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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2004 federal election and matters related thereto

TUESDAY, 26 JULY 2005

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JOINT COMMITTEE ON ELECTORAL MATTERS

Tuesday, 26 July 2005

Members: Mr Anthony Smith (*Chair*), Mr Danby (*Deputy Chair*), Senators Brandis, Carr, Forshaw, Mason and Murray and Mr Ciobo, Mr Melham and Ms Panopoulos

Senators and members in attendance: Senators Brandis, Forshaw, Mason and Murray and Mr Melham, Ms Panopoulos and Mr Anthony Smith

Terms of reference for the inquiry:

To inquire into and report on:

Conduct of the 2004 federal election and matters related thereto.

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Committee met at 9.35 am**REIMER, Mr Hans-Joachim, General Manager, RPH Adelaide Inc.**

CHAIR (Mr Anthony Smith)—I declare open this public hearing of the Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2004 federal election. To date, the committee has received 165 submissions to the inquiry, many of which were detailed, well written and self-explanatory. Accordingly, the committee does not need to hear from everyone who has made a submission. The submissions have raised numerous issues which the committee is considering carefully. While examining the submissions, the committee identified a number of issues which it needs to take additional evidence on in this third round of hearings.

I would like to thank today's witnesses for appearing. I would remind you that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and warrants the same respect as proceedings in the House itself. The giving of false or misleading evidence is a serious matter that may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will be covered by parliamentary privilege. Because we are running a tight schedule, we will need to stay as close as possible to the program times. If anyone has any queries they wish to raise about the proceedings, please see the committee secretariat staff.

Without further ado, we will call our first witness. I would like to welcome Mr Hans Reimer from RPH Adelaide Inc. to today's hearing. Good morning. The committee has received your submission, No. 45, and it has been authorised for publication. Is there anything you would like to correct or amend with respect to the submission?

Mr Reimer—No.

CHAIR—Could I ask you make a brief opening statement about the substance of your submission and then we will proceed to some questions from Mr Melham and Senator Murray.

Mr Reimer—Thank you, Mr Chairman and committee members. I appreciate the opportunity to be present today and present evidence to the committee. RPH is the association for print handicapped broadcasting in South Australia. I do not have much to add to the submission, because I believe that it is fairly straightforward. We are required to vote at federal and state elections. The right to a secret ballot forms part of that vote. Those of us who do not have some form of print handicap take that for granted. Those who are unable to complete the ballot paper because they cannot see or interpret the information have to get help from another person. When we leave the ballot booth, we have the choice about whether anyone else knows how we voted—after all, we would have to tell them—but someone with a print handicap does not have a choice. Someone else knows exactly how they voted. That alone should be enough reason to head down the track of electronically-assisted voting.

CHAIR—Thank you very much. It is good of you to come along. We had some hearings in Melbourne yesterday where we touched on this issue with some of the groups representing the blind. It is something we focused on there and we are focusing on it again today in this Adelaide hearing. What I will do is hand over to Mr Melham first up to talk about some of the mechanical issues of election day itself and voting.

Mr MELHAM—Mr Reimer, as the chair said, we talked about this yesterday with some of the groups. One of the suggestions that was put forward was that perhaps it might be possible during the pre-poll period in electoral offices in the divisions for electronically assisted voting to be held and that on the day of the election, whilst you could have an interstate vote in your electoral office on that day as well, the divisional offices have provisions for electronically assisted voting. I think the view was that it might be impractical and costly to have it available at every single polling place. Do you think that that is a sort of compromise that might accommodate a good deal of the people who want to vote in that particular way?

Mr Reimer—I agree that it is impractical to put a computer desk in every polling booth. The mechanics of it in that situation would work similarly to something like pre-poll voting, wouldn't it?

Mr MELHAM—That is right.

Mr Reimer—It would be a nice compromise.

Mr MELHAM—What it means is that probably every divisional return office in the country would have the facility, so you would have about 150. I would assume that if the central offices have pre-poll or whatever taking place, it would be available. You are also dealing with experienced electoral officers. Obviously, we will need to hear from the Electoral Commission in terms of their capacity to be able to do that. It seems to me that in most cases, when people are going to hop into a car to go to a polling place, they can go to the divisional office. I know it will present some problems in remote and regional Australia, but I think the problem is not going to be able to be fully solved and it may well be that people are going to have to become registered postal voters.

Mr Reimer—It would be nice if there was one booth in each electorate that was able to do this.

Mr MELHAM—That is what I am thinking could happen, unless the electoral offices were merged or combined, but you would anticipate access for each division.

Mr Reimer—Yes.

Mr MELHAM—For instance, in my electorate of Banks the electoral office is in Revesby, so it would be the divisional office. I am thinking that the facility would be in each divisional office in the country. On election day they are open anyway to take interstate votes.

Mr Reimer—I think that it is important that everybody has a choice as to whether or not they are able to do a secret ballot, to be perfectly honest. If somebody has the choice of whether they can go to one polling booth within their electorate, or within an area, that then becomes their problem. I am not suggesting that everybody who casts a vote gives a damn really about whether it is a secret ballot or not.

Mr MELHAM—No, I understand, but I think the problem is the ability to deliver in every polling place in the country on election day. I do not think, frankly, from an economies of scale point of view, it would be possible.

Mr Reimer—No, I do not think that would be possible.

Mr MELHAM—As I said, subject to what the Electoral Commission says to us later in the hearing, that is the sort of proposal I am interested in knowing whether you think has legs.

CHAIR—It is one of the things we fleshed out yesterday in a bipartisan way with some of the other witnesses. The point Mr Melham is making is that it would not just be a case of providing that service to people with a handicap. In fact, it would be an additional service of pre-poll. What I mean by that is that the pre-poll voting is not actually available to ordinary voters on demand. That is a common misconception. What Mr Melham is suggesting is the potential for a recommendation that pre-polling be available, on every single day that pre-polling occurs and on election day, at a central location for people with a disability requiring that sort of assistance.

Mr MELHAM—One of the reasons I prefer that is that it also preserves the integrity of the secret vote. By having that particular location, I would anticipate that there would be multiple voters rather than individual voters. It is not just a question of the problem of resources and providing them at every polling station. It might be that, if it were provided at every polling station, only one person would have that particular vote and it would not really be a secret vote.

Mr Reimer—That is right.

Mr MELHAM—By having it at a polling location where you know that there are going to be multiple voters, it preserves the integrity of those votes.

CHAIR—The other thing we fleshed out a bit yesterday in terms of examining the potential for a recommendation along those lines was that election day for the AEC is obviously a gigantic logistical task. It involves 10 million votes and requires hundreds of thousands of volunteers. What Mr Melham was talking about was the central office in each electorate that exists already. It is open on election day, it is basically where the returning office is situated and you are guaranteed to have the most expert staff there, with the capacity to ensure that voting can be achieved without any difficulty.

Mr MELHAM—I am interested in the basis of your estimate in South Australia that 264,000 people have a print disability.

Mr Reimer—We had a company called Market Equity in Perth conduct a survey about two years ago. They looked at information from agencies such as the Royal Society for the Blind and Arthritis SA and also took into account the number of people who now, with the ageing population, have a reading disability of some sort, whether it just be an inability to read small print or so on. Those figures were taken into account, and across the board Australia-wide it was about 17 per cent.

Mr MELHAM—Do you say that, if this method of voting was introduced, that would be further encouragement for people to participate in the process and that at the moment it is a disincentive? If you do not have material or if you have not done that exercise, do not worry.

Mr Reimer—No. What I do know is that people are loath to class themselves as having a disability. Some people will tell you that they are unable to read the *Advertiser*, because of their eyesight, but they do not have a disability.

Senator MURRAY—I too was interested in that figure of 264,000 people. I happen to know, from other work, that half a million Australians last century were in institutions and in care. Many of the Australians who are or were in care have literacy problems. Some, indeed, cannot even read at all. In fact, in this very city a very successful small business man in his late 50s, early 60s, told us, in tears, what a poor education had meant to him.

The problem with your high number, of course, is that if that was reflected across the country and if all those people—which is unlikely—wanted to access computer facilities at central sites, as suggested, we would need quite a few computers at each of those central sites. There are 11 electoral offices, as far as I know, in South Australia and dividing 264,000 by 11 would mean 24,000 at each, a large number, and you would need more than one computer. How many of the 17 per cent do you think are likely to take this up? Is there any way of finding that out?

Mr Reimer—The short answer is no. Getting back to my point about somebody accepting the fact that they having a print disability, they are taken into account. Somebody in their 60s who needs very strong glasses to read the *Advertiser* is classed as having a print disability, but they would not agree that they need help to fill out a ballot paper.

Senator MURRAY—You can see that if a full number were at each, it would be 2,400. If it was 10 per cent, it would still be 2,400. That is a large number. Have you discussed this anecdotally? Has there been a kind of feeling that you have been able to arrive at?

Mr Reimer—I have not done a survey on it or anything like that, no.

Senator MURRAY—In your submission you suggest that people with these disabilities could be assisted by audio means. Given that you said that some of the people are old or ageing, wouldn't they also have hearing disabilities?

Mr Reimer—They would, but if you take into account things like the new technology that is being trialled at Medicare, et cetera, where it actually clicks in to hearing aids and things like that, it works with them. I think that it is called the T system. Medicare offices are trialling that at the moment, and there are microphones on tables at Medicare offices. It works in with the hearing aid system that people are wearing. Those sorts of things can be—and are being—overcome.

Senator MURRAY—It seems to me that if this was adopted, even on an intermediate step basis—namely, at central locations—it might be necessary for it to be observed by researchers to see whether shortcomings in the new system applied. Do you think there would be any objection from people trying to cast a secret ballot to researchers watching to see if the new system was effective and what problems people with handicaps might experience?

Mr Reimer—On a personal level, from a short-term benefit basis, I would say that that would be okay. The knowledge that having somebody observe what they are doing is going to assist

down the track will be fine. The problem at the moment is, 'I have somebody observing what I am doing for no reason other than I need the help.'

Senator MURRAY—Thank you very much.

Senator FORSHAW—I apologise for being late. I have not heard all of the evidence but I have read the submissions. In terms of this technology, Senator Murray asked you about the number of computers that would be required using the number of electoral offices or divisional offices and so on. I am computer illiterate, I have to admit, in many respects. I assume that you can use laptop technology to provide the sort of service that would be of assistance here. Is that correct?

Mr Reimer—Yes, I would imagine you would be able to do anything that you could do with a PC or you could do with a mainframe.

Senator FORSHAW—If you put a laptop computer into every polling booth in the country, that would be an enormous number of laptops. I am looking at how it would be feasible. With laptops it might involve more expense, in some respects, but fewer logistical problems.

Mr Reimer—We are probably heading down this road anyway and this argument we are having today is one that is perhaps looking at the next couple of years; but the technology and infrastructure and all those sorts of things are going to make this sort of concept second nature within—pick a number of years.

Senator FORSHAW—I do not spend a lot of time inside a polling booth, I spend a lot of time standing outside one, handing out how to vote cards. One of the fascinating things about this process is that it is an antiquated system of hand counting of ballot papers, which is understandable on the night, then check counts and so on, and the distribution of preferences; whereas if you go to the central polling place for the counting of the Senate vote, which invariably is in the capital city, at least certainly in Sydney it is an extremely automated, high-tech process where the ballot papers are effectively computer scanned.

That has been driven by the sheer size of the ballot papers and the nature of having to count Senate seats. It has struck me as a little bit odd. We have been able to use technology to speed up the process for the Senate count, particularly when they can declare a result. Hopefully we will get some movement for the House of Representatives as well, particularly to address the issues that you have raised, not overall counting the result.

CHAIR—Thank you very much. I do not think there are any further questions but we obviously have more witnesses on this topic throughout the day. What we will also be doing is hearing in our Canberra hearings from the ACT electoral people because they have certainly been at the forefront of trying to combine some upgraded services with some modern IT. We will be doing that in a couple of weeks. On behalf of the committee, thank you for appearing. If there is anything, in coming days, you would like to add to what you said, feel free to send it in to the secretary.

Mr Reimer—Thank you.

[9.55 am]

STARKEY, Mr Tony Frank, Access Project Officer, Royal Society for the Blind of South Australia

CHAIR—Thank you and welcome. The committee has received your organisation's submission, which is No. 101, and it has been authorised for publication. Is there anything you would like to correct or amend?

Mr Starkey—No, that is fine.

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

Mr Starkey—Just basically that I do not believe there is only one solution to the problems that we have mentioned. There is a high number of the ageing population now with a vision impairment. One solution, unfortunately, is not going to fix it for everybody, so more accessible solutions all the way through the process would assist a lot better than just one fix for people with peak disability or sight/vision loss in the future.

CHAIR—Thank you. I know you were here for some of the evidence of the previous witness. Were you here for the beginning of it?

Mr Starkey—Yes, I was.

CHAIR—So you heard Mr Melham outline a possibility with respect to a pre-polling capacity throughout an election?

Mr Starkey—That is correct. The only issues I could see there would particularly be access: how do people get to these locations? As you would be aware, transport and access over distance and so forth is a huge problem for people who do not drive. As most of the people would be ageing, I would see some transport logistic issues on how to access that.

CHAIR—Would you agree that it would be an improvement? Also, what would be being offered is not just an opportunity to vote on election day but essentially to have as many election days as there are pre-poll days, so you multiply the opportunity.

Mr Starkey—I see that as a solution towards the problem, just bearing in mind that it will not suit all people.

CHAIR—I might just ask you to flesh out—you said in your opening statement there was not a single solution to this, which we all agree with. We have fleshed out one Mr Melham has outlined some of this morning. What are some of the other things you think we should be looking at?

Mr Starkey—As we mentioned in our submission, there are quite a number of issues. Access to the physical sites: although they are what you might call temporary polling places, they are

places that could be chosen better if they were more accessible for those in wheelchairs, if there were a simple way of getting into the place as far as public transport and so forth; and then, once you are in there, it is a matter of having some contrasting furniture and polling information so that people can access a bit more independently. Sometimes you walk into a room and there are grey carpet, grey walls, grey desks and grey dividers, which tend to merge the colour. It gives you no navigational hints and so forth to move from A to B; simple things like that. The other area of course is the paper, the colour of the ink and the size of the fonts on the paper. Most of the ballot papers for the House of Representatives, for instance, could be a bit larger. The Senate I think would give some challenges, but by avoiding certain colours of ink and tones of paper, you could increase the visibility and assist people to do the paper more independently.

