AUSTRALIAN ELECTORAL COMMISSION

SUBMISSION TO

THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

INQUIRY INTO

ELECTORAL FUNDING AND DISCLOSURE

Canberra

17 October 2000

CONTENTS

1 Introduction

1.1 This submission by the Australian Electoral Commission (AEC) is presented to the Joint Standing Committee on Electoral Matters (JSCEM) in response to its call for submissions to the "Inquiry into Electoral Funding and Disclosure", as advertised on 9 September 2000 in all major national newspapers.

1.2 This JSCEM inquiry was stimulated by a letter, dated 29 June 2000, to the Chairman of the JSCEM, Mr Gary Nairn MP, from the Special Minister of State, and the Minister responsible for electoral matters, Senator Chris Ellison. In his letter to the JSCEM, which was copied to the AEC, the Minister said the following:

> …there is one further aspect of the 1998 Federal Election that I would like to refer to the Committee. This is the Australian Electoral Commission's Funding and Disclosure Report, and the recommendations contained therein.
>
> Also to be found in the 1998 Report are a number of recommendations that arose from the 1996 Funding and Disclosure Report. Some of the these 1996 recommendations were addressed in an *ad hoc* manner in the Electoral and Referendum Amendment Bills. The majority of the recommendations, however, have not been directly evaluated by the JSCEM.
>
> I would appreciate it if your Committee could look at these funding and disclosure recommendations and report back on the desirability of their incorporation into the existing legislation.

1.3 On 29 August 2000 the AEC participated in an informal briefing with the JSCEM, and detailed the various recommendations made over the past four years in its various FAD Reports to the Minister, and submissions to the JSCEM.

2. AEC Funding and Disclosure Reports to Minister

2.1 Under section 17(2) of the *Commonwealth Electoral Act 1918* (Electoral Act) the AEC is required, as soon as practicable after a federal election, to provide to the Minister for tabling in the Parliament a report on the operation of the Funding and Disclosure (FAD) scheme in Part XX of the Electoral Act. FAD Reports have been so provided, and independently published, after every federal election since the establishment of the AEC in 1984. The AEC FAD Reports for the 1996 and the 1998 federal elections are publicly available on the AEC Internet website at www.aec.gov.au.

2.2 The AEC FAD Reports give a detailed description of the operation of the FAD scheme at the most recent federal election, and make recommendations to the Minister about how the FAD scheme in the Electoral Act could be improved by legislative amendment. The Government is not formally required to respond to the AEC recommendations for legislative change contained in the FAD Reports (as it is for JSCEM Reports to the Parliament, for example), and accordingly, they may not receive any further parliamentary attention, unless prompted by particular events arising.

2.3 For example, the AEC FAD Reports to the Minister, following both the 1996 and 1998 federal elections, recommended closing the "loophole" in the Electoral Act that has allowed Mr David Ettridge and Mr David Oldfield to seek registration of the "No GST Party", currently the subject of some public controversy. The relevant AEC recommendations arising from the 1996 federal election did not lead to proposed amending legislation at the time. The relevant JSCEM recommendations arising from the 1998 federal election are currently under consideration by the Minister and the Government, and both the 1996 and 1998 AEC FAD Reports have now been referred to the JSCEM for further inquiry.

2.4 As part of the JSCEM inquiry into the conduct of every federal election, the AEC makes a major submission to the JSCEM soon after the election, which includes discussion and recommendations on the operation of the FAD scheme (see for example, part 11 of AEC submission No 88 of 12 March 1999, and paragraphs 43.21 to 43.33 of AEC submission No 176 of 4 May 1999, copied at **Attachment 1**). However, given the time frames provided in the Electoral Act for complete reporting of funding and disclosure matters for each election, these AEC submissions to the JSCEM inquiries into the conduct of federal elections do not provide the same level of detailed discussions and recommendations contained in the later and separate AEC FAD Reports.

2.5 AEC recommendations to improve the FAD scheme under the Electoral Act, in the FAD Reports, and in AEC submissions to the JSCEM, are made from a politically neutral perspective and in the public interest, but do not always find support within the major political parties in the Parliament. In the FAD Report on the 1998 federal election, the AEC said the following at paragraphs 1.5 to 1.6:

> The AEC's experience is that, since the inception of a national disclosure scheme more than 15 years ago, there has been an unwillingness by some to comply with disclosure; others have sought to circumvent its intent by applying the narrowest possible interpretation of the legislation. More recently there has been an increasing trend for some to misuse the party registration provision. Wherever possible the AEC has sought to respond administratively to challenges in these areas, but there is a limit on how much can be achieved in this manner alone.

> To adequately respond to these challenges and to prevent potential exploitation of loopholes in the legislation, there is a continuing need for greater legislative rigour…

2.6 Any consideration of the competence of the current disclosure legislation must be made against an understanding of its intention. The disclosure provisions contained in Part XX of the Electoral Act have the objective of informing the public of the financial dealings of political parties, candidates and others involved in federal elections; in other words, to prevent political corruption by making the financing of political parties and candidates as transparent as possible. As stated in the second reading speech which introduced disclosure legislation in 1983:

> It is simply naive to believe that no big donor is ever likely to want his cut sometime. Australians deserve to know who is giving money to political parties and how much.

2.7 It is of crucial importance, therefore, that material benefits provided to political parties and others be made public knowledge. If this outcome cannot be fully assured, then the public interest cannot be served and disclosure under the Electoral Act becomes discretionary.

2.8 The history of the disclosure legislation since its introduction in 1984 is one of constant change. These changes have been as a result both of streamlining cumbersome and unnecessary administration, but more out of a need to address avoidance techniques when the legislation is shown, or feared, to be deficient in meeting its objectives. Major amendments included extending party disclosures from just being federal election related to annual returns of all transactions and debts; and entities closely associated with parties being required to also lodge comprehensive annual disclosures.

2.9 The legislation's history to date can be characterised as one of only partial success. Provisions have been, and remain, such that full disclosure can be legally avoided. In short, the legislation has failed to meet its objective of full disclosure to the Australian public of the material financial transactions of political parties, candidates and others.

2.10 Also pertinent to the effectiveness of disclosure is the timeliness of the public release of the information. Election disclosures are released publicly 24 weeks after polling day and annual disclosures become public information on the first working day of February, almost eight months after the end of the financial year. This form of point-in-time reporting and release can result in delays that can discount the relevance of making the information public. For instance, the disclosures by political parties covering the October 1998 federal election, which are of considerable public interest, were not released until February 2000.

