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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2001 federal election

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JOINT COMMITTEE ON ELECTORAL MATTERS

Monday, 11 November 2002

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

Senators and members in attendance: Senators Brandis, Mason, Murray and Ray and Mr Danby, Mr Forrest, Mr Georgiou, Mrs Ley and Mr Melham

Terms of reference for the inquiry:

To inquire into and report on:

All aspects of the conduct of the 2001 Federal Election and matters related thereto.

WITNESSES

IRWIN, Mrs Julia, Member for Fowler 264

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Committee met at 7.23 p.m.

CHAIR—I declare open this public hearing of the Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2001 federal election. Since 1984, successive Commonwealth governments have referred similar inquiries to this committee's predecessors after each federal election with a view to improving the operation of Australia's electoral system. These committees have played a central role in developing the electoral system we now have.

The current inquiry into the 2001 federal election was referred to the committee by the Special Minister of State on 13 May 2002. To date, the inquiry has received 161 submissions from Australians and from Australians overseas, demonstrating a significant interest in ensuring that our electoral system is kept up to date.

I would remind witnesses 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 and will be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

[7.25 p.m.]

IRWIN, Mrs Julia, Member for Fowler

CHAIR—I welcome Mrs Julia Irwin MP, member for Fowler, to today's hearing. The committee has received your submission and it has been authorised for publication. Are there any corrections or amendments that you would like to make to your submission?

Mrs Irwin—I just wanted to say a few words to go with my submission this evening.

CHAIR—Please proceed.

Mrs Irwin—The submission deals only with the issue of informal voting, although some of the causes and ways of addressing informal voting go to some other aspects of voting and the conduct of elections. I am really only concerned about informal voting. This is what I am going to touch base on this evening.

Given that the level of informal voting in Fowler was the highest in Australia at 12.75 per cent, I think I would be letting my constituents down if I did not raise this issue with the committee, and hence my submission. I have also raised this once or twice before in the federal parliament, especially after the 1998 election when the informal vote was only 5.8 per cent. When you consider that one in eight people who cast a vote in the Fowler electorate did not have their vote counted, it is very upsetting. That was almost three times the national average for informal voting. Nearly 10,000 votes were not counted. I am sure you will agree that something more needs to be done to ensure that all electors have their vote counted.

In my submission, I note that the level of informal voting rose from 5.78 per cent in 1998, and the informal vote in surrounding electorates also rose in a very similar way. My submission attempts to analyse some of the factors which may be causes of high rates of informal voting. I have looked at informal votes in Fowler over the type of vote; that is, postal, pre-poll, absentee, provisional and ordinary votes. These show some big differences, and they indicate some causes and also suggest some ways to reduce informal voting. Informal votes in Fowler by type were as follows: ordinary was 13.21 per cent; absentee was 10.84 per cent; postal was 2.8 per cent; pre-poll, 7.5 per cent; and provisional, 15.26 per cent.

I am going to deal with each section as it comes. First, the figure for postal votes was very low. It suggests three things. Postal voters are experienced and can take their time to fill in the ballot paper. They have their ballot paper checked legally or illegally. They are committed. They have asked for the ballot paper to be sent to them. In Fowler, 1,667 people cast a postal vote. For Labor, I got 54 per cent of the primary vote and 63 per cent two-party preferred. I found also that there were very few Asian applications for postal votes, and many people are not aware they can make a postal vote application.

I want to talk now about absent votes and pre-poll votes, which were surprisingly low compared to ordinary votes. A high number of donkey votes suggests that many voters do not have how-to-vote cards. Party name on ballot paper may have been the best guide for those voters. I will look now at ordinary votes, factors in informal voting and also the size of the

polling place, with large polling places, long lines and delays in the early morning. Informal voting was only slightly higher at the larger polling places. Talking to my scrutineers and my booth captains, who actually set up the booths at 7 a.m., people were lining up at 20 to eight to cast their vote at eight o'clock. Some of them had to wait for up to three-quarters of an hour, and that can be very frustrating. Hence they go in there frustrated—a tick, a cross or whatever.

Composite polling places is another worry, especially in Fowler during the last federal election. We had seven composite polling places in Fowler, which was very high. The informal vote was slightly higher at composite booths. Cards issued to voters who changed electorate after the redistribution were useful. People brought along cards when they came to vote. Mainly because we had these seven composite booths between Werriwa and Fowler, the Electoral Commission actually sent out letters to say, 'Right, you can go and vote at this composite booth. You are now in the electorate of Fowler,' or 'You are in the electorate of Werriwa.'