CHAIR—Do you have any knowledge, just from your expertise in the area, of who does this well overseas? Is there any particular feature of any particular democracy we should be looking at?

Mr Starkey—No. I have never participated in observing any physical elections. I have noticed over the internet and the email list, I think Ireland was trialling some accessible voting. I believe that the American elections try to do an email type service with their defence forces, which I believe they gave up on. I have not yet seen any examples of how it is done well.

CHAIR—That is obviously something we should follow up. We thought we would just ask that. Are there any questions from Senator Murray?

Senator MURRAY—Yes. It occurs to me, Mr Starkey, that for the AEC to educate this category of voters as to new facilities, it would be best done through societies which already have them on a database and already have means of reaching them, but there may be practical difficulties with that. One is that we do not have fixed terms, so no-one knows when the election date is. Another is, I assume, that your means of reaching people would be occasional rather than daily. Can you just tell us how you communicate with this group and how the AEC could use your facilities or whether they would need to pay you for it or what?

Mr Starkey—At the moment we have participated in distributing information to our clients on behalf of the Electoral Commission. As we stated in our submission, we have participated by trialling some electronic magnifiers in some of the venues for the state election, although that was not highly used. It is a very hard thing to try and change people's habits and also inform them of where this equipment is on a regular basis because four years between elections, on average, is quite a long time to remember that, particularly in the aged market.

We are very happy to distribute information on behalf of our clients. As I said, we usually talk to our clients through newsletters and mail-outs four or five times a year. So if we have plenty of notice, we are able to disperse information. With the previous speaker from radio 5RPH there are those access forums to try to get to the market as well.

Senator MURRAY—So my assumption that the AEC would need to start communicating in this way to reach this cohort long before an election—that would be right, wouldn't it?

Mr Starkey—Yes, and I think also a possible culture change, so that more options may be given particularly when people front up at polling booths and have some difficulty, that maybe

there is some information where next time they can do it in a different manner, they can do different arrangements. For instance, if you had pre-polling days expanded, you might be able to give information that next time they should consider contacting their office when the election is called to find out how they can move forward. As I said, transport and so forth are always issues. Of course, the secret ballot is the prime concern for a lot of our clients.

Senator MURRAY—Mr Starkey, the submission says:

The Royal Society for the Blind of South Australia provides a full range of rehabilitation services to over 9,800 people.

Are there more people than that in South Australia with blindness or vision impairment?

Mr Starkey—The numbers that we currently see are those who have been referred by ophthalmologists or health professionals. Bear in mind that the people that we see are at the low end of the vision availability market, so when they come to us they tend to have a significant issue; but there would be quite a large number in the aged community who have vision impairment or suffer from low vision.

Senator MURRAY—I have been quite startled by the numbers. Just working on my memory of the numbers of South Australian voters, this quoted number alone plus those you indicate are not on your books, would reach at least one per cent of the voting population if all of them were voters, so it is a high number.

Mr Starkey—Yes, we believe it is quite a high number. There are issues where they reckon that grey vision or sight difficulties could be up to three per cent or four per cent of the population—of some form.

Senator MURRAY—On another tack, there is also the question of the political community getting the message across to this cohort and the difficulties of them developing the expertise to do that; plainly easier for major parties than minor, but even so I doubt that major parties are expert in it. Are organisations such as yourselves uncomfortable with carrying messages or political information concerning elections from political parties, if that is the only way they can reach this cohort?

Mr Starkey—We provide a transcription service through our organisation. There are others that do it also. It is also a matter of thinking about the information that you send out in the first place. Just changing the font size from a 10 to a 12 or 14 would assist a large majority of the population to start with; also using matt paper, not confusing colours and so forth, on the print side would help a long way. The other way is, as we move towards an online community, that web sites are more accessible to screen reader information. They are more intuitive to the average person to use, so you do not have to go hunting so much for information and making it accessible that way.

Senator MURRAY—Thank you, Mr Starkey.

Mr MELHAM—Mr Starkey, in your submission you mention the 2002 state election:

The Royal Society for the Blind assisted the South Australian Electoral Commission by supplying a number of closed-circuit TV magnifiers which were strategically placed in areas where the majority of our clients resided.

Can you explain to the committee what that involved?

Mr Starkey—When we were talking to the Electoral Commission to try and improve the voting process for our clients, we came up with the idea that we would use some of these closed-circuit TV magnifiers, which are like a camera which will magnify up to about 60 times. They are worth about \$3,000 each. We placed six of those from our offices into six electoral offices for pre-polling and on the day. The way we came up with the numbers was that we did a run through our client database to see where the highest majority of our clients were in certain areas and we placed them there. The Electoral Commission then placed in their voting information a symbol to indicate that there was a magnifier available at these sites and that people would be able to use them.

Mr MELHAM—What was the take-up rate at that election?

Mr Starkey—We believe that it was not very high. As I said before, because the culture of our people is not to go looking for that sort of information, they probably had already made arrangements to have a friend, or use the polling officer, to make their vote. Also, a lot of these people do not use this equipment themselves at home because it is so expensive. So even having the facility there, they may or may not have been able to use it straight off anyway.

Mr MELHAM—Are there any other cheaper alternatives, like plastic page magnifiers, that the Electoral Commission might be able to utilise on election day?

Mr Starkey—There are sheet magnifiers and so forth but most of those are very small power. We find that two or three times magnification does not assist greatly the clients that we have. Most of our magnifiers would be six or 15 times and upwards. Most optical magnifiers can only go up to about a power of plus 15, then the electronic ones go from 15 to 60. It is not just a matter of sliding something under a sheet to magnify it.

Mr MELHAM—I understand there may well be some privacy considerations, but would there be resistance with your clientele in terms of self-identification or identifying themselves to the Electoral Commission in terms of requiring assistance in this regard? I am trying to see if there is a practical way we can assist without crossing the boundaries.

Mr Starkey—That is right. It is quite a delicate area. A lot of people, particularly as they go through the process of losing their vision, are very sensitive to being identified as having a visual problem.

Mr MELHAM—Do you think there would be resistance among the constituency if there was an attempt to identify, to have them register as requiring—

Mr Starkey—Yes, I think to register is an issue for some people. I feel that, as they lose more of their vision and have to use a white cane or ask for more assistance, they become more comfortable with their vision loss.

Mr MELHAM—You heard one of the suggestions that we might be able to have this operating at pre-poll and in the electoral office on the day in question. Would your organisations be able to assist the commission in terms of providing information to the constituency about the availability?

Mr Starkey—Yes, we are quite happy to disperse any information. There is no charge for that, just cost recovery. We would be quite happy to, on your behalf, post information out.

CHAIR—If that were to be the case and we were to make a recommendation and it were to be accepted, you would be able to do it quite some time in advance of the election?

Mr Starkey—Yes. It would not take very long to do that sort of thing.

CHAIR—So people are well aware that they would have this additional opportunity.

Mr Starkey—Yes. Usually, once the election is called, it is in people's minds.

Mr MELHAM—If it is not able to be utilised across Australia, would the organisation be able to participate in a pilot program? It may well be that in the first instance the commission might want to trial this in a number of places around Australia.

Mr Starkey—Yes, we would be happy to go in that.

Mr MELHAM—Would you, the organisation, be able to recommend appropriate places for a trial to take place?

Mr Starkey—Yes, we could do that, based on our numbers in South Australia, and also point you to organisations in other states that could do the same.

Mr MELHAM—If there were a trial, you would be looking for a trial in each state?

Mr Starkey—Yes.

Senator MASON—Just to pick up where Mr Melham left off, and looking at the scale of the challenge, I note in the first paragraph of your submission you say:

The Royal Society for the Blind of South Australia is the primary provider of services to South Australians who are blind or vision impaired, providing a full range of rehabilitation services to over 9,800 people. Of these, 80 per cent are aged over 65 years old.

Mr Starkey—That is right.

Senator MASON—You mention 9,800 people. Is that an accurate reflection of the full scale of people who find it difficult to vote independently on election day because of vision impairment? Or are there many more people than 9,800? What is the scale of the challenge?

Mr Starkey—I believe the 9,800 would require assistance. They would not be able to do it independently at this stage, so there are 10,000 that do need assistance. As I pointed out before, in the aged community there is a lot of vision loss that is not corrected with spectacles, either by choice or by knowledge other than assuming that these people are getting old; but there is probably quite a larger number. There are lots of figures put out by ABS and so forth in the 200,00 or 300,000 mark.

Senator MASON—In Australia or South Australia?

Mr Starkey—South Australia.

Senator MASON—200,000 or 300,000?

Mr Starkey—Would have some difficulty, yes.

Senator MASON—So it is much larger than the 10,000 people you are directly concerned with?

Mr Starkey—It is, yes.

Senator MASON—Given we are talking about 200,000 or 300,000 people, are you aware of many people who are reluctant to exercise their democratic right because of vision impairment?

Mr Starkey—You mean, to not vote at all?

Senator MASON—Yes, not to vote at all.

Mr Starkey—No, I do not know of anyone who does not wish to vote at all. I know a large number of people who take advantage of postal voting and quite a number of my friends also use their spouse or the polling officer. There are some people who have difficulty who believe that it is one of their rights that has been diminished by their vision loss. They are quite concerned about that.

Senator MASON—Just to summarise, what we have heard in Melbourne yesterday and in Adelaide today is that in most cases people who are visually impaired are coping with one mechanism or another. They are using postal voting or, as you say, a spouse or a polling official at the polling station. Most people are not refusing to vote or are not being discouraged. But the argument really is that to vote privately and to independently verify their vote, the government needs to do something to assist people who are visually impaired to vote.

Mr Starkey—That is right. As I said at the beginning, there is not one solution that is going to fit all categories.

Senator MASON—Thank you very much.

CHAIR—Thank you for your evidence. That was most worth while for the committee. As you can see, we are very much minded to make some recommendations on this subject. We will

be hearing some further witnesses throughout the day, indeed throughout the coming week or so; but thank you very much for putting in a submission and for agreeing to come along today.

Mr Starkey—Thank you.

Resolved (on motion by **Chair**, seconded by **Senator Murray**):

That the subcommittee, for the purpose of hearing evidence in the inquiry into the conduct of the 2004 federal election for the hearing in Perth on Wednesday, 3 August 2005, comprise the Chair, the Deputy Chair, Mr Danby, Senator Mason and Senator Murray.

Proceedings suspended from 10.16 am to 10.32 am

PHILLIPS, Dr David Michael, National President, Festival of Light Australia

PHILLIPS, Mrs Roslyn Helen, Research Officer, Festival of Light Australia

D'LIMA, Mr David Terence, Field Officer, Festival of Light Australia

CHAIR—I would like to welcome Dr David Phillips, Mrs Roslyn Phillips and Mr David D'Lima from the Festival of Light Australia to today's hearing. The committee has received your submission. It is No. 125 and has been authorised for publication. Is there anything you would like to correct or amend in any way about the submission?

Dr Phillips—No.

CHAIR—I invite you, Dr Phillips, to make an opening statement outlining the key issues in your submission before we move to some questions.

Dr Phillips—There are a number of key issues. There are several aspects in relation to the integrity of the electoral roll. We would like to see the roll closed promptly—immediately the election is called—because when there is a gap of a week it produces a huge number of changes and it is not possible for the Electoral Commission to give adequate scrutiny to those changes when they are happening on the fly.

There is the question of false enrolment. We believe there should be identity checks which are as rigorous as those used to open a bank account. People are very familiar with opening a bank account and there should be no lesser scrutiny of people going on the electoral roll. Likewise, there should be adequate checks on the capacity to fraudulently alter another person's details, to make sure that it is a true correction to the roll.

In relation to the integrity of the system, we mention registration of parties and we support retention of the current requirement of 500 signatures required to register a political party. On the registration of candidates, we would like to see the arrangements tightened. The deposit for an individual candidate should be increased to \$500 and the deposit for a Senate candidate should be increased to \$1,000. Particularly, we believe that an individual who wishes to stand should be endorsed by 200 signatures of electors. We do not think that taxpayer funding of elections is appropriate and we would like to see an end to that practice.

We support the retention of compulsory voting and the system of preferential voting for both houses. The major change that we want to see is in the Senate voting. The whole system of ticket voting, we believe, is wide open to corruption, and this is the most important change that we want to recommend—the '1 in a box above the line' with tickets negotiated between the parties, with deals being done and the opportunity to create stooge parties to try and fool voters into voting for something different.

For example, if a political party wants to change the flag—as a hypothetical illustration—they run a stooge party on 'save the flag' and get people who would vote against them to vote for them and then their ticket can be used to direct preferences to their own party. It is really fooling

the voters into garnering votes. The voters, if they knew what was happening, would not vote for them. The knowledge of the tickets is not readily available. Certainly in the last federal election the tickets were not displayed publicly on the walls, as they had been in the previous election, so the voters were kept in the dark as to how the flow of preferences would work in the tickets. The whole system is fraught with corruption, which is the biggest flaw in our current system. We would like to see voters given the choice of voting for every group above the line or every candidate below the line, with it being compulsory to complete all squares above the line or all squares below the line. That is the strongest recommendation we wish to make.

In relation to the integrity of the voting process, we believe that there needs to be consideration given to ensuring that voter identity is correct. At the present time, it is theoretically possible for people to vote multiple times. The incidence of this, we are assured by the Electoral Commission, is minimal—and usually accidental—but it is possible. We are suggesting that that possibility could be removed, either by introducing identity checks at the point of voting or restricting voting to a single polling place. Each voter would be assigned a polling place and not have a choice of multiple polling places. That would provide some check. It would mean that one voter could only vote in one place.

CHAIR—At their local place.

Dr Phillips—Yes, at the one closest to them or something like that.

Mr MELHAM—You want to go back to the old subdivision—

Dr Phillips—That is the concept, yes.

Mr MELHAM—You are aware that approximately 80 per cent of voters vote at their nearest polling place in any event?

Dr Phillips—Yes, so it is not going to be a big burden to restrict it to their local polling place.

