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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2001 federal election

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JOINT COMMITTEE ON ELECTORAL MATTERS

Wednesday, 2 October 2002

Members: Mr Georgiou (*Chair*), Mr Danby (*Deputy Chair*), Senators Bartlett, Brandis, Mason, Murray and Ray and Mr Forrest, Mrs Ley and Mr Melham

Senators and members in attendance: Senators Bartlett and Robert Ray and Mr Danby, Mr Forrest, Mr Georgiou and Mr Melham

Terms of reference for the inquiry:

To inquire into and report on all aspects of the conduct of the 2001 federal election and matters related thereto.

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Committee met at 9.03 a.m.**CROMPTON, Mr Malcolm, Federal Privacy Commissioner, Office of the Federal Privacy Commissioner****HAYNE, Mr Andrew Ewen, Policy Advisor, Office of the Federal Privacy Commissioner**

CHAIR—I declare open this Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2001 federal election. Since 1984, successive Commonwealth governments have referred similar inquiries to this committee's predecessors after each federal election, with a view to improving the operation of Australia's electoral systems. These committees have played a central role in developing the electoral system we now have. The current inquiry into the 2001 federal election was referred by the Special Minister of State on 13 May 2002. To date, the inquiry has received 161 submissions—probably 162 submissions after this morning—from Australia and overseas demonstrating an interest in the community to ensure that our electoral system is kept up to date. Today we will be hearing from a diverse range of interested individuals and organisations.

I remind the witnesses that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence today will be recorded in *Hansard* and will attract parliamentary privilege.

I welcome representatives from the Office of the Federal Privacy Commissioner. The committee has received your submissions. One of them has been authorised for publication already. The supplementary submission which we received yesterday has also been accepted and authorised. Are there any amendments or corrections you would like to make?

Mr Crompton—No, we would like to stand by the submissions.

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

Mr Crompton—Yes, I would. We provided a fairly similar submission to the previous inquiry in the year 2000. By our earlier submission in July, we incorporated the content of that submission into this inquiry as well. The submission that we lodged with you yesterday expands on some of those issues and, in particular, provides some further thoughts on issues raised through the recent Audit Office inquiry and the submissions of the Electoral Commission. There is a genuine community concern to have an electoral roll that has integrity and is used for the right purposes and not for the wrong purposes. There is a particular issue here where, if a government is compelling an individual to enter their name and quite a lot of details on a list and that list is publicly available, the quid pro quo that many people are expecting is that that list remains used only for those purposes. One of the pieces of evidence I would certainly like to submit—I have copies for committee members, if they would like it—is some community survey work that we did in the middle of last year. In particular, the answer to question 4.30 showed that some 70 per cent of the Australian population, quite accurately spread by demographics of all sorts, felt that the electoral roll should not be accessed for marketing

purposes. There is a genuine concern in the community that it be used for the right things and not be easily available for other purposes. That is the fundamental thrust of our submission.

CHAIR—Could you just clarify one issue for me. One of the central matters in your submission is the one that you just raised—that is, the use of the electoral roll. You make a variety of comments, particularly on page 12 of the supplementary submission, where you say:

... there are no specific restrictions on how political parties may use any personal information once they have collected it from the Electoral Roll.

You also say:

It is conceivable that political parties could, given the general wording provided in the Electoral Act, use this personal information for purposes not intended by Parliament when passing the legislation.

Your recommendation is that political parties should be prohibited from using electoral roll data for commercial purposes—which, to my knowledge, political parties have not used it for. I would just like have it confirmed that there are not end restrictions, and I would like to have explained the prohibition in the act on disclosure of the roll for commercial purposes. I am not an expert in this area but I am a bit puzzled about that.

Mr Crompton—As I understand it, there are some restrictions in the Electoral Act on further use of the electoral roll information by the political parties. Our concern is that those are fairly broad and not very specific controls. A further concern of ours is that with the exemption that was given to political activity in the recent extensions in the Privacy Act, we have probably an unintended asymmetry where an individual citizen these days now has a clear right of access to information held by a private sector organisation—in other words, to see what that organisation knows about them—and a clear right to have that information corrected or, if it is not appropriately there, to delete it.

CHAIR—To clear the cobwebs from my mind, could we just stay with the assertion that there are no end use restrictions on political parties and your recommendation that there should be a prohibition on the use by political parties of the roll for commercial purposes?

Mr Crompton—There are some restrictions in the Electoral Act. They appear to be vague. I wonder if they work, because once you have incorporated data out of one data set into another, you may be able to lose control of that information. Derived data sets, for example, may be able to be sold off commercially, and there does not appear to be much control of that.

CHAIR—I would like to stay with this point, because it is scattered through the submissions of the ANAO and it is picked up by the AEC. As I said, I am not an expert in this area, but I refer you to 91B of the Electoral Act:

Prohibition of disclosure or commercial use of Roll or habitation index

- (1) For the purposes of this section, information is protected information ...

.....

- (2) A person must not disclose protected information unless the disclosure would be a use of the information for a permitted purpose ...

.....

- (3) A person shall not use protected information for a commercial purpose.

I would like to make that connection, because I have read that as covering your recommendation 9. If I have misunderstood, I would like to understand why I have misunderstood.

Mr Crompton—I am sorry; I was looking at 91A(2). Can you tell me the section that you were quoting?

CHAIR—91B(3).

Senator ROBERT RAY—You are right to look at (2), because I think it makes a nonsense of your submission.

Mr Crompton—I must be reading a different version of the act, I am afraid.

Senator ROBERT RAY—Let us go to 91A(2), regarding a political party. If you refer to (1A), regarding members and senators, you will see that the use of the electoral roll, in whatever form it is provided to them, is restricted to (a) to (c), and that is all.

CHAIR—There is a specific prohibition.

Senator ROBERT RAY—Yes, for all use. That was put in in 1983.

Mr Crompton—Certainly, one of the concerns we had with 91A was, while it was a list of permitted purposes, whether it applied the converse, which was that every other purpose was not permitted.

Senator ROBERT RAY—Usually when you prescribe in an act the permitted purpose, that is the permitted purpose. That is why you have put it in there. If you were able to do a number of other permitted purposes, they would be in the act. At a later stage of the act, the section on use for commercial reasons goes way back to 1983, well before privacy legislation. We will have the commissioner here later, giving evidence, and he can certainly tell you the history of it. It was never intended for commercial use. What was happening then, back as far as 1983, was that one organisation—I think it was Reader's Digest—was taking the entirety of the roll, typing it, transposing it and then using it for commercial purposes. That was made illegal back then. The section has been in operation for 19 years.

Mr Crompton—The number of times we receive claims from people that, one way or another, the electoral roll is still being put to commercial use would suggest that it is still happening.

Senator ROBERT RAY—Not the electronic roll.

Mr Crompton—Not the electronic roll, but it appears as though—as we say in our submission—physical copies can be taken off, copied and turned into electronic form fairly easily. All you have to do is to buy a copy, send it offshore, have somebody do the transformation into an electronic copy and bring it back into the country. It has probably been done legally at each step.

Senator ROBERT RAY—In terms of political parties, you have no evidence at all, have you, of this ever occurring?

Mr Crompton—No, I—

Senator ROBERT RAY—I know of one potential instance of it occurring with a very minor political party, but I invite you to provide the evidence.

Mr Crompton—That is a very good point. I do not have evidence that it has happened with a political party. I am seeking to make sure that the citizenry knows that it will not.

CHAIR—My difficulty with this is that assertions such as that as matters of fact—that there are no end use restrictions and that there is no prohibition on the utilisation for commercial purposes—find their way into the public perception of the roll. In this particular case, I do not believe that that is accurate. I am particularly concerned that that assertion has found its way into the ANAO report; they were challenged on that and they did not have a very good response. The AEC also made a similar point, as I recollect, and they were challenged on that. It seems to me that the assertion that something is not the case when it is the case is highly problematic, especially with something as sensitive as the electoral roll. The fundamental fact, as I read the act, is that the prohibition that you require for utilisation for commercial purposes is actually in the act at present and, as Senator Ray said, has apparently been there since 1983.

Mr Crompton—Senator, I think there are two paths to go down here.

CHAIR—Thank you for elevating me!

Mr Crompton—I think there are two questions here. One is the first and direct question that you asked, which was whether there is a prohibition on political parties using the information for commercial purposes. In the circumstances—that there is a section that I have not properly read—I would prefer to write to you and clarify later rather than try and clarify on the spot now. There is, however, the second question of other entities finding ways of making commercial use of the electoral roll, and I think there is very little doubt that that is happening.

Senator ROBERT RAY—They can make use of the phone book, too, can't they?

Mr Crompton—Yes, but the electoral roll—as any marketer will tell you—has some particularly useful qualities in terms of its completeness and its accuracy, and it is up to date.

Senator ROBERT RAY—Yes, except the published roll has only names and addresses.

Mr Crompton—Yes, but it is still a bigger list than the *Yellow Pages*.

Senator ROBERT RAY—A marketer's dream would be to have the electronic tapes with gender, date of birth et cetera, which are not available and which are prohibited from one site.

Mr Crompton—Nevertheless, marketers will tell you that the electoral roll, as it stands as published, is very useful to them.

Senator ROBERT RAY—You refer on page 13 of your submission outline to an article called 'Public's right to privacy flouted by political parties'. It is footnoted as appearing in the *Adelaide Advertiser* on Thursday, 29 September 2002. I thought Sunday was the 29th but, leaving that minor thing aside, have you got that article with you?

Mr Crompton—It is actually at the back of the submission.

Senator ROBERT RAY—It is in the supplementary submission, I see. I only read that this morning. Is this by Dean Jaensch?

Mr Crompton—Yes.

CHAIR—Can I just make a point about that. I only read this last night. It does not seem to me that the article actually supports the point that you make in the text. But in any event.

Senator ROBERT RAY—You are going to get back to us on the question of end use of the electronic roll.

Mr Crompton—What I was going to get back to you on was the restrictions on political parties provided in the Electoral Act.

Senator ROBERT RAY—Can you think of anyone else who can disclose information over the electronic version of the Electoral Act who is not controlled by a prohibition of disclosure for commercial purposes?

Mr Crompton—If you read the submission, primarily what we are talking about is the ease with which the physical copy can be transformed into a commercially usable document.

Senator ROBERT RAY—I am just asking about the electronic version for the moment, because you go on to argue: 'Let's not have a printed version; let's only have an electronic version,' and then you say something about the Internet, which I will go on to later. I am asking in terms of the electronic version.

Mr Crompton—With the electronic version, what happens is that there is an increasing number of Commonwealth agencies and researchers able to access data that is beyond just the fields that are in the printed electoral roll.

Senator ROBERT RAY—We understand that; I think you can assume we understand that. I ask: in this act as it currently stands, are there any people with that access who can escape the prohibition on divulging it to commercial sources?

Mr Crompton—Not as far as I am aware.

Mr DANBY—Coming to your recommendation 3, when you say that on the AEC web site and in electoral offices there should be posted information about how people's personal information can be used and by whom, what kinds of things would you have posted there and what kind of personal information do you think is available?

Mr Crompton—Sorry, Mr Danby, I missed which recommendation you were talking to.

Mr DANBY—Recommendation 3 on page 2. I am looking at the summary of recommendations. What kind of information would you have posted in electoral offices and on the AEC web site, what kind of personal information do you say is being used and who do you say it is being disclosed to?

Mr Crompton—Essentially, I am looking to help the citizenry to be more aware of the considerable range of organisations we mentioned earlier and of the number of organisations that are able to access parts of the electoral roll. I am not quite sure which paragraph that is in. I do not think there is a very wide awareness in the community that that is how many uses are made of the electoral roll, and that is what I am looking to find ways of improving the understanding of.

Mr DANBY—I am, in a sense, following on from the chairman's and Senator Ray's point that there are fairly restricted uses of the printed roll. I know electors and constituents complain about it being commercially exploited, but the information is derived from the publicly available printed roll; it is not derived from the electronic roll that parliamentarians have. Are you saying that people are not aware of that and that they think the political parties are divulging that information?

Mr Crompton—It is getting back to what we said in paragraph 10 in the submission. By our estimate, there are quite a number of agencies that are, in particular circumstances, able to access elements of the electoral roll, including elements beyond that published in the physical document. I would suggest that very few members of the community are aware that that is how many uses are made of the electoral roll, and it is appropriate that the community be made aware of that range of uses. Yes, it is specifically endorsed by parliament through regulations and other matters like that, but it is not being further brought to the attention of the community, for example, as they enrol.

Mr DANBY—So these are authorised uses?

Mr Crompton—Yes.

Mr DANBY—But the public is not aware of them? What are some of them?

Mr Crompton—I have not brought the regulations with me but they include, for example, various forms of academic research and, in particular, medical research—that is, getting access to the electoral roll for various research purposes where they want gender and age specific information about people.

Mr DANBY—You would not be opposed to that; you are just suggesting that people be informed about it?

Mr Crompton—I think there are two things. One of our recommendations is that it is time that the sum of all the availabilities be reviewed, because there has been incremental expansion over the years. The sum should be reviewed but, second of all, regardless of the answer that the parliament comes to, the community ought to be made more aware of where the parliament comes to.

CHAIR—How would you propose to do this?

Mr Crompton—In the Privacy Act, under these circumstances, there is a requirement that various notices be put out by agencies as you turn up and as they collect information from you. It should be made clearer to you how this information might be used.

CHAIR—Do you have a specific example?

Mr Crompton—Quite often, agencies use a short form description at that point: ‘This information will be divulged under appropriate circumstances to a number of other Commonwealth agencies.’ It lets the individual know that the information may be dispersed more widely, but it is not necessarily helping the individual know very much about that.

Senator ROBERT RAY—Could I ask when you last looked at an enrolment form? Did you look at an enrolment form before you put in your submission?

Mr Crompton—I have not looked at one in the last couple of weeks, no.

Senator ROBERT RAY—Have you done so in the last few years? Can you confirm that, on the enrolment form, it says ‘this information may be divulged’?

Mr Crompton—Yes, it does.

Senator ROBERT RAY—Yes, it does, doesn’t it? And on the web site?

Mr Crompton—Yes, it does—briefly.

Senator ROBERT RAY—When it was earlier said that people do not know, it is because they have not read the enrolment form.

Mr Crompton—But does that mean that there should be more education for the community so that they are aware? Is that sufficient? That is all I am asking, that the community be more aware.

Senator ROBERT RAY—But they are given an opportunity to know. Let us be honest around this table: we do not read every aspect of every form we sign, I would think. But it is there.

Mr Crompton—It is available if you go and seek it, yes.

Senator ROBERT RAY—Everyone fills out an enrolment form, and 16 per cent of people fill one out every year because of movement. There are very few people you do not get to over a decade, for instance, who do not sign one. It would be 20 or 30 per cent, possibly. It is all there on the form that they sign—that they know that this information may be disclosed for these purposes. Is that right? For the record, you nodded.

Mr Crompton—Yes. There is information on the back of the electoral roll enrolment form.

Senator ROBERT RAY—Thanks.

Mr Crompton—I believe, in that regard, that the electoral office have improved that disclosure over the years. I remember looking at some enrolments as they currently are and as they were some years ago and they have certainly improved.

Senator ROBERT RAY—That is good news.

Mr DANBY—In regard to the federal and state agencies that are used for the Electoral Commission's continuous roll update, are you opposed to the information from those agencies being used to update the roll?

Mr Crompton—Are you talking about the current provisions or the proposals that the Electoral Commission has put forward?

Mr DANBY—They have, by matching various databases, a way of updating the electoral roll that is quicker and more efficient than doing house by house surveys. Are you concerned about how the agencies use the electoral rolls and I want to know whether you have a view about the Electoral Commission using the information from those agencies to update their roll? I want to confirm whether you are concerned about that.

