent.

CHAIR—One and three quarters.

Mr Melham—The reason I am coming before you now is that it was taken through the Court of Disputed Returns and it is now a matter for the parliament. Basically the court has said, 'We understand your argument but we are bound by the act. It is now a matter for the parliament.'

Senator MINCHIN—It does raise this very interesting question, as highlighted by the commission and by Chief Justice Brennan's comments, about this whole policy issue. I presume that you, personally—

Mr Melham—I sat through it.

Senator MINCHIN—Did you?

Mr Melham—Yes, I went down to the High Court. I think the Electoral Commission is overstating his concerns. Certainly he raised questions about the policy—

Senator MINCHIN—You think he just appeared surprised rather than—

Mr Melham—No, I think he was trying to grapple with the concepts, and I think Dr Kenny, who represented the commission, responded very well when she talked about it being a safety net provision. I do not think he was questioning it. I think, like anything, he was testing the basis for it or philosophy behind it. So that is where I think it is an overstatement. I understand why the Electoral Commission have raised it. That is fair. He did ask about what is behind it.

Senator MINCHIN—It is legitimate, I think, to raise the policy issue. It is a requirement of enrolment that you have a correct address. These people have been knocked off only because they are no longer at their address, so they are incorrectly enrolled. It is an offence, in fact, not to be correctly enrolled. A lot of these people are guilty of an offence under the act, yet we do admit all their votes back in. I think it is a

legitimate policy issue.

Mr Melham—What also happens, Senator, is that some of these people have never changed address but they have never responded to correspondence from the Electoral Commission or whatever. There is a combination of factors as to why they are taken off the electoral roll, and that may be part of it. As I say, the mistake of fact—this is in the submission from the Electoral Commission—is that they have moved from the division. The reason they get reinstated is that, the way the act is, they are within the division. If they move from the electorate of Banks to the electorate of Reid, they get knocked out. Their Senate vote will still count because they have initially been on the roll and they have that right to vote, and that is addressed in the High Court's judgment. They retain that right. The judgment is worth quoting:

. . . the provision does not prescribe a qualification to vote. It assumes the existence of a right and ensures that the right is not taken away[31]. In any event the practical effect of s 41 is now spent[32].

Then they go on. You lose all your votes, for instance, if you leave the division of Banks and go to Victoria and do not get on the roll.

My view is that it is a good principle. We are not alleging that these people do not exist. It is a safety net. The Liberal Party has forever said that we have to cut through the red tape. This is one way of cutting through the red tape, and that is why I have produced these figures. It is a matter for this committee. If you say, 'If you move anywhere, you've got to do these things or lose your vote', then 88,800 people are going to lose that safety net provision. Frankly—

Mr GRIFFIN—More than one complete electorate.

Senator MINCHIN—Alternatively, they might be more motivated to make sure their enrolments are, in fact, correct. If they know that the risk is they will lose their entitlement—

Mr Melham—We are politicians. We have a level of interest in the system. The key question here is the integrity of the roll. I am saying to you that this does not diminish the integrity of the roll. If someone moves up the street, then, frankly, I think there should be a safety net provision. If they have not moved outside the division, they should have a safety net provision that allows them to have their vote reinstated. It is a cleaning of the roll. We have roll reviews, as I understand it, mid term now. The Liberal Party, quite rightly, is interested in the integrity of the roll amongst other things. It is like the Langer provision.

One of the reasons we had the Langer provision put in was that people in nursing homes who were old and decrepit made mistakes and we wanted to make those votes formal. That is now being abused. I think the only way to overcome that is to remove not

only the advertising prohibition but also the formality provision. So Langer will not go out now and advocate the vote because it will be an informal vote. Instead of saving 60 to 100 votes, as it was, we ended up having 40,000-odd, I think the figure was, at the last election.

Senator MINCHIN—Yes.

Mr Melham—I am saying to you from a policy point of view that I understand the Chief Justice raising it. He was trying to work out why it is there. Why is it happening in 146 electorates, as against the Northern Territory or whatever?

Senator MINCHIN—So you do not think he was genuinely concerned that we were allowing votes in of people who prima facie could well have been in breach of the act because they have not maintained correct enrolment, which is a requirement under the act.

Mr Melham—I do not believe so. I believe that he was wanting to follow it through and he was challenging the respective councils. As I said, Dr Kenny's response was that it was a safety net provision. The other thing is what they said at the very beginning. At page 2, they state:

It will be necessary to say something but first it is appropriate to consider various provisions of the Commonwealth Electoral Act—the legislation applicable to the election in question.

This is not a straightforward task since the act contains an array of sections, the relationship between some of which is not always beyond argument. In particular, the act deals with elections in the Northern Territory differently from those in the states in an important respect. So I think that is the problem. You have certain things in the act and then you have other provisions like this provision that is a safety net.

It was not a safety net in the old days. It was a valid provision. When we all had subdivisions—I had about 10 in Banks up until the 1993 election—those people who moved within the division all got knocked out and the rejection vote was high. It collapsed once they abolished subdivisions and the subdivision became a division. I think personally, as a matter of principle, if an elector moves within a division and they do not fill out the necessary documentation, notwithstanding what you say, there are penalty provisions when it comes to voting on election day—and bear in mind also this does not happen for time immemorial. My understanding is there is a limit. They can go back I think two elections or six years to allow reinstatement. They have got to be found on the roll in some instances and in other provisions it is the address they put on the roll. So they have got the old address and the new address.

Mr GRIFFIN—The fact of the matter is, if you were to follow the logical line of argument that I think Senator Minchin is heading towards, you would be knocking out—

Senator MINCHIN—Do not presume anything.

Mr GRIFFIN—a full electorate worth of voters on a technicality.

Senator CONROY—Senator Minchin does not understand. In the House of Representatives, we have individual electorates. We have not got the whole state.

Mr Melham—We have, in my opinion, one of the best electoral commissions in the world. The best time I have spent in this parliament was on this committee. We have a democracy that we take for granted. Others are out there fighting dictatorships or whatever. That is why I actually believe in compulsory voting, our method of voting—the whole lot. I think we are a better country as a result of our electoral system.

The philosophy of the committee for the six years that I was on it was about helping people to get the franchise, not disenfranchising them. This is a complicated act. That was a safety net provision. We had all these allegations in the 1990 election—I know Mr Cobb was there—about dead people voting or whatever. I can remember the committee hearing in the Main Committee room and what it showed was, in effect, that the Electoral Commission had purged the rolls of people who had actually passed away. So it was not dead people voting.

The Electoral Commission had purged the rolls. I think it can be improved. I am saying to you that it is a policy decision. If the parliament decides, bad luck, the Northern Territory electors are second-class citizens, they are not going to enjoy the safety net provision that everyone else does, then that is a matter for you.

CHAIR—I think you have made your points pretty well. If everybody is happy we might move on to your Norfolk Island comments.

Mr Melham—I was on the House of Representatives Standing Committee on Legal and Constitutional Affairs that tabled a report in the parliament called *Islands in the Sun—The Legal Regimes of Australia's External Territories and the Jervis Bay Territory*. Recommendation 39 in that report, on page 148, at paragraph 7.10.7, states:

> The Committee recommends that the Commonwealth Parliament amend the Commonwealth Electoral Act 1918 to give optional enrolment rights to the people of Norfolk Island; the electorate to which the voters would be attached to be determined on the advice of the Australian Electoral Commission.

We grappled at that time with whether it should be compulsory enrolment or voluntary enrolment. It was a compromise by the committee to make it a voluntary enrolment. I think it is fair to say that people of Norfolk Island were paranoid that this was the first step to taxation, that we were going to force them to vote, et cetera.

I think that recommendation was subsequently watered down in this sense, that

optional enrolment remains and then once you get on the roll you are required to vote. We are allowing Norfolk Island electors to enrol in any division in the country. I think the figures in 1993 and 1996 will show about 85 per cent enrolled in the ACT division but then you get one or two in some other divisions.

It is my submission to the committee—and this arises out of reading some newspaper reports and former Senator McMullan's submission—that you should consider taking away something that no other elector has; that is, the Norfolk Island people should be enrolled in one division, be it the ACT or whatever. Administratively, it is a bit of a problem, but also, again, it is the principle of treating electors uniformly. Norfolk and Cocos go into the division of the Northern Territory.

CHAIR—Lord Howe?

Mr Melham—Lord Howe goes into Sydney, I think. Enough time has elapsed for Norfolk Islanders not to be paranoid that this is going to lead to taxation or whatever. From the community's point of view, they are also in a stronger position to lobby their local member, in terms of bargaining power. I am not arguing here the question of whether it should become compulsory. I am saying you should now take away what I think, in my opinion, was too generous a provision, that you can enrol in any electorate. It is just a nightmare. My recollection of figures for the 1993 election is that I think about 85 or 86 people were enrolled and voted in Canberra, then there were two or three in one other subdivision, and about 10 or 12 others in different divisions. I would ask that you consider that.

CHAIR—Sure.

Senator MINCHIN—Did your committee consider the question of them being enrolled in the geographically closest electorate? What was the logic of Canberra?

Mr Melham—We did. We took the view that from a constitutional point of view it had to be within one of the territories.

Senator MINCHIN—Because they were not citizens of a state.

Mr Melham—We felt that Canberra, being the national capital, was the most appropriate.

Senator MINCHIN—How would you pick one of the three electorates? Would you let them enrol in all three ACT electorates?

Mr Melham—No, one.

Senator MINCHIN—That is just arbitrary, just the one that is called Canberra?

Mr Melham—That is the way, as I understand, it would pan out. When we went there there was a lot of hostility—a lot of people did not want to enrol, others did. It was not uniform. That is why we made it optional. We said, 'Okay, you've had this special privilege for years, we'll make it optional.' I think it should be Canberra, the national capital. It is better for all concerned. It gives them a member that they can lobby as well considering the absurdity of a situation of having a Norfolk Islander ringing up, let us say, who has an association with the member for Banks. It is a matter for the committee, as I say. I just raise it. I think these things need to be reviewed over time, and in my opinion you need to ask, 'Is that still appropriate?'

CHAIR—Do you remember roughly what percentage of those who were enrolled voted?

Mr Melham—I do not have that exact figure. My understanding is that, if there were compulsory enrolment, at the time there would have been over 250 to 300 people eligible to enrol. I do not know if you now have other figures there.

CHAIR—We only know the numbers who voted.

Mr Melham—I just throw that in for consideration, again on the basis that my view is that we really try, for electoral purposes, to treat electors uniformly. We have to break down these anomalies.

CHAIR—Yes, that is a good point. Are there any other questions on this issue?

Mr LAURIE FERGUSON—I think Senator Minchin was putting this as a sincere statistic, as he understood it. But at a previous hearing I think he indicated the view that the majority of people on the island were New Zealand citizens.

Senator MINCHIN—I do not know whether I said the majority, but my advice was that there were a lot who were; someone had suggested that it might even be the majority there.

Mr LAURIE FERGUSON—I will bring it up at a further meeting. But I have had contact with the New Zealand High Commissioner who, incidentally, has been to the island in the last few months, and it is substantially less than half—it is getting down the bottom end.