Mr MELHAM—I was wondering whether that argument applies the other way; whether we really need to—

CHAIR—We might come to that evidence in a tick, because I was going to suggest a way of going through this very detailed submission.

Dr Phillips—That is enough of an introductory remark.

CHAIR—Thank you very much. You have a very detailed submission, which we thank you for. We will not necessarily cover every aspect, although that is open for members to question. With respect to your submission on compulsory voting, we have had a number of submissions either way. We will probably take that as read. There are various views on this committee, but we do not want to take up too much time necessarily on that issue. People tend to have very firm views one way or the other that are not open to change. As far as this committee is concerned, there will not be any prospect of that changing prior to the next election in any event, so it is a bit hypothetical.

What I suggest is that we perhaps focus on three areas that are of vital interest to us. One is the public funding argument you have put forward. Then there is the umbrella of issues relating to integrity and then there are your recommendations with regard to the Senate. I suggest that we start with Senator Murray on the funding aspect. I know that Ms Panopoulos has some questions on the integrity aspect, as I predict Mr Melham has, and then we will move to the Senate.

Senator MURRAY—Dr Phillips, your submission concerning public funding reflects concerns that many people have about the present system. Some people believe that you should cut out private funding altogether so that there is no potential corruption of parties by donors. Others believe that you should make parties totally dependent on private donors, which is your submission.

In our system the great bulk of donations is by entities, not individuals—unions, corporations and not-for-profit organisations such as foundations, trusts and so on. Minor parties find it difficult to raise funds from entities. They do not struggle as much with individuals. Don't you think that your recommendation would have the effect of reinforcing the dominance of the major parties in our political system?

Dr Phillips—Our view is that a party which has a genuine base of support within the Australian public will be able to turn that into financial support, so that the mechanisms of private support give effect to that.

Senator MURRAY—But have you done the research to justify that opinion? I will give you the example of my own political party, the Australian Democrats. Its highest vote in nearly 30 years of electioneering in the federal elections was 11.6 per cent in the House of Representatives and its lowest vote was around about two to three per cent. Even at two to three per cent, you are looking at very significant numbers of voters. But the actual party membership has never been more than several thousand, even at its peak.

Party membership and financial support coming from those members does not, of itself, provide the funding for a modern political party to operate. Despite the best efforts of people over time, it has been difficult to get the same amount of private donations that is commensurate with public support. At 11.6 per cent of the House of Representatives votes, the Democrats did not get 11.6 per cent of the moneys available from unions, corporations or not-for-profit organisations.

The reality is that it is not possible to do what you suggest, and the effect of your recommendation may be to make it even harder for minor parties to compete. Would it worry you if that was the effect?

Dr Phillips—Festival of Light Australia is a not-for-profit organisation which relies on voluntary donations and subscriptions from ordinary members of the public. We know from our own personal experience that it is difficult to raise funds. We identify with what you are saying because we experience the same thing ourselves. However, our stance is really based on a question of principle. We think that a political party should be able, if it is a significant player in the Australian landscape and represents a significant support base, to appeal to individuals and groups who recognise the value of the stand that that political party has. So it is really a theoretical principled position.

Senator MURRAY—It may have very strong outcomes. Let us move from a minor party perspective to a major party perspective.

Dr Phillips—Can I just make one comment: that we would like to espouse a level playing field to allow minor parties an equal chance with major parties. We do not want to put any impediments in the way of minor parties that are not in the way of major parties. Our attempt is to have a fair system.

Senator MURRAY—Let us now look at it from the major party perspective. There are leading thinkers in the major parties that would like to see private donations restrained and reduced on two fundamental grounds. The first is that elections are becoming very expensive, even for the most well-heeled person or party. The second is the greater the level of private donations, whether from unions or corporations or not-for-profit organisations, the higher the risk of undue influence or, at its worst, corruption. I make no allegation of corruption, but that is the theory.

Therefore, the view is that either banning donations from those sources or capping them to limit the totality is a good way to go but that would require public funding to balance the necessary expenditure for the modern practice of politics. Politics is a very expensive business. Can you not see that if you take away public funding from the major parties you are then open to more dangers of being excessively dependent on unions or corporations or not-for-profit organisations?

Dr Phillips—I am not fully briefed on the current state of play but I believe there are disclosure requirements for private funding to political parties and that is an endeavour to offset any undue influence. If the donors are known or there is some sort of an audit trail, that does provide a sort of public accountability which undermines the private deals and understandings that might go on behind the scenes. Giving due availability to audit donations is a check against that.

Senator MURRAY—Provided the system is as transparent as possible. If you strongly support the private funding of political parties, do you oppose or support funds coming in from foreign entities to political parties?

Dr Phillips—Can you define foreign entities? Do you mean people overseas?

Senator MURRAY—No, I have used the word ‘entities’ deliberately because I, and I would hope you, have no objection to Australian citizens overseas donating in their individual capacity. I can see nothing wrong with that. But a foundation or a corporation overseas—

Mrs Phillips—Like News Corporation?

Senator MURRAY—Or like foundations. Overseas foundations do give money to political parties in this country and there is absolutely no way you can trace who lies behind those foundations and who actually gave the money for the political purposes granted.

Dr Phillips—It may be irrelevant, but are the foundations you are talking about Australian foundations?

Senator MURRAY—No, they are not.

Dr Phillips—I think it is a question that we have not considered.

Mrs Phillips—No, we have not.

Dr Phillips—My inclination would be to favour Australian foundations with the same mechanism. Funding through foundations is not traceable beyond the foundation, is it?

Senator MURRAY—Perhaps if you gave it some further thought you could write to us about it if you wish to.

CHAIR—We will now move on to the aspects of your submission relating to integrity and we will hear some questions first of all from Ms Panopoulos, then from Mr Melham. Then we will move on to the senators who have any questions on that subject and specific submission recommendations with respect to Senate voting.

Ms PANOPOULOS—I am particularly interested in your comments regarding the integrity of the voting process. You give a particular example of A and B going to vote, B then seeing A has voted and going on to subsequent other polling booths. You have the personal identification requirements there as a recommendation. Don't you think that is enough in terms of verifying who someone is when they go to vote? Perhaps the requirement to vote at a particular polling booth may be a little excessive?

Dr Phillips—We have been unable to obtain full figures on the 2004 federal election because they have not been tabled in parliament, as to examples of multiple voting around Australia. I believe they are still in the process of being analysed. At the present time we are concerned that anyone can masquerade as someone else and vote in 62 polling booths or whatever. That is an opportunity waiting to be exploited. We are not sure that there is evidence of serious exploitation at the present time but the notion of voting integrity is that it should simply not be possible to exploit the voting system.

Ms PANOPOULOS—I agree with those sentiments. It is a fundamental concept of our democracy and something that people have faith in. A lot of people do not realise that this scenario could manifest itself. My question is sharing your concerns about that. If we do have adequate identification that it is prescribed that a voter needs to present, do we need to go down that restrictive path of having voters go to only a particular polling booth?

Dr Phillips—Really there are two alternative approaches to this. We are suggesting one or other. One is the tight integrity checks when you arrive at the polling booth to collect your ballot papers. In a different area, we are opposed to the Australia Card, or the ID card. We do not believe that is helpful in a democratic system. It is possible to establish personal identity in a variety of other ways. It is routinely done at airports. To travel by plane with electronic ticketing, everyone has to be able to identify themselves. A driver's licence or a rates notice or a whole lot of things can provide sufficient identity. That is one solution.

The other solution is to say, 'Well, if we are not going to implement identity checks when you collect your ballot paper, then the alternative approach is to restrict you to one polling place,'

which means you could still perpetuate fraud but it would be restricted to a single vote. If you turned up to vote at a single place and you found that you allegedly had already voted, then the voter would be aware that there is a fraudulent process. It is not 100 per cent foolproof but it would prevent false voting at every one of 62 polling places. They are really two alternative approaches.

Ms PANOPOULOS—When you discussed, earlier in your submission, adequate proof of identity, you referred to proof of identity and proof of residence as the requirement for someone to get onto the roll. Having those two forms of identity, would your recommendation be that we have those two specific forms: one of the actual identity and one of the actual residence?

Dr Phillips—As far as the electoral roll is concerned, yes, we believe both must be required.

Ms PANOPOULOS—You have recommended that this sort of verification should be required when someone wants to be included on the roll. Can I put a scenario to you: if this committee included those recommendations for verification of someone who wants to go onto the roll and if the government accepted that recommendation, and if legislation were then drafted and debated for such provisions and there was no retrospectivity in the legislation, we would have a situation where perhaps there are several months, following public knowledge of the changed requirements for identification of voters, where there would be an opportunity for people to stock up on fake enrolments. Do you follow me?

Dr Phillips—I am struggling.

Ms PANOPOULOS—There are probably false enrolments now on the roll. There is potential for further false enrolments should the government decide to continue to pursue legislation to provide for identity at the point of voting and at the point of actually getting on the roll. There could be a time lag and that could provide incentive, for those who would wish to abuse the current lax system, to get some additional falsely enrolled people on the roll. In the interests of cleansing the roll of fraud, would you support a re-enrolment of everyone currently on the roll with those additional requirements of identification?

Dr Phillips—We have not considered that.

Mrs Phillips—Don't they check regularly anyway? Don't you have inspectors calling on your home to check who is there and whether you are on the roll? Couldn't that identity check be done at that time?

Mr D'Lima—There could in the interim be a stricter approach. The investigation officers coming out to visit homes could be increased in that interim period to ensure against the opportunism that you are foreshadowing. But that is the price that we pay: any change provides opportunities for the unscrupulous. That would be the price we would pay for the reform.

Ms PANOPOULOS—I noted earlier Mr Melham's comments that 80 per cent of people vote at their nearest polling booth anyway. Am I making a big assumption about your concern that, even if 20 per cent vote elsewhere, that is a significant number of people in the sorts of elections we have in Australia that have reasonably close results?

Dr Phillips—Yes. There are a significant number of elections that are won or lost on a few per cent and that is not a huge number of votes. If you have either false enrolments or false voting, a number of those elections could go a different way. Your question is really an implementation issue. If tighter electoral roll provisions were brought in, then there would be a period of time to allow the system to catch up with that. I am not sure what is the best solution. To require every Australian to re-enrol might create a huge workload. You could be confident that the resulting electoral roll then conformed to the tighter integrity checks, but it would create a huge workload, I imagine, for the Electoral Commission.

Ms PANOPOULOS—Perhaps we could deal with that by requiring people to provide that identification at the actual place of voting during an election.

Dr Phillips—No, it needs to be done—

Ms PANOPOULOS—For people currently on the roll.

Dr Phillips—The electoral roll needs to be tidied up between elections, not in the middle of voting. That would be counterproductive. I suspect that with a combination of publicity, random checks, house visits and so on, it may be possible, if there is any fraud, to tighten the integrity of this system without necessarily requiring re-enrolment for everybody.

Ms PANOPOULOS—Of course you said ‘if there is any fraud’. There have been several spectacular examples in our history of that occurring but we do not have a comprehensive list of what may or may not have been identified as fraud.

Dr Phillips—There have been some extraordinary examples of fraud in the past, and it is difficult to know what examples are currently in the system, but we cannot afford to relax. We need to put in a system which has built-in integrity and which makes it very difficult for fraud to occur.

Ms PANOPOULOS—What would you say to those who oppose any form of identification in the enrolment or in the voting process?

Dr Phillips—I would say that voting is a privilege and a privilege comes with certain requirements. I would say, therefore, that it is a condition of taking part in our democratic system that you do provide confirmation.

Mrs Phillips—Just as driving on the roads is a privilege and you need a driver’s licence.

Ms PANOPOULOS—At a minimum, even the sort of identification required to take out a membership at the local video store perhaps.

Dr Phillips—Yes.

Mrs Phillips—Exactly.

Mr MELHAM—Can I just lay down a few markers initially so you understand where I am coming from. I first got elected to the parliament in 1990 and for most of the 15½ years in this

place I have been on the electoral matters committee, apart from a short period post the 1998 election.

I first joined the Labor Party in 1974, which was my first federal election, and I have been involved in every federal, state, local government and numerous by-elections since. Electoral reform is something I have a deal of interest in. I have heard a lot of arguments over the years—well intentioned—a lot of misconceptions.

What I am concerned about is not going back and repeating the mistakes of the past, which will lead to disenfranchisement of many electors. I can remember the old days when we had subdivisions within divisions, and if there was a transfer within the division and you were not within the same subdivision your vote was lost. What worries me about forcing people to vote at a particular polling place—and I understand where you are coming from—is that it could lead to queuing and to disenfranchisement when there is no demonstrable evidence that fraud is actually taking place at the scale that is feared that might influence results.

Also understand that I have no problem with penal provisions. Even though I am a former public defender and Legal Aid solicitor, I have a view that penal provisions should apply for fraud, for falsely enrolling and a whole series of other matters in the Electoral Act. That is where you can get some integrity in the system, not just financial provisions but penal provisions. Isn't that a more appropriate way to go, as against disenfranchisement? For every action, there is a reaction. You say, for instance, 'Let's close the roll the day an election is called,' and I understand the basis for that and there is division between the political parties. The last time that happened, in 1983, an estimated 80,000 people were disenfranchised. There is a supplementary submission from the Electoral Commission—I think it is table 6, and I do not know whether you have that—that says:

From the close of roll, new enrolments by a state and territories 2004 election 78,816.

I understand that under your proposal and the government's proposal you would have an enrolment campaign before an election is called. That could pick up a number of those people, but still I would suggest—

Dr Phillips—Whenever you set a deadline you always get people doing things just before the deadline.

Mr MELHAM—I understand that, and the public are creatures of habit. Table 7 shows us that there were 345,177 transactions by age in that period as well, so people were changing addresses or whatever. That is an awful lot of transactions. I understand what your fear is, but what I am wondering is: isn't your solution creating a bigger problem for us than the perceived problem currently—

Dr Phillips—I do not think so. In the recent British election, the electoral rolls closed seven weeks before the date that Blair called the election.

Mr MELHAM—What is your argument then for closing them? Is it perceived fraud?

Dr Phillips—Yes, because if in the week between the issue of writs and the close of roll there is a huge surge in changes, enrolments and that sort of thing—

Mr MELHAM—I accept that, and the figures are there.