Mr Crompton—One of the points we have made in the latest submission that was lodged yesterday is that the argument by itself, as you have just put it, may have considerable merit. We do need a good, accurate and up-to-date electoral roll. But does that lead to quid pro quo arguments for all the agencies that they all need to swap all of this information all of the time? I think you can only really answer that question by looking at all the questions at once rather than looking at the incremental question.

CHAIR—Are you opposed to exchanges between Medicare and the AEC in terms of the roll update? Just take that one specific case, because that has been something that has been mooted.

Mr Crompton—A lot of people could argue repeatedly that their health information is particularly sensitive and that they would not like to see health information that they have provided under circumstances of, say, getting health insurance from the government being reused for quite unrelated, non-health purposes. A survey was done in California, for example, a few years ago that showed that one in six people in California will take action that may even compromise their health in order to protect their privacy. They will pay cash when they go to the doctor; they will go doctor shopping—in other words, visit a different doctor each time—or

they will not tell the whole truth to the doctor. Certainly one of the concerns is that if data sources like Medicare are used for non-health purposes, such as updating the electoral roll, you could see people concerned about getting their health insurance back.

Senator ROBERT RAY—Could we have a copy of that survey you mentioned before?

Mr Crompton—We certainly can provide that, yes. I have not got it with me, but we can get it.

Senator ROBERT RAY—I see. I thought you were going to give it to us. What sort of survey is it: quantitative or qualitative?

Mr Crompton—It is by the California HealthCare Foundation and I am pretty sure that it is quantitative but how big the sampling is and other matters like that—

Senator ROBERT RAY—I am sorry, I thought you had an Australian survey. I was not talking about this health issue now. I was referring to earlier when you mentioned you had a survey.

Mr Crompton—The California HealthCare Foundation is material I can provide to you later.

Senator ROBERT RAY—No, it was the earlier reference.

Mr Crompton—The survey that I have here was conducted by Roy Morgan Research for us. The methodology of the survey is well described in the documents. Essentially, it was a two-stage process in which we asked Roy Morgan to convene focus groups, both in cities and in the countryside, and from that to construct a set of questions to be asked which were conducted by a phone survey of about 2,000 people who were carefully split by age demographic; geographic; and properties by income, by education and so forth. We can actually drill the survey material quite deeply to give you what the person at age 23 thinks about certain questions and so forth.

Senator ROBERT RAY—We get a lot of cowboy surveys and, on your description, yours is not one of those, which was the reason I asked.

Mr Crompton—I am very aware that there are plenty of those sorts of surveys around. We did our very best to make sure that this was of quality. Any survey has its limitations. That one, for example, is limited in the sense that it is an attitude survey—we were asking people what they thought. Some people will make the point that often that is different from what people actually do, but when you conduct a survey such as that one, where some of the numbers come in at 90 per cent—that is, 90 per cent or more of Australians think that an organisation using their personal information for unrelated purposes is an invasion of their privacy—regardless of whether there is a plus or minus 10 per cent error on that, it is still a very high proportion of the population.

Senator ROBERT RAY—When you ask them whether they mind if the electoral roll is used to catch a person who just robbed their house, or for law enforcement, you get 90 per cent the other way.

Mr Crompton—It is an excellent point.

Senator ROBERT RAY—Generally your point is well made. Clearly a majority of people would resist that but, under pressure, a majority would probably say yes for certain purposes. Our task and your task is where we draw the line.

Mr Crompton—Absolutely. In that survey, there are some enigmatic answers by the community. For example, we asked a question about whether people would like just one number for health care purposes. A very high proportion of the community said yes. You have to remember that a Privacy Commissioner asked that question and a Privacy Commissioner got that answer. We conducted this survey as honestly as we could, and it was a surprising result that so many people were content to be issued with a health care number of some sort. But when you ask the next question—which is also in that survey—about entry of their personal information into databases and usage of it, you find that people’s answers are much more negative about that. You have to work further with the community to unpack how the conflicts in their minds work through in particular circumstances. I suspect a lot of people’s responses are very much of the ‘not in my backyard’ variety: ‘I would like to make sure that everybody else’s DNA is collected and put in a database for police purposes, but they had better not have mine.’

Senator ROBERT RAY—I have a broad question on secondary disclosure. Should secondary disclosure be a matter of legislation or should it be a matter of regulation? I will not go through all the history—I won’t even go through the history of your own pathetic legal advice on these issues, if you don’t mind me saying; you probably do, but it’s true—but we now have a situation where it is by way of regulation rather than in legislation. I think you mentioned 21 bodies. Should it actually be in legislation to make it explicit and to make the parliament concentrate on it?

Mr Crompton—I would certainly advocate that it goes no lower than regulation, because that means the parliament has an explicit capacity to act, to reject, if it wishes to do so.

Senator ROBERT RAY—Let me stop you there. When it is done by regulation, all 21 are put in the same thing—and you cannot amend a regulation when you disallow it—whereas if they were put in legislation you can say, ‘We think it’s fair enough that ASIO and the AFP have it, but why Customs?’ I am not picking on Customs there. So we might want to exclude it at that level. It is much harder to do when it is in regulations.

Mr Crompton—That alone is a good reason for allowing it to be in head legislation rather than in subordinate legislation such as regulations. One of the things we have not had for a long time is debate on the whole issue of where the current electoral roll information—the expanded to full list—goes. As you say, by doing it through regulation we may not have allowed that debate to happen for some time and, in the meantime, there has been increment.

CHAIR—When you were asked about the use of the Medicare data, you went to a survey. Can we have your judgment about whether it is appropriate for the Medicare data to be used to assess the completeness of the electoral roll or to match addresses? I would like your judgment.

Mr Crompton—My judgment as the Privacy Commissioner is that it would be better to get that kind of information from other sources.

CHAIR—Which other sources?

Mr Crompton—Non-Medicare sources. You asked me about accessing Medicare, and I am suggesting that Medicare is an inappropriate source, especially because it again becomes a question of increment. It is all very well to do it now, but if you do agree to using Medicare information for electoral roll purposes, in a couple of years time the next increment will come along, with somebody else having an equally good case for accessing Medicare information. In that instance, I think it is better to not cross the Rubicon, particularly with health care information.

Senator ROBERT RAY—We know the ANAO use that to compare; I do not think the electoral office does it very often. They are using post offices extensively and car licence records. As far as I know—and Mr Dacey might like to say—I do not think they are using Medicare records. You might like it prohibited so that they cannot, but it is not part of the continuous roll update at the moment.

Mr Crompton—No—the question was specifically about Medicare.

CHAIR—There is a specific proposal by the ANAO that there should be reciprocal exchanges between the AEC and Medicare—that was the point.

Mr Crompton—There is already a strong debate within the health area as to how far a person's personal health information should be used for other health related purposes, such as medical research and so forth. That debate is not yet complete, and we should allow that debate to be taken further without commencing on the debate about how much health related information should be used for non-health purposes.

CHAIR—But you referred in your submission to the suite of databases—what they call an optimal suite of databases. Do you have problems with things like motor registration, sale of land data and so on as a way of validating the roll? There is a list at the bottom of page 10 of your submission where you list:

... Australia Post; Centrelink; Motor Transport; Fact of Death files; Rental Bond Boards; Public Housing Authorities; State Revenue and/or Land Title Offices; and DIMIA.

Mr Crompton—We need to be very careful about how we do that so it does not lead to unintended consequences for the person who has set out very carefully to disguise their existence or where they are—for example, from an abusive partner—and that, as you expand these kinds of matching processes, the person does not unwittingly re-emerge into the public domain to be found and to be chased and so forth. While, on the face of it, there is merit in improving the electoral roll, including by the kind of matching that you are talking about, have we got the corresponding checks and balances in place to make absolutely sure that the information does not have unintended consequences—including, for example, the case of abusive partners and so forth?

CHAIR—But that goes to the exception rather than the rule—and I accept your point—but in general terms you do not have a problem with data matching these information sources, whereas you do have a problem with matching Medicare and the roll.

Mr Crompton—I would be concerned, for example, with that group there that is listed, if that meant exact quid pro quo for each of those agencies to go back to the electoral roll.

CHAIR—This is very important: what you are saying is that the integrity of the roll is significantly important enough to allow the roll to gain access to other agencies but it should not be reciprocated as, for instance, the ANAO recommends with respect to Medicare records.

Mr Crompton—As Senator Ray said before, for strong law enforcement purposes, for example, there may be clear justification for a quid pro quo. But I am not sure that simply because the electoral office can make a demand of an agency, that agency should say, ‘That is alone reason enough for us to have the reverse quid pro quo.’

Senator ROBERT RAY—But in terms of the vulnerable group—and, again, it is a long while since I looked at this—the electronic roll that contains someone’s name silently enrolled does not give those other agencies details of date of birth, address or anything else. They do not have access; they just have the name. Let us say that you are from ASIO and you ask for an electronic version of the roll for Mrs Smith who is silently enrolled—you would get the name obviously, but you would not get the address details or anything else, so that is protected.

Mr Crompton—In other words, you are reaffirming much of what I am saying: there is not a symmetry of the flow of the information. The information can flow towards the electoral office but not out of the electoral office.

Senator ROBERT RAY—I am saying there is not a problem of silent enrollers becoming vulnerable under this process.

Mr Crompton—There is the question that I believe has been raised: is this silent enrolment process too restrictive in how easy it is for somebody to get a silent elector status? I think the audit office was reflecting on whether or not the silent elector arrangement was slowly expanding and whether or not that was appropriate.

Senator ROBERT RAY—Without an instance of it being wrong. I did not quote an instance; I quoted a worry. We have to deal with abuses and facts. I am not saying you are peddling conspiracy theories, or that the ANAO is, but it is a constant thing that we have to deal with. Submission No. 160, or one of those, has an actual complaint from one person. Remember we are dealing with 12.8 million people there. The silent enrolment only came in in 1983, and I think it has worked fairly effectively.

Mr Crompton—There is still the fundamental question of at what point can a person simply want to be private and to be able to interact with the Electoral Office when that is appropriate, to be interacting with the police when that is appropriate and to be interacting with Medicare when that is appropriate without each of those entities being able to add it all up and keep an eye on a person by summing up all of the data.

Senator ROBERT RAY—Do you know how much silent enrolment has increased in the last 10 years?

Mr Crompton—I do not have that data. I am observing on something that I believe the ANAO said, which is that the silent elector list was expanding. What I am suggesting is, would it expand more if it was easier to access for quite reasonable reasons? The expansion in the use of the silent elector list may reflect increasing concern, or it may actually not reflect pent-up demand to be able to do that because other people with a wider range of reasons are not able to do it.

Mr MELHAM—In terms of domestic violence and a whole range of other things, maybe it reflects that people want to make sure the electoral roll cannot be used to access where someone is living—

Mr Crompton—Yes.

Mr MELHAM—so that the partner whom the order is taken against cannot access it.

Mr Crompton—One of the questions I am asking is: do I have to be able to show extreme circumstances such as domestic violence or that I am an extremely well known Australian citizen, or some other circumstance, before I can get silent elector status? Or is there actually a warranted category in between where a person just wishes to lead a quiet life and, while quite happy to be on the electoral roll, does not otherwise want that information to be made publicly available? Should they, under those circumstances, have to go through the hoops to have themselves get silent elector status or, as we put in the last recommendation of the submission, is there something in between to be found for those people who simply want to be private but otherwise are law abiding citizens in a quiet existence?

Senator BARTLETT—Following on slightly from that, are you basically advocating that people just be able to elect to be silent in the same way as they can in the phone book?

Mr Crompton—In the time available, I was not able to think that through to that point. What I would like to do is to see us address that question.

Senator BARTLETT—It is probably a bit out of left field, but this is something that gets raised with me from time to time and I just wonder if it does get raised with you. It is mixed in with privacy to some extent. It is the issue of transgender people. Certainly the information that gets made available to political parties includes gender, and obviously the gender that people enrol under, which may or may not match their birth certificate gender, and there are differences from state to state. Are there any issues in relation to that sort of aspect that come into your sphere of activity?

Mr Crompton—In terms of complaints received, I am not aware of any complaints, but it may well be that it has been handled directly by the Electoral Office in the first instance anyway, in terms of somebody either wanting to change the gender that they list or suppress the gender completely. Again, for people under those circumstances, it is an extremely sensitive issue, and to force them to be making revelations that they are uncomfortable with is something that we, as a community, should think very compassionately about.

Senator BARTLETT—It is not something that you could deal with in isolation purely under electoral law. It comes up more regularly, for me anyway, under things like Centrelink and data

that people have to provide, and some people's unwillingness to be listed under a gender that they believe is false. Is that broader issue something that is presented to the Privacy Commission?

Mr Crompton—I am sure it could be and I could not say for certain that we have never received a complaint along those lines, but I must admit that I would expect people with that kind of concern to have probably turned to the Sex Discrimination Commissioner rather than us for resolution. It may be that we do not have the best evidence compared with the Sex Discrimination Commissioner.

Mr FORREST—On the question of people wanting to opt out and be a silent elector, we have a submission from a person who applied to be a silent elector and received a letter back from the Electoral Commission refusing it on the grounds as they currently existed. The Electoral Commission's perception was that there was no risk to personal safety. If you are saying that people should have the right to be a silent elector just because they want to, live the quiet life or whatever, as you said, can you suggest what the definition should be of a silent elector? Can you make suggestions as to how that can be broadened and define it further?

Mr Crompton—As per the recommendation at the end of our submission, we have not worked that through. I think it is time to work the issue through, but I do not have suggestions at this point.

Senator ROBERT RAY—Have you looked at section 104 of the updated act recently? Apparently Mr Hayne has.

Mr Hayne—I have, yes.

Senator ROBERT RAY—Are you satisfied with the appeal process there?

Mr Hayne—We have not gone into analysing the appeal process as such. We have only looked at the criteria under which you can apply to become a silent elector. I am aware that there is an appeal process, though.

Senator ROBERT RAY—Just on that—it constantly talks about the person or members of the person's family at risk. It talks about, essentially, personal safety—these are the issues. What other categories should be allowed here, if it is not personal safety?

Mr Crompton—What I am saying is that if one of the things that is happening, whether we like it or not, is that there are ever increasing mechanisms by which people can make unwanted visits on us—through our emails or our phone numbers or by knocking on the door—then more people are going to want to find mechanisms for quietening down their lives. This will include removing themselves from lists. To the extent that if there is suspicion that the electoral roll is a source for commercial list making, then people are going to want to take themselves off the list for that reason alone.

Senator ROBERT RAY—But if we allow people to do that at whim, because they do not want to be bothered by a letter or a doorknocker on a specific subject, how do we keep the integrity of the roll? Theoretically, the integrity of the roll is that it is a published document and

I can look up Mr Georgiou's name and address and if I think he is living somewhere else, I can put my \$2 up and challenge him.

Mr Crompton—That is why there is considerable merit in exploring the Electoral Commission's proposals for allowing anybody to verify the existence of somebody else by entering the information that they know about that person and getting verification that they have got it right but not a verification as to what the correct information is. As I understand the Electoral Office proposition, you would be able to say something like, 'Is Senator Ray in the Victorian Senate electoral district?' and the answer will come back 'Yes'.

Senator ROBERT RAY—I hope so, seeing I cover the whole state.

Mr Crompton—What you are not able to do is to type in 'Senator Ray' and find out where he lives, unless you already know where he lives and you type that in and it confirms that is the correct address. For very common names of the John Smith variety, people may need to be putting in more information than simply the name in order to get the verification that they want. It is very clear that a fundamental part of our democratic process is to be able to check that a person is on the electoral roll once and not 'nunce' and not twice. It is a very fundamental part. What we are trying to do is to come up with a mechanism that allows that to happen without the person's name moving around in other areas that that person thinks is undesirable, and the electoral office proposition appears to be moving in that direction.