2.11 The amendments to the legislation passed by Parliament since 1984 have not achieved a watertight, effective system of disclosure, but rather, have been reactive to individual events. The recommendations made by the AEC in its 1996 and 1998 FAD Reports as well as those made in this

submission address loopholes and potential loopholes that our history and experience have suggested may be open to exploitation in the future. A more comprehensive set of amendments to the Electoral Act than those already proposed would be required if a watertight system of disclosure is to be secured.

2.12 As some recommendations made in the 1996 and 1998 FAD Reports have already been considered and reported upon by the JSCEM or already incorporated into the legislation, a summary of the status of these recommendations is provided at **Attachment 2**.

3. FAD Report on the 1996 Federal Election

3.1 The following recommendations were made by the AEC in the FAD Report on the 1996 federal election:

> **Recommendation 1**: Payments of election funding must be made in the registered name of the particular party or branch.
>
> **Recommendation 2**: Candidates and Senate groups be allowed to appoint agents up to 6:00 pm on polling eve.
>
> **Recommendation 3**: The threshold for disclosure of donations to candidates be raised to $1,000.
>
> **Recommendation 4**: The threshold for disclosure of electoral expenditure by third parties be raised to $1,000.00.
>
> **Recommendation 5**: In their annual returns, political parties be required to identify donations separately from other receipts.
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> **Recommendation 6**: Political party annual returns be accompanied by a report from an accredited auditor.
>
> **Recommendation 7**: The failure by the agent of a political party to lodge a disclosure return within 12 months of its due date be grounds for de-registration of that party.
>
> **Recommendation 8**: The threshold for recovering 'anonymous donations' to registered political parties, candidates and Senate groups be the same as the disclosure thresholds.
>
> **Recommendation 9**: The definition of an 'anonymous donation' be revised from the name or address not being known at the time of receipt to not being known at the time of disclosure.
>
> **Recommendation 10**: The Australian Electoral Commission be empowered to serve a notice upon officers of an organisation for the purpose of ascertaining whether that organisation has an obligation to disclose as an associated entity. An organisation be provided with the

right to appeal against a notice served upon it for the purpose of ascertaining whether that organisation has an obligation to disclose as an associated entity.

Recommendation 11: That a Member of Parliament only be able to lend his/her name to a single political party for registration purposes.

Recommendation 12: That a person can only hold one appointment as a Registered Officer at any one time.

Recommendation 13: A fee of $500 to accompany an application for the registration of a political party and an application to change either the registered name or abbreviation of a political party.

Recommendation 14: The registered abbreviation of a political party should be restricted to either an acronym of, or a shortened version of, the party's registered name.

Recommendation 15: The procedures for the de-registration of a party originally registered as a parliamentary party and the review of that decision be the same as currently exist for a non-parliamentary party.

Recommendation 16: Require that the secretary of the party be one of the three party members to submit an application for the de-registration of a non-parliamentary party.

Recommendation 17: All de-registration decisions of the Australian Electoral Commission should be included as reviewable decisions under the Commonwealth Electoral Act.

Recommendation 18: The suspension of all party registration activity during the period of the issue of a writ be amended so that only the Australian Electoral Commission's decision with regard to the registration, de-registration and changes to the Register of Political Parties other than to Registered Officer and Deputy Registered Officer details, is suspended.

3.2 The following developments have taken place in relation to these 18 AEC recommendations:

- Recommendation 10 was enacted as part of the *Electoral and Referendum Amendment Act 1998*.

- Recommendation 11 would become redundant if recommendation 15 of the 1998 FAD Report were to be accepted.

- Recommendation 13 has now been enacted. Recommendation 14 was repeated by the AEC to the JSCEM as part of its inquiry into the 1998 federal election, as recommendation 4 in paragraphs 43.21 to 43.33 of

submission No 176 of 4 May 1999. The JSCEM has made a recommendation consistent with recommendation 14.

- That is, AEC recommendation 13 in the 1996 FAD Report, which became AEC recommendation 2 of submission No 176, became JSCEM recommendation 51 in the June 2000 JSCEM Report (although the JSCEM proposed a different fee level for party registration) and has now been enacted.

- Similarly, AEC recommendation 14 in the 1996 FAD Report, which became recommendation 4 of submission No 176, became JSCEM recommendation 53 in the June 2000 JSCEM Report.

- Recommendation 16 requires a relatively minor amendment. As indicated to the JSCEM at the informal briefing on 29 August 2000, the registered officer, being a position appointed with the AEC for registration matters, would be the most appropriate person to be authorised to apply for the voluntary deregistration of a non-parliamentary party. The recommendation should be replaced by the following words "Substitute, as applicant for the de-registration of a non-parliamentary party, the registered officer of the party in place of the current requirement for three party members."

4. FAD Report on the 1998 Federal Election

4.1 The following recommendations were made by the AEC in the FAD Report on the 1998 federal election:

> **Recommendation 1**: Require disclosure by donors who have made donations of $1,000 or more to Senate groups the members of which have not all been endorsed by the one registered political party and disclosure by those donors of any donations they received of $1,000 or more which they used, in whole or in part, to incur expenditure for a political purpose.
>
> **Recommendation 2**: Amend the requirement for a third party to lodge a return of donations received to instances where those donations were used in whole or in part on electoral expenditure or donations made which are required to be disclosed by the third party for that same election.
>
> **Recommendation 3**: Abolish the requirement for broadcasters and publishers to lodge disclosure returns following an election or referendum.
>
> **Recommendation 4**: The party agent or, in the absence of a registered party agent those persons who currently form or last formed the party's Executive Committee, be required to lodge an annual return within 16 weeks of the date of deregistration of the party covering the period from 1 July until the date of deregistration.

The financial controller of an associated entity should be required to lodge a return covering the period up to the deregistration of the political party that it was associated with, or the period up to when the associated entity ceases operations, as the case may be.

Recommendation 5: Persons who fail to make or maintain such records as enables them to comply with the disclosure provisions of the Act be subject to the same penalty provisions as apply to persons who fail to retain records.

Recommendation 6: The definition of an associated entity be clarified by inserting the following interpretations into the Act:

- 'controlled' to include the right of a party to appoint a majority of directors or trustees;
- 'to a significant extent' to mean the receipt by a political party of more than 50% of the distributed funds, entitlements or benefits enjoyed and/or services provided by the associated entity in a financial year; and
- 'benefit' to include the receipt of favourable, non-commercial terms and instances where the party ultimately enjoys the benefit.

Recommendation 7: The prohibition on the receipt of an 'anonymous donation' be extended to associated entities on the same basis as for those made to registered political parties.

Recommendation 8: The payment of a guarantee to be deemed to be a gift for the purposes of the disclosure provisions of the Commonwealth Electoral Act.

Recommendation 9: Raise the threshold at which donors to political parties are required to disclose gifts received and used by them, either in whole or in part, to fund their gifts to a registered political party from $1,000 or more to $1,500 or more to maintain a consistent value at which the Act deems disclosure necessary.

