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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Conduct of the 2001 federal election**

MONDAY, 9 DECEMBER 2002

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**JOINT COMMITTEE ON ELECTORAL MATTERS**

**Monday, 9 December 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 Brandis, Mason, Murray and 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.

**WITNESSES**

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**Committee met at 9.07 a.m.**

**BECKER, Mr Andrew Kingsley, Electoral Commissioner, Australian Electoral Commission**

**CODD, Ms Fiona Elizabeth, Director, Financial Management, Australian Electoral Commission**

**DACEY, Mr Paul, Deputy Electoral Commissioner, Australian Electoral Commission**

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**PICKERING, Mr Tim, First Assistant Commissioner, Electoral Operations, Australian Electoral Commission**

**CHAIR**—I declare open this public hearing of the 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 the committee's predecessors after each federal election with a view to improving the operation of Australia's electoral system.

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 176 submissions from Australia and overseas. I remind 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 information will be regarded as a contempt of the parliament and evidence given today will be recorded by Hansard and attract parliamentary privilege. I once again welcome representatives of the Australian Electoral Commission. The committee has received your supplementary submissions and we thank you for them. Obviously a lot of work has gone into them. They have been numbered

163, 166 and 174, and they have been authorised for publication. Are there any corrections or amendments you would like to make to those submissions?

**Mr Becker**—No, there are no corrections or amendments at this stage.

**CHAIR**—Mr Becker, would you like to make a brief opening statement?

**Mr Becker**—I did not think we would this time; we will just carry on discussions with the committee.

**CHAIR**—That is fine. Thank you very much. Your first submission is almost a blow-by-blow response to the variety of submissions that have been made to the committee. I will pick out a couple of issues that struck me as being particularly pertinent. The first one, unfortunately or fortunately, relates to the submission by the Liberal Party of Australia and it is about the distribution of a Democrat how-to-vote card in Petrie. I read the explanation two and a half times and gave up. It strikes me that the commission has not really taken on board the angst that the distribution of incorrect how-to-vote cards can cause to all political parties. They cause all of us here an amount of difficulty. In an analogous case to the one in Petrie, where a how-to-vote card is manifestly incorrect and is agreed to be incorrect by the party distributing it and the electoral officer for the state has agreed that it is incorrect and asked for it to be withdrawn but it is not withdrawn, what further action should the commissioner take in such an instance?

**Mr Dacey**—In the past we have got to the stage of seeking injunctions. Another party may well seek an injunction but the AEC certainly can seek an injunction if there is a refusal to withdraw. That has been done in the past.

**CHAIR**—In this particular case there was consensus among everyone except the people distributing the how-to-vote card that it should be withdrawn. There was no injunction and there was no withdrawal for a significant period. The issue raised by the Liberal Party, which could just as legitimately be raised by the Labor Party or by the Democrats, was that there was an inability on the part of the commission or its officers to act. The response from the commission goes on extensively about why it would be inappropriate to take any other course than the one that was taken. I must say that that is why I read it two and a half times and gave up. I honestly cannot understand how the commission can defend a situation where its procedures do not allow it to act decisively in such a case.

**Mr Dacey**—I am not first-hand familiar with the particular case but the cases I have been involved with—

**CHAIR**—I refer you to your submission.

**Mr Dacey**—I know of the case but I was not first-hand involved in that case. As a general—

**CHAIR**—I do not want to go into the generalities; I would like to go into the particularities.

**Mr Dacey**—On the particularities, there was a suggestion that the officers in charge of polling places may be given more power as well. We have certainly resisted that and I would continue to resist that. We have approximately 8,000 polling places in Australia. If we have 8,000 officers in charge, who receive very minimal training, making decisions based on

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allegations and accusations I would be quite concerned that some of those decisions may not be correct. It is important that we have consistent standards in decisions. That is basically the reasoning behind why we would not give and would not support giving that power to an officer in charge. It raises a further issue: if the officer in charge had that power and then there was reluctance on behalf of the party to withdraw, where would you go from there? It still comes back to making a consistent decision on a national basis and then seeking cooperation. If that cooperation is not forthcoming, we look at the options, one of which could be injunctions.

**CHAIR**—This is where this case is nice, because here I do not think we are talking about giving the presiding officer the autonomous power. In this case, the Australian Electoral Office of Queensland had come to the conclusion that this how-to-vote card should not be distributed. This was not 8,000 different decisions; this was a central conclusion that could not be activated by the officer in charge or the presiding officer. Isn't the simple solution, which would overcome the 8,000 different decisions, to allow the Australian electoral officer in such a clear-cut case to direct the officer in charge to direct people to cease distributing how-to-vote cards?

**Mr Becker**—That in fact happened, I think. That person told the person that the how-to-vote cards were illegal, but the person refused to stop handing them out. The situation there is that we are not policemen. You would not challenge any of these people, I can tell you, without policemen.

**CHAIR**—That is fine—I am not having a go at you.

**Senator ROBERT RAY**—Senator Murray, you have a lot to answer for!

**Mr Becker**—I had a situation in my former life as commissioner in South Australia—they still have a restriction there on the size of signs to one square metre—where I instructed the presiding officer to ask the people to take the signs down and get them away from the polling place. When they refused to do that, he started to do it himself and there was an almighty punch-up. We are not going to have our people stepping into those situations. There is always going to be a time issue here, though. In the case you mentioned—and I seem to recall a little bit of this now—when this was first raised with the AEO in Queensland, the person then asked the people to stop handing out the how-to-vote cards. If he were to have gone and got an injunction at that stage, it might have taken yet another hour or an hour and a half. I would pick up on the point that Mr Dacey raised—and everybody knows that these things have been going on for years and there is nothing new about this—that perhaps the more appropriate case would have been, in the interests of time, for the parties themselves to have taken out an injunction. They are quite capable of doing so. We are not the policemen in this case. We can only get injunctive relief and then we can call in the police. We could probably call in the police in other circumstances, too, but only if there was some sort of threat of a punch-up.

**CHAIR**—I have had police called in to remove how-to-vote cards that were improperly authorised or that had not been registered. But the central argument that you raise is that you cannot have a multiplicity of different decisions, which I entirely agree with. What I cannot understand is why you are resisting the situation in which a central decision made by a senior officer that takes into account the national or state implications should not be actioned on the ground by the OIC. I just cannot understand it.

**Mr Becker**—There was action on the ground by the OIC, but no subsequent action took place.

**CHAIR**—Yes.

**Mr Becker**—Another person can just refuse to stop handing them out. It is as simple as that.

**Mr Dacey**—But it would be normal practice that we would advise the officer in charge of the polling place that in fact that how-to-vote card is illegal and distribution should cease.

**CHAIR**—And if you come to me and I say no?

**Mr Dacey**—If they say no then we cannot do anything else at that stage.

**CHAIR**—And you do not want any capacity to be able to do anything else? This is what I am coming into.

**Mr Dacey**—What sorts of things could we possibly do? If it is delegated to the OIC or the OIC has advice that a particular how-to-vote card or particular information should not be distributed and the OIC advises the party workers that those how-to-vote forms are illegal—that they have that advice and therefore they should cease distribution—and there is a refusal, there is not a lot more we can do other than to get into an almighty argument, as Mr Becker said. So the next step would be an injunction.

**Senator ROBERT RAY**—Isn't there a section in the act on misleading people in the casting of their votes that has been interpreted by the courts?

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—And that cannot be taken wider than the actual casting of the vote. Isn't that able to be prosecuted? You can have the person arrested and prosecuted? That meets that tight court definition.

**Mr Dacey**—That is possibly the case, yes.

**Senator ROBERT RAY**—I am asking you whether it is the case.

**CHAIR**—Who is going to make that judgment, though?

**Mr Dacey**—I would not be expecting that would be a judgment for the OIC.

**Senator ROBERT RAY**—Is it an offence under that section of the Electoral Act? I have the Electoral Act here. Can anyone tell me where it is?

**Mr Dacey**—It is in section 329, regarding misleading. The Crichton-Browne issue.

**Senator ROBERT RAY**—Yes, that is right. That, as I recall, very tightly prescribed the circumstances in which the act applies.



**Mr Dacey**—The act of actually depositing the ballot paper—

**Senator ROBERT RAY**—Doesn't 329(4) say:

A person who contravenes subsection (1) is guilty of an offence punishable on conviction ... by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both ...

The chair's point is that this is where you could use the police—to have the person arrested.

**Mr Becker**—That is a big call to make. The Evans v. Crichton-Browne case was a very narrow judgment. It is in the casting of the vote.

**Senator ROBERT RAY**—The broad judgment is that if you were involved in misleading advertising in the broad it would come under this section. The judgment then narrows it right down to the actual physical casting of the vote. What more could interfere with the physical casting of a vote than a how-to-vote card that is inaccurate?

**Senator MURRAY**—And incidentally that accompanies the voter into the booth, so it is actually there at the time of the casting of the vote.

**CHAIR**—My problem is that you do try to prevent the distribution of invalid how-to-vote cards or misleading how-to-vote cards. You say, 'This is misleading,' and you advise the parties that they should withdraw it—you actually do make those calls. What you have problems with is enforcing them. That does puzzle me. It is not as if you say, 'I cannot make any judgment.' Here they made a judgment, they passed it down and they were ignored. You say, 'What else am I supposed to do?'

**Senator ROBERT RAY**—Would you like to have a look at section 5 now in your own act? Here you have informed the person that what they are doing is wrong, so their one defence disappears. Ignorance is a defence under section 5, is it not?

**Mr Becker**—Sure. If the parliament want us to have the policing role then I believe that they should give us the policing role.

**Senator ROBERT RAY**—I am not actually supporting polling place officials intervening. I am reluctant to even support DROs intervening, or people up to your level. In fact, once you have informed the person that they are misleading et cetera, you cannot actually throw them off the booth. I accept that. But you can call the police in to arrest them under this particular section. That is your one enforcement mechanism. Section 5, ignorance as an excuse, disappears once you have informed them.

**Mr Becker**—I have to say that we have never considered that section to be enforceable to the extent that you are saying it could be. I do not know. We have not had a judgment on that.

**Senator ROBERT RAY**—I do not see what the point is in you making a judgment on whether or not a how-to-vote card is right and proper—as you did in this instance in Petrie. What is the point of it unless there is some enforceability? The enforceability can be by the injunctive route, and I think if you look through your corporate history you will find there have been injunctions successfully taken out in the past—

**Mr Becker**—Yes, there have.

**Senator ROBERT RAY**—and then enforced by police. That is one method. I think we are agreed that maybe we might need to revise the act to improve that method. But you also have this secondary thing that if someone is handing out misleading stuff you do have a power here. You do not need the act to be amended necessarily.

**Mr Dacey**—That is something we would be quite happy to take advice on. If it is the case and if there are refusals to withdraw offending literature we can certainly look, following advice, to incorporate that into procedures.

**Mr MELHAM**—The other thing in relation to that is that if the officer informs them under that particular section and they continue then I would have thought that is evidence that can be used in a subsequent prosecution. Irrespective of whether you get the police in in terms of injunctive relief, the person sets themselves up for prosecution. I would have thought that is a pretty powerful warning to be given to someone handing out misleading material at the time. That would render their defence meaningless—they would have no defence—in a subsequent prosecution.

**Mr Dacey**—That is right. We are quite happy to take further advice and to look at perhaps incorporating that further action in our procedures if the advice is consistent that we can do that.

**Senator MURRAY**—I put on the record again that I remain of the view that one of the better protections is prior registration of the how-to-vote cards on the Queensland and Victorian models. I have a question in a different direction on the how to vote issue. In other work the Senate has done through the Scrutiny of Bills Committee on section entry provisions, one of the issues discussed was raising with people who are subject to warrants their rights and obligations. The idea was that in various circumstances a printed card would be produced stating what someone must do, how they must comply and what their obligations are. With respect to workers or volunteers on election day, which across the country on election day would probably be a quarter of a million people or more, I wonder whether it would be helpful if, at each polling booth, there was a card which stated basically what you can and cannot do. From experience of my party—and perhaps it is not true of other parties—the average polling booth worker has absolutely no idea of what distance you must be from the polling booth, what you can and cannot do and so on. There is a kind of osmosis; they learn from each other. In particular areas of concern, such as performance and behaviour with how to votes, I would have thought that something that was easy and that could be handed out which you could refer to as an officer in charge might be of assistance. What do you think of that idea?

**Mr Becker**—As you are probably aware, the OICs do tell people where they consider the limits to be with regard to the six-metre rule and so on. Outside of that, I do not know whether there is much they tell them at the time other than not to intimidate electors on the way in and not to crowd or make access to the polling place difficult. However, it would not be a bad idea to have something like that.

**CHAIR**—Isn't there a scrutineer?

**Mr Becker**—They are not scrutineers. We are not talking about scrutineers.

**Mr Dacey**—They could be scrutineers later. There is a scrutineer's handbook and there is a candidate's handbook and we also organise information sessions for parties about what they can and cannot do, and about rights and responsibilities, particularly in relation to authorisation. So we could pick up on that and produce a summary of what authorisation and requirements there are for handing out information and that could be provided to all officers in charge of polling places.

**Senator MURRAY**—I cannot even begin to speak for the other parties but, from experience of my party, I know that candidates and activists in the party just reach out to all their networks and haul in people from all over the place. They are just family members, friends and so on. There is absolutely zero training—nothing. They are given a little advice, usually something printed by the party, and that is about it. Mostly people have good sense and they behave well. However, where we are discussing situations where people lack sense and do not behave well or have a malicious intent, instead of handbooks, I think a laminated piece of paper or at least a reasonably sturdy piece of paper would make a difference.

**Mr Dacey**—And anything that would assist there where there is no deliberate intent to mislead would certainly assist us as well because we would then have to field fewer complaints. That is something that we would be quite happy to look at.

**Senator MURRAY**—Of course the other thing is that most people are not aware of the powers of the officers under the act. In respect of the points made by the chair and by Senator Ray, a simple statement on such a piece of paper that an OIC has the following powers, and that if they ask you to do something you are actually obliged to comply, is an important statement they can refer to. It is in the telling, the nuance and the variations that you get these 8,000 problems that you outlined. Something that is quite clear and available to everybody would make a difference.

**Mr Dacey**—Say we had, for example, an information sheet for the OICs and copies of that information sheet for the team leaders or for whomever of the party workers that could be handed out. That is quite possible and sounds quite reasonable.

**Senator MASON**—Mr Becker, you mentioned there were 8,000 polling booths at election time. Has there been a discernible rise in instances of violence that have taken place in recent years?

**Mr Becker**—No.

**Senator MASON**—So, in a sense, is there always potentially a little bit of violence but certainly no more now than there was 10 or 20 years ago?

**Mr Becker**—No.

**Senator ROBERT RAY**—There would be a lot less confusion if you did not have two federal electorates voting at the one booth, so you might make it 8,020 next time. I am still getting complaints about that.