Dr Phillips—It is really beyond the capacity of the Electoral Commission to deal with so many changes, enrolments and so on.

Senator FORSHAW—To verify it.

Dr Phillips—To verify it, yes. It is just saying, ‘If you want to commit fraud, do it in that week because there is no way of checking it.’ If you close on the day on the writs, you eliminate that possibility of fraud.

Mr MELHAM—Yes, but if the change goes through we will get figures on this post the next election. One of the reasons the act was changed post 1983 was the consequence of that occurring in the 1983 election, when many people were disenfranchised. I understand your assertion. I suppose my conservatism arises out of the unanimous decision of the High Court in *Snowdon v Dondas*. It pointed out to us, as politicians, that firstly if you are a Territorian there is no constitutional right to vote but now, even as an original state, it is overcome by the Electoral Act. You get your entitlements out of the Electoral Act. What I am about is enfranchising people, not disenfranchising them. They no longer have a constitutional right to vote; it is defined in the Electoral Act.

What I am worried about is that if we proceed down your path, for all its good intentions, people who are not fraudulent—people who might be a bit lazy—are going to be disenfranchised. At the moment what we do not have is demonstrated cases or proven cases of fraud in that period that you say fraud could occur. If you were able to come to me and to the committee and demonstrate case after case where fraud took place and elections would have been different if a different system had been used, I would take you more—

Mrs Phillips—The evidence is not in yet. We have heard anecdotally that—

Mr MELHAM—Mrs Phillips, that is what I am interested in. This has been on the table for six elections. I am still waiting for the evidence to justify a change.

Mrs Phillips—I am talking about the last election.

Mr MELHAM—But there have been previous elections. The system has been in place since the 1984 election. For every submitter that has submitted along your lines at every hearing I have been involved in, I am still waiting for the demonstrated evidence. That is all I am saying. Where is it?

Dr Phillips—Primarily, our argument is not dependent on evidence of fraud. We want to catch it earlier than that. We want to say that there should be a system which has integrity guarantees built into it. With banking, for example, if you went along to your local friendly bank and the bank manager said, ‘We’ve got no evidence of money being pilfered from people’s bank accounts, but we don’t have the integrity checks in place to prevent it,’ would you put your

money in that bank? The answer is no, you would not. You would want to go to a bank that said, 'We have integrity checks in place such that your money can't be accessed by people.'

Senator FORSHAW—Then we would get rid of computers and the internet because at the end of the day you cannot stop it.

Dr Phillips—The electoral enrolment system should have built-in integrity, where the Electoral Commission can say, 'These integrity provisions prevent fraud from occurring, to the best of our ability.'

Mr MELHAM—You are saying, 'Well, if people get disenfranchised, so be it. That is the price to pay to have integrity in the systems.' Is that what you are saying?

Dr Phillips—We are saying that voting is a privilege. We certainly want to enfranchise people, but if people, through their own laziness, neglect, stupidity or whatever, fail to enrol in time—in due process—then that is not a fault of the system.

Mr MELHAM—Some of us think that voting is a right, not a privilege, but that is another debate for another day.

Dr Phillips—Can I make another couple of comments?

Mr MELHAM—I do not want to cut you off.

Dr Phillips—The media swamp us. Before elections there is always a huge amount of media speculation, 'Is there going to be an election? Is there not?'

CHAIR—Your point is that it is not a state secret that the election is coming.

Dr Phillips—No. You can hardly read any decent news in the papers because they are so full of that sort of stuff.

Mr MELHAM—My point is that since the 1984 election the commission has been able to provide us with figures—and they have provided us with figures again—that show that the seven-day grace period has been taken advantage of by a lot of younger people, in particular. The figures show that age 25 is when it starts to kick in and about 95 per cent of eligible voters vote. I do not see it as a disadvantage to the conservatives, given that they have won the last four elections. It is not a political advantage.

I do take fraud seriously. I am just saying that it has been a perennial argument and I am still waiting. In terms of this election, you are right, we are still waiting. I have not seen any evidence from the earlier elections, and they are long gone.

Mrs Phillips—But how are you going to get the evidence unless somebody goes door to door with the electoral roll and personally checks them out? I have been told that that has been done in one electorate.

Mr MELHAM—I am of the view that he who asserts bears the onus. If you say to us, ‘Change the system, it is going to have significant electoral consequences,’ I say to you, ‘You bear the onus of producing the evidence, not merely asserting.’ Let me give you another example. When I was not on the committee the Langer style of voting was a big issue, and the law was changed for the 1998 election. The Langer style of voting is—

Mrs Phillips—Where you put 2, 2, 2, 2.

Mr MELHAM—1, 2, 2, 2, 2, 2. It was against the law to advertise that, but there was also a savings provision. As a result of that legislative change, our informal votes have gone up. It was estimated that in the 1996 election the Langer style of voting produced 48,979 votes of that type—1, 2, 2, 2, 2, 2—but as a result of that legislative change, sadly, the savings provision was also repealed and so non-sequential voting became informal as well and we have a situation where eight times as many Langer votes are now excluded. Do you see the point that I am trying to make to you? Your proposal does not come without a cost.

Dr Phillips—People should be responsible for voting in accordance with the law. If they fail to do that, it is not a result of the system, it is a result of people voting improperly.

Mr MELHAM—Two quick questions to do with deposits. I do not disagree with your submission that deposits should be raised. The one thing that I was worried about in your submission—which is not to say that I am not worried about other aspects of your submission—is that you say each elector should be able to endorse only one candidate for the House of Representatives and one candidate for the Senate in accordance with the capacity of a person to vote, and that is talking about people signing their nominations. My only problem with the Senate is that I would find that too restrictive, given that in a half-Senate election you are electing six senators for the state. Don’t you think there should be different provisions for the Senate? If you are running, for instance, six candidates to a ticket, surely you should be able to sign the nomination form of more than one candidate for the Senate. Shouldn’t it be that basically you are able to sign up to the number of candidates elected? In other words, if it is the House of Representatives, yes, you can only sign one nomination form, but for the Senate surely—

CHAIR—Where there is a multiple election taking place, yes.

Mr MELHAM—I just wanted to raise that issue with you.

Dr Phillips—Our view is that if a party is a significant party and has a significant support base, it should not be too hard to collect 200 signatures.

Mrs Phillips—It is not a problem.

Dr Phillips—We do not see that as a particularly difficult hurdle to overcome.

CHAIR—Thank you very much. I am just going to ask a couple of quick questions in the interests of giving other members and senators a chance to explore your submission in detail. I want to put a couple of alternative propositions to you to those of Mr Melham. To sum up your view on the capacity for electoral fraud, to those that say there is no evidence of it and therefore

we should do nothing, would it be fair to say that you would say that preventing electoral fraud before it occurs is far better than trying to rectify it after it has corrupted our democracy? Would that be a fair summary?

Dr Phillips—Absolutely, yes.

CHAIR—We have had lots of discussion on the seven-day grace period, but it is the law of the land that if you are entitled to vote you must be registered to vote—that is, Australian citizens over the age of 18. The law says, ‘You must be correctly enrolled at all times, unless you’re not,’ which is something of a contradiction. You would also be aware, I presume, that 17-year-olds can be provisionally enrolled from their 17th birthday so that the moment they turn 18 their enrolment becomes live, if you will.

Dr Phillips—Yes.

CHAIR—Given that, would you agree that if there was a change to that grace period and that was well communicated with the existing law, if people did not have their enrolment up to date or did not enrol in time, that would not be disenfranchisement, that would be a choice?

Mrs Phillips—Yes.

Dr Phillips—In our consultations with the Electoral Commission, we have been advised that they have been particularly proactive with young people in the 17 to 18 age range and have had a high success rate.

CHAIR—With all of the things that 17- and 18-year-olds do automatically, like getting P plates and drivers’ licences—there are a lot of things they are doing by their 18th birthday such as finishing school and, if they are in a trade, filling out tax returns—you would agree that the capacity for an enrolment form to be filed out is certainly out there and the Electoral Commission with some certainty would have the capacity to do a lot more.

Dr Phillips—We understand that the Electoral Commission works in closely with other agencies, where people are enrolling for a variety of different things that you have mentioned. Very often the same envelope, we are told, will have a voting form and a trade enrolment or a university enrolment or whatever, so that, as you say, when people turn 18 there are a whole lot of things they have to attend to. Getting on the electoral roll is just one of them. I believe there is a high success rate, so people are not being disenfranchised. They are actually being enfranchised and encouraged and the system is working.

CHAIR—Thank you. Senator Mason?

Senator MASON—Mr Chairman, thank you. I have some questions but I might yield, with your permission, to a very keen Senator Brandis.

Senator BRANDIS—I am not all that keen but I will ask my questions first, if you want.

CHAIR—We will go to Senator Brandis, then Senator Forshaw.

Senator BRANDIS—Dr Phillips, congratulations on your submission. May I say, unlike my colleague Mr Melham, I do not think the onus of proof in relation to integrity measures is on those propounding change. I think the onus of proof is on those superintending the legislation to ensure that the integrity measures are as complete as they well may be. I imagine you would agree with that.

Dr Phillips—Indeed.

Senator BRANDIS—Dr Phillips, I endorse what you say in paragraph 5.1 of your submission about voter identity. I do not want to delay the committee by rehearsing arguments which we have already heard. May I take you, though, to paragraph 4.3 in which you make some recommendations in relation to changing the system for above-the-line voting for the Senate. I understand the point you make. I think it is an interesting point, but it strikes me that it is susceptible to at least two criticisms, so let me be the devil's advocate, put those criticisms to you and give you the opportunity to respond.

First of all, it seems to me that the whole point of having the existing above-the-line option for Senate voting was to make Senate voting as simple as it could possibly be made to be and those who do not wish to take advantage of that simplicity, which is about four per cent, I think, on average of Senate electors, can go through the process exhaustively of voting below the line. It would be said against your proposal that it robs the Senate voting system of the principal policy driver for introducing above-the-line voting—that is, simplicity. What do you say to that?

Dr Phillips—We say that simplicity should not be the primary driver. It should be to ensure that the election result accurately reflects the will of the voting public or the electorate.

Senator BRANDIS—But surely you acknowledge, Dr Phillips, that to the extent to which the size of the ballot paper might be an inherent source of confusion, then that confusion, which is just human nature really, is itself something that might obscure the clarity of the elector's expressed wish.

Dr Phillips—There are two comments I wish to make in relation to that. First of all, I think we are privileged in Australia to have preferential voting in both houses and in the lower house—

Senator BRANDIS—Sorry to interrupt, but you do not propound optional preferential voting in your submission, do you?

Mrs Phillips—No, absolutely not.

Senator BRANDIS—You favour compulsory preferential voting.

Dr Phillips—Indeed, absolutely.

Senator BRANDIS—I just wanted to clarify that. Please go on.

Dr Phillips—In lower house elections people are generally voting using a ballot paper which represents one candidate from each of the major parties, so you always have four, five, six,

maybe a few independents, so people are entirely familiar with voting in the lower house numbering up to five, six or seven. They do that in the lower house, so that is not a problem for voters. They are used to that. If the parliament were to adopt our submission for voting above the line, it would make it no more difficult in the Senate to vote above the line, because the same parties that are in the lower house would also be represented as groups in the upper house.

Senator BRANDIS—That is not strictly right, is it, because generally speaking there are more parties and independents nominated for Senate elections than there are for the average House of Representatives seat. So it would be somewhat more, but not by a quantum leap.

Dr Phillips—No, that is right; not by a quantum leap. I think we are talking about roughly the same size. We are talking somewhere between half a dozen and a dozen. Voters have no problem with that in the lower house, and I do not see why they should have any problem with that for the Senate.

Senator BRANDIS—What do you do about independents who appear as ungrouped independents below the line? They would have to be included sequentially above the line, wouldn't they?

Dr Phillips—No. Our recommendation is that to be included above the line you have to be standing for a registered party. Therefore, you have to satisfy the conditions for a registered party. If you are not standing for a registered party, then the name would appear only below the line. So in voting above the line there would be no option to vote for those independents.

Senator BRANDIS—Then what do you say to the complaint, which I must say I thought was a reasonably fair complaint, that Ms Pauline Hanson made in Queensland last year that, because she was not standing for a registered political party but nevertheless had a credibly large political following, she was discriminated against because her name did not appear beside the box above the line?

Mrs Phillips—She could have dealt with that very promptly by arranging her affairs to be a registered party. She chose not to do that.

Dr Phillips—Absolutely. She announced her candidature, I think, on the last day before nominations closed.

Senator BRANDIS—She did.

Mrs Phillips—We shed no tears.

Dr Phillips—One of the reasons why I believe a larger number of parties contest Senate elections than House of Representatives elections, possibly, is that the current ticket voting system spawns what I would call stodge parties.

Senator BRANDIS—I wanted to explore that with you in a minute, but you go on.

Dr Phillips—That artificially inflates the size of the ballot paper, which we think is undesirable, apart from the fact that stodge parties are set up to confuse and manipulate voters

who do not realise what is going on behind the scenes. If the recommendation that we have made is adopted, then there would no longer be any motivation for stooge parties and the stooge parties would disappear from the political landscape, we believe.

Senator BRANDIS—You say stooge parties but, Dr Phillips, again this is the second argument that I think might be put against your proposal. Might it not be said—and can I interpolate to say that I, as well as Senator Mason, represent Queensland in the Senate, which is a very regional state, so the issue of manning polling booths in relatively far-flung places is a big issue in Queensland Senate elections—against your proposal that it not merely discriminates against stooge parties but that it discriminates against all minor parties, because one would only expect the large parties to have the wherewithal to man polling booths or otherwise get how to vote cards into the hands of their potential supporters. It does not inevitably follow, but it almost inevitably follows, from your proposal that because you have to fill out a preference order above the line or below the line you have no option to vote other than by filling out a preference order. The system would discriminate against the minor parties by favouring only the parties that can get the how to vote cards into the hands of the electors, and they are going to be the big parties.

Dr Phillips—Why wouldn't that argument apply for the lower house elections?

Senator BRANDIS—Because small parties, in the proportional representation system, tend more often to compete for the Senate.

Dr Phillips—They may not get elected to the Reps, but they often stand candidates.

Senator BRANDIS—Yes, but they sometimes do get elected to the Senate. Look at the Family First Party, for example, in Victoria.