I think the other point in this debate is that, as I understand it, I have the actual figure of the non-citizens who are counted in the ACT. I remember this as well: in population, non-citizens living in Canberra are counted as well. So when you get the differential between the non-citizens of Australia on Norfolk Island and in the ACT, it is not as substantial as it might first appear. I will bring some figures of New Zealanders.

CHAIR—Yes, that would be useful.

Mr Melham—I thank the committee for giving me the opportunity to appear.

CHAIR—Not at all. It is good to see you back here after your long years on the committee. No doubt we probably will see you at future hearings after the next election.

[11.29 a.m.]

BELL, Dr Robin, Deputy Electoral Commissioner, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600

DACEY, Mr Paul, Assistant Commissioner, Development and Research, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600

DAWSON, Ms Peta Linda, Director, Litigation, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600

MALEY, Mr Michael Charles, Director, Research and International Services, Australian Electoral Commission, West Block, Parkes, Australian Capital Territory 2600

PICKERING, Mr Tim, Assistant Commissioner, Information Technology, Australian Electoral Commission, PO Box E201, Queen Victoria Terrace, Parkes, Australian Capital Territory 2600

CHAIR—Welcome. I again remind you that proceedings here 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 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.

I would also remind you, as most would be aware, that as a first item of business this morning we authorised for publication your two new submissions dated 14 November. These submissions are now public and can be made available to whoever wishes to view them. We have received your submissions. Are there any corrections or amendments to them?

Dr Bell—Yes, on pages 9, 10 and 11 of the AEC responses to the hearings on 25 October. On page 9 in the third line of the italicized heading 'issuing' should read 'receiving', and 'returned' should read 'issued'. On Page 10 in the second to last line, the figure of 35 per cent should be 35.5 per cent so that it all adds up to 100. In table 5 on page 11 some minus signs were omitted. The meaning is clear; where something has dropped, the changes are negative percentages. I have replacement pages which I will hand to the secretary. Mr Maley also has some corrections of which he has a copy for the assistance of the secretary, but perhaps he will say what those corrections are.

Mr Maley—These are corrections to the supplementary submission, dated 23 October, on the topic of enrolment and voter identification. At page 56 in the last line of paragraph 7.2.7, the figure of 551.0 million should be 555.1 million; and at page 62 in the

fifth line of paragraph 8.3.7, the word 'would' should be deleted. They are just typographical errors.

Dr Bell—At two previous hearings the question of imprisonment of non-voters came up. As we have indicated, we have advice now from the DPP and the Attorney-General's Department on those issues. I would like to make copies of that advice available to the committee.

CHAIR—Thank you.

Dr Bell—Essentially, in very brief terms there are three options. One would be to simply say that a non-voter may not be imprisoned. It is pointed out that that could cause major problems in finding any effective enforcement for the fine or failure to vote in a number of jurisdictions. Second would be to parallel a provision in the Commonwealth Crimes Act to require states to take into account consideration of alternatives to imprisonment when looking at penalties; and, again, in some jurisdictions there are no effective alternatives.

The third would be to install a particular or special Commonwealth regime for enforcement with fines and alternatives, and again there are some up and down sides on that in terms of state administration. I think at some level it becomes a matter of Commonwealth/state relations and a political issue, so perhaps we cannot comment much beyond what we have given you.

CHAIR—Is it the wish of the committee that the documents that have been tabled be made public? There being no objection, it is so ordered.

Senator MINCHIN—I would just pick up on Daryl Melham's evidence and your submission on Snowdon. He suggested that perhaps the commission had overstated Chief Justice Brennan's 'puzzlement' at the reintroduction of some declaration votes. Can you comment on what Mr Melham said about that? Are you overstating it? What is your assessment of Chief Justice Brennan's position on this?

Ms Dawson—I was there in court. It is certainly the case that Chief Justice Brennan was quite exercised by the question. He asked his fellow members of the bench as well as counsel for reasons why this should be the case in the law. Whilst he made no comment on it in the sense of saying whether it was right or wrong, he was puzzled by it—the principle that people could be outside the law and yet still be given the benefit of the vote.

Senator MINCHIN—Which, as you quite properly say, is the policy issue. What is the history of this? Can you remind me of when, by this mechanism, declaration votes of this kind were allowed back in?

Ms Dawson—It goes back.

Mr Maley—This goes back a long time, before the 1983 amendments, of being able to record votes under sections 121 and 121A of the act. Most of them in one form or another went back decades. So it has been a long-established process.

Senator MINCHIN—Even though they were incorrectly enrolled—although in the past, I suppose the scale of it was much more because there were only subdivisions and there were a lot fewer declaration voting.

Mr Maley—The subdivisions were still pretty substantial entities, as we have discussed in previous hearings, so that would have made some difference to the proposition. But more generally, I think, you do have to go back a long way. As in most forms of administration, there is a recognition that from time to time mistakes may be made—mistakes of fact or possibly errors—in the processing of very large numbers of enrolments, and that there has always been perceived a need for an appropriate mechanism to remedy such errors so that people are not disenfranchised.

I suspect that, again in the history of it, you would find the feeling that the protection of the franchise is critical. Even in circumstances where people may have fallen by the wayside in terms of their strict obligations under the act, I think the view has been taken by the parliament in the past that enrolment, in effect, is an instrument to facilitate the effective conduct of the voting process. To move from the fact that people may not have complied with every obligation associated with enrolment to saying that they should therefore lose their votes was not a step that the parliament wanted to take.

Senator MINCHIN—Has the basis of reinstatement changed from being one that is a function of the person in fact not having moved, but for some reason they were knocked off because they did not answer the letters or whatever, as Mr Melham suggested, to the current position where in fact they have moved, they have failed to comply with the act, they have not maintained correct enrolment but they are still reinstated? Was that a change that occurred?

Mr Maley—No, not really. There have been a lot of subtle changes in procedures and in the phraseology of the act over the years, but it has still been the basic proposition that, if a person is asserted in an objection to have left either the subdivision or the division and it is subsequently discovered that they have not left the subdivision or the division, that is then treated as a mistake of fact on the part of the officer who determined the objection—the mistake of fact being the misapprehension that the person had in fact left the division or subdivision. It is then taken that the objection, though pursued in good faith at the time, was ill-founded on the basis of the actual fact situation applying and therefore that the person should retain their vote.

CHAIR—When subdivisions did exist, this problem was obviously around then

and no-one addressed it as such. Why was that?

Ms Dawson—In the Northern Territory there are a lot of subdivisions, which is unusual. There is an unusually large number of subdivisions. So its effect in the Northern Territory is much larger than it would have been elsewhere.

CHAIR—What would be the average number of subdivisions that used to exist in electorates prior to 1984?

Mr Maley—I do not have the exact figures with me. But, as has been discussed in previous hearings, a substantial proportion of subdivisions had over 5,000 voters, about 85 per cent. So you are talking about not as many as 10 in most divisions.

Mr LAURIE FERGUSON—About eight.

Mr Dacey—Mr Melham suggested up to 10, so you are looking at an average enrolment of 70,000 to 80,000. You are looking at very large subdivisions.

Ms Dawson—So the impact on the Northern Territory, because those subdivisions are very small, is magnified.

Senator MINCHIN—Yes.

CHAIR—Nevertheless, it would have caused some angst amongst a considerable number of people, one would have expected, in the past. I am surprised it was not highlighted before and something done about it.

Mr Dacey—This election is the first time it has been highlighted in the Northern Territory to that extent with us. It has not really risen as a major issue or problem, particularly with the AEC, in the past.

CHAIR—I guess it has sprung up now only because of the close vote. Had it been a decisive win, for example, to Mr Snowdon, we would not have heard about it.

Mr LAURIE FERGUSON—I noticed somewhere that there was some reference to persistent efforts in the Northern Territory. I know this election was very close in the Northern Territory, but is it possible that there were more people kicked off this time in the lead-up to the election than previous elections?

Mr Dacey—I could not answer that. I really do not know whether there were more taken off. It really depends on the timing of electoral roll reviews and the relationship with the timing of those reviews to elections.

Ms Dawson—In other words, a straight comparison historically might not tell you

very much because of differing circumstances.

Senator MINCHIN—You mentioned two propositions in relation to overcoming this problem, if you want to overcome it. Do you have a preference? Do you find it easier administratively? Is one more sensible and operationally easier than the other?

Ms Dawson—I think the two options that we offered were to change the joint roll arrangement or to do basically what Mr Melham suggested. Changing the joint roll arrangement would make the Northern Territory office very unhappy, I think, and you would probably have to speak to them anyway if that were the way you were heading. It seems that with legislative amendment you can fix this problem much easier than disrupting joint roll arrangements between the Commonwealth and the territory. It does not seem to be necessary to do that first option.

CHAIR—Is that the Northern Territory's only objection or concern?

Ms Dawson—You would have to speak to them but our understanding is that they would be unhappy if the joint roll arrangement was to be disrupted to the extent—

Senator CONROY—They would be, for handing it out.

Mr Dacey—However, our preliminary discussions have indicated that they would not be unhappy if we took the legislative amendment for the purpose of federal elections.

Ms Dawson—They want to keep the districts in the Northern Territory for obvious reasons.

Senator MINCHIN—What are the administrative problems for you, if any, in the first option which is removing the barrier to reinstatement?

Ms Dawson—It is no problem to us. If all the Northern Territory districts disappeared, it would make no difference to us whatsoever.

Senator MINCHIN—No, keeping the districts but the first option, the legislative option of just allowing those votes to be reinstated.

Ms Dawson—It becomes a drafting problem then. That is quite simple.

Senator MINCHIN—Yes, but in implementing it and in doing it, is that not a problem?

Ms Dawson—It really only operates for enrolment purposes. When you get into the preliminary scrutiny during an election, you simply have the same rules as for everywhere else. In fact, it would relieve difficulties for us rather than create any.

Senator MINCHIN—Does this relate to your reference to operational problems in administering schedule 3 which deals with this?

Ms Dawson—Schedule 3 overall is a difficult process to administer and there are problems. I think until we see the results of that review, it is probably not worth highlighting at this stage.

Senator MINCHIN—What is that review? Is it internal?

Ms Dawson—It is an internal review—we think it is a bit overdue—of how the schedule is administered. There are difficulties like going back to the last redistribution and looking at reinstatements and so on. This just becomes a nightmare in some circumstances.

Senator MINCHIN—When is that due to be completed?

Ms Dawson—I do not think we have a formal date yet.

Mr Dacey—Certainly before the next election.

CHAIR—Can you just run through with us again quickly the rationale of having two subdivisions for Kalgoorlie?

Mr Dacey—It is basically the size, as far as I am aware, and also to allow us to establish a suboffice with an assistant returning officer in the northern part of the division of Kalgoorlie.

Senator MINCHIN—You cannot do that if it is not a formal subdivision?

Mr Dacey—I think an assistant returning officer has to be appointed for a subdivision under the legislation. So we have an office in Karratha as well as in Kalgoorlie.

Ms Dawson—They said they would question the size and the ability of the DRO to get around the whole division.

Senator MINCHIN—So again, if there were any changes made to the Northern Territory, you would want to make the same changes in Kalgoorlie.

Mr Dacey—We would want those same changes to go through to Kalgoorlie as well.