CHAIR—Why is there this huge animus against the printed roll? Implicitly, what you are saying is that the electronic roll is safe apart from your concerns about the 21 agencies, which is fair enough. I thought the point about legislation was a good one. What is the hassle about purchasing the roll and indeed the availability of a physical printed roll?

Mr Crompton—As a fundamental principle?

CHAIR—Yes.

Mr Crompton—I think that if government uses its unique power to first of all compel you to give information and then to compulsorily publish it, there is clear evidence that a number of people in the community think that a quid pro quo that goes with that, namely, that the individuals should have some distinct rights of control over where that information goes to. It regularly pops up as an issue where people think, 'I am willingly on the electoral roll for electoral purposes, but I do not want that information being used for otherwise commercial purposes.'

Senator ROBERT RAY—Can you think of an overseas example—I do not know, frankly—where the roll is not available? Is it the US or the UK?

Mr Crompton—I believe the UK has recently made changes, which I have not studied, but I think that it has made a significant change in that direction.

Senator ROBERT RAY—You see, they have 'voluntary' in inverted commas. No, maybe it is compulsory enrolment.

Mr Crompton—I think it is compulsory to enrol and voluntary to vote.

Senator ROBERT RAY—Yes. So there could be a distinction made with overseas experience between those who volunteer it; there is certainly no case then for not having the roll publicly available.

Mr Crompton—Certainly, it distinctly reduces that.

Mr MELHAM—Mr Crompton, let me tell you one method in which the printed roll can be used to advantage in the lead-up to an election, for instance. You could have printed rolls in the shopping centre with signs saying, ‘Are you on the electoral roll?’ and the printed roll is used to assist people to check whether they are on the roll, for people who have transferred into the electorate or whatever. I know that has been done in campaigns to try and get people on the electoral roll. What is wrong with having a printed roll for those purposes? I must confess that in my area we have purchased a number of printed rolls and we set up in shopping centres. That has assisted in getting a number of transients on the electoral roll. I would have thought that is a proper use of the printed roll.

Mr Crompton—It does sound quite appropriate. We have not been talking about that so much as anybody being able to buy an over the counter copy for opportunistic purposes.

Mr MELHAM—I hear what you are saying but, in terms of political parties, that process of having a printed roll available in a shopping centre, in a transparent way, assists people to get on the roll with an imminent election due. That would not be able to happen if it was only in electronic form, unless we set up computers in every shopping centre.

Mr Crompton—One of the community concerns will always be if a physical copy is made available to a political party or a political aspirant and it then gets lost, or whatever. The security problem always emerges under those circumstances. Nevertheless, if you have appropriate protections in place, you can reduce but not eliminate that problem. But it could be that the electoral office’s proposition makes available an Internet based process that is so cheap and freely and easily available that you would want to do it that way anyway. I would certainly be advocating its exploration. It could be that in the very near future all you are going to need is a laptop and a phone line and you could not only have access to the printed electoral roll but actually access to the CRU version of the electoral roll, on the spot in the shopping centre.

CHAIR—Just on that point, there is a huge demand during elections and we use volunteers to check whether people are on the rolls and in which electorate they are enrolled. That comes through our offices. The printed roll is very useful for actually giving directions. That is a high volume input.

Senator ROBERT RAY—Especially where you have a polling booth covering two federal electorates, which I will eliminate one day. Won’t I, Michael?

Mr DANBY—It will probably save my life if you do.

Senator ROBERT RAY—Or someone’s life crossing Punt Road.

Mr FORREST—To back that up, there is a very high demand from parents coming in to check on the status of their children who are away at university. The printed roll has an incredibly productive use.

Mr Crompton—That is a case of where I would always advocate great care, because there will be at times children of the 16-, 17-, 18- or 19-year-old variety who do want to separate themselves from the rest of their family for whatever reason. Sometimes it is just, 'We don't agree with each other,' and sometimes there are more unpleasant reasons as to why the person wants to go away. While a parent of such a child could present as a concerned parent wanting to make sure the electoral roll is up to date, there is always the concern that in fact the parent is presenting to try and find an otherwise lost child. There are lost children where you really desperately do want to find them but there are the horrible incidents in between where the child has consciously separated from the family but the family is not letting go and is trying to chase. If you do want to use the electoral roll for those kinds of purposes, I would advocate extreme care in making sure that it is a valid inquiry by the parent about the child.

CHAIR—That is a bit hard since the roll is actually a public document and they can go and check it for themselves.

Mr Crompton—Yes. Again it brings you back to the kind of proposition that the electoral office is putting up, which is that if the parent is able to type in the child's name and they can find out that, yes, they are on the electoral roll and if the parent knows the child's name and address and types that in and the computer comes back and says, 'Yes, you have that correct,' then you have the appropriate processes running for verification. But it does not allow the parent to type in a name and get a return back which is the address and hence obtain the address of a child who otherwise wanted to be separated from their parents.

Senator ROBERT RAY—You have actually made a good argument for the 21 agencies, so the police can check the missing person, check whether they want to be found and if they do not want to be found they are not found.

On page 37 you have listed the agencies—this is in an earlier submission, I am sorry; the bigger one—that can access the electoral roll. Is that right?

Mr Crompton—Is this from our year 2000 submission?

Senator ROBERT RAY—I will just try to find it. It is the AEC submission. Have you got that?

Mr Crompton—Yes.

Senator ROBERT RAY—I just want to bounce a couple off you, if I could, Commissioner. The Insolvency and Trustee Service of Australia: should they have access? I assume that is to find missing people who have been left a windfall. Should they have access?

Mr Crompton—I can give you an instant answer, but it would have to be taken as an unconsidered answer.

Senator ROBERT RAY—Right. I will not run the rest by you but it is a big list.

Mr Crompton—Yes.

Senator ROBERT RAY—I can see relevance. ATO is the classic one. They do not make their records available to many people at all. There is not much quid pro quo there, is there?

Mr Crompton—Yes. But I think that is the point. If the tax office is able to run an argument of that strength about the unavailability of its information to everybody else, including the idea that the ATO might believe that it would reduce the quality of returns that the ATO gets, then I can run exactly the same argument on Medicare and in other parts of the Commonwealth as well.

CHAIR—It does seem to me that there is an unresolved issue about where you draw the line. I would have liked you to have given more consideration to the issue of the optimal data sweep. I think your comments imply that you actually do accept that but what you are against is total demand powers on the part of the commission. I must say I wish you had gone hard on having to draw a line and actually done so.

Mr Crompton—The commission has extremely limited resources and we will see you what we can do.

CHAIR—Yes, I noticed recommendation 6.2 where you want more resources.

Senator ROBERT RAY—We ain't handing out any money. Everyone else has tried it.

Mr Crompton—It is a perfectly valid case. We have, like any other Commonwealth agency, limited resources and we have to work out where we apply them.

Senator ROBERT RAY—Yes.

Resolved (on motion by **Senator Ray**):

That this committee accepts the document on the survey about privacy in the community as an exhibit.

CHAIR—Thank you very much for appearing before us today. That was very useful.

[9.57 a.m.]

McGRATH, Dr Amy Gladys, President, H.S. Chapman Society

CHAIR—Welcome. The committee has received your submission and has authorised it for publication. Are there any amendments or corrections that you would like to make to the submission?

Dr McGrath—No.

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

Dr McGrath—Yes, I would. I feel that there are three fundamental contradictions in the administrative process of federal elections. I feel that there are conflicting interests between the two. The first has to do with the fact that the procedure in polling booths dates from the early days of the invention of the systems, and it is thoroughly familiar to absolutely everybody—parties, candidates, agents and public. If I asked anybody in this room about the booths, and what happens immediately during the period of polling day, they would know.

Declaration votes have now risen to volumes that are very worrying. They can be 15 or more per cent of the vote. If I asked most politicians about these—and I do—they have not got the faintest idea what the procedures are. They cannot tell me about the whole procedure. It has taken me about six years to learn it. I feel this is a fundamental problem in that they are not ballot procedures that conform with the original intention of the secret ballot in the 19th century. The parties, the candidates, the public and the agents of the parties should be able to understand fully every part of the process, be aware that it is transparent and know the audit trail. I have not yet found a politician who can tell me the audit trail of declaration votes, and I find this a worry.

The second thing that I want to bring to your attention with opposing interests is what I could call Canberra versus the coalface. Let me say firstly that the Australian Electoral Commission does an extremely good job as a bureaucracy in charge of certain functions. I have congratulated them on their statistical analysis, on their education program and on their publications, which I think are first class, though I think some of them should be redesigned.

Canberra versus the coalface is a case of centralisation versus decentralisation. In the 1990s, Canberra policy was Regionalisation 2000, which cut megaclusters of polling booths. In fact, a bit of that was initiated until it was reversed by the coalition. The staffing of the divisional returning officers was reduced to one and a half, or one at times, and it was restored to three to four. This policy is now active, as I understand from the Electoral Commission. That is my belief at the moment. Most of the Canberra bureaucracy, and its agents in the states, have not run elections or, if they have, they have run them at state level. DROs are people who run them at the coalface and they are responsible for the detail—for the reconciliations. You know; I do not need to tell you what they have to do.

If you abolish those, you are departing from the principle which has recently been reasserted by the commissions in the UK, who say that they would be very worried about centralisation.

You will remember they were having a commission established in the UK. The local administrator's view has prevailed, that it must keep neighbourhood knowledge at the coalface. That is the second one.

The third is speed, the speed of getting out the results. The force and impetus of the days after the polling day now are to get them out in two weeks when it used to take four. The result of this is that declaration votes are never entirely checked; they can only be spot-checked. In fact, the directive to divisional returning officers was changed so that they can have discretionary checking—it is not mandatory for them to check them all. That needs to be looked at. Just to please the media, you are sacrificing a proper audit trail and a proper audit of declaration votes which are changing results. Those are the three points I want to make.

Finally, I want to say that I understand in only the last two days the Liberal Party has said it wants to split the Electoral Commission into two. If it is to be split into two, my view is that it should be split so that DROs, the people who do the roll and the elections, remain the same. I actually rang the chairman of the UK Chapman Society in England, who used to be national agent for the Tory party, and he said they must be kept together. That is my view: the people who do the roll and the people who do the election must be one. I think if anything the bureaucracy that does consultancies, outsourcing and all that could be separate. That is all I want to say.

CHAIR—Thank you very much. Can I take you up on the issue—because it will be a significant issue—of centralisation. Does your testimony amount to the fact that you believe that there should be a DRO for a single electorate?

Dr McGrath—Absolutely. That is just a view that has been reiterated in England, and it was reiterated by Pat Bradley over and over again. They know the neighbourhood. Once you lose the knowledge of the neighbourhood, neither CRU nor habitation reviews are as effective. They cannot be.

CHAIR—That is interesting. The other issue I want to pursue relates to the checking of declaration votes. My understanding is that they are actually thoroughly checked, marked off, cross-checked—

Dr McGrath—There is a difference between marking off and checking.

CHAIR—They are marked off one against the other.

Dr McGrath—I do not know whether Pat Bradley when he was speaking to you said how he compared all the signatures and that signatures must be the core of checking. Checking is checking that the signature is not valid for the declaration votes, but marking off is just marking into the computer for postal votes.

CHAIR—My apologies; it is checking against the address, checking against the signature and—

Dr McGrath—They are different processes, yes.

CHAIR—My understanding is—certainly the last time I looked at the scrutineering in my electorate—that they are actually quite thorough in terms of checks.

Dr McGrath—You are in a safe seat. I think there are variations.

CHAIR—I think you check even more carefully in marginal seats.

Dr McGrath—I do not follow Victoria. I am told that they are not all checked and cannot be checked if you want results in two weeks. You have 15,000 declaration votes to check in two weeks. Shall I pass it over to the joint standing committee as a matter for investigation?

CHAIR—Certainly I was puzzled.

Mr FORREST—We have had this problem before in discussion with the H.S. Chapman Society about the possibility that something could be wrong as against something actually going wrong. I would like you to submit evidence about what you assert in your submission. There was a question about forms being ticked with red ticks. Can you give us some evidence of this?

Dr McGrath—I think Pat Bradley has called it benign fraud and malignant fraud. His view and mine coincided—he was not brainwashing me, I was already there. Eric Syddique, who was Director of the Electoral Reform Society for 40 years, said the same thing: if you have an open system, at first there will not be very much fraud but gradually people will realise they can do it and you will get more. In fact he said that he did hundreds of bodies like the BMA and golf clubs and that he would not actually know if they had committed fraud until he got more ballot papers back than he issued. That happened in one booth in the Queensland election, according to someone I know well and trust. There were 144 more ballot papers in one booth in the last Queensland election than were issued.

Mr DANBY—Which booth was that in what electorate?

Dr McGrath—I do not know the name. I can find out.

Mr FORREST—That is what I mean about specifics.

Dr McGrath—I have got specifics. One of the best examples is what happened in the federal electorate of Richmond in 1990, where the AEC took part in the investigation. I did not bring the figures in with me but I know that they were tendered to the joint standing committee in 1990. I did ask Bev Forbes to look up the documents from the archives because I knew somebody would ask me, but I have heard no more. That was months ago. But I have the record from the man who was in charge of the investigation. Off the top of my head, there was something like 440 people who were enrolled in two electorates. Quite a number were country electorates—

Mr DANBY—This is in 1990?

Dr McGrath—They put those drums up on country roads and you think they are post boxes. They gave them a number along the country roads.

CHAIR—Is this in Richmond in 1990?

Dr McGrath—Richmond 1990. A full investigation was done. It is the only one where I know the Australian Electoral Commission did investigate immediately, but it was out of time before they had all the facts so people did not get to hear about it. The Electoral Commission investigated the 442—they brought someone down from Canberra. It is the only case I know of where they have done that. There were serious figures in six electorates in a Western Australia election—but that is not your concern. I think it got Brian Burke back in 1989. And I could go on.

I need to add the rider that all these people who are much more expert than I say it is the most invisible crime of all. Pat Bradley said criminals committing fraud in elections do not leave fingerprints. He said you have to tighten up the procedures as a deterrent. It is the perception that counts. The perception counts more than anything, and the perception at the moment is not kind to the Electoral Commission. I have heard them say that there are no complaints from the public. For seven years, I have heard nothing but complaints—a lot of them are about perception. They are not happy with things. This may or may not be true and you hear about lots of incidents. Nobody will come forward to testify because they are frightened. Irrespective of your views about the level of interference, it is very important that perceptions are improved.

Mr DANBY—I would like to follow up something Mr Forrest asked you which you responded to. You made a very serious allegation that in one polling booth in Queensland at the last federal election there were 144 more votes than there were electors on the roll.

Dr McGrath—I would be delighted to get the name of the booth for you because I know the person submitted the information—

Senator ROBERT RAY—We would be delighted.

Mr DANBY—I am asking you to do that. I think it is very serious. It makes us take your submission a lot more seriously if you can provide us with evidence of that and I would ask you to do it before we finish our inquiry. The name of the booth, the name of the federal electorate and any evidence you have—

Dr McGrath—I said it was a Queensland election. That is why I was not sure if you would be concerned. It was the Beattie election. Do you still want it?

Mr DANBY—Yes.

Senator ROBERT RAY—Yes, I would like one piece of evidence from somewhere.

Dr McGrath—I will certainly get it, because it was submitted to the Queensland Electoral Commission—it is not a private thing. They said not to worry about it, or some such language, but I cannot verify that language.

Senator ROBERT RAY—That is all hearsay. We are looking for some evidence. We have been a lot of accusations at this committee and no evidence.

Dr McGrath—That will be evidence.