Mrs Phillips—Family First generally manned all their polling booths. They had widespread grassroots support and they manned the polling booths. If any party has a hope, that is the grassroots support they need.

Senator BRANDIS—So you test it in the marketplace, do you? The answer to my question of how do you distinguish a bona fide minor party from a stooge minor party is whether they can man their polling booths?

Dr Phillips—Yes.

Mrs Phillips—That is one way. In fact, we have met stooge parties in state elections. They man their polling booths too by paying people to do so.

Senator BRANDIS—Not that that is against the law.

Mrs Phillips—No, it is not, but that is how they do it.

Senator BRANDIS—My first political activity in 1971, Mrs Phillips, at the 1971 half-Senate election was manning a polling booth for the DLP and I was paid 60 cents an hour by my local parish priest, so it is not against the law. I am just thinking to myself, Dr Phillips. Speaking of stooge parties, let me give you a purely hypothetical example; and I stress this is a hypothetical

example and I will choose names of parties that do not exist. Let us say you had a party called the Country Party and let us say that, in order to augment its Senate vote, the Country Party or one of its sitting senators would have set up a stooge party. Let us call it the Hunting Party.

Let us say somebody paid for the Hunting Party to produce propaganda including, for argument's sake, attractive bumper stickers that said something like, 'I hunt and I vote,' and let us say that the Hunting Party's name appeared on Senate how to vote cards directing a preference to the Country Party and let us say that because of the self-identification of its name with a particular activity which had a following among an element of the electorate—in this case, hunting—it was able to garner, say, 1½ per cent or two per cent of the vote that went directly to the Country Party. Is that what you mean by a stooge party, which under your proposal would not be able to effect that ruse?

Dr Phillips—That is right, except that perhaps one could consider not the Hunting Party but the Animal Liberation Party. If you asked the average man in the street did he think there was likely to be some common interest between a party called the Country Party and a party called the Hunting Party, they might say, 'Yes, I reckon they'd be on the same wavelength.' I think the real stooge parties are those which appear to be on the opposite wavelength, where the attempt is made to garner votes from people who would be opposed to the Country Party—the Animal Liberation Party, for example—and would—

Senator BRANDIS—Yes, I understand that, Dr Phillips.

Dr Phillips—garner those votes, thinking that they would be philosophically opposed to the Country Party, but find that their votes, unbeknown to them, went to the Country Party. That is the real kind of stooge party.

Senator BRANDIS—I think they are both stooge parties, aren't they?

Dr Phillips—They are.

Senator BRANDIS—It is just that there are different methods of gaming the system. One is to divert votes to the opposite side of the political fence, which is the example you have given.

Dr Phillips—Yes.

Senator BRANDIS—The other is to, by a fraudulent device, enhance the catchment of votes to one party by establishing a party that appeals to a defined and small section of the electorate but in all those 1½ per cent and two per cent that Senate elections are won and lost.

Dr Phillips—In fact, you could have three or four stooge parties, each targeting a particular microsection of the electorate, and have all of those votes garnered to—

Mrs Phillips—We saw that in South Australia a couple of elections ago.

Senator BRANDIS—Did you?

Mrs Phillips—It was quite blatant, yes.

Senator BRANDIS—That is interesting.

Dr Phillips—What we are saying is let the voters decide.

Senator BRANDIS—I think your proposal has a lot to be said for it.

Senator FORSHAW—When you were doing it for the Democratic Labor Party, was that a stooge party?

Senator BRANDIS—The Democratic Labor Party in 1971 was anything but a stooge party, Senator Forshaw.

Senator FORSHAW—I thought, with the association you made there, that that was what you were arguing.

Senator BRANDIS—Sorry, Dr Phillips, Senator Forshaw interrupted you with one of his timely witticisms.

Dr Phillips—Let the voter decide. If the voter is allocating preferences, there is no motivation for stooge parties because the voter will allocate their own preferences to the parties they know.

Senator BRANDIS—That is true, but I think your earlier point is the stronger one—that is, if you have to allocate a full set of preferences above the line, then the small parties that can man their polling booths are not going to be discriminated against.

Mrs Phillips—No.

Senator BRANDIS—But the parties that exist in name only are.

Mrs Phillips—Exactly.

Dr Phillips—Yes, that is right.

Senator BRANDIS—I do not know if you have looked at the submission from the South Australian Electoral Reform Society, but the author of that submission—a Mr Crabb—makes the point that the provisions of section 216 of the act, which include the provision that under the existing system requires the parties' Senate preference allocations to be displayed and available for inspection at all polling places, are commonly not observed. Has that been your experience as well?

Dr Phillips—Yes.

Mrs Phillips—Even when it has been observed, sometimes it is hard to access.

Dr Phillips—In our local polling place in the 2004 election they were not displayed. In the 2001 election they were displayed but they were displayed behind all the registration tables, so you actually had to—

Mrs Phillips—Physically go behind them.

Dr Phillips—physically push behind the Electoral Commission officials to try and read what was on them. There were so many of them they filled an entire wall. For someone who did not know quite what they were looking for, it meant stepping over briefcases and asking people to move their chairs. To work out what was happening to your vote was beyond the capability of the ordinary voter.

Senator BRANDIS—I dare say the ordinary voter would have been unaware of the fact that there was an obligation to display those preference cards.

Dr Phillips—I would think so, yes.

Senator FORSHAW—You used the word ‘corruption’. You have also used the word ‘stooge’ in terms of the parties, which I will come to in a moment. Are you using that in a definite sense, in that you are alleging that there is corruption, or is it more a general term, in that you are saying that there is a potential for corruption? One of the concerns I have about your proposition goes to issues raised by Mr Melham, and that is that you are using an emotive term like ‘corruption’ to suggest that there could be mass multiple voting going on. That would have to be a highly organised activity, and yet there is no real evidence that that is the case in any of the elections going back for some time of the nature that you have described.

Dr Phillips—Perhaps I am using the term ‘corruption’ with different degrees of intensity. In relation to the integrity of the electoral roll and the voting process, there have certainly been examples in the past where there has been significant actual corruption. In Queensland, for example—the Fitzgerald inquiry and the Mundingburra election and so on—there have been examples of systematic, large-scale—

Senator FORSHAW—No, I understand that. That was about false enrolments.

Dr Phillips—Yes, so that was actual corruption.

Senator FORSHAW—Yes. I am not in any way dismissing the significance of that, but the numbers, even in those cases, were extremely low. That does not mitigate against these—

Dr Phillips—Extremely low?

Mrs Phillips—In Bribie Island they were very high.

Senator FORSHAW—Hang on, you are talking about a situation, as I took it from your submission, of hundreds and hundreds of people on polling day in electorates all over the country multiple voting for people.

Dr Phillips—We raised that as a possibility.

Senator FORSHAW—I do not want to debate this for too long, but compulsory voting is one of the factors that actually mitigates against that, because it will show up, and it has never shown up to that extent. That is the first point; that you have not had evidence of extremely large

numbers of people who have ended up voting two, three or four times or whatever. People voting for people who may not otherwise vote, I concede, is a different issue.

Mrs Phillips—Yes.

Senator FORSHAW—That is a whole other area, but that has happened, I am sure. Do you have a list of the sorts of identity that you believe should be acceptable on polling day or on enrolment? I am particularly interested here on polling day. As a person who works in a polling booth every election, you get people racing in, they have come in from the beach, they do not have a driver's licence or they are an elderly person and do not have a photo ID. I notice that you are opposed to one particular form of ID.

Dr Phillips—It is true that currently there is no requirement to present identification, so people will just have to get used to it.

Senator FORSHAW—Yes, but you are putting this forward and I would like to know what type of ID, because licences are photo IDs but credit cards are not.

Mr MELHAM—They can be.

Senator FORSHAW—Yes, but not all. Passports are. What I am trying to say is that it would be handy to have, because if recommendations were to go forward or legislation was to go forward, there would need to be a set of identification requirements.

Dr Phillips—This is not a new concept.

Senator FORSHAW—I know.

Dr Phillips—There are segments of our society, in the commercial world, where this is done routinely.

Senator FORSHAW—Yes, but I am talking about—

CHAIR—You are not saying one, you are saying that there are numerous examples.

Dr Phillips—I am saying that, as a society, we are familiar with having to produce identity. Simply look at the other provisions that are common practices in our society. One example is when you travel on electronic ticketing on a plane and you arrive and they say, 'Could you please produce photo ID so we can issue you with a boarding pass,' and a driver's licence is commonly used, but I am sure that people who do not drive can still fly and they produce some other kind of identification in order to get their boarding pass. What do the airlines use? Likewise, if I want to withdraw money from my bank account and I do not happen to have my bank's card on me, I can still go to a bank and say, 'I'm me,' and they will say, 'Have you got some form of identification?' The banks routinely require some sort of identification.

Senator FORSHAW—I understand all that. All I am asking—because you have given us a detailed submission on this—is if you have a list which you would see as acceptable and

therefore exclude others that are not acceptable. For instance, to pick up an e-ticket at an airport you must produce either a driver's licence or a passport or a birth certificate.

CHAIR—We have asked this of a number of witnesses, and it is probably my fault for not having pointed it out. You put a lot of work into your submission. We would be more than happy to receive a supplementary submission with some further thought on exactly the point Senator Forshaw is making, which is: if you were drafting legislation for some ID provisions, you would say, 'Here is a list of acceptable things.' You have nominated some. You might have a driver's licence, a Medicare card, a passport—a whole range of things—and you might forward that to us separately and we will accept it as a supplementary submission. That would be useful in the next week or so.

Dr Phillips—A rates notice or an electricity bill.

Senator FORSHAW—It is an important issue, because the onus then will go onto the electoral officer, or the person working in the electoral office, to make the decision as to whether it is acceptable or not. I have been in situations where there have been arguments because people say, 'Look, I'm on the roll,' and they say, 'Well, you're not on the roll.' It is not an uncommon thing for issues to arise in a polling booth.

You mentioned stooge parties and said, I think, that the number of parties in the Senate election, you concede, would be more than those in the House of Representatives but maybe not a lot more. In New South Wales my recollection is—

Dr Phillips—In the state election?

Senator FORSHAW—No, the federal election. In the last Senate election I think there were 78 or so individual candidates, but the overwhelming bulk of them were in groups.

Mr D'Lima—How many groups?

Senator FORSHAW—I think there were 26, 28 or more groups. There were quite a lot right across the top of the page. I stand corrected on that, but it was a lot more than just the half a dozen or 10 or 12 that may have occurred here in South Australia.

Mr D'Lima—We would like that number to be reduced by the other provisions that we are recommending.

Senator FORSHAW—This is where I want to go to. In some respects I do not disagree with some of the points you put about the way in which small parties can be registered. I have just received the ballot paper for the Senate. I was actually on it. The groups go through to group Z and then there is group AA, group AB and group AC, so there are 29 groups across the page. This term 'stooge parties' is often used and it is put as if it is suggested that stooge parties are major parties. Is that your assertion? To be fair, there are a lot of people out there who like to form a group for a certain election. I know people personally, because you see them time after time, who will set up their own group. In one case, as we know in New South Wales, one of those candidates was successful in negotiating with all of the other small groups to garner their preferences before they went to the major parties.

Mrs Phillips—Are you talking about the Hon. Peter Breen?

Senator FORSHAW—Yes. I do not see that as an example of a stooge party. He may just be a very clever person who knows how to—

Mrs Phillips—Work the system.

Senator FORSHAW—No, participate in a democratic process, from his point of view, in the same way as people still run for the Socialist Alliance. There is a party here called the Great Australian.

CHAIR—We will need to wrap up on this and let Senator Mason—

Senator FORSHAW—When you use the term ‘stooge parties’, are you not actually putting forward under your proposal a proposition that could mean a lot of interested people would be prohibited from standing for office under a group?

Dr Phillips—We want a level playing field so that anyone who wants to participate in the democratic process can. To get a party above the line means that they need to get it registered and they need to have at least 500 supporters. If they can pass that hoop, then they can be listed above the line. If there is a genuine concern that a person or a group of people has and they form a party, then we are very happy for that to happen.

Senator BRANDIS—I have a point arising out of that last point, because I rather agree with Senator Forshaw. Another way of putting it would be to say that one of the functions of a Senate election, in particular where there is proportional representation, is that certain quite defined community segments can use the occasion from an advocacy point of view. For instance, in my state there is a party called the HEMP party which always runs a man who changed his name by deed poll to Mr Free Marijuana. He is not a stooge, in the sense that he is a bona fide exponent of a point of view for which he uses the occasion of a Senate election to advocate and to ventilate. What’s wrong with that? Isn’t that part of the democratic process?

Mrs Phillips—Yes, and he is probably able to get at least 500 supporters to sign, when they are sort of sober, and—

Senator BRANDIS—Or when they are not, Mrs Phillips.

Mrs Phillips—support him. But my point about Peter Breen is that I do not think he would have been able, at the time he stood for election, to get 500 supporters. I know that some of the people who exchanged preferences with him—

Senator BRANDIS—You do not know that.

Mrs Phillips—at that election are now very sorry they did. In other words, the people who voted for their small party were very upset when he was the beneficiary of their vote.

Senator BRANDIS—But who is to judge? There has to be a universal criterion surely.

Dr Phillips—Whatever I think of his particular point of view—with the Senate we are really talking about a group of people to be registered—if 500 people or more have a point of view they want to express, then that is a valid part of the democratic process and they should be allowed to do that.

Senator BRANDIS—So you do not regard them as a stooge party?

Dr Phillips—No.

Senator FORSHAW—Part of my concern in this area goes more to the way in which parties are named rather than where they are, because terminology often is what attracts people. The last election was held—certainly in New South Wales and I think in other states—during school holidays, which is an issue that would need to be addressed in your views about people having to vote in subdivisions.

Do you have any proposals about reducing the level of informal voting? In particular, what is your view on optional preferential voting in the House of Representatives? I would put this proposition to you as one that should be considered: if you are talking about getting the proper will of the people ultimately to prevail, I suggest that the level of informal voting in some elections where it is higher than 10 per cent—and you can nevertheless tell from those votes where their preference for a candidate is; they just vote 1 or a tick or whatever—is often more likely to affect the outcome of the ballot or the election than any substantial level of corruption through double voting or false voting or whatever. Do you have a view about optional preferential voting?