**Mr Dacey**—Is that Punt Road?

**Senator ROBERT RAY**—It is not just there. I get complaints from anyone I talk to about this issue. During the state election in Victoria I got a massive number of complaints. You worry about people jostling outside. I would have to say that federal polling booths are better organised than state booths, signage wise. But you almost need to double your how to vote cards because you do not know which electorate voters are coming from. You really should think about that.

**CHAIR**—Shall we continue?

**Senator ROBERT RAY**—I was going to go back to the start of the submission. We can work our way through the submissions. With regard to the first one from Mr Michael Williams, he cannot find any of his stuff. Did you ask him to provide you with the stuff that he has written to you? It must worry you that you cannot find the correspondence.

**Mr Orr**—The AEO of New South Wales has written to Mr Williams seeking more information on his claims.

**Senator ROBERT RAY**—Let us listen to the question. He says that he has written to you, you have searched your records and say you cannot find it. The next step is that you go back to him and ask him for copies of his emails, faxes and letters and find out (a) whether he has actually sent them and (b) why you have not received them. It has nothing to do with the content of them now. Have you done that?

**Mr Farrell**—Yes, we have, but more specifically—

**Senator ROBERT RAY**—And what was the result?

**Mr Farrell**—More specifically, rather than getting copies, we were particularly interested in the place to which the earlier correspondence had been sent. That was not clear. It could have been South Australia or it could have been a range of areas. We searched as many as we could logically deduce may have been possible but all those resources were—

**Senator ROBERT RAY**—I am sorry, but let us start again. He says he has sent you stuff. You searched the records and cannot find them—I accept that. You are now in correspondence with him about the substance of what he raised—I accept that. But what I want to know is whether he actually sent the material and why it got lost. Surely someone can answer that. It must be a worry that repeatedly through a lot of these submissions people complain about the Electoral Commission not getting back to them. In a lot of instances I think it is explainable, but I think you have to explain it so you know your systems are right. So can I have an answer to my question? Have you asked him for all the material that he has sent so you can find out where it went missing?

**Mr Farrell**—I believe we have. I do not have the document in front of me but I have had one person dealing with this quite extensively. He has emailed and written to Mr Williams on several occasions requesting as much information, including copies, as Mr Williams is able to provide.

**Senator ROBERT RAY**—When you get that information, will you check then that it was in fact sent and why it was neither acknowledged nor on your records? Do you keep records of your emails?

**Mr Farrell**—Yes, we do.

**Senator ROBERT RAY**—That is all I have on submission 18.

**CHAIR**—One thing is highlighted repeatedly throughout your submission, and that is reliance on the validation of the ANAO report. It comes up, first of all, at point 6 in submission 71. It is a refrain that is repeated throughout your responses to issues about roll validity and it is a macro response to performance. My concern about the ANAO report, when it was published, was that it might induce a sense of relaxation amongst committee members. Once again, I would draw the commission's attention to that ANAO report being very partial and very incomplete. I hope that the commission accepts that. It does not go to addresses.

**Mr Becker**—We do not accept that. That report was trying to ascertain whether or not the roll could be relied upon, and I think that has been established. Nowhere in any of the inquiries that we have had has anybody established that the roll is not something to be relied upon. It has been looked at by the ANAO, of its own volition. We have had it looked at by ombudsmen, the CJC, the Independent Commission Against Corruption and the JSC. The only difference with the JSC is its suggestion that the ANAO should have done an address match. Is that right?

**CHAIR**—Absolutely.

**Mr Becker**—Say I go and knock on a door and the person who is on the roll is not there. What does that tell me? It just tells me that the person who is on the roll is not there; it does not tell me that the roll is inaccurate. I am trying to ascertain exactly what it is, but I really do not think the JSC in its most recent report has thought the thing through. Newspoll do things for us every few months where they actually get on the phone. We have established now pretty well that the Newspoll results are legitimate: that 95 per cent of the nation is enrolled. But 95 per cent of the nation is not enrolled for the address at which they are necessarily living. There is a seven-week possible window where a person can stay within the law and be correctly enrolled in the time that it takes them to move from one address to another.

If you take that seven-week window and the 20 per cent turnover in the roll that we have every year—assuming that everybody is doing the right thing and doing it within that seven-week period; and probably most do not and it would drift out a bit—for a start, you are talking about 3½ per cent of the roll not being on the roll at the address at which they claim they are enrolled on any one day at any time during the year. Then you have the people who fall out of that, such as the new ones coming on who have not bothered to enrol. So that 95 per cent is probably pretty accurate. If you went and did a test of the roll by knocking on every door, even if you were to do it in a nanosecond, it would tell you nothing more than the fact that the person who is on the roll is or is not living at that address. It tells you nothing more.

The analysis that was done in the JSC's submission, in my view, is quite weakened there, because there is no suggestion as to how it should be done, apart from suggesting that we go and knock over a division. The normal doorknocks we did in the olden days took about three months. Okay, if we organise it in such a way—and we can if we are funded for it—we go out

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and blitz a division in one day and try and find out who is and is not living at an address. At the end of that day, we might be slightly better informed but we are none the wiser as to whether the roll is good, bad or indifferent.

**CHAIR**—I am not paranoid about the roll, I might quite like it, but it is responses of that sort that quite concern people. Here is a situation where you have a quotation repeated on a number of occasions throughout your report which manifestly is highly qualified. It does not go to addresses. If we did not know before the last few weeks how significant enrolment at the right address is, we nonetheless know now.

**Senator ROBERT RAY**—Don't attack Senator Coonan here, please!

**CHAIR**—No; I was thinking about Victoria actually.

**Senator ROBERT RAY**—Not Cameron Bray either.

**CHAIR**—I do not know about Cameron Bray. There has been a highly publicised case. Nonetheless, in the absence of any information whatsoever as to validation of enrolment at the correct address, you say there is nothing wrong.

**Mr Becker**—No, that is not true.

**CHAIR**—There cannot be anything wrong.

**Mr Becker**—No, that is not true. We do validate the addresses. We are doing a lot of validation of addresses through data matching and so on. If you have half a dozen pieces of information that tell you something about a particular address, there is a fair degree of reliability there.

**CHAIR**—That is fine, but do not rely on the ANAO.

**Mr Becker**—If you are going to rely on one piece of information—I know that the H.S. Chapman Society pushes this to the limit—we have to do a doorknock; we have to get back to doorknocks. I do not know what that tells you.

**Senator ROBERT RAY**—It tells you this: we do not necessarily align ourselves with right-wing ratbag groups full of conspiracy theories. We seek excellence. You have Newspoll out there. It can tell you the 95 per cent who are on the roll, but you cannot tell me the five per cent who are not. You cannot give me a profile, can you? Why not?

**Mr Becker**—Hang on; I thought I just tried to explain that. We are giving you a profile. If you say, for example, that there is a seven-week window and that that would then represent—

**Senator ROBERT RAY**—No, you are missing the point. The whole point is that 95 per cent of the total eligibility are on the roll, and that is good; I would like to see you attack the other five per cent that are not. If you are so sophisticated in using Newspoll, which can tell you who is on the roll at a specific address and can do your variations, all of which I accept, over six or eight of those polls you should be able to isolate the five per cent who are not on the polls, set

up a profile and tell us so that we can start recruiting amongst them and targeting to get them on the roll. That is my point.

**Mr Hallett**—We do know that—

**Senator ROBERT RAY**—How long have you had to do this, though?

**Mr Hallett**—We do know that younger people are less likely to be correctly enrolled, and this was raised at the last committee hearing. In January next year we will commence work on a four-year longitudinal study to find out exactly what sort of young people are less likely to be enrolled and to target them in the terms you are talking about so that we can identify them.

**Mr Becker**—We are doing this. There is nothing new in this. As soon as we have the RTA information from New South Wales we will, hopefully, try to get the 18- to 25-year-olds up to the same levels of, say, Victoria. Victoria have been doing it for quite some time; consequently, their profile is very different from that of New South Wales. If we look at the profiles we get from the ABS and then look at the numbers we have enrolled, we do know where we are missing out. But it is a matter of being able to get the information the first time. I can tell you: knocking on the door is not going to give it to you.

**Senator ROBERT RAY**—I did not say it would.

**Mr Becker**—But if you can get RTA information, then it will. That is where we can see the differences between Victoria and New South Wales—that is, purely and simply on the basis that we are getting information in one state and we are not getting it in another.

**Senator ROBERT RAY**—So the enrolment rate in Victoria is higher than it is in New South Wales?

**Mr Becker**—Yes, it is.

**Senator ROBERT RAY**—Can we have those figures on a state by state basis, please?

**Mr Becker**—Certainly.

**Senator ROBERT RAY**—I understand that they will only be estimates.

**Senator MASON**—Mr Becker, do you attribute that access in Victoria to the RTA information?

**Mr Becker**—Absolutely.

**Mr Dacey**—And the department of education as well. I would add that, in relation to the ANAO report and the JSCEM report on the integrity of the roll, we are not complacent. Recently, to address particularly those recommendations of both reports, we have devoted resources to what we have called a roll integrity unit within the AEC. We are very much aware that management information in terms of the roll has a long way to go. We have made the decision that, to address those recommendations, we will put resources into a roll integrity unit

for the next two years at least. So we are certainly not complacent. We are not saying that the ANAO has said that everything is fine. As Mr Becker has said, I guess we have some issues with the way some things are interpreted, but we are certainly not complacent about the integrity of the electoral roll. We understand the roll's public importance and the need for integrity.

**Mr Farrell**—Perhaps I could make one further comment just to support what Mr Dacey has been saying. A number of address checks that we do confirm, or are able to confirm to some degree, correct enrolment at an address. The ANAO was not able to find another database that could do this; I do not think there is any other agency on this part of the earth to which it is so important to have correct enrolment. When we closed the roll for the Cunningham by-election recently, we wrote to every elector on the roll—over 80,000 people. It was reassuring to see that our return to sender rate from that mailing was well under two per cent. I do not have a final figure, but 1.7 was the last figure I saw. In my view, that would be encouraging, given the rate of movement, because a lot of those electors would have been there for quite some time. There are a range of mailing and other activities which are ongoing, which do have the effect of confirming address.

**CHAIR**—Thank you. Could I just make one final point on this ANAO matter. A point has been made about alternative databases. My recollection is that, where the ANAO pursued people who were not on the Medicare roll or list through car registrations—there were two states, one of which was Queensland—it was shown that, out of 80,000, 16,000 were found to be enrolled in one state with their car registration in another. I pursued this with the ANAO. They explained that on the basis that these were people whose enrolments were correct but whose registrations were not, and they explained that they rested on the Electoral Commission to validate that. When the commission were pursued, they said they had no basis on which to validate it. So it is not just a matter of nonvalidation; it is also a matter of where they did pursue addresses, at the crudest level, people were enrolled in one state and had their car registration in another.

**Senator MURRAY**—In this discussion, we should return to the ideals of the electoral system. It is highly aspirational. Firstly, Australia is one of the few countries that genuinely ascribes to universal franchise. In other words, it tries to get everybody who could vote onto the roll. Secondly, it ascribes to maximising the vote by way of compulsory attendance at the polls. What is missing in this discussion today is this: if you were to do the division approach and blitz it, a major part and benefit of that would be, firstly, establishing who is a citizen and who is not on the roll and their profile and demographic and, secondly, establishing who is on the roll but whose details are incorrect—in other words, they are correctly on the roll. Nearly all the discussion sits around people who are on the roll and whether their details are correct, particularly in terms of their address. For us, a major issue is the number of people who should be franchised and are not, which could be—I have seen estimates—anywhere up to 10 per cent of the potential voting population. To my mind, part of the approach would not be just a simple identification of fact, but of motive: why are people who are citizens and should vote not on the roll? Why do people on the roll have incorrect circumstances; and what are the profiles of both?

**Mr Hallett**—That is one of the things we hope to pursue in this study that is commencing next year. We have numerical evidence, which we have been discussing at this hearing this morning, but we do not have any qualitative evidence. That is a gap we want to fill in order to



find out that sort of information. We are also interested in finding out why people who are on the roll are on it because that could give us some interesting information as well.

**Senator ROBERT RAY**—Two points come out of your next comments in regard to submission 37. One will be more generally covered so I will raise it now. There are a number of complaints that if you want to vote overseas and you go along to the high commission or embassy, it takes a long while to get the ballot papers there so that you can fill them out. Have you looked at electronic transfer? With modern technology, you just press a button in New York and you should be able to print out a Senate ballot paper et cetera, and have all the declaration things here. They are still assessed when they come back to Australia as to whether they are valid votes et cetera.

**Mr Becker**—We have suggested that to DFAT and that is part of the discussions we are having with them. They said they suggested it, but we suggested it. It does not matter who suggested it but we are doing it.

**Senator ROBERT RAY**—Can I give you credit for it and encourage you to do it? I think it will take a lot of the angst away and you should enjoy having that disappear.

**Mr Becker**—It would save shifting tons of stuff around too.

**Senator ROBERT RAY**—That and speed.

**Mr Orr**—Normally, the uplift is in two lots. The first lot is the declaration envelopes and the other subsidiary voting material. The last lot is obviously the ballot papers. Most of the posts would have had the preliminary stuff, so you are quite right. Our aim is to arrange to have the ballot papers available electronically immediately after they are available in Australia.

**Senator ROBERT RAY**—I would be so bold as to suggest that tomorrow you could pre-position your declaration envelopes and all the other paraphernalia there and it could be locked away somewhere. We understand the other steps—you are in negotiation with Foreign Affairs and Trade to improve this, and that is good. What we would want back at some stage is an explanation of the security attached to the transfer of those ballot papers but, because they have to go in declaration envelopes et cetera I think we going to be pretty sure that a secure system could be developed. Do you agree, Mr Becker?

**Mr Becker**—Absolutely. I am a bit concerned about sending 600 kilos to London today for the next election, though. I do not know what they would do with all the paraphernalia that we send. There is quite a lot of stuff that we—

**Senator ROBERT RAY**—There is not much point sending it when the election is announced, if it gets there anyway.

**Mr Becker**—It certainly goes there before.

**Mr Dacey**—In relation to security, As Mr Orr said, we will be looking at the possibility of using the Department of Foreign Affairs and Trade internal secure intranet site so the ballot papers could be downloaded and printed.

**Senator ROBERT RAY**—To the best of our knowledge, that is secure. Could I ask you about one other aspect of Mr Gaensler's submission. He points out that he is overseas, he is registered at his father's address, his father moved, and he has to come back to Australia to stay on the roll. Is that point technically correct?

**Mr Dacey**—That is technically correct, yes.

**Senator ROBERT RAY**—So you are restricted by the act and have no flexibility?

**Mr Moyes**—In that particular instance, yes. In determining eligibility for a person who is going overseas, it is at the time they go overseas. In the hierarchy of how the eligibility provisions work, if they have already been enrolled, the first criterion is where they were previously entitled.

