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The Parliament of the Commonwealth of Australia

# The 2010 Federal Election

**Report on the conduct of the election and related matters**

Joint Standing Committee on Electoral Matters

June 2011  
Canberra

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## Chair's foreword

When considering electoral reforms, our priority must be: enfranchisement, not disenfranchisement. It is this philosophy that has guided this inquiry and is reflected in many of the Committee's recommendations.

This report continues the tradition of examining and reporting on the conduct of federal elections and relevant legislation which has been carried out by the Joint Standing Committee on Electoral Matters and its predecessor, the Joint Select Committee on Electoral Reform.

There is a special quality about elections that are conducted by independent, impartial and professional electoral bodies like the Australian Electoral Commission, in accordance with electoral legislation that is inclusive and continues to meet the needs of the community as those needs change.

The publication of this report into the conduct of the 2010 federal election comes at a time when the proportion of Australian citizens who actively take part in electoral matters is in decline. If electoral participation is considered a key indicator of a society's democratic health, there were trends evident in the 2010 federal election that give cause for concern. The Australian Electoral Commission (AEC) found that there were 3.1 million people who fell into one of the following categories: were eligible to enrol but were not on the Commonwealth electoral roll; were not marked off a certified list and presumably did not vote; and of those who did vote their vote was informal and could not be admitted to the count. This means that around 20 per cent of the population of Australia's eligible electors did not have their say in the election of their parliamentary representatives.

The 2010 federal election was notable for a number of reasons. The High Court's decisions in *Rowe v Electoral Commissioner* [2010] HCA 46 and the Federal Court's decision in *Getup Ltd v Electoral Commissioner* [2010] FCA 869 regarding the use of electronic signatures impacted in varying degrees on the election and its conduct by the AEC. It was also the first winter election since 1987, which created further challenges for the AEC.

In the AEC's administration of the 2010 federal election, there was a regrettable failure of process in pre-poll voting that saw thousands of votes excluded from the count in the divisions of Boothby in South Australia and Flynn in Queensland. These issues and the subsequent actions taken by the AEC are considered by the Committee. The Committee believes that the AEC dealt with the process failure promptly, transparently and to the satisfaction of all major players. We all agree that such a failure should never be repeated. Overall, the Committee considers that the AEC coped well with the variety of circumstances presented during the conduct of the election, and as usual, provided a highly professional service.

The Committee again looked into the decline in enrolment participation and the reasons for it. It is essential that the decline be reversed as there could be potential ramifications for the legitimacy and ready acceptance of election results for which Australia is so well regarded. The New South Wales and Victorian Parliaments have legislated to allow flexibility in the way their respective electoral commissions go about the business of enrolment. The Queensland Parliament is also considering enrolment options. The Commonwealth should act as necessary to arrest the decline in participation. The Committee makes recommendations for direct enrolment and update of enrolment in this report.

The trend toward declaration voting was evident again at the 2010 election. However, the number of provisional votes rejected in 2010 is cause for concern, with 166 148 provisional votes rejected and only 37 340 counted.

While the Government has now legislated to remove restrictive provisional vote disqualification provisions introduced by the former Government, and to reinstate the seven-day close of rolls, there is still unfinished business, particularly in respect of returning some safety net provisions.

Government members and Opposition members of the Committee disagree about the effects of electoral fraud. While Opposition members continue to rely on the spectre of electoral fraud to introduce and maintain restrictive enrolment and voting provisions, Government members value the traditionally inclusive nature of our electoral legislation. There should be no doubt that the AEC treats fraud and potential fraud cases with due and diligent attention.

In this report, the Committee notes, and gives a great deal of weight to the fact that the *Commonwealth Electoral Act 1918* has traditionally contained safety nets designed to ensure that the franchise can be exercised by those who are entitled to do so. The Committee has sought to ensure that this tradition continues, and the matter of reinstatements to the electoral roll, making recommendations to return to the previous reinstatement provisions.

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Over 11 million ordinary votes were counted by the AEC on polling night, nearly one million more than in 2007. The 2010 federal election saw informal votes for the House of Representatives at 5.55 per cent (729 304 votes), an increase of 1.6 per cent (218 482 votes) on the 2007 federal election. Senate informality was 3.75 per cent (495 160 votes), an increase of 1.2 per cent (164 151) on the previous election. The level of informality for voters genuinely trying to cast a formal vote is of concern. The AEC figures on assumed unintentional voting suggest that upwards of 370 000 voters attempted to vote for a Member of Parliament, but for various reasons failed. The Committee examined the differences in formality requirements between House of Representatives and Senate ballot papers with a view to addressing the high levels of informality in the House, especially in areas where its effects are greatest.

The Committee has considered the options presented by participants to reduce the impact of informality, including optional preferential voting, progressive informality and the South Australian House of Assembly ticket voting provisions. After careful consideration, the Committee has recommended adoption of a savings provision based on that used in South Australia. The Committee notes that the system has been used in House of Assembly elections since 1985 and has saved many votes which would otherwise have been informal. The Committee is particularly attracted to the system because it reinforces compulsory preferential voting, prohibits advocating other than full preferential voting, is transparent in that tickets must be lodged with the Electoral Commission and that it was designed by electoral administrators, not politicians.

Australians expect that participation in the electoral process is accessible, convenient and does not impede their ability to go about their business. At the same time, it is fundamental to ensure accuracy, secrecy and integrity in enrolment, voting and counting processes. These competing demands must be satisfied in such a way that the electoral process remains inclusive while preserving the high levels of integrity necessary to ensure continued trust and acceptance of election results. The Committee has sought to achieve such an outcome with the recommendations made in this report.

The Committee received 119 submissions and supplementary submissions, and took evidence from witnesses at nine public hearings. This provided the Committee with a substantial body of evidence, which the Committee has considered. The Committee remains appreciative of the time and effort that participants gave to assist it in its deliberations.

I express my thanks to Mr Ed Killesteyn, the Australian Electoral Commissioner, for the frankness of his evidence, and the assistance provided by staff of the Australian Electoral Commission in meeting requests for information from the Committee in a professional and timely manner.

I thank the Members and Senators of the Committee for their work and contribution to this report.

Finally, I would also like to thank the Committee secretariat for their work in preparing this report.

Daryl Melham MP  
Chair



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## Membership of the Committee

**Chair** Mr Daryl Melham MP

**Deputy Chair** The Hon Alexander Somlyay MP

**Members** The Hon Bronwyn Bishop MP

The Hon Alan Griffin MP

Ms Amanda Rishworth MP

Senator Simon Birmingham

Senator Bob Brown

Senator Carol Brown

Senator Helen Polley

Senator Scott Ryan

## Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Ms Samantha Mannette
Technical Adviser	Mr Terry Rushton
Administrative Officers	Ms Emily Costello
	Ms Natasha Petrovic



## Terms of reference

On 23 November 2010, the Special Minister of State requested the Committee to conduct an inquiry with the following terms of reference:

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 2010 federal election and matters related thereto.







## List of abbreviations

ADF	Australian Defence Force
AEC	Australian Electoral Commission
AEO	Australian Electoral Officer
ANAO	Australian National Audit Office
APVIS	Automated Postal Vote Issuing System
ARO	Assistant Returning Officer
ATL	Above-the-line
ATO	Australian Tax Office
BTL	Below-the-line
CALD	Culturally and linguistically diverse
CEA	Commonwealth Electoral Act
CORE	Computing Research and Education Association of Australasia
CPSU	Community and Public Sector Union
CRU	Continuous roll update
CSS	Central Senate Scrutiny
DFAT	Department of Foreign Affairs and Trade

DRO	Divisional Returning Officer
ECSA	Electoral Commission of South Australia
GPV	General postal voter
GVT	Group voting ticket
HCA	High Court of Australia
HTV	How-to-Vote
IEPP	Indigenous Electoral Participation Program
JSCER	Joint Select Committee on Electoral Reform
NESB	Non-English speaking background
NSWEC	New South Wales Electoral Commission
OIC	Officer in Charge
ORS	Online Recruitment System
POI	Proof of identity
PPVC	Pre-poll voting centre
PVA	Postal vote application
PVC	Postal vote certificate
PVP	Postal vote pack
RMANS	Roll Management System
TES	Targeted Enrolment Stimulation
VEC	Victorian Electoral Commission



# List of recommendations

## 3 Maintaining the electoral roll

### Recommendation 1

The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.

### Recommendation 2

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow the Australian Electoral Commission (AEC) to directly update the enrolment details of electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.

### Recommendation 3

The Committee recommends that relevant legislation governing the protection of personal data collected by the Australian Taxation Office (ATO), which would prevent the ATO from providing enrolment relevant data to the Australian Electoral Commission (AEC), be amended to allow such data to be shared with the AEC for the purposes of facilitating enrolment.

### Recommendation 4

The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to enable electors who provide satisfactory evidence of identity and address to a pre-poll issuing officer at a pre-poll voting centre or a declaration vote issuing officer at a polling place, to enrol for that address at the time of voting, by completing and signing an enrolment compliant declaration vote certificate into which their ballot papers are to be inserted.

### Recommendation 5

The Committee recommends that, should the Government accept Recommendation 4 above, the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to enable electors who enrol at the time of voting to be added to the electoral roll used for the election and to enable votes cast by those electors to be admitted to the scrutiny for that election.

### Recommendation 6

The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to specifically permit the use of electronic or digitally formed signatures for enrolment purposes.

### Recommendation 7

The Committee recommends that Part IX of the *Commonwealth Electoral Act 1918* be amended to provide that an elector should not be removed from the electoral roll by objection on the grounds that they do not live at a particular address, and have not lived at the address for a period of at least one month, in situations where the Australian Electoral Commission is aware from information or data sources in its possession that the elector lives at a different address in the same electoral division.

#### Recommendation 8

The Committee recommends that paragraphs 114 (4), 118 (4A), and any other relevant provisions of the *Commonwealth Electoral Act 1918*, be amended to provide the Australian Electoral Commissioner with a discretion not to object to the enrolment of an elector where the Electoral Commissioner is aware that the elector resides at a different address in the same electoral division.

### 4 Polling and voting

#### Recommendation 9

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to specifically provide that a ballot box containing votes cast by electors may not be opened before the close of polling other than in accordance with the relevant provisions of the Act.

#### Recommendation 10

The Committee recommends that the requirement at section 200DH of the *Commonwealth Electoral Act 1918* for an applicant for a pre-poll ordinary vote to complete and sign a certificate be repealed.

#### Recommendation 11

The Committee recommends that section 200D of the *Commonwealth Electoral Act 1918* be amended to provide that an application for a pre-poll vote cannot be made before the Monday, 19 days before polling day.

#### Recommendation 12

The Committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to specifically allow for the automated issuing of postal votes by the Australian Electoral Commission.

#### Recommendation 13

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide specifically that completed postal vote application forms must be returned directly to the Australian Electoral Commission for processing.

#### Recommendation 14

The Committee recommends that, should the Government accept Recommendation 13 above, that the *Commonwealth Electoral Act 1918* be amended to require the Australian Electoral Commission (AEC) to provide particular information contained on postal vote applications processed by the AEC:

- political parties who have endorsed candidates for the Senate for the state or territory, or candidates for the House of Representatives division in which the applicant for a postal vote claims to be enrolled; and
- candidates for election to the Senate for the state or territory, or candidates for the House of Representatives division in which the applicant for a postal vote claims to be enrolled.

The information provided must:

- be made securely available to eligible parties and candidates;
- be protected by appropriate safeguards;
- contain only the surname, given names, date of birth, claimed enrolled address and claimed enrolled division of the applicant, and, if provided by the applicant, the address to which the postal vote is to be delivered; and
- must not include any information that is subject to broader restrictions on release of information currently provided for in the *Commonwealth Electoral Act 1918*.

#### Recommendation 15

The Committee recommends that subsection 184(5), and any other relevant provisions, of the *Commonwealth Electoral Act 1918* be amended to provide that the deadline for the receipt of postal vote applications be 6 pm on the Wednesday, three days before polling day.

#### Recommendation 16

The Committee recommends that section 184, and any other relevant provisions, of the *Commonwealth Electoral Act 1918* be amended to provide that the cut-off for postal vote applications received in Australia for addresses outside Australia be 6 pm on the Monday, five days before polling day.

