



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

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

MONDAY, 12 AUGUST 2002

MELBOURNE

BY AUTHORITY OF THE PARLIAMENT



**JOINT COMMITTEE ON ELECTORAL MATTERS**

**Monday, 12 August 2002**

**Members:** Mr Georgiou (*Chair*), Senators Bartlett, Ferris, Mason, Murray and Robert Ray and Mr Danby, Mr Forrest, Ms Hall and Mrs Ley

**Senators and members in attendance:** Senators Murray and Robert Ray and Mr Georgiou, Mr Forrest and Ms Hall

**Terms of reference for the inquiry:**

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

**WITNESSES**

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**Committee met at 9.00 a.m.**

**CHAIR**—I declare open this public meeting of the Joint Standing Committee on Electoral Matters and its inquiry into the conduct of the 2001 federal election. Since 1984 successive Commonwealth governments have referred similar inquiries to this committee with a view to improving the Australian electoral system's operation. 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 in the order of 150 submissions, which does demonstrate a concern with the health of and improving the effectiveness of the Australian electoral system. Today we shall be hearing from a diverse range of organisations and private citizens who have an interest in a variety of issues, ranging from the integrity of the roll to the interests of homeless people. We will be hearing from Dr Valerie Yule, Mr Don Mitchell and Mr Gary Schorel-Hlavka as private citizens, and also from Salt Shakers and people representing homeless persons in Australia.

I 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 of the houses themselves. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

[9.02 a.m.]

**YULE, Dr Valerie (Private capacity)**

**CHAIR**—I welcome Dr Valerie Yule to the table. The committee has received your submission, which has been numbered 26 in our papers. Are there any corrections or amendments that you would like to make to that submission?

**Dr Yule**—Not to what I sent in, apart from typing mistakes.

**CHAIR**—Do you wish to make a brief opening statement to the committee or would you like to go directly to questions?

**Dr Yule**—My most innovative submission concerns the political parties being able to put up two candidates for the same seat, but you may wish to ask other questions.

**CHAIR**—Would you like to elaborate briefly on your proposal for a political party submitting two of its own members for election in the same seat?

**Dr Yule**—I think if the major political parties that can reasonably expect to get over 30 per cent of the vote had the option of standing two candidates in the same seat for the same cost—which, with preferential voting, would not affect a party's final vote—it would add to the voter's interest in the elections and would have great results for the sorts of candidates who were elected, who would be more likely to represent the people than when people vote for a party and are landed with one candidate.

**CHAIR**—So you foresee a situation in which two people are preselected by a single political party, both are put on the ballot paper and the party preferences one and then the other and then, at the end of the day, it gets the same party vote but its preferred candidate may come second and its non-preferred candidate may come first?

**Dr Yule**—Yes.

**CHAIR**—How do you envisage that the two party nominees—whether they be Liberal, Labor or Democrat—would interact in the course of the campaign?

**Dr Yule**—They would both be pledged to support their party's electoral platform but they could have their own priorities and core policies among these. They could campaign as they wished, but there would be some agreement about the electoral expenses—if they did letterboxing, for example, it would be shared. It would make a great difference to, say, the Labor Party with its preselection problems and it would also give a much better range for the Liberal Party. There has often been a great deal of dissatisfaction by party members over the particular candidate that ends up being selected—sometimes, they think, over their heads.

**Senator ROBERT RAY**—In effect, you have this in Tasmania where there might be up to four or five political candidates vying for two, three, four or five spots. The experience here—and I do not want to pick on Labor or Liberal here—

**Mr FORREST**—Pick on the National Party; everybody else does!

**Senator ROBERT RAY**—I would if there were any in Tasmania, but there are not—so you do not have any experience. Anyway, it is good to have half the National Party of Victoria here today! But the experience in Tasmania is that they campaign in safe Labor areas against each other, instead of campaigning across the whole electorate. The same thing may well happen under your system. The first aim, in fact, is not to get the Labor Party elected; it is to defeat your other Labor candidate to make sure you finish in front of them, so you go and campaign just in the safe Labor areas to boost your vote. It does not help democracy much. You may like to comment on that.

**Dr Yule**—I would not have four or five, but with two—

**Senator ROBERT RAY**—Even with two.

**Dr Yule**—With two, particularly in areas which are not safe Labor seats, you could put up two Labor candidates and see which one is the one this swinging seat prefers.

**Senator ROBERT RAY**—The last time the Labor Party did this was in the seat of Riverina, I think, in 1966. I think our vote overall dropped about 14 per cent with two Labor candidates.

**Dr Yule**—Because they were squabbling?

**Senator ROBERT RAY**—It is an inevitability of the system. Anyway, I suggest this is not a matter of electoral law; it is a matter of behaviour of political parties and we will take it under advisement.

**CHAIR**—Dr Yule, could I pursue one other thing. In your submission, you are critical of what you regard as impacts or restrictions on freedom of speech, but in my view your own submission actually proposes some further restrictions on freedom of speech: the view that there should be no voter intention surveys published throughout the campaign, the view that—

**Senator ROBERT RAY**—Done or published?

**Dr Yule**—Sorry?

**CHAIR**—Do you mean done and unpublished?

**Dr Yule**—The problem with voter surveys during the campaign is that they are used as weapons and they distract from the general information that would otherwise have to be available.

**Senator ROBERT RAY**—I think the chair said ‘published’. Is it ‘published’ or is it ‘conducted and published’?

**Dr Yule**—Publishing it is what causes the damage.

**CHAIR**—It would not prevent political parties from polling. You also say that there should be no political advertising. I think there is a problem there between banning political advertising and freedom of speech. In fact, the High Court has found that there is an implicit right to political advertising on the grounds of freedom of speech. How do you square off a concern about what you see as being a restriction on freedom of speech and then whacking in another couple of restrictions yourself?

**Dr Yule**—Political advertising does tend to weight the balance in favour of those who can pay most. I was thinking more of freedom of speech for individuals to be able to say what they thought needed to be said rather than having advertising campaigns which cost thousands or even hundreds of thousands of dollars and which are not the individual speaking so much as the paid advertisers—which can be a bit of a waste of national brains.

**Ms HALL**—I was interested in the part of your submission that talked about the party in power and advertising. I was wondering if you were talking about governments advertising and promoting prior to elections and using pseudo program promotion as a pre-election campaign or whether you just meant direct advertising.

**Dr Yule**—I meant direct advertising, because certainly you have to know what the government has been doing. They have to inform the people.

**Ms HALL**—So you believe it is fine for governments to advertise in a pseudopolitical way prior to an election?

**Dr Yule**—It would be very difficult to stop, wouldn’t it? There are blatant examples which could be stopped, but I think what people get fed up with in elections are all the distractions from actually knowing what the parties’ programs are, what their policies are and what their achievements have been because there is so much other spin going on. You get a lot of voter apathy because they get fed up with it.

**Ms HALL**—Doesn’t this conflict a little bit with some of the other aspects of your submission where you say there should be more emphasis on policy and more information given to the public? Aren’t you in one way saying, ‘Let’s restrict it,’ and on the other hand saying, ‘Let’s increase it’?

**Dr Yule**—I am saying that at the moment a great deal of advertising goes in for slogans, spin, pictures and razzmatazz like advertising junk food, and I am suggesting it would be possible to make more interesting the actual information that the voters need. There is not enough of that.

**CHAIR**—Don’t you think that it is quite important for people to know which way the election is trending in terms of popular support? Lots of people do vote against the trend. Knowing where the political parties are at any particular point in time is an important input to people’s decision making about elections.

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**Dr Yule**—As a psychologist I have my own opinions about these polls. I think they are often manipulated and I think it is far better for people to vote according to what they think are the policies that are needed, what should be done and who should be voted for rather than ‘I think they will get in; perhaps they won’t.’ Tactical voting is not really a good thing. It is often mistaken, too.

**CHAIR**—That is certainly true.

**Senator ROBERT RAY**—It is actually pointless to ban the publication of opinion polls because then journalists will be backgrounded according to the drift and everyone will be able to read the code words and translate that into a policy. To achieve what you want to do you will actually have to ban opinion and research during election campaigns.

**Dr Yule**—What I would prefer, rather than banning, actually, is to put such an emphasis on an intelligent, thinking campaign that the media has other things to do with its time and money.

**Senator ROBERT RAY**—Could you explain to me how you legislate to make a campaign more intelligent? I cannot see how we can do that.

**Dr Yule**—Yes. It does need a concerted effort, and of course the media are the key to it all.

**Senator ROBERT RAY**—I think the point made here, whether we agree or not with your submission, is that you are here to proselytise on certain issues without asking us to translate them into legislation because that is impossible. Is that a fair summary—not of the whole submission, but of a large chunk of it?

**Dr Yule**—Yes. I put a lot of it in because it is one way of getting publicity for ideas. The media is not very keen on giving publicity to a lot of ideas that are in this. I assure you that I have tried. So, if you think that elections can be improved, we have to take every avenue to try to put forward a point of view. I recognise that all this is not legislation, although some of it can be.

**CHAIR**—Could you elaborate on the sort of role that you see the Electoral Commission as playing in getting the sort of dispassionate debate that you think is important into the system?

**Dr Yule**—I did put a bit about the use of web sites. Although not everybody has access to the web—and the Electoral Commission may actually be doing this and we just do not know about it—if the information is up there then other people can use it or put it on their own sites, or they can publish it as they wish.

**CHAIR**—There may be a problem in allowing the Electoral Commission to have this sort of interpretive role.

**Dr Yule**—You think it would be impossible to do?

**CHAIR**—I think it would be very difficult to get acceptance from any of the political parties that their material should be filtered by an agency of government, and I think the commission

itself would find great difficulties or problems in doing that because there is so much that is just a matter of judgment and perspective in what is put up or in how things are put up that it is very difficult to hand it over to a third party, no matter how detached and dispassionate that party is. I do not think it would be possible.

**Dr Yule**—But there must be some way in which people can be better informed than they are now.

**CHAIR**—That seems more like a cry of pain than an alternative.

**Dr Yule**—It is. At the last election I used to write in, asking for this, that and the other thing, and you have two alternatives: one is brochures and so forth, which are mainly slogans, and the other is 150-page documents. There is nothing in between. It should be possible for the person who might like to think—and I think there are more of them than we do think; look at the interest in the IQ tests, and they were not about thinking at all—to obtain information from somewhere and know where that information is. If it is not the Electoral Commission, perhaps we could have a foundation, or something like that, that could fill that worthwhile position. Possibly, if other parties looked at what each party were putting up, it would be interesting to see if they could come to any agreement about what filtering was necessary. Certainly, for the next election, we need far more information available.

**Mr FORREST**—I was interested in your suggestion about the production of an economic statement by the incumbent government. This was done for the first time in the 1998 election when we legislated for a Charter of Budget Honesty. Are you suggesting that that was somehow deficient?

**Dr Yule**—The problem there, again, was that voters did not have enough information about it. It was in the newspapers in bits, but it was hard to put it together. However, I certainly think it was an improvement.

**Mr FORREST**—It was available on the web site. You are relying on the reporting of it in newspapers.

**Dr Yule**—Yes. Therefore, we really need to have more information about the web site and how we can access it.

**Mr FORREST**—There was information about it, but obviously it is our responsibility to make sure that people are aware of it. But all of the things that you suggested in your submission were done at the last election, apart from the economic map. I am just exploring whether you think it was deficient. The thing you are saying is that your only problem was getting access to it.

**Dr Yule**—Yes. If I had access to it, I would be able to comment better, wouldn't I?

**Mr FORREST**—Also, I will go back to the issue of the two-candidate option. I hope you are not suggesting that that should be done in the Senate as well.

**Dr Yule**—It is not necessary because an entirely different voting system is operating there.

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**Mr FORREST**—Otherwise you would need a ballot paper bigger than that witness table!

**Dr Yule**—The point I was making about the Senate is that when you have a list of everybody, you should not have to vote to the dead end.

**Senator ROBERT RAY**—But when you have that list, how many people exercise a right not to vote No. 1 for the No. 1 on the party ticket? Very few.

**Dr Yule**—Yes.

**Senator ROBERT RAY**—That seems to undermine your contention which would give people a choice of two candidates in House of Representatives elections.

**Dr Yule**—It would be interesting to see what would happen if you did have two candidates. But there have been cases particularly where a candidate has not been local or the electorate has been more in one camp than the other and, as a result of factions and so forth, they have been given a candidate they do not want. It might be someone who has been working in the party for so long that they decide that he ought to be given a seat, and the electorate is edgy.

**Senator ROBERT RAY**—But a more recent example was—I cannot recall exactly who was involved; maybe the chair can recall that—when the National Party endorsed two candidates, because partly they could not resolve who the candidates should be, which fits your contention—

**Dr Yule**—Yes.

**Senator ROBERT RAY**—that mostly they could work both sides of the street—that is, they had a completely different policy emphasis so they could maximise their vote and then exchange preferences. That seems like a very cynical exercise to me, and I think that is the way that it occurred.

**CHAIR**—It would certainly make for interesting elections!

**Dr Yule**—More interesting elections is something that is needed.

**Senator ROBERT RAY**—It might appear that I am not sympathetic to a lot of your submission, but I am sympathetic to point iv, under ‘Costs’, where you discuss who should bear the cost of by-elections. My worry with that is, firstly, how you might justify ‘the serious illness’. The most recent example of that was not someone who retired from parliament but a certain treacherous senator who, in 1997, said he had six months to live. He was trying to get a bit of sympathy back after he ratted on the Labor Party. He is still going strong up north, putting in submissions to the Remuneration Tribunal for better benefits. That is what worries me.