The number of candidates doubled from 1998. In 1998, there were only five candidates and in the 2001 elections there were 10 candidates. There was greater difficulty in filling in the numbers. We noticed, in an experience with elderly Chinese using dummy ballot papers to teach them how to vote—I will go back to that in a minute—that there was a problem with Chinese numbers, especially for the elderly Asian people within my electorate, who make up to 25 per cent of the electorate of Fowler.

I know that we most probably cannot note this on the *Hansard*, but what I have done this evening is a little exercise that it would be great if members and senators here could do. I have a ballot paper for the House of Representatives, if I can pass that to the committee secretary, and a how-to-vote with numbers in Chinese writing. I am going to give out the sample ballot papers.

CHAIR—We will accept these as exhibits.

Mrs Irwin—Thank you very much. Four or five days before the federal election in 2001, I spoke to 80 to 90 elderly Chinese Buddhists within my electorate. They asked me to come along and speak because they were very frustrated about how they were going to fill out their ballot paper, especially with 10 candidates, and they also wanted their vote to count. Hence, we handed out a mock ballot paper. We had Smith, Brown, Jones and a few other Greens and Purples on the ballot paper. Out of, I would say, 80 people who filled out that ballot paper, there were only 10 who could actually write Western numbers.

I also want to go now to preferential voting and note that in New South Wales, especially in local government elections, optional preferential voting applies. It is necessary to put only one number on the ballot paper. I feel this is a common reason for informal voting, especially within the electorate of Fowler. We had a state by-election in Auburn a few months prior to the 2001 elections, so people could actually go in, fill out their ballot paper with a one, a tick or a cross.

I want to talk about how-to-vote cards. The committee should see how important they are from the Chinese number exercise that I have given you. It is also interesting to note that only Labor gave out how-to-vote cards at all the booths, and I thank my supporters for that. There was a slightly high tendency for informal votes to be higher at booths where the Liberal vote was higher. I will not draw any conclusions from that, but it may have been a protest vote for not having a Liberal how-to-vote card there.

It is funny that we had reports from our booth workers that they were being abused for not handing out the Liberal how-to-vote. There were quite a few people who came up, because there was not someone to hand out the Liberal how-to-vote, and were absolutely frustrated. Some people think that party booth workers are paid by the government. My booth workers assured them that they believed in the Labor cause and they were there to hand out for Labor.

Senator BRANDIS—Can I ask a question: how widespread do you think that is? I have always had the impression there is a whole population of people in the community who are not remotely interested in politics. They have really no sort of appreciation of the process and they think that the booth workers are part of officialdom.

Mrs Irwin—Yes, well, a lot of them do. I know that with some of my booth workers, people say, ‘How much did you get paid for today? I put my name down with the Australian Electoral Commission.’ A lot of people out there in voter land feel that way.

I would also like to touch base now on video voting information, which I feel is very successful. In 1998, and again in 2001, the AEC had video players in polling places showing videos describing the voting procedure. These were placed in booths where it was known there was a high level of informal voting. Now while the levels remained fairly high, they may have been even higher if the videos were not used. Hence, you have my submission.

The recommendations that I would like this committee to consider are: first, the Australian Electoral Commission should identify electorates, such as Fowler, with high informal voting and undertake special initiatives to reduce the level of informal voting; second, it should develop additional resources in community languages for distribution in target electorates; and, third, it should expand the use of video resources in polling places. I think they have been partly successful and definitely should be retained, and most definitely they should be expanded.

The biggest concern that I found, going round to all the polling booths, even talking to my people that were handing out cards for me and to people that were handing out for the Liberal gentleman who was running against me, was the delays at polling places. They cause frustration and they lead to informal voting. The AEC may look at morning-only staff to cover busy periods. Talking to the booth workers, as I say, the busiest time is from quarter to eight in the morning until, say, 10 o’clock, mainly because you have shift workers who are going to work. They just want to cast their votes; they want to hop back in their car or catch the local bus to their place of employment. Could we look at having extra AEC staff there just for that very busy time of day.