Dr Phillips—We oppose optional preferential voting, because it ends up looking like first-past-the-post voting, and the whole benefit that we enjoy in Australia of preferential voting being the best expression of the will of the electorate is lost in first past the post.

Senator FORSHAW—What about all those people who vote 1 for a candidate or make a mistake and it is ruled out in elections? It seems that their will is denied. I am not arguing against preferential voting, from my perspective, I am just saying that when you are getting informal voting of 10 per cent or more it is going to have a substantial effect.

Mr D’Lima—There are issues there about education and whether people understand the process adequately, and that is a challenge for the whole community. There are even issues of literacy and numeracy.

Dr Phillips—We would say again that voting is a privilege, and if people do not vote in the way that the system requires then it is a question of—

Senator FORSHAW—I get more concerned about people who vote for other people in nursing homes and aged care facilities. That is the sort of corruption I am concerned about. We know it happens.

Dr Phillips—I would like to comment very briefly on your comment about school holidays.

CHAIR—Very quickly, Dr Phillips. We have extended the time for this. We have doubled it, in fact. Senator Mason has some questions as well. I will let you answer that query but, given that this is a hearing into electoral inquiries, we would hate to disenfranchise the next set of witnesses. Could we be very succinct.

Dr Phillips—Very quickly, a comment on the school holidays matter. In suggesting that people have a single voting place, we are not saying that they cannot vote elsewhere, but there would be a requirement for stricter voter identity checks if you are voting away from your nominated voting place. It is not eliminating, it is more integrity checks.

Senator FORSHAW—Thank you.

Senator MASON—Dr Phillips, Senator Forshaw has, in a sense, taken my line of questioning so I will be very quick. You are saying full preferential voting above the line?

Dr Phillips—Yes.

Senator MASON—Why do you argue that? Is it because, in a sense, the options that the major parties have worked out are not known to the public? Is that the reason? If that is your reason, why then would you not prefer perhaps the proposals put by the Electoral Reform Society—who I think are the next group of witnesses—who say this should not be above-the-line voting at all, it should be below-the-line voting and it should be optional preferential? In other words, you can just vote 1 or you can go right through the ticket. In a sense, would that not reflect your philosophy even better? That way, every single candidate is marked.

Dr Phillips—We oppose optional preferential voting, for the reason just given. It very quickly degenerates into first past the post. That is, I think, a disadvantage and we are proposing that the ideal situation is perhaps where everybody votes for all candidates below the line. We commend that to our supporters generally, but when you have a voting ballot paper which has 72 names on it which takes more time and trouble, it has more opportunities for accidental errors. We see above-the-line voting as a simple, achievable compromise that is a workable solution and it eliminates all the problems associated with ticket voting.

Senator MASON—What about four-year terms for the House of Representatives?

Dr Phillips—That would mean eight-year terms for the Senate.

Senator MASON—Good idea, I would have thought.

Senator BRANDIS—We senators do not speak of the four-year term debate, we speak of the eight-year term debate.

Senator MASON—Are you in favour of four-year terms?

Senator BRANDIS—Given that all the states have moved to four years.

Dr Phillips—I am not sure that—

Mrs Phillips—All of them?

Senator MASON—All except Queensland, yes.

Dr Phillips—We have not argued for it, but I am not sure that we would strongly oppose it either.

Senator MASON—Thank you, Chair.

CHAIR—Thank you very much. Thank you for appearing today and for your submission. You may have a supplementary submission to put with some of the information requested and, for that matter, any other information you would like to add coming out of today's hearings. We really appreciate you being here and putting your views. Obviously, they are views that have been well considered and backed by quite a bit of detailed work, so thank you very much. It has been of great assistance.

Dr Phillips—Thank you very much.

[11.57 am]

CRABB, Mr Deane Fullarton, Secretary, Electoral Reform Society of South Australia

CHAIR—Welcome to today's hearing. The committee has received your submission. It is No. 100 and is authorised for publication. Is there anything you wish to correct or add or amend about the submission in any way?

Mr Crabb—There is, if that is okay.

CHAIR—Yes.

Mr Crabb—There are attachments 2 and 3 with the submission where I have used 2001 figures. When I did the submission, the figures were not available. Thanks to the Australian Electoral Commission, I now have the figures. They gave them to me in advance of publication, so I have new attachments 2 and 3 which I would like to table.

CHAIR—So you would like to submit that as a supplementary—

Mr Crabb—Yes. I actually have eight copies, as it turns out, and there are eight on the committee.

CHAIR—That is good. The secretariat staff will take that and hand it up as we begin and we will accept it at the end. That is fine. We have each had a look at the submission. There are a number of issues in it. Unless you particularly wish to, we can avoid the opening statement and move straight to some of the substantive issues. I might start off myself, because I am interested particularly in the issue of donkey voting. Some of us have differing views on voluntary and compulsory voting. What is not in dispute, though, is that whichever system of voting you have it has its drawbacks. One drawback of the current compulsory voting system is donkey voting, which essentially is a home-grown feature of compulsory voting. Your suggestion, with respect to a rotation system, is something I would like to get your views on, particularly how it would work and what the Electoral Commission would do if there were, for example, 10 candidates in a seat and how they would administer it on the day at polling booths.

Mr Crabb—We recommend the Robson rotation, which was invented by a previous minister of a Liberal Tasmanian government, Neil Robson. It is quite unique in that he is still alive and there is something actually named after a politician—that is, the Robson rotation. The Robson rotation is known to be used for multimember electorates and proportional representation, particularly for the House of Assembly in Tasmania. What is not known is that it is also used for the upper house in Tasmania, where you have single-member electorates. We argue against single-member electorates, but if we keep single-member electorates for the House of Representatives it is still possible to have the Robson rotation. The Robson rotation is usually used in multimember electorates, so within the groups the names rotate, but it is used in the single-member electorates for the Legislative Council of Tasmania.

CHAIR—How would it work on the day?

Mr Crabb—You said there could be 10 candidates, for example, so what they do—

CHAIR—Let us take a hypothetical example, one close to all our hearts, the electorate of Banks. How would the ballot papers in the electorate of Banks work? Would there be a complicated piece of work by the Electoral Commission so that there was a rotation within each polling booth or would you do it through a number of polling booths?

Mr Crabb—In Tasmania they print the ballot papers in batches and every candidate standing in that electorate has the No. 1 position in a number of batches. If there were six candidates and there were 100 ballot papers, for example, it would be that each of them would evenly be on top of the ballot paper.

Further to that, particularly in the ACT where they have had the Mathematical Society look at the Robson rotation, they have said that there is also a donkey vote by having the second position sometimes having the bottom position and they have actually rotated people's names around too when they were printing the batches. Depending on the number of candidates standing, there is a formula for working out how many batches should be printed.

CHAIR—Just so I am clear, before we move on to Mr Melham—given we are using him as an example—if Mr Melham walked into his local polling booth and received his ballot paper—

Mr Crabb—He would not know the order at all until he got in there.

CHAIR—Then he would get it and, if he was No. 1 on the ballot paper that he got, the person in the queue behind him would be a different number, would they?

Mr Crabb—Could be the same; could be different; could have the same ballot paper by chance. If there is any donkey vote, really what the Robson rotation does is even it out across all candidates.

CHAIR—Not that this would be a high priority concern of yours, but what does that do to how to vote cards?

Mr Crabb—Kills them dead, unless there are, say, six candidates in the electorate of Banks and Mr Melham says, 'Vote for me No. 1 and then vote for these other people', but you would have to sit there and work out where No. 2 and No. 3 are to follow No. 1. It would make it very difficult.

Ms PANOPOULOS—On that point, can you see, Mr Crabb, that that would favour the two main candidates in a particular electorate?

Mr Crabb—It possibly would. At most polling booths there would be pictures of the candidates from the two major parties and their names, and they would have probably received literature in their letter box, so they would probably know those names. It probably does help.

Ms PANOPOULOS—The potentially high increase in informal votes does not concern you?

Mr Crabb—We have argued for optional preferential voting, so the informal vote would not be any higher. If you kept full preferential voting but had the Robson rotation, people would have to realise that they would have to work out their No. 1 candidate and then work out where they are going to put their other numbers just to fill out the ballot paper.

Ms PANOPOULOS—Assuming we retain full preferential voting—optional preferential—would you not say that the increased number of people who would be disenfranchised with the complexity of this and not having the assistance of a how to vote card—which is not mandatory, it is just a guidance—outweighs any particular benefit that particular candidates may receive from time to time by being favourably placed to take advantage of donkey voters?

Mr Crabb—Overall, I think you would be correct. Before I came here, I had been asking different people about what the donkey vote was worth for the House of Representatives. Malcolm Mackerras thinks it is about two-thirds of one per cent. According to his analysis, there were five seats in the last election where the Labor Party won three and the Liberals won two on the donkey votes, so we are only talking about a small percentage of donkey votes, but there were five electorates where the donkey vote made a difference. That could be the difference between government and opposition. How far do you go?

Ms PANOPOULOS—But a significant number of informal votes could also have an effect of having one candidate win above another in a particular electorate.

Mr Crabb—That is right, yes.

Senator BRANDIS—I must say, Mr Crabb, that I have never quite understood this criticism of the donkey vote, because it is a random factor. It is one among a multiplicity of random factors at any election. As long as one can be persuaded that it is random, I do not see even the interest in working out in which electorates maybe it was decisive. Maybe lots of things were decisive in every electorate which are not scientifically analysable.

Mr Crabb—That is correct, but if you are going to try and take that chance out of what position you get on the ballot paper—whether you get a favourable position or not a favourable position—political parties spend a huge fortune nowadays on winning seats. If, thanks to the luck of the draw, they miss out on winning an electorate, they have wasted a lot of money on that. If we can take the chance out of this part of the election process, I think it would be an improvement.

Ms PANOPOULOS—But, Mr Crabb, considering your admission that it only represents a very small percentage of votes, wouldn't it logically follow that other factors have more significant impacts on how voters cast their vote? For example, it has been estimated that over 15 per cent of voters do not actually make up their minds until polling day—as they arrive at the polling booth and are going through those doors—and all political parties that regularly contest elections appreciate that their presence at a polling booth and the amount of paraphernalia they have has a significant impact. By your standards, we should allocate a certain percentage of a space on a school fence for all candidates or all political parties in that electorate.

Mr Crabb—That is my point about randomness.

Ms PANOPOULOS—Is that the sort of thing you would like to see; trying to identify all factors that affect voters that rely on chance or the industry of a particular campaign team?

Mr Crabb—If you have full preferential voting, yes, I tend to agree with you, but we would argue for optional preferential voting, so most people have an idea of what candidate or what political party they want to support. They could go along and find that person on the ballot paper and then vote for that person.

Ms PANOPOULOS—What do you mean by ‘most people’?

Mr Crabb—I would imagine that most people identify with a political party.

Ms PANOPOULOS—You imagine but you are not relying on any particular statistics?

Mr Crabb—It could be 80 per cent.

Ms PANOPOULOS—But you are just guessing?

Mr Crabb—Yes.

Ms PANOPOULOS—In fact, it could be up to 40 per cent or 50 per cent of people?

Mr Crabb—In some electorates, particularly if there is not a sitting member of parliament in that particular electorate, yes.

CHAIR—Thanks very much. I have one other question on mechanics that interests myself and Senator Murray. Leaving aside the merits of the proposal, you would have to concede, wouldn't you, that under this system it would be a more complicated, cumbersome and time-consuming scrutineering process?

Mr Crabb—I do counts at various times and I have never actually done a count where the Robson rotation—

CHAIR—We are all interested in electoral matters here and at various points, I think I could safely say, we have all scrutineered. Having that ballot paper and watching each vote—

Mr Crabb—I am told the evidence from Tasmania is that it is not much more difficult than normal. I have never seen it in practice, I must admit, but I am told it has not been an onerous task for the returning officer and the staff.

CHAIR—I do not want to put you on the spot. We could perhaps find out by way of supplementary submission just how that actually works. I presume they may group them up into various numbers first but I think that would be a factor. Tasmania is of interest but, of course, they are quite small electorates down there, aren't they?

Mr Crabb—That is right.

Mr MELHAM—As I said earlier, Mr Crabb, if your proposals were implemented it would mean the end of how to votes.

Mr Crabb—Virtually, I think, yes.

Mr MELHAM—What it would actually mean is that, in effect, campaigns within the particular area would be run around individuals. That is what happens in Tasmania as well, isn't it?

Mr Crabb—Even within political parties, yes.

Mr MELHAM—Because you do not know what the ballot paper is going to produce in terms of what a voter receives, because of its randomness, so what you try to do is raise the profile of particular individuals.

Mr Crabb—Not only raise the profile, but people have to cope themselves, have to think, 'If I have to vote for the whole ballot paper, how am I going to vote? Which people do I like? Which people do I dislike?'

Mr MELHAM—Your analysis, in the supplementary submission that you have given us, shows that in each of the last two federal elections the government would not have had a majority in the lower house if your system was in place and, if the extrapolation that you have done in your figures was correct, governments would have had in coalition 72 out of 150 seats at the last election and 69 out of 150 in the 2001 election?

CHAIR—Just as a matter of process, we will need to formally accept that submission now that we are talking about.

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

That the supplementary submission of tables is accepted.

Mr Crabb—The actual analysis is in attachment 1. That submission has already been received. That would have shown that, instead of having 150 single-member electorates for the House of Representatives, you would have had 27 multimember electorates of varying sizes between two and nine.

Mr MELHAM—I understand that, but I was going on label C in each of the tables, which is party representation.

Mr Crabb—No, that is only showing in a proportion of the vote what they should have got, but our actual analysis in attachment 1 would have shown that the government would have had a majority of one rather than the 28 or 29 they have at the moment.

Mr MELHAM—Can you just take me to where that is?

Mr Crabb—Attachment 1 in the original submission.

Mr MELHAM—I think it is fair to say, though, that in a lot of instances you would need to form a coalition government or find a coalition to obtain a majority in the lower house under this system, unless of course you can get 50 per cent of the primary vote.

Mr Crabb—That is basically what happened this time. I think the coalition got about 46 per cent, 47 per cent of the vote.

Mr MELHAM—Yes, very close to it.