Senator ROBERT RAY—It may be. We will look at it. Can I ask you whether you have ever scrutineered declaration votes?

Dr McGrath—Whether I have ever scrutineered them? No.

Senator ROBERT RAY—I have, many times. Would you like to? I will arrange for a candidate to pay you to be a scrutineer on Monday morning for 10 days. Admittedly, you might like to share that with somebody else.

Dr McGrath—Where on Monday morning?

Senator ROBERT RAY—In whatever division you nominate.

CHAIR—Cunningham would be a good start.

Dr McGrath—What is on Monday morning? Do you mean the Monday morning after an election?

Senator ROBERT RAY—Yes, after an election.

Dr McGrath—Would you pay for my fare to Melbourne?

Senator ROBERT RAY—No, I mean scrutineer in whatever electorate you are in. I do not want to ask you which electorate you are in; the Federal Privacy Commissioner would jump down my throat or I would be accused of being a thug. I will leave that aside.

Dr McGrath—Senator, how can I be assured that it is not a Potemkin Village?

Senator ROBERT RAY—You cannot be. But the fact is that you are throwing doubts on postal votes envelopes; you are talking about red marks.

Dr McGrath—The answer is no. I will not go to any staged event of a Potemkin Village.

Senator ROBERT RAY—It is not a staged event. You pick the division. What happens is that there are set procedures on the Monday for a recheck—it is not a recount—if it is close. There are set procedures for the consolidation of the roll, for the processing of postal votes, for the processing of absentee votes and for processing of what we used to call section votes—that is, contested votes. It is all there and scrutineers can watch the entire process.

Dr McGrath—Senator Ray, I only have half an hour. I would be grateful if we could move on to another point.

Senator ROBERT RAY—You have dodged the question and I will note that.

Dr McGrath—Leave that to correspondence or something, please.

Senator ROBERT RAY—No, I will persist. You have challenged declaration votes, and postal votes in particular. Don't just say, 'I do not like that. I am going to move on.'

Dr McGrath—No, I am not saying that. I said I will discuss whether I will attend a pilot session. I have said that, yes, I will, but I will not participate in the Potemkin Village event. Mr Chairman, can we please proceed to something else.

CHAIR—I think Senator Ray is pursuing a point that is of some significance.

Dr McGrath—I have answered it.

Senator ROBERT RAY—Well, let me continue.

CHAIR—He is elaborating on that point.

Senator ROBERT RAY—Yes, absolutely. We have established that you have never seen a declaration—and there is no reason why you should have. How do you know that the secrecy of the ballot is not being maintained then?

Dr McGrath—Mr Chairman, for seven years I have been exposed to people saying, 'You produce the hard evidence.' Let me say that it is not my job to do that. It is the job of the parties, including Senator Ray, and it is the job of the Australian Electoral Commission; it has a duty of care to see that things are investigated. The AEC is not proactive and keeps on this tack, which Senator Ray is adopting, of 'You come and prove it to us.' The answer from me is no. That is not my job; my job is to advance the issues—

Senator ROBERT RAY—That is nonsense.

Dr McGrath—and I have done that in a number of well-researched, well-quoted documents to the Australian Electoral Commission. I consider Senator Ray's present attitude harassment, like the kind I have had from the AEC continuously.

Senator ROBERT RAY—Dr McGrath, we are investigating the conduct of the 2001 election. People constantly send us submissions saying, 'We do not think the procedures are right. We think there has been foul play.' All I am asking is for the slightest bit of evidence of that. You are not the first witness; there are dozens of them. But we never get any evidence.

Dr McGrath—I have said that divisional returning officers—and please listen carefully, Senator Ray—are not required, it is not mandatory, to spot check. That is the main point: it is not mandatory for them to check all of them. Some of them may check all of them but there is the possibility that some do not. That is the thrust of my viewpoint.

CHAIR—Dr McGrath, I think part of the difficulty is that anything is possible but, to adequately pursue these matters, abstract possibilities are best illustrated by concrete evidence.

Dr McGrath—Yes, I have given you two concrete examples which is all that is really possible in half an hour. For Richmond electorate, you have the papers. It was discussed in

detail in evidence given to the joint standing committee. In evidence to the joint standing committee it was made clear that list 350, which included the postal votes which were in question in that election, does not correlate with the votes on ordinary polling day. My understanding—and this is an issue for the committee to check with the AEC—is that the declaration votes are not scanned and correlated until after the declaration of poll. So it is not possible to know whether people vote both in postal or prepoll voting and on ordinary voting day. I understood that I was coming here to talk to my submission; so far I have not done so.

Senator ROBERT RAY—You have just made a statement that the postal votes, absentee votes et cetera are not correlated with the votes on the day. In fact, they are.

Dr McGrath—I said it is my understanding they are not correlated until after the declaration of the poll.

Senator ROBERT RAY—That is a totally wrong understanding. I have actually been in the office when all of this is done, time and time again. It is very frustrating, let me tell you, Dr McGrath, to wait for those electoral officials to do the master roll and the cross-checking when all we poor political apparatchiks want is a count of the votes to know whether we have won or lost.

Dr McGrath—You have been one who has accepted that it is mandatory.

CHAIR—I think the major point is that you have raised an issue. We can certainly go back and confirm with the Electoral Commission what their procedures actually are: what is mandated, what is voluntary and what is discretionary.

Dr McGrath—Senator Ray is expanding it. I said that in Richmond that was my understanding from that election. That is what was said at the time in 1990.

Mr MELHAM—And it was disproved in 1990, Dr McGrath. I was on the electoral matters committee and it was disproved. It was shown positively that dead people did not vote. I remember the hearing in the main committee room in Parliament House where the electoral officer came puffing down the aisle to disprove it, and he is here today. This is not the first time—

Dr McGrath—I have read your evidence, Mr Melham.

Senator ROBERT RAY—You might delete the ‘puffing down the aisle’. He is a man of great stature, like me.

Dr McGrath—May I tender the details to the committee later?

CHAIR—If you would, we would be grateful.

Mr MELHAM—I remember it.

Dr McGrath—I did not agree with what you said in the evidence on 1990.

Mr MELHAM—You might not agree, but it has actually been proven to be correct, Dr McGrath.

CHAIR—Can you tell us your difficulties with pre-poll voting?

Dr McGrath—I certainly can. My concern was the red envelope. That is an envelope that was sent in a different survey done by Australia Post asking all the details of the size of your house and everything. I do not know whether you are aware of that survey. That caused a lot of stress to a lot of people. They were very worried that Australia Post was doing that kind of survey. In the last election the postal vote envelope had this red big V and had a diagram on the back. It was one of these self-stick envelopes and you could pull it open. It was the wrong size to go on the assembly line. My concern with this is that in union elections, and I know someone who has done 420 union elections, their concern is that the postal vote envelope should be completely anonymous. Why has the Electoral Commission chosen to have used in that election an envelope that none of the politicians were aware had been changed and that was the wrong size to go on the assembly line? I make these points, which are written out for me. I have seen the envelope, which can be identified. When I raised the question of postal votes after the case about the 1994 Postal Workers Union and the arrant fraud of 934 polling papers made out by three or four people and papers collected in the mail exchanges for the election—

Senator ROBERT RAY—That was the one where John Howard endorsed one of the teams, wasn't it?

Dr McGrath—That is right. We agree on one thing.

Senator ROBERT RAY—With Commonwealth resources, yes.

CHAIR—It is outside my historical knowledge.

Senator ROBERT RAY—I have still got it all on file.

Dr McGrath—This is what is known as a witness behaving badly.

CHAIR—Sorry, Dr McGrath—our apologies.

Senator ROBERT RAY—I apologise this time.

Dr McGrath—That is all right. After that the ALP, I think, secured, or somebody secured, a visit to postal exchanges.

Senator ROBERT RAY—Postal inspectors, yes.

Dr McGrath—Yes, with the result that they said, 'It is lovely. You can't toss anything off the assembly line.' You can, actually, but more easily than it can be done manually. They had all those cameras in the corners, and somebody in the postal system said they were turned off more often than they were on. So they said the following things: you have the situation where they are not going on the assembly line because they are the wrong size or oversized; they are not

post office preferred; they are not a good security type envelope; they are not tamper proof; they are the lick-down type; sorting is by hand; no stamp is required; they are handled many times—I understand 12 times manually; the postcode is not for the suburb but suburb retailed; it could lead to the tampering of votes. I feel that this should not happen again.

CHAIR—Have you actually got a copy of—

Dr McGrath—No, I have not, because you are not allowed to get a copy.

Senator ROBERT RAY—I hope you have not got one!

Dr McGrath—That is right, you are not allowed to get one. We are agreed again.

Senator ROBERT RAY—So you would like to get rid of postal votes entirely, as I would?

Dr McGrath—Funny you say that. It is the Labor Party that twice abolished them. Are you aware of that? That was 1909 and 1949.

Senator ROBERT RAY—Yes. But then the conservatives abolished absentee voting. I wonder why both parties took a different attitude.

CHAIR—Different perspectives.

Dr McGrath—I think probably the collusion between them is that you only need one type.

Senator ROBERT RAY—No, it was because Labor did better on absentees and the Liberals did better on postal votes. We are beyond all that now, fortunately.

Dr McGrath—That is right, but the interesting thing, since you raise it, was that the Labor Party twice—in 1909 and 1949—thought that postal votes were totally open to roting.

Senator ROBERT RAY—No, I think you will find that we thought we did not do too well with them so we got rid of them.

Dr McGrath—The ALP has changed its view, maybe.

Mr DANBY—Can I ask Dr McGrath about these strange envelopes that are off the assembly line. I presume you mean the postal assembly—

Dr McGrath—They do not go on the assembly line; they have to go manually, these ones.

Mr DANBY—You were only talking about envelopes used in Electoral Commission supervised union elections or other postal votes?

Dr McGrath—I am talking about the ones used in the last federal election only.

Mr DANBY—But you introduced union ballots—

Dr McGrath—With unions the emphasis is on totally anonymous envelopes so that you cannot pick them out when they are in transit.

Mr DANBY—So the union ones are okay, but it is the ones used in the last federal election that you are particularly objecting to.

Dr McGrath—Yes. I am objecting on behalf of all politicians.

CHAIR—We will pursue that matter with the AEC.

Mr FORREST—What was the problem with the virtual tally room? Was this an issue for the last federal election? Your assertion comes out of the referendum.

Dr McGrath—Would you be kind enough to repeat that?

Mr FORREST—The problem with the virtual tally room, what is it in reference to the last federal election?

Dr McGrath—And the referendum—it was trialled in the referendum. The problem I saw immediately in the referendum was that votes could be reversed in transit. I know of five places, but the one I should cite was Young. The results were reversed between voting and the tally room. They go so fast that the audit trail is lost to the parties. I have stood in a party room when the results were coming from the booths electronically faster than the party could get them in themselves. In Young, I think there were about 2,000 votes for no—it might have been about 1,800; I have just forgotten the figures—and there were 700 for yes, and somehow, miraculously, by the time they got to the Internet, yes had more votes. They were reversed. Malcolm Mackerras took this up because he was a monarchist. It took three efforts, I understand, before he could get the AEC to check them. In fact, they found that he was correct and they were corrected.

This can happen unless you are very alert at every booth. It can happen because nobody is allowed in the divisional office and again I refer to the fact that scrutiny has become more limited, which is the central point I am making—without careful examination. You are not allowed into the divisional returning office to check what he is putting into the computer. No party can go in and see what is going into the computer from the booths with a virtual tally room.

I need to ask a question here. I am not convinced that the software is audited by the parties. All software—which is my understanding from the National Institute of Standards in America—should be audited by all parties to an election. I am not sure that this is done for this virtual tally room. I think Ideme was the company that did the referendum. I do not know who did the last election. The software for ballot papers, the printing and the lot should be checked because all postal ballot papers are now centrally produced at Queensland Computer Graphics. Not even divisional returning officers or politicians knew the name of the company where they were being produced.

Senator ROBERT RAY—In the House of Representatives, as opposed to the Senate, computers do not play a role other than like a TV station giving the football scores. It is not the finality.

Dr McGrath—No, computer counting in the Senate.

Senator ROBERT RAY—You are referring to the Senate.

Dr McGrath—Yes, but I do not think anybody audits the software in the Labor Party. All the parties should audit it.

Senator ROBERT RAY—We have had other submissions saying we should look at this. You have rubbers on the ends of pencils because people make mistakes, and they make the same mistake ringing the result through as they do by electronic transfer. Any mistake made on the night is usually picked up in the following week because there is a different method of counting and rechecking the votes et cetera.

Dr McGrath—Fair enough.

Senator ROBERT RAY—So there is a distortion on the night, but it does not last long.

Dr McGrath—I am alerting you to the fact that the difficulty of checking is that you cannot go into the divisional returning office or talk to them about what is happening in the intermediate stage. Funnily enough, if you say that you are just a person, you can go in.

CHAIR—We will also check that. Isn't the central point that you have scrutineers there? It may be uncomfortable for you on the night seeing the wrong figures—I know how 50 votes matters in terms of percentages—but, at the end of the day, that is not reality. Reality is what they give you at the declaration of the poll.

Dr McGrath—My role, and it is constantly and mistakenly interpreted to be otherwise, is merely to point to loophole possibilities—the potential. As Pat Bradley said, if there is potential, people will inevitably realise they can use them. There are 25 ways of fraudulent voting. In every interview in the two weeks I was with Pat Bradley, he said that, in every election he has ever run or been in, there was fraud. The only question is how much.

Senator ROBERT RAY—They shouldn't have ever employed him as a High Court commissioner then!

Dr McGrath—He said he has found teachers, headmasters, schools and doctors, all of whom may be in the benign category.

Senator ROBERT RAY—I hope he is not running another ballot if he is so incompetent as to allow fraud in every one he has ever run.

Dr McGrath—He is talking about 27 other countries, and they were running their elections.

Senator ROBERT RAY—I thought you said it was at every election he has been involved in.

Dr McGrath—And in other countries.

Senator ROBERT RAY—I do not think I would want to employ him.

Dr McGrath—In 27 countries, for the United Nations.

Senator ROBERT RAY—That is why it is obviously better to send Australians overseas who are competent to run ballots.

Dr McGrath—Like New Guinea.

CHAIR—You took the words right out of my mouth!

Mr MELHAM—I take it you are a fan of Florida.

Dr McGrath—Two ex-AEO people ran that New Guinea election.

Senator ROBERT RAY—We know that in every election that has been run by Mr Bradley there has been fraud, so thanks for that.

Dr McGrath—Of course, he has the IRA there.

CHAIR—Dr McGrath, you have given us a number of things that we will clarify. You made the point earlier that it was about perceptions. It is important that, where the perceptions are misperceptions, they should be clarified pretty quickly before they develop legs of their own and become part of the perceived truth. We will be pursuing a number of the issues that you raised with the Electoral Commission.

Mr MELHAM—My view is that the onus is on the accuser. If you make an accusation, you need to produce the evidence. That is the nature of our system of government or legal system.

Dr McGrath—That is a view you share with the Australian Electoral Commission.

Mr MELHAM—That is the British view of justice, absolutely.

CHAIR—Thank you very much.

[10.33 a.m.]

WOLDRING, Professor Klaas Henny, Co-founder and Media Officer, Progressive Labour Party

CHAIR—Welcome. The committee has received your submission. It has been authorised for publication. Are there any corrections or amendments you would like to make?

Prof. Woldring—There is one short paragraph which I omitted. I would like to include that because it strengthens the document. On page 3, the third paragraph starts with ‘conversely’. After that paragraph, there should be a three line paragraph which reads:

The need for expensive by-elections doesn’t exist in PR systems either. If an MP resigns or leaves the parliament she or he will be replaced by the next one on the list at the previous election—a very simple, inexpensive and effective procedure.