### Recommendation 17

The Committee recommends that the Australian Electoral Commission send postal vote applications received in Australia after the cut-off, for addresses outside Australia, by facsimile, email or by other electronic means, to the most appropriate overseas post for processing, in order that, wherever possible, a postal voting pack may be sent to the applicant in sufficient time for the elector to cast a vote prior to polling day.

### Recommendation 18

The Committee recommends that section 222 of the *Commonwealth Electoral Act 1918*, and any other relevant provisions, be amended to enable the Australian Electoral Commission (AEC) to undertake a trial at the next election during which absent votes may be issued as ordinary votes in selected polling places where electronic certified lists containing state or territory certified list data are deployed.

- Votes issued in this manner must be placed in envelopes designed for the purpose of the trial and are to be forwarded to the Divisional Returning Officers for the divisions for which the vote is issued as soon as practicable following the close of polling.
- When received by the Divisional Returning Officer for the enrolled division, the votes must be removed from the envelopes in accordance with the processes established for the trial and treated and counted as ordinary votes.
- The AEC must keep adequate records of the trial for the purposes of evaluation by the Joint Standing Committee on Electoral Matters following the next federal election.

### Recommendation 19

The Committee recommends that Part XVA of the *Commonwealth Electoral Act 1918* be amended to specifically allow electronic certified lists to be used as a basis for issuing pre-poll votes as ordinary votes.

### Recommendation 20

The Committee recommends that the Australian Electoral Commission continue to work with organisations representing electors who are blind or who have low vision to develop sustainable voting arrangements which will provide secure, secret and independent voting for electors who are blind or who have low vision.

### Recommendation 21

The Committee recommends that Part XVII of the *Commonwealth Electoral Act 1918* be amended so that provisions similar to those which allow blind and low vision voters to cast a secret ballot by telephone or any other suitable electronic means be applied to Antarctic electors.

### Recommendation 22

The Committee recommends that Part XVII of the *Commonwealth Electoral Act 1918* be amended to enable the production of a list of all Antarctic electors to be used at all Antarctic Polling Stations.

### Recommendation 23

The Committee recommends that the Government review the minimum font sizes specified in section 328B of the *Commonwealth Electoral Act 1918* as being required for the authorisation on How-to-Vote cards.

## 6 Reinstatement to the roll

### Recommendation 24

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that where an elector who had lodged a declaration vote at an election has been removed from the electoral roll by objection action on the ground of non residence; and

- the removal from the roll occurred after the election prior to the election to which the scrutiny relates, or
- where there has been a redistribution of the state or territory that includes the division since the last election but one before the election to which the scrutiny relates, the removal from the roll was made after the last such redistribution, then:
  - ⇒ if the address at which the elector claims to be enrolled at the time of voting is within the electoral division for which he or she was previously enrolled, his or her House of Representatives and Senate votes will be counted; but
  - ⇒ if the address at which the elector claims to be enrolled at the time of voting is in a different electoral division in the same state or territory, his or her Senate vote will be counted, but his or her House of Representatives vote will not be counted.



## 7 Formality issues

### Recommendation 25

The Committee recommends that Parts XVI, XVIII, and any other relevant provisions of the *Commonwealth Electoral Act 1918* be amended to include a savings provision for House of Representatives ballot papers, based on the South Australian House of Assembly ticket voting provisions. Such a provision should serve to save ballot papers marked by the use of a tick, a cross, or the number 1, and which do not express preferences for all candidates, in cases where the first and subsequent preferences (if any) match an order of preferences lodged with the Australian Electoral Commission by a political party or candidate in the election. This will serve to reduce the impact of unintentional informal voting resulting from incomplete preferences being indicated by electors on House of Representatives ballot papers.

### Recommendation 26

The Committee recommends that Part XXI of the *Commonwealth Electoral Act 1918* be amended to specifically prohibit advocating the completion of House of Representatives ballot papers other than by full preferential numbering. The offence should attract a penalty sufficient to deter such actions.

## 8 Redistribution of electoral boundaries

### Recommendation 27

The Committee recommends that Part IV of the *Commonwealth Electoral Act 1918* be amended to provide that, where a redistribution has commenced, because of the operation of subsections 59(2)(b) or 59(2)(c), and a Senate election, or an election of members of the House of Representatives, or a Senate election and an election of members of the House of Representatives conducted concurrently, is announced before that redistribution is completed, proceedings in the redistribution are to be suspended until the date specified in the writ or writs as the date for the return of the writ.

### Recommendation 28

The Committee recommends that should the Government agree to recommendation 27 above, that Part IV of the *Commonwealth Electoral Act 1918* also be amended to allow the Redistribution Committee or the augmented Electoral Commission (as the case may be) to recommence the redistribution at the step which would, if the redistribution had not been suspended, follow the step last completed in that redistribution. The redistribution timetable, and, if necessary, the projection time for the redistribution should be adjusted accordingly.

### Recommendation 29

The Committee recommends that section 72, and any other relevant sections, of the *Commonwealth Electoral Act 1918* be amended to provide that, where an augmented Electoral Commission has formed an opinion that its proposed redistribution is significantly different to the Redistribution Committee proposal, a further fixed period be provided during which the actions required by subsection 72(13) of the Act are to be undertaken.

### Recommendation 30

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that, where a further fixed period is provided during which the actions required by subsection 72(13) of the Act are to be undertaken, the number of days specified in subsection 72(2) of the Act also be increased by the same number of days provided for in the further fixed period.

## 9 Other issues

### Recommendation 31

The Committee recommends that subsection 170(3) of the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Senator to \$2,000.

### Recommendation 32

The Committee recommends that subsection 170(3) the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Member of the House of Representatives to \$1,000.

**Recommendation 33**

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to reduce the nominations period for an election by one day so that nominations close not less than nine or more than 26 days after the issue of the writ, rather than ten and 27 days, respectively.

**Recommendation 34**

The Committee recommends that, should the Government accept recommendation 33 above, the *Commonwealth Electoral Act 1918* be amended to require the date fixed for polling is not less than 24, or more than 32 days, after the date of nomination.

**Recommendation 35**

The Committee recommends that Part XVIII of the *Commonwealth Electoral Act 1918* be amended to require that once the first preference count in polling places or counting centres on polling night, or in scrutines conducted after polling day, has been completed and appropriate records made, all Senate ballot papers indicating a first preference for individual candidates below the line may be parcelled together for return to the Divisional Returning Officer.

**Recommendation 36**

The Committee recommends that section 202A of the *Commonwealth Electoral Act 1918* be amended to remove the requirement that the officer and employee undertaking be signed. Instead, the officer and employee undertaking should be made and accepted as part of the offer of employment.

**Recommendation 37**

The Committee recommends that any recommendations in this report that propose amending the *Commonwealth Electoral Act 1918* should, where also appropriate, be incorporated into the *Referendum (Machinery Provisions) Act 1984*, to ensure consistency between the provisions applying to elections and referenda.



## Introduction

### Scope of the inquiry

- 1.1 It has been the practice of the Joint Standing Committee on Electoral Matters, and its predecessors, to examine the conduct of each federal election and related matters since 1983.
- 1.2 A House of Representatives and half Senate election took place on 21 August 2010.
- 1.3 On 23 November 2010, the Special Minister of State, the Hon Gary Gray MP formally requested that the Joint Standing Committee on Electoral Matters inquire into the conduct of the 2010 federal election and matters related thereto.
- 1.4 The 2010 federal election differed in some respects from recent previous federal elections. A federal election had not been held in winter since 1987, and this created certain challenges for the conduct of this election. The decision in *Rowe v Electoral Commission* effectively restoring the close of rolls period to seven days following the issue of writs resulted in an unanticipated additional workload for the Australian Electoral Commission in the processing of almost 100 000 enrolment transactions.

## Conduct of the inquiry

- 1.5 On 30 November 2010, the Chair of the Joint Standing Committee on Electoral Matters, Mr Daryl Melham MP, announced the inquiry. It was advertised nationally in *The Australian* newspaper on 1 December 2010 and members of the public were invited to make submissions.
- 1.6 The Committee also wrote to all Members and Senators and Senators-elect; state premiers and chief ministers; the Australian Electoral Commission; state and territory electoral commissions; registered major political parties; and selected academics and interest groups.
- 1.7 During the course of the inquiry, the Committee received 119 written submissions (Appendix A). The Committee received further evidence at nine public hearings held in Sydney, Melbourne, Adelaide and Canberra (Appendix B).
- 1.8 The submissions and transcripts of evidence from the public hearings are available from the Committee's website: [www.aph.gov.au/em](http://www.aph.gov.au/em).

## Structure of the report

- 1.9 Chapter 2 provides an overview of the 2010 federal election, including administrative aspects of the conduct of the election, significant events and concerns raised. It flags key issues to be explored in the report.
- 1.10 In Chapter 3 the Committee addresses the issue of the state of the Commonwealth electoral roll, including the fact that the eligible population is growing faster than enrolments, and developments such as automatic enrolment at the state level. It considers how to address some of these issues and retain roll integrity. Government and opposition members disagree on these matters.
- 1.11 Chapter 4 covers the voting experience: when, where and how people voted, things that went well, and difficulties encountered. Matters discussed include the mishandling of ballot papers in the divisions of Boothby and Flynn, postal voting application procedures, services for electors who are blind or have low vision and Antarctic voters, and minimum font requirements for How-to-Vote cards.
- 1.12 Chapters 5, 6 and 7 cover enrolment and voting franchises.

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- 1.13 Chapter 5 outlines the cases *Rowe v Electoral Commission* and *Roach v Electoral Commissioner* and the impact of the court decisions.
- 1.14 In Chapter 6 the issue of reinstatement to the electoral roll is considered. The 2010 federal election saw the difference between the election roll and the close of rolls enrolment go into negative figures, with more people coming off the roll than going on in the period between the close of rolls and polling day.
- 1.15 Formality issues and the voter franchise are considered in Chapter 7. The Committee discusses the increasing level of informal voting in the House of Representatives and explores options to help reduce informality.
- 1.16 The redistribution of electoral boundaries process in Victoria coincided with the 2010 federal election. Chapter 8 considers the impact of the timing of this redistribution and explores options for dealing with this problem should it occur in the future.
- 1.17 The final chapter, Chapter 9, is a mixed bag of other issues not dealt with elsewhere in the report. It includes ballot paper complexity and handling, candidate nominations, overseas electors, and other administrative matters.





## 2010 election overview and key issues

### Background including significant events

- 2.1 The 2010 federal election was announced by the Prime Minister, the Hon Julia Gillard MP, on Saturday 17 July 2010. Writs for the election were issued on Monday 19 July for the House of Representatives election and a half Senate election.
- 2.2 Issue of the writs triggers a timetable which is specified in the *Commonwealth Electoral Act 1918* for a range of tasks and key events including the close of the electoral rolls, the nomination of candidates, the declaration of nominations, and polling day. The dates for other activities, including the commencement of pre-poll voting and the return of the writs, flow on from these events (Table 2.1). A number of legislative changes arising out of the majority report recommendations made by the Committee in its *Report on the conduct of the 2007 federal election and matters related thereto* have been implemented, but some were not in force at the 2010 election. Details of those changes, along with others still to be implemented are contained in Appendix D to this report.
- 2.3 Issue of the writs also saw the commencement of a number of legislative changes contained in the *Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010* (Modernisation Act) and in the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010* (Pre-poll Act).

- 2.4 These changes as well as other matters discussed below impacted on both the election timetable and a multitude of tasks required to be undertaken by the Australian Electoral Commission (AEC), to bring about the successful conduct of the 2010 federal election.<sup>1</sup>
- 2.5 As a result of amendments to the Commonwealth Electoral Act made by the then Government in 2006, the close of rolls period for federal elections changed from seven days after the issue of the writ to 8 pm on the day that the writs for an election were issued for a person enrolling for the first time or re-enrolling after being removed from the roll.<sup>2</sup>
- 2.6 Those amendments also provided for a period of three working days after the writs for people to complete and submit an enrolment form in limited circumstances:
- if a person is 17 years of age, but will turn 18 between the day after the issue of the writs and election day (inclusive);
  - if a person will become an Australian citizen between the day after the issue of the writs and the day before election day (inclusive); or
  - if a person is on the electoral roll, but with an out of date address or name details.
- 2.7 The cut-off date for new enrolments for the 2010 federal election was 8 pm on Monday 19 July 2010, with the cut-off for other changes being 8 pm on Thursday 22 July 2010. These are referred to as the original close of rolls dates.
- 2.8 Following the original close of rolls dates, and subsequent to all original enrolment processing being completed by the AEC, certified lists of electors for all 150 electoral divisions were finalised, printed and distributed, with many being utilised for the issue of pre-poll ordinary votes from Monday 2 August 2010 when pre-poll voting commenced.
- 2.9 However, on 6 August 2010, some two weeks after the original close of rolls deadline of 22 July 2010, and just 15 days before polling day, the High Court of Australia ruled in the case of *Rowe v Electoral Commissioner* [2010] HCA 46 (*Rowe*) that certain amendments made to the Commonwealth Electoral Act to shorten the close of rolls by the then Government were constitutionally invalid.<sup>3</sup> In effect, the seven day close of rolls had been reinstated.