I would like to see if we could make allowance for voters unable to write Western numbers. With what I have given you this evening, you can see the frustration that people have. We need to inform the voters that they can get assistance, as occurs with blind and disabled people. A lot of people who are going to vote do not realise that they do have a right to go up to the returning officer at a polling station and ask for assistance. It is very hard—when you might only have two or three people that are handing out the Labor how-to-vote or handing out the Liberal how-to-vote, especially when you have a big booth with 4,000 or 5,000 people that are going to vote—to say, ‘Look, if you’re having problems, come back and get us. We’ll go and ask for assistance.’ So if we can get this message across, I think it would be a good idea.

We could have an increase in the awareness of postal voting in non-English communities. I try to get the message out as much as I can during the campaign that, first, if you are ill or are not well or, second, if you are finding it very difficult to get to a polling booth, you can have a postal vote. Hence, I think there were just over two per cent informals in the postal vote. They are at the kitchen table having their cup of tea and they have mum, dad or whoever there saying, 'I have filled it out. Have I done the right thing?' Actually with that ballot paper I have just given you, and I am sure you might fill that out later—

CHAIR—Yes, much later!

Mrs Irwin—It took some of them 20 minutes. By the time they got to 3—they were right really once they got to 1, 2 and 3. Before 3 you could see these elderly people who were frustrated. They said this to me: they came to Australia as migrants; they love this country that they are living in now; and they want their vote to count. They can speak the language, they can read the language but, unfortunately, they cannot write the language.

CHAIR—Thank you very much for that. If I could ask a couple of questions: you say that by your estimate at least 80 per cent of postal voters in Fowler received the Labor how-to-vote card. How did they do that? How did you get it to them?

Mrs Irwin—That was mainly targeting various areas by Australia Post. It was virtually people walking it in. The majority of the time, volunteers were walking to various streets in the electorate and putting it in the letter box.

CHAIR—So you put your how-to-vote cards in the letter boxes?

Mrs Irwin—Yes, the how-to-vote.

CHAIR—So essentially you think that 80 per cent of voters of Fowler got your how-to-vote card.

Mrs Irwin—I would say about 80 per cent.

CHAIR—Whether or not they voted postal, so it was a total drop.

Mrs Irwin—That is correct.

CHAIR—One of the things that does interest me is that there seemed to be a lot of blanks in Fowler, and my understanding of blanks is that that is a classic protest vote. Was there an increase in blanks in Fowler?

Mrs Irwin—There was an increase. Talking to my scrutineers, 75 per cent of the informal vote was going to Labor, and they were getting frustrated because it was either a tick or a one.

Senator MASON—Sorry, was this a tick or—

Mrs Irwin—It was virtually a tick, a one or a cross. And that was 75 per cent of those informal votes that were Labor votes. But when it came to the Senate—

Senator ROBERT RAY—That is not what the record says. The record says that there were 28 per cent numbered one only and 14 per cent had ticks and crosses, which makes 42 per cent.

Mrs Irwin—Forty-two per cent, okay.

Senator ROBERT RAY—So it is nothing like 75 per cent.

Mrs Irwin—I am sorry, I am just trying to think what my scrutineers were saying—that overall the whole lot of informal votes—

Senator ROBERT RAY—You can add another two per cent in for non-sequential to start to establish what the voting intention may have been, but it is still less than half, although I must say I do not understand what ‘other’ at 33 per cent is about. I thought we had covered every possibility above that.

Mr FORREST—Rude remarks?

Senator ROBERT RAY—No, they can have their slogans, if numbers aren’t illegible. If not, then there is a valid vote, rude remark or otherwise.

Mrs Irwin—That is correct.

Senator BRANDIS—Can I ask you a question about whether we should allow other numerations, characters other than numbers?

Mrs Irwin—No, I have not put that proposal forward. I might be wrong in saying this but I think that Roman numerals are accepted. Is that correct? The chair might be able to say. Are Roman numerals accepted on a ballot paper?

Senator ROBERT RAY—No.

Mrs Irwin—Roman numerals are not accepted on a ballot paper; I thought they were. I am not suggesting that at all.

CHAIR—She is suggesting that you should try and do this. That is the point. The other issue that I have always been worried about is composite polling places, and you have a view that from your data composite polling places do not create a higher level of informality.

Mrs Irwin—You are saying the composite polling places—

CHAIR—Yes, I have always been worried about those. I like people to go to a booth and vote in one electorate. You do not believe that that actually impacted on the informality?