Senator ROBERT RAY—I ask that that be included in the witness’s submission accepted by the committee.

CHAIR—Professor Woldring, would you like to make a brief statement to begin with or do you want to proceed to questions?

Prof. Woldring—I will make a brief statement. I have had a look at 162 submissions made to the committee—that is to say that I had a random sample of 20. I found that, apart from the smaller parties like the Greens, the Hope Party and us, there were hardly any submissions, in the 20 at least that I saw, that were aiming at an electoral regime change, if I can use that term. It seems to me that this is a great opportunity for those people in Australia who would like to see a different electoral regime for the lower houses.

Most of the ones that I looked at were from people who were in foreign countries, who said that they were unhappy with their opportunity to vote in Australian elections. Another idea that seemed to be dominant was that people wanted to do away with compulsory preferential voting and instead have optional preferential voting. People said that they really did not want to vote for people or for parties they did not like.

This submission talks about a non-violent regime change. We are in the process of persuading our major parties, and many others in Australian society, to come to an electoral regime that is more representative, more democratic and which would produce greater quality in the parliament in our view. I did not mention this in the submission but you have all heard the comments on the stem cell research debate in parliament. All of a sudden the debate was of a higher quality than it has been for a long time. People asked why this was the case. It was obvious that it was because it was a conscience vote and people could have their say in the way they thought it should be said.

Obviously this is one of the things in the parliament which is enacted on the basis of proportional representation. The variety of people represented there, the quality of the debate,

the differences of views and the variety of categories of people reflected there contribute to an increase in quality. I have not made much of that here except to say that there is serious underrepresentation of women, ethnic groups and Indigenous people as a result of our electoral system.

It seemed to me that this regime change idea is an important one. In the submission, we say that we expect the major parties that dominate this committee are not overly interested in this because it would mean that they are going to lose representation in parliament if proportional representation came in.

I would like to refer you—as I have done in this submission—to New Zealand, where one of the major parties, the Labour Party, in the early or mid-1980s instigated a royal commission into their electoral regime, the outcome of which was a mixed proportional system. That may be flawed in some ways but at least there was a serious recognition by a major party that to start an inquiry into this suggested that there was a greater good to be served by an electoral change than their own interest.

CHAIR—One of your central theses is that this committee is not interested in regime change and would not consider cogent arguments for it, which I would question. On the issue of public funding—I will leave proportional representation to others—you conclude that there should be more expended on public funding and there should be a ceiling on public funding. Could you fit those two propositions together for me, please?

Prof. Woldring—We are saying that public funding should be significantly increased. We are talking about a quadrupling of public funding. But when one looks at it as it is at the moment, not assuming that we have proportional representation, some of our members say, ‘If you have a quadrupling of public funding then of course the public funding of the major parties will be very substantially more, proportionally more, than that of minor parties, so we won’t benefit all that much and the greater benefit will actually go to the major parties,’ which is contrary to the general thrust of the submission. So we said, ‘We will put this in our policy but there has to be some sort of ceiling to that.’ We have not specified a ceiling but there is a realisation that quadrupling of funding under the present circumstances would really benefit the major parties far more than the minor parties.

CHAIR—So what you want is that the minor parties get more money and the major parties not get more money.

Prof. Woldring—They can have more money too, because one of the problems—

CHAIR—Everyone pursues their own interests.

Prof. Woldring—Okay. One of the reasons that we say there should be far more public funding is that we see the major parties, and perhaps other parties as well but major parties certainly, becoming increasingly dependent upon corporate donations. The more they become dependent on corporate donations, the more they will play the tunes that these corporations believe should be played in parliament. This interferes with the independence of the parliament totally. This is why we say that corporate funding should be limited, and we would rather see a much greater increase in public funding to all parties rather than that they become dependent on

outside organisations. Even in the Liberal Party, as you well know, at one stage this was a serious problem. Mr Menzies, if I remember, in the 1940s did not want the party to become dependent on corporate capital. That is exactly what has happened, as it has happened with the Labor Party, which, as we all know, is now receiving far more from corporations than from the trade unions.

CHAIR—And you do not regard this diversification of funding as counterbalancing, countervailing or offsetting, at least for the Labor Party? I am being generous to my colleagues here.

Senator ROBERT RAY—We do not get free \$4.6 million loans with no interest repayable over 46 years like some I could mention.

CHAIR—No, but we are still interested in Centenary House and the amount of money that is raised out of that.

Senator ROBERT RAY—Drop the rent of Greenfields and give us a loan. It is as simple as that. Where do you get one of those loans?

CHAIR—This is called intracommittee patter.

Mr DANBY—I have a couple of questions about the submission. On page 122 you talk about young people being turned off by elections and say that many volunteered the view that if they could get out of voting they would not vote. Do I understand that you are not in favour of compulsory voting or you are in favour of compulsory voting? Does the Progressive Labour Party have a policy on this?

Prof. Woldring—They do, and they are in favour of compulsory voting. However, now that you raise this, I have to say that I have tried to change this in the party because I am a great believer in voluntary voting. I think that voluntary voting under the circumstances actually benefits minor parties far more than the major parties. However, I have been unable to persuade my members, and it says in our policy that we stick to compulsory voting.

Mr MELHAM—So it is a self-interest argument you use for voluntary voting, because it benefits minor parties such as yours.

Prof. Woldring—It is indeed.

Mr DANBY—So the issue of democratic participation in elections where in the United States under 50 per cent of people vote because it has a voluntary voting system does not interest you, only the self-interest of a small political party. That is your focus.

Prof. Woldring—No. I am of the view that at the present moment people are absolutely turned off from the party system as it is and from the general status and image of politicians, as I have experienced myself. I was a candidate in the last election and handed out material and the general feeling that I had there was that, as I said in my submission, 25 per cent of the people were absolutely not interested in voting and saw it as a chore and so on. We need to get the voters who are interested in voting and who are not turned off by the system. I think the

immediate result of this will be that the vote will probably drop to about 30 per cent to 40 per cent of what it is now—at the most, I would say 50 per cent. But that is a temporary phenomenon.

What it will also do is force the major parties to campaign to diversify their own policies and make sure that the extremes on their extreme right and on their extreme left will actually be catered for. That is not what is happening. Compulsory voting in Australia has had a tendency to converge the policy of parties to the centre rather than over a larger group. They do not have to worry at the moment about the extreme left or the extreme right or anything close to that to vote because there is a compulsory requirement for them to vote so they can concentrate on the middle vote.

Mr DANBY—So the thrust of your submission on going to voluntary voting, even though it is not the view of your political party, is that this will help the extreme left and extreme right of politics.

Prof. Woldring—No. It is not. It will help the major parties to diversify their programs.

Senator ROBERT RAY—At the last federal election how did we compel you to vote. Could you explain that to me? I have missed something.

Prof. Woldring—How did you what?

Senator ROBERT RAY—How did we as a parliament compel you to vote? Take us through the steps of election day 2001. Did you vote normally or by pre poll?

Prof. Woldring—I voted normally.

Senator ROBERT RAY—How did we compel you to vote?

Prof. Woldring—It is a legal requirement.

Senator ROBERT RAY—No, it is not. Where is it a legal requirement? We compelled you to turn up to the polling booth. Did anyone accompany you into the booth and see you vote?

Prof. Woldring—No. Of course you can vote informally if that is what you mean.

Senator ROBERT RAY—You can not vote at all. No-one will know.

Prof. Woldring—Yes.

Mr MELHAM—You could put a blank ballot paper into the—

Prof. Woldring—But there is nevertheless a perception—

Senator ROBERT RAY—That is true. That is right.

Prof. Woldring—There is a strong perception that there is a legal requirement for people to vote. I agree with you of course—

Senator ROBERT RAY—But in actual fact it is a legal requirement for them to attend a polling booth.

Prof. Woldring—To attend on polling day, yes.

Mr MELHAM—You could put a blank ballot paper into the ballot box.

Senator ROBERT RAY—Or you could write, as I once saw, an essay on existentialism and not actually vote.

Prof. Woldring—Okay, but it is a small minority of people who will do that and make that protest.

Senator ROBERT RAY—It had to be a Senate ballot paper, quite obviously.

Mr DANBY—On page 126 of your submission, ‘How to vote material’, you want laminated posters on walls rather than people handing out how to vote cards. Are you aware that this has been tried once in Canberra and this was a policy of the conservative Liberal Party in the ACT?

Prof. Woldring—No, I was not aware of that.

Senator ROBERT RAY—Just to assist you, are you aware that this committee has looked at this extensively over almost two decades. The difficulties are with the number of candidates, the positionings, everything—you know, the left hand may get the eye; the bottom right hand will not. This is one of the difficulties with it. It is the layout of the thing. It is not that your idea is wrong, because we have looked at it seriously. But it is who gets the prime position that is often the difficulty.

Prof. Woldring—Cannot that be done in some chance way? Is that possible? I am surprised that you have not been able to find a solution to this.

Senator ROBERT RAY—If I have 51 per cent of the vote I do not want to put things to chance.

Prof. Woldring—I am glad that you have looked at it. I am sure the major parties would not want to leave this to chance. I am quite sure about that.

Mr DANBY—The other thing, too, is that your understanding of democracy is in slight disagreement with the view that these laminated posters should be used. Surely one of the criteria for political involvement is people being able to do things other than vote at election time and one of the things that some people in major political parties like to do is hand out how-to-vote cards. Wouldn't that be a constraint—

Senator ROBERT RAY—Not on all occasions.

Mr DANBY—Not on all occasions; that is for sure. Wouldn't it be a constraint on people's political rights and political involvements if your system came in?

Prof. Woldring—No, I do not think so. I think that the opportunities for participation are potentially extensive and that the handing out of how-to-vote cards at election time is really just a minor issue there.

Mr DANBY—So, for the 500 people who come through my office at election time demanding to hand out how-to-vote cards in my electorate or in other electorates to support the Labor Party, you say that is a minor consideration and you are not interested in it.

Prof. Woldring—I think this is more an effect of habit than of a conscious desire to participate. I think that the participation of members of major parties, including the Labor Party, has been damaged very seriously in recent years when one hears from branches in the Labor Party that, whatever they come up with in resolutions, usually nothing much happens. I think if you want to improve participation that would be an area for the Labor Party to really look at. I would imagine in the current review, the Hawke-Wran review, that is an issue that is brought up extensively.

Senator BARTLETT—In terms of your elaboration of the way a proportional system would best work, obviously it is something that the Democrats have always been strongly supportive of in principle. But in terms of the specifics of it, I note at D in your submission that you suggest a whole model of 270 members in the House of Representatives, abolishing the states and all that which I will not go into, but you talk about, for example, in a nine-member district, minimum support of five per cent. Are you suggesting that there should be some minimum threshold which people would need to reach before they would be eligible to get elected?

Prof. Woldring—Yes. I think we may have mentioned five per cent there, but I think there should be a minimum threshold for the simple reason that one of the major arguments against proportional representation has of course been that it tends to produce a plethora of parties, far too many parties. That is a correct counterargument. In many countries where there is proportional representation there is a threshold of some kind or other, usually three, four or five per cent, so that is why we think it would not be a good idea to end up with, say, 30 or 40 parties. That makes the formation of coalitions and so on extremely difficult, and that would lead most likely to the sort of instability that critics of proportional representation frequently mention.

Senator BARTLETT—It is probably appropriate that we are holding the hearing in the New South Wales parliament, given the result of their last upper house ballot. Are you aware of the changes that have been made to the New South Wales state electoral law in the upper house since the last state election?

Prof. Woldring—Yes, I am.

Senator BARTLETT—Have you got a view on the outcome or otherwise of those?

Prof. Woldring—Yes, I certainly have a view on this. I think that the tablecloth election is of course the result of proportional representation. We agree that something had to be done about

it, but what has been done about it we described as taking a sledgehammer to a relatively small problem. It certainly has hurt a lot of minor parties. Our view is—and we have written to the Premier and to John Della Bosca about this—that we actually agree that we do not want tablecloth elections again, but what they have done is going to knock out a large number of small parties. It is not foolproof either. The amendments have actually benefited the major parties. If you want to have a real change in New South Wales, the change should have been to have proportional representation in the lower house, not the sort of thing that has been done to the upper house. Might I note—as the Senate is elected on proportional representation—the remarkable contributions of the Senate since 1949, especially in the last 20 years, to the parliamentary debate and to the quality of legislation and so on. The same thing has been said, correctly, of the upper house in New South Wales. Their contributions to the quality of legislation have been quite substantial and much higher than those of the lower house. We rejected the amendments in 1999 and, as is already clear, there are still several front parties—six or seven of them—in the making, and I believe further legislation is going to be passed soon to try to overcome that.

Senator BARTLETT—Obviously, I could not disagree with your positive affirmation of the strong role the Senate has played, particularly the minor parties there.

Senator ROBERT RAY—There are more and more of them as we speak.

Senator BARTLETT—Yes, there might be more to come yet; we will see.

Mr MELHAM—It is turning into the Balkans.

Senator BARTLETT—On the next page of your submission, you say that you support voter determined above the line or under the line optional preference voting. I understand you have already mentioned optional preferential. Could you clarify what you mean by voter determined above the line? Do you mean the voter filling in their preferences in all the squares, or as many as they like, or the current system of parties allocating?

Prof. Woldring—As many as they like and, in the case of candidates, as many as there are vacancies. That is the determination.

Senator BARTLETT—Are you suggesting or advocating abolishing the current system of the parties determining the preference flows and the voter determining those above the line?

Prof. Woldring—Yes.

Senator BARTLETT—On the threshold issue again, you gave the example of five per cent in a nine-member district, which would be a case where you had a quota of 10 per cent. The half Senate has a quota of 14.29 per cent to elect six seats. Would you suggest that that percentage should be five per cent, half of the quota or just a flat five per cent rate?

Prof. Woldring—We have not thought about this. I cannot answer that one.

Senator BARTLETT—If it was five per cent, for example, the Greens would not have been successfully elected in New South Wales.

Prof. Woldring—No, that is true.

Senator BARTLETT—Do you think that would have been a reasonable outcome?

Prof. Woldring—No, it would not. We have to look at that further. Thank you for raising it.

Senator BARTLETT—That is okay; that will do me.

Senator ROBERT RAY—I am not going to run the PR argument because we would be here for a long while, and you will not convince me and I will not convince you. You mentioned France on page 4 of your submission. I thought they moved from PR back to single-member constituencies in the last decade.

Prof. Woldring—I think you are talking about Italy.

Senator ROBERT RAY—No, I am talking about France. I know Italy did, but France moved from single-member constituencies to PR, and then I thought, in about 1992, it moved back to single-member constituencies. We can follow it up.

Prof. Woldring—I am not aware of that. It seems odd because in the last election there were the usual large number of parties that gained access to the parliament which, it seemed to me, could only have happened in a proportional system, but I may be wrong.

Mr MELHAM—Unless there was a fraction of the votes in the first past the post system.

Senator ROBERT RAY—No, they would run it. They have single-member electorates; they have run-offs in the second weekend. They would not have altered that, I am sure. You would not have got that fraction, but we will check up on that. Did I read somewhere in your submission that you thought the Senate was more representative than the House of Representatives?

Prof. Woldring—Yes, it is more representative. What I am saying is that there is an another argument, and Anthony Albanese has said it to me. People were happy with the system as it is because proportional representation brought a variety of representatives into the Senate. There was always the possibility for the Senate to block something, and so there was a democratic check, as it were. What we are saying in the submission is that the proportional representativeness of the Senate is far from perfect. Actually, the system there also favours the major parties for a number of reasons. The argument that says, ‘We have the Senate, so why should we have a proportional representative in the lower house?’ is not a good argument.