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1 Australian Electoral Commission, Submission 87, p. 19.

2 Australian Electoral Commission, Changes to the Commonwealth Electoral Act 1918 since the 2004 election (2007), Electoral Newsfile, p. 2.

3 *Rowe v Electoral Commissioner* [2010] HCA 46.

- 2.10 As a result of the High Court decision in *Rowe*, the AEC was required to process those enrolment applications received after the two original enrolment cut-off dates, but which were received on or before 8 pm on Monday 26 July 2010.
- 2.11 Processing of those affected enrolment applications was completed on Friday 13 August 2010, resulting in 57 732<sup>4</sup> new electors added to the electoral roll, and some 40 408<sup>5</sup> changes to enrolment details being made.
- 2.12 The AEC decided that the most appropriate way to deal with the additions and changes to the certified lists that became necessary as a result of the High Court's decision in *Rowe*, was to print and distribute supplementary certified lists containing the names of electors added to the roll and those whose enrolment details had been changed during the extended close of rolls.
- 2.13 The AEC took the view that the availability of supplementary certified lists would enable affected electors to have their names marked off on the certified list and have an ordinary vote, as distinct from a provisional vote. Casting an ordinary vote is the simplest way to vote and is the method used by the majority of voters.<sup>6</sup>
- 2.14 The Governor-General's agreement was therefore sought to issue supplementary certified lists. This was done by Proclamation under section 285 of the Commonwealth Electoral Act on Friday 13 August 2010.
- 2.15 The AEC then produced the supplementary certified lists, with a single supplementary certified list being printed and distributed to each of the polling places used on polling day.
- 2.16 In addition, and also on Friday 13 August 2010, the Federal Court of Australia upheld the use of a digital signature in completing a claim for enrolment. In *Getup Ltd v Electoral Commissioner* [2010] FCA 869 (the Getup case) the Federal Court held that a claim for enrolment completed on Getup's 'ozenrol' website and signed digitally by Ms Sophie Trevitt, using a digital pen on a trackpad and witnessed using the same technology, met the requirements of the Commonwealth Electoral Act. Ms Trevitt was subsequently added to the electoral roll and was able to vote on 21 August.<sup>7</sup>

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4 Australian Electoral Commission, Submission 87, p. 32.

5 Australian Electoral Commission, Submission 87, p. 32, Table 3.5.

6 Australian Electoral Commission, Submission 87, p. 35.

7 Australian Electoral Commission, Submission 87, p. 20.

- 2.17 At the close of nominations on Thursday 29 July 2010, 849 candidates were nominated to contest the 150 House of Representatives seats, and 349 candidates had nominated for the 40 vacant Senate seats in the half Senate election.<sup>8</sup>
- 2.18 Polling day, which is required to be held on a Saturday and at least 33 days after the issue of the writs, was held on Saturday 21 August 2010.<sup>9</sup> The time between the announcement of the election and polling day was 35 days in contrast to the 41 days in 2004 and 2007. The time between the issue of the writs and polling day was the minimum allowable under the Commonwealth Electoral Act, 33 days.

Table 2.1 2010 federal election timetable

Event	Date
Election announced	Saturday 17 July 2010
Issue of writs	6 pm Monday 19 July 2010
Close of rolls – cut off for new enrolments	8 pm Monday 19 July 2010
Close of rolls – cut off for changes	8 pm Monday 22 July 2010
Close of rolls as determined by the High Court decision	8 pm Monday 26 July 2010
Cut off time for inclusion in supplementary certified lists	8 pm Monday 26 July 2010
Close of nominations	12 pm Thursday 29 July 2010
Declaration of nominations	12 pm Friday 30 July 2010
Commencement of pre-poll voting	Monday 2 August 2010
High Court decision in <i>Rowe</i>	Friday 6 August 2010
Federal Court decision in <i>Getup Ltd v Electoral Commissioner</i> [2010] FCA 869	Friday 13 August 2010
Governor-General makes Proclamation under s285 of the <i>Commonwealth Electoral Act 1918</i>	Friday 13 August 2010
Polling Day	Saturday 21 August 2010
Return of writs	
Senate writ for Tasmania	Friday 10 September 2010
Senate writ for Queensland	Wednesday 15 September 2010
Senate writ for Western Australia	Thursday 16 September 2010
Senate writ for New South Wales	Thursday 16 September 2010
Senate writ for South Australia	Friday 17 September 2010
Senate writ for Victoria	Friday 17 September 2010
Senate writs for the ACT and NT	Friday 17 September 2010
House of Representatives writs for all states and territories	Friday 17 September 2010

Source Australian Electoral Commission, *Submission 87*, pp. 16 and 33-34.

<sup>8</sup> Australian Electoral Commission, *Submission 87*, p. 69.

<sup>9</sup> *Commonwealth Electoral Act 1918*, ss. 157-158.

Table 2.2 Time between the issue of the writs and polling day, 1993 to 2010 elections

	1993	1996	1998	2001	2004	2007	2010
Issue of writs	8 Feb	29 Jan	31 Aug	8 Oct	31 Aug	17 Oct	19 Jul
Polling day	13 Mar	2 Mar	3 Oct	10 Nov	9 Oct	24 Nov	21 Aug
Total Days	34 days	34 days	34 days	33 days	40 days	39 days	33 days

Source Australian Electoral Commission, *Submission 87*, p. 6; Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Commonwealth of Australia, June 2009, p. 7.

## Administration of the 2010 federal election

2.19 As noted earlier, a number of legislative changes flowing from recommendations contained in the Joint Standing Committee on Electoral Matters' *Report on the conduct of the 2007 federal election and matters related thereto* were implemented and took effect at the 2010 federal election. These changes included provisions for:

- home division pre-poll votes to be cast and counted as ordinary votes;
- online and written advice of enrolment changes; and
- provisional enrolment of 16 year olds.<sup>10</sup>

2.20 The AEC also made a number of changes to update or introduce new election systems. These included the introduction of a new enrolment system (GENESIS), a new online recruitment system for polling officials (ORS), and a new internet based training system for polling officials (Checkpoint). Opposition members particularly note the Community and Public Sector Union's (CPSU) evidence which said there were enormous concerns with the system, which meant that fewer people were added to the roll in 2007 than in 1990:

We understand from the user tester groups that things are improving, but we are not in a position to say that the throughput of GENESIS is comparable to that which was achieved through RMANS in years gone by. And you do note earlier that there were previous elections with a greater number of enrolment transactions occurring. In 1990, when RMANS was introduced,

<sup>10</sup> These changes arose out of amendments contained in the *Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010* (Modernisation Act) and in the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010*.

they put through 594,612 at that time, and it is curious that 20 years later a new system is slower.<sup>11</sup>

- 2.21 The CPSU was critical of the AEC's decisions to implement election systems that were either not fully tested or did not perform to the required standards, noting that they had an adverse effect on staff:

Consultation with CPSU members, and staff more broadly in the AEC, has identified that the 2010 Federal Election presented significant difficulties for AEC staff. Anecdotal commentary and specific surveying shows that AEC employees found this election to be the most problematic and stressful in recent memory...

CPSU members in the AEC express disappointment at the timing of the implementation of the ORS and Checkpoint systems. There is further discontent that failings of the GENESIS system that were identified were unheeded by AEC senior management. It is argued that these newly introduced systems created significant negative effects during the 2010 election period.<sup>12</sup>

- 2.22 The volume of enrolment transactions experienced at the 2010 election was significantly higher than experienced in recent elections.
- 2.23 The CPSU indicated that under the RMANS standard data entry rates for new enrolments were about 30 to 40 per hour, but that under the new system, GENESIS, this dropped to 16 to 18 per hour.<sup>13</sup>
- 2.24 The 2010 federal election was the first winter election held since 1987, with the AEC noting that the timing of the election affected, among other things, the availability of polling officials, some polling places and voting patterns across the country.<sup>14</sup>
- 2.25 The AEC submitted that the 2010 federal election proved to be a difficult election to conduct, citing such matters as the short election period, the timing of the election, the various roll closes and the increased workloads associated with enrolment and public enquiries, which significantly exceeded the AEC's predictions.<sup>15</sup>

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11 Mr Jonathan Ring, National Organiser, Community and Public Sector Union, Transcript, 15 June 2011, p. 3.

12 Community and Public Sector Union, Submission 95, pp. 2 and 6.

13 Dr Kristin van Barneveld, Deputy National Secretary, Community and Public Sector Union, Transcript, 15 June 2011.

14 Australian Electoral Commission, Submission 87, p. 8.

15 Australian Electoral Commission, Submission 87, pp. 8-9.

- 2.26 The AEC noted, both in its submissions and in evidence to the Committee that conducting the 2010 federal election presented it with a number of challenges. Some, like the challenges presented by the necessity to prepare supplementary certified lists, saw the AEC perform at the high level of professionalism expected by stakeholders.
- 2.27 Others, like the challenges presented by the timing of the election, the implementation of new election systems, the difficulties in managing the enrolment workload and the mishandling of pre-poll votes in the divisions of Boothby in South Australia and Flynn in Queensland, saw the AEC perform below some stakeholder expectations.

### Comments on the conduct of the 2010 federal election

- 2.28 Inquiry participants were critical of the AEC for the mishandling of pre-poll votes in the divisions of Boothby and Flynn, which resulted in some 4 300 votes being excluded from the count.
- 2.29 The Australian Labor Party (ALP) noted the events, submitting that they were caused by AEC officials not following proper procedure:

The ALP notes that during the 2010 Federal Election around 4,300 enrolled voters were disenfranchised in the electoral divisions of Boothby (SA) and Flynn (QLD) by having their votes excluded from the count.

This disenfranchisement occurred as a result of irregularities in the opening of ballot boxes at pre-poll voting centres in both of these divisions. These irregularities were caused by AEC officials not following proper procedure.<sup>16</sup>

- 2.30 Similarly, The Nationals expressed their concerns, noting that:

During the 2010 election some 1,300 voters in the Flynn electorate and 2,980 voters in Boothby had their votes excluded from the count as a result of polling official error. The Nationals acknowledge that the AEC took prompt action and is moving to implement improvements to prevent a repeat of this occurring. Nevertheless, some 4,300 voters were disenfranchised from the 2010 election. On this occasion it did not affect the result in those seats. However, the breakdown in the integrity of the electoral system did cost those people their right to have their vote counted.<sup>17</sup>

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16 Australian Labor Party, Submission 55, p. 1.

17 The Nationals, Submission 93, p. 5.

- 2.31 The Liberal Party of Australia also voiced serious concerns about the incidents in Boothby and Flynn, which led to the exclusion of votes and disenfranchisement of voters.<sup>18</sup>
- 2.32 While submitters were troubled that the incidents had occurred, most were of the view that the AEC took appropriate steps to ensure that the events were reported in a transparent manner and that prompt action was taken to investigate and address the causes. Opposition members of the Committee note that this incident has showed that there is a real risk to the integrity of the electoral process and it is thus very important to ensure that the AEC is given greater powers to investigate electoral fraud and prepare briefs for criminal prosecution, where appropriate.
- 2.33 An independent review was conducted by former Electoral Commissioner, Mr Wilfred (Bill) Gray AM. He found that the premature opening of the ballot boxes was polling official error and not tampering, and made a number of recommendations to help to minimise the potential for a repeat of these incidents.<sup>19</sup>
- 2.34 The Liberal Party of Australia commented on the subsequent action taken, stating:
- We strongly support the recommendations of the inquiry conducted by Mr W Gray into this matter and emphasise the importance of thorough training for officials placed in charge of polling centres.<sup>20</sup>
- 2.35 The Australian Labor Party similarly acknowledged:
- ...the prompt investigation undertaken by the AEC and supports the subsequent recommendations made by the AEC, including that training and manuals for AEC staff be reviewed following this incident.<sup>21</sup>
- 2.36 Mobile polling was also subject to some criticisms, particularly in the seats of Grey and Lingiari, with the Member for Grey, Mr Rowan Ramsey MP noting in his submission:
- Davenport mobile booth is also a considerable waste of taxpayer's money when most of the people using it are driving out from

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18 The Liberal Party of Australia, Submission 94, p. 2.