Mr Crabb—Because of the remaining quotas in each of those multimember electorates, they were able to get a majority of one. Similarly with the Senate, they now have that majority.

Senator MURRAY—Mr Crabb, there are many attractions I can see to getting rid of how to votes but I want to ask you about the emotional side of that. It seems to me that the Australian system results in the great engagement of very large numbers of people with the political process and the process of choice on the day concerned. Probably a couple of hundred thousand, perhaps more, people are involved in the how to vote process, with teams of people being there to hand out how to votes and the camaraderie that exists and some great exchanges of wit at times. Do you think it would be a loss to our political system to lose that sense of community engagement if how to votes were gotten rid of?

Mr Crabb—First of all, just to confirm what you are saying, for the South Australian elections how to vote cards are actually up in each little polling booth where you vote. Despite having these how to vote cards up, people still expect to receive how to vote cards as they go through the door, so it confirms what you are saying. I do not know. I guess people are used to it. South Australia has moved to postal voting for all local government elections, and people now realise they do not go to a polling booth when they are voting in local council elections. We have suggested in our submission that perhaps postal voting should be considered for all elections, including the federal elections. You probably would do away with that occasion of going to a polling booth.

Senator MURRAY—But barracking for your team, both in sporting and political contests, has great Australian tradition attached to it. I just wonder if the loss would be felt.

Mr Crabb—Possibly in the short term, I am not sure in the longer term. There seems to be an increasing trend towards postal voting in any case. If we did have fixed elections, it would be interesting to see whether postal voting would still increase then, if people knew when voting was. I am not sure.

Senator MURRAY—With respect to the Senate and above-the-line voting, there are two propositions, one of them becoming much more common and one not so common. Yours is the not so common one, which is to abolish above-the-line. The second one is to introduce preferencing above the line, either on a full preferential or an optional preferential basis, and to get rid of lodged tickets.

Very few Australians know where their vote is going when they vote No. 1. They do not know where the preferences lie, and I think that is a great problem in principle with the existing system. If the parliament were to consider preferencing above the line favourably, despite the

fact that it is not your preferred option, would you consider that an improvement on the existing system?

Mr Crabb—Possibly a slight improvement. The biggest problem with the Senate ballot paper at the moment is that you have the groups at the end of it who do not have a box above the line, and those people would miss out if you were having optional or full preferential voting above the line.

Senator MURRAY—It is clear to me intuitively that Australians are sensitive to the inadequacies of the present system, because as soon as you get to a state or territory where the number of Senate candidates is limited, such as the two territories or Tasmania, the percentage of below-the-line voting roars upwards, because people can make a choice with fewer numbers. As soon as you go to New South Wales, it is just so hard that they will vote above the line.

Mr Crabb—That is right.

Senator MURRAY—Is that your view?

Mr Crabb—I tend to agree, yes. I tend to vote below the line, and I am wondering, when I am up to No. 42 and there are 46 candidates, why am I bothering? Why don't I just put a 1 above the line?

Senator MURRAY—Given that preferencing above the line would, firstly, give people a complete understanding of where their preferences were being put and, secondly, would contribute to getting rid of 'how to votes'—because, of course, from many parties' perspectives, 'how to votes' are tied to the lower house/upper house kind of deals and arrangements—why do you describe it as just a slight improvement to go in that direction?

Mr Crabb—Because if you vote above the line you are not having a say in which of the candidates within the political party you prefer; who should have the No. 1 position.

Senator MURRAY—Your view is that individual abilities and capabilities are not assessed. But isn't it true that with respect to lower house candidates—present members of the committee excluded, of course—many of them are elected simply because they are members of a particular party? Many voters have absolutely no idea of the relative merits of the candidates.

Mr Crabb—That is correct and that is one of the reasons we argue for multimember electorates, so each party has to run a number of candidates and people can look at the attributes of those candidates and work out whether they want to vote for a man or a woman, someone who is pro environment, someone who is anti environment, someone who is anti uranium, someone who is pro uranium—the whole gamut within one political party. They would have a chance of assessing who they wanted. At the same time, political parties would not have to worry so much about messy preselection ballots and they would get some guidance from the electorate about the way that political party should go. If the pro environment candidates win on a ticket, they would realise they have to be more pro environment than perhaps their current policy is.

Senator MURRAY—This committee has at times had to consider the issue of a government achieving a majority of seats when they have had less votes than the opposition. That has happened periodically in our electoral history. Does your society consider the supplementary party list system, such as in New Zealand—the top-up system, if I could describe it as that—as an improvement to our present system? Or do you think that the only way to address better representation, by which I mean fuller representation, is through the multimember proportional representation approach you take?

Mr Crabb—We definitely prefer the multimember approach, like the Hare-Clarke system that is used in Tasmania. We have grave concerns with the New Zealand system. First of all, you keep single member electorates, which we are opposed to, and then you have a top-up list system, which we are also opposed to. You have two compromises, which we disagree with entirely. We would prefer a multimember Hare-Clarke type of system to the New Zealand top-up system.

Senator MURRAY—Your propositions have been put before and, whilst there are elements of the Australian political community that are supportive of your views, I have not picked up widespread support, certainly within the major parties. Do you think the only way to advance community debate on these matters is to constitute a standing electoral convention which would maintain a level of debate and discussion within the community around these issues, in order to try and advance our electoral process?

Mr Crabb—I agree entirely. This joint select committee does that to a small degree but we need something a lot wider. Recently we had the South Australian Constitutional Convention. There were random people selected from the community to attend that convention, which was held here in Parliament House. On your point that there is not enough support for multimember electorates, multimember electorates was one of the things this random group of people came up with after debate and discussions and so forth. They thought multimember electorates and the Hare-Clarke system should be considered.

Senator MURRAY—There are two states that I know of, WA being one and, as you just mentioned, South Australia being the other, where there is a constitutional convention facility. Although it is not in your submission, would you be recommending that this committee consider some means by which greater discussion can occur on a more regular and coordinated manner at the federal level than occurs at present?

Mr Crabb—Yes. That would be quite a good idea. I have not given it a lot of thought, but I agree entirely. It would also help to educate people. One of the problems with our voting procedures is educating people to think about how to vote, what to do and so forth.

Ms PANOPOULOS—Mr Crabb, your submission involves 26 multimember electorates.

Mr Crabb—Yes.

Ms PANOPOULOS—How were the boundaries for these selected, other than the inclusion—for convenience, presumably—of existing federal electorates?

Mr Crabb—That was because we were doing an approximation and we had to use the figures that were available at the time. Obviously, you would still have your state boundaries, unless you changed the Constitution, but you would then divide the state into a number of multimember electorates, depending on population and so forth. You would have nine-member electorates, say, in different parts of Sydney and bigger—

Ms PANOPOULOS—I think I get it. Essentially, the boundaries for these divisions are only based on population size and proximity of one electorate to another.

Mr Crabb—That is right, and you are just amalgamating existing electorates for the moment.

Ms PANOPOULOS—That is a very simplistic and naive approach to the drafting of boundaries. I am sure you are familiar with some of the matters that the Electoral Commission takes into consideration in the drafting of boundaries. Obviously, you have taken none of these factors, other than population, into account.

I will give you an example of why I think this does not serve democracy, particularly for groups such as country people that do not have as strong a voice in metropolitan based parliaments. Look at division 13, where my electorate is, the electorate of Indi. Essentially, that electorate draws from Portsea and Sorrento, the playground of the well-to-do, right up to the Upper Murray in Corryong—where Jack Riley, the man from Snowy River, is buried—and everything in between. It is an absolutely ludicrous boundary and really undermines the fundamental concept of having a local representative. Do you accept that these multimember electorates effectively dilute the role of members of the lower house for them to have more of the role of a senator without any distinct responsibility for citizens living in a particular part of Australia?

Mr Crabb—You could make that criticism but you could also make the same criticism now with single-member electorates. South Australia is reduced to 11 House of Representatives seats. We ended up with the seat of Wakefield, which takes in Elizabeth and goes right up to Clare, which is right in the country, so the community of interest does not really exist in that electorate.

Ms PANOPOULOS—There are varying degrees and geography and population that limit the ability to perfectly replicate boundaries.

Mr Crabb—This is only a first approximation based on current electoral boundaries.

Ms PANOPOULOS—Mr Crabb, your analysis is commendable and your submission is clever in most parts, but it is a bit too much of a textbook approach.

Mr Crabb—I will take this back, because the people who did this analysis for us are Victorian. I do not know the electorates of Victoria very well, but they have done it like that. I will take your comments back to them, but how else—

Ms PANOPOULOS—I suggest that this is too much of a textbook approach and there should be some analysis of representative government, particularly in the lower house, and how certain geographic areas, particularly country areas—

Mr Crabb—If you are going to divide Victoria up into a certain number of electorates, you are going to have to draw boundaries which are going to create the problems you are talking about.

Ms PANOPOULOS—So the primary concern of your organisation would be to get this large electorate and draw the boundaries, rather than determine the community of interest.

Mr Crabb—You still might not take the community of interest, so you would try and group country electorates together and city electorates together by themselves, but sometimes it does not work.

Ms PANOPOULOS—This has not. You could not do it in this case.

Mr Crabb—Sometimes it does not work. It does not work in single-member electorates. The electorate of Wakefield took in the city of Adelaide and a vast country area.

Ms PANOPOULOS—That is one example, but this particular proposal advocates getting a map and just drawing boundaries. This is not Africa in centuries gone by, where a colonial power could just draw boundaries. We are talking about real people. My concern, and the concern of many of my colleagues, is to ensure adequate representation and the connection of the local member with their electorate. I put it to you that this approach would dilute the responsiveness and the representative ability of a lower house member and would effectively create two senates in the federal parliament.

Mr Crabb—You are still keeping the same number of members of parliament and the number of people represented by each member of parliament. By amalgamating them, you would allow the Labor supporters in your electorate to find their vote electing a Labor candidate for that big multimember electorate, or electing two perhaps.

CHAIR—Just drawing on Ms Panopoulos's point and taking the example she raised, which includes her seat of Indi and my seat of Casey, you would have the crazy situation where Casey—which is an outer suburban and semi-rural seat that adjoins Deakin, which is in another group which is wholly suburban, which is the core of a community of interest there—and then, further down, Lilydale, were grouped up in a seat that ran to the New South Wales border.

Mr Crabb—But in that seven-member electorate, as it has turned out, it is all coalition members that have been elected.

Ms PANOPOULOS—For a very good reason, I would say.

Mr Crabb—Yes, but the Labor Party had a substantial vote and should have had three of those electorates on a proportional basis.

CHAIR—But in terms of the boundary, in response to Ms Panopoulos, you gave the example of Wakefield, where you said this was imperfect. I put to you that that was a fair response except in this regard: at least with Wakefield it is limited to one electorate, to 80,000 people. It is true you will never draw boundaries perfectly, and the Electoral Commission does their best job, but

there is a big difference between one electorate of 80,000 or 90,000 voters and having it on a multistate basis.

Mr Crabb—These are only a first approximation using current boundaries, but if you were going to change to a multimember electorate you would redraw the boundaries to try and pick up some of the points you are making.

CHAIR—Are you aware of the Victorian upper house changes that are occurring?

Mr Crabb—Yes, they have just had a boundary commission and—

CHAIR—The reason I raise that is because Ms Panopoulos is aware of it in her area as well. The Victorian upper house has just been through this process. What worries me is that what you were saying, with good intention, is what the Bracks government was saying two or three years ago about actually settling these boundaries. There is no way to do it when they are changing the election method to basically divide the state up into a series of segments, and at the end of the day that is what it is doing. You end up with a situation where you will have multimember electorates, but how they represent those communities of interest, which are so large, has left a number of people wondering whether they should not have just adopted the New South Wales system and simply had a list. On that point, I will move to Mr Melham.

Mr MELHAM—Mr Crabb, the point is that you are interested in the principle of multimember constituencies. How the boundaries would be drawn, from your point of view, would be a public process, arbitrated by an independent Electoral Commission—

Mr Crabb—Yes.

Mr MELHAM—where the major political parties and the community can put submissions as to what constitutes the best boundaries and the best community of interest. These are just examples that, if I could verbal you, you would not want to be bound to, but they were pooled together to make a particular point that, in a particular region where the Labor Party draws some votes, it has no representation.

Mr Crabb—Yes.

Mr MELHAM—Under your system, they would get some representation.

Mr Crabb—It is an unfortunate thing that when you draw lines on a map you create these boundaries which cause all sorts of problems.

Mr MELHAM—Yes, but it is the principle of multimember constituents, isn't it?

Mr Crabb—That is right.

Mr MELHAM—Ultimately those boundaries, if the parliament were to go down that way, would be part of a public open process, with independent commissioners—

Mr Crabb—That is right.

Mr MELHAM—that people could submit to.

Mr Crabb—It would be no different to what it is now. It is a reasonably good system we have at the moment on drawing boundaries. No-one can complain about the final outcome.

Mr MELHAM—But the point that Ms Panopoulos makes is still a very valid one; that what you are doing is, in effect, turning current single-member constituencies into multimember constituencies and so it is a mini type of Senate situation for a particular region.

Mr Crabb—Except you would still have a local member.

Mr MELHAM—No, I understand. You would have more than ‘a’ local member.

Mr Crabb—That is right.

Mr MELHAM—You would have a number of local members—

Mr Crabb—Hopefully, you would have the local member that you actually helped to elect, whereas a sizeable minority do not at the moment.

Mr MELHAM—Yes. I am not disagreeing with that, I am just trying to bring it back rather than have it derailed. The principle is a multimember constituency which would give representation.

Mr Crabb—That is right.

Mr MELHAM—The downside, of course, as Senator Murray points out, is that you have the New Zealand situation where there is a list and there is a top-up. In many respects, what it would mean is historically in most cases governments would have to form a coalition, because they would be minority governments unless they are able to achieve somewhere in the order of 46 per cent plus of the vote, which would get them over the line. That is the downside, isn't it?

Mr Crabb—That could be the downside. You are in South Australia at the moment, and we have had more coalition governments using single-member electorates than Tasmania with the PR.

Mr MELHAM—What that shows, depending on the way the electorates vote, is that it can throw up all sorts of things.

Mr Crabb—That is right.

Mr MELHAM—We have had a number of elections where the majority of votes to a particular party have not resulted in that party being in government.