Senator ROBERT RAY—One of the historic problems is that a population of 400,000 in Tasmania elects 12 senators, and a population of close to five million in New South Wales elects 12. Even though you might prefer the method of election, there is still an enormous malapportionment in that, isn't there?

Prof. Woldring—There is. We acknowledged that in the submission.

Mr DANBY—My question refers to your proposal for nomination of ministers by unions, which is on page 131 in our briefing papers. Can I confirm that Craig Johnson is a member of the Progressive Labour Party in Victoria?

Prof. Woldring—You cannot confirm that because he is not. He was initially, but I think he resigned after a year or 18 months or something like that. He is not.

Mr DANBY—So the widespread reporting in the Victorian press, even recently, that he is a member of the Progressive Labour Party is wrong?

Prof. Woldring—That is wrong; he is not a member.

Mr DANBY—Your submission says that unions would have the possibility of nominating ministers.

Prof. Woldring—That is in our appendix.

Mr DANBY—Even if he is not a member of the Progressive Labour Party, unions like the metalworkers would have the right, under your idea, to nominate ministers; they would not be elected to cabinet automatically because Craig Johnson, or whoever, or the Victorian branch of the metalworkers, suggested that?

Prof. Woldring—No, it would be up to the governing party or coalition of parties to decide—like they do in many Western European countries—who they want to select as ministers. The idea behind this is that we get a better quality of ministers in the cabinet, because at the moment a government has to select ministers from a very small number of career politicians. It is impossible to get really functional talent to the top in cabinet. This is one of the major problems of the Westminster system.

Senator ROBERT RAY—Do you think the US does better? I could go man for man and do some comparisons.

Prof. Woldring—We do not think the US does better. The reason is that all those people who have provided huge amounts of money will be in the front row to be a secretary of some department. However, we are looking at Western European systems, where people are elected because they are experts in some field. They are not going to be shunted around by unelected senior public servants. They know what they are talking about. Whatever their political ideas are they will be there and do the right thing. For instance, I can think of a minister for education in Norway who has continued for four or five parliamentary terms in different governments simply because the guy is so good. His career is education. You do not have Amanda Vanstone or some other person in an education portfolio who does not know what she or he is talking about.

Senator ROBERT RAY—That is a matter of opinion.

Prof. Woldring—We are not the first ones to suggest things like this—to appoint ministers from outside the parliament, which is contrary, of course, to the Westminster system. I recall

Bob Hawke said a similar thing in his Boyer Lectures of 1979, that half the ministers should be appointed from outside the parliament. I wish it had come in.

Senator ROBERT RAY—He did not suggest it about the prime ministership—in my hearing.

CHAIR—You know what they say: no matter who you vote for, you always end up with a politician. Professor Woldring, thank you very much. I was touched by the fact that you did not think blocking supply caused any system instability. Thank you.

Senator ROBERT RAY—It saved the Labor Party.

Proceedings suspended from 11.04 a.m. to 11.16 a.m.

HUGHES, Emeritus Professor Colin Anfield (Private capacity)

CHAIR—Welcome. The committee has received your submission, and it is authorised for publication. Are there any corrections or amendments that you would like to make?

Prof. Hughes—There is one trifling typographical error where a word has developed a space in the middle. I do not think it will worry the committee.

CHAIR—We are used to those. Do you wish to make a brief statement or summarise your views?

Prof. Hughes—Yes. I will speak to the submission first. I want to make three points. Firstly, it is important to get the history right. What happened in 1984, when the legislation became effective, put into statute what had previously been a practice that had been varied only once. When it was varied, everyone was deeply shocked at what had happened, and the committee's predecessor, in language that could not be improved on, said it should not happen again and that something ought to be done. That is what we are dealing with and I think it is a satisfactory condition.

Secondly, putting the matter into perspective, there continue to be inquiries, such as Shepherdson and the National Audit Office and—as far as I am aware, from reading both documents very carefully—nothing that produces any confirmation of the necessity of making a change to the legislation. There is no evidence that great numbers, or any significant number, of electors were being put on the rolls in the last election period.

Thirdly, there is the point of uniformity. It is desirable that Commonwealth and state legislation and practice should be as close as possible. I find it difficult to believe that any state or territory would follow the Commonwealth in this pattern of change, if this were to be the case. Therefore, you would have a real problem because people not following the sophistications of the federal system would believe that if you have a period in which to change your enrolment at the state level it applies at the federal level as well, and they would be bitterly disappointed.

To gloss the bitterly disappointed point, which I think I made to the previous committee in this respect, it is not much use getting out and telling young people that voting is an important, worthwhile thing and that they ought to do it if the first time they try to do it you kick them in the teeth. In the last general election campaign, there was considerable agitation from student unions and the like at the possibility of this legislation going forward. From the little that I know of students, I suspect that, were this to be repeated, the same thing would occur. It is perceived as an attempt to deprive young people of a right on a quite spurious pretext.

That is really all that I want to say on the submission. However, the subheading there is 'Relevant evidence' and—listening to earlier evidence today and being familiar with the reports and hearings of the committee's predecessors—just getting evidence that stands up to the light of day is really one of the great problems of coming up with sound policy. Unfortunately, this is a very tedious process. If the evidence is just 'somebody said it but I cannot give you their

name' then it is very difficult to follow it up any further.' However, if occasionally people do chance their arm and say that something outrageous happened at a particular place at a particular point in time then it is possible to follow that up. For example, there is a longstanding dispute about Bribe Island, a place which I have a sentimental attachment to because I was having a week off there when Mr Hawke called the 1987 election and I had to rush back to resume official duties.

Senator ROBERT RAY—It was only because you were there that we called it!

Prof. Hughes—I have always suspected that. It is possible to take an allegation like that made about Bribe Island, look at the figures and disaggregate it, but unfortunately this takes 10 to 15 minutes. I am in the committee's hands.

CHAIR—Thank you. There is one thing which does concern me. You reference the 1983 election and say that we should get the history right. That is fair enough, although I am not quite sure of the importance of it. The issue is that the concern is not just about the 1983 election; the concern is that the bulk of new enrolments and re-enrolments is so substantial in that close of roll period that it becomes exceptionally difficult for the commission to actually have sufficient time to put new enrolments and re-enrolments beyond question and go through the checking process. I understand that that is the underlying concern rather than anything about 1983 or what the 1996 report said about it. I think that is a bit of a gloss that I would not accept.

Prof. Hughes—If that is the case then all one can say is that you have to throw more men and more money at the process. It is not an extraordinary large number of transactions to be processed. It may well be that more resources should be committed to it. But if that is the principal point now, then many of my concerns have been overtaken by events, and I am delighted to hear it.

CHAIR—That is my understanding of the thrust of the committee's concerns about that seven-day period. Large numbers of people enrol and re-enrol, which is precisely the other side of the coin, and the rapidity with which they have to be enrolled and re-enrolled does create concerns about how thorough the checking is in that period.

Senator ROBERT RAY—Let us say that there were 390,000 last election. Ninety thousand of those were new enrollees, so let us put those to one side. If we were to cut it off earlier than that, the potentiality is for 300,000 people to vote in the wrong electorate, isn't it?

Prof. Hughes—Exactly.

Senator ROBERT RAY—That is not often put. People talk about the difficulty, but having 300,000 people vote in the wrong electorate is probably worse. It is human nature not to enrol or not to change your enrolment until you have to. That is a pity. I just want to test your corporate memory now. Can you remember who argued most strongly for this seven-day period, in the hearings in 1983-84 of the Joint Select Committee on Electoral Reform?

Prof. Hughes—I was on the outside at that stage and all I knew was what had happened. I did in fact make the point in one of those American Institute Enterprise book surveys that there was great dissatisfaction. So, to that extent, I was personally seized of the matter and referred to

the concern that had been raised. But what went on between the then Australian Electoral Office, the government and the committee I could not say; I am not sure. I suspect that Mr Maley would probably be best to ask—

Senator ROBERT RAY—I could say but I do not want to because I do not want embarrass conservative members by saying it was Sir John Carrick that pushed so hard for this seven-day period, this window of opportunity. He was at us for month after month until we finally gave in on it.

CHAIR—It is nice to see that we overcame the resistance of the Labor Party on this occasion.

Senator ROBERT RAY—It was not resistance. We wanted to know what he was up to. When it came to strategy he could outrank anyone at this table, including me.

Mr DANBY—Professor Hughes, I would like to ask about new enrolments. In the March 1996 elections there were 428,000 new and updated enrolments; in 1998, 351,000. Then it started to increase in the most recent election to 369,000. How do you interpret the decrease in the number of new enrolments in that period of 1996 to 1998? Is that perhaps because of the adoption by the AEC of a more efficient updating of the roll in the meantime?

Prof. Hughes—It is one of those questions that I am afraid you need notice of because that involves procedures, hardware, software and also the coincidence of state electoral events. If New South Wales had had an election shortly before that, then all that action would have taken place getting the New South Wales roll into order and there would be very few stragglers left to be swept up by the federal election. You need to look at it in the context of electoral events. It is conceivable that a good habitation review in the days when these were massive operations had improved things as well. Those sorts of figures are substantial, but expressed as a percentage of the total population then of course it is a relatively small number.

Mr DANBY—Do you have any feeling about the change in the number or the overall number of people who are not enrolled?

Prof. Hughes—It is a long time since I had direct responsibility for that sort of thing. I think only people who are inside the machine would really have a feel for that. On the other hand, it is the case that many of the demographic factors seem to be remarkably constant. For example, we have figures about the number of roll changes during a year survived from the 1920s to the 1930s. It does seem that the Australian population is remarkably steady in its habits. All I could say is that you would need, first of all, to narrow your period down quite specifically and see what you could find out about that in respect of the detail that I mentioned a moment ago. Then you would have to look at the long sweep and see if things were happening, but they really amount to a couple of percentage points. If I could shift to a rather different issue: the question of whether seats should be allocated on the basis of population or enrolment. There was a period after the war when you saw great discrepancies start to arise—and Mr Whitlam, for example, in Werriwa was particularly agitated about this—and then the curve goes down again and we are back practically where we were in the late 1940s and early fifties on the ratio of eligible population to vote to total population. So there are long-term cycles as well.

Senator BARTLETT—On the close of roll period issue, you make the point about the desirability of uniformity with the states. I am sure the secretariat could do the research for me, but do you know what the current situation is with the states—is it around that one- to two-week period?

Prof. Hughes—Speaking off the top of my head, yes; but I would not swear that somebody had not changed the act since the last time I looked at it. It is the sort of thing where somebody might go from seven to 10 days, but I am not aware of anywhere except the Northern Territory where there was an instant close, and I am not sure whether this is still the case since the change of government there. My reading of the press at the time of the last Northern Territory election seemed to be that they had what the Commonwealth was thought to be seeking.

Senator BARTLETT—The point you make about the history is very useful and is something I was only partly aware of, so it is nice to have it more fully recounted. The secretariat have done some broader research than what you have put forward—they have gone back to 1940 and produced an average of about 17 days, although there are three occasions above 40 days so once you take those out it probably drops a bit. To me that raises the question of whether or not we should actually be looking at extending the period to closer to two weeks or something like that. Given the volume, the total number of changes probably would not be that different, I suspect; but the time for the commission to go through and process them properly, at what is obviously a very frenetic time for them anyway, may be improved somewhat.

Prof. Hughes—The longer time frame contains problems because of the changes in technology and the like. If you are going to have to produce the roll from a card system on a decentralised basis, then obviously you have a greater lead time for getting the basic ingredients of the election together. I can recall a venerable member of the commission staff in South Australia who had been in place for the 1931 election, which came on very suddenly because of New South Wales involvement. That was a complete panic and they were having to charter small planes to drop materials at remote polling places. But if you can merely give a command to a single central computer to start printing the certified lists, that is the critical factor. If you have staff training et cetera more finely honed, you can pick up a day here and a day there. I would not like to say that it ought to be extended. I would not rule it out, but at the moment I think you certainly would not need anything like 40 days.

Senator BARTLETT—Okay. Even if there was some case for extending, you would suggest it would be a very minimal amount of time?

Prof. Hughes—Yes. If I was to spend a bit more money I suspect I would spend it on even more publicity saying, ‘Get your enrolment in order in the next couple of days,’ if there was a means of beefing that up, because that certainly does trigger it off.

Senator BARTLETT—We have had the issue of electoral fraud raised again, as we always do, as I am sure you are aware. You have probably been asked this before but in your time as the electoral commissioner were you ever concerned by the prospect of electoral fraud occurring in this close of roll period?

Prof. Hughes—No, on the basis that, if it did occur, it would be singular isolated acts which would be most unlikely to affect the outcome anywhere. To say that it cannot occur is saying

that there cannot be shoplifting. But there was absolutely no evidence to support the possibility that it occurred on a significant scale, and a lot of what you might term negative evidence—for example, in all the spats that erupted in parties at state level or local level, whenever dirty linen was being washed nobody ever washed anything that looked like a close of roll swindle. They accused each other of everything else, but not that one.

Senator BARTLETT—The point has been made about a significant increase in the number of postal votes, absentee votes and those sorts of things in recent times. Firstly, do you think there is a greater prospect for fraud through postal voting than through normal voting?

Prof. Hughes—I know this is being raised as an issue. For example, it is being raised in the United Kingdom at the present time because of their greater use of postal voting. Very much the same sort of argument that is being put forward in Australia is being put forward in the United Kingdom. I think it is just that the way of life is changing, that people are doing things for themselves more and have feelings of skills and are more mobile et cetera—all of the things that make the prospect of voting other than by turning up at a particular polling place in a particular period on one day attractive.

Certainly one of the things that was occurring through the eighties, and I suspect has probably peaked out, was the whole change of what people did on Saturdays and the amount of employment that was being generated on Saturdays. People might have a small business and it was more difficult to let people go off to vote if you were running a small business, so that was a factor. There have been changes, but I do not see anything particularly sinister about them. It is just the way people use the electoral system responding to social change.

Senator BARTLETT—If there is no serious prospect of increased fraud or any problems coming from an increase in postal or absentee votes, then the counter argument would be that, to maximise participation, we should even reduce the restrictions we have now. I cannot remember what they are off the top of my head, but I know there are some requirements that you are supposed to fulfil to qualify for a postal vote, which I suspect people pretty much ignore anyway. Should we just scrap that pretence and say, 'If you want a pre-poll, if you want a postal vote, you have the option'?

Prof. Hughes—I am not aware of any great dissatisfaction within the public. But then I am not necessarily in the place where it would come in. I would have thought that, if people were grumbling, they would be grumbling to the polling officials that they see on polling day, the DRO or someone down at that level. I would think that it would be picked up in letters to the editor that could be clipped and sent to the AEC. I certainly do not see them amongst the letters in the *Herald* and the *Courier-Mail* that I read regularly. People raise all sorts of electoral matters, but I cannot recall seeing that one.

Senator BARTLETT—I do not suggest that it is a major problem. I do not know what the percentage is for non-attendance or non-voting—around four or five per cent, I think, of people do not vote—and how much of that is due to the inconvenience. In terms of reducing that figure, I do not know whether we should make it even easier for people to do postal votes or forms of voting other than turning up on the day.

Mr DANBY—Senator Bartlett, do you mind if I just extrapolate from what you are saying?

Senator BARTLETT—Sure.

Mr DANBY—Professor Hughes, what do you think would be the effect—and this happens at some local government levels—if we were to offer every person a postal vote or to actually send them a postal vote rather than offering them one?