Dr Bell—But presumably with much less effect than—

CHAIR—In an area like Sydney where you have 30-odd, or whatever it is, different divisions, in a sense it is almost equivalent to having subdivisions in the Northern Territory. People may move only a block and be moving to another subdivision, moving actually a lesser distance than you are from one subdivision to another in the Northern Territory. Is there any unfair disenfranchising of people or difficulties that arise as a result of that that we should consider?

Dr Bell—There is always some effect that way. If you have any borders at all, that subdivides the whole country. Could you say the same thing about a state border? The difference really is that, in the Northern Territory, the subdivisions are so very much smaller in population terms than any division is anywhere else that, as Ms Dawson said, it is amplified.

Ms Dawson—The districts are 25,000 or something. When they are that small, you are obviously going to have a lot of problems as people move, when you are talking about a division with 85,000 people, such as the divisions in Sydney.

Mr Dacey—And the mobility of the population as well.

Ms Dawson—Mobility is another issue.

Dr Bell—But there is another critical thing, that is, a member represents a division, not a subdivision. If you are saying that a person in one subdivision cannot vote for the same member because he has got into the wrong subdivision, that is different.

CHAIR—I do not question that. I would have thought it easier to move from, say, one side of Sydney to another than from a subdivision in the south of the Northern Territory to one in the north.

Mr GRIFFIN—Except it is not as simple as that. You can move from one suburb to the next suburb in Darwin and be in a similar situation. People are not necessarily moving from Alice Springs to Darwin. It is a question of just changing suburbs in Darwin.

Mr Dacey—That is correct. There are several subdivisions within the city of Darwin, obviously. As Mr Cobb points out, there are also several divisions in the city of Sydney. It does not seem to have the same extent.

Mr GRIFFIN—You are crossing a hell of a lot more population than usual in geography terms.

Dr Bell—But surely the real point is that, if you change division in Sydney, you are voting for a different member. That is a pretty important thing. Whereas, if you change subdivisions, you may lose your vote in the Northern Territory but it still relates to

the same division and member. So the difference is quality.

Ms Dawson—There is an important underlying principle in the act, too, which you might take into account. That is that enrolment is for a division rather than an address.

Mr Dacey—Under section 99(1) the enrolment must be for a subdivision, with the exception of the Northern Territory and Kalgoorlie which is for a division. So enrolment is subdivisionally based rather than address based.

Senator MINCHIN—If you change your place of living from one address to another—

Mr Dacey—That is correct. There is an anomaly there to an extent that, if you change your place of living, you are really required to re-enrol.

Senator MINCHIN—Yes, you have 21 days or you are guilty of an offence. That was the Chief Justice's point, I guess.

Mr Dacey—However, if you move within the division or subdivision, you can be reinstated because you still maintain a qualification for enrolment within the subdivision.

Senator MINCHIN—All this rather begs the question of 101(5). We are sort of suggesting that should not really be an offence. It says, 'You are guilty of an offence if you do not, within 21 days, notify that you have changed your place of living in the subdivision.' I guess that is the policy issue that is being raised by all of this.

Mr GRIFFIN—Is it a general view that we will be picking up in terms of other areas of freedom of choice?

Senator MINCHIN—Let us not get too smart. Let us just talk about the propriety of the act.

Senator CONROY—Could somebody explain how this joint roll arrangement works? Perhaps you will want to take it on notice and give me something in writing.

Dr Bell—We can provide you later with a copy of the joint roll arrangement with the Northern Territory. Under section 84 of the act, the Commonwealth can enter into joint roll arrangements with the states and territories, and we have done that with every state and the two big territories.

Senator CONROY—Are there copies available of the press release to which I referred before?

Dr Bell—I am afraid I only brought one, if the committee does not already have it.

Senator CONROY—Is the police report available?

Dr Bell—The police investigations are continuing. It was not established at the time of that press release, but the Northern Territory authorities have now picked the matter up and the Northern Territory police are now investigating matters which fell within their jurisdiction. For that reason, at this stage, we would prefer not to release the AFP report because it could prejudice that investigation. As to how long that will take, I do not know, I am sorry.

Senator CONROY—Are you able to brief the committee, not necessarily now, on the implications of the findings of the police report in terms of the integrity of the roll, the security and those sorts of matters?

Dr Bell—The key factors are in that press release. From recollection, there was nothing in it that threatened the integrity of the Commonwealth roll. It was a question of how some person or people obtained access to date of birth and other 'confidential' roll information. The AFP report, as indicated by that press release, followed the chain of transmission of data on a tape cartridge and found that it at a certain point came within Northern Territory jurisdiction, and that is what I understand the Northern Territory police have picked up. They have been briefed by the AFP, I understand, and we have made it clear that we will assist; if they come to us wanting assistance, we will be happy to provide any information we can.

Senator CONROY—What are the integrity arrangements within the agreement with the Northern Territory?

Dr Bell—I am not sure what you mean by the term 'integrity'.

Senator CONROY—What requirements do we place on them to keep the confidentiality?

Dr Bell—None. It is a jurisdictional issue with the states and territories. As I understand matters, the joint roll is something which we do together simply to save money and because we together get a better product. Until very recently the Upper House of Tasmania, for example, had its own roll prepared at the expense of the Tasmanian taxpayers. But they could do that. The Northern Territory could go back and prepare its own roll, and the Commonwealth would have no say in how it used it or got access to it or what it did with it.

Under the joint roll arrangements we hand over a copy of something prepared jointly. The enrolment forms are jointly approved. Information can come to their authorities and to ours and be brought together in the RMANS system which we run.

From time to time they get downloads, copies and extracts of that system or whatever they require for elections or other purposes. We hand that to them and it is matter for their legislation to control how that is accessed. In the Northern Territory at the time of these events, the Electoral Act was different from the one they now have.

Senator CONROY—Ours or theirs?

Dr Bell—Theirs—and the joint roll arrangement has since been renegotiated too. So one needs to look at the ones that applied then. I am no expert on Northern Territory law, but I have not noticed in their act any specific restrictions on access to roll information. There is something in the newer legislation. But, as I say, I am no expert, I cannot advise on their law. It may be that they have other legislation, such as a crimes act or something else, which would affect it.

Senator CONROY—Forgetting about what was in the legislation, are you saying that with the new legislation they would have a lower level of confidentiality than you would have?

Dr Bell—They may have. The Commonwealth has a very detailed scheme, under section 91 and thereabouts of the Electoral Act, as to who can have access and how they may use it. Very few states or territories have anything comparable. Very few have a privacy act comparable to the Commonwealth Privacy Act. Many implement those principles administratively.

CHAIR—Is it the wish of the committee that the press release be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The press release read as follows—

Senator MINCHIN—If a state or territory wanted to supply date of birth information to members, senators and the public within their right to do so—

Mr Dacey—The recent Queensland electoral act of that House does provide that. The Queensland members of parliament get that confidential information.

Senator MINCHIN—What happens if a federal member does have that one way or the other? Is he or she in any—

Dr Bell—It may depend on how they got it. The restrictions in our act apply to information provided by the AEC in certain ways. Something that has come under a joint roll arrangement may be different. The section 91 area excludes things otherwise provided under the act, and our advice from Attorney-General's is that the joint roll arrangements fall outside the section 91 restrictions. We essentially say to them, 'It's your data for you to use and regulate.'

Senator MINCHIN—If they supply it to a federal member or senator, that is their business, and the federal member of senator is not in breach of anything.

Senator CONROY—If he writes to them and asks them for it, that is probably right. But if it slips off the computer somehow—

Dr Bell—We do not know what happened after we sent it to the chief electoral officer, except that we have been told by the police that it was passed for processing to a computer facility under the control of the Chief Minister's department. There are a number of computer facilities that the electoral office have. They have an internal network of their own, which is quite limited; they have on-line access to the federal RMANS system, which again is read only access; and then, when they get these big tapes for a territory election, they go to this other computer facility—and I am not quite sure whether that is in the department or a contractual service arrangement.

Senator CONROY—Do you concede at all that the confidentiality of the joint roll arrangement is less than your own? Would it not seem logical, given it is the Commonwealth's roll and that you are negotiating, that you would want to try to achieve the same sort of level of confidentiality?

Dr Bell—We have to be careful. We understand Commonwealth policy, as set out in our Electoral Act and our Privacy Act, and state and territory electoral officers have told us that they will adhere administratively to the Privacy Act requirements. But I think we have to be very careful about telling an independent polity how it can use—

Senator CONROY—I think we are being told that it is a question of negotiation. In the negotiations, if you strive to achieve the same degree of confidentiality, it is not a suggestion of 'telling' at all.

Dr Bell—Yes, we could try in negotiations, and it may be that that is a lesson that comes out of this affair that needs to be pursued.

Senator CONROY—Have you got joint roll arrangements?

Ms Dawson—Yes, basically we have had joint rolls with the states since federation. They get renegotiated every now and again and, in particular, the changes over the last few years have gone to cost sharing.

Senator CONROY—It might be a policy issue for the committee to make a recommendation to the parliament on.

Dr Bell—I do not know that one could do anything that was enforceable on the joint roll arrangement. They are not contracts; they are intergovernmental arrangements. So undertakings there might not have any force of law. It would be more a matter for negotiation and persuasion. If we try to push a state or territory towards some level that it does not agree with, then they can go back and make their own roll independently.

Mr Dacey—Particularly if you try to push a state or territory to the extent that you try to override that legislation, such as in Queensland. Their legislation does provide for that information to be given to Queensland members. There could be some difficulty to try then to preclude that in a joint arrangement.

Senator CONROY—I am glad you raised the Queensland situation because it seems to be the second serious breach of confidentiality of your rolls. There is the AMP case, where the AMP appear to have, in court evidence, somehow obtained your microfiche by scanning.

Ms Dawson—Yes, but that is not privately owned data.

Senator CONROY—I understand that, but it was given to a political party. This is in no way suggesting the AEC is involved.

Ms Dawson—That is different data; that does not include private enrolment data. In other words, it is just names and addresses which you can get out of the telephone book.

Senator CONROY—No, if someone wanted to go and get the telephone book that is one thing, but to use your political party to hand it over—

Ms Dawson—Scanning is an innovation in recent years that has made it very easy for all sorts of organisations to use name and address information, but the private roll information is really what should be of major concern.

Dr Bell—We have raised this issue with the House of Representatives Standing Committee on Legal and Constitutional Affairs. I think about three years ago they reported; there has been a change of government and at this point there is no government response. But, yes, by looking at microfiche or printed rolls you can now scan them quickly and have a computerised machine-readable version quite readily.

Senator CONROY—The question is whether the legislation is keeping up with technology—an issue that this committee may want to address.

Dr Bell—We have made recommendations about that and submissions on it. One of the big worries is that if you get overuse of the roll you discourage people from enrolling. There is a group who may be avoiding maintenance or tax or shareholders, all sorts of things, who do not wish to be readily traced. Regardless of how big it is, they do not come forward.

Ms Dawson—You have raised an important issue on the speed with which technology is changing. Our legislation, section 91 and so on, is written in very old-fashioned terms and it should be updated. We would certainly like to do something about that because computer technology is just racing ahead of the legislation.

Mr McDOUGALL—I notice from the enrolment form that you make no reference to the fact that you have a joint roll arrangement with any state. It only says that when you enrol on that form you enrol for federal and for Australian Capital Territory elections. There is no reference to any state or local government elections and if you have joint roll arrangements, which you have, why would that not be quoted on that form?