**Senator ROBERT RAY**—Would that person be entitled to stay on the roll, even though his dad has moved?

**Mr Moyes**—Yes, he would.

**Senator ROBERT RAY**—He can still vote. It is just a question of location.

**Mr Moyes**—Yes, that is correct.

**CHAIR**—Is that correct? My understanding was that you are not enrolled at an address, you are enrolled at an electorate. They are not connected with an address, except initially.

**Mr Moyes**—That is correct. Eligibility is determined on the basis of an address within a subdivision but in fact they are not enrolled for an address, they are enrolled for the subdivision.

**Senator ROBERT RAY**—So he has got that wrong?

**Mr Moyes**—Mr Gaensler has, yes.

**Senator ROBERT RAY**—But he will still stay on the roll.

**Mr Moyes**—He will still stay on the roll, provided he carries through all the other requirements to retain that entitlement. It being six years, he has to apply again.

**Senator MASON**—There are some submissions calling for the establishment of a special electorate for overseas voters. What do you think about that?

**Mr Dacey**—That is too hard, Senator.

**Senator ROBERT RAY**—Senator Colston would have won in a landslide!

**CHAIR**—Due to his affiliations!

**Mr Dacey**—It certainly raises, in my view, more issues than it may be worth considering.

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**Senator ROBERT RAY**—Whoever the member was, you would have to give him an enormous travel budget, wouldn't you?

**CHAIR**—How many of the people on the overseas roll voted?

**Mr Dacey**—We do not have an overseas roll. What was the number of people who voted through overseas missions?

**Mr Becker**—It was roughly the size of a division.

**Mr Orr**—Are you referring to the numbers who are enrolled as overseas voted—how many of those voted?

**CHAIR**—Yes. My apologies about the use of the term 'roll'.

**Mr Dacey**—The number of people overseas who voted through the DFAT system was about 65,000.

**CHAIR**—What is the number of eligible people overseas who elect to register?

**Mr Dacey**—We would have to provide that on notice.

**CHAIR**—We would be grateful if you could.

**Senator MURRAY**—How does an overseas person appear on the roll? What is the address that is given? Did I hear someone say 'none'?

**Ms Mitchell**—Yes. It is blank. On the public roll just the name of the person appears for the subdivision for which they are registered. There is no address on the public roll. On the certified list, though, there will be an address.

**Senator MURRAY**—So how would one of your officers sitting at a polling booth in Curtin know if somebody who said they were such and such was actually fronting for somebody overseas?

**Mr Becker**—They would look like a silent elector so you would have a declaration vote if that was the case.

**Senator ROBERT RAY**—Can you tell on your master roll, in the booth, whether a person is silent or overseas? Do you distinguish between the two? That might help with Senator Murray's answer. The question is: I walk in to vote, you have the written roll in front of you, my name appears with no address, how do you know that I am a silent elector or an overseas elector?

**Senator MURRAY**—Is there an identifier? That is really the question.

**Mr Moyes**—In respect of a silent elector, there is no address on the certified list. There is no address on any of the documents that are publicly available.

**Senator ROBERT RAY**—I understand that. I think I am clear on that.

**Mr Moyes**—So in that particular case, if there is no address there they will be required to have a declaration vote.

**Senator ROBERT RAY**—Yes, that is good; now let us get an answer to the question. The question is: how do you determine between the two? It is a very simple question.

**Mr Dacey**—Because the address for the overseas elector is actually shown on the certified list that is in the polling place.

**Senator ROBERT RAY**—So it is actually shown?

**Mr Dacey**—The address is not shown on the public roll but it is shown on the certified list in the polling place.

**Senator MURRAY**—What address is shown? Is it the foreign address?

**Mr Dacey**—No, their home address—the address in the subdivision for which they have retained their enrolment.

**Senator MURRAY**—You know what lies behind my question, don't you? Someone attempting to fraudulently represent themselves as somebody else in Australia takes a real risk, because the real person will more than likely turn up and vote. However, if my memory is correct, this committee has been told that only something like 10 per cent of overseas eligible voters actually vote. So, in theory, there are 90 per cent of eligible overseas voters who do not vote and somebody could represent themselves as one of the 90 per cent and you might not know. All I ask is whether, mechanically or easily, it is possible to put an identifier—a symbol or a sign—on the certified roll that is used in the polling booth to show that somebody is overseas and, to take up Senator Ray's point, to show whether somebody is silent; so the officer using it knows.

**Mr Becker**—Anything like that is possible but, of course, as soon as you do that you are running into field problems with size of type, the same as putting the date of birth in.

**Senator MURRAY**—I understand. Is there a potential problem?

**Mr Becker**—No.

**Mr Orr**—I understand that the 10 per cent you are referring to was the figure quoted by DFAT officers recently, which reflected the numbers overseas at any one time. Whilst a lot of those may be registered as overseas electors, a lot of them probably are not registered. So there is an issue with that 10 per cent figure.

**Senator MURRAY**—No, the 10 per cent I was referring to was when we had the Southern Cross Group representatives before us. My memory from that discussion is that they said there were so many hundred thousand overseas and the records show that only 10 per cent of those people actually voted. That was my memory; I may be wrong.

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**Senator ROBERT RAY**—Can I suggest a different solution? That you do not need an identifier at each booth but when you do the muster, the roll reconciliation, that at that point you should have the identifier. Then if you pick up a pattern of people who are registered overseas voting in Australia you know you have a problem—you come back to us and we change the act. It seems to me, administratively, a lot cheaper and simpler. It is only 150 transactions to do it that way.

**Mr Dacey**—That is fine.

**Senator MASON**—To use Senator Murray's example, if someone turns up at a polling booth and your record is that they are overseas, in effect, but they vote here in Australia, it could be for a legitimate reason—they may be back in town. What do you do? What is the administrative process then? If they cast a vote, do they and their address then go back onto the public roll?

**Mr Dacey**—If you return to Australia you revert to being a non-overseas elector. Is that correct?

**Mr Moyes**—If you return to live in the subdivision in which you are enrolled then you would retain your enrolment and your address would be updated for the address that is shown. Generally, that would be the address that you were previously enrolled at, because it may well be that you have gone back to that address. If you have returned and you are in another subdivision then your enrolment could not be transferred. You would have to re-enrol.

**Senator MASON**—And if you are back on holiday?

**Mr Moyes**—If you are back on holidays, the situation is that your enrolment would be retained as an overseas elector.

**Senator MASON**—How do you know?

**Mr Dacey**—Obviously you would need advice of that from the elector.

**CHAIR**—I must say I am now confused. My understanding was that, if P. Georgiou sells his house and goes to live in New York for a year, he is entitled to go onto the overseas electors register. I then understood that I was not enrolled at my address but, rather, just in my division. Now I understand that I actually am enrolled at my address.

**Mr Moyes**—I guess it is a matter of how we term that. You are in fact enrolled for the subdivision—

**CHAIR**—Do we still have subdivisions?

**Mr Moyes**—Well, for the division then.

**CHAIR**—I only asked because I am constantly confused.

**Mr Moyes**—We talk about subdivision/division—they are basically the same thing, other than for the Northern Territory. So you would retain your enrolment for the

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subdivision/division. But the record that we hold is your former address; it is not shown on the roll but it is something that we retain as an indication of where your entitlement was. If you were to return to live in that subdivision/division—and the only way we would know that you had returned would be if you actually told us—then we would update your record with the address at which you were now living.

**CHAIR**—So it is really just the division. I am not subject to roll cleansing. What if you visit my address and someone there says, ‘We’ve never heard of him. He never lived here in our recollection’? What happens? Would you send me a letter?

**Mr Moyes**—No, we would not.

**CHAIR**—Since you do not do doorknocks any more you would not get me through a doorknock.

**Mr Moyes**—We would have it noted that you were enrolled in that division. As far as the computer records are concerned, we would have that address for you but it would be noted at the time that you were not living there, so we would not remove you on that basis.

**Mr Dacey**—We still do doorknocks, but not to the extent that we used to. I just want to make it clear that we are not out of the business altogether but we are out of the business of the two yearly total canvass, but in New South Wales at the moment Mr Farrell has teams undertaking a significant amount of targeted doorknocking and fieldwork.

**Mr Farrell**—If I could complete that cycle: the aim of our process is to review every address over a period—it may be around two years, it may be a bit longer than that—and we would confirm all enrolments by matching with one or more databases. The ones that do not match we would write to twice, usually, and the ones that do not respond, that are left over, we doorknock, which gives us a 100 per cent coverage—or at least that is the aim.

**Senator ROBERT RAY**—Submission 39 complains about ballot paper bundles. There is no corporate memory at this table that, I suspect, can go back to the great announcement by the Electoral Commission in about 1985-86 that laser printing meant that they would be accurate up to an error of one in 10,000. The claim at that time was that laser printing was going to be the ant’s pants and we were never going to have these overs and unders again.

**Mr Orr**—Senate ballot papers are unable to be laser printed, at least in the large states, because of the size—the printing process does not allow for that. In terms of the House of Representatives, in most states they are now stubbed and numbered, so the accuracy has increased markedly on that basis, but we still have a problem with the Senate and we are still relying on the printing processes available at the particular printer—which could be weight or machine count.

**Senator ROBERT RAY**—So mostly you are doing it by weight and that is why it is variable.

**Mr Orr**—It would be at the discretion of the printers’ technology.

**Mr Becker**—So you can still get duplicates and so on.

**Senator ROBERT RAY**—This next one is an old chestnut: every polling place should have a computer, blah, blah, blah. Some of the figures for the wrong issuing of ballot papers to absentee voters would be a concern to you because they are quite high. Have you ever thought of doing a list of the hundred biggest absentee booths in Australia—that would obviously include Melbourne Town Hall, Sydney Town Hall, and maybe Sydney airport et cetera—and of trying to introduce computers, even on a borrowed basis—because there are plenty around—so there could be quick access to check roll details so if someone is in any doubt at all? It seems to me that you might be able to cut that figure of eight per cent or nine per cent almost in half, know what the task is and gradually increase it where possible. Do you have a response to that?

**Mr Dacey**—Yes, we have. In fact a couple of the state electoral commissions have in their last state elections used similar procedures, particularly in town hall type voting centres, and it has worked particularly well. It is something that we are going to pursue and are looking at perhaps piloting in a couple of very large ones such as Sydney and Melbourne town halls. It is something we want to pursue.

**Ms Mitchell**—For Sydney and Melbourne town hall we have actually got ordinary voting if you are within the state anyway so there is a certified list that the person's name is marked on. Within state voting, that has reduced a lot of the errors in absent voting anyway, because it is not technically an absent vote any more.

**Senator ROBERT RAY**—Even so, one in 12 absent voters is given the wrong ballot papers. That is a massive hit rate.

**Mr Becker**—Not in those big places where it would be economically feasible to put in a computer.

**Senator ROBERT RAY**—So you can tell us the difference, can you?

**Mr Becker**—Sorry?

**Senator ROBERT RAY**—You have actually researched the difference?

**Mr Becker**—No, because they are ordinary votes in those big ones. But you would need something of that size to justify the expense, I would think.

**Mr Dacey**—Some of the larger polling places for example, places like the Gold Coast and other holiday areas have large numbers of absent votes.

**Senator ROBERT RAY**—It is possible by the number of absent votes issued nationwide to pick out the top hundred. I accept you cannot put it in 8,000. I accept that you have to go wider than the two town halls, too. In the old days of poker machines you could bet that Yarrowonga and two or three others up the Murray would have massive absentee voting so you could target those ones, whereas you would not target Kew East or South Yarra as a natural absentee booth.

**Mr Dacey**—We are very keen to follow that up. It does raise an issue which we have raised elsewhere: whether or not it would be in fact totally legal to have an electronic certified list in every polling place. That is why we have raised the issue in our submission on sections 89 to 92 that the act should not be specific as to the medium on which a certified list is made available. It

currently contemplates a printed certified list. Obviously you could have that available but the actual marking of an elector on a computer system I thought I would raise as an issue. We need to be careful about it. I am not saying it will stop us from doing it but we need to be careful in relation to the prescriptive nature of the act.

**Senator ROBERT RAY**—Each time we face a court of disputed returns and you look through the unadmitted ballot papers there are ballot papers for other electorates that have been handed out to these electors who were entitled to get the correct ballot papers. We all agree that mistakes will occur. It is the points spread that counts and currently the points spread is too high. As you say, a lot of these people are amateurs. This is the one day of the year that they are doing a polling booth. We have to put in place the systems that reduce it. The top hundred may well cut it massively down.

**CHAIR**—Senator Ray is going through this methodically—

**Senator ROBERT RAY**—I do not know about that.

**CHAIR**—thank God!

**Senator MASON**—Just on Senator Ray's last point, Mr Dacey, there is some call among the submissions that perhaps temporary polling staff on the day of the election should be paid more money and perhaps they should be paid overtime after six o'clock or whatever. I think you mentioned that is undesirable. Why is that?

**Mr Dacey**—I have not said it was undesirable.

**Mr Orr**—The payment system is on a package basis. With 65,000 individual polling staff, to manage individual claims for payment would be incredibly intensive. The time that is in the package has been built up and proven over a balance of elections to be reasonable. Having said that, though, of course in some booths if something goes awry they may be required to work a little bit longer in some cases than their package might require. Alternatively, there will be some for whatever reason who may finish earlier than the package might require.

It has been done on the basis that you are required to perform a job of work, and for that job of work, particularly for those on polling day when the count is completed, the advice phoned through to the DRO and the polling place is cleaned up, the amount is so much. It is done on that basis. It is not on an hourly basis; it is so much for the day for that range of responsibilities. It is administrative and cost effective.

**Senator MASON**—Are most people happy with the conditions and pay for the day? What sort of feedback do you get?

**Mr Orr**—There has certainly been some feedback that our rates of pay could be higher and we always get some feedback along the lines you have suggested about overtime for longer hours. Letters were received by the AEC along those lines and traditionally they are received every election. We advise those correspondents along the lines that I have just outlined.



**Mr Dacey**—We review rates between each election and we try to keep parity with state electoral commissions because, as you would understand or know, often the same polling staff work for both organisations.

**Senator MASON**—Is there a formal mechanism whereby temporary polling station officials can give you feedback as to their pay or conditions, or to make suggestions to make polling day work better?

**Mr Dacey**—In debriefing sessions. We have debriefing sessions with staff to OICs and the OICs give us feedback so we do take into account where we receive that feedback. It is part of the reviewing process between elections.

**Mr Farrell**—There was a situation some years back when there was an overtime payment. This was seen as a disincentive to an early result so I would strongly be against introducing overtime that would be extendable.

**Senator MASON**—I see; I understand.

**Mr Farrell**—A total package is a far more conducive way of approaching an early result for the people of Australia and for the members and senators.