**Dr Yule**—That everybody will get sick?

**Senator ROBERT RAY**—Short of nominating his doctor for a Nobel Prize for medicine for finding a cure for his rare cancer, it worries me a bit that it might be abused. Secondly, exactly how do you enforce it?

**Dr Yule**—Yes, if this were put up as a principle to be followed in relation to those who took their bat, as some are doing, into nice cosy jobs, then voter cynicism could be greatly reduced.

**Senator ROBERT RAY**—Doesn't it establish a different responsibility on senators from those in the House of Representatives? I retire tomorrow. I do not really cost the taxpayers a cent. The joint sitting of parliament might cost a few dollars more but not much, and I will be replaced; whereas, if Mr Georgiou decides to leave, you want to charge him the full cost of the by-election.

**Dr Yule**—Particularly if he is walking into some directorships, yes.

**Senator ROBERT RAY**—I think we can assume that is not the case.

**Dr Yule**—You may be able to think of another solution that will alleviate voter cynicism.

**Senator ROBERT RAY**—I certainly think there has to be an exception for ex-prime ministers, because there is nothing more useless than an ex-prime minister sitting on the back bench. They get in the road of everyone. Billy McMahon was a classic example of that. Others left immediately on losing the prime ministership. I think that is good for the body politic, not bad for it. Once you make one exception, it is hard then to draw the line, isn't it?

**Dr Yule**—I would be prepared to draw lines, yes.

**Senator ROBERT RAY**—I am pretty sympathetic to that. I have seen people walk out of the parliament with no concern that it is going to cost not the least of which their own political party several hundred thousand dollars but the taxpayers a little more.

**Dr Yule**—Yes, I think it should be made less easy to do and less rewarding to do.

**Senator ROBERT RAY**—There is one good exception to that: ex-Senator Evans, the member for Holt, who wanted to leave. He waited until the referendum on the republic, so the actual cost to have a House of Representatives election at the same time would have been virtually zilch. I do not want to mention names, but others have cost a fair bit of money.

**CHAIR**—An important point that was just made is that this is not only a cost to the public but also a cost to the political parties and that the conduct of an unnecessary by-election is something that is borne by the political parties as well.

**Dr Yule**—Yes, indeed.

**CHAIR**—Often, they get quite nasty about it.

**Senator ROBERT RAY**—It has probably wasted about 10 times the public funding, Chair. It is something of that order.

**CHAIR**—The costs of by-elections for political parties are very high.

**Dr Yule**—The cost for voter cynicism is too high to be borne.

**Senator ROBERT RAY**—Dr Yule, you have a provision for three-week election campaigns. That concerns me in as much as we would really like to maximise the people who vote, and the shorter the campaign might well imply closing the rolls a lot earlier. That is not your intention, is it?

**Dr Yule**—No.

**Senator ROBERT RAY**—What is your view on fixed election dates a la the American system of the first Tuesday after the first Saturday in November?

**Dr Yule**—That probably has a lot of advantages, as long as it does not clash with the Melbourne Cup.

**Senator ROBERT RAY**—Mark Twain both went to the Melbourne Cup and saw US elections and came down on the side of the Melbourne Cup, so it never would.

**Dr Yule**—That is my point. If we have a fixed time, it should not be in the middle of the end of year examinations, Christmas or any particular games. Sometimes elections have been called rather cynically.

**CHAIR**—Is there anything else you would like to add?

**Dr Yule**—I have a summary which you can have. I have some other points, such as the business of how-to-vote cards and other means of reducing expenses. My main concerns are to make it more interesting for people to think and for them to have more interest in life than gambling. Elections are a good sort of gambling that people could be interested in if we made it more worth their while to take an interest.

**CHAIR**—Thank you very much for your submission.

[9.27 a.m.]

**STOKES, Mr Peter Phillip, Executive Officer, Salt Shakers**

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

**Mr Stokes**—No, except to say that, like Dr Yule, I would like elections to be more democratic and interesting. One of the ways of doing that is for people who stand for election being more accountable. We need more accountability regarding who they are and where they are from. Basically, I am concerned about the integrity of the roll itself, people voting when they should vote and not when they should not, and the way our voting system works.

**CHAIR**—Would you like to make a short statement?

**Mr Stokes**—No.

**CHAIR**—On page 3 of your submission there is one point I wish to have explained. In arguing for a replacement of the compulsory preferential system with an optional preferential system, one of your basic reasons is:

A Christian is forced to endorse a homosexual or a Muslim regardless of the fact that a true Bible believing Christian would never willingly want to endorse, in any way, either that lifestyle or religion.

Is that a statement that Christians would not vote for a Muslim or a homosexual?

**Mr Stokes**—It is a statement that I would not wish to vote for a Muslim or a homosexual. I would not want to vote for a prostitute either. I would not want to vote for a lot of people. They were just two particular examples of people whose personal character makes them somebody I would not want to vote for.

**CHAIR**—I was actually focusing on the fact that it seemed that you were implying Christians would never vote for Muslims—not if they were in their right mind, anyway.

**Mr Stokes**—It would be unlikely that many Christians would particularly want to vote for a Muslim. The Islamic religion is more than a religion; it is a political lifestyle as well. Therefore, when you are voting for an Islamic candidate, you are actually voting for a political system under which Islam is framed.

**Senator ROBERT RAY**—So you are putting that in terms of not ethnicity or race, but ideology?

**Mr Stokes**—I guess you would have to say that, yes.

**Senator ROBERT RAY**—I wanted to be clear about that.

**Mr Stokes**—The world view of that particular person is that the Islamic nation should dominate the world. I do not hold that view; therefore, I would not want to put that view in my voting process.

**CHAIR**—You feel that it offends your principles if, to have a valid vote, you have to vote the whole card?

**Mr Stokes**—That is right. I think that goes with lots of people. Simply giving a vote is endorsing that person in some way, shape or form. It does not matter whether you put them first or last, you are still endorsing that person as a person you feel could have a position in the parliament. I believe that, by not being able to leave a blank, my democratic right is being taken away because I would not want to endorse certain people. It may be a political party that I might be totally against and that I do not want to endorse either.

**Ms HALL**—Quite often it is difficult to know whether a person is a homosexual, a Muslim or a prostitute, so added to this could be a need for a person to identify their sexuality or religion.

**Mr Stokes**—I believe they should. I believe it is everybody's right to know the character of the person we are putting into parliament. I think it is fairly obvious to say that, if you have a homosexual activist in parliament, he is going to push his lifestyle. I believe that lifestyle is immoral and wrong; therefore, I would not want to vote for that person and I would not want him influencing the parliament of this nation.

**Ms HALL**—That has quite enormous implications then for the way our political system works.

**Mr Stokes**—Yes, it has, but I do not think you can divide somebody's private behaviour or belief from their political behaviour or belief. I think that has been fairly obvious in parliament over recent months.

**Senator ROBERT RAY**—As a heterosexual atheist I want to ask you this question, and no doubt next time you vote—

**Mr Stokes**—I will know which way to vote.

**Senator ROBERT RAY**—Exactly. Take me through this compulsory voting. I want to know how you were compelled to vote. Just tell me at the last election how you were compelled to vote. You say there is compulsory voting.

**Mr Stokes**—You mean as far as—

**Senator ROBERT RAY**—You personally.

**Mr Stokes**—Basically because I was registered to vote I had to turn up at the polling booth.

**Senator ROBERT RAY**—I want to know how you were compelled to vote at the last federal election.

**Mr Stokes**—If I had not voted at the last election, I probably would have been fined because—

**Senator ROBERT RAY**—No, you might have been fined if you had not attended a polling booth. Tell me how we compel you to vote.

**Mr Stokes**—Why should I have to attend a polling booth just to cross my name off the list?

**Senator ROBERT RAY**—Great if you want to put that in your submission, but you are talking about compulsory voting. I want to know how anyone—

**Mr Stokes**—The inference to our nation and to most ordinary people is that it is compulsory that they vote, and once they get to the polling booth—unless they are really disgruntled—most of them take the ballot paper, scribble on it and put it in the box. They are free to do that.

**Senator ROBERT RAY**—I am asking you were you compelled to vote at the last election. If you did not attend the polling booth and did not vote, I am not interested—I am not trying to pursue that angle—but if you did actually attend the polling booth how did we compel you to vote? You went into the cubicle by yourself, with or without a pen. I want to know how we forced you to vote.

**Mr Stokes**—If you want to make that distinction, I was not compelled to vote; I was compelled to attend the polling booth.

**Senator ROBERT RAY**—I think it is important. It is not actually compulsory voting. You have the choice to number a square or not number a square, and I will never know and no-one else on this earth will know whether you have done so.

**Mr Stokes**—But why do we need to compel people who are not going to vote to attend a polling booth, because that implies that they should vote. Many people do that: they go to the polling booth and they will in fact vote in the way they have done for 20 years. It actually enhances the party principle because most of these people have very little interest in politics. They do not worry about who the candidate is; they simply go and vote for the party they voted for for the last 20 years because they think their obligation is that they have to vote.

**Senator ROBERT RAY**—It is no big deal. I am just making the point that compulsory voting is in your submission.

**Mr Stokes**—It is known as a compulsory voting system.

**Senator ROBERT RAY**—It may be, but it is not true.

**Mr Stokes**—Then we should tell the people that it is not true.



**Senator ROBERT RAY**—You may well. It is your democratic right to do so. All I am saying is that you were not actually compelled to vote. You were compelled to attend, I concede that, but you were not actually compelled to put pen to paper and vote for a Muslim, a prostitute or a homosexual by de facto or anyone else. It was your choice.

**Mr Stokes**—If I want to have a vote then I am compelled to vote for everybody on the paper. Therefore, I have to vote for people I do not want to vote for. I can throw my vote away completely, but I do not get a choice as to whether I discern for whom I am going to vote, and that is the difference. But why have compulsory attendance at a polling booth if you are not going to have compulsory voting?

**Senator ROBERT RAY**—There is a distinction. You are compelled to attend. Lots of people are compelled to do lots of things.

**Mr Stokes**—Why?

**Senator ROBERT RAY**—They are vaccinated, they pay taxes or whatever else because it is regarded as part of their civic duty, but in whatever event—having agreed to disagree on whether you should be compelled to go there—you do not actually have to cast a vote if you do not want to. It is not a big point, but it is different from your submission.

**Mr Stokes**—You are right, it is not a big point.

**Senator ROBERT RAY**—The reality is different.

**Mr Stokes**—The fact is that we tell people that there is a compulsory vote.

**Senator ROBERT RAY**—I like submissions that come before us to be accurate. This is not maliciously inaccurate; it is just a different point of view. But you are not compelled to vote, and I think that that is an important point.

**CHAIR**—I turn to the issue of why there is a compulsion to attend the polling booth. Basically, the polling data indicates that the overwhelming majority of the Australian people believe that voting is a civic duty, that they need a nudge along to meet their civic duty and that that nudge along does not amount to a compulsion to vote for a party or an individual, or indeed to cast a ballot at all.

**Mr Stokes**—In a sense, that is true. The whole inference is that voting in Australia is compulsory. That is point No. 1. Whether people can go and not make a vote is different. If you decide to make a vote at all, then it is compulsory to vote for everybody. You have to fill in every square on the voting paper.

**Senator ROBERT RAY**—No, not actually; the last one you can leave blank.

**Mr Stokes**—When you have 56 people to vote for, one does not make a lot of difference.

**Senator ROBERT RAY**—I agree that there is a little more scope in the Senate. It does not answer your objection to compulsory preferential voting, but you can at least leave one blank.

**Mr Stokes**—The fact is that, if you have five people standing for parliament and want to endorse one of them and not the other four, you do not have that choice.

**Senator ROBERT RAY**—That is correct.

**Mr Stokes**—Therefore, it is undemocratic not to have the choice of saying, ‘No, I do not want to endorse that person and give them my second, third, fourth or fifth vote.’

**Senator ROBERT RAY**—The counterargument to that—I am not really disputing your view on compulsory preferential voting—is that, quite often, someone that 30 per cent or 40 per cent of the population have chosen is elected to parliament. People say, ‘That is undemocratic.’ How do you respond to that?

**Mr Stokes**—The person would still need to get beyond 50 per cent of the vote. We already have people who do not get much more than 30 per cent but actually end up getting into parliament because, after preferences, they get the 50 per cent required.

**Senator ROBERT RAY**—No, with an exhausted ballot system—that is, people voting just No. 1. You have had examples in the UK—which does not have preferential voting at all, admittedly—of people with 22 per cent of the vote being elected.

**Mr Stokes**—I am not suggesting that we do not have preferential voting at all; I am suggesting we have optional preferential voting. That gives the people the chance to say no or yes.

**Senator ROBERT RAY**—The criticism with optional preferential voting is that you can still be elected to parliament having received 40 per cent of the total vote. Another 25 per cent can just go out as exhausted.

**Mr Stokes**—Does it matter?

**Senator ROBERT RAY**—Not being elected by a majority does matter to some.

**Mr Stokes**—We also have governments that are not elected by a majority of people. They get 48 per cent of the vote and end up being in parliament, so it does not seem to make a lot of difference when it suits the party. But the whole system we have at the moment suits political parties—the major political parties.

**Senator ROBERT RAY**—There is optional preferential voting in the Queensland and New South Wales state elections—

**Mr Stokes**—More Independents are elected in their voting systems. The whole system at the moment—in both houses—is attuned to major political parties controlling the system. I think

our Senate should be a house of review. I think there should be far more ability for Independents to get into the Senate.

**Senator ROBERT RAY**—I think that you will find that virtually every one of those Independents—not all, but virtually every one—is elected on major party preferences.