Mr Crabb—Yes, that is right.

Mr MELHAM—Indeed, isn't this the state that was the home of the gerrymander for a number of years?

Mr Crabb—The Playmander. That is right, yes.

Mr MELHAM—There was a former premier who was an expert at it.

Mr Crabb—That is right. We have a coalition government at the moment.

Mr MELHAM—No, I understand. Thank you.

CHAIR—Thank you very much for appearing and for your supplementary submission. If there is any additional supplementary material you wish to put forward, that offer is open to you.

Mr Crabb—I would like just to highlight one part of the submission quickly, if I may.

CHAIR—Sure.

Mr Crabb—We are worried about the method of transferring surplus votes in the Senate election at the moment. The last time I appeared in front of this committee I tabled a report from the Western Australian Electoral Commission. Since that time, the Western Australian government has looked at that publication and drafted legislation and introduced a bill into the Western Australian parliament to improve the method of transferring surpluses.

CHAIR—In their election for—

Mr Crabb—For their Legislative Council, which uses exactly the same method—

CHAIR—They do, do they?

Mr Crabb—Yes.

CHAIR—I was not aware of that.

Mr Crabb—They wanted to change the method of surplus because there are some flaws in the current method of distributing surpluses at the moment. I would recommend the committee have a close look at that. You are going to Western Australia next, aren't you?

CHAIR—We are going to Western Australia next week, so thank you for raising that.

Mr Crabb—You could have a close look at why the Western Australian government has now moved to what we believe is a better system than the current method.

CHAIR—Okay, thank you very much.

Senator MURRAY—Just for clarification, Mr Chairman, I can indicate that our resident expert at the time was Senator Ray, who was particularly good at understanding those issues.

The committee did discuss that matter in its private deliberations and did not come to a view as to it at that time.

Mr Crabb—We have had a quick look at the figures for the Senate and we do not believe the result has come out incorrectly and so we would disagree with it. There could be an improvement to the method of transferring surpluses but it did not have any effect, we believe, at this election, but it could at some future date and we would urge you to have a look. It would be interesting to see why Western Australia has moved down that line when they have looked at it.

CHAIR—Thank you very much. I will take that on board, as will Senator Murray, who is a Western Australian senator. Thank you, Mr Crabb.

[12.38 pm]

GUNN, Dr Kathryn Margaret, Deputy Director, Communication Project Group

CHAIR—Welcome. We have received your submission, which is No. 28 and authorised for publication. Is there anything you wish to add, amend or correct in any way?

Dr Gunn—No.

CHAIR—We have had a look at the submission and the relevant correspondence relating to a couple of cases in the last election. Could you, just for a minute or two, outline what you see as the problem and the solution, then we can ask a few questions. We will not need to have you here for too long.

Dr Gunn—I put this submission in because Christopher Drury, the federal election commissioner, asked me to do it. I do not know whether this is in addition, in fact, but I went back and looked at some research as well. The problems arose out of some research that we have been doing on the communication needs of people with disabilities. There were two groups I looked at. The first group was people in receipt of a social security benefit who were not getting any assistance with the activities of daily living. There were 453 people in that group and, of those, 162 or 35.76 per cent needed assistance to mark the ballot paper and 138 of those—34.6 per cent of them—voted as they were directed or felt they should in the presence of a person known to them.

Mr MELHAM—Sorry, where was this?

Dr Gunn—This was a group of people that we were looking at for a wide range of communication related issues. We were looking at whether or not they were doing things like reading newspapers, listening to the radio, using libraries, communicating with their neighbours, whether they could handle their written affairs and so on. It is a big project that is still ongoing at the moment.

Mr MELHAM—In South Australia?

Dr Gunn—No, it is across South Australia, Victoria and New South Wales.

Mr MELHAM—Sorry, I missed how many voted in a particular way?

Dr Gunn—138 of that 453 voted as somebody else directed them to vote. That was the first group. In the second group there were 186 people who receive a social security benefit and receive some assistance from somebody else with the activities of daily living; things like dressing, bathing and so on. Of these, 88 or 47.31 per cent required assistance to mark the ballot paper and 53 of those 88 allowed another person to mark it as they wished; in other words, 60.22 per cent of that subgroup or 28.49 per cent of the entire group.

Senator MASON—In saying ‘as they wished’, do you mean as the carer wished or as the—

Dr Gunn—Their carer, who might be a relative but sometimes is somebody—particularly with young people who are living in group housing and have outside carers—who says to them, ‘You must vote for such-and-such a party.’

Mr MELHAM—This is something where, in terms of people in vulnerable positions in nursing homes and places like that, there would be some instances—depending on which side the matron is on—of indicating particular preferences. What I am worried about, Dr Gunn, is whether it is something you can really legislate against. It is a question of trying to bring in some procedures that stop people from exerting influence over vulnerable people, be they in nursing homes or the range of other people you have pointed out.

Dr Gunn—We were not looking at people in nursing homes. These are people who are living out in the community.

Mr MELHAM—Yes, I understand that. What I am suggesting is that—

Dr Gunn—Yes, and I see your point.

Mr MELHAM—there is apocryphal evidence in the past where, depending on how active particular matrons and others were in particular nursing homes, there was a tendency to—

Senator BRANDIS—Was that apocryphal or anecdotal, Mr Melham?

Mr MELHAM—We will say anecdotal.

Senator BRANDIS—I do not think it would have been apocryphal.

Dr Gunn—Yes. I take your point, because I have heard similar allegations made. I do not know about those and I can only say—

Mr MELHAM—I am not unsympathetic to what you are suggesting and I would like to bring in a situation where more and more people in those situations of care or whatever are reminded of their responsibilities; that it is not their vote that is being cast, it is the vote of the actual individual.

Dr Gunn—Yes.

Mr MELHAM—I am just wondering whether some of that is not part of the robust nature of the political process. I know sometimes there is an advantage, for instance, for a sitting member for a lot of these places, where we can visit them before an election period and build up a level of support with both the organisation and the constituents. I am just wondering how far we can go as a parliament in legislating.

Dr Gunn—From things that were said to me, I think there are several things that can be done.

Mr MELHAM—That is what I am interested in.

Dr Gunn—Yes. One of them is obviously a very much more aggressive education campaign by the Electoral Commission.

Mr MELHAM—Right. Reminding people of—

Dr Gunn—Yes. That is the first thing. The second thing I would suggest is that there are a number of advocacy organisations around which are intended to deal with people who have disabilities. It seems to me that they could have a role to play in teaching people who are at risk how to vote and what their responsibilities are, one of their responsibilities being that they should not allow somebody else to use their vote. The difficulty, of course, is if you are dependent on somebody else to feed you—which some of these people are—you are not going to go against their wishes; you just do not do it.

Mr MELHAM—I understand all of that.

Dr Gunn—Yes. They feel at risk. The third suggestion would be—and this would have quite a good deal of support among the community of people with disabilities—that there should be a designated person, at least at every polling booth, and if somebody needs assistance to vote they are the person who assists them.

Mr MELHAM—But, Dr Gunn, the electoral officers have that authority, as I understand it, under the existing Electoral Act.

Dr Gunn—No, that is not quite the case. If somebody goes with another person who is their carer, that carer can go in with them. That situation has to be prevented. If you are sitting there in your wheelchair or standing there with your guide-dog and somebody asks, ‘Do you want assistance to vote?’ and you have a carer there, you will say, ‘I’ve got my carer here. My carer is going to expect to be allowed to do it for me.’

Mr MELHAM—There is no doubt you can nominate your carer to assist in that regard, but you can also nominate an electoral official, under the act.

Dr Gunn—Yes, but as soon as you have—

CHAIR—Just for the clarity of *Hansard* and the evidence, could you perhaps go through the options in the act that someone with a disability would have at a polling booth? You do not have to find the clause but if somebody turned up with a carer, just illuminate the point you were making. If they had a carer they could choose to have them—

Mr MELHAM—They can choose to have their carer’s assistance.

CHAIR—Or they can say they want an official to help them.

Dr Gunn—That is correct.

Mr MELHAM—There is a point where the onus is on the individual to speak up.

Dr Gunn—Yes. One of the people I interviewed said something very similar—I cannot quote it exactly but it is in the Productivity Commission report. If they did not allow their father to assist them, the father was going to say, ‘Aren’t I good enough for you?’

Mr MELHAM—But that is a problem in terms of the relationships of carers and the people they look after. That is a point the Electoral Commission and the parliament frankly have to be very careful about, in terms of how far they enter into that realm. My reading of the act that there are particular provisions which allow people to use electoral officials in the first instance.

Dr Gunn—Yes.

Mr MELHAM—I understand the pressure that is on the person being cared for to use their carer but frankly—

Dr Gunn—Yes, it effectively disenfranchises them.

Mr MELHAM—Yes, I understand that. What you are saying is that we should have a provision that basically disqualifies the carer in the first instance and has an independent—

Dr Gunn—It is an issue of privacy as well.

Mr MELHAM—There are people in my electorate who are not literate in the English language who go with family members quite voluntarily. In parts of my electorate there are people of Arabic-speaking background who are not literate and I make sure that there are people to assist them, over and above electoral officials. We know what the law allows us to do but it is up to the individual. I understand what you are saying: because of the power relationship, some people in a situation where they are cared for might be reluctant to nominate someone other than their carer because it will rebound on them. Surely that is a place the parliament should not be going.

Dr Gunn—What if it disenfranchises up to 35 per cent of the population of people with disabilities? That is a very large number of people.

Mr MELHAM—You pull that figure out, but what I am suggesting to you is that the law merely requires the person registering a vote to say in the first instance, ‘I would like an electoral official to help me with an assisted vote.’ Surely they have to at least pass that threshold request before you bring the electoral officer in, or an independent person other than their carer.

CHAIR—Just to take Mr Melham’s point, would there be not equally but certainly an alternative problem? If you prevented carers doing it and said it always had to be an electoral official, people with disabilities may not trust an electoral official and may feel they were disenfranchised. Electoral officials do a wonderful job and I am not casting any aspersions, but you would have to concede that some people with disabilities, if they got to the polling booth and their preference was for their carer to do it and they were told their carer, who assists with every other aspect of their life, could not do it but they have to hand their ballot paper to some electoral official, who is honest but is someone they have never met—you would have to admit that a certain percentage of people with disabilities would be uncomfortable with that.

Dr Gunn—Yes.

Mr MELHAM—I will read to you the current Electoral Act at 234(1), assistance to certain voters:

If any voter satisfies the presiding officer that his or her sight is so impaired or that the voter is so physically incapacitated or illiterate that he or she is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter's ballot-paper.

What I am saying is that it seems to me it is a reasonable provision but what it requires in the first instance is for the voter to satisfy an independent presiding officer. They have to put their hand up and say, 'I need assistance.' That assistance can be rendered by an official or a nominated person under the existing act. Isn't that the right balance? You do not have to agree with it, Dr Gunn.

Dr Gunn—I would tend to agree with you but, as I said, there is—

Mr MELHAM—I understand the reality. What you are saying is that there is—

Dr Gunn—I would tend to agree with you. I think that is right. We need a lot more education for people with disabilities so they understand that they can do this sort of thing.

Mr MELHAM—That is the crux.

Dr Gunn—Yes. Some young people were being told, 'You must vote for X party' and they did not even understand that they had a choice.

Mr MELHAM—That is the key, isn't it? It is an educational thing, not a change in the laws but allowing people to know. If I can be the devil's advocate, what worries me is in some instances the carer is going to be offended anyway if they are not nominated, so there is a subtle pressure for the voter to nominate the carer in any event.

Dr Gunn—Yes.

Mr MELHAM—I do not know that we can overcome that.

Dr Gunn—Yes, there would be a very big difficulty in that. The only way to overcome that would be, as you suggest, to change the law. That may not be a realistic approach.

CHAIR—It might solve one problem and cause another.

Mr MELHAM—Create another, yes.

Dr Gunn—Yes.

CHAIR—But if we were minded to consider a recommendation along the lines Mr Melham has just been suggesting—that is, there be greater education and greater involvement from the Electoral Commission so that people with disabilities were aware that they had a choice, with the right to have their carer present but equally the right to have someone else present—that would be of great assistance.

Dr Gunn—Yes, it would go some way to solving the problem. I did discuss this with Christopher Drury but he was more concerned about educating the carers. There needs to be a lot more work done on educating the voter, rather than the assistant.

CHAIR—We are more than happy to get further submissions from you on the issue. We have had a number of submissions right across the board but the reason we wanted to hear from you today was to flesh this out. We have taken new points on education and they are well noted and we will certainly consider those but, in terms of legislative change, unless there is something we have missed—we sympathise with what you are saying. We are sure there would be cases where there is a problem with carers performing the act of voting but, equally, there does not appear at first glance—and Mr Melham drew this out—to be a solution, other than to solve one problem and inversely create another. We do not want to put you on the spot and talk around in circles but if you think there is some other alternative we are happy to have a look at that by way of submission. We would not need you to come back.

Senator MASON—It has enormous implications, does it not, for ethnic or indeed Indigenous groups if you start excluding a carer or a friend? It is very difficult, of course, as you can imagine. It has repercussions right across the board.

Dr Gunn—Yes.

Mr MELHAM—In many instances they are quite happy for someone they trust to come along with them.

Dr Gunn—Yes. Of course, some of these people have multiple problems, too. The level of literacy among people with disabilities tends to be extremely low. If they leave school with a low level of literacy and they live in a household which speaks Greek or Italian, they tend to lose their literacy skills altogether and then they need somebody to assist them to vote, even though they can physically mark the ballot paper.

CHAIR—There being no further questions, I thank you for coming along. That offer of a further submission remains open. Thank you for putting that evidence before us. It is certainly something that we are considering with a range of other reform issues for people with disabilities. It has very much been a focus of the last two days.

Dr Gunn—Our group would be happy to help with some suitable material if necessary.

CHAIR—Anything you want to submit you can submit and it will certainly be considered.

Dr Gunn—Thank you very much.

CHAIR—Thank you very much. That concludes our list of witnesses for today.

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

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

CHAIR—On behalf of the committee I would like to thank all of the witnesses who have given evidence at today's public hearing and I declare this hearing in Adelaide closed.

Committee adjourned at 12.56 pm