**Senator MASON**—We do not want double time and a half, do we?

**Mr Farrell**—I want an early result, as I am sure we all do.

**CHAIR**—It depends what it is! I want to pursue an issue raised by Chris Gallus. I have read the response by the commission and I appreciate the work that has gone into that. However, I think that the character of the response underscores some of the issues that cause contention. The bottom line was that a member of parliament asked, 'I believe that X number of people shouldn't have been on the roll. How many of those people voted?' Instead of addressing that question directly and dealing with the fallout—whatever the fallout may have been because there were many responses to Mrs Gallus's concerns—the commission's response at 33.13 and 33.14 was, 'We can't tell you because we have destroyed the RTS mail.' I think that causes some difficulties.

I understand what the commission is saying in terms of the objections being too late for the process et cetera, but the issue of how many of the people taken off the roll actually voted would have been pertinent—and I think I am speaking for both sides of politics—in addressing the anxieties of a member of parliament. The response 'we can't find out because we've destroyed it all' strikes me as being unhelpful in building trust. Have I misunderstood it? It is quite possible that I have.

**Mr Dacey**—There was perhaps a series of unfortunate events through the whole process, particularly in relation to staffing the division of Hindmarsh, some issues over time and issues of people not responding to Mrs Gallus appropriately. I would not like to say that the procedures outlined here are the standard AEC procedures that were being applied at the time. Our staff, and particularly our Australian electoral officer in South Australia, have recently had a meeting with Mrs Gallus and her electorate staff hopefully trying to build some bridges and to get some more rigour into the procedures in relation to these particular events.

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**CHAIR**—Do you want to unfold that any more or are you quite happy with it?

**Mr Dacey**—I do not have any information. I know our staff in South Australia recently met with Mrs Gallus and her staff but I do not have the full details on that.

**Senator ROBERT RAY**—What about her other three complaints? I note you have mentioned one at 33.26. There is the alleged complaint about the AEC losing postal vote application forms. Is it correct that you can find no evidence of that or of Mrs Gallus complaining?

**Mr Dacey**—What we have said is correct.

**Senator ROBERT RAY**—As mentioned at 33.27, is there no evidence that her husband tried to vote twice?

**Mr Dacey**—No, there is not.

**Senator ROBERT RAY**—He did what everyone else does when they get confused: he voted one way and then, when he got another postal vote, he discarded the second one. That happens all the time.

**Mr Dacey**—It happens regularly.

**Senator ROBERT RAY**—Unless you are in Victoria and the postal vote never arrives. Did you observe the state election, by the way?

**Mr Becker**—We saw a bit of it, yes.

**Senator ROBERT RAY**—Did you have a close look at the non-operation of the postal votes?

**Mr Becker**—I thought the postal vote operation technically looked pretty good.

**Senator ROBERT RAY**—But isn't the actual end product supposed to get the vote in the hands of the elector? It did not in a lot of cases. Everything went technically perfectly, other than people not receiving postal votes. Certainly they did not learn too much.

**Mr Dacey**—Certainly the system we saw looked as if it worked properly. It looked like it would have been very good.

**Senator ROBERT RAY**—I hope you can detect the difference between reality and theory, because I think that that is my great complaint of the Victorian election. Finally, we were taken back to an incident in 1993 where someone told someone that someone else may have been on the roll wrongly. Was there no formal objection to that someone ever entered?

**Mr Dacey**—We do not know who the someone was.

**Senator ROBERT RAY**—Is it still a \$2 charge to challenge someone being wrongly enrolled?

**Mr Dacey**—Yes, it is.

**Senator ROBERT RAY**—Well, I think the committee should kick in!

**Mr MELHAM**—If Mrs Gallus had lodged the \$2 complaint within the time period, would the material have been there and properly followed up?

**Mr Dacey**—That is correct.

**CHAIR**—In my pursuit of issues raised by members of parliament, no matter what their background, can we go to your response to Senator McClelland—sorry, Mr McClelland. I was touched by 11.2, which states:

The AEC acknowledges that Mr McClelland sent a letter to the Electoral Commissioner on 14 February 2002 and that this letter was mistakenly not responded to. The AEC is currently working on a response to that letter.

Has the response now been sent, or is it still being prepared?

**Mr Dacey**—The response has been sent.

**Senator ROBERT RAY**—You are talking about Robert McClelland?

**CHAIR**—Yes.

**Senator ROBERT RAY**—I think you said Mr McDonald.

**CHAIR**—I said Senator McClelland and then corrected myself. So what is the bottom line?

**Senator ROBERT RAY**—Former Senator McClelland is still about.

**CHAIR**—I do know that. What was the content of the response? Could you advise us, please?

**Mr Dacey**—I understand that the response is basically in line with the last sentence in 11.2—that is, the AEC made a judgment that it was a written confirmation of a telephone discussion.

**CHAIR**—Can you give us your attitude towards registration of ‘how to votes’?

**Mr Dacey**—I am not particularly in favour of it. I know it can work and it does work in other jurisdictions, with the exception of perhaps New South Wales at the last election. This will be different at the next election with new party registration procedures. We have significantly more parties than most of the states and logistically it is much more difficult for us to manage. It is not impossible at all, but it is a logistically difficult exercise. It would mean diversion of resources and it depends to what end whether or not they are going to then be, or should be, displayed in voting compartments. If that is the case, that also becomes a logistics problem and a problem of size and placing them in voting compartments. But certainly over the years it is

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something the AEC has not particularly supported, but if it were something that we were required to do then obviously we could do it.

**CHAIR**—But it is not your preferred mode and you do not see much purpose in it.

**Mr Dacey**—No, not particularly.

**Mr Becker**—Those states that do it, and there are only a few of them, do not actually worry about the contents so much as that it actually complies with the format and therefore must state certain things—the name of the party, the names of the candidates and so on—and must have things like directing how the preferences should run and so on. It does not cover the issue where someone actually puts some false and misleading information on the card, because it just would not get registered.

**CHAIR**—Sorry, I did not follow that last point.

**Mr Becker**—The point is that where the how-to-vote cards are registered there is no judgment on the part of the commissioner or the person doing the registration of the contents. That is, there is no political content within the card itself other than stating how the preferences should run. What we have seen around the country is a very straightforward registration of a format—basic compliance with the legislation and nothing to say, ‘You should vote for us because our green policies are better than somebody else’s green policies,’ or statements of political stuff like that. That judgment has to be made, and I do not know what to do about that. You would want to get the cards very early in the piece in the event that an AEO, for example, rejected a how-to-vote card and then you would have to have the ability for someone to have a court make a determination before polling day or before that card was sent out with postal vote material. So that side of things could be quite administratively difficult.

**CHAIR**—The object actually is to prevent misleading how-to-vote cards of the sort that manifested in Victoria. They have called in the police to prevent the distribution of those cards, with someone within a particular distance of the polling place, but outside that radius they can do whatever they like, and have done so.

**Mr Dacey**—The other difficulty is one of timing. We would require, if there were any legislation for us to look after a regime of registration, a certain amount of lead time for how-to-vote cards to be registered. I do not know whether the parties would like us to impose a time limit of seven to eight days before polling day for the how-to-vote cards to be determined.

**Senator ROBERT RAY**—If a far less sophisticated organisation than yourselves, which the states are, can do it, I cannot see why you cannot.

**Mr Dacey**—They differ in format if not in content, but they would still also have a lead time and a close-off time for the registration of how-to-vote cards. I think in New South Wales, for example, it is eight days before polling day. I am not saying that it cannot be done.

**Senator MURRAY**—I must say again for the record that several times in the past I have tried to get this committee to agree with a recommendation to the minister to call a COAG kind of conference to determine a common approach to state and federal how-to-vote cards. It is an aggravating issue and it is different for each jurisdiction.

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**Mr Dacey**—Through the Electoral Council of Australia, we are compiling what the law requires in each jurisdiction, and so we will be in a position to provide that to the committee shortly.

**Mr Becker**—Can I just clarify for Senator Ray that the issue that we had in Queensland was not a format issue; it was just that incorrect and misleading information was being deliberately promulgated. That judgment has not—

**Senator ROBERT RAY**—Yes, but if they have registered the right information and printed the wrong information you can kick them off at one minute past eight.

**Mr Becker**—You might be able to do that in something which is fairly straightforward, but in the situation that we have with the states they do not have to make that judgement; it is dead straight on a format, and if it does not comply with that format it is not in. There is no judgment taken. It must comply with the way in which it is put in the schedule to the act. In my view, it does not require a genius to make a decision about whether or not a thing is complying with the act. When you do have problems is when you have to make a judgment about the political content of the how-to-vote card, like the stuff that is handed out outside a polling place, not the stuff that we are talking about is perhaps put inside a voting screen, which is very—

**CHAIR**—So you are concerned about a card distributed by one of the parties which says ‘how to vote green in Kooyong’ and which gives me second preferences?

**Mr Becker**—Possibly—those sorts of issues.

**CHAIR**—Unlike the official voting cards.

**Mr Becker**—Yes.

**CHAIR**—One other thing that has come up is the continuing issue of how many gates are open at the polling booth. This is a recurrent professional problem which I think is shared by all parties where there is no clear definition of which gates will be open at particular polling places, despite the fact that those polling places have been in use for 100 years now. Why is that the case? Why is it so arbitrary?

**Mr Dacey**—To be quite honest, I had not heard of it as an issue until I think we discussed it last time. Obviously it is an issue. There is certainly no centralised procedural decision making that determines which gates might be open. Perhaps Mr Farrell or some of the others who have had state experience can help me, but I think it is normally on the basis of what the premises allow. There is no deliberate decision to say, ‘Let’s open six gates at this polling place this time.’ It is really an individual premise-by-premise issue. If it is more convenient for the electors to open another gate if there is another gate there, that is probably the case. Does anybody else want to come in on that?

**Mr Orr**—Only to confirm what you are saying: most of the schools, as you have said, are pre-existing polling places and most of the OICs are traditionally at the same booths, so I guess they would open the same gates wherever that has been practically possible from election to election. Certainly, we have not received any complaints in the past from electors about too many gates being opened. In terms of access to the booths and depending on the layout of the

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school, it could save them a walk of some distance, but generally it is up to the OIC to determine how to allow the best access for the voting public.

**Senator ROBERT RAY**—It is far less offensive now than it used to be. The key to this is where the polling place sign is put up. The general attitude of a lot of presiding officers is that political parties can go take a running jump, that they will open as many gates as they like, and that they will put the polling place sign on the fence and force you out. For every action there is a reaction: we are going to send scrutineers in and make your life hell! So what evolves is a cooperative compact. So, where there are six gates, you put the polling place sign right outside the front entrance to the school where everyone walks in, you do not need to staff the six gates and everyone just gathers around there in a friendly way. All it needs is commonsense.

**Mr Dacey**—And it is obviously to our advantage, as best as we can, to have electors coming through one entrance. If it is going to cause congestion, we need to think of other entrances, but obviously we want them coming in one entrance as well to be subject to queue control and to sort out those sorts of issues, so it is to our advantage as well.

**CHAIR**—A lot of the time it does not translate on the ground. What political parties fight about is who gets prime position in terms of putting up banners, but there is very little dispute between us that we would like to have people passing by so they can grab how-to-vote cards.

**Senator ROBERT RAY**—That is funny. We gave you right of way with the ‘Labor Landslide’ banners this time. We just let you get there and put them up.

**CHAIR**—Frequently there is a dispute over the primacy of positioning of banners. I remember a quite different situation in 2001. But there is no dispute over the fact that we have a shared interest—and particularly the smaller parties, who can’t man all of them.

**Senator ROBERT RAY**—‘Staff’ is the word; ‘man’ is very sexist.

**CHAIR**—We cannot staff all the gates but sometimes the officers seem determined not to cooperate in a mutual effort.

**Mr Dacey**—It is certainly something that we can take up and point out in training but, as I said, it is to our advantage too, where it is practicable, to have one entrance.

**Senator ROBERT RAY**—Just for a balanced record, let me say that the attitude of presiding officers over the last 30 years has not only mellowed but also improved dramatically from a political party’s point of view. You rarely ever run into an officious chalk-carrying presiding officer these days. There has been a lot of cooperation, I have to say, Chair, between Labor and Liberal party workers to make sure that this has come about—a bit of education here and there.

**Proceedings suspended from 10.30 a.m. to 10.44 a.m.**

**CHAIR**—There is one point that I would like to correct. On page 55, paragraph 36.1, your submission states:

During the appearance of the Privacy Commissioner, the JSC EM Chair indicated that the AEC had at some point implied that political parties had sold electronic copies of the roll to the private sector for commercial purposes.

To the best of my knowledge, I never did that. I have read the transcript that you refer to and I do not believe that it reflects that. However, I would like to reiterate—and it is particularly pertinent to the thrust of some of your comments—that my concern was that the Australian Electoral Commission, the ANAO and the Privacy Commissioner had somehow misread the act to mean that there were no end-user restrictions on the use of the electoral roll by political parties and by members of parliament—which there manifestly are. If you could correct me, I would be grateful.

**Mr Dacey**—No, I am not correcting you in relation to your statement, but certainly your view that the AEC has a view that there are no end-use restrictions is not correct. You may be referring to paragraph 39 of appendix D to our original submission where we say that the AEC notes the comment by the Auditor-General that ‘the absence of end use restrictions on data from the electoral roll could increase the potential for electoral fraud’. Certainly the AEC has noted those comments, but the AEC is fully aware that there are end-use restrictions on the electronic version of the roll and, as stated at appendix D, is concerned that there are no end-use restrictions on other than electronic versions of the roll. So there are no end-use restrictions, for example, on any marketing company that chooses to buy a hard copy of the roll and then scan it in or whatever. That is our main concern. But certainly we are very much aware that there are end-use restrictions for political parties.

**Mr Becker**—Or when we were selling the microfiche, which we do not do any more.

**CHAIR**—I think it is unfortunate that both the Privacy Commissioner and the ANAO have formed a view, which the Privacy Commissioner has subsequently resiled from, that there are no end-use restrictions.

**Mr Dacey**—We understand that there are, and quite significant penalties.

**CHAIR**—If you could you point out to me where I imply that the AEC had implied that political parties had sold them for profit, I would be grateful so that I could correct that.