Dr Bell—Those forms are different for every jurisdiction and it would refer, in the Northern Territory, to enrolment in Commonwealth and Northern Territory elections and so on, so there is an indication there. It could perhaps be more explicit and we already have a pretty lengthy list of agencies.

Mr McDOUGALL—So are you saying you produce a different one of those for every state?

Dr Bell—Yes, they are jointly agreed in each jurisdiction. It is very similar.

Mr Dacey—It must be an ACT one.

Mr McDOUGALL—That is why I thought it was a bit odd that it was not there. I would have assumed that you would have had one enrolment form for the whole of Australia.

Ms Dawson—That would be ideal.

Dr Bell—They differ in small ways from place to place. Some of them of course will now have a spot for occupation but in jurisdictions where neither the Commonwealth nor the state wishes to collect occupation that will be absent, so there will be that sort of variation.

Mr Dacey—I notice, and without having a newer one, that this is a 1989 form and since then, of course, we have negotiated a joint arrangement with the ACT. You will find, particularly where we have arrangements, that we usually have both organisations listed on the forms. So we would have the ACT Electoral Commission and the Australian Electoral Commission.

Mr McDOUGALL—The only reason I raised it was because that is the one that came with your report a week ago.

Mr LAURIE FERGUSON—I found the quote I was referring to before about the Northern Territory, it is from your latest submission, 23 October. It then quotes your submission of 29 July on the special situation in the Northern Territory and subdivisions and in part it makes this comment:

. . . and as a result of information received on the current state of enrolment in the division . . . normally take large-scale objection action—

So this quote on page 6 of the 23 October submission which, as I say, in turn is a quote from 29 July, seems to infer a possibility that a criterion for action is the AEC's analysis of the roll for a division. What I am getting at is whether we could get a definite answer today as to whether in the three years or so up to the last federal election there was a bit more proactivity by the commission than in other subdivisions.

Mr Dacey—I would not expect any more activity in the Northern Territory than in any other subdivision in our ongoing electoral roll review process. Certainly, with the previous operation of our Aboriginal and Torres Strait field officer system in the territory, more information may have come to hand about the enrolment status of certain individuals. But, certainly, from a central policy point of view, there is no differentiation between any enrolment activity.

Mr LAURIE FERGUSON—This is the actual quote:

. . . as a result of information received on the current state of the enrolment in their subdivisions—

Ms Dawson—That is usually after an election.

Mr LAURIE FERGUSON—'Following an electoral roll review before an election and as a result of information received on the current state'—

Mr Dacey—That would be no different from anywhere else.

Mr GRIFFIN—When was the territory election?

Mr Pickering—The Northern Territory election was mid-1994. So it was a long time before this election.

Senator MINCHIN—While we are on that objection action, could I get the statistics on the 1993 to 1996 period on the numbers that were knocked off through that period? If you have the breakdown, that would be useful.

Mr Dacey—In fact, it would probably be best to give the full story which would include total transactions.

CHAIR—Back on the enrolment form, just for the record, these ones that were distributed were picked up from the parliamentary post office and are in our hands and I read them with some interest too. Basically, how do they vary from state to state and state to territory? Is it just in simple things as to whether they require occupation, or is there anything more substantive than that?

Ms Dawson—No, the requirements are basically the same. What differs is basically what Mr Dacey was saying a minute ago, whether or not you mention the specific terms of the joint roll arrangement that might make things slightly different. But the actual requirements, the qualifications for enrolment, are more or less standard in terms of what you need—

Mr Dacey—There are minor differences, obviously, with some of the states and territories. The main difference would be in the wording of the enrolment form rather than what is required of a person to fill it in. Although, for instance, you are correct in South Australia because there is no requirement for occupation, or we do not have a requirement and the South Australia government does not have a requirement, so that does not appear. They are very minor. The forms are approved by both electoral authorities. So it will be the state electoral authority approving it as well as our Electoral Commission.

CHAIR—Is South Australia the only state that does not require occupation?

Mr Dacey—No, there are now a number that subsequently we have determined that do not require occupation. So in the next round of approval of forms we will be dropping that requirement from them.

CHAIR—It struck me as a bit odd that when you fill in your name and address it says, 'Daytime phone number for contact if convenient'. Why 'if convenient'?

Mr Dacey—We ask people for a daytime phone contact in case we have some query on the actual completion of the form. It is much easier to ring a person and say,

'Hey, you may have forgotten your date of birth,' or whatever than writing to them.

Ms Dawson—There is no obligation for them to provide that.

Mr Dacey—If people consider that to be private information, we cannot compel them to ask people for it.

CHAIR—Fair enough. The witness says, 'I saw the applicant sign this form. I am satisfied that all statements in it are true.' How could a witness possibly know that all statements are true—things like date of birth and so on?

Ms Dawson—It is to the best of his knowledge and belief.

Mr Dacey—It is a matter for the witness to determine with the applicant.

Mr GRIFFIN—The principle is the same as certifying a document. It is almost like a stat dec. It is, 'I saw the person do it.' It is the principle aspect of it.

CHAIR—It is one thing to say that you saw them.

Ms Dawson—Yes, there is a slight distinction. It is not just saying, 'I saw that person sign.' It is saying, 'To the best of my knowledge and belief, I think that person has told you the truth.'

Mr GRIFFIN—I agree it is not, but again that is a large component of it, in my view, in terms of the way the system operates.

CHAIR—Just to be clear, the witness may come from any electorate?

Mr Dacey—That is correct.

Senator MINCHIN—You do not even have to be an elector, you only have to be entitled to be an elector, which is quite remarkable.

Dr Bell—That turns up a lot, the same as nominating for an election.

CHAIR—For the ones who come in in the last few days before the close of the roll and who cannot properly be checked for practical reasons, when are they checked? Are they checked after the election?

Mr Dacey—I am not sure what you mean by checking. Certainly, the information that stands on the form is put into our system. If there are any inaccuracies or omissions from the form, we still have a requirement to get back to electors. But, as you know, if the form is for all intents and purposes completed and witnessed, we do not check.

CHAIR—You do not check at any stage.

Mr Dacey—Whether it is closed at roll period or any other period.

Mr GRIFFIN—For example, a significant percentage of the ones that you would get would be a change of enrolment, and you would check on your system as to whether those details gel out in order to make your records accurate.

Mr Dacey—That is correct. We have given the figures in earlier submissions, but the significant proportion of 400,000 cards we get in that week are changes rather than new enrolments. So the details of the electors are already there, it is just changing the address, which is deleting them from one electorate and putting them on another.

CHAIR—What percentage of people who do enrol are subsequently found not to be entitled to do so, for fraudulent reasons or others?

Ms Dawson—Very, very small.

CHAIR—How can you make that statement?

Mr Dacey—It is only if something is brought to our attention.

CHAIR—Sure. And does the degree of that change at all with the last minute rush of enrolments, as opposed to the normal run of electoral enrolments?

Mr Dacey—No.

CHAIR—The degree is the same?

Senator MINCHIN—You do not ask them on the form for any salutation, do you?

Mr Dacey—No, we do not.

Senator MINCHIN—Because there is a lot of interest, I think, across the parties in being able to have that information.

Mr Dacey—For courtesy titles?

Senator MINCHIN—Yes, it is a problem for all of us. Would that be difficult to implement and be able to get on to the database?

Mr Dacey—It could be asked for.

Senator MINCHIN—We can only ask them to put it in and see to what extent

people complied.

Mr GRIFFIN—Quite often you have difficulties knowing whether the person is a male or a female.

Mr Dacey—That is right.

Senator MINCHIN—There is a joint agreement that we get gender on the form. The date of birth was available to senators and members up until 1987, wasn't it?

Mr Dacey—As far as I am aware, date of birth has never been available.

Senator MINCHIN—They kept it in South Australia for some time. I am sure it was knocked off in about 1987.

Mr Dacey—You are not getting confused with occupation and gender? I think that came out in 1987.

Senator MINCHIN—I would not mind clarification on that. It was available up to some point and then deleted or suppressed. Can you let me know the reason?

Mr Dacey—Sure.

Mr McDOUGALL—Can we expand that to be given to us on a state by state and territory by territory basis, because they may have changed separately. I note that this 1989 ACT form still has date of birth on it.

Mr Dacey—All forms would collect date of birth.

Mr McDOUGALL—It is the suppression of it.

Mr Dacey—It is whether or not the roll is issued to anyone with date of birth on it.

Mr McDOUGALL—On a state by state basis.

Mr Dacey—As far as I am aware, Queensland is the only state with a jurisdiction that provides date of birth to members.

CHAIR—When somebody goes to a post office and picks up one of these forms to enrol and reads the preliminaries saying, 'You cannot fill one of these in unless you have lived at an address for the last month,' how would an itinerant person, for argument's sake, then know that they can fill something else in? As I read this, it just reads blankly that you are not entitled to—

Mr Dacey—We also have special campaigns and enrolment forms which are different for itinerant electors.

CHAIR—Are they available side by side with these?

Mr Dacey—Yes, with those forms.

CHAIR—Are they a different colour, or something?

Mr Dacey—From memory, I think the itinerant ones may be yellow, but they are a different colour.

CHAIR—Is it readily available to everyone, even though they do not live at one address for more than a month?

Mr Dacey—That is correct.

Senator MINCHIN—I was reminded that it was three months because the residency requirement was three months up to 1983-84. Presumably that was three months from federation, was it, until the 1980s?

Mr Maley—I am not sure what you mean about the residency requirements.

Senator MINCHIN—That is, as it says in the enrolment, you have to have lived at your place of living for one month in order to be entitled to be enrolled.

Mr Maley—No, that was not the provision before 1984.

Senator MINCHIN—It was three months prior to that.

Mr Maley—No, it has been one month from well before 1984. There was a distinctive provision in the act which said that, even if you were on the certified list for a division, having enrolled for that division you were not entitled to vote for that division unless your real place of living had been in some time in the three months immediately preceding polling day within that division. That provision was repealed on the recommendation of the Joint Select Committee on Electoral Reform in its review of the 1984 election. While I do not have the report with me, my recollection of the rationale for that repeal was that it could be put into practice only through the process of questioning people at the polling booths.

Nobody at the polling booths, certainly not at the polling official level, would be in a position to second-guess an assertion of an elector that he or she had at some stage in the preceding three months lived within the division. Therefore, it was a provision which was incapable of implementation in practice. If it penalised people, it only penalised the

truthful rather than those who may have had an inclination to try to vote other than where they had been living. On that basis, the committee took the view that it was not any sort of obstacle to manipulation of the system and recommended its repeal. But that is a different proposition to say how long you have to live in a division to be entitled to enrol for it. It has been one month for a long time.

Senator MINCHIN—Has it been one month for the whole of the Electoral Act?

Mr Maley—I could not say off the top of my head whether it has been right back to 1918, but certainly in my living memory.

Senator MINCHIN—So it is basically a one-month rule for enrolment and three months for voting, which was deleted in—

Mr Maley—The voting provision was a supplementary requirement above and beyond the fact that your name was on the certified list provided at the polling booths. What the amendment which was made following the 1984 recommendation did was to do away with that and say, in effect, that the certified list is a definitive list of the people who are entitled to vote in the division.

Senator MINCHIN—It is still one month to vote, is it?