**Mr Stokes**—Because of the voting system.

**Ms HALL**—I do not think your contention that there are more Independents in the lower house in New South Wales than in the lower house of federal parliament stands up, and there is a optional preferential system in New South Wales.

**Mr Stokes**—It does not make much difference in the lower house, but it certainly makes a big difference in the upper house in New South Wales, which has a Senate style system.

**Senator ROBERT RAY**—Proportional representation and low quotas help.

**Ms HALL**—That is right, and the quota has been raised.

**Mr Stokes**—That is because the political parties do not like the Independents getting into parliament.

**Ms HALL**—Not at all.

**Senator ROBERT RAY**—That is true. Can I ask you about the integrity of the electoral roll? Do you want an Australia Card option where people come along with an identity card?

**Mr Stokes**—Everybody who works—which is basically everybody over 18—has a tax file number. There is no reason why a form of identification such as that cannot be used to identify people when they turn up at a polling booth.

**Senator ROBERT RAY**—In other words, an Australia Card type option.

**Mr Stokes**—I am not averse to an Australia Card.

**Senator ROBERT RAY**—Neither am I.

**Mr Stokes**—The only people who are averse to those things are people who have something to hide.

**Ms HALL**—What about Indigenous people or people who do not work? Should they have the right to vote?

**Mr Stokes**—Of course they should. But if they do not vote, as long as they get a number when they are 18 there is no reason why everybody should not have some style of tax file number.

**Ms HALL**—Can you understand the complexity of giving a number to a person who lives in an Indigenous community or maybe a homeless person, and the difficulties that could arise with someone like that when it comes to voter ID or such?

**Mr Stokes**—I believe they are not insurmountable difficulties. I think the number that we are talking about is very small and there is no reason why they cannot have some form of identification.

**Senator ROBERT RAY**—But tax file numbers are a bit of problem when 95 per cent of electoral officials on election day are just volunteers doing a part-time job. Let us say you are working at a booth—I do not want to give you my tax file number.

**Mr Stokes**—I am not suggesting it is necessarily the tax file number, but everybody has a tax file number—the system is there already in that form. It could be another number.

**Senator ROBERT RAY**—I am wondering what universal number. Short of a specially created identity card—because we have not got to that point yet—I am looking at what exists that could be used. I do not think anything can be used at this stage. Not everyone drives, for instance—the Premier of New South Wales does not have a drivers licence.

**Mr Stokes**—But everybody at 18 could be issued with a number. It could be the tax file number, but if they had a letter in front of the number then at the election they would not use the letter in front so nobody has it—you have 26 chances of picking the right one. With computers, computer systems and numbering systems, I do not see that that is an insurmountable problem.

**Senator ROBERT RAY**—I do not think anything currently exists—that is the problem.

**Mr Stokes**—They should be offered a choice, perhaps. Most people have a bank account if you do not want to issue a particular number.

**Senator ROBERT RAY**—You are lining up in the queue and there is someone there—it could be your neighbour—marking you off on the roll. Do you want to give him your bank details or your tax number? It is different when you have a computer protected card with all the civil liberties written in to protect the use and misuse of it. In many ways an official identity card—with all the objections there are to it—has more safeguards than the misuse of non-protected data.

**Mr Stokes**—Then let us have an official identity card. I am not averse to that.

**Ms HALL**—I must say on the voter ID that, even with a personal identity card, there are problems for people who are extremely disadvantaged or living in Indigenous communities. We have a submission here from—and we are going to hear from—a group that represents homeless people, and they argue exactly the opposite way because they feel that that group of people is disenfranchised, particularly by a system like that. If you have ever dealt with somebody from a very disadvantaged background, you would know that they have difficulty keeping any papers. If they do have a card, they lose it. Medicare cards are not issued to the majority of Indigenous Australians, and there are a number of problems that are associated with that, so it is a very simplistic approach for certain groups of people. Can you see that?

**Mr Stokes**—How many of those groups of people are going to register to vote anyway? Many of them do not register to vote. Many homeless people would not register to vote.

**Senator ROBERT RAY**—They cannot because they do not have an address.

**Ms HALL**—That is right.

**Mr Stokes**—Then there is not a problem, is there?

**Senator ROBERT RAY**—Not for you!

**Ms HALL**—There is a big problem.

**CHAIR**—I will ask you to develop your views that political parties should not be able to stand for the Senate.

**Mr Stokes**—My concern is that the Senate is supposed to be a house of review and not a—

**Senator ROBERT RAY**—Where does the Constitution say that?

**Mr Stokes**—That is the purpose of an upper house—a house of review.

**Senator ROBERT RAY**—It is not stated anywhere; I just thought you might be able to enlighten me. Where is that stated in legislation, the Constitution or anywhere else?

**Mr Stokes**—Why do we have an upper house?

**Senator ROBERT RAY**—I do not know, but it is certainly not stated anywhere as a house of review. Maybe that is the function it has adopted for itself, because it has to be of some use, but it is not actually dictated.

**Mr Stokes**—That is a sort of leftie idea that we should not have an accountable system in parliament, maybe, but it is seen—

**Senator ROBERT RAY**—No, it is not. I think it is the most accountable legislature in the world in some ways.

**Mr Stokes**—It is, because we have an upper house which is a house of review.

**Senator ROBERT RAY**—And we have political parties there.

**Mr Stokes**—That is the problem: sometimes when we get those political parties it means simply a rubber stamp or else it is in total opposition, whereas we have—

**Senator ROBERT RAY**—It is not either at the moment, is it?

**Mr Stokes**—That is because we have Independents in the middle. But there were times, such as in Victoria's state parliament at the moment, when that upper house was simply a rubber stamp for the Liberal government. Now it can be in total opposition to the lower house.

**Senator ROBERT RAY**—Surely you are arguing for non party control—single party control—in the upper house.

**Mr Stokes**—If you had enough Independents, hopefully you would get that anyway. But why do we then want parties involved? Why can't we have people who are prepared to be open-minded, looking at both sides of the coin and not particularly—although they are going to have their personal views—

**Senator ROBERT RAY**—Here are two great examples. The Tasmanian upper house for many years had 'no political parties'. It was the most obstructive, ossified, useless body in Christendom.

**Mr Stokes**—That was because the Labor Party was in the lower house and they did not like the upper house. I lived in Tasmania for 10 years and I know how the system works out. But it did review the system. It may have been called reactionary—

**Senator ROBERT RAY**—If you lived there, you knew that political parties secretly ran Independent candidates for the upper house. If you did not know that then you were not too observant!

**Ms HALL**—It happens in local government.

**Mr Stokes**—It is still happening now.

**Senator ROBERT RAY**—Exactly!

**Mr Stokes**—But that does not mean that we should not try to improve the system.

**Senator ROBERT RAY**—The most recent example of a Senate around the globe that disqualified political parties is in Thailand. You are not entitled to be in the Senate if you are in a political party. What do you have? You have a totally disorganised shambles because no-one can get together to decide anything. You have all these brilliant academics, professors and everything else, but because there is no driving force of political parties it is a total shambles.

**Mr Stokes**—That is always the excuse given by political parties for not having independence in the upper house, but it does not have to be that way.

**Senator ROBERT RAY**—That is the reality.

**Mr Stokes**—If it is a committee system and the majority rules then there is no reason, if it is run properly, why there should not be a decision based on what is best for the interests of Australia, not what is best for the interests of the political party.

**Senator ROBERT RAY**—But what it boils down to in the end, unfortunately, from your philosophy—and I would like to think it is true—is what is in the best interests of each individual rather than each party. That is what it comes down to and that is why it becomes an absolute shambles. On behalf of political parties, I am happy to assert that they play a useful role in the body politic and that a whole bunch of squabbling Independents—usually whose only platform at the moment is to criticise other politicians, which is the only way they can get publicity—do not necessarily contribute to the advancement of society. That is my view. We disagree—I agree on that.

**Mr Stokes**—Obviously, because that is why you are in a political party.

**Senator ROBERT RAY**—Not necessarily.

**Ms HALL**—No.

**Mr Stokes**—It does not have to be that way in practice.

**Senator ROBERT RAY**—You do not have to have any world poverty; you do not have to have anything in practice. It is how it works out, given human nature et cetera. You have seen local councils full of Independents, with no political parties, turn into an absolutely shambles. You have seen it in your own lifetime.

**Ms HALL**—Punch-ups in the council chamber!

**Senator ROBERT RAY**—But you can never point to the opposite example—where a whole body of Independents in an upper house works—anywhere on this globe. Tell me one country where it works.

**CHAIR**—Can you tell me how you would manage a system in terms of precluding political parties from standing candidates?

**Mr Stokes**—If they are not affiliated to a political party and they are not there as a political party, they act as individuals. If you would run a system where political parties did not have compulsory voting for their party then it may help the system. The public might have tolerance with parties if it were like the biggest democracy in the world, America, where every parliamentarian has his own right to vote on every issue. He is not governed to necessarily follow the party line, which means that politicians actually review all the issues and have their own opinion. They then get judged by the electorate on the way they vote on that opinion. Yes, because of philosophy that often goes along party lines but it is not compulsory and there are not the detriments to people who want to vote against their parties that there are in the current party system. I guess a middle-of-the-road approach would be to ensure that in the upper house there was no compulsory party voting—in other words, everybody voted according to their conscience on every issue.

**Senator ROBERT RAY**—Take, for example, the House of Commons. It does not have compulsory voting or compulsory preferential. How many Independents are there in the House of Commons out of 650 members?

**Mr Stokes**—There are probably not many, because this whole system of parties tends to dominate. It has now been entrenched in the British system and most people think that it is a wasted vote if they do not vote for a party. That is the same in Australia.

**Senator ROBERT RAY**—I agree with that except that you are ascribing a lot of that to what you call compulsory voting and compulsory preferential systems, neither of which exist in England. They have one Independent, I think, out of 650 members of the Commons, which leads me to the conclusion that, while you are quite legitimate in whatever argument you put in not wanting party control of parliaments, you cannot entirely blame it on a compulsory voting or compulsory preferential system. It does not follow.

**Mr Stokes**—No, it is about the entrenchment of parties. I have also lived in England for many years, and the average person in England takes very little interest in politics because they do not really have a say, and they know their politician has not really got a say today because it will go along party lines. They are totally disinterested.

**Senator ROBERT RAY**—So it is the entrenchment of parties. I will just cross out points 1 and 2 of your submission because those are not going to help you get what you want.

**Mr Stokes**—If that is your opinion, that is fine. You can hold that opinion just as I can hold a different opinion.

**Senator ROBERT RAY**—But I am waiting for an argument. You are now arguing—and, of course, you are justified in arguing—the entrenchment of a party system as the reason why you do not get Independents. I am trying to put up an argument that without any of the compulsion other countries also do not turn up Independents, and you again say that is because of the entrenchment of a party system. Again we agree; what we disagree on is that, if we change these two aspects of the Australian system, a whole bunch of Independents would come forward. I do not think they would, because of the very entrenchment you talk about.

**Mr Stokes**—Because it does not work in England you cannot say it will not work here. We have only 18 or 19 million people; England has 10 times that number. Believe it or not, there is far more interest in politics in Tasmania, where there are far fewer people and they know their politicians: they are often on first name terms with a lot of those politicians; the politicians are seen as ordinary people. In England the politicians are seen as far removed from the ordinary person, and the ordinary person has become almost totally disenfranchised in the way they think about politics.

We have a middle-of-the-road situation here. I think that we have a system in which people can feel close enough to the voting system and that, by giving them more choice and giving them more independence in the way they vote, they will make that decision. I think Australians think more about politics today than the British do. Therefore I think that a change in the system to give people the right to select who they vote for and to also stop them from having to vote for other people would actually be effective in Australia. I do not think you can compare it with other countries.

**Senator ROBERT RAY**—So we cannot use any other country or any other example? I asked you before to name one example of an upper house that consists entirely of Independents and

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works effectively. I cannot find one anywhere. I would like to but I cannot. Can you think of one anywhere around the globe?

**Mr Stokes**—Sadly, the political system has been perverted completely.

**Senator ROBERT RAY**—I see.

**Mr FORREST**—I have to say that, reading your submission and listening to your evidence, one could be forgiven for thinking you have a really jaundiced view of democracy in Australia. Do you really believe that it is that bad?

**Mr Stokes**—I really believe that the average person today knows very little about what is going on, because of a disinterest in the system.

**Mr FORREST**—That is a different issue.

**Mr Stokes**—I believe that if you change the system and there is more accountability on behalf of the members elected then that would change the way people think about politics.

**Mr FORREST**—I think that is a different issue, one to do with the character of Australians rather than the parliament trying to legislate a process. I am with you on how-to-vote cards: the cost and waste of paper is enormous.

**Senator ROBERT RAY**—Well, don't put one out. Lead, be in the vanguard on it.

**Mr Stokes**—If you do not put one out, Senator Ray, he might not put one out.

**Senator ROBERT RAY**—No, I am not pronouncing on these issues.

**Mr FORREST**—My point is that you say in your submission that voters find this intimidating. That is not my experience: I find the great majority of people are looking for the card, and if it is not there they want to know why. Help me out here. You say it is intimidating for a voter. My experience is that they actually go looking for it.