**Mr MELHAM**—I take you to the question of informal votes and, in particular, your mention of Ms Irwin in paragraph 12.3 of your response. I refer to the research report on informal votes at the last election. I have a copy of it from your web site. I am particularly interested in the impact of the amendments that were basically a response to the Langer campaign. I note that the research paper says in relation to the amendments that were introduced pre the 1998 election that ‘consequently this type of voting has contributed to the rise in informality at the 1998 and 2001 elections’. To summarise, prior to 1998 the Electoral Act had penalties. If you advertised a method of voting that was not a formal method—and here we are talking about—

**Mr Becker**—We are talking about one, two, two.

**Mr MELHAM**—Yes. I am particularly concerned about that. Your research paper has a breakdown of what we call the Langer votes, which we can summarise as a deliberate vote of one and then a repetition of twos and then there is the non-sequential numbering, which is basically accidental—repetitive numbering. On my calculation, from adding up your figures, at the last election throughout Australia the number of Langer style votes was 15,564 and the number of non-sequential votes that are now informal was 99,946. In other words, for every Langer vote there were virtually six others in that informal category. If you add them together, it

gives you a total of 115,510 votes in the last election that are now regarded as informal which would otherwise have been formal. That is about 0.96 per cent of the total votes and roughly a fifth of the total informal votes. I give you that summary because, as a committee, we should consider reintroducing a savings provision. I do not like throwing the baby out with the bathwater. As a result of Mr Langer's campaign, we have let through some amendments that now mean that 115,510 people did not have their votes counted. Have you got any views on that?

**Mr Becker**—In so far as we want to try to get as many formal votes into the count as possible, we have to look at options that may be available to us. They may be things like optional preferential voting or something like that.

**Mr MELHAM**—No, I am not arguing optional preferential; I believe in full preferential voting. What I am looking at, Mr Becker, is a savings provision. What I am worried about, as a result of Mr Langer's campaign, is Langer style voting still occurring and people inadvertently marking their ballot papers, and on the figures you have given me, it is consistent. In New South Wales, there were 48,914 non-sequentials—which is 22.56 per cent of informal votes; you have done the analysis—in Victoria, 17,349; in Queensland, 11,228; in Western Australia, 12,218; in South Australia, 7,573; in Tasmania, 1,430; in the ACT, 566; and in the Northern Territory, 668. I am just wondering whether it is viable to reintroduce the savings provision without the jailing provision, or indeed we could reintroduce the savings provision but then introduce a civil penalty if you go out and publish, with a non-jailing provision if you do not pay the fine. I do not know. I am just trying to revive—

**Mr Dacey**—Mr Melham, I do not have the figures in front of me, but you said there were 15,000 Langer style votes—

**Mr MELHAM**—That is according to your breakdown.

**Mr Dacey**—and then another 100,000 approximates.

**Mr MELHAM**—No, there is an Australian Electoral Commission research paper where you break it down into eight categories. Your web site states:

Langer Style Voting. This category contains ballot papers with repeating numbers such as 1,2,3,3,3...

Non Sequential. This category contains those ballot papers where the numbering is non-sequential such as 1,2,300,324,490...

**Mr Dacey**—But those 99,900 non-sequentials—

**Mr MELHAM**—are informal votes.

**Mr Dacey**—But they would never have been saved even pre the Langer amendments.

**Mr MELHAM**—Why wouldn't they have been saved to as far as they were formal? If someone goes, '1, 2, 3, 7, 8', my understanding prior to those Langer amendments is that it was formal to the point of the mistake.



**Mr Hallett**—If there was a number in every square.

**Mr MELHAM**—That is right.

**Mr Hallett**—We would have counted as far as we could have and then we would have had to put the ballot aside.

**Mr MELHAM**—And that is the way I understand your research paper is operating in terms of the various categories. There is another category called ‘other’, and your web site states again:

The other category contains ballot papers that can not be categorised into any of the above. Typically this category consists of ballot papers that have insufficient preferences expressed.

**Mr Dacey**—I think if you are looking at a savings provision to save those 99,900-odd, you could still have the non-repetition, which would get rid of the Langer style, but you would need to say, for example, ‘but all squares other than 1 are numbered’. Currently, it is ‘all squares other than the last preference’, which is the savings provision.

**Mr MELHAM**—Yes, I accept that. But we had that and, according to your research paper and my experience, it was in the elections up until 1998 and we removed—

**Mr Hallett**—That is correct. Following the 1996 election, of which we are all aware, this committee looked into it and there was legislative amendment, which is one of the reasons why we included that category in the research paper.

**Mr MELHAM**—Absolutely, which I am thankful for because we now know that, as a result of that amendment, in the last election there were 115,510 votes that otherwise would have been classed as informal. Admittedly, the Langer ones are a different category. You understand the point.

**Mr Hallett**—I do. It is possible that some of the non-sequentially numbered ballot papers may have been ‘1, 2, 500, 600’, and we may have counted the ‘1, 2’.

**Mr MELHAM**—I accept that, and it may well be that their preferences were not counted, but I am interested in trying to reintroduce a savings provision, especially if we are going to have 12 and 13 candidates and we have got high migrant populations. You saw Mrs Irwin’s submission. She talks about an education campaign. What I am suggesting to you is a discrete amendment back into the Electoral Act, not designed to fully promote optional preferential, because let us be clear: even with his publicity, Mr Langer only got 15,564 people last time whom we could identify.

**Mr Hallett**—I think it is fair to say that one of the other findings from the paper, which you probably picked up as well, Mr Melham, was that we did find that in divisions where there were high numbers of candidates informality rose, as well as in states where there is optional preferential voting.

**Mr MELHAM**—I accept that, and they are another category which I was going to come to.

**Mr Dacey**—In relation to a savings provision, we can certainly look at it and talk to parliamentary counsel about what sort of options there may be.

**Mr MELHAM**—I do not know what the problem is; if we are worried about sending Mr Langer to jail, I have to tell you where my views reside. If there is a penalty provision there and you have a citizen breaching the law as it is, then let us deal with the matter. But as a result of Mr Langer making a bit of a hero of himself in terms of trying to pursue optional preferential voting, we now have 115,510 people whose first preference vote, on the figures you gave me, would have been counted in the last election.

**Mr Dacey**—Yes, and that is a concern. So it is something we need to look at.

**Mr Hallett**—This may be drawing a bit of a long bow, but we should also remember that there is still a savings provision for people who vote below the line in the Senate.

**Mr MELHAM**—Exactly. So what you have is a savings provision in the Senate but now no savings provision in the House of Representatives, which I would suggest to you would compel us to revisit this.

**Mr Dacey**—It is something we can have a look at.

**Mr Hallett**—I add that that may be drawing a long bow because most electors, except in Tasmania and the ACT, vote above the line in the Senate. So it is not an issue.

**Mr MELHAM**—I accept that, but I am interested in finding a provision for saving votes where people obviously, on the face of it, are not seeking optional preferential and are not seeking a particular method of voting that would not otherwise be formal, and to bring back parity between the Senate and the House of Representatives.

In relation to your other research paper—and this goes to the matter of education—the Auburn by-election occurred shortly before the federal election, and there was a high level of informal votes in those polling booths within the Reid and Blaxland electorates that had been involved in the Auburn by-election, because of the advertising campaign in the by-election that said, ‘Vote 1 only in the Auburn by-election.’ It seems to me that that lends weight to the fact that an advertising campaign prior to a federal election to the effect that you have to number every square would have some influence in bringing down the informal vote.

**Mr Hallett**—As you are probably aware, in our advertising we do encourage people to number every box and we do provide information in various languages. One of the things we have learnt from this research paper is that, as far as we can, we try to target particular booths or at least particular divisions to address the issue so that we can bring it down from the fairly high level that it reached in some of the inner western Sydney seats.

**CHAIR**—Can I raise the issue of the vagaries of the Senate system and the issue of the electoral form saga for South Australia, where you estimate that a validation test would cost \$12,000. Is it not worth expending money on this validation?

**Mr Becker**—It is \$12,000 to do the programming, presumably. I would suggest it would cost a lot more than that to count it.

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**CHAIR**—I have fixated on the \$12,000 figure which, in the scheme of things, despite the commission's straitened circumstances—

**Mr Becker**—They are recommending the abolition of above the line voting at the same time.

**CHAIR**—No, this is a reference to Senator Murray asking the AEC to do a sample run through the two systems. It is in your submission at page 18.

**Mr Becker**—Which paragraph is that?

**CHAIR**—It is on page 18—paragraph 13.11.

**Mr Becker**—It states:

To definitively model and test the effects of the Electoral Reform Society's proposal on the 1998 and 2001 Senate election results would be about \$12,000.

That is just modifying the system. The cost of punching every ballot paper would be considerably more than that. Unless you are prepared to accept below the line voting, and that is the issue—

**Senator ROBERT RAY**—Except you would have kept the records; you would already have had every vote punched in and every vote above the line already registered. Surely it is just a case of changing the program and pressing a button. Or have you lost all of them?

**Mr Orr**—I am advised that that is correct. We still have the data electronically. Predominantly, it would be able to be re-run against that model.

**Senator ROBERT RAY**—Of course you do. It is one of the reasons you keep the data, although not necessarily in this case so I will belay that.

**Mr Dacey**—So it could be done.

**CHAIR**—I ask the question because on the face of it \$12,000 to validate a system as an outcome does not seem like a huge amount of money. If it were \$1.2 million then maybe it would be, but \$12,000 is the only figure that has been cited and that does not seem to be a great deal.

**Mr Becker**—I was looking at that in terms of abolition of above the line voting.

**Senator ROBERT RAY**—Have you thought philosophically about the major point that they are making: that the actual distribution of preferences is an impure system? They are arguing for a much more purist model. Have you given that some sort of thought?

**Mr Moyes**—I think that others who have dealt with the Hare-Clark system as well as the current Senate system might be able to answer this better. From what I have read, what they are proposing is basically the Hare-Clark method of distribution of preferences where it is only the last of the ballot papers that were in the count at the point of election that are used in the distribution of preferences. Those that support the Hare-Clark system will argue very strongly

one way and those that support the current Senate system would argue very strongly also. The argument for the current system would be that, in looking at all of the ballot papers in the distribution of preferences for the Senate, you are getting a better picture of what the electorate in total is after, rather than those selected ballot papers that are in the final count. Beyond that, I believe it is really just a matter of what the preference of the parliament might be.

**Senator ROBERT RAY**—Let us use an example. Let us say that an Australian Democrats vote is transferred over and the totality of those at 0.5 elect a major party candidate. When that vote is transferred again, it is not transferred with the remaining 0.5 of value, is it? It could come down to 0.015.

**Mr Moyes**—At the point of election, all of the ballot papers go in. A new transfer value is calculated for all of the ballot papers held by that candidate at the point of election.

**Senator ROBERT RAY**—I can see the argument both ways but it can be argued that that vote, instead of being one vote, ends up being 0.52 or something in its actual cast value, because it has amalgamated into the preferences of others that have already been counted fully towards one vote towards a quota.

**Mr Moyes**—We can discuss this at great length, but I guess it is a matter of how, at that particular point, for the ballot paper to only have a value of 0.5, it must be matched with another one to be able to be given a full value of a vote.

**Senator ROBERT RAY**—It is already one that has been counted to a full value and then it has been given additional value.

**Mr Moyes**—Only with another ballot paper is it given a full value. So you would need two ballot papers before you can get a single vote out of it.

**Senator ROBERT RAY**—Yes, but person A and person B are in fact casting at different values, as it turns out, and is that fair? Possibly.

**Mr Moyes**—Not at the point of the election. Following that, yes, they are recalculated with a new transfer value.

**Senator ROBERT RAY**—Yes.

**Mr Becker**—At exclusion you come back to the point of the value you actually had when you received the ballot paper. But the whole concept is predicated on the fact that you have greater than the quota number, and you are going to distribute all the ballot papers so you have to consider the surplus to the quota as though it were a partial ballot paper. They have a much reduced value compared with votes.

**Senator ROBERT RAY**—I think you can assume I understand that, Mr Becker. Going to the philosophy behind the casting of the vote, I think I understand the mechanics. The point is, and it may be justifiable, that it is treating electors differently: those who vote for a major party and those who vote for an eliminated candidate. The one who votes for an eliminated candidate may be contributing half a vote towards the overall quota, but the next choice as to where the other half of their vote goes is determined by the preferences of other votes, not by their own.

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**Senator MURRAY**—Which is why I want a test, if it is simple and affordable.

**Senator ROBERT RAY**—Under proportional representation you can lock up a No. 1 vote when all the preferences are going somewhere else; that is the alternative argument to why you adopt the current system. I just wondered if you had thought it through and equated the two.

**Senator MURRAY**—I want to see what the consequence would be, which is why I want the test.

**Mr Dacey**—We have not given the option serious consideration.

**Senator MASON**—You cannot say, Senator Ray, what is a fairer system. That really is difficult to determine

**Senator MURRAY**—But you do want to know what the consequences are—

**Senator MASON**—I accept that.

**Senator MURRAY**—and, after that, make the decision as to what is the best way of dealing with it.

**Senator ROBERT RAY**—On balance, I lean slightly towards the current system. But I can see the alternative argument; I think it at least has to be measured so that we can make a proper assessment.

**Mr Dacey**—We can certainly run the test.

**Senator MURRAY**—If it is affordable and easy to do, but it seems to me that you are dealing with voters' actual expressions of what they want to do. Using the Northern Territory as an example, because there is a relatively low number of candidates there, may make it that much easier to develop.

**Senator ROBERT RAY**—I have noted your almost four pages about the Festival of Light. It occurs to me that you have carried them for three rounds and then put them away in the fourth, so I will proceed on to Professor Hughes's submission. Have you any information now from Victoria as to how many people changed their address or went on the electoral roll in the recent Victorian election—noting, of course, that, unlike federally, they have a five- not a seven-day rule?

**Mr Dacey**—I have no information at this stage.

**Senator ROBERT RAY**—Do you think you will be able to obtain that?

**Mr Dacey**—Yes.

**Senator ROBERT RAY**—In fact it may even come in under your own system, as it is a joint enrolment card. But you should be able to tell us how many people changed their addresses in those five days and how many new enrollees there were, because they would be identical.

**Mr Dacey**—We could.

**Senator ROBERT RAY**—That is all I have on Professor Hughes.

**Mr DANBY**—It will not be identical because there are two separate things: new enrollees and people who have changed their addresses.

**Senator ROBERT RAY**—Yes; it would be two sets of information.

**Mr Dacey**—There may be some very minor differences with state only or Commonwealth only, but they would be very minor.

**Senator ROBERT RAY**—On page 61 of submission No. 77—and I have read this point consistently in different submissions, usually answering the paranoid—you talk about an open process of scrutineering. I must say that my experience of scrutineering is that it is always tiered, that there is virtually no proper scrutineering encouraged and that it is highly discouraged for unenrolled voters, and I think it should be opened up far more than it is. DROs are almost a law unto themselves. They do not give reasons or anything else. Administratively it is done in such a way as to discourage people. It is less so with other declaration votes but, even so, a bit of that is pretty much discouraged. The attitude of most DROs is that scrutineers are there for the recheck and for the throw of preferences. I suggest that you might protect yourself more if, at some stage in the training of DROs, you try to open up that process. The number of scrutineers who will avail themselves of it will be minuscule because there is nothing more boring than watching someone ruling lines through things.