Mr Maley—No. I do not quite follow your question. There is no process at the polling booths of interrogating people to see whether they have lived in the division in the preceding three months. If the name is on the certified list, that is taken as being conclusive of the person's right to vote in the division.

Senator MINCHIN—No, but I am asking: does the act have any requirement in relation to length of residence for entitlement to vote, as opposed to entitlement to enrol?

Mr Maley—No.

Senator MINCHIN—There is not even one month there.

Mr Maley—No. There is no longer an additional provision. If you are on the roll for the division, you are entitled to vote for the division.

Mr GRIFFIN—Back when there was that sort of requirement, what was the situation of someone who had not satisfied the residential requirement in terms of their right to vote?

Mr Maley—Conceivably they could be denied a vote at the polling place if their answers to the prescribed questions that were then set out in the act had established they were not, in the light of that legal requirement, entitled to vote. Again, the point the

committee made was that, if you were genuinely attempting to manipulate the system, you would simply tell a fib and get away with it, whereas you would catch the odd people who were just being honest.

Mr GRIFFIN—In those circumstances someone like that would actually be denied a vote and it would simply be an accident of time in terms of their moving house versus the calling of an election.

Mr Maley—All the anecdotal evidence we have ever had suggests it was very unusual anyway. I am not sure that there would be too many people around this table who ever saw it happen.

Senator MINCHIN—On residency, are you able to tell me what the policy reason is for section 99(5) of the act which states:

The validity of any enrolment shall not in any case be questioned on the ground that the person enrolled has not in fact lived in the Subdivision for a period of one month.

Given that the form says you have to have done so and the law basically says that, I am asking whether you understand what the policy reason for that is.

Mr Maley—Yes. My understanding of it is that there is a distinction drawn between the information that can be taken into account while the claim card is being assessed and what has to be done once a person is on the roll. I should add that it is a provision which is very frequently misconstrued by people who read it. It is not saying that when you are processing a claim card you cannot question whether the person has lived there for a month. It is just saying that, once that person has been enrolled, then the only way of taking them off the roll is through the objection process.

Senator MINCHIN—Yes, but it is not a ground of objection that they have not lived there for a month.

Mr Maley—No, but if there comes to be a period of a month subsequently when they have not lived there, then you can initiate the objection process. Again, this is a very old provision, so one would have to go back into ancient history to see why it was first determined. I think you will find that partly that it is a reflection of what is seen as the phasing of people's movements together with when they are entitled to enrol. Also it picks up the fact that there is a defined procedure where people are given the opportunity to answer any allegations or questions associated with the objection process and that moves them into that objection mechanism.

Again, most people misconstrue that provision as meaning that you cannot think about the question of whether someone has lived at an address when you are processing the claim card and that is not true. It is talking about enrolments that have already been

effected and how they can then subsequently be questioned. What the act is saying is that there is really only one way you can do it and that is by objection.

Senator MINCHIN—Yes.

Dr Bell—It underlines the validity of an election and, until that objection is run through, that person's vote then cannot be challenged on the basis that they are enrolled in a particular place.

Mr Maley—Again in the act there are various mechanisms which spell out when objections can be processed and when they cannot be processed.

Senator MINCHIN—Yes. While we are on that, again there is this issue which is often raised that no-one can be taken off the roll after the issue of the writ. What do you understand to be the policy reason for that? Is it because someone would not have the time to object to them being taken off?

Mr Dacey—There are the practical problems of printing it, as well.

Senator MINCHIN—No, there is an exception to that. I have just noticed that you can give a false statement. They can be deleted. I had not seen this before. It is not a blanket; it is prima facie.

Mr Maley—The point is that we are now running elections on very tight timetables with a minimum of 33 days from the issue of the writ to polling day and 26 days from close of rolls to polling day. It seems to be popular now to go for the minimum timetable in terms of elections.

Senator MINCHIN—It is too expensive to go any longer.

Mr Maley—The objection process itself has built-in timelags associated with people's opportunity to respond to a notice of objection when it has been received. Then there are requirements on the processing of the objections and so on. I think that that provision was originally put in place to recognise the realities of the difficulties in finalising the roll in time for the production of certified lists.

Mr Dacey—In fact, I think it also was put in place when in most instances the writ issued on the day the roll closed.

Mr Maley—Yes.

Mr Dacey—We have suggested subsequently to the last committee that in fact we change that so that no-one can be removed after close of rolls.

Senator MINCHIN—Yes, that is right.

Mr Dacey—That still does give capacity to remove people within that week, but as Mr Maley points out there is not time for that statutory 28-day period.

Senator MINCHIN—Are there any statistics on the implementation of section 106 which does allow removal after the issue of the writ to polling day where someone secured enrolment falsely? Presumably it is very hard to actually—

Ms Dawson—Are you aware of the origins of 106? It has been hanging around for a long time, I think, but has never been used.

Senator MINCHIN—Probably no-one knows about it and it is never used.

Mr Dacey—Certainly I am not aware of it being used.

Senator MINCHIN—I can imagine the administrative problems.

Mr Dacey—Sure, I understand that.

Mr McDOUGALL—What would your comment be to the idea that it is the responsibility of the elector to make the change of his enrolment if he moves, so why don't we close the roll on the date of the issue of the writ? We hear all the disenfranchising questions, but if we are going to keep the roll in its integrity—

Mr GRIFFIN—But the underlying fact is that you are taking away an aspect of its integrity because you are basically stopping people having the opportunity to remedy what may be an administrative oversight.

Dr Bell—It is a detail but it is a balance between giving people an opportunity to correct it if they have not done so earlier and perhaps facilitating other problems.

Mr Dacey—As we know, the announcement of the election, which is usually the issue of the writ, is the impetus that a lot of people require to change their enrolment. As I said before, the majority of those 400,000 amendments are changes rather than new enrolments. If you close the roll on the issue of writ you would run the risk of those people, if they have moved across divisions or subdivisions, being disenfranchised.

CHAIR—What percentage roughly are new enrollees, the 18-year-olds?

Senator MINCHIN—I thought it was about fifty-fifty, wasn't it?

Mr Dacey—No, it was seventy-thirty, I think. It is in an earlier submission. I can certainly look that up.

Mr Maley—The first point I would like to make in response to your question is essentially an historical one because it is, I think, frequently misconstrued that the 1983 amendments substantially changed the practice which was in place here. In fact it is not the case. If you look back to the elections since the Second World War you find that on only three occasions since before the amendment was put in place was there a period between the announcement of an election and the roll close of less than the statutory period.

If you go back to the 1950s, for example, you will find that there were 12 days between the announcement of the election and the close of the rolls in 1950, there were 17 days in 1954, 12 days in 1955, 63 days in 1958, 52 days in 1961, 17 days in 1963, 19 days in 1966 and so on. So in effect what the 1983 amendment did was to simply encapsulate in the act what had been the very long developed practice of having a period between the announcement of an election and the close of the roll.

In fact, in the period since the 1983 amendment the average period from the announcement of an election to roll close was 14.75 days and from 1940 to 1983 the average period was 19.61 days. So, the situation we are facing at the moment is not primarily a function of the amendments to the act that were made in 1983 and reflects a continuation of a very long standing practice on the part of the leaders of all parties of allowing a period of grace between the announcement of an election and the close of the roll.

Further on that, I think it is worth making the point that since transfers of enrolment do go through in this period between the announcement of the election and the roll close they have the effect of cleansing the roll. If those transactions are prevented from going forward you will have a situation where somebody who has moved from a place retains an enrolment for a previous division—a classic case of dead wood, in effect. Our view would be that preventing those transactions from going through, regardless of the fact that the person may have been lax in maintaining his or her enrolment, will cause the rolls to be less clean rather than more clean.

Senator MINCHIN—It would, presumably, be administratively impossible to allow transfers to be processed but not new enrolments, wouldn't it? For example, if you did have a situation where new enrolments were somewhat more rigorously checked, it really would be quite difficult to do that in an election period but you might want to say, 'You can't enrol for the first time after the election is called but we will allow transfers or amendments to accommodate the change of address in that seven days.' Would that be administratively possible?

Mr Maley—I think you would have to look at that because although the act draws a distinction between what is a transfer and what is a new enrolment, a claim card does not necessarily draw that distinction. People use the same form to fill out for both. Strangely enough, some people are unclear as to whether they have been previously

enrolled or where they have been previously enrolled, particularly if they are not greatly interested in the political process. We are dependent for distinguishing between transfers and new enrolments essentially on whether our computer system and our staff can find a previous enrolment for that individual.

Because people give you data in inconsistent forms and particularly because we do not have a nationally consistent individual identifier number such as a social security number as used in the United States, it is to a certain extent an imperfect procedure. It is one that we have got better and better at as the years have gone by. But there are still people who cannot be found on the roll—because they have given their name differently or it is difficult to read their date of birth as they put it on the claim form, or something like that—who may in fact appear to be new enrolments but in fact they are transfers. So there are administrative issues that would have to be addressed in that sort of context.

Senator MINCHIN—Could you contemplate a different form—a transfer form?

Mr Maley—I think contemplating a different form is also difficult because, as I say, some people may have enrolled years before. They may have no recollection as to where they last enrolled. People move from state to state without them necessarily being picked up under the old system anyway.

Mr McDOUGALL—So the procedure when you get a change in this tight period, in this 14 days, is they get taken off a roll and put on a roll at the one time.

Mr Maley—If it is a transfer, yes.

Mr McDOUGALL—If it is a transfer.

Mr Maley—That is the same as normal enrolment processing. The computer system will attempt on the basis of the information that is supplied on an electoral enrolment form to match that data with a previous enrolment. If it can find someone with the same or a similar name and the same or similar date of birth, then the system will flag that as a previous enrolment and process the form.

Senator MINCHIN—Is that really reliable in that seven days to put all 400,000 through and have it search the whole database to check every one of them?

Mr Dacey—We do ask on the form for previous enrolled address which, if people fill it in, makes it much easier. But Mr Pickering might be able to answer some of the difficulties where people do not provide that information but we still do find a match.

Mr Pickering—The situation with the matching routine is that it works off a name and former address for the match. It does the date of birth field match to make sure that we have a perfect match. As we know, a number of electors do not have knowledge of

their date of birth or they are confused with the actual dates. We have software written that allows transposition of numbers and fuzzy name matching so that if they misspell their own names, et cetera, it can still be picked up as a possible match on the database.

The linchpin for fast accurate enrolment for transfers of enrolment goes back to a full completion of the enrolment form. As Mr Dacey said, if they do not put their previous enrolment details on the form when they are re-enrolling for a new address, the computer will highlight people of the same name and date of birth details and a range of addresses from all over Australia. It does a hit on all of the database for the whole of Australia with those particular enrolments that have been keyed in. So it is very intensive processing to check against 11½ million current enrolments every time an enrolment card is put into the database.

Mr Dacey—Then, of course, the decision has to be made by the returning officer as to which one to take off, which is where the daytime phone number can be very handy for contacting people.

CHAIR—Are there any other questions on this matter?

Mr McDOUGALL—I think there is some interest in increasing the witnessing requirement to make it similar to a passport arrangement. If that were just accepted on face value I guess you would not have a problem with this last-minute issue, but if there were to be an actual checking of witnessing—that it was a properly authorised witness—that would cause considerable difficulty, would it not, in terms of this—

Mr Dacey—Particularly in that close of rolls period. It would be a matter of being able to somehow contact that witness and to have that witness attest that he did in fact witness it and the details were accurate.