Mrs Irwin—I was concerned in the beginning, mainly because there were going to be seven composite polling booths compared to the 1998 election. With the AEC actually writing to all those people within my electorate and the member for Werriwa’s electorate where there were composite booths, it was really great to see—this is from the people that were handing out for me on the day—that people were coming along with their letter because there was a complete

change of boundaries. So it was good. You would have Fowler here and Werriwa there. They had their letter in front of them and they actually went up to the person who was handing out the how-to-vote. I think it was good on their part that they actually did get that message across.

CHAIR—So where there are composite polling booths, you think that the AEC should tell them—

Mrs Irwin—Most definitely, because it is going to make it a lot easier for voters. Sometimes, they might have the member for Fowler there for six years and then all of a sudden they do not realise that the member for Fowler is no longer their member and it is now the member for Werriwa. I think it is a very good idea.

CHAIR—Have you had a look at other strong Labor seats and the informals at the 2001 election?

Mrs Irwin—I think I actually put that in my submission on page 4, comparing Fowler, Blaxland, Reid, Werriwa, Prospect and Chifley. Even if you look at the electorate of my colleague the member for Reid, his informal vote went from 7.1 per cent up to 11.8 per cent.

Mr MELHAM—He had the Auburn by-election.

Mrs Irwin—That is the point that I made before. Mr Ferguson's electorate takes in the state seat of Auburn and that was only a couple of months before. So you had people actually voting there—again a one, a tick or a cross.

CHAIR—You have my apologies; you did put that in.

Mrs Irwin—And talking to Mr Ferguson, the main thing he was saying was that it was because of the Auburn by-election.

CHAIR—It has gone up significantly across all those seats?

Mrs Irwin—Yes, it has. If you look at page 4 of the submission, it has.

CHAIR—What impact do you think that the optional preferential and the switch to full preferential had in terms of informals?

Mrs Irwin—I think it had a big impact, especially in seats like Fowler and Reid, and also in Blaxland to a certain degree.

Senator ROBERT RAY—I am puzzled about this because optional preferential was introduced for the first time in the New South Wales state election in 1981.

Mrs Irwin—Correct.

Senator ROBERT RAY—And we did not see these jumps in informals in 1983. We did not see them when you had an election in 1988, and then 1990, state and federal. I mean, this has

been a repeated pattern in New South Wales where they go optional preferential one day, full preferential the next. It is the same in Queensland with optional preferential.

There could be two explanations for this jump in informal voting—a lot more candidates and a lot more protest votes. A lot of people could not bring themselves to vote Labor at this election but also could not cross the border, I think, to vote Liberal. That is one of the reasons why it has jumped from seven to 12. You have to worry about the original seven—

Mrs Irwin—I can see your point, Senator. As you are saying, it has gone from 5.78 per cent up to 12.75 per cent, and this could have been a reason as well. But I think you also have to look at the make-up of the electorate that I represent. We have 25 per cent of the electorate coming from non-English-speaking background virtually, and they do get frustrated.

Senator ROBERT RAY—But, with respect, I do not think that changed in three years. That same composition was there—almost; there would be a slight difference—in 1998 and they voted 5.8 per cent informal. Then three years later it jumps to 12, so you have to look for an explanation. One explanation is viable and could well be the case. How many candidates were there in 1998, because you have 10 here?

Mrs Irwin—In 1998 we had five candidates—

Senator ROBERT RAY—So you have double the amount of candidates.

Mrs Irwin—In 2001, we had 10 candidates.

Senator ROBERT RAY—You probably have a how-to-vote card in 2001 that jumped more than that then, because you have One Nation sitting four from the bottom. And you are on the bottom, so you cannot go straight up the card.

Mrs Irwin—That is correct.

Senator ROBERT RAY—So that is a possibility.

Mrs Irwin—In 1998—everyone likes that donkey vote—I was at the top of the ballot paper.

Senator ROBERT RAY—You mentioned the donkey vote. What vote did Mr Johnson get, do you know, in percentage terms? You may have included it somewhere; I am not sure.

Mrs Irwin—I think I have included some of it. I am just having a look here. Actually, in some of the polling booths, informal outpolled Mr Johnson. I would have to take that on notice and get back to you but I am sure it is in the submission—3.22 is what he got. But I notice that, even with the Senate vote, it was above the line. It was fine there, because they virtually just had to put a one there.