**Mr Becker**—I have no problem with that.

**Senator ROBERT RAY**—I do not think we need to go any further with Mr Kirkpatrick's one. Mr Andren objects to the postal vote method of political parties getting postal vote forms and sending them in. I am sorry to hark back to Victoria, but is there a difference between the Victorian system as adopted and what was adopted at the last federal election? Would you like to explain that? Is there something in favour of the Victorian system?

**Mr Becker**—The Electoral Commissioner for Victoria came to a deal with the parties whereby he would pay for the return postal information when the parties sent out their postal vote applications. The applications would come back to the commission—not to the party—but then, depending on whose parties' forms were filled in, the parties that afternoon would receive a list of the people from whom these applications had been received. As far as we can gather, that system worked quite well. I have a bit of a problem in that not everybody does mail-outs. I do not think the Labor Party, for example, does as much mailing as the Liberal Party. So the Liberal Party applications are received by the Victorian Electoral Commission and the list goes back to the Liberal Party; the Labor Party does not get it. There is a chance, since applications are received by persons through the mail, that a person who may choose to vote other than Liberal does not receive any blurb about the election. That is my concern with the way in which Victoria did it, but it does overcome the issue. Our biggest contention is that the parties are getting in between the elector and the commission.

**Senator ROBERT RAY**—I do not know if Mr Georgiou can recall this, but it used to be that under Victorian electoral law—that is, before all this came into it—the local returning officer

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each day would put up a list of names and addresses of the people who applied so all political parties could send them out a how-to-vote card. That has obviously changed.

**Mr Becker**—It has. This is apparently the deal they did this time, but my view would be all or nothing.

**Senator ROBERT RAY**—Yes. I do not know whether the committee can discuss that, but access for all political parties to be able to post out a how-to-vote card would not be a bad idea.

**Mr Becker**—The other issue, of course, is the privacy one, but that is not an issue for Victoria.

**Mr Dacey**—There is also another issue: minor party and independent candidates, for obvious reasons, were not included because they did not do postal vote application drops.

**Senator ROBERT RAY**—That sounds great; that's good!

**CHAIR**—I would like to pursue this. You said 'getting in between the elector and the commission'. Your rationale throughout has been not that, but the delays in passing on forms and the potential for disenfranchising voters.

**Mr Becker**—That is a consequence.

**CHAIR**—But that is the bottom line?

**Mr Becker**—Yes.

**CHAIR**—Your relationship is neither here nor there. What is the evidence of voters having been disenfranchised, because I have not seen any? In terms of the lateness of overseas postal voting, what evidence is there of that being interrupted in respect of the relationship between the commission and the voter? How many people were disenfranchised as a result of lateness there?

**Mr Becker**—Previous committees have heard evidence on the number of people who have been disenfranchised by parties returning information to the commission too late for us to be able to anything with it.

**CHAIR**—I have not seen any of that. If you could produce some evidence of that for the 2001 election, I would be grateful. I have seen some data which you presented earlier which detailed when they were returned. There was no indication that the votes had not been sent out. Were there any indications of problems with postal voting at the Victorian election?

**Mr Becker**—Not to my knowledge, but it is very early days. The issue is that we know that parties have held up information, that they have accumulated information and that it has not been given to us.

**CHAIR**—You are making an assertion about the parties of the same order that the parties sometimes make about the AEC. It is not validated, and you have not presented any evidence to

validate it. The last time that you presented evidence it was about parties holding on to votes; not that those votes were not sent out.

**Mr Dacey**—No, it is the potential for disenfranchisement if votes stay in a party's office for a certain period, whereas I think Mr Becker is referring to what happened in Victoria where the votes came straight back to the Electoral Commission rather than going through the party on the basis that the Electoral Commission would then advise the parties of who had applied.

**CHAIR**—In order to maintain that, I would like to see some sort of analysis of the discrepancy between time of arrival at the electoral office and time of dispatch of postal votes because, from my first-hand experience, I know that people ring my office asking to be sent postal vote applications that have never gone through my hands at all.

**Mr Becker**—Perhaps they were stuck in the party somewhere—

**CHAIR**—No, not so.

**Mr Becker**—We have had evidence from it. The other thing, too, is that within the rules of the AEC—

**Senator ROBERT RAY**—All Mr Georgiou is asking for is the evidence. He is not making a judgment. You just said that you had evidence. He is asking you to produce it.

**Mr Becker**—We have presented evidence to this committee before and this committee has said that we overstated the case.

**Senator ROBERT RAY**—Let us represent the evidence.

**Mr Becker**—Isn't that true?

**Senator ROBERT RAY**—Not that I know of, but it might be true.

**Mr Becker**—Well, it was in one of your reports; you believed that we overstated the case. The fact of the matter is—

**Senator MURRAY**—It is true that the previous committee was provided with information which indicated that there was a delay between the receipt of the returned ballot and its transference to the AEC and the evidence was that particular political officers were—

**Senator ROBERT RAY**—With due respect, Senator Murray, Mr Georgiou is asking about 2001. There has been no evidence about 2001 produced and that is what we are interested in. I am actually quite in favour of the Victorian method, not that I am even disputing that. I would think what Mr Becker is saying is right. However, I would like to see the evidence of it.

**CHAIR**—And the evidence is about disenfranchisement due to delay, because they had been held at the offices of—

**Mr Dacey**—We will do an analysis.



**Senator ROBERT RAY**—Do you think, while you are seeking that evidence, you might inquire of your Victorian colleagues of the cost of the new system and whether they are going to do an evaluation of its effectiveness because that would be an enormous help? You might also ask whether they have received any complaints in the system of people not receiving postal ballot papers.

**Mr Dacey**—Certainly the latter—there were a lot of complaints. We are very happy to talk to them postelection when they have done—

**Senator ROBERT RAY**—There may be some other reason, not the system, that caused that failure of delivering ballot papers.

**Mr Becker**—The way they are doing it at the moment is not the way that I would be advocating for federal purposes. Subject to privacy considerations, I think people should say whether or not they want that information passed onto them.

**Senator MURRAY**—I want to be clear about the AEC position. Are you saying to us that you would prefer in every case the returned ballot to go to you and not to a political party office?

**Mr Becker**—That is exactly what we are saying. Then there is no argument.

**Mr MELHAM**—Can I just come back to the informal method of voting that was talked about earlier, and the AEC research paper that is on your web site? When Mrs Irwin was in front of the committee, I highlighted what I thought might have been an inadvertent error in terms of the statistics and I was wondering if you could follow that up. In the seat of Fowler, informal voting by category has Langer style at six, non-sequential at 228 but the category of 'other' is 3,315 purporting to be 33.65 per cent of the total informal vote in the electorate of Fowler. Can the commission have a look at that?

**Mr Hallett**—Yes, we will take that on notice.

**Mr MELHAM**—That figure seems to be totally out of sync in terms of the proportionality of other figures.

**Mr Hallett**—If memory serves me correctly, we did make some inquiries when it was raised last time. The divisional returning officer, if memory again serves me correctly, did stand by the figures but we will follow it up again and take it on notice.

**Mr MELHAM**—That is okay. It just seems to be abnormal. We know in that electorate that there was that high level of informal vote. I am just wondering why that figure stands out in relation to others. Again, it may well be the composition of that electorate, but I did not see that in Reid or in other electorates. It is just the methodology.

**Mr Hallett**—Yes.

**Senator MASON**—I want to go to the Andren submission, and this follows on from Mr Melham's questions on informal voting. Mr Andren makes the claim that, although there is

compulsory full preferential voting and so forth, the TV advertising made it look as though you only had to mark the first four boxes. Could you answer that claim? Is there any evidence to show that people only mark four boxes?

**Mr Hallett**—No, we do not believe there is. The problem with television advertising, as I am sure you are aware, is that the TV stations do not fall neatly into divisional catchments, plus the advertising has to be prepared well in advance of the election being called and then all we do is strip in the dates. To personalise, for want of a better term, the television or even print advertising would be very difficult. In line with what I just said to Mr Melham a few minutes ago, yes, we are looking at targeting particular high informal areas—such as Reid and Fowler—as part of an additional strategy, but that would always have to sit on top of the main campaign, and we have to use a generic ballot paper for those reasons. As we said in our submission, with great respect to Mr Andren, we do believe that the informal voting rate in the division of Calare was still less than the New South Wales average and, as Mr Andren himself acknowledges in his submission, it was quite clear that electors had to number every square.

**Senator MASON**—Thank you.

**Mr DANBY**—I have some questions about fraudulent enrolment. On page 116 of the AEC submission No. 165, it says that only four of the 31 cases were treated as cases of fraudulent activity and prosecuted as such, but then there are five listed. This may just be a pedantic point, but were there four or five?

**Mr Becker**—Which submission are you referring to, Mr Danby?

**Mr DANBY**—Submission No. 165. It is page 116 on my copy.

**Mr Becker**—Which paragraph is it?

**Mr DANBY**—The last sentence on page 116. You say ‘only four of the 31 cases’, and then you have listed five.

**Mr MELHAM**—That is our briefing paper.

**Mr Becker**—Your page references are different to ours.

**Mr DANBY**—Okay. I will go to NSW2, which is on page 5 of your submission.

**Mr Dacey**—That is the table, yes.

**Mr DANBY**—First of all, I suppose the main point is that the number of fraudulent cases that are actually being pursued and prosecuted now is the same as over the previous 10 years. Remember, at the last committee, we had 72 cases out of six types of voting over the previous decade, so this is in the same order. Going to that table, is there any more you can tell me about QLD1? Both offenders were convicted and fined \$300. Was that a result of the AEC getting the AFP to pursue it?

**Mr Dacey**—That is correct. That was picked up in our divisional office.

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**Mr DANBY**—Regarding QLD3, ‘Offender convicted of forging and uttering’, when was that? Was that at the last federal election?

**Mr Dacey**—I have the year 2000 written here in my notes. I do not have any further details here.

**Mr DANBY**—So that was prior to the election?

**Mr Dacey**—Yes.

**Mr DANBY**—Western Australia 3 came as the result of a completely coincidental investigation by the AFP of someone for another matter.

**Mr Dacey**—Yes, that is my understanding.

**Mr DANBY**—Do you have any more details of why those people fraudulently enrolled?

**Mr Dacey**—No, I do not. I could only suppose it was something like passport fraud. We could find out more details, but I do not have them with me.

**Mr Moyes**—It was a drug-related matter as far as I can remember, but that is a hazy memory.

**Mr DANBY**—Establishing an address was important in that criminal activity. That is fine.

**Senator ROBERT RAY**—Referring to submission 16 where you respond to Mr Wakelin, I take it that you have found no evidence that officials who are employed by you at mobile booths are influencing the votes?

**Mr Dacey**—None whatsoever.

**CHAIR**—You raised privacy considerations regarding the issue of grouping the vote by community. Can you tell us how large these are?

**Mr Becker**—Some of these communities are very small. For example, I attended a booth at Mulga Queen in Western Australia where one person voted ordinary at the booth and two people voted absent. I think that is too close to be just left out on its own; it has to be amalgamated.

**CHAIR**—Is there any friction between the notion of privacy in one sense—that is, reporting by booth—and the notion of assisting someone with how they vote and knowing how they actually voted?

**Mr Becker**—Of course, they are two different issues.

**CHAIR**—No, what I am saying is—

**Mr Becker**—Where I have witnessed these things, the amount of assisted voting is still relatively small.

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**CHAIR**—As I read that document, it struck me that, in the case of assisted voting, the person assisting the person voting has absolute knowledge of who voted how.

**Mr Becker**—The act anticipates that happening, because that implies a penalty of—

**CHAIR**—Yes, absolutely. I understand that, but the emphasis that you put on privacy in a small community as being the reason for not being able to record by community—

**Mr Becker**—It is more a matter of secrecy of the ballot than one of privacy.

**CHAIR**—In my mind, the secrecy of the ballot is undermined—and transparently so—by the fact that somebody else actually knows how you voted.

**Mr Becker**—That is undermined, but the act contemplates that that will be the case. That is legal. Let us take the example of Mulga Queen. There was no assisted voting there because the person was a very articulate individual, but if you had reported on that then you would know exactly how that person voted. That is just not something we would be inclined to do.

**Mr Dacey**—The other issue is that we currently do not keep records of the number of voters at each mobile polling stop that are assisted, so it would be difficult to know, for example, if that link was there. I would expect that in most communities not everyone would need assistance but that there would be exceptions. It would be difficult to make that judgment because we do not currently—and we need to consider whether we should—keep numbers of voters who have been assisted. It is difficult to make that comparison. But I take your point; if everyone in a community were assisted, there would be someone who had knowledge of the way they voted. Whether that knowledge should be made available more widely is a privacy issue.

**CHAIR**—I understand. It is just that one point about privacy in the context of assisted voting was made so sharply that I thought it may be worth while raising consciousness about it.

**Senator ROBERT RAY**—I notice you have knocked over the T-shirt idea. If you accept it, you realise we have to then produce T-shirts for scrutiny and that would be very expensive.

**Mr Dacey**—We do not accept it.

**Senator ROBERT RAY**—That is good. With respect to the complaint made by the Chapman Society about the red marking, you now explain that as helping the post office to speed their delivery?

**Mr Dacey**—Absolutely. That initiative was designed in consultation with Australia Post. We do not have any evidence that that has in any way led to anything that could compromise anything to do with postal voting.

**Senator ROBERT RAY**—They are very worried about three Hume reporting centres and the virtual tally-room. Having raised that, did you observe the way the Victorian election was counted on Saturday night nine days ago? Virtually all prepolls and I think about 60 to 70 per

cent of postal votes were able to counted and included in the night. I think this is fantastic. They very rarely get the jump on you. I hope you have a good look at that.

**Mr Becker**—They quite often get the jump on us technically these days. They have a lot more money than we have.

**Senator ROBERT RAY**—Thank you for the poor mouth. I am not so sure that this is going to cost you more in this case—

**Mr Becker**—No—

**Senator ROBERT RAY**—because you are paying everyone X amount of money; I do not think it is going to cost you more to count it on the night. If you can, you have to identify them separately on the night when you post the polling place information on the web site. Obviously, you can have all the names crossed off and all the envelopes cut but not extracted by six o'clock. The other important thing is that, because of matched booths now, you can put them up very early. It would be nice if you were able to put them in the count in a regular way—to drop them in during the night rather than rush them in—rather than have each DRO rush to get in his postal and prepoll votes, which would distort the overall count on the night for the raw figures. Do you know what I mean?

**Mr Dacey**—I would be concerned that, if we rushed them, it might skew.

**Senator ROBERT RAY**—It would skew the statewide vote; it would not skew the matched booth vote in each electorate.

**Mr Dacey**—No, it would not.

**Senator ROBERT RAY**—For the statewide vote, it would.

**Mr Dacey**—If we had own division prepolls as ordinary votes, it would mean a much faster count as well. That is an issue we have been pushing for some time and which, I must say, some of the states have now adopted. It seems to work very well.