**Mr Stokes**—In a country electorate it might be less overbearing than it is in a city one. In the city, when you roll up at a polling booth and you have 25 people all trying to thrust something into your hand and it becomes very intimidating. I have heard many people say that you walk the gauntlet to get to the polling booth. Quite frankly, it is intimidating. It depends on how boisterous the various friends of the parliamentarians who are handing out the how-to-vote cards are as to how intimidating that can become. I know, having stood as an Independent in one election in Victoria, and going from booth to booth—

**Senator ROBERT RAY**—Where did you run?

**Mr Stokes**—I ran in the Mitcham by-election when it was a stand-alone by-election.

**Senator ROBERT RAY**—I remember it.

**Mr Stokes**—It was an absolute nightmare. Apart from the fact that, at 2 o'clock in the morning before the election, the parties were out there taking up every square inch for a mile on each side of the polling booths with their huge banners because they had all the money and I had one little placard sitting on a fence—

**Senator ROBERT RAY**—You did not hand out how-to-vote cards, did you?

**Mr Stokes**—I did; I handed out how-to-vote cards at every polling booth. You have to. If you have any chance under the system at the moment, you really cannot afford not to do it. That is why John won.

**Mr FORREST**—What you are saying is that it is the distribution of the how-to-vote cards that is intimidating?

**Mr Stokes**—Actually, as an Independent, the process involved in working out those how-to-vote cards was also very intimidating—with the phone calls you kept getting, the manipulation and the bribery, which is behind some of the comments that are made when you are discussing how-to-vote cards. But in this case the main point is that you have people arriving at a polling booth and they are thrust into their hands. So many are wasted. If we said to people, 'Find out who you're going to vote for before you get there and don't wait until then,' we would put the onus onto the people to decide who they are voting for. This idea of going along to a polling booth, taking a how-to-vote card and voting the way the party says has become ingrained, and is I think very irresponsible behaviour.

**Senator ROBERT RAY**—Did you get your deposit back?

**Mr Stokes**—Yes, I did.

**Senator ROBERT RAY**—Excellent. What about the bribery? Have you referred that to the police? Did you?

**Mr Stokes**—No, I did not.

**Mr FORREST**—The secretary has advised me that at ACT Legislative Assembly elections it has been banned. I want to explore some of your suggestions. You are suggesting that the Electoral Commission ought to take some control and post the system in the booth.

**Mr Stokes**—They could have one announcement on a wall for people who wanted it. If they wanted to have it there then each polling booth could have a list of each person's preferences.

**Senator ROBERT RAY**—You do already in the Senate.

**Mr Stokes**—That is fair. It would solve that problem of being literally intimidated by sometimes enormous numbers of people at city polling booths when you go to vote.

**Ms HALL**—If people are so intimidated and do not want how-to-vote cards, how come hundreds—and I mean literally hundreds or maybe thousands—ring my office asking for that information?

**Mr Stokes**—I am not suggesting that people do not want how-to-vote cards. I am saying that they ought to think about those how-to-vote cards before they get to the polling booth. It is great that people are doing that, and I think people do that so that they do not have to walk past this run of people to do it on the day. They would rather know before they get to the polling booth how you are going to issue your preferences. I think that should be right.

**Ms HALL**—I think this was brought up before: why do people on polling day seek out people who are distributing the how-to-vote cards along the lines that they were—

**Mr FORREST**—I think Mr Stokes has made the distinction about the distribution rather than—

**Ms HALL**—No, I am talking about distribution.

**Mr Stokes**—I am not suggesting you should not have how-to-vote cards; I am suggesting that the way they are handed out at polling booths is not right. They seek them out because today they know they are going to be there, so they do not have to bother to think how they are going to vote. They simply walk up and say, ‘I’ll vote the Labor way, whatever that is.’ It is a very undiscerning way to vote to start with.

**Senator ROBERT RAY**—It is a democratic choice, for heaven’s sake!

**Ms HALL**—People have obviously thought out how they want to vote, and that is why they are seeking out that how-to-vote card.

**Mr Stokes**—Not necessarily. They know they are Labor voters or they know they are Liberal voters, and they are simply going to follow their usual pattern because they do not think about it. So many people do not think about the way they vote.

**Senator ROBERT RAY**—We should make it compulsory thinking!

**Ms HALL**—You are making an enormous assumption that, just because a person votes Labor or Liberal, they do not think. Are you saying that the only people who think are people who vote Independent? Is that your contention?

**Mr Stokes**—No, but we put out a sheet before the last election on some of the party policies and informed people about them. Many people thanked us for doing that because they had not thought about how they voted in previous years; they had not thought about the parties’ policies; and they did not know that this party was actually aiming in this or that direction. They have simply followed the party line for so long. Many people thanked us for doing that because it informed them how to vote. That is something that the parties do not tell you. There is a lot of party policy that the parties do not tell the people. They tell certain select groups of people or, now, thankfully, they put it on a web site, but they do not encourage people to make up their minds before they get to the polling booth because there is always the how-to-vote card at the

polling booth and people will follow what they have done for the last 20 years and vote for Labor, Liberal, National or whatever. Unfortunately, it is becoming a trend. As I said, in England it is well entrenched. People say, 'Who cares? Our vote does not count for much. We will just go along and do it.'

**Ms HALL**—You obviously do not have a very high opinion of Australian people or their intellect.

**Mr Stokes**—It is the system that pushes them in that direction that I do not have a very high opinion of. If Australians were given the choice, they would know what to do.

**CHAIR**—Mr Stokes, I am going to offer another perspective on how-to-vote cards—and I do appreciate all your points. In my view, the handing out of how-to-vote cards actually mobilises more democratic participation in a single day than any other action, and it keeps the parties more in touch with their membership base than any other single issue. The fact that we have to mobilise and get people out there means that the political parties tend to be more in touch with their members than they would otherwise be, just out of straight pragmatic reasons. It is a huge act of democratic participation on that day. Even for yourself as an Independent, getting people out there to hand out your how-to-vote cards means that you have to interact a hell of a lot more than you would if you could just stick something on a wall and not worry about it. I offer that as an alternative.

**Mr Stokes**—I got a lot of support out of getting people to doorknock and that sort of thing, rather than handing out how-to-vote cards. In fact, everybody probably did the first before they did the second. Therefore, you mobilise your people before the election rather than at it. You can mobilise your people to hand out your material and support you before the election, not necessarily only on polling day. I do not think that is a good reason—

**CHAIR**—I do not think that they are exclusive. Would you like to add anything to your testimony as a conclusion?

**Mr Stokes**—No. I think it is all there, whether you agree with it or not, which some obviously do not. It is another opinion, and I value the opportunity to give my opinion.

**CHAIR**—Thank you very much for your submission and your testimony.

[10.03 a.m.]

**MITCHELL, Mr Donald George (Private capacity)**

**CHAIR**—Thank you for coming. The committee has received your submission. Are there any amendments or corrections that you would like to make to it before you begin?

**Mr Mitchell**—No.

**CHAIR**—Would you like to make a short statement before we begin questions?

**Mr Mitchell**—This is quite a simple arrangement. It is a circular ballot paper. It would be more suitable than the conventional paper in so much as it would eliminate the effect of the donkey vote.

**CHAIR**—Thank you very much. Would your intention be for this paper to be used in both the Senate and the House of Representatives elections or just for the House of Representatives?

**Mr Mitchell**—Either, but it would be more suitable for the House of Representatives.

**CHAIR**—Do you see any problems with a circular ballot paper given a large number of candidates? For example, in Wills in 1992 there were 22 candidates. Do you think that a circular ballot paper could technically deal with 22 candidates?

**Mr Mitchell**—It all depends on the size of the circle. The bigger the circle, the more candidates you could fit on it.

**CHAIR**—Do you think it is possible that, with lots of candidates, the paper may become unmanageable?

**Mr Mitchell**—It would be possible in some instances where there are such a lot of candidates.

**CHAIR**—You have taken out a patent on this idea. Why did you think it was necessary to take out a patent?

**Mr Mitchell**—I contacted certain people and they thought the idea was quite good, more so for the corporate world. A particular motoring organisation was quite interested in it.

**CHAIR**—Do you see any technical difficulties in things like getting an accurate count on election night of a circular paper compared with a straight up and down ordinary ballot paper?

**Mr Mitchell**—The way some of the elections are held in limbo for quite some time, I thought that that was not a major problem.

**CHAIR**—What about things like scrutineering? I should think that it may be a little more difficult scrutineering with a round ballot paper than with an oblong ballot paper.

**Mr Mitchell**—There again, it could be somewhat more awkward, but I do not see that the time factor is really so important when it could be more accurate.

**CHAIR**—Why do you prefer your paper to the Robson rotation?

**Mr Mitchell**—I maintain it would eliminate the effect of a donkey vote.

**CHAIR**—Do you have any sense of how significant the donkey vote is in determining the outcome of elections?

**Mr Mitchell**—I have been a taxi driver for many years. Election day is one of the greatest days that there could be for taxi drivers. I was interested in people and it was a golden opportunity to get their views on politics and to get the general views of the public. I was amazed at how naive a lot of people are when it comes to election day and what they know about voting.

**Mr FORREST**—It is an intriguing idea, but no matter which way you put paper there is always up. There is always going to be an up. Somebody has to be allocated positions in this circular arrangement. How are proposing that that is done? I ask because there will always be up on a piece of paper. People will have to put it on the table in the ‘up’ position. That is the orientation of human beings. So there is always going to be somebody at the top. How will you allocate that?

**Senator ROBERT RAY**—The clerks spin it when they give it to them.

**Mr FORREST**—How will you allocate the positions on a radial arrangement?

**Mr Mitchell**—As it was handed out to the voters, it would not always be handed out in the exact same position.

**Mr FORREST**—It depends. Which way are the names going to be written? Are they going to be written radially or horizontally?

**Mr Mitchell**—Crosswise.

**Mr FORREST**—So it has to be up. Somebody is going to be upside down on that basis.

**Mr Mitchell**—I maintain that the voter would turn it around to study the paper and turn it around and vote for the person they have selected and then keep revolving it around. You mark your first preference and you look around for the other; you follow it around until you have filled in the paper.

**Mr FORREST**—Have you road-tested this in any way? My inclination is that it will increase the donkey vote, but have you road-tested it in any way?

**Mr Mitchell**—No.

**CHAIR**—Mr Mitchell, would you like us to distribute copies of your proposed ballot paper to the members of the committee?

**Mr Mitchell**—Yes.

**CHAIR**—This copy actually makes the ‘up’ point.

**Mr FORREST**—Does it? Okay.

**CHAIR**—Do you have any copies with you?

**Mr Mitchell**—Yes.

**Mr FORREST**—I think it has to be road-tested.

**CHAIR**—What has been the Australian Electoral Commission’s response to this idea?

**Mr Mitchell**—They gave no specific answer.

**Senator ROBERT RAY**—We will follow that up with them next Friday.

**CHAIR**—We will pursue this matter with them when they appear before the committee. Are there any other comments you would like to make to the committee before we move on?

**Mr Mitchell**—No, not at this juncture.

**CHAIR**—Mr Mitchell, thank you very much. I can see the people from the commission nodding their heads in anticipation; we will be taking this up with them on Friday. Thank you very much for coming and thank you for your submission.

**Proceedings suspended from 10.11 a.m. to 10.30 a.m.**

**SCHOREL-HLAVKA, Mr Gerrit Hendrik (Gary), Joint Owner and Appointed Representative (for all matters), May Justice Always Prevail**

**CHAIR**—I welcome Mr Gary Schorel-Hlavka to today's hearing. Do you have anything further to add?

**Mr Schorel-Hlavka**—I have been conducting a special lifeline for 20 years under the name of May Justice Always Prevail. It is also a registered name.

**CHAIR**—The committee has received your submission. Are there any changes or amendments you would like to make?

**Mr Schorel-Hlavka**—No. I have provided quite a few more submissions because, after I made my first submission, I got more material from the Attorney-General's Department, the Australian Electoral Commission, et cetera. I have 30 CDs—I have provided a CD to Ms Palmieri and can provide a copy to every member if they so wish—with all the material that I have submitted on them.

**CHAIR**—I understand that some of the issues you will raise in the course of this hearing are the subject of some legal action.

**Mr Schorel-Hlavka**—May I explain it this way: I received a summons for not voting. I heard the comments by Senator Ray. I have requested the court to throw it out, because you cannot be convicted for not voting. You can be convicted for not attending, but not for not voting. So that is one item. Secondly, on 7 November 2001 I had a case before the Federal Court that the writs were unconstitutional. The court held that only the Court of Disputed Returns had jurisdiction. Of course, I say no because, even on 28 July, the Court of Disputed Returns made it clear that it has no jurisdiction to hear multiple writs disputes. I filed within three weeks and appealed to the High Court, but that was basically the end of it. I have no leave of appeal boards. I have written to them, but I have heard nothing from the High Court about it. So I do not know what is happening there.

It may be that the High Court is still waiting to see what is going on. It was only last Friday—I notified the Attorney-General's Department that the hearing was on today and asked them to clarify matters—that a member of the AGS, Mr Lucas, made known that in fact they never notified the Governor-General and the governors that they had accepted service of the documents. So it is a big mess. We do not know what is happening with the court case. I have asked the Australian Government Solicitor to appeal out of time—and I would give consent to that—to the Federal Court to have this case overturned and heard de novo in view of the fact that seven of the parties were wrongfully denied any knowledge of the proceedings. Whether there is a High Court case depends on what is happening with the Australian Government Solicitor.

**Senator ROBERT RAY**—Could you give us a ruling on this now, Chair, on what areas can and cannot be covered?



**CHAIR**—I am concerned that you may be traversing material that you have sought to have instituted as an appeal. I would like you to make your comments on this matter in the light of that. There may be an appeal on foot and that may make this sub judice.