Recommendation 10: The threshold at which donors to political parties are required to disclose gifts received of $1,000 or more (or $1,500 or more if the above recommendation is accepted) to include two or more gifts from the same source which together exceed that threshold.

Recommendation 11: Donors to political parties above a predetermined threshold be subject to compliance audits.

Recommendation 12: Contingent debts be treated identically to current debts for disclosure purposes.

Recommendation 13: The Australian Electoral Commission be given express legislative authority to:

- conduct reviews of the continuing eligibility of registered political parties;
- specify the documentation it requires parties to produce in support of their application for registration and their continued right to remain registered; and
- deregister a political party if it fails to produce the documentation requested by the AEC in support of its continuing right to remain registered.

Recommendation 14: The definition of a member of a political party be expanded to include the requirements for a person to have:

- been formally accepted as a member according to the party's written rules;
- joined the party or renewed their membership within the previous 12 months; and
- paid a minimum annual membership fee of $5.00.

Recommendation 15: Consideration be given to amending the provision for a political party qualifying for registration on the basis of having one or more members who are members of a Federal or State parliament or a Territory legislature as an alternative to having 500 members, to either:

- remove the option from the Act altogether;
- restrict Members of Parliament to only be able to lend their name to a single political party for registration purposes; or
- restrict this option to only members of the Federal Parliament.

Recommendation 16: The Act provide the Australian Electoral Commission with the power to set standard, minimum rules which would apply to registered political parties where the party's own constitution is silent or unclear.

4.2 The following developments have taken place in relation to these 16 AEC recommendations:

- Recommendations 13 and 14 were made by the AEC to the JSCEM as part of its inquiry into the 1998 federal election, as recommendations 1 and 3 in paragraphs 43.21 to 43.33 of submission No 176 of 4 May 1999. Both recommendations were agreed to by the JSCEM, although ALP members opposed the JSCEM recommendation.

- That is, AEC recommendation 13 in the 1998 FAD Report, was AEC recommendation 1 of submission No 176, and became JSCEM recommendation 54 in the June 2000 JSCEM Report.

- Similarly, AEC recommendation 14 in the 1998 FAD Report, was AEC recommendation 3 of submission No 176, and became JSCEM recommendation 50 in the June 2000 JSCEM Report.

- Finally, AEC recommendation 15 in the 1998 FAD Report would potentially replace recommendation 11 in the 1996 FAD Report.

5. Disclosure by Broadcasters and Publishers

5.1 In the informal briefing given to the JSCEM on 29 August 2000, the AEC was asked for any additional comments that it could make on recommendation 3, the abolition of broadcaster and publisher disclosure returns. The AEC takes the opportunity in this submission to examine the issues further.

5.2 A recommendation to abolish certain disclosure returns may at first appear to run contrary to the general theme in the AEC's reports of addressing deficiencies in full disclosure. However, in making all its recommendations the AEC is mindful of the aim of the disclosure legislation: to prevent political corruption by increasing transparency in the financing of political parties and election candidates. It is the AEC's view that broadcaster and publisher returns do not make any significant contribution to that objective. In that regard, the recommendation to abolish broadcaster and publisher returns is consistent with the AEC's objective to have effective disclosure legislation.

5.3 In order to assess the usefulness of having broadcasters and publishers lodge disclosure returns of electoral advertisements it is necessary to look at and evaluate the purposes underpinning the lodgement of these returns. The purposes of these returns are to:

- crosscheck disclosures made by political parties, candidates and Senate groups;

- identify third party advertisers who may have a disclosure obligation; and

- identify donations made to political parties and candidates by way of non-commercial discounts on advertising.

5.4 The crosscheck can only serve as an indicator of the truthfulness of party and candidate disclosures. This is because of the advertising revenue listed by publishers is restricted by the application of disclosure thresholds below which no return need be lodged and, more significantly, there is a chronic under-reporting by many broadcasters and publishers due to misunderstanding what needs to be reported, and sometimes an apparent lack of application to the task. In the past, when the AEC had put itself to the lengthy and expensive task of performing this crosscheck, the disclosures made by broadcasters and publishers had added up to less than what was being disclosed by parties and candidates. The opportunity to perform a crosscheck has been even further eroded by the elimination of political party

election returns. Because the information is of little use as a crosscheck on disclosure, the AEC no longer collates the information in broadcaster and publisher returns.

5.5 The AEC performs its own monitoring of major media outlets during an election period. This monitoring identifies all major and virtually all minor third party advertisers. Because of the complexity of the Electoral Act's definition of 'electoral advertisement', the returns from broadcasters and publishers are not always accurate in identifying third parties. Further, despite advice and an explanatory handbook provided by the AEC, many persons completing returns include advertisements only from candidates and political parties and omit all third parties. The AEC is unable, therefore, to rely upon the returns of broadcasters and publishers to identify all third parties. Indeed, the AEC's monitoring performs the dual function of identifying errors and omissions on broadcaster and publisher returns.

5.6 While very few donations of advertising time/space have ever been disclosed by broadcasters and publishers in their returns, this is potentially an important function performed by these returns. If these returns were abolished, however, the AEC would seek disclosure directly by writing to all major broadcasters and publishers informing them of their need to disclose in-kind donations of advertising. It is considered that this approach would be as effective in achieving disclosure of such donations as the current arrangement as both approaches depend upon the integrity of reporting by the entity involved. (It should be noted, that the AEC has no right of audit of broadcasters or publishers, or, currently, donors to political parties.)

5.7 In the case of broadcasters and publishers lodging disclosure returns of referendum advertisements, none of the above purposes is valid as a reason for insisting on such a requirement. As not a single person has inspected broadcaster and publisher returns following the 1999 referendum, it can be concluded that the information is not of any great interest.

5.8 Potentially broadcaster and publisher returns may be of interest for someone wishing to estimate the advertising expenditures of participants in a federal election campaign. However this purpose is, at best, marginal to the objective behind having disclosure and the size of such an undertaking would almost certainly discourage such an exercise should it ever be contemplated. If it is considered valuable for the cost of election campaigns to participants to be reported, more accurate, timely and accessible information would be obtained from the participants. This would necessitate the reintroduction of electoral expenditure disclosures by political parties.

5.9 Lodging returns of election advertisements by broadcasters and publishers make no material contribution to public disclosure. Also, more and more publishing is now being done electronically and via the internet meaning that, in time, major advertising campaigns will fall outside the scope of broadcaster and publisher disclosures. The AEC remains strongly of the view that broadcasters and publishers should be relieved of an unnecessary administrative expense.