CHAIR—I am not querying your submission because I think that your electorate has a particularly difficult demographic.

Mrs Irwin—Oh, it has.

CHAIR—My issue is, a bit like Senator Ray's, the demographics—and indeed I do not think the increased number of people on the how-to-vote card actually explains that variation. There were 24 people standing at the Wills by-election in 1991 and I expected, being a novice, that the informals would increase hugely and they did not. They increased somewhat, but not in proportion to the number of people on the card.

Senator ROBERT RAY—The graph of informals and candidates goes something like that. But once you get up beyond the 12, 15, 16, 17, people are very careful. So they actually get to the 24—it is when they get a bit lazy at about the 12 mark that you get to your peak, I suspect.

CHAIR—Let me think about that.

Senator ROBERT RAY—They were Victorians too!

CHAIR—You won my heart on that one.

Senator ROBERT RAY—Dealing with this is a problem.

Mrs Irwin—It is.

Senator ROBERT RAY—I am not sure that any of the solutions you have put forward would necessarily help, other than optional preferential, and there are a lot of reasons why that does not apply at a federal level. It may help around the fringes. I think having the Electoral Commission target resources to the worst informal areas is a very sensible suggestion rather than try to do a blanket cover.

Mrs Irwin—I think also having the videos in the polling booths was very useful. But it was also very upsetting to see some of those people that had come out after casting their vote and the frustration on their face, especially at the Cabramatta PCYC; we have a very big Vietnamese and Chinese community that vote there. The lines were incredible. Some of them were waiting for an hour to go and cast their vote, because they were trying to do it so slowly. They would come out and say, 'I only got to three. Am I all right doing three?' And you would think, 'Oh, gracious me.' Even with the Liberal candidate, they said, 'I wanted to vote Liberal but I couldn't get past four.' So you would virtually look at each other and think 'Oh, my God, an informal vote'.

CHAIR—It is important.

Mr DANBY—Do you have an idea what the informal vote was in 1996 and 1993, and how many candidates you had then?

Mrs Irwin—If I could take that on notice—

Mr MELHAM—As I understand it, it was 10 per cent and in 1996 it was 8.1 per cent. So that was high in years when Labor was struggling in its primary vote.

Mr DANBY—Do you have any memory of how many candidates there were in those elections? Does it correlate going up with there being more candidates?

Mrs Irwin—I could take that on notice and get back to the secretariat later. I do have that back in my electorate office but I did not put that in my submission. I was mainly looking at 1998 and then the informal vote in 2001.

Mr DANBY—That is fair enough.

CHAIR—I think a greater focus on some groups is definitely worthwhile.

Mrs Irwin—I thoroughly agree, Chair. I go back to that exercise I did with those 80 people five days before polling day, and how long it took them to fill out that ballot paper. When we got them in, there were only 10 correct. All the rest were virtually informal votes—remembering these were elderly people. I think they were aged—my mother would kill me for saying this because my mother is in her 70s—on average from 65 to 85 or 87 years of age. Their English was quite good and they could read English but they could not write it. They just wanted their vote to count.

CHAIR—I must say I have a problem because I think that people find using numerals easier than using the language. But you may well be right.

Mrs Irwin—I am sure if you tried that exercise and tried to fill it out in their numbers, you would find that it does take some time.

CHAIR—Would you like to make any concluding remarks?

Mrs Irwin—No, that is fine.

CHAIR—Thank you very much. It has been very helpful.

Mrs Irwin—Thank you very much for allowing me to appear before the inquiry.

[8.00 p.m.]

McCLELLAND, Mr Robert, Member for Barton

CHAIR—I welcome the member for Barton. You are under oath. Everything you say will be held against you!

Mr McClelland—I understand, thank you, Chair. Irrespective of the party involvement or preference, I think the principle is this: I pulled off the Unity Party web site—the material was still there just this week—their material saying that they were giving preferences—in this case, it was preferences to the Labor Party—but on the day of the actual ballot the candidate had photocopied the Unity Party official how-to-vote, changed the numbers and gave them out differently.

If that occurred in the commercial world, I think it would be regarded by an entity as false and misleading conduct to say one thing to the public and then for an arm of that entity to do something different. The Electoral Commission took the view, after changing their mind as to what to do on the day, that it was an internal Unity Party matter and they had an obligation to sort that out themselves.