**Mr Schorel-Hlavka**—I am aware of what you are saying. I know that I cannot be compelled, let us say, to give evidence about something that might be subject to a trial. However, I have no objection to—

**CHAIR**—No, that is not the point. The point is what we are willing to hear, regardless of what you would like to say. You have said that the appeal is potentially on foot and that you have sought to reactivate it.

**Mr Schorel-Hlavka**—It could be; yes. That is right.

**CHAIR**—I would prefer it if you did not make that issue the key of your presentation today.

**Senator ROBERT RAY**—So you are ruling that regarding a civil matter before the courts the sub judice rule applies to this committee rather than to just criminal and other matters as traditionally has been applied.

**CHAIR**—I am saying that I would be concerned if there was evidence given to this committee in a matter that was before the High Court. If you would like to assist me, feel free.

**Senator ROBERT RAY**—I think we are under Senate rules, and the sub judice rule does not apply to civilian cases in general. However, I think by tradition some guidance has been given that evidence given here does not interfere with that particular case. The point I am making is that it is a sort of midstream point which relies on your good judgment rather than that of the witness or anyone else.

**Mr Schorel-Hlavka**—If I may explain—it is not as easy as that—what happened was this: when I originally went before the Federal Court I then objected to the issue as to the time sequence stated in the act, that it was not complied with by the Australian Electoral Commission. I set that out. That basically was the original set-up. Since then the Australian Government Solicitor got this case thrown out and it had to be fought at the Court of Disputed Returns. I then started reading up the *Hansard* from the conferences in 1891, 1897 and 1898 and started checking things. I found out that the *Gazette* was not published on 8 October but on 9 October. That was not before the court. Therefore, I think if it is now our intent to bring it up in the court—it was not before the court at the time—would you say I can still use that material here now?

**CHAIR**—Why don't you go ahead. We will play it by ear as you develop your case. Would you care to make a short statement?

**Mr Schorel-Hlavka**—Yes, I will. Very briefly, to go back to what was said before by some of the speakers before I start myself, as to the rotation of the pamphlet, as Mr Forrest may know, I was a candidate in the state elections in 1996 and 1999. In 1996 I was third or fourth on the list. I had about 2,500 votes. In the 1999 election I was first on the list, on the top, and I had about 700 votes. Everybody said that with the donkey vote I would get more but everybody

went for the third Independent because he had the publicity as a football player, so the donkey vote to me does not really exist. It is so minimal because I in fact had far fewer votes on the top of the list. To me, having gone through the process, I can only say that it makes absolutely no difference being on top or bottom of the list. People tend to think more about it. That was one thing.

The second thing was mentioned before by Senator Ray, that you do not have an obligation to vote. I can say that I totally agree in that regard with Senator Ray—not that he needs my approval—but the heart would have made that ruling. Nevertheless, the Australian Electoral Commission is taking people to court and fining them for not voting—not for attending the polling booth but for not voting. In fact, I also have a summons here which is about not voting, not for not attending. I am concerned that, while Senator Ray chose to indicate that, nevertheless the Australian Electoral Commission is doing wrong in that regard. I thought I would mention that.

There was also talk about intimidation of the cards. I can say that yes, I have reported myself to the commission about certain intimidation in the recent federal election, but I can also say that I feel it is a little bit of a waste of money. I have been able to think about irrelevant accounts. Particular political parties do not turn up; they just put on the chairs whole heaps of voting cards and at the end of the day they are still there, whereas you also have people, if there is somebody in attendance, who say, ‘Can I have a card, please?’ So it works both ways in that sense. I thought I would mention that first.

Going back to the issue that I came for, which is this: gentlemen, one can never be a judge on a cause, they say. However, that is exactly what the lady is to be required to do. I am saying that not a single member in parliament—senators or members of parliament—was duly properly elected. I am actually not a fool; I can assure you of that. I have been assured, when I phoned the Canberra publication office, that a computer showed that the first copy of the *Gazette* was actually received on 9 October and published then—not on 8 October. I had quite a lot of discussion. Since then the law has got involved and they are saying, ‘Well, they had one copy published’—which is of course nonsense because you either publish the lot or you publish none; you do not have one copy printed one day and then the rest the next day, so I have asked now for a record of the documents et cetera.

The issue is that I have material filed before this commission that they have admitted they only published in Tasmania on 22 October—which was 14 days after the writs were issued. They know they do not have to publish interstate, but I honestly believe that this committee should check out whether or not it was published. They have given me a lot of problems with freedom of information. They have said, ‘You cannot ask for information; you must ask for documents,’ and I have said that is nonsense. The Freedom of Information Act clearly mentions ‘information’ in clause 1, and they provide that to you in documentation form—I do not have to ask for documents. I have also been to the department that deals with the *Gazette*. They did the same thing for eight or nine months. Now they are saying I have to pay a charge. I said, ‘You can’t do that—you do that within 30 days of the application made in December.’ So there is a lot of struggling going on. It is the same thing with the Attorney-General: he refused to clear it and he has now cleared it. In fact, he never did notify seven of the candidates.

Basically, my main issue is that the election was unconstitutional—as I had notified the parties—and I believe that is the principal issue because what I am arguing is correct. As I said, the *Gazette* issue is not currently before the High Court but it is, in addition, going to be in future. That is the first thing. Then of course I have a whole array of other issues. The previous speaker, Mr Stokes, referred to a number. I have also raised this in my material. I believe it should be like it is in the Army—you have your date of birth plus three or four numbers behind it. That is much easier for people to remember. Even if people are homeless, they normally know their date of birth or they get one allocated to them if they do not. It is easier to remember four numbers than a whole range of numbers. I had the number 368 in the Dutch army, so I know my entire army number by just putting 368 behind it. That is the way it is, and I think that is a better way. It would also avoid having another episode of a cat being registered like it was in the last election in Queensland, where they had cats and dogs and everything else registered.

**Senator ROBERT RAY**—No they did not.

**Mr Schorel-Hlavka**—I have a little bit of research on that too.

**Senator ROBERT RAY**—It is a pity you did not read the evidence that it was not true, but go on.

**Mr Schorel-Hlavka**—I only read the transcript. Obviously I did not have more than going on what I knew about it.

**CHAIR**—Fundamentally, you have raised these matters with the Electoral Commission. What has been their response?

**Mr Schorel-Hlavka**—I have found that the Australian Electoral Commission is very misleading, not objective, and it makes an obstacle course in every possible way to try to prevent the truth from coming out. For example, I have mentioned this electoral handbook.

**CHAIR**—Yes, that is fine. But can you address directly the issue of what has been their response to you.

**Mr Schorel-Hlavka**—They are very uncooperative.

**CHAIR**—That is fine. So they have not responded at all?

**Mr Schorel-Hlavka**—They responded, but were very uncooperative and basically tried to resist. They are not going to really resolve any issues. They just said, ‘Go to the Federal Court’—which I did—and then when at the Federal Court they said, ‘Your Honour, you cannot hear it,’ when in fact it is within the jurisdiction of the Federal Court because that is section 383.

**Ms HALL**—Does ‘uncooperative’ mean that they do not agree with you?

**Mr Schorel-Hlavka**—No, that is not the issue. I can understand that they do not have to agree with me—they have that right. They are uncooperative in that, in a letter I have here, they

say, 'You cannot ask for information; you must ask for documents,' and things like that. They act contrary to the Freedom of Information Act by refusing to release details. Then months and months pass before I finally get somewhere.

**CHAIR**—Have they responded to the substance of your concern?

**Mr Schorel-Hlavka**—Not really. They simply say that they will look at a matter and if I do not agree with it I can go to court.

**CHAIR**—Do they disagree with your perspective?

**Mr Schorel-Hlavka**—No. They said, 'We have always done it that way. Nobody ever challenged it before.' I am saying that that is not the issue. I want them to address the issue itself. In one of the letters they say, 'We have got nothing to do with the Senate election because that is a state affair.' That was in one of the letters. I do not agree with that because the modus operandi is with the Australian Electoral Commission. It is only the dates that the states refer to. Again, when they do their handbooks, which is incorrectly tabling, putting incorrect laws down, I am saying, 'If it is not your part, then why are you publishing something that is not relevant and not publishing the Senate acts, which are relevant to the federal election?'

**CHAIR**—Your position is that they have not addressed your concerns adequately. They have rested on tradition: 'We have always done it this way.' Despite your views that we cannot be impartial on this committee because we are somehow involved with the issues that you are raising, we will raise this with the commission and try to get a response out of them on Friday.

**Mr Schorel-Hlavka**—What I have also requested in my correspondence to the committee is that, if the AEC respond, that I can see it. It is like a court process in that, usually, you have that opportunity. Somebody who is an applicant fails, the respondent and any applicant then has an opportunity to peruse that. I have read some of the material that the commission has put out before the committee in the past and I do not agree with what they did. I feel that they are not really truthful to the committee. That is my concern.

**CHAIR**—You are making quite a lot of statements critical of the commission. I am not sure that the issue of them being truthful is one that you can validate. You have been highly critical of the commission and, with every statement, you seem to be going further and further.

**Mr Schorel-Hlavka**—What I have done, sir, is that, even yesterday, I emailed one of my submissions quoting what the Electoral Commission has stated in one of the transcripts and I have responded to that. I am not just making allegations. I believe that if I disagree with something, I should put it down. That is what I have done for the committee, and that is now also provided on CD. The committee will, when it comes to it, find that I quoted exactly those parts.

**CHAIR**—In any event, we will be raising these matters with the commission. Do you have any other matters you would like to raise with the committee?

**Mr Schorel-Hlavka**—I have raised a lot of material—

**CHAIR**—Yes, you have.

**Mr Schorel-Hlavka**—Some of the issues include about the way of advertising: for instance, we had the Democrats with barking dogs. I do not believe that that helps a democratic election. The Leader of the Opposition in Victoria said that taxpayers are funding the election. It should be educational for the people, not done in the manner that it was done. It does not bring out anything. It was the same with the Liberal Party: ‘Yes/no, yes/no’ for Kim Beazley. It was not bringing out the truth of what was there. I think that is deceptive. I have suggested that it should not be a paper vote, rather it should be a credit per vote. We had a local candidate for the Liberal Party who amassed half of the vote but he virtually never went to any of the meetings. He sat at home. He was paid for sitting at home during an election campaign. If I join a party, I get a lot of votes and a lot of pay, without having to go out and do campaigning. I think that is totally wrong. It is not giving an incentive.

I studied the 1800 debate and they said that everybody should have an equal opportunity to be a candidate. The payment provided has destroyed that because, if you want to vote, you in the Liberal Party get so much pay, whereas I do not. So you can spend ahead. If payment or credit were provided in respect of how many votes you get then, whatever bill I incur, I can get a little bit of compensation per vote. I think that makes it more equal. It is the same for postal services. Jenny Macklin gets a free postal service, whereas I do not. This means that she can send material around as much as she likes. She gets access to the electoral roll; I do not. It is all easier for her. I get it maybe one or two days before the election. I think that all these things are unfair. I have dealt with it quite extensively in my material in order to explain all that.

**CHAIR**—But isn’t it the case that a member of parliament is actually a member of parliament and has to service their constituency whereas, until you are elected, you do not have the same responsibilities and therefore consequently you do not get the same resources?

**Mr Schorel-Hlavka**—Whether a person is a member of parliament or not, in an election all candidates should be on an equal ground. That is my view. You are all candidates on an equal basis. The moment you say, ‘This candidate has more rights because he is already in parliament,’ the election is no longer proper. The election should be equal. I often find the same rule in the courts. When you stand before the court the judge tends to say, ‘He is a barrister.’ What makes the difference? When I quote case law or a barrister quotes case law the case law does not change. Often, people tend to be prejudged like this. It is my view that if you are going to have a fair and proper election it does not matter whether you are in parliament or not. Once you go as a candidate you all should be equal.

Another thing I would like to raise has to do with newspapers. In the 1999 election I was the first one to nominate as a candidate—the very first one to go to the office and declare I was a candidate. Five days later some people who were still not candidates were listed in the newspaper as candidates. I was not on the list but they were—three of them were on the list—and they had not even nominated. They nominated afterwards. They said everybody had to say it. My name was published in the newspaper after the election, not before. I know that we cannot control newspapers to a certain degree. They have a certain freedom. But when it comes to publishing a list of candidates I believe they have an obligation to publish a list that accords with the enrolment by the electoral office. They should not be allowed to mislead the public

about who is on there. They should not say Joan Jones is on the list when she has not even enrolled. I think that is in breach of the Electoral Act.

**CHAIR**—Does that come down to the fact that they said certain people were candidates without them having nominated? Is that what you are saying?

**Mr Schorel-Hlavka**—That is right. They were listing people who were not even candidates at that time. I was a candidate and they had not listed me. I wrote to the Electoral Commission and they said that it was beyond their powers. I do not believe that is correct because it was misleading the public. That is an important issue because a lot of people, particularly in country areas, do not take much notice of the how-to-vote cards. They make up their minds well beforehand. I have been to public meetings and people really go into details. They really ask you questions. A lot of people talk about these donkey votes but to me it is nearly non-existent. Honestly, I give a lot more intelligence to people when they vote. People ask you all kinds of questions about it, but if they do not know you are a candidate until the last minute it is difficult.

I found the same with the last election. I was not even invited. I went to a particular church where they were talking about equality. I said, ‘What about then? Why didn’t you vote?’ and they said, ‘Oh, you are an Independent.’ I believe that perhaps the government can sponsor an outsider. I have indicated that the money that should be directed to elections could be used to provide a booklet with one page for every candidate to have their say about the political position. That would be far better in the interests of the public than huge election complaints about barking dogs. That would be far better for the candidates, and the voters would know what the candidates are about. One page is enough; otherwise you are going to get everything. Thank you for your time.