6. Previous AEC Recommendations to the JSCEM

6.1 The AEC submissions to the JSCEM inquiry into the conduct of the 1998 federal election are at **Attachment 1**, and the recommendations are as follows in summary:

> **Recommendation 1**: That the Act be amended to expressly empower the AEC to:
>
> > (a) conduct reviews of the continuing eligibility of registered political parties;
> > (b) specify the documentation it requires parties to produce in support of their application for registration and their continued right to remain registered; and
> > (c) deregister a political party if it fails to produce the documentation requested by the AEC in support of its continuing right to remain registered.
>
> **Recommendation 2**: That a fee of $500 be required to accompany an application for the registration of a political party and an application to change either the registered name or abbreviation of a political party.
>
> **Recommendation 3**: That the definition of a member of a political party at section 123(3) of the Act be expanded to include the requirements that a person must have:
>
> > (a) been formally accepted as a member according to the party's rules;
> > (b) joined the party or renewed their membership within the previous 12 months; and
> > (c) paid a minimum annual membership fee of $5.00.
>
> **Recommendation 4**: That the registered abbreviation of a political party be restricted to either an acronym, or a shortened version, of the party's registered name and it should be no longer overall than the registered party name.

6.2 The background to and outcomes of these recommendations is as follows:

- AEC recommendation 1 to the JSCEM became recommendation 13 in the 1998 FAD Report, and was agreed to in the June 2000 JSCEM Report as recommendation 54.

- AEC recommendation 2 to the JSCEM was recommendation 13 in the 1996 FAD Report, and (with a different registration fee level) was agreed to in the June 2000 JSCEM Report as recommendation 51 and has now been enacted.

- AEC recommendation 3 to the JSCEM became recommendation 14 in the 1998 FAD Report, and was agreed to in the June 2000 JSCEM Report as recommendation 50, with ALP members opposing the recommendation.

- AEC recommendation 4 to the JSCEM was recommendation 14 in the 1996 FAD Report and was agreed to in the June 2000 JSCEM Report as recommendation 53.

7. Disclosure by Fundraising and Service Organisations

7.1 Another instance where full disclosure may not be achieved is when a political party (or other person or organisation that has a disclosure obligation under the Electoral Act) has transactions performed on its behalf by another entity, such as a service company or fundraising organisation. This is a loophole which can be easily exploited and needs to be specifically addressed. The masking of identities of donors through the use of organisations and trusts to collect donations on behalf of political parties saw the introduction of 'associated entity' disclosure provisions, but, not all entities undertaking transactions on behalf of a political party will fall within these provisions.

7.2 Entities that operate on purely commercial terms with a political party, especially where that political party is only one of a number of its clients, would have no disclosure obligation. The party transactions undertaken by that entity would therefore never be disclosed publicly.

7.3 The greatest concern is where an entity is undertaking fundraising on behalf of a political party. Where the party conducts its own fundraising activities, the details of all those from whom $1,500 was received are listed on the party's annual return. However, where a fundraiser is engaged to undertake such activities no such disclosures need be made with only the total, net sum received from the fundraiser needing to be disclosed by the party.

7.4 Legitimate, independent fundraisers could be used as a vehicle to suppress the names of major financial contributors to a party, much in the same way as associated entities were once able to be used to hide donor details. It would be unreasonable to expect that organisations independent of political parties other than by way of arms-length commercial contracts should be required to publicly disclose the entirety of their operations. However, public disclosure depends upon the full reporting of all transactions by, or on behalf of, political parties.

7.5 A practical compromise would be to require the full disclosure of that discrete portion of business that applies to transactions relating to the party. This could be achieved either by requiring:

- disclosure of the transactions by the political party in its annual return, ie deem the transactions to have been made by the political party (in the same manner as transactions of campaign committees are already deemed); or

- disclosure by the service entity of all transactions relating to the political party (as a 'limited' associated entity).

7.6 The AEC therefore makes the following recommendation:

Recommendation 1: that the transactions of a political party undertaken on its behalf by another organisation be disclosed either by:

- **disclosure of the transactions by the political party in its annual return; or**
- **disclosure by the service entity in an annual return.**

8. Other Issues for Consideration

8.1 Dr Carmen Lawrence raised a number of issues with the current legislative regime for electoral funding and disclosure in a speech delivered to The Sydney Institute on 17 August 2000. The AEC takes this opportunity to respond to her suggestions for improvements to these schemes.

Fundraising Events

8.2 The question of whether a payment to attend or sponsor a fundraising dinner or other organised event such as a party conference is a grey area under the Electoral Act. Are these payments, which benefit political parties, donations or are they commercial transactions?

8.3 A clear intention of all such functions is to raise funds for the political party. But not all paying guests are necessarily supporters of the party. Some attendees are there from purely commercial motivations in that they are purchasing access to and the opportunity to question and lobby key politicians. Still others attend in order to network with other attendees, rather than from any direct interest.

8.4 The AEC's approach has been to make its judgements on the basis of individual facts. Important considerations for the AEC are: the value of the fee being paid; and the goods or privileges being received in return for that payment. The intent behind making the payment is also of prime relevance, but not always readily evident. Generally speaking though, the AEC has accepted that premier functions offering access to ministers and shadow ministers constitute reasonable consideration for relatively high entry fees and therefore has not automatically treated such payments as donations. There is no doubt though that there are those who look to such functions substantially if not exclusively as an opportunity to contribute to the party and would not attend if their decision was made on purely commercial grounds.

8.5 Fundraising functions can be used as a means of disguising donations. Of particular concern is the opportunity for a person or organisation to launder a donation to a political party through another (much in the way that some associated entities were used prior to the 1995 amendments to the Electoral

Act). For example, a donation could be provided to another person/organisation who uses those funds to purchase a table at a fundraising event for the party. The donor, the true source of the funds, could go undisclosed unless the AEC becomes aware of the arrangement. The cost of purchasing a table at premier functions can run into many thousands of dollars so the disguised donation could easily be substantial. As discussed elsewhere in this submission, parties have previously sought to disguise donations through offering inflated party membership fees, so it is a reasonable notion to believe that fundraising events may be similarly abused.

8.6 For as long as payments made at fundraising events remain a grey area, the opportunity to legally avoid disclosure will remain. The only practical means of preventing fundraising functions from being used to avoid full disclosure is for the Electoral Act to deem all payments at fundraisers to be donations. This would then establish a reportable trail back to the true source of the funds through the existing donor disclosure provisions. Those who would be concerned at having their payments disclosed as donations might be entitled to annotate their disclosure return with a full explanation of the transaction/s.

8.7 The AEC therefore makes the following recommendation.

Recommendation 2: that all payments at fundraisers be deemed by the Electoral Act to be donations.