Senator MINCHIN—Are transfers required to be witnessed at the moment?

Mr Dacey—Yes, all transactions are required to be witnessed.

Dr Bell—Wouldn't the level of witness integrity required depend on the sort of other evidence you required from the person being enrolled? If they are bringing some fairly high level evidence themselves, be it a drivers licence or whatever, your reliance on a witness would be lower.

Senator MINCHIN—What I am saying is that there is the question as to whether you checked that the witness exists. Someone could put Fred Obelisk JP or something, and you could just accept it. On the other hand, you might actually inquire as to whether Fred Obelisk is a judge or a JP as claimed without actually contacting the witness. You could actually verify the witness is who he says—

Dr Bell—That there is such a person.

Senator MINCHIN—Otherwise it seems to me there is certainly only a marginal point in upgrading the witnessing requirement but, if you do that, that certainly puts more obligation on you, more time is involved, and it would make it quite difficult to be accepting enrolments in that—

Mr Dacey—It is that critical period where we really do not want to increase the workload of our staff—not that they do not want to be closing the roll, but they want to be concentrating on running the election rather than processing and checking on bona fides of the witnesses, et cetera.

Mr GRIFFIN—If the view is that there is potential for fraud under this process, and if it is an organised sort of approach to be done, then those sorts of things are not going to matter a toss anyway. If I am a JP and I am witnessing something, and someone comes to me and says, 'I am XYZ Bloggs—dah, dah, dah,' and I present something which could be a bill of any sort manufactured in any sort of way, they are going to sign me off anyway on the basis of the information they have got before them. It does not prove anything.

Ms Dawson—Yes, the point being that organised fraud is going to be a lot cleverer than simply stuffing up on witness—

Mr GRIFFIN—Exactly. And with organised fraud—if there is organised fraud—the circumstances are that it is also going to come out in terms of the post-election reviews of what is occurring. Also, it is going to come out in terms of voter enrolment numbers in electorates and stuff like that, is it not?

Dr Bell—But, again, if we can get to a continuous roll update system where we are getting data from other agencies, then, firstly, your close of roll should be less of a rush and, secondly, you are getting information that people will want to be correct because they depend on it to get their mail, their electricity and things like that. It should be more reliable.

Mr Maley—Just to follow up on that, I guess you would have seen in our submission on enrolment and voter identification that we have looked in considerable detail at the number of schemes which might involve people producing documentation. But there really are, as we see it, severe practical problems with that, either because they do not have the documentation which might be seen as of high integrity or because our discussions with various other bodies reveal that there really are some interesting differences of opinion among other bodies which have been in the identification process for some time as to what are high integrity documents and what are not so high integrity documents. Perhaps, more particularly, because the mechanics of getting those documents into our hands—either by people having to come to an office to present the documents or

sticking them in the mail when they are valuable personal documents—is a serious issue, both from the point of view of the electors involved and from the point of view of ourselves as a body. The processing of such information will require a lot of resources.

One of the reasons why we saw the prospect of enhancing the witnessing process as a workable one is that it does get away from some of those practical difficulties of implementing on the spot, and we have also flagged in the submission that we see benefits in data matching across bodies. But there are, within those frameworks of enhanced witnessing and data matching, a number of different scenarios which could be adopted, some of which might significantly lessen the need for follow-up information. For example, if you received a witnessed document from an elector and were able to verify, more or less instantaneously as part of the processing process, that that person was on, say, the social security database or the Medicare database or so on, then you really would not have to be phoning the witness to find out whether he really was a JP because you would have a certain degree of corroborative evidence.

But within that framework, because there are so many different scenarios that might be investigated, we have flagged quite strongly that there is a need for thorough feasibility studies in whichever of these might be pursued because it involves, really, some quite complex handling of data; it involves privacy issues which are significant; it involves significant issues as to how other Commonwealth agencies—and, for that matter, possibly state and territory agencies—handle their data. It really needs some quite thorough investigation before we could get to the point of implementation.

Mr GRIFFIN—You would not see it as practical, if the committee was of a mind to make recommendations on these issues, for it to be made any more than a recommendation that there be a further study of options, and maybe a further inquiry?

Mr Maley—I think we are at the point where we foresee that there is a need for further study if the committee wishes to adopt options. But, at the same time, at the moment we are facing so many different possible options that it would be, I think, a valuable outcome of this inquiry at least to narrow down the options to the sorts of framework areas which could be then further and more thoroughly investigated to adopt which is the most feasible.

Ms Dawson—Yes. Can I make the point that previous committees in this sort of situation have, as Michael said, narrowed it down to a series of options, then asked the Australian Electoral Commission to go away and come back with the report. So it is a possibility for you to ask us, depending on the life of the committee, to come back to you on a narrower focus.

Mr Maley—Because there are so many options that have been raised in submissions, in previous discussions and so on, it simply would not be feasible for us to do a feasibility study for every one of them—we would do nothing else for the next three

years. But if we can get to the point where we know the broad directions which the committee regards as feasible, then—

Senator MINCHIN—But how much work have you done on the feasibility of cross-data matching? We have had evidence before the committee, and from discussing it with various departments, including Immigration, et cetera, that you must be a fair way down the track in regard to privacy?

Dr Bell—With Australia Post, we are getting something like an 86 per cent match in Queensland now. I gather it was regarded as good, but it can, doubtlessly, be improved.

One of the problems is a lack of national standards for recording this sort of data—words such as 'circuit', street names, abbreviations and those sorts of simple things; whether you have full stops or not; strange stuff. We have done a lot of work with Australia Post. Together with the Bureau of Statistics and some other agencies, we have met to see if there are ways of increasing compatibility in this geographic data area. It will be of great advantage to us and many other agencies if we can get standards across the board. It is that sort of technicality that makes data matching difficult a lot of the time.

Senator MINCHIN—We have been talking about the address based system for some time, too. Has that hit some hurdle? What is the problem there? What is the time line on that? The decision has been made to do it, hasn't it? Do you think it will be up and running by January?

Mr Pickering—Yes, it will be. The team of programmers who have been working on it is nearing completion. Then we will move into a testing phase. We have got training going on around the country as we speak. So it is right up there. We are awaiting feedback from the users and then there will be minor enhancements when bugs are picked up, et cetera. We are hoping that it will be thoroughly tested by early January and it will move into production in mid-January.

Senator MINCHIN—Terrific. To what extent will that, in reality, be able to identify non-residential addresses? For example, if someone does enrol at a newsagent, a shop or something.

Mr Pickering—It takes time to build up the accuracy of all of the land parcels that we have identified on the database. The enrollable addresses that have been picked up through electoral roll reviews in the past will be identified. The addresses in between those enrollable addresses will need to be picked up and followed through at a later date. But it takes some time to do that data validation exercise, to have people out in the street walking those places and confirming that they are parks, supermarkets and the like.

Mr GRIFFIN—Take milk bars, for example. Quite a few milk bars have a residence in the rear. I came across some people in the last election who spent roughly

half their time in a house and roughly half their time at a milk bar that they ran. What do you do in that case?

Mr Dacey—Whilst those premises may be flagged on the system as commercial premises, at least that is an indicator to us to make an inquiry. We can either write, telephone or send someone out to find out if they are legitimately living there.

Dr Bell—This is where collaboration with the Bureau of Statistics, Australia Post and others is very important. They have a great interest in commercial addresses and other kinds of non-residential addresses. Between us we get a much better picture than either of us alone could get.

We met the week before last to look at ways of doing this. We have agreed to develop a project between three or four agencies which would bring this up to date, including geocoding and some validation in remote areas where the accuracy is not so good. It looks as though it is something that could be achieved in a fairly short time frame.

Mr McDOUGALL—Does that mean that you will be able to use the census that has just been done? I question that because it records the place of residence on the evening not necessarily the permanent place of residence.

Dr Bell—There are real problems in using name and address data from the census because a lot of very definite undertakings are given to the public that that will not be publicised. But there are other ways of getting that information—for example, from Australia Post and other kinds of returns.

We have got good street lists and it is a matter of walking down the street and making sure that, if there are any gaps where there are shops only, a park or something, that sort of thing gets plugged in. You can now have casuals going along a street equipped with one of those satellite things that enables you to work out to within a centimetre or so where you are and logging it very accurately. That is the sort of thing we are trying to bring together.

Mr Dacey—For instance, the ABS runs a retail census. There may be some possibility of getting address information from the ABS which would identify retail premises, which would be then flagged to us as commercial premises and, if you did have an enrolment, it would raise a query. As Mr Griffin points out, they could be legitimately enrolled there, but in most cases you would not expect legitimate enrolments at commercial premises.

CHAIR—Which legislative changes, if any, do you need in the act to do any of this?

Mr Dacey—It would be nice to have an explicit power to data match.

Dr Bell—There is a power to get information from other federal government agencies and from some limited state agencies.

Ms Dawson—It is an old-fashioned provision which basically says that people have to give us information if we ask for it, but there is no real enforcement behind that. That could be beefed up to bring it into the modern age. It could include data matching so that, if the AEC asks another department for information, it is obliged to provide that information rather than just being able to say no.

CHAIR—Do your written recommendations say that?

Ms Dawson—I do not think we got that far.

Dr Bell—We will try to find that section and refer you to it in a moment. I think a more important thing, if we get a data matching regime up, would be to sort out with the Privacy Commissioner all the protocols that he requires—advertising, public comment to make sure that the benefit to the public exceeds the privacy risks, and that sort of thing. The agencies we have been speaking with are very aware of this now. They have had a lot of direct experience themselves.

Mr Dacey—It is subsection 92(1) of the act.

Mr McDOUGALL—You did mention, talking about privacy, that you felt it would impose considerable cost to be able to do that. What sort of cost are you talking about?

Mr Dacey—To do what?

Mr McDOUGALL—Meeting the conditions of the Privacy Act would impose considerable cost. What sort of cost are you looking at?

Mr Dacey—I am sorry, I do not remember saying that.

Mr McDOUGALL—I am referring to a previous—

Mr GRIFFIN—Would you say that?

Dr Bell—In financial terms, I do not know. There are costs of a non-financial kind, such as the loss of privacy, that need to be taken into account. I may have had that sort of thing in mind. I am sorry, but I do not remember the context.

Mr Maley—There is a reference in our submission to enrolment and voter ID. I

think what we wanted to point out there was that, if we move into a situation where we have an extensive data matching program going on or even connections between computers to enable instantaneous access to information held by other bodies, that has implications in terms of overheads associated with modifying relevant computer programs not necessarily only in our organisation but in other organisations as well. It has overheads associated with administering the data matching protocols and the agencies' obligations under the Privacy Act, and associated administrative costs of that type.

Mr GRIFFIN—It is really a question of sorts of costs we are talking about in the end.

Dr Bell—Yes, there are two separate things. One is that, if we can get decent common standards, then those costs will drop. A lot of effort at the moment goes into resolving difficulties where you have different abbreviations, et cetera.

The consultancy which the Australian Joint Roll Council had done for continuous roll update indicated tentatively that the cost of going that way would not exceed the current roll review costs. There may be some savings—perhaps of the order of 10 or 20 per cent—but it depends a lot on the precise detail of what you do. But the advice we got was that it was not going to be of a larger order of magnitude; it was going to be comparable or perhaps a bit less.