**CHAIR**—Thank you for coming. We will be pursuing the issues with the Electoral Commission and there will be a public transcript of these questions and answers.

**Mr Schorel-Hlavka**—When do all the submissions get published? I was told that there were over 100 submissions.

**CHAIR**—There are 150. They will be put on the web, I think, over the course of this week.

**Mr Schorel-Hlavka**—That is much appreciated.

**CHAIR**—Thank you.

[11.04 a.m.]

**HARRISON, Ms Brianna, Solicitor, Homeless Persons Legal Clinic, Public Interest Law Clearing House**

**LYNCH, Mr Philip, Coordinator, Homeless Persons Legal Clinic, Public Interest Law Clearing House**

**MUNDELL, Ms Megan Anne, Deputy Editor, Staff Journalist and Director of the 'Votes for the Homeless' campaign, *The Big Issue Australia***

**HORTON, Ms Netty, Chief Executive Officer, Council to Homeless Persons**

**CHAIR**—I welcome witnesses who have come to speak to the committee about homeless people. Are there any changes or corrections that you wish to make to your submissions, which we have all received and read?

**Mr Lynch**—No.

**CHAIR**—Would you care to make a brief opening statement, starting with Mr Lynch and running through.

**Mr Lynch**—Brianna is going to make the statement for the clinic.

**Ms Harrison**—As I said, I appear for the Homeless Persons Legal Clinic. Thank you for the opportunity to make submissions today to the federal inquiry into the 2001 election. I will speak to the paper submitted by the Homeless Persons Legal Clinic entitled 'Giving voice to the voiceless'. The submission examines the under-representation of homeless people on the federal electoral roll and makes recommendations for legislative and policy amendments to remove the practical impediments and disincentives to enrolment which effectively deny homeless people the right to have their voice heard in elections and referenda in Australia.

I believe you have all been provided with an outline of my oral submission. After briefly describing the homeless population in Australia, I will touch on the legal context of the government's duty to ensure that homeless people are able to vote. I will then consider the requirements relating to what I will refer to as 'normal electors' and then the special category of 'itinerant electors' in the Commonwealth Electoral Act. I will then discuss non-legislative reforms before addressing any questions that you might have.

There were 105,000 homeless people in Australia on census night in 1996. It is estimated that 88,000 of these people are eligible voters. It is further estimated that between 33 per cent and 90 per cent of homeless persons who are eligible to vote are not registered on the electoral roll. This means that between 29,000 and 88,000—if not more—homeless people were unable to vote in the 2001 federal elections. The clinic submits that under the current regime most homeless people are ineligible to enrol as normal electors, and the statistics show that the itinerant category of electors is barely utilised at all. The government is legally, ethically and

socially obligated to take steps to ensure that this population is represented during democratic elections. This will give each individual and the population as a whole a channel through which to wield their power in order to ensure that their special needs are met.

I will now briefly canvass the legal framework of the right to vote in Australia. A democratic government, as I am sure you all know, is one in which each member of the government is directly chosen by the people, whose wishes that member is to represent. Whilst universal suffrage is not constitutionally enshrined in Australia, there are a number of binding legal instruments which establish the right to vote. Over 20 years ago, Australia became a party to the International Covenant on Civil and Political Rights. This treaty expressly stated that every citizen is to have the right to vote. Australia is bound by the provisions of this treaty at international law and is also bound to consider its terms when developing, interpreting and applying domestic laws.

The Commonwealth Electoral Act of 1918 is the principal piece of legislation in Australia setting out the federal requirements for enrolment and voting. The Commonwealth Electoral Act purports to give all Australian citizens over the age of 18 the right to vote by conferring the right to enrolment. However, the current requirements for enrolment deny homeless people their right to be enrolled. This is not only inconsistent with the concept of democratic government and the rights recognised in the ICCPR; it also belies the apparent universal suffrage provided for under the act and masks the silence of the homeless population. The clinic has made several recommendations for amendments to the normal elector provisions which would remove the practical impediments and disincentives preventing homeless people from exercising their right to vote as normal electors. However, the itinerant elector provisions, which were established to enable persons with no fixed address to enrol to vote, have different requirements which may be more easily and less controversially tailored to the circumstances and needs of the homeless.

I will now consider each of these categories in more detail. The clinic has identified two main factors which prevent or discourage homeless people from enrolling as normal electors. These are, firstly, the details required in order to be noted on the roll and, secondly, the enforcement and penalty provisions. Section 98 of the Commonwealth Electoral Act sets out the requirements for enrolling to vote as a normal elector. Eligible claimants must provide a full residential address and a postal address. Section 99 of the act requires that the person must be living at the address shown at the time the claim is lodged and must have been living there for at least one month.

This requirement to give a current residential address is a major impediment to homeless people. This is because homeless people, by definition, either have no conventional housing, and as such are unable to give a sufficient address, or do not have access to stable housing such that they are able to give an address at which they have lived for at least one month. They also have little or no confidence that they will still be living at that address in the near future. The clinic recommends that the act be amended so that persons who give details of why they cannot provide an address at which they live are able to nominate an address in the subdivision with which they have a close connection such as a shelter or a soup kitchen. This approach has been adopted in the United Kingdom and the United States.

Section 101 of the act provides that it is an offence punishable by a fine for an elector to fail to give notice of a change of address within 21 days. The administrative burden imposed by this



provision, together with the monetary penalty for noncompliance, is a significant disincentive to homeless persons registering to vote. The clinic believes that the mandatory updating period does very little to ensure the currency of the roll and that the relevant sections should be repealed or at least the 21-day time frame extended. Furthermore, the penalty of up to a \$50 fine for failure to comply with this requirement could cause significant financial and psychological stress to someone who is experiencing homelessness. Thus, the penalty provisions in section 101(6) should be repealed or made subject to a 'reasonable excuse' exception when failure to comply is due to reasons associated with homelessness.

The clinic also submits that the penalty for failing to vote which is imposed upon normal electors may discourage homeless people from seeking enrolment once they become entitled to enrol as a normal elector. In this regard, the exception under section 245 granted to people who provide a valid and sufficient reason for failing to vote should operate to protect homeless electors from conviction and a potentially crippling fine. However, in practice the requirement of providing a written response to a penalty notice is beyond the capability of many homeless people, who have more pressing needs to address and many of whom have literacy problems.

This is compounded by the lack of transparency in what constitutes a valid and sufficient reason. The clinic argues that further detail regarding the policies embodied in their divisional returning officers' manual be made publicly available. Furthermore, the clinic submits that failure to vote due to reasons associated with homelessness should be expressly recognised in the act and/or in the manual. Without some form of public statement recognising that homelessness and the problems commonly associated with it may validly and unavoidably prevent a normal elector from exercising their right to vote, homeless electors will continue to be unjustly penalised and deterred from claiming enrolment when eligible.

In addition, or as an alternative, to the recommended changes to the normal elector provisions, the clinic also recommends changes to the itinerant elector provisions. The itinerant elector category may be better suited to adaptation for the homeless population as it does not require that the individual have an address or fixed place of living and there are no monetary penalties for failing to update one's information on the roll or failing to vote. However, the itinerant elector provisions are not widely used, with only about 2½ thousand itinerant electors noted on the roll.

Currently, the administrative aspects of claiming enrolment as an itinerant elector present an obstacle for homeless people, a large number of whom have difficulty completing the forms. The clinic submits that the Australian Electoral Commission form for claiming enrolment as an itinerant elector is at best confusing and at worst misleading. A person is not eligible to enrol as an itinerant elector if they have a real place of living. Thus, itinerant electors are required only to give a postal address. However, it is not sufficiently clear from reading the form—and I draw your attention in particular to question 11—that the claimant is not required to provide a current residential address. I have copies of the form here with me and you can find it at annexure B of our written submission. The clinic submits that the Australian Electoral Commission should review the application form to ensure that it is simple and clear.

The term 'real place of living' also needs to be revised and amended to clarify that persons with unstable housing or who are living at a non-conventional address such as a park are entitled to enrol as itinerants. The clinic is also of the view that subsection 96(8) of the act

should be amended to increase the period of time that an itinerant elector may have a real place of living before they become ineligible to enrol as itinerant electors. A period of, say, six months rather than the current one month would more accurately reflect the experiences of the homeless population who may find housing for short periods of time but who are unable to remove themselves from the cycle of unstable housing and thus remain unable to enrol as normal electors.

If the itinerant elector provisions are to be amended to accommodate the special circumstances of the homeless population the clinic submits that section 96(2A) of the act should be amended to allow itinerant electors to be enrolled in the subdivision with which they have a close connection. This test is currently employed as a means of determining the proper subdivision for itinerant electors born outside Australia. It is an essential aspect of democracy that persons voted into power are directly chosen by the electors who they are to represent. Both the United Kingdom and the United States have legislated to enable homeless people to be enrolled in the subdivision with which they have the closest connection and the clinic contends that Australia should make similar amendments to the normal and itinerant elector provisions or to both.

The clinic would also like to make a few brief points regarding proposed amendments to the act's enrolment provisions which apply to both normal and itinerant electors. Currently, section 155 of the act provides that the roll will remain open for seven days after the election writs are issued. The clinic is concerned about the proposal to amend the act to further tighten these registration deadlines. The clinic submits that the proposed amendments are unnecessary and will have a disproportionate and discriminatory effect on homeless people. The reasons for this are set out in detail on page 18 of our written submission.

The issue of registration deadlines has received considerable attention internationally. In Canada the roll remains open up to the day before the election and in America the roll closes only 30 days before the election with provisions in some states for in-person registration at prescribed locations, including polling stations, up to and on the day of the election. The clinic is thus strongly opposed to any further restriction on what are already unreasonably tight registration deadlines.

The clinic is also opposed to any requirement that individuals provide a form of original paper identification and that such identification be witnessed by someone from a restricted class of eligible persons. Any proof of identification requirement would serve to further marginalise the homeless population by placing yet another condition upon enrolment—one which would be difficult, if not impossible, for homeless people to satisfy. Take, for example, the case of a woman who has fled a violent relationship and cannot return home to obtain identification documents. The clinic recognises the concurrent responsibility of the government to ensure that the integrity of the roll is maintained; however, measures which deny marginalised groups the right to vote in elections, by placing unrealistic restrictions on the enrolment process, should be rejected on the grounds that the public interest is not served by imposing a term which effectively excludes minority groups from the democratic process.

In relation to non-legislative reforms, the clinic makes three key recommendations that we believe would increase participation in elections by members of the homeless population. Firstly, more money needs to be invested in sending administrative assistance to shelters and

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other places frequented by homeless people to assist with completing the relevant claim forms and to educate homeless people about their rights. In addition, or as an alternative, employees of agencies providing services to homeless people could be trained to assist in on-site registration. Similar measures have been adopted in the United States. The clinic submits that this would be a progressive and worthwhile allocation of funding. Finally, the clinic recommends the strategic location of polling stations to facilitate voting by homeless people and that welfare agencies be able to request mobile polling stations to attend areas of need. This would, again, increase the representation of homeless people in the electoral process, which is a responsibility of government associated with holding democratic elections.

Philip Lynch, the coordinator of the clinic, and I are now happy to answer any questions.

**CHAIR**—Ms Mundell, would you like to make a statement on behalf of *The Big Issue* before we move to questions?

**Mr Lynch**—It is probably best if you make your statement and then we can answer questions together.

**Ms Mundell**—Good morning, and thank you for the opportunity to address the committee. I am Deputy Editor and Staff Journalist at *The Big Issue Australia*, which is a news and current affairs magazine set up to help homeless and unemployed street vendors earn an independent income. *The Big Issue* submission is titled *The silent minority*. It examines the practical and legislative barriers that exclude many of Australia's 105,000 homeless people from voting and, in effect, deny the homeless population a political voice. I would like to outline some of those barriers and propose some recommendations that would help homeless people exercise their right to vote.

As outlined by Brianna, the most obvious barrier is the lack of a stable address. To be listed as a normal elector a person must give a permanent residential address where they have lived for a month. But, by definition, homeless people do not have a stable, permanent address. They may move around from an emergency shelter to sleeping rough to staying on a friend's couch to SAAP accommodation within a period of months or even weeks. Recommendation A is that the Electoral Act be amended so that homeless people who want to be enrolled as a normal elector can—as with Britain's Representation of the People Act 2000—nominate a temporary address which allows them to list a place of local connection; for example, a drop-in centre or a park where they sleep.

Recommendation B is that the itinerant elector provision be investigated as a workable option for homeless voters. This provision is an enrolment option for people without a permanent address but, as we have just heard, it needs to be revisited with homeless people in mind. Firstly, the registration form needs to be simplified and clarified. Secondly, homeless people often stay in temporary accommodation for several months, but the itinerant elector provision only applies to people who have stayed at an address for up to one month, so that period needs to be extended. Thirdly, the itinerant elector provision is seldom used. It needs to be publicised as a valid voting avenue for the homeless. Currently, there are somewhere between 3,500 and 4,000 registered itinerant electors in Australia. The AEC has estimated that almost 100 per cent of these people are not homeless at all but are itinerant seasonal workers and the like.

The second major barrier is the penalties for failing to vote. Voters on the normal electoral roll who do not vote must write to the AEC giving a valid and sufficient reason; if they do not do so, they can be fined. The main problems here for homeless people are that, firstly, there is no definition of ‘valid and sufficient reason’; secondly, homeless people have enormous difficulty sending and receiving correspondence, and many also have literacy problems; and thirdly, the homeless population is by definition transient so, when a fine is not received due to their lack of address, additional court costs accrue. The entire fine system discourages homeless people from enrolling in the first place.