19 AEC website, [http://www.aec.gov.au/About\\_AEC/Media\\_releases/e2010/10-01.htm](http://www.aec.gov.au/About_AEC/Media_releases/e2010/10-01.htm), viewed 14 February 2011.

20 The Liberal Party of Australia, Submission 94, p. 2.

21 Australian Labor Party, Submission 55, p. 1.



Pt Augusta and those few living there go into town for everything else, bread and milk etc.<sup>22</sup>

- 2.37 The Hon Warren Snowdon MP, Member for Lingiari, submitted that whilst the staff of the AEC were proactive in discussing planned mobile polling arrangements with political parties, the mobile polling schedule needed serious review:

The remote polling booth schedule needs a serious review. The schedule of communities that receive a mobile polling booth appears to be largely based on historical information and in some cases no longer adequately represents where electors reside. For example there are a number of homelands across Arnhem Land that historically have never been offered a mobile polling booth, certainly in recent times. With the growth of population in many of these smaller homeland communities it is apparent that a schedule drafted many years ago may be 'out of date' as far as where electors reside now. Homeland Resource Centres like Laynhapuy in North-east Arnhem Land, Marthakal on Elcho Island, Bawinanga at Maningrida, Julalikari at Tennant Creek and Demed at Gunbalanya could provide more 'up to date' information on where electors actually live.<sup>23</sup>

- 2.38 Another issue of concern during the 2010 federal election was the timing of the 2010 Redistribution of Victoria. The Liberal Party of Australia and The Nationals observed that it caused confusion and added complexity to the conduct of the election in that state.<sup>24</sup>
- 2.39 While a number of inquiry participants brought other administrative matters to the attention of the Committee, the Committee is not in a position to rigorously examine each individual complaint or concern. Rather, the Committee has sought to tackle issues that are indicative of systematic problems and, where appropriate, to make recommendations designed to improve the electoral system and its administration by the AEC.
- 2.40 With the exception of the matters outlined above, overall, inquiry participants told the Committee that the AEC had done a good job in conducting the 2010 federal election.

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22 Mr Rowan Ramsey MP, Member for Grey, Submission 32, p. 1.

23 Mr Warren Snowdon MP, Member for Lingiari, Submission 70, p. 1.

24 The Liberal Party of Australia, Submission 94, p. 4; and The Nationals, Submission 93, p. 10.

2.41 With some 563 638 enrolment transactions processed during the close of rolls,<sup>25</sup> over 14 million electors on the electoral roll,<sup>26</sup> 1 198 candidates contesting 190 vacancies,<sup>27</sup> 43 million ballot papers produced,<sup>28</sup> 13 619 586 Senate votes issued,<sup>29</sup> 8 803 separate polling venues and teams in Australia and 103 overseas,<sup>30</sup> the logistical challenges the AEC faces in conducting a federal election are significant.

2.42 Mr Brad Henderson, appearing on behalf of The Nationals, told the Committee:

I would also like to place on record our party's thanks to the AEC and the people of the AEC for all their efforts in running what was overall a smooth and successful electoral process in 2010.<sup>31</sup>

2.43 Mr Brian Loughnane, appearing on behalf of the Liberal Party of Australia, told the Committee:

The Liberal Party believes the election was well administered by the Australian Electoral Commission and I would like to publicly thank the commission for its consultation and cooperation with the parties in the lead-up to and during the campaign. While there are areas we believe can be improved upon and which we comment on in our submission, we do wish to record our appreciation of the AEC's conduct of the election.<sup>32</sup>

2.44 The AEC, whilst noting its own failings, submitted that:

The 2010 federal election in virtually all respects met the community's expectations. Polling proceeded as scheduled. Against the background of the closest federal election since 1940, results were delivered credibly and expeditiously, and none of the parties represented in the Parliament petitioned the Court of Disputed Returns.<sup>33</sup>

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25 Australian Electoral Commission, Submission 87, p. 28.

26 Australian Electoral Commission, Submission 87, p. 22.

27 Australian Electoral Commission, Submission 87, p. 69.

28 Australian Electoral Commission, Submission 87, p. 70.

29 Australian Electoral Commission, Submission 87, p. 75.

30 Australian Electoral Commission, Submission 87, p. 74.

31 Mr Brad Henderson, Federal Director, The Nationals, Transcript, 23 March 2011, p. 5.

32 Mr Brian Loughnane, Federal Director, Liberal Party of Australia, Transcript, 18 April 2011, p. 42.

33 Australian Electoral Commission, Submission 87, p. 7.

- 2.45 Opposition members believe that the problems experienced at the 2010 federal election show there is a definite need to establish a fraud squad as part of the AEC, which would have the power to investigate and prepare briefs for the Commonwealth Director of Public Prosecutions (DPP) to prosecute cases of fraudulent voting. Opposition members note that the AEC provided figures which outlined there were 20,633 cases of multiple voting in 2007, 14,402 cases in 2004 and 16,949 cases in 2001. Whilst most of these cases would have been genuine mistakes, Opposition members believe that it does show that multiple voting is a serious problem that has not been sufficiently reviewed by the Committee. These members contend that the AEC claims that these cases resulted in no prosecutions, although further advice from the Parliamentary Library confirms that there were in fact three prosecutions. The Parliamentary Library also notes that the Australian Federal Police cited a lack of resources for its inability to make successful prosecutions.
- 2.46 Opposition members noted Parliamentary Library advice to them that of the 31 incidents of possible fraud recorded by the AEC during the 39<sup>th</sup> Parliament, 25 were referred to the AFP for investigation. The AFP declined to investigate six of the matters referred to it. In all but one of these cases, the AFP indicated a lack of resources prevented it from investigating. Six incidents remain under investigation by the AFP, and six incidents were accepted by the AFP but did not proceed any further due to lack of evidence. Of the remaining seven cases, two remain under consideration by the DPP, two were rejected by the DPP due to lack of evidence, and three resulted in prosecutions.
- 2.47 Further, Opposition members noted the AEC's advice that it can only prepare briefs on suspected incidents on fraudulent voting and pass them on to the AFP for investigation and possible prosecution.
- 2.48 Opposition members feel there is a strong need to combat fraudulent voting, which has not been seriously investigated by successive governments in recent years. These members feel that a dedicated fraud squad within the AEC with the power to investigate and refer matters to the Commonwealth DPP is vital to reduce the impact of voter fraud, serve as a deterrent to potentially fraudulent voters and to help maintain the integrity of the Electoral Roll.

## Legislative changes in force at the 2010 federal election

- 2.49 The major change to election processes resulting from legislative amendments made by the Government following the 2007 federal election related to the issue of home division pre-poll votes.
- 2.50 At the 2010 federal election, electors who met the criteria for casting a pre-poll vote, and who attended at a pre-poll voting centre operating for their enrolled division, were able to cast a pre-poll ordinary vote.
- 2.51 The AEC reports that some 996 875 home division pre-poll votes were cast as ordinary votes at the election,<sup>34</sup> enabling those votes to be counted on election night rather than the following day.
- 2.52 With the exception of the events in the divisions of Boothby and Flynn, where ballot boxes containing ordinary ballot papers were opened prior to the close of poll, resulting in those ballot papers being removed from the count, there appear to have been no significant problems with managing the legislative change.
- 2.53 As noted earlier, electors were able to notify changes of address to the AEC either online or in writing. The AEC reported that some 21 000 already enrolled electors utilised the AEC's *SmartForm* system during the close of rolls, which allowed the elector information to be forwarded to the AEC electronically, without requiring a signature.<sup>35</sup>
- 2.54 The *SmartForm* system utilises the whole of Government smart forms service which is operated by the Department of Innovation, Industry, Science and Research, managed by the Australian Government Information Management Office and is hosted on the [www.australia.gov.au](http://www.australia.gov.au) website.<sup>36</sup>
- 2.55 Electors enrolling for the first time, or re-enrolling after having been removed from the roll, also utilised the *SmartForm* system. In such cases, electors were required to print a completed *SmartForm* and send it by mail or by facsimile to the AEC.
- 2.56 The AEC reports that *SmartForm* was not without its problems, noting that due to high demand on 19 July 2010, the initial close of rolls for new enrolments, a number of *SmartForm* service outages occurred.
- 2.57 During the outages, messages on the site redirected users to an alternative electronic version (PDF) of the standard paper enrolment form, which could be printed, then faxed; or scanned, then emailed to the AEC.
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34 Australian Electoral Commission, Submission 87, p. 77.

35 Australian Electoral Commission, Submission 87, p. 31.

36 Australian Electoral Commission, Submission 87, p. 30.

## Committee conclusion

- 2.58 The Committee notes that overall, the AEC administered most aspects of the 2010 federal election with a high level of professionalism, diligence and expertise.
- 2.59 The Committee notes with a high degree of concern that a significant number of pre-poll votes were disqualified from the count due to errors made by pre-poll voting officials in the divisions of Boothby (SA) and Flynn (Qld). However, the Committee is satisfied that the AEC has taken responsibility for the errors, understands the gravity of the matter and will act to prevent any such further occurrence.
- 2.60 The Committee also remains concerned about the state of the electoral roll for the election, especially the high number of missing electors and the limitations imposed by outdated electoral legislation, which serves to prevent the AEC from taking reasonable and effective steps to arrest the decline in participation. Opposition members of the Committee are also concerned about the state of the electoral roll and believe that any move which increases the integrity and reliability of the roll should be investigated. Opposition members oppose any move which seeks to reduce the reliability of the roll through the introduction of automatic enrolment, relying on a Government agency or any other party other than the individual elector, to update an elector's details.
- 2.61 Whilst the Committee appreciates that an election brings about significant and increased workloads for the AEC, it has formed the view that in a number of aspects, the AEC made the task of conducting the election more difficult than it should have been.
- 2.62 Such was the case with the decision to implement new systems for election processing, including the online recruitment system and the Checkpoint training system for the training of polling officials.
- 2.63 The Committee is concerned that AEC management failed to heed the warnings from experienced AEC staff about the failings of the enrolment system GENESIS, and notes that it was the CPSU, not the AEC, that brought specific concerns about these issues to the notice of the Committee.
- 2.64 The Committee notes with concern the difficulties experienced by electors, and the adverse consequences for staff and polling officials employed by the AEC, because of the use of systems which did not live up to expectations.

- 2.65 Proper, adequate and timely user testing of in-house AEC systems and the *SmartForm* system should have been undertaken in order to identify the issues subsequently experienced and mitigate them, prior to their use at an election.
- 2.66 Whilst the workload challenges identified by the AEC were somewhat exacerbated by a sequence of events following the High Court's ruling in *Rowe*, the AEC should have expected that an increasing number of interactions initiated by electors would occur electronically, and that it would experience significant and increased workloads on or subsequent to an election announcement.
- 2.67 Indeed, the AEC knew the poor state of the electoral roll for over two years in the lead up to the election, and has long held the view that '[e]lections at state, territory or federal level act as catalysts for electors to update details or enrol'.<sup>37</sup> Opposition members believe that the AEC should do more to ensure that the electoral roll is kept up-to-date and that integrity is maintained.
- 2.68 In the opinion of the Committee, the poor state of the roll made it inevitable that an election announcement would galvanise significant numbers of Australians to update their enrolment details, or to enrol as a matter of priority.
- 2.69 The Committee notes that electors interact with the AEC with a renewed sense of urgency once an election has been announced, and understands that electronic interactions occur with a degree of immediacy not previously experienced when paper based enrolment forms sent through the postal system were the norm.
- 2.70 The Committee believes that the AEC can expect increasing workloads and must work to better position itself to ensure that all interactions with electors and potential electors, whether written or electronic, are processed to completion in the timeframes required by an unexpected election announcement, without compromising electoral integrity.
- 2.71 The Committee fails to understand how the AEC did not anticipate the immediate and significant workloads it experienced following the election announcement. Given the factors outlined above, along with the AEC's stated desire to move toward greater levels of electronic interaction, the Committee is of the view that the AEC should have been better prepared to deal with the workloads experienced in 2010.