Ms Dawson—May I take it just a little bit further down subsection 92(1). If there are other departments in the Commonwealth that have an express power in their act to demand information from other departments. In fact, we often receive demands from DSS asking for the enrolment history of a particular individual. That is not normally something we would accede to unless that request had the force of law behind it.

This would be something for a further submission recommendation. The direction we might go in is to put that sort of power into the Commonwealth Electoral Act so that we could demand reciprocally information from other departments. That gives you the legislative basis for setting up a larger environment of data matching, assuming all the other practical problems are resolved. But, from a legislation point of view, the focus would be on subsection 92(1) and bringing that into the 20th century.

CHAIR—You might like to give us a suggested form of wording in a future submission.

Senator MINCHIN—While we are on roll reviews, could you tell me where we are currently at? I cannot remember whether the amendments that we discussed at one stage about roll reviews to get you away from the one big bang—

Mr Dacey—They are in place.

Senator MINCHIN—They are in place. Can you tell me the program for the 1996 to 1999 period?

Mr Dacey—I cannot tell you the full program offhand. In terms of continuous roll updating, which is the main reason we are asking for the amendment, we are currently piloting that in Queensland. We expect to have the results of that pilot in the first quarter of next year, then we will look at how we might implement it nationally.

Senator MINCHIN—If you could keep us informed of what the program is likely to be for this three-year term of the roll review.

Mr Dacey—Sure. But, until we are aware of the success or otherwise of continuous roll update, we are still planning to have the door knocks for the immediate future.

Senator MINCHIN—Do you mean in this term you will do the one big blanket?

Mr Dacey—In some cases yes, because we are still trialling continuous roll update and looking at options, such as Peta suggested, of getting data not only from Australia Post but from other agencies for data matching to assist us with that update process. But it is looking promising, even with Australia Post at this stage.

Mr McDOUGALL—If you do not mind me changing the subject, I will back to one of your reports. In relation to the collocation of divisional offices, it should be noted that at a previous committee in 1992 you said that 'the committee, in acknowledging the substantial infrastructure costs associated with the dispersed nature of the divisional network, considers that regionalisation and collocation in metropolitan major provincial centres should proceed.' How could that proceed? Did it need legislative changes or was it purely a management decision?

Dr Bell—Under the act as it stands it was possible to collocate if the commission approved one divisional office being located outside its boundaries. The government responses to those were not favourable so our links did not go ahead.

Mr McDOUGALL—The government response to that—

Dr Bell—The government response at the time was that it did not support that proposal.

Mr McDOUGALL—But you have gone ahead with it anyway?

Dr Bell—No, we have not. Only some collocations in a very limited way.

Mr GRIFFIN—How many are there?

Mr Dacey—There are two in Queensland, two in Tasmania, one in South Australia and one in the ACT.

Mr GRIFFIN—Covering how many offices?

Mr Dacey—Fourteen, I think.

Mr GRIFFIN—So about 10 per cent.

Mr Dacey—With the exception of the ACT and the one in Marion in South Australia, they are all collocations of two offices. In Canberra, we have got the three ACT divisions together and in Marion in Adelaide there are three together. The rest have two.

Dr Bell—But that is all that has happened. The government of the day did not accept the recommendation to regionalise, which is different from collocating.

Mr McDOUGALL—Would there be a legislative requirement to be able to do that?

Ms Dawson—To regionalise?

Mr Dacey—The act as it currently stands envisages a divisional office in each division. There is a power under the act for the commission to direct that a divisional office can operate from outside the division. But the spirit of the legislation seems to be that there should be a divisional office or an office of the divisional returning officer in each electorate. So that may need to be looked at.

Mr McDOUGALL—The last time you were here, Mr Ferguson asked a question about staffing levels. I noticed that in your response, which we got today, it shows, over the period from 1991-92 to 1995-96, a central office increase of 30 per cent, whereas head office, which I presume is state capital cities based, and your divisional offices went down 9½ per cent and seven per cent respectively. Are we referring there to permanent staff?

The other part of the question is whether there have been any changes to the responsibilities and activities of the divisional offices prior to that time, since 1991-92 to 1995-96. In other words, are you asking them to carry on the same amount of work for a minus seven per cent in staff, or have you transferred to central office a lot of their activities to cover your 30 per cent increase in staff?

Dr Bell—The answer is a complicated mixture, of course. The new functions in central office are set out on the next page of the submission. Divisional offices decreased in recognition due to the fact that they had a certain lower level of ongoing activity plus a peak around election time. Whilst what you might call the long-term staffing of divisional offices has dropped a bit, they can get additional short-term staff at election time, which

would not necessarily be reflected in here. Casual staff coming in around election time would not be reflected here.

The decision made in about 1992 was that the efficiency dividends, which were then more than one per cent a year, should not be absorbed solely in central and head offices, as they had been until that point. Those two between them reflected about a third of the total staffing of the commission at the time—perhaps a little bit more—and that meant they in fact carried a reduction of several per cent each year. It goes back earlier than this table.

The aim was to give divisional staff an average, I think, of eight staff years over a three-year triennium with the aim that they could reduce their numbers in a quiet period between elections and start to build up again towards the election period, plus obtain some additional casual staff around election time.

Mr GRIFFIN—Have they not always had a significant casual component in the lead-up to and during election campaigns?

Dr Bell—I think there is probably a bit more now than there could have been earlier.

Mr Dacey—Present assistance is now much more expensive than it was prior to the introduction of this triennium.

Dr Bell—From the Commonwealth's point of view, it is a more efficient use of people than having sufficient permanent staff to cope with the peak load and having them there all the time. It is not a comfortable situation, and it means—

Mr GRIFFIN—There is an expertise question there too, which is in—

Dr Bell—Corporate knowledge. But a lot of that is in head offices, too, with the area managers and the operational coordinators in head offices and central office. They have a training capacity.

Mr McDOUGALL—I noticed your five points that you have raised in relation to the central office increase. How much of that 30 per cent increase has gone into the international election activity?

Dr Bell—We have got about three people in that.

Mr Maley—Two new positions have been created in that area. The research and international services section has four staff, two of whom transferred in when the section was created with existing positions, and there were two new positions created. It was recommended by the Senate Standing Committee on Foreign Affairs, Defence and Trade in 1991 that the Electoral Act be amended to give us the function of providing assistance in the international context. That committee also explicitly recommended that administrative

structures be made to reflect that function.

Mr McDOUGALL—Where has the increase gone?

Dr Bell—They have gone into a number of things. Some have gone into the research area and some positions were transferred simply from Melbourne head office to central office. Several positions involved industrial elections; that was, people in positions moving from one position to the other, so it was not a change in total staffing. But it affected the balance. The IT area, in the last five years, has increased the number of Public Service staff at the expense of the number of consultants. It was before my time, but I understand that in about 1987, when the RMANS and new electoral systems were being brought in, quite a lot of IT consultants were brought in at very short notice to get systems developed and running.

We were concerned about continuing to have contractual staff for a lengthy period because, for example, they do not have the corporate memory, they have mixed loyalties and they can be withdrawn by their companies at very short notice. We have slowly changed the balance, which has increased the number of Public Service staff in the IT areas, at the expense of a number of contractors. The increases are scattered all over the place.

In 1992, we did an extensive corporate planning exercise in which we consulted very widely outside. We consulted with members of parliament, political parties, the media and other external groups to whom we provided information and services. One of the things they stressed was that they looked to the Electoral Commission for much more research product than we had provided in the past. You see some of that capability reflected in the submissions that have been made to this committee in the last two or three months. There are a whole range of things there.

Mr McDOUGALL—I will change to the postal and pre-poll votes. Thank you for the details you got for those two elections. Obviously, on a quick look, there is a very large increase in pre-polling as opposed to postal votes. In both postal and pre-poll, the ACT declined where every other state went ahead. Is there any phenomena that you are seeing? Was there something funny about the time of the year that an election was held for the ACT?

Ms Dawson—Quite possibly.

Senator MINCHIN—The table you have on postal votes issued and returned shows that there were actually more received in the ACT. Is that explained somewhere?

Ms Dawson—Yes, we have to apologise for that first one.

Mr Dacey—It is on page 9.

CHAIR—We will suspend proceedings for a short time.

Short adjournment

Senator MINCHIN—Do mobile booths go to every prison? Is there a threshold for mobile polling?

Mr Dacey—There is no threshold, but it is a matter of negotiation for prison authorities as to whether or not they want to have a mobile facility.

Senator MINCHIN—Do they have the authority for that?

Mr Dacey—It is the same as for a nursing home. A nursing home can decline for a mobile team to come in.

Senator MINCHIN—Do you know what the situation is with prisons?

Mr Dacey—No, not with prisons.

Ms Dawson—Prisons are normally cooperative, but there are special prisons where they say mobile polling is not appropriate. We would have to look at it further.

CHAIR—How many prisons do we have around the country?

Mr Dacey—I do not know. We could find that out by going to the prison authorities in each state.

Senator MINCHIN—This was a change made in the last 10 years. The question is why and what sort of expense is involved in doing this.

Mr Dacey—The rate of acceptance of mobile polling in prisons did pick up considerably this year compared to the 1993 election.

Senator MINCHIN—Is there a problem with prisoners casting postal votes?

Mr Dacey—Not at all.

Senator MINCHIN—Do you actually supply prisons with the postal vote forms?

Mr Dacey—We do.

CHAIR—Do you have an opinion on where prisoners should vote? I am talking about the electorate in which they should vote. They are given options that are available to no-one else.

Mr Dacey—No. They are actually entitled to use the residence where they intend to return. I do not think we have on record too many prisoners actually changing their address to the address of the prison. Without exception, you would find most prisoners using their home address.

CHAIR—But can they not vote for the electorate they feel an affinity to?

Mr Dacey—No. That is itinerant electors, not prisoners.

CHAIR—Are you sure about that?

Senator MINCHIN—Prima facie they have to enrol at their normal residence, unless they do not have one.

CHAIR—The prisoners?

Senator MINCHIN—Yes, the prisoners.

Mr Dacey—I thought they could enrol—

Senator MINCHIN—I think it is a smorgasbord.

Mr Dacey—Yes.

CHAIR—They can vote for where they come from or any electorate which they feel an affinity to or the electorate in which the gaol is, is that right?

Mr Dacey—I am sure that applies only to itinerant electors.

Ms Dawson—Itinerants have a list of criteria that you can click down through.

CHAIR—I am not talking about itinerants. I think they have a wide range of choices of where they can vote. I was just wondering what the rationale was.

Mr Maley—From memory, I believe the rationale was based on a concern that was felt by some members of the previous committee that in the absence of such provisions spelling out explicitly where prisoners were entitled to vote, significant numbers were enrolling for the prisons. There was a perception that large numbers of prisoners might be enrolled for a particular area and that might have some effect on the voting patterns in that area. Somewhat reading between the lines, I think that was the view of the previous committee. It was certainly an issue that did come up.

Senator MINCHIN—Yes, prima facie it is the subdivision to which the person was entitled to be enrolled at the time of imprisonment. Then if that is not relevant you go

down the scale.

Mr Dacey—Mr Cobb, you were correct. There is a hierarchical scale similar to that for itinerants.