**Senator ROBERT RAY**—On behalf of the Chapman Society, Dr McGrath put forward a few propositions—yet again. The Richmond allegations were probably answered at the hearing itself, but would you like to again address the Richmond allegation and point out where Dr McGrath is in error?

**Mr Dacey**—Mr Farrell might know. Mr Farrell, you were involved at the time with that, weren't you? Do you want to speak to that?

**Mr Farrell**—I do not have Dr McGrath's accusation in front of me.

**Mr DANBY**—Are we talking about 1990?

**Senator ROBERT RAY**—Yes; it got regurgitated again this year.

**Mr Dacey**—There seems to be some ongoing confusion in the minds of some in the H.S. Chapman Society who do not quite understand that there can well be a difference between Senate and House votes admitted. That sort of confusion has led to the continued tabling of these allegations that now go back 12 years. We have dealt with it at probably every inquiry since 1990.

**Senator ROBERT RAY**—What about the Mt Gravatt accusation, even though it is a state matter?

**Mr Dacey**—Whilst it is a state matter, the H.S. Chapman Society, from what I understand, did not have all the facts. There was not a problem, and all the issues were resolved. One of the scrutineers, who was making allegations, left before the scrutiny was finalised.

**CHAIR**—Paragraph 24.7 of your submission relates to something that Senator Ray raised. It states:

The H S Chapman Society has previously sought permission for access to divisional offices for scrutineers to allow the input of results on polling night to be scrutinised. These requests have been refused as there is no additional value in this procedure ...

I think Senator Ray asked: why not allow them?

**Senator ROBERT RAY**—No, I did not actually say that. I said I would be happy to get some scrutineer form signed, but they said it would be just a set-up—a Soviet-like trial. You allow them to pick whichever booth they want and they then fade away, like most conspiracy theorists.

**Mr Dacey**—They would have to be appointed by a candidate, due to the H.S. Chapman Society not being a party. If they can find a candidate to appoint someone from that society as a scrutineer, we will be quite happy.

**Senator ROBERT RAY**—I will put them into every booth in Kooyong at the next election.

**Mr Dacey**—Thanks.

**CHAIR**—I suggest that they be advised of this.

**Mr Dacey**—We have consistently advised the H.S. Chapman Society—and they have raised these issues in correspondence with us—that, to be a scrutineer, someone has to be appointed by a candidate. It is up to the Chapman Society to make those arrangements.

**Senator ROBERT RAY**—Do not interfere with their paranoia; it makes them happy.

**Senator MURRAY**—What provision is there for monitors to stand in on a count?

**Mr Dacey**—None whatsoever, unless they are appointed as scrutineers.

**Senator MURRAY**—So there is no distinction between a scrutineer who can interact and a monitor who can observe?

**Mr Dacey**—No, there is not. There is no place at all for observers during the scrutiny. You have to be a polling official involved in the scrutiny, an AEC official or appointed as a scrutineer by a candidate.

**Senator MURRAY**—You would be aware from your international experience that other countries allow observers to the count.

**Mr Becker**—We had some 60-odd international guests last time, and they did witness the scrutiny in some places.

**Mr Dacey**—But they did not have official observer or monitoring status.

**Senator MURRAY**—So you give them the status? They are temporary AEC officials for the day; is that how it works?

**Mr Dacey**—For that period, yes.

**Senator MURRAY**—I think there is some value—I am not necessarily suggesting legislatively—in ensuring that there are processes, where appropriate, for a monitor or observer role to be carried out.

**Mr Becker**—My understanding is that countries normally invite observers, government to government.

**Mr Dacey**—Some countries do have domestic observers. If it is not legislated, my only concern is: what sorts of rights and responsibilities would they have at law? The answer is probably none. I am not opposed to the transparency of it, but we would need to somehow be able to control numbers and who might be turning up where. It would not be a case of letting anyone into a polling place or into a scrutiny role. I would be more comfortable if they had some formal rather than unofficial status. At least then there would be some agreement on behalf of the AEC that these people can come in.

**Senator MURRAY**—One of the aspects of a civil society is that non-beneficiaries of the political process can observe it to make sure that it functions correctly. In other countries they may be groups to promote democracy, media groups that are interested in ensuring that things work well, church groups and those sorts of people, not just the political parties concerned or representatives of the candidates.

**Mr Dacey**—Some other jurisdictions, particularly international jurisdictions, have accredited monitors who are observers, but those people still have to go through an accreditation process with the electoral authority. So there is some formal process of accreditation so that we know to expect a certain number of people at certain places.

**Senator MURRAY**—Has the lack of such a formalised system resulted in any problems in Australia, in your experience?

**Mr Dacey**—Really the only problem in electoral administration I have heard in a long time is a complaint by the H.S. Chapman Society that we do not let them in.

**Senator MURRAY**—That is why I am asking the question.

**Mr Dacey**—I have not heard of any others.

**Senator ROBERT RAY**—Mr Crosby says in his submission that the Liberal Party sent 14 letters and only four were answered before election day. I assume he is referring to his letters and Mr Burston's letters so I want to take you through those to check the veracity of the evidence. I want to check the response times of these letters because there is at least one which worries me. Mr Crosby wrote a letter on 9 October regarding a postal vote application pamphlet distributed by Mr Beazley. Is that right?

**Mr Dacey**—That is right.

**Senator ROBERT RAY**—You replied on 11 October?

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—He again wrote to you on 9 October about a certain matter in Petrie. You responded on the 16th, did you?

**Mr Dacey**—That is right.

**Senator ROBERT RAY**—But you needed legal advice before you responded?

**Mr Dacey**—That is right. Often we refer matters to either AGS or DPP for advice before we respond.

**Senator ROBERT RAY**—That has accounted for two of the four responses. Mr Crosby wrote to you on the 10th about impartiality of staff at the AEC call centre. You responded on 15 October, did you?

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—That accounts for three. He wrote to you on the 16th regarding the folding of candidates' newsletters in Quest newspapers in Queensland. You sought legal advice?

**Mr Dacey**—We did.

**Senator ROBERT RAY**—And you replied on the 19th of the same month, three days later?

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—That is the fourth. He wrote to you about the One Nation web site on the 18th. You responded after legal advice on the 23rd. Is that right?

**Mr Becker**—Yes.



**Senator ROBERT RAY**—That is five. Mr Burston, who I understand is the federal director, wrote to you on 19 October about Lilley. Is that right?

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—You responded on the 24th, following legal advice?

**Mr Becker**—Yes.

**Senator ROBERT RAY**—That is six. You were written to by Mr Morrison, whom I do not know. Do we know whom he represents?

**Ms Mitchell**—The New South Wales Liberal Party—Mr Scott Morrison.

**Senator ROBERT RAY**—I am not trying to be smart. I do not know all the Liberal establishment—or what is left of them. He wrote to you on 30 October and you replied on 6 November, following legal advice. Is that right?

**Mr Dacey**—That is right.

**Senator ROBERT RAY**—Then Mr Burston wrote to you again about unauthorised pamphlets in Bennelong on the 31st. You replied on the sixth, after legal advice. Is that right?

**Mr Becker**—Yes, that is right.

**Senator ROBERT RAY**—That is eight. Mr Crosby wrote to you on 1 November about a web site authorisation. You responded to him on the 11th?

**Mr Becker**—On the seventh.

**Senator ROBERT RAY**—The next letter by Mr Crosby was on the fifth and you responded on the seventh?

**Mr Becker**—Yes.

**Senator ROBERT RAY**—Then Mr Nairn, a former distinguished chair of this committee, wrote to you on 6 November, and you responded the same day?

**Mr Becker**—Yes.

**Senator ROBERT RAY**—Mr Burston wrote again on 7 November, and you responded on the eighth. Is that right?

**Mr Becker**—That is right, yes.

**Senator ROBERT RAY**—There is a letter about candidate Thomas, in the division of Brand, against the Liberals for Forests. That was written on the seventh of the 11th and was responded to on the ninth. Is that right?

**Mr Becker**—That is correct.

**Senator ROBERT RAY**—Mr Burston wrote to you about National Party advertising in Moncrieff on the eighth—a bit of dirty linen is coming out here—and you replied on the 10th?

**CHAIR**—Don't exaggerate. Find a better one!

**Senator ROBERT RAY**—There is some nasty fallout in the coalition that I had not realised had occurred. Mr Burston wrote again on the eighth and you responded on the ninth, after legal advice. Is that right?

**Mr Becker**—Correct.

**Senator ROBERT RAY**—Sorry to be tedious, but we would just like to check the veracity of this submission. Mr Crosby wrote about the Bankstown association nuclear pamphlets being unauthorised. He wrote to you on the eighth and you responded on the ninth. Is that right?

**Mr Becker**—Correct.

**Senator ROBERT RAY**—Mr Burston wrote about Democrat how-to-vote cards in Boothby on the eighth and you replied on the ninth. Is that correct?

**Mr Becker**—That is correct.

**Senator ROBERT RAY**—Mr Burston wrote regarding an ALP rock CD for youth in Victoria on the ninth. You responded on the same day?

**Mr Becker**—Yes.

**Senator ROBERT RAY**—Mr Thompson—I will let him go by. In fact, I will go by the next three; they are all locals. Are you sure that there are no letters that were written to you that you have not responded to?

**Mr Becker**—To the best of my knowledge that is the extent of it.

**Mr Dacey**—The records indicate—we keep particular records in our central office; we have a log of complaints received, particularly from the federal secretaries of the major parties, who are the most prolific writers during that time—that no other correspondence was received.

**Senator ROBERT RAY**—You do know the address of Robert Menzies House, don't you?

**Mr Dacey**—Yes, we do.

**Senator ROBERT RAY**—There is no allegation that you know of that their mail has been regularly stolen, is there?

**Mr Dacey**—Not that I am aware of.

**CHAIR**—Are you saying that, with the exception of 11 and 12 of January, there was no letter that was not responded to before the election? There was no complaint or issue—

**Mr Becker**—Not to our knowledge.

**Mr Dacey**—That is correct.

**Senator ROBERT RAY**—There was one, I think, which was written by Mr Thompson—

**Mr Becker**—That was after the event, yes.

**Senator ROBERT RAY**—of babysitting fame. How long did the legal advice take? I notice that this is probably the longest time for a response—13 days. How long did it take you to get the legal advice?

**Mr Dacey**—I am not sure.

**Senator ROBERT RAY**—You might check that. It could be that you were tardy or that the legal advice took some time to come.

**CHAIR**—Can I raise one point? My understanding is that the issue was about written advice.

**Mr Becker**—About what, sorry?

**CHAIR**—Formally raising various matters on which AEC advice was sought. Written responses from the AEC were received to only four of these during election day. Can you run through all the issues Senator Ray just read through, to everyone's great interest, and tell us which ones had written advice to them?

**Mr Becker**—That were received on election day? I do not think any of them would have been received on election day.

**CHAIR**—No, all the correspondence.

**Mr Dacey**—All these responses were written responses.

**CHAIR**—There were no oral responses?

**Mr Dacey**—No, these were written responses.

**Senator ROBERT RAY**—Thanks for clarifying that.

**CHAIR**—That is very important. There were no oral responses on matters of significance to written communications from the Liberal party that, at the very least, were not covered by a letter.

**Mr Dacey**—No. We would always respond in writing to issues of significance. This table represents written responses.

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**Mr MELHAM**—You didn't want to be verballed by the Liberal party so you always put it in writing!

**CHAIR**—When did you write to the Liberal party about section 29.33? What were the issues?

**Mr Dacey**—Approximately two weeks ago.

**CHAIR**—Has there been a response?

**Mr Dacey**—Not yet.

**Mr DANBY**—Mr Burston wrote to you regarding unauthorised pamphlets distributed in the federal seat of Bennelong. What were those unauthorised pamphlets?

**Mr Dacey**—I am sorry, Mr Danby, I will have to take that on notice, unless one of my colleagues can recall exactly what they were.

**Mr DANBY**—It is a bit unusual—someone from the same political party. Most of these are complaints. It is like a pre-emptive strike.

**Mr Dacey**—It may well have been that someone else was issuing some unauthorised pamphlets, but I do not know. I will need to take that on notice.

**Mr DANBY**—It says 'regarding unauthorised Howard pamphlets'.

**Senator ROBERT RAY**—That could be a shorthand way of describing pamphlets that were not necessarily helpful to him.

**Mr DANBY**—Mr Dacey, did you also need to take on notice the matter of Mr Burston writing to you about the National Party advertising in Moncrieff?

**Mr Dacey**—The one on 8 November, responded to on the 10th? Yes, I would.

**Mr DANBY**—Let us say Mr Crosby has written on 5 November regarding Dr Emerson's ALP radio commentary on petrol prices. Is Dr Emerson's office advised about this or is it not relevant so he is not contacted?

**Mr Dacey**—It depends on the nature of the complaint. In most instances we would advise all parties.

**CHAIR**—We need to have a quick private briefing, so we will take a short break.

**Proceedings suspended from 11.52 a.m. to 12.01 p.m.**

**CHAIR**—Is it reasonable to ask whether you can differentiate in a table between the AEC's election and non-election expenditure? There is a graph on page 6 that describes what the AEC's financial position is in terms of expenditure, but it lumps in both election and non-

election expenditure. Is it possible to disaggregate those? I find it very difficult to deal with the numbers when there are huge blocks of money coming in about once every three years.

**Ms Codd**—We could do that. We have done that for other purposes. It is about \$60 million—

**CHAIR**—Does that request make sense?

**Mr Dacey**—Yes. In very general terms it is \$100 million a year and that is supplemented by \$60-plus million for the election. But that \$60-plus million expenditure is not all in the one year; most of it is in the year prior to and the year of the election.

**CHAIR**—So when you talk about the AEC's expenditure growth, what are you actually talking about? You talk about a six per cent increase—

**Ms Davis**—In terms of election expenditure?

**CHAIR**—What is the reference?

**Mr Dacey**—The main growth has been non-election expenditure. We have managed to keep election expenditure fairly constant in terms of current prices over the years. The main growth has been in supporting the AEC's infrastructure and supporting the increasing number of electors on the electoral roll. We have managed fairly successfully, I think, to hold election expenditure fairly constant in current prices, in cost per voter terms. It is our rising infrastructure costs—such as property, IT and salaries—which have increased more significantly over time.

**CHAIR**—So when you talk about the AEC increase in expenditure of around two per cent since 1984, is that based on your non-election expenditure or your cumulative expenditure?

**Mr Hunter**—That is the CPI adjusted figure of our total expenditure over the years.

**CHAIR**—So it is the combination of election and non-election expenditure?

**Mr Dacey**—Yes, it is.

**CHAIR**—Does that make sense?

**Mr Becker**—No—because election expenditure goes up considerably. Advertising, for example, does not go up anything like the CPI.