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37 Australian Electoral Commission, Submission 87, p. 25.

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- 2.72 Further, the Committee is of the opinion that the new GENESIS enrolment processing system should have been capable of quickly processing significantly more transactions than its predecessor RMANS.
- 2.73 In terms of other significant matters, the Committee notes and supports the decisions made by the High Court of Australia in *Rowe*, which led to the reinstatement of the seven day close of rolls for elections, and the Federal Court's decision in the *Getup* case, which permitted the use of an electronic or digital signature for enrolment.
- 2.74 Further discussion of these and related matters is to be found later in this report.





## Maintaining the electoral roll

### Background

- 3.1 At the announcement of the 2010 federal election, 13 944 532 electors were on the Commonwealth electoral roll. This indicates that the roll had grown since the 2007 election by some 347 993 electors.<sup>1</sup>
- 3.2 Following the original close of rolls on 22 July 2010, enrolment stood at 14 030 528 electors, and after the final close of rolls following the High Court's decision in *Rowe v Electoral Commissioner* [2010] HCA 46 (*Rowe*), 14 088 260 electors were enrolled to vote.<sup>2</sup>
- 3.3 Following removal of the names of deceased electors, the addition of those electors whose enrolment claims had been received but not processed prior to the final close of rolls by the Australian Electoral Commission (AEC), and the reinstatement of those electors removed from the roll in error by the AEC, the final election enrolment for the 2010 federal election was 14 086 869 electors.<sup>3</sup> This indicates that the electoral roll grew between the 2007 and 2010 elections by some 440 330 electors.
- 3.4 While the number of electors on the electoral roll is increasing, the eligible Australian population is continuing to grow at a faster rate than the electoral roll. Consequently, the overall enrolment participation rate has continued to decline.<sup>4</sup>

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1 AEC website, <http://results.aec.gov.au/13745/Website/GeneralEnrolmentByState-13745.htm>, viewed 16 June 2011. There were 13 646 539 electors on the roll for the 2007 election.

2 Australian Electoral Commission, Submission 87, p. 22.

3 AEC website, <http://results.aec.gov.au/15508/Website/GeneralEnrolmentByState-15508.htm>, viewed 16 June 2011.

4 Australian Electoral Commission, Submission 87, p. 22.

- 3.5 The enrolment figures and growth detailed so far in this chapter compare the election enrolment at the 2007 and 2010 federal elections. The Committee sees this as the most appropriate way of comparing enrolment between elections, as it takes into account the changes the AEC is permitted to make at an election.
- 3.6 However, an examination of the close of rolls figures for elections from 2001 to 2010 tells a similar tale, as shown by the figures in Table 3.1 below.

Table 3.1 Electors enrolled at close of rolls, by State and Territory, 2001 to 2010 elections

State or Territory	2001	Change 2001-04 (%)	2004	Change 2004-07 (%)	2007	Change 2007-10 (%)	2010
NSW	4 201 566	2.29	4 297 917	4.59	4 495 336	2.58	4 611 228
Vic	3 215 913	2.25	3 288 201	4.68	3 442 096	3.51	3 562 802
QLD	2 317 947	6.19	2 461 396	6.13	2 612 300	4.11	2 719 746
WA	1 199 523	3.03	1 235 839	6.24	1 312 942	3.75	1 362 177
SA	1 033 588	1.46	1 048 729	2.60	1 075 968	2.71	1 105 076
TAS	328 539	3.23	339 156	3.13	349 788	2.51	358 567
ACT	219 682	2.24	224 608	6.29	238 742	3.73	247 659
NT	110 469	1.01	111 581	5.66	117 901	2.63	121 005
<b>Total</b>	<b>12 627 227</b>	<b>3.01</b>	<b>13 007 427</b>	<b>4.90</b>	<b>13 645 073</b>	<b>3.25</b>	<b>14 088 260</b>

Source Australian Electoral Commission, Submission 87, p. 22.

- 3.7 It is evident from the figures in Table 3.1 that the roll grew more between the 2004 and 2007 federal elections than it did between the 2001 and 2004 or 2007 and 2010 federal elections.
- 3.8 A significant factor contributing to the greater growth between 2004 and 2007 was the Targeted Enrolment Stimulation exercise (TES) that the AEC rolled out prior to the 2007 election. The AEC advised that in the lead up to the 2007 election, it spent \$36 million on enrolment stimulation activities, which included:
- a large-scale Targeted Enrolment Stimulation (TES) program involving fieldwork visits over a four and a half month period to approximately one million households, supplemented by mail and telephone contact costing approximately \$6-7 million; and
  - over \$29 million on an integrated communications strategy including an extensive national media advertising

campaign, including \$14.9 million on pre-election enrolment advertising.<sup>5</sup>

- 3.9 This program of enrolment stimulation was not undertaken prior to the 2010 federal election. The Electoral Commissioner told the Committee:

Firstly, that sort of funding was not available to the AEC in 2010 nor is it, in my view, sustainable. If we have to spend \$36 million every election year then that is a significant amount of money over successive elections. But, perhaps more importantly, it does not lead to a permanent or long-lasting improvement in the electoral roll. These gains are quickly dissipated months after the close of rolls as people start to move again and the same challenges are faced by the AEC to encourage people to update their enrolment and to get on the roll in the first place.<sup>6</sup>

- 3.10 For the 2010 federal election, the AEC attempted to stimulate enrolment by focusing on a mix of refinements to the Continuous Roll Update program (CRU) and the introduction of new activities such as the Famous People Vote Too campaign.<sup>7</sup> Various other enrolment activities were undertaken in the different states and territories in the lead up to the 2010 election.

- 3.11 The AEC State Manager for Queensland, Ms Anne Bright, informed the Committee that:

In the lead-up to the election and to complement the AEC's national enrolment program, targeted fieldwork occurred in a number of divisions...Also, a number of other activities in Queensland were undertaken, including those with a focus on encouraging youth enrolment, such as collaboration with the Gold Coast City Council and state government agencies for AEC staff to attend schoolies.<sup>8</sup>

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5 Australian Electoral Commission, Submission 87, p. 26.

6 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 6.

7 Australian Electoral Commission, Submission 87, p. 18.

8 Ms Anne Bright, State Manager for Queensland, Australian Electoral Commission, Transcript, 4 March 2011, p. 42.

- 3.12 Ms Jenni McMullan, AEC State Manager for Victoria, discussed some enrolment highlights in her state, including the roving enroller program run jointly with the Victorian Electoral Commission, which targeted young people, particularly those at universities; AEC attendance at the Hip Hop Music Festival; the Enrol to Vote Week campaign which involved 68 per cent of Victorian schools; meeting with homeless agencies to provide information on enrolment and voting; an enrolment drive at the Melbourne Good Food and Wine Show; and working with communities affected by the bushfires in 2009 as the rebuilding program gained momentum.<sup>9</sup>
- 3.13 The AEC Manager for the Northern Territory, Mr Robert Pugsley, informed the Committee that the AEC's Indigenous Electoral Participation Program (IEPP) had commenced in May 2010. He advised that AEC staff had travelled widely throughout the Northern Territory encouraging Indigenous people to participate in elections, and stated that:

The IEPP team were in the field from the calling of the election in a two-phased program to assist Indigenous Territorians. Phase one was an enrolment focus from the calling of the election to the close of rolls and phase two had a focus very much on formality education and imparting specific awareness to people about their various voting options, including how to vote formally.<sup>10</sup>

- 3.14 While state and territory based initiatives help to increase enrolment participation on a smaller scale, the most significant program of enrolment activity undertaken by the AEC remains the continuous roll updates. The AEC explained that:

CRU consists of large scale mail-outs to specific addresses where the AEC believes unenrolled persons reside or people who have changed address. This is supplemented by small scale fieldwork activity, mainly aimed at people who do not respond to the earlier mail-outs. The mail component of the CRU program is the most scalable (millions of letters are sent each year to unenrolled and potentially eligible persons) and affordable means of generating enrolment.<sup>11</sup>

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9 Ms Jenni McMullan, State Manager for Victoria, Australian Electoral Commission, Transcript, 30 March 2011, p. 16.

10 Mr Robert Pugsley, Manager for Northern Territory, Australian Electoral Commission, Transcript, 30 March 2011, p. 22.

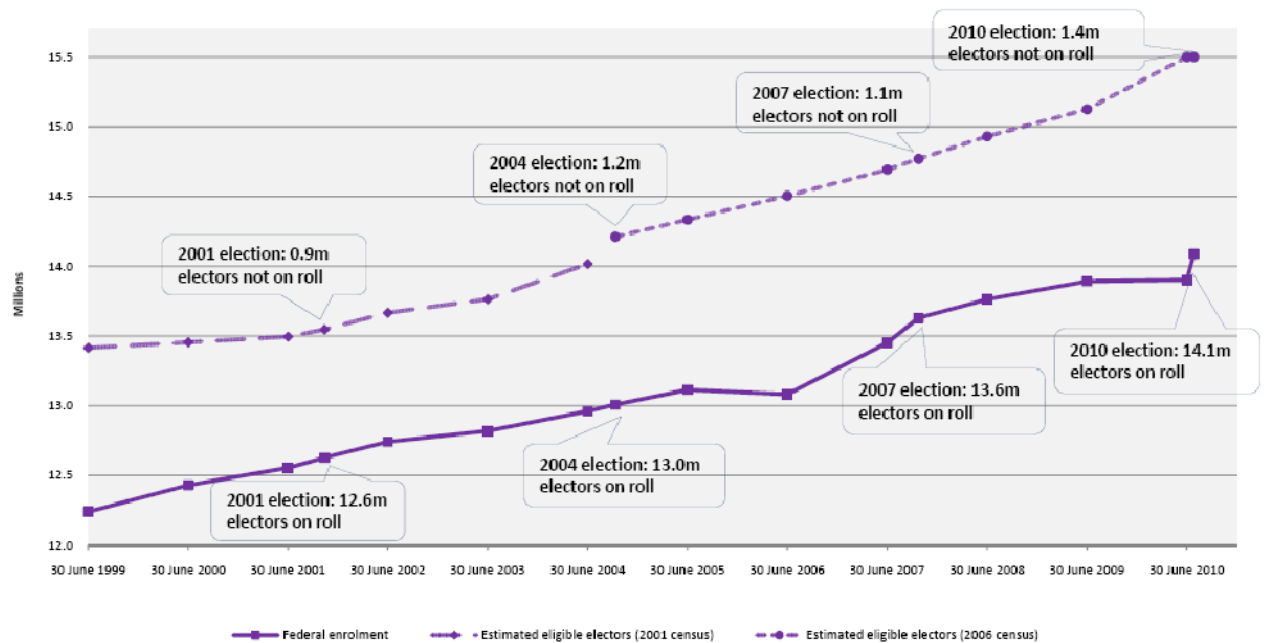
11 Australian Electoral Commission, Submission 87, p. 37.

3.15 However, the overall effectiveness of CRU in generating enrolment is variable and remains problematic, despite increased response rates in the lead up to an election. The AEC noted that:

Since 2005, enrolment response rates to CRU letters (measured as the number of enrolment forms received divided by the number of letters mailed based on attributing enrolment activity at addresses mailed to) has varied considerably. In general, higher response rates are recorded in periods leading up to the announcement of a federal election and/or in the period leading up to state electoral events.<sup>12</sup>

3.16 The AEC enrolment activities have not been sufficiently effective in arresting the trend of declining enrolment participation that has been evident for over a decade. Figure 3.1 illustrates the widening gap between the eligible population and enrolled electors.

Figure 3.1 Estimated eligible population and enrolled electors, 1999–2010



Source Australian Electoral Commission, Submission 87.1, p. 3.