Prof. Hughes—I am against it for the sorts of reasons that were being canvassed earlier on the distribution of how-to-vote cards. I think we are light enough as it is in civic culture and the belief that there are civic duties and in getting people to turn out. Where people have been asked about this—and they were in the reports published by the AEC that were done in my time—most people say they do get a bit of a buzz out of it. They think that they have done something worth while, and we should not disabuse them. Again to refer to the UK situation, I gather that, because of the decentralised electoral administration that they will have for at least the foreseeable future, there were local authorities which, full of enthusiasm for postal voting, wrote out to everybody saying, ‘Look what we can do for you.’ They got something like a 75 or 80 per cent postal vote return. I suspect if you try to encourage it too much you might get that, and I think the political system, in the wider sense, would be the poorer for it.

Mr FORREST—On a completely different track, we have noticed lately the introduction of multioffice DROs. In fact, we are inspecting one later this afternoon. I know it is 12 years or so since you were in the job, but would you have any comment on the merits of that idea of pooling resources? Do you think there are deficiencies or risks associated with it?

Prof. Hughes—For a long time it was my light on the hill by which I tried to steer. I know of nothing since then that would cause me to change that view. I think it was desirable as an idea. I was extremely sorry that many attempts, including a recommendation of one of this committee’s predecessors in favour of it, never ended up being implemented. Part of the benefit was to be that this would release resources to provide a better service for large, sprawling electorates where having a single divisional office provided a minimal facility. It seemed crazy to have in Sydney or Melbourne an office every 10 kilometres or thereabouts and then to say to somebody in Innisfail, ‘If you want to call into the divisional office, it’s in Mount Isa.’ A couple got off the rank before the commission was set up. There was a second office in Kalgoorlie and there was a second office in whatever the western-most part of New South Wales was being called at that time—Darling or Murray-Darling.

Mr DANBY—It is Parkes now.

Prof. Hughes—There was one in Broken Hill and one somewhere to the east, probably in the Riverina. At that point it then became difficult to do anything more about it. It has several advantages. It relieves resources. I think it provides a better structure for the staff generally. It is very difficult for somebody to move from an office which, in my day, was four people and which is now down to three—or a bit below three again, I believe—and to acquire the skills which would make it appropriate for them to move on to deputy AEO or AEO. If you had larger offices, as between individual officers of the same rank, someone would have a chance to specialise in some aspect and to improve themselves and you would have a chance to spot people who might be potential high-flyers and to have a proper promotional structure, as any other organisation of that size would have.

One of the drags on moving in this direction was that—going back to that historical period that I was referring to with Senator Bartlett a minute ago—back in the forties, the conduct of an election was a very decentralised operation. It was decentralised in terms of generating local business. Things were printed locally, staff were recruited locally and the assumption was that, if somebody in Black Stump was in charge, no-one from Woop Woop would ever be hired. This produced a hostility on the part of both the divisional returning officers and the member. In a few cases, I am sorry to say, I think there was a degree of self-interest on the part of members who opposed the scheme, particularly in regional Australia. They put their own office in the largest centre and then threw the divisional officers to the second largest community as a bone and so on. There were a number of factors.

Where there was collocation, in Tasmania, it worked very well. Tasmanians have always been very reasonable people and, because of their running the state elections, they were the ‘gun shearers’ of the divisional staff to a considerable extent. They worked perfectly happily and, if somebody was sick, both offices continued to work and electors were not confused when they came in. It seemed to be a model that worked quite well. We then had one in my time on the Gold Coast. Again, we had two offices at arbitrary points in a single urban agglomeration of that size and that worked out perfectly satisfactorily. There is obviously a point when the distance from electors, even in the metropolitan area, becomes a consideration. I would think that possibly four or five would be an optimum size. I cannot see any harm coming out of that, and I can see a number of good things coming out of it.

Mr FORREST—No downside? If it is a saving on resources, does it open up the possibility for multioffices in some of the very large rural electorates?

Prof. Hughes—One of the difficulties of freeing resources is hanging onto them for that brief moment of freedom before they are purloined to pass muster somewhere else. If they remain in the hands of the Electoral Commission then I am sure this would be likely to happen. If there was a ukase saying: ‘Everybody must give up three per cent and this time you can collocate or form combined offices, if that is what you really want to do’, and the saved resources go off to the exchequer then we obviously do not get that benefit. Maintaining an office in Broken Hill is an expensive business.

Mr FORREST—Who makes that decision, though? You mention Broken Hill and Kalgoorlie. Who is making those decisions?

Prof. Hughes—Those decisions were made before my time, and there was no complaint about it from those areas. The two offices—which is always a potential for problems—to the best of my knowledge, work quite satisfactorily. Subsequently, because of the statutory requirement that there be a divisional office in every division—and that was bent slightly to allow for a huge shopping centre on the border that was actually across the line but as close to the division as you could decently get it—this became both an industrial issue within the commission and something of a political issue with some members.

CHAIR—Could I pursue your point about the early close of rolls leaving people enrolled in electorates in which they no longer lived. I think you used the figure of 200,000. Do you think that is significant?

Prof. Hughes—I do not think it is but I think the better answer would be no-one knows. People who move have demographic characteristics. As soon as you have demographic characteristics, you have political characteristics. It may well be that, if one followed the people who move, you would be able to say that there is a 1½ per cent in the people who go from X who are going to Y. I am sure you are familiar with the literature. There was a time in the 1960s when it was believed that Labor voters were moving out of inner Melbourne and going to the outer suburbs, where they suffered a sea change and turned into Liberal voters at the drop of a hat.

CHAIR—We prayed a lot.

Prof. Hughes—There were figures that could be interpreted that way, but what you find is that there are rivers and Labor voters move out on a river and Liberal voters move out on a river. So you do get change, but it is nowhere near as drastic as was thought at Box Hill in the 1960s.

CHAIR—That was very interesting but to change the question just a bit: do you think it is important that people should vote at the address at which they reside?

Prof. Hughes—It is highly desirable because the whole basis of the House of Representatives is that this is a representation of a community or a collection of communities. More importantly, that is why it is undesirable that there should be an excessively long period of residence—you have to be there a year before you know what it is all about and the like. Ideally, it should be seen as a responsibility, a privilege and a duty that should be exercised as quickly as possible. What that does point to is the possibility and the desirability of trying to hook that change of enrolment on to some other documentary change that the elector engages in, which, quite wrongly perhaps, they perceive as more meaningful for their lives. So if they are having to get a new electricity account, if they are having to change their drivers licence, we should be trying to pick those up as quickly as possible and ride on those. That is probably the way to go.

CHAIR—Do you have any views on the current operation of the CRU?

Prof. Hughes—I would not, I do not think.

Mr MELHAM—Professor, you were present earlier when there was some evidence given by the Progressive Labour Party in their submission from Klaas Woldring. There were some questions asked in relation to what the current system is in France. Are you able to provide some evidence to the committee as to your knowledge of what the electoral system now is in France?

Prof. Hughes—I would not put it quite as strongly as knowledge. I would like to say my very strong impression is that it is a two step but with single member districts for the lower house. The reason I say that is because of stories following the election at which Monsieur Le Pen's followers were reduced to two, whereas at the preceding presidential election in both ballots he had been getting something like 14 per cent of the vote. I think the important thing to always emphasise with the French electoral system is that word 'current'. They have certainly changed it 10 times since the war. I would be surprised if it was not closer to 15. It swings quite constantly between the PR and the single member constituency on very short-term advantages.

In a sense—it goes back to this question of how far an electoral system determines the party system, which I know from time to time concerns the committee—the reality is that French politics are so deeply ingrained that they survive what on the surface would seem drastic changes in the electoral system. All they do is influence the way that that underlying structure is turned into representation in the parliament. But people go on voting for the monarchy in Brittany the way that they have done since before 1870. French electoral geography was always beautifully mapped. The departments stayed the same since Napoleon. They could be shaded the same—left, right et cetera—back well into the 19th century because of these underlying clerical, anticlerical, left, far left—after 1917—feelings and so on and they endure to this day.

Mr MELHAM—I am sorry I was absent for some of the evidence which you gave because I had other commitments outside. I do not know whether I am going over old ground. I take it that the thrust of your submission really is that this committee should not listen to the conspiracy theorists in relation to the seven-day closing period for enrolment. What that would do would be to disenfranchise very large numbers of legitimate voters who would otherwise be able to currently vote in federal elections.

Prof. Hughes—The only thing that would be added to that on the basis of my evidence, as I recall it, was that this would be a particularly regrettable matter in respect of young voters trying to turn out for the first time.

Mr MELHAM—I heard that.

Prof. Hughes—One of the misadventures of my period in office was a failure in the transmission of updating data from Victoria for the conduct of local government elections in Victoria. One batch vanished into the ether, and this was not realised and people turned up to the poll. They were told to go away because they were not on the roll, and this was much to be regretted. I do not know that it influenced any outcomes. There was one young woman in particular, and the minister for local government had taken up the case on her behalf, because this had been her first vote, and very few people speak in such emotional terms—even of their first communion—as this young woman did. In fact, it was a bit of a dud because the local government franchise law, as it then stood, would not have allowed her to go on the roll anyway. But it makes me realise that it is a deep disappointment to people who believe in democracy and strange things like that who go to vote and are told they cannot vote. I have one more anecdote—

Mr MELHAM—But the point is that, in terms of the conspiracy theorists, given your vast electoral experience in these matters in the period that you spent on the Electoral Commission, they have not produced the evidence that would warrant or substantiate a reversal of the current practise. Is that your considered view?

Prof. Hughes—That is my considered view. The evidence falls into two categories. That is so unspecific that it is impossible to say anything, other than you have to provide more information than that. The evidence that is specific can be followed up, and I have never seen it stand the test of any sort of scrutiny.

Mr MELHAM—Indeed, the way the system operates at the moment is that there are tens of thousands of people who are enfranchised during that period who are then able to legitimately cast a vote at a subsequent election.

Prof. Hughes—Exactly.

CHAIR—If your evidence had not been quite so clear and unequivocal, I would have thought that you were being led down a path that you may not have intended to go down.

Mr MELHAM—I meant that his evidence is unequivocal.

Mr DANBY—Professor Hughes, you were going to give us another anecdote about some people's philosophical attachment to first-time voting. Do you mind doing that?

Prof. Hughes—Yes, I am sorry, I have gone past it now.

Mr DANBY—You gave us the evidence about the young woman in the local government election.

Prof. Hughes—Yes. I do not think it was really to that point but to a related point. It was about further documentation of the dangers of asking me about current practice.

CHAIR—We should not have allowed Mr Melham to distract you. Professor Hughes, thank you very much. Your testimony is much appreciated, and so was the anecdote.

[11.54 a.m.]

ASH, Mr Geoffrey Roy, Convenor, The Greens New South Wales

CHAIR—Welcome. The committee has received your submission. Are there any amendments or additions that you would like to make to it?

Mr Ash—There was one further point, and it was on the issue of front parties.

Mr DANBY—Front parties?

Mr Ash—Front parties. I am sure most of you are aware of what happened in the New South Wales upper house election in 1999, where there were 81 parties on the ballot paper and many of them were sham parties; they were names only. The quota for the New South Wales upper house is a lot lower than for the Senate, so there is a lot more incentive for these sham parties—that is, previously in the New South Wales elections; they have changed the laws to tighten it up. The idea is to funnel preferences to the primary party by registering a catchy name. I have noticed this is creeping into the Senate. While I do not have an answer, because I only thought of this on the way here, it does need to be tightened up.

I recently came into possession of some correspondence where a state member of a parliament was lending his name to register federally two political parties, one of which was a kindred party to his political beliefs. The other party name seemed to be at the opposite end of the political spectrum. That is certain to be related to the Senate. I am yet to look at the register of parties and to fully investigate it, but that sort of activity by a member of parliament—a state parliament in this case—probably needs to be legislated against so that it is prevented. Generally, perhaps the rules need to be tightened up to make it some sort of an offence—where there is obviously a sham happening—to funnel preferences in the Senate because of a registered ticket vote.

Mr DANBY—For those of us not from New South Wales, could you remind us of the name of the candidate and the two political opposites?

Mr Ash—I would like to check it out more; I want to see the correspondence I received.

Mr DANBY—Would you mind sending it to the committee when you do check it out more?

Mr Ash—I will not give a guarantee on that. I will check it out.

Mr DANBY—Thank you.

Mr Ash—That was the addition. I would have thought about it more thoroughly and prepared a solution, but I did want to alert the committee to it. It is not as big a problem as in New South Wales, but I think it is a looming problem as more individuals realise they can perhaps rort the system.

Senator BARTLETT—That is probably a good place to start. I do not know if this is the individual you are talking about, but there was an attempt by the Hon. David Oldfield MLC to register a couple of parties, one of which was the No GST Party; I cannot remember what the other name was.

Mr Ash—‘No uranium dump’ or something like that.

Senator BARTLETT—That law federally has been changed. A state MP cannot lend their name any more, which they could do previously. So we have gone part of the way to that. I would be interested in your comment on some of the changes that have been made to the New South Wales electoral law in relation to the upper house, partly to prevent the tablecloth people getting elected on 0.1 per cent of the vote but also, as I understand it, to make it harder for that front party operation to occur—where people have to have a certain number of names and that sort of thing. What is your opinion on the effectiveness of those changes? Obviously, they have not been tested yet. Do you have any concerns about them? I think they were at least in part aimed at addressing the concern you raised.

Mr Ash—It is very difficult, because you do not want to reduce the democracy. The number of members required to register a party was increased to 750, which is a fair slab. You can have a legitimate political party with 50 members, so that would have cut out a lot of political parties and some of them perhaps unfairly. The nomination fees to contest the New South Wales upper house were put up to \$5,000, which is a hefty increase. For a bunch of ordinary people, it is starting to get a bit beyond them when their chances of getting elected are probably extremely small. So I do not favour those; I think they weaken democracy in a way.

The ability to channel preferences was also largely removed, but not completely, and that has been a big disincentive. I am not sure I am entirely in favour of that. What I am in favour of is penalties for actively rorting and actively establishing a name party only. Perhaps there do need to be minimum requirements—and certainly the federal requirement of 500 members, which is a fair sort of test. Overall, it has reduced the number of parties from 81 to about 18. But there is a court case pending, and I think the New South Wales government is going to amend the legislative provision because the powers of the commissioner at the State Electoral Office to set a test were being challenged in the court. The court ruled that he did not have the power to set up a test whereby he wrote to 300 members and required a 75 per cent written response from the members of a particular party to verify their membership. That was quite a good test, but it did knock out one legitimate party, who successfully challenged in court, at the AAT.

Senator BARTLETT—Which party was that?

Mr Ash—The Save Our Suburbs party. It is a really complex question. I do not know that I have the answer, but penalties for deliberately setting up these front parties might be in order.

Senator BARTLETT—You mentioned that they had partly removed the opportunity to funnel preferences but not completely. How is it still possible?

Mr Ash—For a formal vote in the New South Wales upper house you need 15 numbers or 15 candidates if it is a one in the box above the line as in the Senate. If one of the candidates on a ticket is disqualified at a particular time, the vote flows on to one other party that the original

party has nominated in writing to the Electoral Commission. They may have nominated for a lower house seat additionally and are therefore disqualified from both. That might not happen until one minute before the close of nominations, so that might mean that the preferences still flow. Perhaps bankruptcy at a particular convenient time is another one. I do not know that people would go to these lengths to rot the system, but it is still possible.

Senator BARTLETT—An eight-year term is a reasonable incentive.

Mr Ash—Yes.

Senator BARTLETT—You mentioned the issue of deliberately rotting. I am pushing this because I think it is a fair point, particularly if you get a double dissolution in the Senate; your quota drops down to around 7.7, which is getting close to what it is here. How would you define deliberately rotting or deliberately false? There was the No GST party—although it was not David Oldfield's; it was David Ettridge's—and others at the last election. As it turned out, the lead candidate here was actually a former Abolish Child Support Party person. Would that sort of scenario qualify as misleading or deliberate rotting?

Mr Ash—It is difficult. I assume that that party had the requisite 500 members, although I am not sure. Maybe it relied on a parliamentarian to secure its registration.