Donation Limits

8.8 Dr Lawrence advocated capping the level of electoral donations that can be made by a single person or organisation and proscribing any donations from corporations and large organisations. Such restrictions apply in the United States; however, the experience there is proof that simple limits alone are not effective in curtailing the contributions made by individuals. In the United States these restrictions are circumvented through contrivances such as ‘soft money’ contributions with donors making contributions to third party organisations and paying for electoral advertisements that fall just short of a direct advocacy of a vote for a particular party or candidate.

8.9 The adoption of donation restrictions could be expected to be similarly flouted in Australia. Contrived arrangements are already available and used to avoid the current disclosure provisions. Major abuses such as the use of associated entities have been addressed by previous amendments to the legislation, but others continue to be used while others may yet remain to be exploited. One example of a current contrivance used to avoid disclosure is the practice of splitting a single large donation over a number of persons and entities so that no one donation meets the disclosure threshold. (Maintaining a low disclosure threshold is probably the only effective means of keeping this practice under some control.)

8.10 Any restriction would need to be extended to cover not just donations, but total contributions. For instance, the bulk of funds received by the ALP from unions is by way of affiliation fees, not direct donations. Similarly, in the

first two years of annual disclosure when the detail of membership fees was not required to be disclosed, some political parties were considering introducing special 'premium' classes of membership that were to be charged at prices up to several thousands of dollars. A restriction on donations would simply see contributions made under other guises.

8.11 To be enforceable, such a contribution limit would need to be supported by disclosure to the AEC. Obviously, the most likely time for an abuse of a limit would be in the lead up to and during an election campaign. To be effective, therefore, disclosure and its public release should be made in a timely fashion rather than be delayed through the current regime of annual, financial year disclosures (disclosures in relation to the October 1998 federal election were not publicly released until February 2000). An example of how that would work if the contribution limit were $10,000: a corporation which in the course of financial year paid $5,000 to attend a party's national conference, made a $2,000 donation to the party, and spent $3,000 running an election advertisement advocating a vote for that party at an election, would be prohibited from making any further contribution.

8.12 However, this system would still be open to exploitation and abuse. Difficulties would be encountered in establishing whether a campaign by a third party on an election issue had been undertaken independently from a political party and for the exclusive motivation of benefiting those represented by the third party. Campaigns by unions and peak industry bodies obviously fall within this grey area. Like all grey areas, this uncertain position is potentially open to exploitation including by organisations deliberately masking their operations and motives. The AEC suggests that comprehensive disclosure rather than restrictions is more likely to be effective.

8.13 The AEC therefore makes the following recommendation.

Recommendation 3: that donation limits not be imposed.

Public Funding

8.14 Public funding was introduced (in concert with financial disclosure) to help guard against political corruption by making political parties financially independent of private donors. It was anticipated that public funding would reduce the reliance of parties upon private sources of funds and thereby lessen the likelihood of a donor being able to negotiate a political favour in return for a contribution to the party. Dr Lawrence's proposals would see not just the retention of public funding, but would almost certainly result in its expansion.

8.15 The major expense faced by political parties is an election campaign. Dr Lawrence identified that the major parties have dramatically escalated their spending on election campaigns since the introduction of public funding. This unrestrained expansion in parties' campaign budgets has swallowed up the public funding received and more, and this sometimes reckless spending resulted in a number of parties finding themselves in serious debt by the

1990s. Attempts in the early 1990s to reduce the cost of federal election campaigns by outlawing paid political advertising in the electronic media failed when ruled as unconstitutional in the High Court.

8.16 This escalation in spending has not been the only factor in perpetuating the parties' dependence upon private sources of funding. The financial difficulties faced by some parties have been significantly exacerbated by disastrous investments, untimely renovations of premises, or inefficient office practices. But poor spending and financial management practices do not carry the same risk for the established political parties as they do for other organisations and individuals. Parties were effectively bailed out from their financial crises through a doubling of the rate of public funding in time for the 1996 federal election.

8.17 Indeed, following the 1996 federal election most of the major parties were able to retire debt. Or to put it another way, most of the major parties made a profit out of contesting the first federal election following the increase in public funding. For some, this profit was realised on the public funding alone while others realised their profit once election generated private contributions and fundraising were included in the equation. The positive cash flow effects of public funding on party finances continued into the 1998 federal election and, in the case of one party, the issue has been extensively highlighted in the media.

8.18 The escalation of public funding compounds the complaint that the current payment system favours established parties and further widens the gap in resources that they enjoy over small and emerging parties and independent candidates. Under the current system payments are made after an election based upon votes obtained and for many the risk of spending money in the hope of recouping that money following the election is too big a risk to bear. (Indeed even established parties have found themselves in unexpected financial difficulties following an election when they did not receive the amount of public funding factored in to their campaign budgets.) Therefore small parties and independent candidates find it difficult to generate the momentum needed to maximise their vote and electoral influence or even to attract financial support.

8.19 While most new parties and independent candidates realistically have no chance of electoral success irrespective of the resources available to them, Pauline Hanson's One Nation is proof that a new party can attract significant electoral support. The difficulty in addressing the complaint against the current system of paying public funding is identifying a system that would deliver equitable funding and not be open to misuse.

ATTACHMENTS

Attachment 1

Extract from AEC submission No 88 of 12 March 1999

11 FUNDING AND DISCLOSURE

11.1 Introduction

11.1.1 Since the 1996 federal election the disclosure provisions of the Electoral Act contained in Part XX, were amended by the *Electoral and Referendum Amendment Act 1998*, as detailed in Part 2.2 of this submission. The primary amendments were to abolish electoral expenditure returns by political parties and abolish disclosure of the details of expenditure in annual returns by political parties and associated entities.

11.2 Disclosure Returns

11.2.1 Election disclosure returns are currently being received and will be made available for public inspection on Monday 22 March 1999 (24 weeks after polling). The disclosure returns for the Newcastle supplementary election become available for public inspection on 10 May 1999.

11.3 Funding Entitlements

11.3.1 The calculations of public funding entitlements for the 1998 federal election and Newcastle supplementary election have been finalised and a total of $33,920,787.43 paid to party agents and independent candidates. These amounts are detailed at Attachment 28.

11.4 Funding and Disclosure Report

11.4.1 Section 17(2) of the Electoral Act requires the AEC to provide a report on the operation of Part XX of the Electoral Act, relating to funding and disclosure, at each federal election. The Funding and Disclosure Report for the 1998 federal election is expected to be furnished to the Special Minister of State for tabling in Parliament later this year, and will be made available to the JSCEM at that time.