12 Australian Electoral Commission, Submission 87, p. 37.

3.17 In March 2009, the Electoral Commissioner told the Committee that an estimated 1.2 million eligible electors were not on the electoral roll.<sup>13</sup> By the end of December 2009, this had risen to approximately 1.39 million electors,<sup>14</sup> and at 30 June 2010 the number had grown to 1.59 million.<sup>15</sup> Opposition members of the Committee note that it is an individual elector's responsibility to join the electoral roll and to update their details as one of the key duties of citizenship. These members believe it is vital for our nation's democratic health to ensure that elections are decided by a voter list that is accurate. Opposition members feel that adding people to the roll through means other than the individual enrolling themselves would jeopardise this outcome.

3.18 The continued drop in participation is of concern to the AEC, which informed the Committee that declining enrolment participation has implications for the health of Australia's democracy. The AEC asserted that:

Priority still needs to be given to ensure that those who are eligible to enrol do so; that those who are enrolled vote; and that rates of unintentional informality are minimised.<sup>16</sup>

3.19 Following the 2007 federal election, the Australian National Audit Office (ANAO) undertook a performance audit into the AEC's preparations for, and conduct of, the 2007 federal election. In that review, the ANAO also raised concerns about enrolment decline, finding that:

The most significant long-term issue facing the AEC remains the state of the electoral roll. Notwithstanding the significant effort made by the AEC to recover and improve the enrolment rate prior to the 2007 federal election, on polling day the enrolment rate was well below the target of 95 per cent of the estimated eligible population. As a result, an estimated 1.1 million eligible electors were missing from the rolls on polling day.

...[The] AEC's existing approaches to improving enrolment rates have become less effective (as well as becoming more costly). In addition, the number of enrolment forms being processed by the AEC has been falling since 2001-02 and, for 2008-09, was at the lowest level since 1996-97. A continuation of this decline would

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13 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Inquiry into the conduct of the 2007 federal election and matters related thereto, Transcript, 17 March 2009, p. 2.

14 Australian Electoral Commission, Submission 87, p. 18.

15 Australian Electoral Commission, Submission 87, p. 18.

16 Australian Electoral Commission, Submission 87, p. 7.

further reduce the completeness of the electoral roll at future elections.<sup>17</sup>

- 3.20 Some participants told the Committee that the decline may be due in part to the stringent objection processes mandated by the *Commonwealth Electoral Act 1918*, coupled with the inability of the AEC to use existing data sources that indicate where electors reside to update enrolment details for those electors. The Democratic Audit of Australia observed that:

The problem has long been identified and appropriate solutions are at hand. The problem, of course, lies in the current legislative restrictions placed on the capacity of the AEC to utilise data from trusted agencies to enrol or reinstate eligible electors in the same way it can employ the same data to delete persons from the roll who have moved address. Put bluntly, it is a technical problem that admits a technical solution.<sup>18</sup>

- 3.21 Elections analyst, Mr Antony Green, told the Committee that the current enrolment system is biased toward removing people from the roll:

The process to this date has tended to automate the process of removing people from the roll when they move, but then someone has to manually lodge an application to go back onto the electoral roll.<sup>19</sup>

- 3.22 The AEC supports changes to balance out the effects of objection action on the roll. It argued that with a direct enrolment process, it could utilise data from external agencies to add eligible person to the roll. The AEC anticipates that direct enrolment would provide the following benefits:

- assist eligible persons in meeting their obligation to enrol;
- build on the direct update model already supported by the Australian Government; and
- balance existing provisions which enable the AEC to commence action to remove an eligible elector from the electoral roll where it believes, based on data received from a number of sources (including Centrelink, Australia Post, state and territory motor registries and electoral commissions), that an elector is no longer entitled to be enrolled for an address.<sup>20</sup>

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17 Australian National Audit Office, *The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election*, Audit Report no. 28 2009-10, pp. 15-16.

18 The Democratic Audit of Australia, Submission 36, p. 2.

19 Mr Antony Green, Transcript, 2 March 2011, p. 1.

20 Australian Electoral Commission, Submission 87, pp. 56-57.

- 3.23 Conversely, an alternate view suggests that our system of compulsory enrolment places an obligation to ensure up to date enrolment directly on the individual. The Nationals argued that:

Our system also, rightly, attaches a level of individual responsibility to an individual's right to vote. Under the Commonwealth Electoral Act voting is compulsory in this country for Australian citizens aged over 18 years and it is incumbent upon all voters to ensure their details on the electoral roll are correct at all times. These responsibilities are not onerous or difficult to fulfil.<sup>21</sup>

### Committee conclusion

- 3.24 The Committee remains concerned about the long-term effects of the decline in enrolment participation rates, and notes that the decline has continued despite ongoing efforts on the part of the AEC to arrest it using measures currently permitted under the Commonwealth Electoral Act. Opposition members feel it is vital that every effort is made to ensure that the electoral roll is accurate, and oppose any move to include electors who have not enrolled to vote. These members believe that the AEC would be better suited to review their current campaigns to encourage people to enrol rather than seek to change the legislation so that they enrol people against their knowledge.
- 3.25 The majority of the Committee agrees with Dr Peter Brent, who made the point that appropriate solutions for arresting enrolment decline are at hand. A possible solution has already been canvassed by this Committee during a previous inquiry and was the subject of the Committee's report *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections (Automatic Enrolment Report)*.
- 3.26 The majority of the Committee is of the view that enrolment decline should be arrested as a matter of urgency, and agrees with Mr Antony Green that the current system is biased toward removing people from the roll, with recent amendments to enrolment and the objection process preventing too many electors from exercising the franchise. Objection matters are dealt with later in this chapter. Opposition members are of the view that enrolment decline should be addressed and the AEC might need to consider its current efforts to increase participation. They feel that

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21 The Nationals, Submission 93, p. 1.



addressing the enrolment decline should not come at the expense of the integrity of the electoral roll.

## Flexible enrolment and roll maintenance processes

- 3.27 State parliaments are also concerned about the effects of enrolment decline. The New South Wales and Victorian parliaments have legislated to allow more flexible enrolment and electoral roll maintenance processes to be adopted in their jurisdictions in an attempt to arrest enrolment decline.
- 3.28 In New South Wales, the New South Wales Electoral Commission (NSWEC) uses data from state agencies to directly enrol new electors and update the electoral roll details of existing electors. As at 28 January 2011, some 8 388 enrolment transactions had occurred with some 58 per cent being new enrolments and 42 per cent changes of address.<sup>22</sup>
- 3.29 In Victoria, the Victorian Electoral Commission (VEC) used data supplied by the Victorian Curriculum and Assessment Authority which it matched against Births, Deaths and Marriages data and data from the Department of Justice to ensure that students were eligible to enrol. As a result of the data matching, some 6 576 students were directly enrolled.<sup>23</sup>
- 3.30 Under roll sharing arrangements with these states, the AEC obtains the details of these electors and sends information to facilitate their addition to the Commonwealth electoral roll. However, as enrolment at the federal level must be elector initiated, these state direct enrolments are not translating into Commonwealth enrolments. The AEC advised that only two per cent of these directly enrolled persons in New South Wales have subsequently enrolled on the Commonwealth electoral roll.<sup>24</sup>
- 3.31 The Committee has previously reported that flexible enrolment processes adopted in other jurisdictions could have implications for the Commonwealth electoral roll, including confusing voters and increasing levels of divergence, with the Commonwealth roll ultimately becoming more incomplete.<sup>25</sup> However, Opposition members do not see this as a

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22 Australian Electoral Commission, Submission 87, p. 46.

23 Australian Electoral Commission, Submission 87, p. 49.

24 Australian Electoral Commission, Submission 87, p. 47, Table 3.7.

25 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections (Automatic Enrolment Report)*, Commonwealth of Australia, 2010, Foreword.

reason to reduce the integrity of the Commonwealth electoral roll by relying on potentially unreliable state information for people who have been automatically enrolled as a result of state legislation. They stressed that it is more important for those who have been enrolled automatically at a state level to confirm that their details are in fact correct, by taking the time to enrol for federal elections through the AEC, as is the responsibility of every Australian citizen.

3.32 The AEC considered roll divergence to be a problem, stating that:

The New South Wales and Victorian legislation therefore presents considerable risk that over time there will be significant divergence between Commonwealth and New South Wales and Victorian rolls. Should proposed reforms in Queensland also be legislated, then (in the absence of appropriate Commonwealth action) this would have the effect of over three-quarters of the current Commonwealth electoral roll subject to significantly different enrolment arrangements. This will likely result in an increase in the number of 'Commonwealth-only', 'state/territory-only' electors, or electors with 'dual enrolment' records on the roll maintained by the AEC and increasing confusion of electors - who often do not differentiate between state and Commonwealth jurisdictions.<sup>26</sup>

3.33 The Committee invited the Electoral Commissioners for Victoria and New South Wales to discuss the arrangements that had been put in place in their respective states.

3.34 The Victorian Electoral Commissioner, Mr Steve Tully, described the flexibilities provided to the VEC, stating that:

On 3 August 2010 the Victorian parliament passed legislation on a number of things, including the abolition of the three-month rule, provision for automatic enrolment of people on the Victorian Electoral Commission's initiative, provision for the enrolment and voting on election day and at pre-poll centres, and provision for electronically assisted voting in certain voting centres for an expanded franchise. This resulted primarily from the Victorian government parliamentary committee on electoral matters majority reports. That committee investigated concerns about falling participation rates. The package of reforms is integrally and intrinsically connected and, in short, means that every citizen over

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26 Australian Electoral Commission, Submission 87, p. 53.

the age of 18 in Victoria who attends a voting centre in Victoria has the ability to vote.<sup>27</sup>

- 3.35 When asked if there were differences between the Victorian model and that used by the NSWEC, Mr Tully told the Committee that:

Basically, the intention is the same. We will be looking to work with the Australian Electoral Commission on getting our state-only electors on the national roll and we will be working on processes that are as simple as possible to comply with...

...[We] know, from other data sources, where most people on the move are but we are all suffering from the syndrome of non-compliance to various letters by people who are on the move. Such people used to respond at rates of around 30 per cent but now respond at much lower rates – and the trend is continuing.<sup>28</sup>

- 3.36 In respect of those school leavers who had been automatically enrolled, Mr Tully explained that:

We wrote to them telling them that they were on the roll and they had 14 days to let us know if we had got it wrong. We received no correspondence that I can recall from anyone saying that we got it wrong, due to the safeguards that we had in the process.<sup>29</sup>

- 3.37 Mr Tully confirmed that roll divergence was a potential problem, despite the VEC working with the AEC to minimise its impact as much as possible.<sup>30</sup>

- 3.38 In a meeting with the NSWEC, the Committee learned that it was working closely with the AEC, to ensure that, where possible, the SmartRoll processes adopted in New South Wales also provided some benefit to the Commonwealth roll by ensuring that enrolment forms and declaration envelopes used to facilitate state enrolment were also compliant with Commonwealth enrolment legislation.<sup>31</sup>

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27 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 3.

28 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 3.

29 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 4.

30 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 5.

31 A number of matters were discussed in a meeting with representatives from the NSW Electoral Commission, 18 April 2011.

3.39 The AEC holds the view that something needs to be done to provide flexible approaches to enrolment and roll maintenance processes, not just to arrest the decline in participation, but also to move workloads out of the election period, wherever possible. The Electoral Commissioner stated that:

Our submission recommends that further enrolment measures, which we believe will not only lead to more long-lasting benefits to the accuracy, integrity and completeness of the electoral roll but also will assist in significantly shifting the timing of enrolment transactions away from the election periods, when workloads are at their most intense, to an earlier part of the overall electoral cycle. The implementation of online update, which the joint standing committee recommended, the government has now supported and parliament has passed, is a significant first step. But our view is that we now need to go further with our recommendation suggesting direct update of the electoral roll based on third party information as well as direct enrolment of new enrollees. We are also recommending that the joint standing committee give further consideration to the potential for online enrolment, moving away from the current paper process for new enrollees.<sup>32</sup>

3.40 The Committee rigorously discussed the flexibilities sought by the AEC during the hearing in Canberra on 4 March 2011. It became obvious during the hearing that there were opposing views held on the issue of direct enrolment. In justifying the AEC's support for direct enrolment, Mr Killesteyn explained that:

The AEC is not suggesting that direct enrolment is the panacea for the sorts of trends we are seeing in relation to non-enrolment. What we are simply suggesting is that direct enrolment is one part of a set of tools that we have, and should have, at our disposal to try to deal with that large number.