We got advice from senior counsel on the day that there was a strongly arguable case that it was indeed misleading conduct within the definition of the Electoral Act about inducing someone to cast a vote for other than who they intended to cast a vote for. But the practicalities of running off, leaving a campaign, not to mention the money up front, were just impractical. For the AEC to say, ‘Look, this is a matter that should be sorted out within the party itself, the Unity Party,’ is just impractical.

It led to two confrontations, one where the police at a booth where I won directed the photocopied how-to-vote to be withdrawn. I have a copy of an article from the local paper, which I will give to the secretariat, on another booth where the police at the instigation of the Australian Democrats asked for this to be withdrawn. So the local police, after phoning up the Unity Party, said, ‘Yes, this is a fake. We are going to pull it off,’ but the Australian Electoral Commission was left in a quandary.

To cut a long story short, irrespective of what party it is, I think the answer is probably the least best option. One option is to define or clarify what is an inducement to mislead a voter to include the situation where a party represents that preferences will be one way and the candidate that it will be another. But I think the more practical and commonsense way is to require House of Representatives candidates to actually register or deposit with the AEC their how-to-vote a period of time before election day. I think that would be simple—and that would enable the public record to be corrected so that no-one is misled by previous misrepresentations and so forth. I would favour that second option, but that is basically the thrust of what I am saying.

Senator MURRAY—That is the Queensland option, is it not?

Mr McClelland—I am not sure.

Senator MURRAY—The new Queensland legislation is seven days prior—and Victoria.

Senator ROBERT RAY—Yes.

CHAIR—If I can ask a couple of questions: who authorised the two tickets, the same person?

Mr McClelland—No, the Unity Party—I just cannot recall the answer but they are different people. They should be in the documents I have provided.

CHAIR—But if two different people authorised it, then what is the problem? I could understand a complaint on the basis that this was authorised reflecting the central Unity position and then somebody changes it and it is still authorised by the same person. I can understand that that is a problem. But given the internalities of political parties, so long as it is properly authorised and handed out on behalf of the party, what is the problem?

Mr McClelland—That is the view that the Australian Electoral Commission took. But the problem is that voters—and there were media reports at the time—saw that the Unity Party was giving its preferences in a particular way. On the day, people having read that—and bearing in mind that they were appealing to certain ethnic groups who were reading this material in ethnic newspapers, albeit there may have been something on the reverse of the how-to-vote—have clearly been misled as to what will be the effect of their vote.

I think in this day and age when political parties are publicly funded—in Clark's case in South Australia, the judge said, 'Look, having regard to the fact that they are politically funded, they are institutions now,' and there are accountability procedures where the courts in recent years have now been prepared to intervene in the affairs of a party—we should have an electoral system that recognises the realities of parties and the fact that they will be the public campaigners. All I am saying is that to prevent voters being misled, the local candidate—if he intends to depart from a course of action of which the public have previously been advised—should at least do the courtesy of advising the public, through lodging or depositing his how-to-vote, as to what his or her intentions are.

CHAIR—Maybe I am coming from a Victorian perspective here because that seems to be going a long way down the track. In Victoria, the Labor government did that because one of their own members, who is now a minister, actually printed fraudulent how-to-vote cards. The stench was so great that even the Labor government thought that it had to act against its state director or state secretary.

Mr McClelland—Sure.

CHAIR—This strikes me as a long way back from that.

Mr McClelland—There will be instances both ways. I am not saying that the tainting was on any political party.

CHAIR—No, but I am saying that is a big ask to have registration.

Senator ROBERT RAY—He was under enormous pressure from the very talented Liberal Party state director, I understand.

CHAIR—Long before my time!

Mr McClelland—I see. That is the thrust of my argument. To cut a long story short, certainly there was a lot of heat at the polling booth that I was at and the police came down. They took a commonsense view—beat policing, if you like—as to what they should do. The AEC, quite frankly, was in a quandary as to what to do, changing their mind as to what should be done on the day. I do not think we should allow that situation to occur.

Clearly, the dynamics of Australian politics for the foreseeable future is going to be that these preferences will have a big impact on the ultimate result. I think the best we can do is to ensure that voters voting in accordance with the publicly stated position of a party, on which I think they are entitled fairly to rely, will be what is presented to them on the day—or the method. What is presented to them on the day is effectively the method through the how-to-vote of casting a vote according to the wishes of that political party. I think that method should reflect the advertised position, if you like, or the publicly stated position of the party. A way of doing that is to require registration or publication of the stated how-to-vote card before election day.