11.5 Election Issues

11.5.1 In discussing the laws relating to election funding and disclosure on 5 February 1999, Wallace Brown, national affairs commentator for the *Courier Mail*, summarised the two major issues that caught the attention of political and electoral analysts at the 1998 federal election:

> In the case of public funding, it is obvious that some parties and people are making money out of the system. They received $1.62 for each first preference vote they got in the 1988 election and yet did not have to prove the money had been spent during the campaign. Thus the One Nation party spent about $1.3 million on its campaign but received $3 million in public funding. Yet the system, introduced by the Hawke government, was meant to provide re-funding for candidates, nothing more.
>
> In the case of private (for which mainly read corporate) donations, it is interesting that some corporate donors, wanting to ensure they back the

> winner, give money to both the main political parties, though the bulk of corporate money has gone to the Coalition.
>
> But at issue is when a donation is not a donation but is called a loan. Thus we have the strange case in which Ron Walker effectively and personally paid back $4.65 million in Liberal Party debt to the National Australia Bank in 1997, then assigned the debt the party owed him to a trust called the Greenfields Foundation, which is being paid back at $100,000 a year interest free.
>
> Is this really a loan, a transferred debt, or a gift in which the sources should be revealed? It may well be that everything is above board. But it is a pity the Australian Electoral Commission has declined to press for further details. It is in the public, political and democratic interest.

11.5.2 Prior to the 1996 election, election funding operated as a strict reimbursement of campaign expenses for those parties or independents who received at least 4% of the formal first preference vote. The AEC would examine original documentation evidencing campaign expenditure incurred and then pay the lesser amount of proven expenditure or the funding entitlement. The funding scheme was amended after the 1993 election to the present system of automatic entitlement.

11.5.3 It should be noted, however, that throughout the operation of the system of reimbursement it was a rare occurrence that payments totalled less than the full entitlements. The expected funding entitlement would be incorporated into the campaign budgets of those who expected to qualify. Indeed, the reimbursement scheme was not even a guarantee that profits could not be made on election funding. Contracts could be entered into which evidenced election related expenditure as having been incurred, but did not have to be paid on. Such contracts could be for services which would otherwise be provided on a volunteer basis. Even where contracts and expenses were paid in full there was nothing to prevent the recipient donating some or all of that money back to the party or candidate.

11.5.4 On the basis of previous experience, the AEC believes that a return to a funding system based on reimbursement of campaign expenses would realise little if any savings but would simply reimpose another layer of administration and cost. It would, in many cases, also delay the payment of funding entitlements compared to the present system.

11.5.5 In the case of the Greenfields Foundation, the AEC has already publicly stated its position, as follows:

> We have yet to make a determination as to whether or not it is an associated entity within the meaning of the definition given under the Act. We have yet to satisfy ourselves one way or the other. (*Finance and Public Administration Legislation Committee, 9 February 1999, Hansard p 204*)

11.5.6 At the time of the submission, the AEC has not finalised its enquiries into all the issues surrounding the Greenfields Foundation. The AEC appreciates the public interest shown in this matter and hopes to be in a position to comment further as part of its Funding and Disclosure Report which will be tabled in Parliament later this year.

11.6 Review of the Register of Political Parties

11.6.1 The AEC seeks to ensure that only those political parties that continue to be eligible for federal registration are allowed to remain registered. A review is currently being undertaken of all parties registered before 1997 that do not have a current member sitting in any federal, State or Territory parliament. The AEC is also reviewing parties which lost their parliamentary members at the 1998 federal election and parties which were registered on the basis of having a State member of parliament where the parliamentary list records that person as belonging to a differently named party.

11.6.2 In the review the AEC requests parties to supply a current copy of their constitution and evidence of either 500 members entitled to vote at federal elections or a member of a federal, State or Territory parliament. The standard of documentation required and the verification undertaken by the AEC is the same as if the party were first applying to register. In instances where parties fail to provide the requested documents or the AEC is unable to verify a party's continued entitlement to registration, the AEC will initiate deregistration action.

11.7 Democratic Party Structures

11.7.1 The AEC is aware of public discussion that has been taking place on requiring political parties to meet 'democratic principles' in order to qualify for formal registration and, as a result, election funding. There have been some suggestions that the AEC should assume a role in regulating the structures and activities of political parties. These discussions have, to date, tended to focus on the rights of members of political parties and preselection processes, but have not, in the main, otherwise been specific.

11.7.2 The Electoral Act as it currently stands does not attempt to impose itself upon the structure or internal operations of political parties. Parties are regulated by their own constitutions and rules. Citizens are free to join, or leave political parties, and, subject to the individual constitutions and rules, to participate in any political party.

11.7.3 The AEC notes however that the constitutions of many registered political parties are scant, and inadequately address the internal functioning of membership-based organisations. For instance, the methods by which persons are accepted into a party as members, and their rights, responsibilities and even the length of their membership, are rarely specified. In many of the less well established parties the constitutions are silent on primary functions such as preselection of candidates and appointment of office holders.

11.7.4 As the Act stands, it would not be appropriate for the AEC to attempt to impose its interpretation of a 'democratic structure' on political parties or to play an active role in the internal operations of political parties. Nor does the AEC at present consider that it should have a far-reaching and intrusive role along these lines. However, some of the current deficiencies in the formal operation of some political parties, primarily stemming from their having scant constitutions, do have administrative implications under the Act (for example, determining who can be counted for registration purposes as a party member when this is not defined by the party itself). The AEC intends to discuss these issues in greater detail in its Funding and Disclosure Report later in the year.

11.8 Filing of Party Constitutions

11.8.1 During the Committee stage of the Electoral and Referendum Amendment Bill (No 2) 1998 proposals were put forward to make copies of party constitutions available for public inspection and have parties lodge updated versions of their constitutions with their annual disclosure returns following each federal election. While these proposals were not accepted by the Senate, it was suggested they be considered by the JSCEM.

11.8.2 The AEC does not oppose such proposals, although making copies of party constitutions available for public inspection has limited relevance to the administration of either the party registration or funding and disclosure provisions of the Act.

11.8.3 On a practical level, it would be more appropriate to have either the Secretary or the Registered Officer of the party lodge copies of the constitution, as the position of Party Agent, which has responsibility for lodging disclosure returns, has no responsibility under the Act for matters associated with the party constitution. Further, if the intention is to ensure that party constitutions available for public inspection are always up to date, updated versions should be lodged following any amendments. This would be similar in practice to the State and Territory laws governing Unincorporated Associations which are required to lodge updated copies of their constitutions upon making any amendments.

11.8.4 Finally, there would have to be an element of compulsion to enforce compliance with any such provision. For instance, failure to lodge an updated version of a party constitution within a set time period could be subject to an automatic financial penalty, again as applies under various Unincorporated Associations legislation.