We do not think this will solve the problem. We think it is a range of measures, which includes our continuing processes – particularly around continuous roll update, mechanisms and strategies which we are about to unfold this year – to be closer to the point at which the person is changing their address with other agencies – and I can go into the detail of some of that if you like – that direct update using third party data – that is, when the person

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32 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 6.

is already on the roll we use third party data to change their address – and then, finally, direct enrolment. It is a whole suite of programs...<sup>33</sup>

- 3.41 The AEC noted that the New South Wales and Victorian Parliaments had also enacted legislation to enable electors to enrol on Election Day providing that they were able to produce evidence of identity at the time of casting a provisional vote.<sup>34</sup>
- 3.42 While data sharing for the purposes of direct enrolment and direct update of enrolment is not currently permitted, the AEC submitted that it currently uses data to enable it to send letters to electors as part of CRU processes.
- 3.43 The AEC has indicated that it would use the data received from some of its existing suppliers in any future roll maintenance model, also that it has had some preliminary discussions with the Australian Tax Office (ATO), which has indicated its willingness to message persons who notify ATO of address changes, that they should also contact the AEC to inform of the change of address.
- 3.44 The Committee wrote to the Electoral Commissioner requesting details of the discussions with ATO and seeking information about possible data sharing opportunities.
- 3.45 The AEC responded by letter confirming that discussions were in progress, advising that the ATO was intending to message clients who advised changes of address and providing a link to the AEC website.
- 3.46 The AEC noted, however, that under existing legislation governing the privacy of taxpayer information, the ATO would be prohibited from sharing name and address data with the AEC.<sup>35</sup>

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33 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 26.

34 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, pp. 26-27.

35 Letter from the Australian Electoral Commission to the Joint Standing Committee on Electoral Matters, dated 28 June 2011.

## Committee conclusion

- 3.47 It is evident to the Committee that there are serious implications for the electoral system if action is not taken to arrest the decline in enrolment. Opposition members believe that the AEC needs to urgently review the effectiveness of its current campaigns to inform people of their duty to add themselves to the Commonwealth electoral roll and to update their details when they change addresses.
- 3.48 The Committee notes that enrolment is compulsory, but also notes that despite compulsion, the trend of decline in enrolment participation has been evident since before the turn of the century.
- 3.49 The Committee considers roll completeness to be a critical component of roll integrity. It is clear that an incomplete electoral roll has the potential to diminish the Australian community's continued acceptance of the legitimacy of election results. Opposition members believe it is also important to ensure that the information on the electoral roll is correct, allowing those to vote whose details are incorrect would raise far more questions about the legitimacy of election results than a roll which is allegedly incomplete. Opposition members asserted that if the legitimacy of electoral results was to be seriously addressed, setting up a fraud division within the AEC with effective powers to prepare prosecutions would be the first step.
- 3.50 The Committee agrees with the Australian Electoral Commissioner, Mr Killesteyn, who told the Committee that:
- From my perspective as an administrator faced with the sorts of figures that we are now being confronted with for the lack of electoral participation, I not only have a duty as an administrator enforcing the act to enforce the obligation but I also have a duty to facilitate the entitlement. All of the processes we are putting out there for debate are both about enforcement and facilitation.<sup>36</sup>
- 3.51 The Committee reiterates the position it took when examining enrolment issues following the 2007 federal election. That is, 'the threshold issue facing Australia's democracy is to ensure that enrolment and roll update processes be made as accessible as possible in order to enable the

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36 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 26.

franchise, whilst not compromising the integrity of the electoral roll and subsequently the electoral system'.<sup>37</sup>

- 3.52 To this end the Committee draws attention to the recommendations made in its earlier report into the implications of the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009*, which are designed to provide some flexibility in the maintenance of the electoral roll.
- 3.53 While the Committee does not intend to restate the findings of that inquiry, it is satisfied from re-examining some of the matters considered then that urgent action needs to be taken to address the issue of declining enrolment and believes that the New South Wales and Victorian Parliaments have enacted appropriate legislation to help address this issue in their respective jurisdictions.
- 3.54 The majority of the Committee accepts that the Commonwealth should adopt a model that allows direct enrolment of electors on the basis of accurate and reliable data provided to the AEC, and the direct update of enrolment details based on that same data wherever required. However, Opposition members believe that the only data that should be truly relied upon is an individual elector's enrolment form when they join the roll or update their details. They felt that relying on any other information would dramatically reduce the integrity of the roll.
- 3.55 However, the Committee is not specifically recommending the adoption of the models presently utilised in New South Wales or Victoria. The Committee agrees with the Australian Electoral Commissioner that a model adopted at the Commonwealth level requires transparency regarding the data sources it utilises.<sup>38</sup>

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37 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Commonwealth of Australia, 2009, pp. 28-29.

38 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript 4, March 2011, p. 24.

### **Recommendation 1**

- 3.56 The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.

### **Recommendation 2**

- 3.57 The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow the Australian Electoral Commission (AEC) to directly update the enrolment details of electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.
- 3.58 The Committee notes the assistance being provided to the AEC by the ATO in notifying people who have advised the ATO of a change of address that they should also update their enrolment details. The Committee is also aware that cooperation beyond that is limited, as data sharing arrangements between the AEC and the ATO are not currently permissible.
- 3.59 The Committee believes that if the ATO were permitted to share enrolment relevant data with the AEC it would provide a genuine and lasting improvement to roll maintenance processes and roll integrity.



### **Recommendation 3**

- 3.60 The Committee recommends that relevant legislation governing the protection of personal data collected by the Australian Taxation Office (ATO), which would prevent the ATO from providing enrolment relevant data to the Australian Electoral Commission (AEC), be amended to allow such data to be shared with the AEC for the purposes of facilitating enrolment.
- 3.61 The Committee believes that enrolment at the time of voting provides an important safety net for a system which allows for direct enrolment and update. The Committee is satisfied that such an option should be available at the Commonwealth level, but believes that enrolment obtained in this manner should only be permitted for the address which appears on the evidence of identity document.

### **Recommendation 4**

- 3.62 The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to enable electors who provide satisfactory evidence of identity and address to a pre-poll issuing officer at a pre-poll voting centre or a declaration vote issuing officer at a polling place, to enrol for that address at the time of voting, by completing and signing an enrolment compliant declaration vote certificate into which their ballot papers are to be inserted.

### **Recommendation 5**

- 3.63 The Committee recommends that, should the Government accept Recommendation 4 above, the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to enable electors who enrol at the time of voting to be added to the electoral roll used for the election and to enable votes cast by those electors to be admitted to the scrutiny for that election.
- 3.64 The Committee also notes the decision of the Federal Court of Australia in *Getup Ltd v Electoral Commissioner* [2010] FCA 869, which was discussed briefly in Chapter 2.

- 3.65 The Committee believes that the use of electronic or digitally formed signatures should now be specifically provided for in the Commonwealth Electoral Act.

### Recommendation 6

- 3.66 **The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to specifically permit the use of electronic or digitally formed signatures for enrolment purposes.**

## Objections to enrolment

- 3.67 The matter of objecting to the enrolment of electors on the basis that the AEC believes a person does not reside at a particular address also has implications for the completeness of the electoral roll.
- 3.68 The Committee heard during this inquiry, and during the inquiry into the 2007 federal election, that the enrolment system is biased toward taking persons off the roll rather than facilitating the enrolment of electors.
- 3.69 The matter merits consideration because it impacts on the ability of electors to be reinstated to the electoral roll at elections, and contributes significantly to the number of votes which are disqualified from progressing into the scrutiny.
- 3.70 However, it is clear that amendments made by the then Government in 2004 to subsections 114(4) and 118(4)<sup>39</sup> and to Schedule 3 in 2006<sup>40</sup> of the Commonwealth Electoral Act, which specifically removed any discretion that existed for the AEC to make an informed decision about the enrolment of electors who no longer reside at the enrolled address has influenced the growth in the rejection rate of provisional and other declaration votes. These matters are discussed in some detail in Chapter 6.
- 3.71 The Committee deals with the matters particular to objections processes here (even though also related to reinstatements) on the basis that they are inherently a roll maintenance issue and rest comfortably in this chapter.

39 *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures Act) 2004*, items 51 and 55.

40 *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*, item 96.

- 3.72 Opposition members expressed a number of concerns with the recommendations in this chapter.
- 3.73 Firstly, Recommendations 1 and 2 regarding automatic enrolment, and the AEC's use of means other than an individual's enrolment form to initially enrol voters or update enrolment details. Coalition concerns were outlined in the Dissenting Report to the Committee's inquiry into the implications of the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW)* for the conduct of Commonwealth elections, and are further expanded upon in the Coalition Members' and Senators' Dissenting Report for this inquiry.
- 3.74 Opposition members of the Committee are also concerned that the AEC has made a recommendation that is by its nature highly politically contentious and that poses such a dramatic change to our enrolment and roll management processes. These concerns have been expressed at numerous hearings.
- 3.75 Opposition members believe that consideration should be given to legislation to provide the AEC with the power to investigate allegations of fraudulent voter behaviour. It is important that such investigations are not discarded due to lack of resources and the provision of a legislative duty to investigate by the AEC will ensure this does not eventuate.
- 3.76 Finally, Opposition members qualify their support for Recommendation 6 regarding the proposed acceptance of electronic signatures by the AEC. Coalition members believe that such signatures should only be accepted following the provision of photographic identification such as a driver licence or a passport.

## Committee conclusion

- 3.77 The Committee is of the view that changes made to the objections process by the then government in 2004, have prevented many electors who have been removed from the roll in error by the AEC, from subsequently being reinstated to the roll when they have cast a declaration vote for the same address from which they were removed, or for another address in the same electoral division.
- 3.78 In many such cases, the recommendations about direct enrolment and direct update of enrolment (Recommendations 1 and 2) made by the Committee earlier in this chapter have the potential to mitigate this particular situation to a degree, as they will allow the AEC to update the roll on the basis of information that it receives from other sources.

- 3.79 However, there will inevitably be a time delay between the release of this report and implementing the respective recommendations, should the Government accept and support them. Similarly, a significant proportion of the electors who have already been or will be removed from the roll because of the operation of the relevant subsections, will find no relief is available to them.
- 3.80 The Committee believes that there is no valid reason to remove the franchise from a person, who, despite not living at their enrolled address, still lives in the electoral division in which they are enrolled.
- 3.81 The Committee is also of the view that the requirement that the Electoral Commissioner 'must' object to the enrolment of a person for a Subdivision of a Division in the circumstances outlined above is not justified and that the Electoral Commissioner should be able to exercise discretion in such circumstances.
- 3.82 The Committee, therefore, makes the following recommendations aimed at ensuring that objection action, on the grounds of non-residence, are only made where appropriate. This is necessary to stop electors being removed from the roll in error.

### **Recommendation 7**

- 3.83 **The Committee recommends that Part IX of the *Commonwealth Electoral Act 1918* be amended to provide that an elector should not be removed from the electoral roll by objection on the grounds that they do not live at a particular address, and have not lived at the address for a period of at least one month, in situations where the Australian Electoral Commission is aware from information or data sources in its possession that the elector lives at a different address in the same electoral division.**

**Recommendation 8**

- 3.84 The Committee recommends that paragraphs 114 (4), 118 (4A), and any other relevant provisions of the *Commonwealth Electoral Act 1918*, be amended to provide the Australian Electoral Commissioner with a discretion not to object to the enrolment of an elector where the Electoral Commissioner is aware that the elector resides at a different address in the same electoral division.



## Polling and voting

- 4.1 At the 2010 election, some 14 086 869 electors were entitled to cast their votes in order to determine who would govern Australia.<sup>1</sup>
- 4.2 Some timing and environmental factors, which are discussed in other parts of this report, affected the ability of some voters to either cast a vote or, as discussed further in this chapter and in Chapter 7 on formality, to have their vote counted.
- 4.3 Irrespective of whether the votes were cast and counted, or cast and rejected, each person who attended a polling place, pre-poll voting centre, mobile polling location, Australian Electoral Commission (AEC) divisional office, or who lodged a postal or other declaration vote, did so in the knowledge that they were free to vote in the way that they chose, and that the election result would be based on the formal votes that were cast.
- 4.4 There is a special quality about elections that are conducted by independent, impartial and professional electoral bodies like the AEC, in accordance with electoral legislation that is inclusive and continues to meet the needs of the community as those needs change.
- 4.5 With this in mind, the Committee examined the events that unfolded at the 2010 federal election to determine where voting processes worked well, where problems were encountered, and sought solutions to voting and polling issues where improvements were needed.
- 4.6 There are a number of ways in which an elector may cast a vote at an election. These include:
- ordinary votes lodged at a polling place on polling day;

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1 Australian Electoral Commission, Submission 87, p. 22.