Homeless and impoverished people cannot afford to pay fines, and fining them only serves to further entrench disadvantage. The result is typically a long and wasteful series of legal processes that ultimately leads to spiralling debt and potentially to a jail term. Recommendation C is that any changes to the function of the Electoral Act take into account the very difficult circumstances faced by homeless people, with the aim of assisting them to participate in the democratic process rather than penalising them if they do not. Homelessness is a condition that deserves special consideration. *The Big Issue* recommends the abolition of all penalties for homeless people who do not vote. Recommendation D is that homelessness is recognised in legislation as a valid and sufficient reason for not voting.

The third barrier is experiences of entrenched poverty, instability of life circumstances and personal hardship. It needs to be recognised that homelessness itself is a barrier to full participation in society. For a homeless person, day-to-day survival is the first priority—it has to be—in particular, finding food and somewhere safe to spend the night when there is a chronic shortage of beds in their area. Other issues often linked to homelessness include poverty and unemployment, drug, alcohol or gambling problems, family and relationship breakdown, mental health issues, sexual, emotional or physical abuse and poor physical health. When a person is in crisis, completing paperwork and making it to the polling booth are hardly pressing concerns.

*The Big Issue* supports the recommendations made by the Homeless Persons Legal Clinic regarding the proposed amendment to the Electoral Act requiring voters to produce original forms of ID for enrolment. That must be rejected. Paperwork and ID are already major hurdles for homeless people. As an example, the Australian Federation of Homeless Organisations—I have some supplementary material from this organisation—has noted that, when a woman is fleeing domestic violence, digging out original documents is not a consideration.

Recommendation F is that the roll remain open for itinerant electors until the eve of an election rather than it being closed one week after an election is announced, and that homeless voters should be permitted to register to vote in person right up to the day before the election.

The fourth barrier—which is quite a crucial one—is that homeless voters have never been a target group for voter registration. Additionally, they also lack access to normal channels of information and resources. Not one of the homeless organisations which *The Big Issue* spoke to in the course of its year-long ‘Votes for the homeless’ campaign has ever received a visit from the AEC. There have been no previous efforts by government or the AEC to have the homeless listed as itinerant electors. Also, the homeless are already isolated from the normal channels of information that could help them to make an informed vote.

Recommendation G is that information about political candidates, policies and the voting process wherever possible should be made directly available to the homeless. The AEC must make it a priority to visit homeless shelters, refuges, welfare services and temporary accommodation to inform and assist homeless people with exercising their voting rights. Mobile polling booths must be located in areas easily accessible to the homeless population: soup kitchens, night shelters, drop-in centres, disability and welfare agencies and indigenous community centres, particularly in rural areas. There is very strong support amongst the welfare sector on this issue, but these organisations simply do not have the resources to tackle this problem on their own.

Recommendation H is that the proposed amendment to the Electoral Act limiting the categories of person authorised to witness a declaration of eligibility to vote not be passed. Homeless people already have very limited access to authorised witnesses.

Recommendation I is that welfare services that work with the homeless and homeless people themselves be encouraged to give further input into how their access to the vote could be improved.

Australia is a democracy. Every effort should be made to ensure that the voting process is tailored in such a way that it affords a real and practical opportunity for every citizen, including those who have been marginalised by poverty and homelessness, to have a political voice and to exercise their democratic rights. Homelessness is a very complex issue and homeless people are already in a precarious social and economic position. The potential impact of any changes to the electoral process needs to be considered very carefully. The homeless are isolated and excluded from their immediate communities. In my experience, many affirm that they would welcome the opportunity to vote if it were made easier, but others profess a degree of apathy and disillusionment with our political system. This cycle of disillusionment is being perpetuated by the voting barriers that I have outlined. In summary, *The Big Issue* recommends strongly that homeless people's access to the electoral process in Australia be reviewed and improved upon.

**CHAIR**—Thank you very much. Ms Horton, we began the presentation knowing that you had read and endorsed the homeless people's task force report. Would you like to add anything to what has been said?

**Ms Horton**—Yes, thank you. I am obviously familiar with both submissions. There are a couple of issues that I want to stress. The Council to Homeless Persons are a peak body in Victoria; I guess we see ourselves as experts in policy and advocacy across the sector. Our members are 250 welfare agencies predominantly, which range from St Vincent de Paul and the Salvation Army to smaller, community based organisations. The directors of the board are all people who are running those different organisations. The main thing I want to stress today is the definition of homelessness. You may be familiar with the definition of homelessness, but I do find in my work that the general population tend to see homelessness as being about people who are on the streets and that is all. When we talk to people about homelessness, the numbers of homeless people and those types of issues, the general population tend not to see it as an issue in Australia because luckily Australia does not have the visible homelessness that might greet us in the States or in other countries.

Most of us accept the numbers of homeless people as being somewhere around the 105,000 that were counted in the 1996 census. We accept those figures because they are the most methodologically reliable figures that we have in Australia, although there are a number of issues with those figures which we hope have been addressed in the most recent census. I should mention that the data on homelessness in the most recent census will be available in 2003. When we talk about the 105,000, you need to know that the definition that we are talking about, as defined by the ABS, involves the three-tier homelessness levels of primary homelessness, secondary homelessness and tertiary homelessness. People who are in a situation of primary homelessness are exactly those people whom we tend to associate as being homeless. They are people who are on the streets; they are people who are in squats.

When we talk about secondary homelessness, we actually mean those people who are in emergency accommodation shelters, who might be staying with friends for a night and who, on having to move perhaps to an emergency shelter, might then spend a night on the street. They have very transient accommodation, often taking with them what few belongings they have or keeping them in storage. The third area—tertiary homelessness—is where we are talking about some of the people who are living in boarding houses. They might be there for the medium to long term. I do not know whether any of you would be familiar with the sorts of boarding houses that I am talking about, but those of you who know Melbourne might know of the boarding houses in the Fitzroy area. They have extremely small rooms that are generally shared. I have visited rooming houses where people are required to climb up little ladders to get into the little loft area for which they may well be paying between \$75 to \$100 per week, because there is no other form of accommodation available to them.

We consider these people to be homeless. They have no separate living room facilities, often no kitchen facilities—or they have ones that are shared—and no private bathroom facilities either. Those are the people we are talking about being able to vote or participate in an election. Of the 105,000 people we were talking about, the boarding house population would be about 23½ thousand people. Some of these are staying with friends and relatives, and this can be a bit of a sensitive area, I think. A lot of people say, ‘Staying with friends and relatives? Well, they are all right.’ But we need to understand that often these are people they might have met that very day who are offering to put them up for a night. That group adds up to about 48½ thousand people. For that census night in August, about 13,000 people were in emergency accommodation—they might have been women and children escaping domestic violence—and 21,000 were on the street.

In those numbers, we have to recognise of course that some of the 105,000 people would not be eligible to vote because it counts in the numbers of children. It is very difficult to tell you exactly how many children there were in that group but the estimates of eligible people range from between 60,000 to 80,000 within that 105,000 group. Also, the last point to note on the numbers issue is that we know that homelessness might have affected 105,000 people on a given night but it probably affects a quarter of a million people over a 12-month period. It is important to see how that can vary.

I want to pick up on one of the points made by Meg. In the counting of homeless people in the census, I want to stress that the welfare agencies were really happy about and really involved in that process. The welfare agencies were integral in assisting the ABS to count the numbers of homeless people this time. I would suggest to you that there would be a number of

possibilities in utilising the services of welfare agencies if we were serious about trying to enable homeless people to participate in future elections. There is obviously a range of possibilities there and my sense is that it worked quite well in the ABS process.

There are two final points that I want to make. Firstly, I want to draw to your attention a matter which, again, was raised in the Homeless Persons Legal Clinic submission. A survey was done of homeless people around the last election by Hanover Welfare Services. The point to note there is that homeless people are like everyone else: when you ask them about the election, some of them say that politicians do not care about them, that they do not have any interest and that they cannot change their lives, while some people think that there is a lot that politicians can do. When they identified their top 10 priorities, admittedly immigration and defence were probably a little bit further down the line than they might have been in the general community, but we see that of the 175 people interviewed 61 per cent identified jobs and unemployment as their big issue. Housing was just over 50 per cent. Health issues were about 50 per cent. The economy was 32 per cent, and also mentioned were income support, education and training and so on. But probably there was a fairly similar range of views to those of the population in general.

The final point I want to make—again, just to support what my colleagues have said—is that homeless people often have mental health issues or substance abuse issues but essentially they are almost always in a state of ongoing crisis, and most of us would really struggle to identify with what it must be like. I think the most significant feature at the moment is the number of homeless people who are breached through not complying with some of Centrelink's obligations. I raise that here because for homeless people their income is the most important thing in their lives. They have to maintain an income in order to survive. If we are finding that they are unable to comply with some of those rules and regulations for a range of reasons, I think we also have to identify where voting and participation are going to come on the list. If we are serious about wanting people to participate, we have to do things to reduce the number of obstacles that they have to cross. Thank you.

**CHAIR**—The Homeless Persons Legal Clinic has oscillated between getting the itinerant voting provisions fixed and trying to impact on the normal voting provisions. Can you pretend you are a one-armed public servant and say, on the one hand, 'This is what we want'? What is your preference? What is your bottom line?

**Ms Harrison**—I think Phil would agree that we think that the itinerant electoral provisions are the most suitable.

**CHAIR**—Thank you, that clarifies my mind. The other thing that puzzles me a bit is why there is a stress on the application of penalties. That seems to me, on the basis of your submissions and what you have actually said, to be a purely hypothetical problem—that is, the homeless really do not get subjected to the penalties, yet there is a lot of emphasis on a hypothetical possibility which is not actually realised.

**Mr Lynch**—The issue is that the penalty provisions are a very real disincentive to registering to vote. Homeless people do not register to vote in the knowledge that if they do register and are noted on the roll they may be subject to penalties—potentially crippling penalties—for failing

to update their details or for failing to exercise their right to vote. The issue is the disincentive to registering to vote rather than the actual application of the penalty.

**Ms Mundell**—It is a matter of perception. Within the homeless population, the people I have spoken to know that if you are enrolled and you do not vote then you can cop a fine. That is the last thing somebody in that situation is able to deal with.

**Ms Harrison**—Many of these people may have at one time been enrolled as a normal elector and suffered these problems. So when they again become entitled to enrol as a normal elector—when they finally lock down some accommodation that they think is going to be stable—then they will reflect back on that and not follow through with enrolling.

**CHAIR**—The whole thrust of your argument seems to be about people not enrolling at all, and not being able to enrol at all under the present provisions of the act. I will leave it at that observation; you feel strongly about it, so I will not pursue it. Basically, you want the itinerant provisions amended so as to facilitate enrolment.

**Senator ROBERT RAY**—You talk about these people enrolling at a subdivisional level. We are in a position now where we do not have subdivisions. I do not think that is insurmountable, as you would therefore argue that a person would enrol at a divisional level. That is fine until we get to the state election, because there are usually 2½ to three state divisions within a federal division. So we would also have to work on that, wouldn't we? The reason we got rid of subdivisions is that you can vote electorate-wide. Let us take Mr Georgiou's electorate of Kooyong: you can vote in any polling booth within Kooyong, whereas once you could vote only between one and five within the subdivision.

**Ms Mundell**—When did that change?

**Senator ROBERT RAY**—It was 18 years ago—when I was last on this committee. It could well be that, when we originally brought in the provision for itinerant voters, subdivisions were still there. It could still be in the act—maybe it has not been removed and should have been.

**Ms Mundell**—It is still on the form.

**Senator ROBERT RAY**—Exactly. The only reason to raise it—not just to be technical—is that we would have to give a bit of thought to the state electorate, because most of the rolls are joint. There is a second aspect. You talked about parks and soup kitchens as the areas they most identify with. I am not sure whether their geographical concentration in Melbourne—I am talking about Melbourne only because that is where I live—would lead to distortions. If you identified with the subdivision of birth or the subdivision where you spent the most time, it would not. But now it may well be—I do not know; you would have much more knowledge on this—that there are a lot more homeless in, for instance, the electorate of Melbourne than there are in the electorate of Kooyong.

**Ms Horton**—Just as an example, we know—again, according to the census data of 1996—the rates of homelessness per 10,000 of the population, and we actually have those levels. It was 173 per 10,000 in inner city Melbourne. The very next highest rates of homelessness, interestingly enough, are in Mildura, East Gippsland and the Western Mallee, where the levels



are in the high 90s. For most of the outer metropolitan areas—your Boroondaras and areas like that—we are talking between 28 and 39 people per 10,000 of the population. However, in numerical terms the largest numbers of people are in those outer metropolitan regions. But, again, I would go back to the role of the welfare agencies. Whilst in my other role I might sometimes not think that they are as equally dispersed as I would like to say, there are fairly comprehensive networks that exist in some form throughout most of the regions in the state. So, whilst there are certainly areas where there might be more welfare agencies or more homeless people, I think—in Victoria, at any rate—we know the levels we are dealing with quite well.

**Mr Lynch**—The proposal that the provisions be amended to enable people to vote in the electorate in which they have the closest and most substantial connection is predicated on the notion that people should vote in the electorate that affects them. I think it is probably a little misconceived to talk of there being a distortion if, for example, the issue is that 10,000 homeless people in Melbourne have a close connection with Melbourne and therefore should be entitled to vote in the division of Melbourne.

**Senator ROBERT RAY**—I am very sympathetic to the case you have mounted, but there will always be a case mounted against or objections raised. One may be that, because there is no fixed address, there will be manipulation. We have to try to put in provisions that would deny the critics of this, and that is why I raised the concentration question.