Ms Dawson—It is not quite as liberal though.

Senator MINCHIN—It is not a choice system.

Mr Dacey—That is right.

Senator MINCHIN—And most members would not want all the prisoners enrolling at the prison, presumably?

Mr Maley—That is my recollection of the concern that was felt that motivated this amendment.

Senator MINCHIN—As you know, the coalition moved to have the period of non-entitlement for prisoners reduced for one year, but I must say that there are some in the coalition who think that prisoners should not be able to vote. I think those of us involved realise that is very difficult. Is there any real administrative problem with having anything less than a year?

Ms Dawson—That would be something that the prison controllers themselves would probably tell us about because we have to receive the information from them.

Mr Dacey—But it has to be the actual sentence, as we have been through before.

Ms Dawson—There was a reporting problem and we fixed that. If you were talking about reducing it down to below a year, the committee would probably have to look at getting some special advice from prison controllers about whether that would be difficult to report. We could not tell you that.

Mr McDOUGALL—I noted your comments on page 26 in your replies to Dr McGrath in regard to the criteria of geography and community of interest. I suppose it is fair to say that I have some interest on the basis that Queensland is going to go through a redistribution before the next election. On one hand, the commission suggests that we should not have subdivisional voting because we want to give maximum opportunities for people to vote in a division and therefore we should not have subdivisions within a division.

When it comes to redistribution, bearing in mind that you work in a redistribution on the CCDs system to be able to change boundaries around, if you were to use that same system in relation to setting up subdivisions, wouldn't you be then getting a much clearer

indication in relation to voting patterns? If you were using subdivisions under those criteria and using the same criteria for redistribution, wouldn't you then be getting a more accurate reading of what the electorate is doing?

Mr GRIFFIN—But you are not supposed to be looking at the issue of what two-party preferred votes are.

Mr Maley—I am not at all sure what you mean when you talk about voting patterns, because there is nothing in the act at the moment in the redistribution criteria which calls for the redistribution bodies to take account of voting patterns, if by that you mean partisan voting. In fact, we have consistently eschewed any such consideration of partisan voting patterns.

Mr McDOUGALL—Why then have we ended up with so many more marginal seats across Australia than we used to have?

Mr Maley—I think one of the points that we made in evidence to the inquiry into redistributions last year was in fact that there has not been a massive increase in the number of marginal seats. I do not have the statistics with me, but they were provided to the committee in the previous inquiry which suggested that there has been some fluctuation in the number of marginal seats over the last 13 years. But there has not been a major secular increase in the number of marginals.

Mr McDOUGALL—What is the priority of all the criteria in relation to redistributions?

Mr Maley—That is spelt out in section 73. The first criterion, which is an absolute constraint, is that a division cannot be proposed in which the number of electors deviates by more than 10 per cent from the quota that has been struck within the state or territory. The second requirement is that there must be an endeavour made, as far as is practicable, to ensure that the number of electors enrolled in the division three and a half years after the redistribution will be within two per cent of equality for all divisions. That criterion is subject to the criterion of staying within 10 per cent of the quota. Then there is a requirement spelt out in section 73(4)(b) to take account of, in relation to each division, the community of interests, including economic, social and regional interests, means of communication and travel, the physical features and area of the division and the boundaries of existing divisions.

Mr McDOUGALL—What is the priority?

Mr Maley—The priority is that deviation from the quota is the prime requirement which cannot be deviated from in any circumstances. The second priority is the future equality, subject to a margin of two per cent, plus or minus. The others—community of interests, means of communication and travel, physical features and boundaries—are not

prioritised at the moment. But there has been a recommendation of the previous inquiry—I do not have it with me at the moment—which discussed the whole question of the extent to which there should be prioritisation in those criteria.

Mr McDOUGALL—Do you propose to make a decision or recommendations on any of those before the next redistribution?

Mr Maley—As I understand it, the committee's recommendations are still under consideration by the government.

Mr McDOUGALL—That is the last committee's recommendations?

Mr Maley—Yes.

CHAIR—On the matter of subdivisions and precincts, there were a number of submissions recommending precinct voting. I think in your reply you said that we would have to increase the number of polling booths, from memory, from something like 7,000 to 17,000 or whatever. Would there be any consequences if subdivisional voting were returned to?

Mr Dacey—It would really depend on the size of the subdivision if you are talking about subdivisions as basically that. I think Mr Maley has read out some stats at earlier inquiries that show that in the mid to late 1980s, when subdivisions were still around, the size of the subdivisions was quite substantial.

Senator MINCHIN—How were the size and boundaries of subdivisions determined?

Mr Maley—They were determined by the minister before 1983. I think the point should be put on the record that the increase in the size of subdivisions—it got to the point in 1983 that they were far beyond a size which had any significance, really, for the prevention of abuse—was a trend that had developed over a very long period of time under successive governments. In the 1974 election, for example, we had 78 per cent of electors enrolled for subdivisions of greater than 5,000, and 28.8 per cent were enrolled for subdivisions of greater than 10,000. Even if you go back to 1961, you still had 67.8 per cent of electors enrolled for subdivisions greater than 5,000 and 29 per cent for subdivisions greater than 10,000.

I think to a certain extent there has been the question raised in some of the submissions as to why subdivisions were abolished as a progressive exercise over the 1980s, and that having been a discretion of the commission under the 1983 amendments. The point has to be emphasised that none of the parties in the last 20 or 30 years have shown any inclination to move from the regime we had of subdivisions which really had no practical use to a regime where there was precinct voting.

Senator MINCHIN—There was a concession there that, at a certain size, subdivisions can play a part in the prevention of potential abuse. Do you want to put a figure on that?

Mr Maley—It is very much a matter of personal opinion, but I think we have to face the fact that the nature of Australian society has changed significantly over the years, partly because in day-to-day dealings of commerce there is more reliance on people having a PIN number that gets swiped on a card and less reliance on someone, say, in a shop knowing the individual with whom they are dealing. This is particularly the case in urban areas, I suspect.

I noticed in the evidence that was given by Mr Viney in Sydney a reference to bygone days when perhaps the local policeman knew everybody in the community. It just is not the case any more. I suspect that, even if you knock it down to 400 or 500, it is really not going to make that much difference because people often do not know even the names of people two or three doors down the street.

Senator MINCHIN—So did you say their main virtue was in reducing the extent to which impersonations may occur but, given mobility and current attitudes, that is even doubtful?

Mr Maley—If the underlying proposition in support of precinct voting is that, if you cut the numbers down far enough, scrutineers and polling officials will be able to identify impersonations, I think that is based on the false assumption that these days people, particularly in metropolitan areas, know the names of a vast number of people in a particular geographical area. I just do not think that is the case with mobility and with different forms of communication between people. It is a personal opinion, but I suspect that the assumption there is a dubious one.

It is also dubious when it is compared with the North American context because, as I think you have made the point in the discussion on compulsory voting, the non-compulsory nature of voting in America gets the parties into the local communities by way of contact with individuals to a much greater extent than is the case here. Certainly I have never been door-knocked in my whole life by someone from a political party. That may get someone in trouble.

Mr GRIFFIN—You do not live in my electorate?

Mr Maley—I live in Eden-Monaro.

Mr GRIFFIN—The other issue though on the question of precinct style voting, an argument that I have heard put is that at the moment in a federal electorate you might have 20 or 30 booths that you could go around and busily multiple vote yourself into a frenzy, whereas if you are a precinct voter you may only have two or three booths where

you can go and multiple vote yourself.

Senator MINCHIN—A subdivision.

Mr GRIFFIN—A precinct is one, and there is the subdivision basis as well but, given that the overwhelming majority of potential multiple votes are in fact twos and there is only a very small number of the others, I just think it is an unnecessary imposition in respect of the process.

Mr Maley—I think you have two distinct issues here. The first issue is multiple voting in the same name. That can be measured by the scanning process. We can put a maximum limit on it and it is in the statistics we provided to the committee. Associated with some of them are errors in marking the certified list, which does pull the number down to a very small fraction of the total number of votes involved, and it is readily identified.

The second issue is that of impersonation, in other words, multiple voting in different names. That depends not on the fact that you cannot go to more than one place, because you are not trying to vote in the same name; it depends on this proposition that the scrutineers and others are going to be able to identify attempts at impersonation that we have just discussed. I might add that such anecdotal evidence as I have obtained from various divisional returning officers with whom I have discussed this shows that it has not been the trend for scrutineers to be inside the polling booths taking a great interest in what is going on. They tend more to be outside getting how to vote. Presumably, if we move to a regime of non-compulsory voting, then there would be more of them out in the community rounding up the vote American style.

We would be concerned about precinct voting being introduced—it has a lot of practical downsides, which we have spelt out in the submission—if, in fact, no-one is going to be inside watching the voters. If it is not going to be a significant obstacle to impersonation, then it is an overhead which has major implications for the efficient management of the polling booths, including queuing, which would be of great concern to us and, I think, to the committee, on the basis of the committee's previous views on the subject of making sure we do not have inordinate queues on polling day.

Mr McDOUGALL—That concern would be waylaid, though, if you had identification on voting?

Mr Maley—Without precinct voting.

Mr McDOUGALL—Correct me if I am wrong, but I think you said if you had precinct voting you would have far more cost involved in being able to administer that. Is that what you said?

Mr Maley—I did not mention cost.

Mr McDOUGALL—Because of queuing, or something?

Mr Maley—Yes, queuing.

Mr McDOUGALL—If the voter had to prove identity at voting, that would eliminate that problem, would it not?

Mr Maley—Not if you had precinct voting. It would make it worse because it would slow down the flow of voters. It would add one more stage to the voting process.

Senator MINCHIN—If you had voter ID, you would not need to discuss precinct voting. That would not be a problem with divisionalised voting.

CHAIR—I have had a chance to look at the South Australian legislation, which has been circulated to the members—I guess you are familiar with it—on the misleading advertising or truth in advertising. I was struck by the simplicity of it. I was expecting some wordy length of pages, I guess.

You have given us a submission on your suggestions on it. The only difficulty I foresaw if we went down this path is that the definition of the word 'advertisement' would have to be spelt out pretty accurately. Does it just encompass formal ads or does it encompass wider statements? Have you any comment on that?

Senator MINCHIN—Electoral advertisements are defined in the act already, are they not?

Dr Bell—Yes, the definition in the South Australian legislation is rather more attractive. Ours is terribly broad and gets into all sorts of trouble. The wording there of 'an advertisement or document calculated to affect the result of an election' seems attractive because, if somebody is putting sausages on an election special, or cars or something, it is clearly not intended to have such an effect. I think that is something where we would need to talk with draftsmen in some detail. The key difference is the emphasis on questions of fact rather than opinion. That simplifies life a lot. The other thing of concern to us is the question of who does the investigations and trying to exclude the politically sensitive side from what the Electoral Commission is handling.

CHAIR—Thank you very much for your attendance. I would like to put on record our appreciation of your contribution to the inquiry. We may still have a little bit of tick-tacking between us, but your cooperation has been absolutely excellent to date and I thank you for that.

Dr Bell—Thank you very much. If you need any information, please do not hesitate to get in touch.

CHAIR—Resolved (on motion by Senator Minchin, seconded by Mr Griffin):

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

Committee adjourned at 1.36 p.m.