11.9 Annual Returns of Commonwealth Departments

11.9.1 Section 311A of the Electoral Act requires the principal officer of each Commonwealth Department to attach a statement to its annual report setting out particulars of all amounts paid by, or on behalf of, the Commonwealth Department during the financial year to: (a) advertising agencies; (b) market research organisations; (c) polling organisations; (d) direct mail organisations; (e) media advertising organisations; and the persons to whom those amounts were paid. Any amount less than $1,500 need not be reported.

11.9.2 This provision was inserted in the Electoral Act by an Opposition amendment to section 20 of the *Political Broadcasts and Political Disclosures Act 1991*, during the passage of that legislation through the Senate in 1991. The AEC has no role in administering this provision other than as a reporting agency like any other.

11.9.3 It is noted that, generally speaking, the requirement for agency heads to prepare annual reports, the guidelines which the reports must comply with, and the requirement for Parliamentary tabling of annual reports, all derive from section 25 of the *Public Service Act 1922*. The AEC understands that the Joint Committee of Public Accounts and Audit (JCPAA) is expected to review a range of issues concerning the requirements for the preparation of annual reports during the life of the current Parliament.

11.9.4 In the light of this, and in view of the way the provision has operated to date, the AEC believes that section 311A should be removed from the Electoral Act and that it would be more appropriate for the JCPAA review also to consider the continuing relevance of and need for any continuing similar requirements as part of its broader review of annual report requirements.

> Recommendation No 26: that section 311A be deleted from the Electoral Act and that the continuing need for requirements along the lines of those contained in the section be referred to the Joint Committee of Public Accounts and Audit (JCPAA) during the course of its broader review of agency annual report obligations.

Extract from AEC submission No 176 of 4 May 1999

43.21 *Registration of Political Parties:* At page EM51 to 54 of the transcript, Senator Murray raised a number of issues in relation to the registration of political parties given the experience of the recent NSW State election (see also response to submission No 72 from Antony Green). He said, "there is a belief in the political world that Independents and political parties are put up by another political party or organisation for tactical purposes during an election, to influence preference distribution or to disperse the vote or to confuse voters…" Senator Murray then asked the AEC to consider this issue.

43.22 The AEC believes that an effective means by which possible manipulation of the electoral system can be avoided is through a strengthened system of party registration at the federal level. In the lead up to the recent NSW State election, the *Daily Telegraph* newspaper published an article on 13 March 1999 entitled *Tougher controls for parties* which stated:

> Tough controls on political parties including hefty registration fees will be imposed following community disgust with the ballooning Upper House ballot paper.
>
> Premier Bob Carr last night told *The Daily Telegraph* he would lift registration fees from $500 to $3500 to prevent the "ridiculous state of affairs" being repeated.
>
> Opposition Leader Kerry Chikarovski, who described the biggest ballot paper in Australian history as "lunacy", also proposed an overhaul to discourage sham parties damaging the democratic process.

43.23 While these concerns are directed at the registration of political parties at the State level in NSW, their general thrust is also relevant to the federal level. The AEC, while confident that its current registration practices, including the current review of the continued eligibility of registered parties, already provide strong safeguards against the fraudulent registration of political parties, nevertheless believes that the party registration process could be strengthened further to safeguard the integrity of the scheme.

43.24 As reported in part 11 of submission No 88, the AEC is reviewing all non-parliamentary political parties registered before 1997, as well as a small number of parliamentary parties where their continued eligibility is not clear. The AEC believes that this administrative initiative is vital to the integrity of the Register of Political Parties and, as such, the AEC should be expressly authorised to undertake such

reviews under the Act. This review power should entitle the AEC to specify the documentary evidence it requires political parties to produce in the course of the review. Failure to produce the required evidence should be a sufficient basis for the party to be deregistered.

> Recommendation 1: That the Electoral Act be amended to expressly empower the AEC to:
>
> > (a) conduct reviews of the continuing eligibility of registered political parties;
> > (b) specify the documentation it requires parties to produce in support of their application for registration and their continued right to remain registered; and
> > (c) deregister a political party if it fails to produce the documentation requested by the AEC in support of its continuing right to remain registered.

43.25 The registration of a political party and any subsequent amendments to its registered name or abbreviation are services that currently are provided free of charge by the AEC. The Electoral Act requires such applications to be advertised in at least one major newspaper in each State and Territory, as well as the Commonwealth Gazette. These advertising costs alone exceed $5,000. The AEC believes that fees for these registration services should be introduced. A fee would encourage applicants to finalise details such as proposed party name before submitting their application, and would also help discourage frivolous applications.

43.26 It is recognised that it would be prohibitively expensive for many parties to bear the full cost of party registration services. However, a nominal fee for processing applications for registration and subsequent changes to the registered name or abbreviation of a party would not be onerous for a viable political party. The AEC has in mind a fee of $500, which, for a non-parliamentary party, would represent only $1.00 each for the minimum membership required for registration.

> Recommendation 2: That a fee of $500 be required to accompany an application for the registration of a political party and an application to change either the registered name or abbreviation of a political party.

43.27 To be eligible for federal registration, political parties must have either 500 members or at least one member who is a member of a State, Territory or the federal parliament. The Act does not attempt to impose itself unnecessarily upon the internal structure and operations of political parties and, as such, it does not specify any conditions for recognising a person as a member of a political party. The terms and conditions of membership are left entirely to be set by the rules of individual parties.

43.28 Where the rules governing the conditions of membership of a party are vague, the status of persons as members of a political party can be left open to question. Members are not only crucial to the registration of a political party, they also have the power to deregister their party. In such situations it is essential that membership is able to be conclusively verified. The Electoral Act currently sets one condition upon party members in order for them to be recognised for party registration purposes, namely that the member must be entitled to enrolment to vote at federal elections. This does not prevent a party from having members who are not entitled to federal enrolment; it only prevents the party from using these members for federal registration purposes.

43.29 The AEC believes that the Electoral Act should clarify party membership status for party registration purposes by specifying additional minimum conditions for the formal recognition of party members. Party membership should be recognised for registration purposes where:

- the person has been accepted as a member according to the party's own rules;
- a period of not more than 12 months has elapsed from the date the person joined or renewed party membership; and
- the person has paid a minimum annual membership fee of $5.00 in respect of that period.

43.30 As with the current provision requiring persons to be eligible for enrolment for federal elections in order to be recognised under the party registration provisions of the Act, these conditions would not limit political parties from having wider or less restrictive classes of membership such as life memberships or discounted memberships, but such classes may be irrelevant for party registration purposes.

> Recommendation 3: That the definition of a member of a political party at section 123(3) of the Electoral Act be expanded to include the requirements that a person must have:
>
> > (a) been formally accepted as a member according to the party's rules;
> > (b) joined the party or renewed their membership within the previous 12 months; and
> > (c) paid a minimum annual membership fee of $5.00.