CHAIR—One more question from me: what if there is that publicly stated position when you do what the Democrats do and you say, ‘In some seats we will preference one way and in other seats preference another way’?

Mr McClelland—That is not as strong, is it, but I still think it would be desirable for voters to know ahead of polling day how it will occur.

Mr MELHAM—What you say in that is that it is consistent because they are advertising what they are doing. They are not advertising consistency across the electorate but, having advertised in different electorates that they are going to distribute preferences differently, that is what they should stick to.

Mr McClelland—And I suppose there is an argument for saying ‘voter beware’, that the Democrats or whoever it may be put voters on notice that they will be allocating preferences differently in different electorates. I think there is an argument for it to be said, ‘Look, in those circumstances, it is desirable for people to know ahead of polling day’—

Mr MELHAM—What I am interested in is what happens if there is a late switch by the party, for whatever reason. There might be a change in terms of initially recommending preferences one way but changing closer to the election. Are you saying that there should be an official lodgment to the Electoral Commission to indicate that there has been a change of preferences by the local party unit or the particular party?

Mr McClelland—Yes, I am. The period away from election day is something that is subject to legitimate debate. Ideally, you would probably say in the vicinity of that which the senators are required to do.

Mr MELHAM—So that once you lodge you are bound by that particular how-to-vote?

Mr McClelland—Yes.

Mr MELHAM—But you can change up to a particular time?

Mr McClelland—Yes, a reasonable time. I would suggest 48 hours would be—

Mr MELHAM—And your justification is because of public funding that gives us the power to do that, because basically parties are getting public money on the basis—

Mr McClelland—Parties are treated as corporate entities being funded on that basis, and I think the corporate message or the corporate indication is something that the candidates should be held to. If in some way they are going to depart from that, if events have transpired, they should be required to notify the AEC, but generally I cannot see a great burden for the candidate in letting the AEC know 48 hours before.

CHAIR—Can I just say, leaving aside all the politics, it is a very substantial burden on a political party to have to register. The other thing is when you get that real moment of excitement when you think you can rule somebody's how-to-vote card out, all you do is drive them 200 metres away from the polling place and they still keep handing them out.

Mr McClelland—Yes, sure.

CHAIR—That has been the Victorian experience. It has been a burden on the parties. There is a loss of flexibility and you do not actually resolve the problem, for what that is worth. But that is a personal judgment.

Mr McClelland—In answer to that, the reality is there would be no candidate who would not put his or her how-to-votes in to a printer 48 hours before polling day, and I think that is an appropriate measure.

Mr DANBY—What about if he was in to a printer 48 hours beforehand and they have come out—say that is the minimum period under your new regime—and printed the how-to-vote card differently from their advertised or stated how-to-vote card. However, it has everything else correct—authorisations and that kind of stuff. Is it misleading and deceptive conduct?

Mr McClelland—If it had been lodged with the AEC as being the one you are going to rely on, then it would be. You would lock them in. It is the same as the Senate: if a party departed from its lodged Senate how-to-vote, it would be an invalid how-to-vote.

Senator ROBERT RAY—It seems to me that major political parties would have absolutely no difficulty with this. It is usually about four hours after nominations close that we have an Australia-wide how-to-vote card on the way to the printer. It has been my job, amongst other things, to coordinate that in the last couple of federal elections. But more minor parties are going to find that sort of bureaucracy a lot harder to do. It also takes away the possibility of your being able to change someone's mind.

Senator MURRAY—That is why the time is a critical thing. You see, anywhere earlier than a week out would be far too much time.

Senator ROBERT RAY—No, but if you actually did this at the same time as the Senate one, you people would have to keep the promises you make in your preference deals, because you have to register it simultaneously. So it has some advantage.

Senator MURRAY—I do not disagree with the lodging approach but the point you have just made is for minor parties, and I mean really small micro parties as opposed to minor parties, where it can be an issue. But I do not disagree with the approach of lodging at all. One should understand that.

Mr McClelland—It is really a question of balance, I suppose.

CHAIR—All right, thanks very much.

Mr McClelland—Thanks for fitting me in.

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

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

CHAIR—On behalf of the committee, I would like to thank the witnesses who have given evidence. I declare this public hearing closed.

Committee adjourned at 8.14 p.m.