**CHAIR**—So how have you managed to come to this conclusion, if you have got huge lumpy expenditures that basically you say that you can manage within and that is what the two per cent line is based on?

**Mr Becker**—The two per cent is the average CPI.

**CHAIR**—Yes, but it is an increase in AEC expenses of around two per cent.

**Mr Orr**—There is a table on page 28 of the submission, at paragraph 7.12, which provides information on the gap that has evolved. You will note that, as Mr Dacey has said, quite a significant number of those are ongoing issues, but some are also the annualised costs, in particular of some election expenses such as call centres and some advertising, and the VTR. So there is a combination of issues there, but those are the main issues.

**CHAIR**—How does that relate to your paragraph 3.23 on page 7 of the submission? I am having difficulty coming to grips with the notion of a two per cent growth that lumps together your ongoing expenses and your election expenses, which are totally dissimilar.

**Mr Orr**—But, on an annual basis, our appropriation includes differing amounts for election funding, with a spike in the predicted election year. So it is an amalgamated group and it is really only split internally within the AEC. It is not appropriated separately for election funding. We have a figure in forward estimates which is like this to reflect the expected election cycle, and it is only split up internally by our internal chartered accounts mechanisms.

**Mr Hunter**—This is actually the way we are funded.

**CHAIR**—Can you explain to me, then, how you know that you are running elections more efficiently and using the efficiencies out of the elections to fund your ongoing costs?

**Mr Hunter**—In some regards we are, and I think we have tried to point that out throughout this document. This document is really just a history of the way we have seen our funding develop over time and to try to come to an understanding of how we have got to the situation we are in now. It does not represent the submission that is going forward to Finance. This is a totally different submission based on the output pricing review which is nearing completion. So, really, in summary, it is a potted history.

**CHAIR**—It may be too potted for me. I have difficulty with a two per cent increase in expenses, with such lumpy figures; I simply do not know how that is arrived at. If you could explain that to me, I would be grateful.

**Ms Davis**—So it is simply your appreciation of the fact that we have tried to use the two per cent as a levelling figure to account for CPI?

**CHAIR**—Yes.

**Ms Davis**—Just answering your previous question, we have, since we did not have a separate appropriation for elections, been using the election funding, which is now part of running costs, to help us through the previous decade.

**CHAIR**—Let us take an example: what was your expenditure on the referendum? Was that a specific appropriation?

**Ms Codd**—The referendum was part of our appropriation, but because it was a new policy proposal it was separately identifiable so we treated it as quarantined funds for that purpose.

**CHAIR**—So what were the costs for conducting the republic referendum?

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**Ms Davis**—I think it was \$68 million.

**CHAIR**—Was that a discrete appropriation?

**Ms Davis**—No, it was not a discrete appropriation.

**CHAIR**—But it was treated as—

**Mr Becker**—A new policy proposal.

**CHAIR**—And did you make a profit out of that, or did you expend all the moneys that were intended to be used for the referendum?

**Mr Becker**—We would have approximated it, I am sure.

**Ms Codd**—Some moneys were paid back to the Department of Finance and Administration that were unspent following that event.

**CHAIR**—Can you tell me how much that was?

**Ms Codd**—I think about \$2.5 million was returned. I think there was some uncertainty about the cost of that event, because of its particular nature. Some of the underspend generally came from those issues of how it was to be conducted—how many questions were to be on the ballot papers and that sort of thing. The assumptions we made when we set up the estimate for the new policy proposal did not quite translate to final costs, and Finance were aware of that.

**CHAIR**—And the surplus was transferred back to Finance?

**Ms Codd**—Yes.

**Mr Orr**—You asked earlier for the cost of the referendum. It was \$66.82 million.

**CHAIR**—How much were you provided for the referendum?

**Mr Orr**—Presumably in the order of \$69 million.

**Ms Codd**—It was around \$70 million.

**CHAIR**—So that is out of the electoral—

**Mr Orr**—Yes.

**CHAIR**—On the increase in expenditure per vote, my rough calculation is that you have received more money over the period to compensate for the number of electors.

**Mr Orr**—Sorry, I do not follow you.

**CHAIR**—You state that your expenses have grown by six per cent per annum, and the increase in the number of people voting or enrolled has been below that. There has been a 36 per cent increase in financial terms and a 30 per cent increase in the number of electors.

**Mr Becker**—If we were just working on CPI, we would have the same number of electors and they would cost 30 per cent more. The CPI is to compensate you for doing the same job. We now have 30 per cent more people than we had back in 1984. That is not cumulative; we have 30 per cent more on the roll today. We have to maintain those people for the same price we maintained 30 per cent fewer for in 1984. CPI has compensated us as best we can, so—

**Mr MELHAM**—It is quite a fair analysis to say that your costs are going to increase by that amount if you have that many extra enrolled.

**Mr Becker**—No, it is not, because we do things better.

**Mr MELHAM**—It is a question of efficiency and economies of scale.

**Mr Becker**—That is exactly right, and that is what we are saying. We have coped, to date, purely and simply because we are doing things better.

**Ms Davis**—But there are other drivers of our expenses. For instance, in terms of property, we feel that the deflator that was applied in, I think, 1993 was not sufficient to cope with the real property prices we are facing. As we have said before, that is a major component of our ongoing expenses that we have to maintain separate from expenses for an electoral event.

**Mr MELHAM**—My recollection of past figures is that the problem is with 18-year-olds to 25-year-olds. That is where the sort of work you can do will have an impact, because from 25 onwards the enrolment rates are well over 90-odd per cent, aren't they, on an age basis?

**Mr Becker**—They are up there. That is correct.

**Mr MELHAM**—So, if you are going to argue for funding for the sort of stuff you can do, you have to look at packages—going to schools and a whole range of other things.

**Mr Becker**—We are.

**Mr Orr**—There is also a basic premise that the increase in electors, whilst obviously increasing the workload on a day-to-day basis, has an impact at election time. It is not a linear thing—there are efficiencies—but it has an impact on ballot papers, polling staff, voting screens, counting et cetera—

**Mr MELHAM**—And delays at polling booths. The 1990 election was a disaster because the calculations were wrong. We had queues a mile long, and a lot of that had to do with the way you distributed your polling workers on the day itself.

**Mr Dacey**—Yes, we had a new formula that was too tight.

**Mr MELHAM**—I am not being critical.

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**Mr Dacey**—It was too tight, and we addressed it at the subsequent elections by increasing the staffing formula.

**Mr MELHAM**—Absolutely. I am not being critical of that.

**CHAIR**—Coming back to the referendum, I am trying to get a grip on the difference between your recurrent expenditure and your block election type expenditure. What was the amount anticipated to be expended on the referendum?

**Ms Davis**—I think Ms Codd explained that it was in the order of \$70 million.

**CHAIR**—It is just that I have a number from the portfolio budget statement—\$63.3 million.

**Ms Codd**—I think we got a second lot at additional estimates.

**CHAIR**—So there were two tranches. Can you give me a reasonable estimate?

**Ms Codd**—I think it was \$63 million and about another \$8 million. The second \$8 million was primarily related to the requirement to print the full Constitution for the referendum pamphlet. Some offsets were found within the \$63 million, so we did not go back to the—

**CHAIR**—Somewhere in the order of \$70 million, and you made a saving of around—

**Ms Codd**—I think it was about \$2.5 million or \$3 million that we handed back. I would have to check.

**CHAIR**—Do you find it difficult budgeting for these two quite different expenditures—first, a continuing infrastructure and second, a very heavy expenditure once every three years?

**Ms Codd**—It is difficult. That is the sort of thing that we are trying to address at the moment in the review with the Department of Finance and Administration because our funding model has become out of date and does not really keep pace with the way the business is delivered. The referendum, because it was a specific type of event, is slightly different again with the election costs. We have a standard model at the moment that is really saying that you have this fixed amount over three years and you get it in these blocks. If our workload does not fit into the blocks then either we end up with money that we need to carry forward or, alternatively, if events can come forward, we potentially could end up with exposure to particular expenditure for which we do not have the funding at that point. So then we would have a borrowing sort of problem with the subsequent year.

Elections are of course the biggest things, but we have other issues with peak type things like redistributions or by-elections and those sorts of things that are event-like in nature. The arrangements that we are trying to work out with the Department of Finance and Administration involve looking at what are the core or the basic types of services that do not vary terribly much between the years and then what are the event type ones. Then we need to come up with some agreement with the department which sets the parameters of what is in and what is out of those groups and how much things should vary before that then shifts the base funding.

**CHAIR**—Are you aiming for a distinct budget allocation for ongoing functions plus a distinct appropriation for elections and referenda?

**Ms Codd**—When our appropriation amount is struck each year as part of the budget process—whether there are separate appropriations as such or whether there are just different elements of the funding model—it may be that the underlying work papers under that are built on a different premise. We have some special appropriations already through the act that we have to manage separately. So we would have to really weigh up what is the easiest way administratively for us to manage it, as well as for the Department of Finance and Administration to be able to let those funds down. In our discussions with them we have not yet got to that point.

**CHAIR**—Can you tell me how you directly relate the number of people enrolled to your expenditure on servicing those enrolments? How do you estimate what it costs per enrolled head? Why do you estimate it costs X, Y or Z?

**Mr Hunter**—That work is currently being done under the output pricing. We want to move to some sort of model where we can relate cost directly to an enrolment or so on. We do not currently do that to any discipline at the present time.

**Ms Davis**—And it is probably not so much the costs that maintain the electorate; it is perhaps the base factor or one of the key factors that we can agree might determine how the funding model is based in the future: it may be the number of enrolments; it may be the number of enrolment transactions; it may be supplemented by key factors at election time. We are just talking about domestic factors at the moment. If we were to talk about other areas—for instance, funding of disclosure, the number of political parties or the number of candidates—should that be a base factor—

**CHAIR**—So, to be frank, you have not actually isolated this. You are trying to negotiate something at the moment.

**Ms Davis**—Yes.

**CHAIR**—This does make it reasonably hard for the committee when you do not actually have a notion of what drives your expenditure.

**Mr Hunter**—That is not true. It is not one of the messages we are trying to get across anyway. The message we were trying to get across is that we are working on an out-of-date model. We are trying to develop a new model and it is very difficult for us to try to get the information into the new model. The issues for us are what other drivers are going to be affecting the way we do things—the way we conduct our enrolment, and where that money come from. For example, you recommended in the previous report of the JSCEM on the integrity of the electoral roll in relation to the ANAO report that we should go out and conduct a review of a division. That is going to cost a lot of money. We do not have that money. We cannot do that unless we are given the money. If the committee is going to make recommendations that have a cost impact, it should be making recommendations about how that does impact upon us. Those funds should be made available.

**Senator MURRAY**—The chair's point is that there is no clarity to us in your responses, in terms of your own thinking. In other words, you are not saying, and throwing it up there for it to be contested, 'Look, these are the drivers; these are the ratios or our areas of primary funding initiatives. We want to remodel it this way, and this is what we are seeking to do.' You are telling us that you are actually midstream—you are in the midst of consultation, development and so on. However, you have asked us to come to a judgment when you have not finalised your own opinion. You have simply said, 'The existing funding model doesn't work. We do not have enough money but, by the way, we are still working out our funding model.' That is my assessment and, as I interpret it, the way the chair has heard your responses.

**Ms Davis**—What we have indicated from the time we had our initial discussions with you is that the OPR process, or the process we are now in the midst of with the Department of Finance and Administration, will certainly determine the veracity of our claims in terms of expenses. That is one thing that has not been completed. In terms of support of the committee, if the process establishes that our arguments for these processes are valid and that supports us receiving that supplementary funding, we would be seeking that support. We talked about a key example this morning with our 60,000 polling officials. At the moment, we are lagging far behind the payment rates of our state counterparts. I think we are 18 per cent behind what New South Wales provides. All of these factors have a cumulative effect. At the moment, our internal budgetary processes—which will be very much under scrutiny by the Department of Finance and Administration as part of the process—are such that the areas for productivity improvements are very limited and we cannot isolate what we think would be the minimum amount required for R&D investment in the future in terms of electoral systems. We had Senator Ray talking to us about our philosophical approach on things. Obviously what would help us here is a lot more investment in research and consultation with the community, not just about education issues but about civil engagement issues. We do not have the funds available at the moment. Our consistent message to all stakeholders is to help aid in that understanding. We are not expecting you to be able to make statements either way in terms of the veracity of the detail, because we have not supplied you with the detail and that will not be available.

**Senator MURRAY**—If I may interrupt, you have thrown up a more serious concern in my mind. The AEC is a very efficient professional operation in terms of election management. Yet the financial story you have presented to us is that, despite your great experience with budgets and your longevity in terms of interaction with government, you do not, even yet, easily separate out event-oriented expenditures—at least for our appraisal—from your underlying infrastructure costs and approach. That raises for me the issue of whether your financial analysis and competence are of the same standard as your very evident election competence.

**Ms Davis**—In terms of our financial management in the past, I suppose we have had to labour a little bit with inadequate financial management information systems. Certainly, that is something that the OPR is helping us with appropriate costings on, because in the past, to be frank, there have been areas we have not been able to identify to the level of detail we required—for instance, with electoral expenditure. One reason why the OPR was scheduled for the AEC after the last federal election was that we had only just implemented a financial forecasting and monitoring system that would enable us to define costs. But there may be some misunderstanding in that, if one wanted to look at the books at the AEC for how we have kept our accounts in the past, we can isolate all the election specific expenditure and expenditure against each of our three outcomes—in fact, down to a quite minute level in terms of activity

based expenditure. That information is all there, so you may have misunderstood one of the statements we have just made.

**Senator MURRAY**—But in the presentation of your case to us, there was a continual intercession of these ideas. For instance, when giving an illustration, Mr Becker said, ‘You want us to go and have a look at a division. That would cost X amount.’ That is a specific event activity. It clouds the issue of whether your base funding for the essential ongoing cost of the commission is adequate, and then whether and on what basis you can also ask for money for specific events or developmental issues such as research and so on. In the presentation of the material to us and in the responses to us, I find those things confused.

**CHAIR**—I apologise, but we have to break because the Senate is sitting and the committee cannot sit at the same time as the Senate.

**Mr MELHAM**—Can we submit questions in writing?

**CHAIR**—Yes. We will be sending the commission some detailed questions. Part of our problem is exemplified in the fact that you identify a funding gap of \$33 million and then say that you can get by on between \$16 million and \$20 million. But we will pursue these matters. I thank the witnesses from the Australian Electoral Commission for attending today, for giving so much of their time and for their submissions. We will be following with additional questions. I regret that the hearing has to conclude because we cannot sit concurrently with the Senate. Thank you very much.

Resolved (on motion by **Mr Danby**):

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

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