43.31 At page EM52 of the transcript, Senator Bartlett expressed concern over the potential confusion caused to voters by the registered names of some political parties, that are not what they might appear to be, and referred to an example arising at the recent NSW State election:

> The Animal Liberation Party is one that comes to mind. It had no connection with the existing organisation. Obviously, at face value people would assume that the Animal Liberation Party would have something to do with the organisation Animal Liberation.

43.32 The federal party registration scheme has not experienced any such problems with 'front' parties to date. This is probably due to two important deterrent mechanisms built into the federal electoral system. Firstly, the Senate electoral system requires a higher quota for election than is required for the NSW Legislative Council; and secondly, there are stringent requirements for political party registration at the federal level, including the requirement for 500 members or a parliamentary member. The AEC considers that the existing deterrents in the Electoral Act, especially if enhanced by amendments suggested at recommendations 1, 2 and 3 above, are sufficient to prevent the federal party registration system being exploited by 'front' parties.

43.33 The Electoral Act does, however, allow a party to register both a name and an abbreviation, either of which may appear against endorsed candidates' names on ballot papers. Under the present provisions, the 'abbreviation' may be an alternative to, and may even be longer than, the registered party name. In effect, a party can register two, quite unrelated names. The AEC is of the view that a registered alternative name should be restricted to being an abbreviation of, or at least bear a

meaningful connection to, the registered party name and that an alternative name should be no longer (either in terms of words or total characters and spaces) than the registered party name.

> Recommendation 4: That the registered abbreviation of a political party be restricted to either an acronym, or a shortened version, of the party's registered name and it should be no longer overall than the registered party name.

43.34 *The AEC and the JSCEM:* On page EM54 to 55 of the transcript, Senator Murray said the following:

> There are at least three members of this committee who are familiar with the Joint Parliamentary Committee of Public Accounts and Audit. The Auditor-General of his own volition will come to the committee and say, 'Here is a problem,' because the act requires him to do so, and the committee will respond. As far as I understand the Commonwealth Electoral Act, it does not place the same obligation on you to come to the committee as a statutorily established body. You have the same obligation to go to the minister. In your opinion, would the reactiveness to current events be improved, as it is for the Auditor-General to the public accounts committee, if you had the same legislative permission to approach this committee in the same way as you approach the minister? Perhaps you might like to give that further thought.

43.35 Section 7(1)(d) of the Electoral Act currently makes it one of the functions of the AEC to "provide information and advice on electoral matters to the Parliament, the Government, Departments and authorities of the Commonwealth …". While it is true, as Mr Nairn pointed out in response to Senator Murray at the hearing, that

> there is nothing to stop this committee at any stage throughout the term of the parliament asking the AEC to come in to discuss matters with us. In fact we have done that on several occasions

the question still arises of how the AEC could best raise with the Parliament, through the JSCEM, in accordance with the Electoral Act, a matter that might be outside the JSCEM's current terms of reference.

43.36 The AEC believes there is much to commend Senator Murray's proposal that steps be taken to ensure that there is at all times, and in relation to all issues, an appropriate mechanism which will enable the AEC to perform its statutory function of providing information and advice to the Parliament. This is particularly so on matters that might require a cooperative political approach to emergent problems not immediately relating to the conduct of the last federal election.

43.37 The first paragraph of the resolution of appointment for the current JSCEM (see Extract from Votes and Proceedings No 11 of 3 December 1998) reads as follows:

> That a Joint Standing Committee on Electoral Matters be appointed to inquire into and report on such matters relating to electoral laws and practices and their administration as may be referred to it by either House of the Parliament or the Minister.

43.38 An amendment to include the words “or the Australian Electoral Commission” after the word “Minister” would have the desired effect.

> Recommendation 5: That the resolution of appointment of future JSCEMs be broadened to empower it to consider, and report upon, any matters raised with it by the AEC pursuant to section 7(1)(d) of the Electoral Act.

Attachment 2

Summary of the Status of Recommendations made in the 1996 and 1998 Funding and Disclosure Reports

Technical

The following recommendations are assessed by the AEC as not being particularly sensitive and therefore could be fast-tracked by the Committee for possible inclusion by the Government in a 'technical' Bill.

1998 Report 1, 2, 7, 9, 10

1996 Report 2, 3, 4, 8, 11*, 12, 16**, 17, 18

* Recommendation 11 of the 1996 Report may be redundant should the option to register a parliamentary party be removed in line with recommendation 15 of the 1998 Report.

** As discussed above, the AEC believes that recommendation 16 of the 1996 Report should be amended. Notwithstanding this change the AEC remains of the view that the recommendation is not controversial.

Discussion

The Committee may wish to engage in fuller discussion of the following recommendations. Nevertheless the AEC believes that the issues are mostly straightforward and that these recommendations could also be considered for fast-tracking by the Committee for possible inclusion by the Government in a 'technical' Bill.

1998 Report 3, 4, 6

1996 Report 1, 5, 9, 15*

* Recommendation 15 of the 1996 Report may be redundant should the option to register a parliamentary party be removed in line with recommendation 15 of the 1998 Report.

Sensitive

The following recommendations have broader implications and therefore may require more detailed examination by the Committee.

1998 Report 5, 8, 11, 12, 16

1996 Report 6, 7

Not Applicable

The following recommendations have been either addressed by the Committee in its report on the 1998 Federal Election or incorporated into the legislation. The AEC's recommendations are not in every case identical to those made by the Committee in its Report and, as such, the Committee may yet choose to explore these differences as part of its current inquiry. The relevant recommendation of the Committee or the section of the Electoral Act appears in brackets.

1998 Report	13 (54), 14 (50), 15 (49)
1996 Report	10 (s316A), 13 (51), 14(53)

Summary

1998 Report		**1996 Report**	
Recommendation 1	technical	Recommendation 1	discussion
Recommendation 2	technical	Recommendation 2	technical
Recommendation 3	discussion	Recommendation 3	technical
Recommendation 4	discussion	Recommendation 4	technical
Recommendation 5	sensitive	Recommendation 5	discussion
Recommendation 6	discussion	Recommendation 6	sensitive
Recommendation 7	technical	Recommendation 7	sensitive
Recommendation 8	sensitive	Recommendation 8	technical
Recommendation 9	technical	Recommendation 9	discussion
Recommendation 10	technical	Recommendation 10	n/a
Recommendation 11	sensitive	Recommendation 11	technical
Recommendation 12	sensitive	Recommendation 12	technical
Recommendation 13	n/a	Recommendation 13	n/a
Recommendation 14	n/a	Recommendation 14	n/a
Recommendation 15	n/a	Recommendation 15	discussion
Recommendation 16	sensitive	Recommendation 16	technical
		Recommendation 17	technical
		Recommendation 18	technical