**Ms HALL**—Like Senator Ray, I am very sympathetic with your submission. I found it most interesting, and some of the ideas were quite innovative. I am interested in looking at the UK, US and Canadian provisions. Since they have been introduced, has there been an increase in the number of homeless people who have actually taken up their right to vote? Have you any data on that?

**Ms Harrison**—No, unfortunately we have not been able to find any information. A lot of these amendments are quite recent. However, I did get the general impression from reading the materials that they were very welcomed by the welfare agencies in those countries and that, in turn, they were operating to help promote the amendments to the homeless population.

**Ms HALL**—Earlier this morning we had a submission that emphasised that voter ID was imperative for the integrity of the roll. I want to give you the opportunity again—and I know you mention it in your submission—to say how important it is for homeless people not to be forced to abide by that sort of requirement.

**Ms Mundell**—As Netty has outlined, when people are moving from place to place and their lives are in crisis, they have often misplaced their belongings—they have had to leave them behind or put them in storage—so often it is just not a practical possibility. We are talking about fairly significant numbers of people, but I think that is overridden by the fact that the current system is just ruling out their ability to exercise their rights.

**Ms HALL**—So that would significantly disenfranchise homeless people?

**Ms Mundell**—Certainly. A lot of homeless people do not have a drivers licence or a passport, for a start. That is just one example of how difficult it can be for them to access these forms of ID.

**Mr Lynch**—The clinic has had difficulties, for example, obtaining Centrelink payments for clients because of lack of identification documents or even assisting clients to open bank accounts. They are basic necessities for living, so the imposition of onerous identification requirements would certainly be an enormous impediment and disincentive to voting.

**Ms HALL**—Thank you.

**Mr FORREST**—I represent the region of Mildura, so you have some sympathy from me in your noble pursuit.

**Ms Horton**—You have got some good services out there, as well.

**Mr FORREST**—I am a little bit confused, though: on the one hand you are saying that these people have this great desire to vote and yet they are frightened of being fined if they do not. They are not fined if they do not vote, as we have discussed earlier today; they are only fined if they do not present at a booth. Put that in perspective for me, please: who is driving the desire to get these people to vote? Is it the will of the people who are dealing with them who have this poetic idea or is it the people themselves?

**Ms Horton**—The work that Hanover Welfare Services did showed that homeless people are just like the rest of the population: there are some people who really want to participate and there are some people who do not want to participate. The main thrust of what we are saying today is that, for those who do want to participate, there are a significant number of obstacles which actually prevent them being able to participate like other people in the community. I suppose there is an overriding sense of principle there for most of us. In terms of: is it the welfare sector driving this? It is very difficult to establish a movement of homeless people, because people do not want to and are not able to participate in things that you and I might be able to. Welfare agencies are able to pick up a number of those issues, and certainly that is what we do. For me, it is very much about trying to strongly represent that homeless people have the same aspirations as you and me: some want to vote and some do not want a bar of it—and that is exactly like the rest of the population. We want the people that do want to vote to actually be able to do so.

**Mr FORREST**—My other question is about the integrity of the roll. The committee spends a lot of time on this. We hear submissions after every election about the need to have integrity, that we should have formal identification and the whole issue about it being easier to register to vote than it is to go and get a video down at the video shop. So, when you are asking for the rules to be relaxed on providing some identification as to who you are, you have got to understand that it is going to be difficult for us to make recommendations. Have you given any thought to some process? Somebody must know who these people are—you could get a reference from a reputable person or something. Everybody knows where they come from, even homeless people—they are born somewhere.

**Ms Horton**—I will make a brief comment. There are numerous ways that would be possible. A lot of people—not everyone, but a lot of people—have a strong association with local welfare agencies, and there have been a range of ways in the past to enable things to happen for people through those associations. There are a number of possibilities that we would be able to talk about.

**Ms Mundell**—I would like to add to that. I do not think it is so much a matter of the rules being relaxed as them not being tightened. There are already so many obstacles, and the ID obstacle is just another one that is going to be added to that. I am not sure that it is about relaxing the process; rather it is about not making it any more difficult.

**Mr FORREST**—That has all occurred because previous committees have received evidence that there has been distortion and manipulation of the rolls, so there is a call to make the rules tighter. I can see your ambition is to enfranchise these people—and I support that—but I am still struggling with how we can manage that with the expectation that the rules have to be tight about who people are.

**Ms Horton**—One of the issues is that a number of people who come into homeless organisations do not have an income. I do not recall the most recent figures, but the percentage of people leaving the homeless agencies who are entitled to or who have received an income and who are over 18 years of age is in the high 90s, so I think there are a range of possibilities around identification issues to follow people up.

**Ms Mundell**—The caseworkers usually work with people who are not receiving benefits to try to facilitate that for them by setting up bank accounts and so on. That relationship is already going on there, so perhaps one possibility would be to involve the shelters and so on more fully.

**Ms Harrison**—The Homeless Persons Legal Clinic—we support that idea.

**CHAIR**—Some reference has been made to the fact that the AEC has not been very active in pursuing this particular issue. I think Ms Mundell raised this. What is your appreciation of the interest by the AEC in increasing the participation of homeless people?

**Ms Mundell**—In interviews that I have done for some of the articles I have written on this topic, the people I have spoken to at the AEC have been very receptive. One person said, ‘We probably haven’t been as active as we should have been and I think it does need to be addressed.’ We received positive feedback about that over the telephone. I think that it was just a case of it not really having been brought to their attention before, but they seemed fairly open to it. They have remote mobile polling where they go out into remote areas. They might have to take a helicopter or a four-wheel drive if there has been heavy rain to get out to people in remote areas. I think that the willingness is there; we just need to push for a little more.

**CHAIR**—But sending a helicopter is not exactly the same as going into central Melbourne and trying to find them. We will be pursuing this with the AEC but I just wanted to get a sense of what you discerned to be their degree of receptivity to this issue.

**Senator MURRAY**—As an aside, my experience, particularly with the child migrant inquiry, is that many people who have come out of institutions actually do not know who they are, who their parents are and where they come from, so we should remember that when we are talking about this category of people.

I am interested in the range of figures and where the attention should be focused. My expectation is that both the AEC and the committee will find it difficult to manage the entire cohort in a coherent way so that the integrity of the roll is maintained and the needs that you

have expressed, and which the committee has sympathy with, are met. It seems to me, from what you have said, that the provisions in the act for itinerant people probably cope reasonably well with the primary sector that you outlined but that the secondary and tertiary sectors expand the numbers enormously. My ears pricked up when you said there could be a quarter of a million people. So the AEC are not faced with an issue of systems for 100,000; they are faced, on your figures, with systems for 250,000 because people move in and out of these circumstances. I think the chair was implying this question earlier: if we had to prioritise and focus on finding a solution, what do you think the best and the easiest focus would be for us? Would it be on people who stay in registered places? All the boarding houses and the SAAP places are all known?

**Ms Horton**—Actually, no. I am talking from a Victorian perspective, which is the area I know most intimately, although I have some knowledge of national issues. The evidence in Victoria is that whilst there are numbers of rooming houses and boarding houses that are registered, there are also quite high numbers of unregistered rooming houses. My understanding is that the state government is just about to undertake a comprehensive survey to establish the numbers of unregistered rooming houses. But I know that those numbers change, literally from week to week, as places are closed down by councils or what have you. So in fact the people whom we are most likely to be able to focus on are the people who are staying in the emergency and homeless services.

**Senator MURRAY**—That is SAAP?

**Ms Horton**—Yes, the Supported Accommodation Assistance Program. In Victoria, we have a program called the Transitional Housing Managers program that provides housing for homeless people and others who might well fall into these categories. We know probably more about our homeless population in Australia than other countries, and we have more accurate figures about our homeless population in Australia. So, in relation to the other question about what the impact has been in other countries, we will be in a much better position to evaluate that. Because we have a fairly significant data collection system through the Supported Accommodation Assistance Program and because we know what the programs are in each state, that is where I would be putting my focus—and also because those programs are dispersed throughout the country. Certainly there are areas that do not have as many as we would like, but in Victoria, in particular, we have a fairly strong knowledge of which services are where and therefore who is using those services.

**Senator MURRAY**—You would be aware from your answer that, if the committee were obliged by the nature of the problem to focus on a priority and then were obliged to focus on those areas that were most manageable, we would still end up addressing only about a third of the problem. If I look at your schedule of figures—which is very helpful—the capacity in the improvised dwellings and sleepers out category, which is the itinerant category, is around 21,000 and the SAAP accommodation is around 13,000, and that is about a third.

**Ms Horton**—Except that the role of the Supported Accommodation Assistance Program varies across the country. In Victoria it is predominantly based on providing support to people, and in other states it is split. So in some states it provides support and accommodation. However, all of those services provide significant levels of outreach support to people who would be living in both your tertiary and primary homelessness areas. As I said, if you wanted

to, if you like, pilot where you wanted to first, I think that that would be a manageable way. Again, I would refer the AEC to their colleagues at the ABS to talk about the ways they went about using the agencies to collect figures on the number of homeless people for the last census. I suspect that the methodology would be quite similar and, whilst it is not perfect, on an international comparison it is not bad.

**Senator MURRAY**—The great strength in the continuous roll update system—and this is something Senator Ray would probably pick up on—is in the fact that it is geographically residentially based. The easiest thing for the AEC to track under that system is not people but places, because people move around but places stay the same.

**Ms Horton**—Yes, homeless people move a lot.

**Mr Lynch**—The clinic would identify two key priorities. The first is amendment of the itinerant voter provisions, to tailor them so that they capture all three categories of homelessness. One way through that would be by increasing the period of time that a person may be resident in one area from a period of, say, one month to a period of, say, six to 12 months. That would capture those people who are staying in boarding houses for—

**CHAIR**—You started off with six; now you have escalated it to 12.

**Mr Lynch**—Six months—whatever the committee is minded to do. It would capture those people who are staying in boarding houses, for example, medium to long term and who are, nevertheless, homeless. Also of importance—and this is something that has been emphasised by all my colleagues—is the non-legislative amendment which is needed, which is taking booths and information to those places and locations that are already frequented by homeless people.

**Senator ROBERT RAY**—I have a last proposition to put to you and get a response to. On the basis of what you have said, I understand using the itinerant provisions. My proposition comes back to the non-fine issue. Putting exceptions into the act, we find difficult. It is this complex: evidence was given before that, for example, on election day, the very circumstances of homeless people may prevent them from voting, which gives them a different excuse for not voting than anyone else in the community. I accept that. If they were to be challenged by the Electoral Commission for not voting, their using that as an excuse would almost certainly be acceptable. The problem is that they would probably never get the opportunity to do it, and then they would be taken off the roll because they did not respond. They would probably never have to pay their fine because they would never get found, but they actually then lose their right to vote. The one time they get found is the time they try to re-enrol, and then that existing fine comes in. That is the difficulty we have. It is not that they are likely to be fined if they can give their excuse but that they will not be found to give their excuse. We need to work our way around that, because we are very reluctant to say, ‘This category of people, having enrolled, won’t be fined for not attending a polling booth and everyone else will be fined.’ That is our difficulty; yet we are sympathetic to wanting a way through that. I do not know if you have any comment on that. I do not know if there is a solution.

**Mr Lynch**—I think to some degree the problem is minimised if the emphasis is on reform and utilisation of the itinerant voter provisions rather than the normal elector provisions.

**CHAIR**—Can I re-emphasise something. I think Senator Ray has put his finger on something very important. It is easier to go towards relaxing conditions for being able to vote along the lines of reforming the voter provisions than it is saying, ‘Having gone this way, you’re going to be treated in a distinctly different way from everyone else in the community.’ That is a bit hard.

**Mr Lynch**—It needs to be recognised that some people have special needs and that the legislation needs to recognise that.

**Senator ROBERT RAY**—We will work on it.

**CHAIR**—We are sharing our dilemma with you.

**Ms Harrison**—In relation to providing a valid and sufficient reason, we would like to reiterate the fact that, whilst you may be aware of the fact that if someone explains the fact that they were experiencing problems associated with homelessness on the day and that that would be considered a valid and sufficient reason, most of the individuals in the population do not actually know that. I know that there are reasons why that information is not made publicly available but there might be some ‘halfway’ through welfare agencies or some sort of ad campaign to let people know that, if those are the problems that they are experiencing, they will be considered as a valid and sufficient reason.

I would also like to suggest, as I think we brought out in our submission, that it is often the administrative requirement to provide a written response that is just so difficult for a lot of these people. If there were an alternative—a phone line they could ring or a place that is expressly stated on the penalty notice where they could go to provide their explanation orally—that may get around some of those administrative problems.

**CHAIR**—I address this comment to the AEC. I am a bit surprised that the internal manual is not available to anybody at all outside the AEC, but we will take that up on Friday.

**Ms Harrison**—I would like to make one correction to my oral submission. I said that the reasons in relation to why we believe that homeless people should not be required to provide identification were on page 18 of our written submission; they are actually on page 17.

**Ms Horton**—I always do this and I do not get a high take-up, but, if any of you want to visit any of the agencies or the accommodation that I have been talking about, I would be very happy to arrange it for you in whichever state. I extend that invitation.

**Mr FORREST**—Ms Horton, did you commit to sending us some information about the distribution, in response to Senator Ray’s question?

**Ms Horton**—I have that information, and I can do that very easily.

**CHAIR**—I thank you all and compliment you on the submissions. They were very interesting and very much to the point. If we shared dilemmas with you, it was not because we were unsympathetic but because there are genuine dilemmas in this area. Thank you.

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

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

**Committee adjourned at 12.10 p.m.**