Senator BARTLETT—No, it did not.

Mr Ash—I am not sure about that. There is certainly a grey area between when a party is legitimate and when it is not. In New South Wales, where you had Glen Druery and the Outdoor Recreation Party member of parliament setting up parties all over the place, that was quite obviously rotting, to my mind and, I am sure, to the minds of many others. It is difficult, but it needs to be looked at.

Senator BARTLETT—Do you favour any sort of minimum threshold vote that people need to achieve before they can get elected, as a way of avoiding that problem?

Mr Ash—It is not a bad idea. It all depends on the threshold of course. I would not like to put a figure on it now. It should not be too low but there should be some reasonable sort of support.

Senator BARTLETT—You have spoken about the general advantage of a proportional representation system allowing for greater representation of smaller parties. I fully support the idea of Democrats getting more seats in proportion to our vote, as you have suggested with the Greens. The example from the 2001 election you provide omits to mention that One Nation, sadly, polled more than the Greens and more than the Democrats and therefore would have been entitled to a number of seats in the House of Representatives. Is that still an appropriate outcome in your view—a desirable outcome of a proportional system?

Mr Ash—I am certainly no fan of One Nation. Have members of the tribunal had a chance to read that paper?

CHAIR—Yes.

Mr Ash—Certainly I am no fan of One Nation, but that was the will of the voters. Granted they did not get any seats but, if that is the way the people voted, that is what happened. When 1.5 million voters get no-one represented in the lower house reflecting their vote, it is a pretty sad state of affairs. It would have meant that Green, Democrat and One Nation members were in there at the expense of the coalition and the Labor Party winning 24 seats that, in my view, they were not really entitled to win.

Senator BARTLETT—On the issue of distribution of preferences or funnelling of preferences via an above-the-line vote, my understanding of how it will work in New South Wales is that basically voting ‘one’ above the line would be the same as an optional preferential vote for the 15 candidates on that ticket, leaving aside the potential for shenanigans. Would you favour something like that in the Senate or as a minimum of what the Labor Party were suggesting, which was that people could fill in their preferences in boxes above the line rather than parties retaining the right to direct preferences?

Mr Ash—I think it is an option worth considering. I do not know that I would give it wholehearted support. A lot of people do not want to number a whole lot of squares. Perhaps there could be options for the voters to choose their own preferences, preferencing above the line, so they do not have to go through 70 or 80 numbers in the case of New South Wales. I would like to reserve judgment on that one. There is certainly merit, and there are arguments against too. It has certainly been effective in removing an incentive for the establishment of front parties in New South Wales.

Senator BARTLETT—There are a couple of aspects to the issue of optional preferential voting. You suggest that most states have this system and therefore, for consistency, it would be good to have it at federal level. My understanding was that only Queensland and New South Wales that have optional preferential.

Mr Ash—I think you are right there; I made a mistake. I thought Victoria had it as well, but I recently found out that that was not the case.

CHAIR—Does the argument work the other way—that, given that they are not the majority and that it is not federal, they should not have it in Queensland and New South Wales?

Mr Ash—It could, but I do not think that it is right to compel people to vote for No. 7 or No. 8 candidate when they happen to dislike them both. I do not think that is the right way to go.

Senator BARTLETT—I will leave others to talk if they wish about your outlining of what may or may not have been done prior to the 1990 federal election. The other aspect I am interested in is your general advocacy for optional preferential voting, and I understand the arguments. Is that a Green party policy across the country? I am fairly sure, coming from Queensland, that I have heard in recent times the Queensland Greens argued the opposite after experiencing it for about three or four elections.

Mr Ash—There could be. We are autonomous state parties, largely, so they might have a different position. I favour that freedom for the voters. Nationally, it was my understanding that that was our position, though it might not have been officially adopted.

Senator BARTLETT—I have heard it advocated nationally as well. It has only been recent, but I think the suggestion was that it moved us closer to a de facto ‘first past the post’ and reduced the opportunities for smaller parties to use their preferences for leverage of their policy options.

Mr DANBY—Chair, let me be clear on this: Senator Bartlett is suggesting that the Queensland Greens are not in favour of optional preferential but are in favour of compulsory preferential now?

Senator BARTLETT—I have seen comments to that effect; I just wanted to check that. I am not trying to do too much of the point scoring. I will dig it up to verify that but I think it was basically that the Labor Party is strongly advocating a ‘just vote 1’ publicity campaign, and that makes it harder for smaller parties to use their preferences to leverage policy outcomes, should they choose to do so.

Mr Ash—That is a good point and I acknowledge it. When it comes to federal elections, often we do not want to recommend a preference to either party—

Senator BARTLETT—Except for the Democrats, of course.

Mr Ash—Yes—to either major party.

Senator ROBERT RAY—You do not really want to send preferences to the Democrats either, half the time.

Mr Ash—Of course that makes it difficult when you are numbering your how-to-vote cards for your voters so that they do not vote informal. You virtually need to number all the squares, and when you do not particularly want to choose between a couple of candidates lower down on the ticket you are in an awkward position.

CHAIR—It happens to all of us. Mr Ash, I would like to pursue one point with you. I sympathise with your point about determining the number of entrances to each polling booth because it creates huge difficulties for candidates when occasionally there is the opening of one door suddenly in the middle of it all. But why do you feel so strongly about this?

Mr Ash—As someone who has set up dozens and dozens of polling booths in various elections and by-elections, I can say that it is a major nuisance. We have to ask, ‘Is this booth going to have three entrances this time or two entrances this time?’ You have to juggle your roster and drive people around. It is just a major, unnecessary inconvenience to all parties. I think there are some areas in the country where the major parties perhaps could not staff all the booths properly and they would like to know that sort of information in those areas so that they could at least maximise their coverage of polling booths.

CHAIR—I do sympathise but I just did not realise that this was a problem that impacted on the Greens.

Mr Ash—It is partly personal experience, but I think it would be helpful and reasonably simple thing for the AEC to carry out.

Senator ROBERT RAY—Sorry I was not here for the start of your submission; I apologise for that. You mentioned fixed-term elections, which is something I support. Have you come to terms with how to deal with a no-confidence motion in the House of Representatives and fixed terms? This was probably the thing that most held back people pushing fixed terms. Remember that government changed in 1929 and 1941 on the floor of the House. How do you incorporate that—or even a fake one to bring on an early election—into fixed terms?

Mr Ash—There might need to be exceptions and perhaps that is one of the exceptions: if the government of the day has a no-confidence motion carried against it, perhaps you do need to have an election. The situation where the Prime Minister can just determine a date is pretty outrageous; it is really calling the election on the government's terms. I am not just criticising Mr Howard here; it has happened for decades.

Senator ROBERT RAY—I think it is overemphasised. Especially when a government almost runs its full term, there is so much speculation for a Prime Minister about to call an election that, in fact, it works the other way. I think a smart Prime Minister, when they are re-elected, would declare, on the night of the poll, the next election date. Everyone knows that the next New South Wales election is on 23 March.

Senator BARTLETT—It is on 22 March.

Senator ROBERT RAY—Everyone but me! And so what: everyone can work towards that.

Mr Ash—Exactly. It saves a lot of headaches for a lot of campaigners.

Senator ROBERT RAY—But I am still going to plug for a Sunday election. You also mentioned that the number of entrances for each polling booth should be determined. You have had problems with Labor caretakers opening up the extra couple of gates and stranding you short?

Mr Ash—It does happen. I do not know who does it. It seems to be at the whim of the returning officer. I just know from my local booth that for years it was two entrances and then you get down there one day and suddenly it has become three entrances.

Senator ROBERT RAY—I think that is a fair point to make.

Mr DANBY—Mr Ash, do you have any evidence that the number of informal votes is less with your preferred optional preferential voting?

Mr Ash—I am sure there is solid evidence when you only have to put the number one, whereas if there are eight candidates in the field there must be voters who just number five or six candidates or one or two candidates or just one and then stop, because that is what they believe. That is particularly the case in states such as New South Wales where you have a conflicting state system and federal system. In this case it is okay to only put a number one in a state election but it is not in a federal election. I have not had the time to do a statistical study, but I think you would find that informality would drop if it was a valid vote either with the number one only or with more.

Mr DANBY—Are you aware of any difference in optional preferential as made in the elections in New South Wales, which have been by that system since the early 1970s, or Queensland more recently, to minor parties?

Mr Ash—To the outcome?

Mr DANBY—Yes.

Mr Ash—No, I am not. It is voter freedom and party freedom.

Senator BARTLETT—I can tell you about some differences it has made in Queensland, but at another time.

Mr DANBY—Televised debates is on page 152 of your submission. You want everyone to have participation in televised debates. Taking up the point that was raised earlier with you about minimum thresholds, where would you draw the line? Would the Progressive Labour Party have as much time as the Greens, the Prime Minister or the citizens electoral councils with 0.001 per cent of the vote?

Mr Ash—That is a good question. I note that the ABC recently sent out a questionnaire to parties and candidates asking for input on the same question: how does it divide up its free-to-air time? It is a good question. Because there is such a focus on the leader debates in a federal election, and it can have a very big impact, I was suggesting the threshold be for parties that are contesting at least half of the House of Representative seats around the country and therefore in theory could form a government if they happen to win every seat, which they are not going to do, of course, but they could in theory, and that is a very significant threshold. Only a handful of major parties contest that many seats—Democrats, Greens, perhaps One Nation and maybe a couple of others. That is a big undertaking, but it is some sort of fair cut-off point for a leaders debate. As for time on the ABC, that is important, too. I think parties contesting a lesser number of seats should get some time.

Mr DANBY—So, would that not be an incentive for Mr LaRouche or his representatives, to take an example, to put up candidates in 50 per cent of Australian seats—so that they can get their person to debate Mr Howard, whereas in the real world people would not be interested? They may be interested in hearing the Greens in the ABC debate, if they get five per cent of the vote in federal election, so that you have a full range of views. Do you see that there are dangers in automatically giving rights to people who contest the seats without winning the votes?

Mr Ash—Perhaps there could be a two-tiered threshold. You might need to have had a minimum percentage in the previous election, but not very big. Contesting 76 seats is no small undertaking and it costs a lot of money. There are a lot of nomination fees there and not many parties can organise to run in that many seats. It is a reasonably high threshold as it stands. It was a suggestion and certainly it could be refined with something along the lines that you are suggesting. There is no point parties running in a couple of elections and polling one per cent, running in all those seats, for example. Perhaps not; you could have an additional threshold.

Mr FORREST—Further to that question, you need to be absolutely clear what it is you are asking for because it is up to the television channels themselves and they are into ratings. They

want people to watch. You are actually asking for parliamentary intervention by legislation to enforce something on television.

Mr Ash—Yes.

Senator ROBERT RAY—But they are not paying licence fees. They are getting a free-to-air coverage at no cost. So public duty surely is also part of it.

Mr Ash—Yes, I think it is fairly minimal impost on the major commercial TV stations.

CHAIR—It could make for a very uninteresting debate if you have seven people on air in 30 minutes.

Senator ROBERT RAY—It does in the US, where compulsories and some primaries have seven. There may be variations on all of this, where you can make it work, but having seven diverse people makes it very hard to focus. I understand that there are advantages of incumbency and being in a big party. There is no proportionality on this committee; I represent 28 Labor senators and there are two Democrats out of seven. So it balances back.

Mr FORREST—To go back to your question about the calling of an election, your submission says that it is highly undemocratic for a prime minister to determine the date of an election. You are using the wrong word. How can it be undemocratic for someone to ask the Australian people to make a decision? That is the process of democracy. How on earth do you describe that as being undemocratic?

Mr Ash—We all know that there are good times to go to an election and there are bad times. When things are swinging a party's way in the media, a lot of politicians would think, 'Now's the time to go.' That is largely the determining factor as to when an election is called. If you look at all the early elections that have been called—those that have been short of three years, such as double dissolutions—they have all been called at a time when the government has been polling well and is looking likely to win.

Senator ROBERT RAY—He would be a pretty dopey prime minister if he did the opposite.

Mr FORREST—If you were arguing a case that was highly inequitable or to your disadvantage, to describe it as undemocratic does not reflect what the process is. It is actually going to an election asking the Australian people to participate in democracy.

Mr Ash—I think it should be fixed, or an independent body should determine the date of the election. The date of the election often determines the outcome because the date is chosen according to current political events that are dominating the media.

Senator ROBERT RAY—You mean the way Jeff Kennett went a year earlier in Victoria, in 1999!

CHAIR—And did well!

Mr Ash—Right, well, there goes my theory!

Senator ROBERT RAY—I just thought we would put a counter view of joy!

Mr Ash—He was very confident he was going to win, I think.

Mr DANBY—He was wrong.

Senator ROBERT RAY—We were pretty confident he was going to win, too.

Senator BARTLETT—Back to optional preferential voting, I thought one of my Labor colleagues would have addressed this comment of yours accusing the Labor government's motivation of acting to increase Labor's electoral chances, which I thought was an outrageous slur on my colleagues.

Mr FORREST—Where is that?

Senator BARTLETT—At the bottom of the first page.

Senator ROBERT RAY—The person that introduced this is going through a process of beatification prior to canonisation, so I think the senator is right.

Senator BARTLETT—I want to clarify what you mean by optional preferential voting. In my understanding or recollection, that change was not really to create—I am not even sure that the year is right, either. It was not optional preferential before that. You are talking about the Langer option, are you?

Mr Ash—Yes, it is tied up with the Langer option. My recollection is—I did not go off to the history books—that prior to the 1990 election there was optional preferential. Maybe I was wrong.

Senator ROBERT RAY—Whereabouts?

Mr Ash—In the House of Representatives elections.

Senator ROBERT RAY—No, there has not been.

Mr Ash—Never?

Senator ROBERT RAY—Never.

Mr Ash—I am sorry.

Senator ROBERT RAY—Prior to 1918 or 1920—Professor Hughes, of course, knows all this. We cannot bring him back to the table, but it has been a long while.

Mr Ash—Perhaps you can correct me: what came in just prior to the 1990 election? I thought that was where voters had to give preferences in the lower house.

Senator ROBERT RAY—It has certainly been in existence since the 1920s.

Senator BARTLETT—I think what you might be confusing it with is the Langer option.

Mr MELHAM—What is confusing Mr Ash is that post the 1990 election we brought in on election nights the two-candidate preferred vote. I think that is where there is some confusion. We got the Electoral Commission to actually count and do a sample and register them. That is where I think there have been more accurate predictions.

Mr FORREST—That is all it was; it did not change the actual outcome.

Mr Ash—I apologise if I have made an error there, but the basic argument still stands.

Senator BARTLETT—I was really just trying to get the point of whether by optional preferential you mean people can just put one and leave the rest blank.

Mr Ash—If they so choose to do, yes.

Senator BARTLETT—In terms of the Langer option, some people were trying to turn that into a de facto optional preferential—

Mr Ash—They were.

Senator BARTLETT—which was not its intent. Okay. I just wanted to clarify that and defend my Labor colleague's reputation.

CHAIR—Yes, I am sure they are impressed.

Senator ROBERT RAY—We are all here. Where is your colleague?

Senator BARTLETT—We did not want to get into a fight about equal representation.

Mr MELHAM—Have you got him out campaigning for you?

Senator BARTLETT—Yes.

Senator ROBERT RAY—How long does it take to count 1,200 votes, anyway?

CHAIR—Thank you very much.

Mr Ash—Thank you.

CHAIR—As there are no further questions, on behalf of the committee I would like to thank all the witnesses, including the ones who have sat through the whole proceedings and who have given evidence to the hearing today.

Resolved (on motion by **Mr Danby**, seconded by **Senator Bartlett**):

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

Committee adjourned at 12.26 p.m.