- pre-poll ordinary votes and pre-poll declaration votes lodged at a pre-poll voting centre (PPVC) or AEC divisional office;
- postal votes which require either that an elector be a registered general postal voter (GPV) where postal votes are automatically issued by the AEC for each election or referendum, or by lodging a postal vote application (PVA) with the AEC (including at overseas posts);
- absent votes, lodged as declaration votes at a polling place on polling day in an elector's home state or territory; and
- provisional votes, lodged as declaration votes at a polling place in the elector's home division in circumstances where their name does not appear on the roll, are marked as having already voted, or where their name appears on the roll but their address details are suppressed.

Table 4.1 Votes issued by type at the 2010 federal election

State/ territory	Ordinary <sup>45</sup>	Provisional	Absent	Pre-poll	Pre-poll ordinary	Postal	Total
NSW	3 371 133	70 073	255 132	132 338	336 302	252 354	4 417 332
VIC	2 464 192	49 986	204 176	107 093	299 400	288 567	3 413 414
QLD	1 921 800	38 046	168 355	108 671	182 147	216 219	2 635 238
WA	982 475	22 738	111 581	62 505	66 423	77 222	1 322 944
SA	826 093	13 130	71 003	20 380	41 179	82 973	1 054 758
TAS	274 767	4 037	16 952	4 654	16 464	24 937	341 811
ACT	172 181	3 581	3 773	12 843	36 939	10 839	240 156
NT	72 196	1 897	1 978	21 067	18 021	4 647	119 806
Overseas	0	0	0	64 832	0	9 252	74 084
Antarctic	0	0	0	43	0	0	43
<b>Total</b>	<b>10 084 837</b>	<b>203 488</b>	<b>832 950</b>	<b>534 426</b>	<b>996 875</b>	<b>967 010</b>	<b>13 619 586</b>

\*Note: Table shows provisional, absent, pre-poll declaration and postal votes *issued*; and ordinary and pre-poll ordinary votes *counted* (including informal votes) for the *Senate*.

Source Australian Electoral Commission, *Submission 87, Table 5.2, p. 75.*

4.7 Each of these types of votes and issues around polling are dealt with by the Committee in this chapter.



## Ordinary votes

- 4.8 Ordinary votes are issued to electors at a polling place, at mobile polling facilities, or at pre-poll voting centres in or for their home division. Voters have their names marked off the certified list of voters and they are issued ballot papers for the House of Representatives division in which they are enrolled and a Senate ballot paper for the state or territory in which their respective electoral division is located.
- 4.9 Ordinary voters cast their vote then deposit their ballot papers in ballot boxes before leaving the polling place.
- 4.10 At the 2010 federal election some 11 081 712 ordinary votes were cast in this fashion for the Senate<sup>2</sup> at 7 760 polling places and 531 pre-poll voting centres, which operated for up to three weeks prior to polling day.<sup>3</sup>
- 4.11 In respect of polling places and mobile polling teams, the Committee received few submissions which detailed serious problems, however, a number of minor issues were raised, such as:
- the viability of polling places that take a small number of votes;<sup>4</sup>
  - a proposal to lengthen polling time to 11 hours from the current 10 hours;<sup>5</sup>
  - why Norfolk Island electors must cast declaration votes for the division of Canberra, instead of ordinary votes;<sup>6</sup>
  - the viability of mobile polling locations,<sup>7</sup> and reviewing mobile polling schedules;<sup>8</sup>
  - suitability,<sup>9</sup> recruitment and training<sup>10</sup> and numbers<sup>11</sup> of polling place staff;
  - the font size required on How-to-Vote cards;<sup>12</sup> and

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2 AEC website, <http://results.aec.gov.au/15508/Website/SenateVotesCountedByState-15508.htm>, viewed 20 June 2011.

3 Australian Electoral Commission, Submission 87, p. 74.

4 Mr Russel Broadbent MP, Member for McMillan, Submission 9, p. 1; and Mr Rowan Ramsey MP, Member for Grey, Submission 32, p. 1.

5 Ms Lyndall Ryan, Submission 10, p. 1.

6 Mr Duncan Evans, Submission 83, p. 1.

7 Mr Rowan Ramsey MP, Member for Grey, Submission 32, p. 1.

8 Mr Warren Snowdon MP, Member for Lingiari, Submission 70, p. 1.

9 Liberal Party of Australia, Submission 94, p. 2.

10 Community and Public Sector Union, Submission 95, pp. 2-3.

11 Liberal Party of Australia, Submission 94, p. 2.

- queuing times at polling places.<sup>13</sup>
- 4.12 However, with the exception of the issues outlined above, it appears that ordinary voting at polling places proceeded well in most cases.
- 4.13 In respect of pre-poll ordinary voting, which was first undertaken at the 2010 federal election, there were two significant failings of process in the divisions of Boothby (SA) and Flynn (Qld) which saw nearly 4 300 votes excluded from the count.
- 4.14 The matters came to light shortly after polling day when the AEC became aware of the apparent premature opening of ballot boxes containing pre-poll ordinary votes at pre-poll voting centres at Oaklands Park in the division of Boothby and at Blackwater and Emerald in the division of Flynn.<sup>14</sup>
- 4.15 The AEC issued media releases declaring the seriousness of the matter.<sup>15</sup> On 2 September 2010, the AEC engaged the services of a former senior public servant and a former Electoral Commissioner, Mr Bill Gray AM, to undertake an urgent examination of the facts surrounding each incident and to report his findings, along with recommendations for future action to the Electoral Commissioner.<sup>16</sup>
- 4.16 Mr Gray provided his report on 22 September 2010, in which he concluded that there was no evidence of tampering with the affected ballot papers. Mr Gray made three recommendations. They were:
1. That the training materials and working manuals for the OIC [Officer in Charge] of a PPVC be reviewed with a view to highlighting the necessity to ensure that all procedures and practices are consistent with the requirements of the Electoral Act. In particular, the need to ensure the integrity of the ballot papers and ballot boxes should be given special prominence in training materials and in working manuals used at a PPVC.
  2. That a highly visible stick-on label be attached to each ballot box used in a PPVC at the time it is first sealed (perhaps

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12 Liberal Party of Australia, Submission 94, p. 5.

13 Mr Warren Snowdon MP, Member for Lingiari, Submission 70, p. 1; Mr Russel Broadbent MP, Member for McMillan, Submission 9, p. 1; and Mr Duncan Evans, Submission 83, p. 1.

14 Australian Electoral Commission, Submission 87, p. 110.

15 The statements of 31 August 2010 are available on the AEC's website, [http://www.aec.gov.au/About\\_AEC/Media\\_releases/e2010/index.htm](http://www.aec.gov.au/About_AEC/Media_releases/e2010/index.htm).

16 Australian Electoral Commission, Submission 87, p. 110.

adjacent to each side seal), that makes clear that the ballot box is not, on any account, to be opened.

3. That the record of ballot boxes and security seals form be routinely examined by divisional staff either when visiting a PPVC or by means of a fax or scanned copy in relation to PPVCs located in country regions. This practice should be included in the operating manuals for DROs and their staff.<sup>17</sup>

4.17 The AEC advised that the three person Electoral Commission met formally on 24 September 2010 and accepted all three recommendations in the Gray report, directing that action be taken to implement them.<sup>18</sup>

4.18 As discussed in Chapter 2, inquiry participants, while critical that the incidents had occurred, were of the view that the AEC took appropriate steps to ensure that the events were reported in a transparent manner and that prompt action was taken to investigate and address the causes. Opposition members believe it is important to ensure that events such as this continue to be thoroughly investigated in the future, particularly with the risk of votes being deliberately tampered with. As such, Opposition members believe it is necessary for a fraud division to be established within the AEC to investigate any such claims.

4.19 The AEC submitted that the Commonwealth Electoral Act and the *Referendum (Machinery Provisions) Act 1984* should be amended to specifically provide that a ballot box may not be opened before the close of polling other than in accordance with the provisions of the Commonwealth Electoral Act, and that a savings provision in the event of an official error be included.<sup>19</sup>

4.20 The AEC also noted the overall success of the move to issuing pre-poll ordinary votes, submitting that some 996 875 home division pre-poll votes were cast, representing 28.5 per cent of all early votes cast in the election.<sup>20</sup>

4.21 Issuing pre-poll votes as ordinary votes and counting them on polling night removes the need for the votes to be placed in envelopes and transported to the divisional offices. Further, it takes away the requirement for them to be put through time consuming preliminary scrutiny procedures, thus speeding up the count and allowing more resources to be devoted to other tasks.

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17 Australian Electoral Commission, Submission 87, p. 111.

18 Australian Electoral Commission, Submission 87, p. 111.

19 Australian Electoral Commission, Submission 87, p. 113.

20 Australian Electoral Commission, Submission 87, p. 77.

- 4.22 The AEC reported that including those home division pre-poll votes cast as ordinary votes, it counted more than 11 million votes on polling night, which is around one million more votes than were counted on polling night at the 2007 federal election.<sup>21</sup>
- 4.23 The Liberal Party of Australia welcomed the new pre-poll arrangements which allowed pre-poll votes cast in their home division to be counted on election night, submitting that:
- It is undoubtedly advantageous that a significant number of votes are able to be included in the results on the night. Our scrutineers confirmed that, on the whole, the count of pre-poll votes proceeded smoothly and without disruption to the count of ordinary votes.<sup>22</sup>
- 4.24 However, the AEC submitted that the practice of requiring electors to complete and sign a declaration when casting ordinary votes was an unnecessary step. It suggested that removing this requirement could potentially speed up the issuing process. The AEC also noted that written declarations are no longer required in a number of state and territory jurisdictions, with no issues of integrity having been reported.<sup>23</sup>
- 4.25 On a related note, the AEC asked the Committee to consider changing the timetable for the commencement of pre-poll voting, submitting that the logistical challenges encountered in preparing, proofing, printing and distributing in excess of 43 million ballot papers along with Senate group voting ticket booklets, printed by 11 contracted printing firms distributed across all states and territories, is becoming difficult to achieve. At the 1996 federal election, around 37.5 million ballot papers were printed.<sup>24</sup>
- 4.26 The AEC noted that just 24 hours is available after the deadline for the lodgement of group voting tickets before pre-poll voting can commence.

## Committee conclusion

- 4.27 The Committee notes that the 2010 election was the first at which pre-poll ordinary voting was available, and that despite the mishandling of votes in the divisions of Boothby and Flynn, pre-poll ordinary voting proceeded without incident in all other locations.

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21 Australian Electoral Commission, Submission 87, p. 11.

22 Liberal Party of Australia, Submission 94, p. 1.

23 Australian Electoral Commission, Submission 87, p. 79.

24 Australian Electoral Commission, Submission 87, p. 70.

- 4.28 The Committee also notes the actions undertaken by the AEC in dealing with the mishandling of votes. The Committee is satisfied that the AEC has acted appropriately and has taken action to implement the recommendations made in the Gray report.
- 4.29 The Committee, however, notes the criticism levelled at the AEC by inquiry participants and recognises the seriousness of the consequences for voters who would have otherwise had their votes counted.
- 4.30 The Committee shares the view of the AEC that the Commonwealth Electoral and Referendum Acts should be amended to specifically provide that a ballot box may not be opened before the close of polling other than in accordance with provisions in the Commonwealth Electoral Act. However, the Committee does not accept that a savings provision is necessary as the AEC must ensure that circumstances such as those that occurred in Boothby and Flynn do not reoccur.

### **Recommendation 9**

- 4.31 **The Committee recommends that the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to specifically provide that a ballot box containing votes cast by electors may not be opened before the close of polling other than in accordance with the relevant provisions of the Act.**
- 4.32 Notwithstanding the mishandling of votes, the Committee notes the obvious success of the move to issuing pre-poll ordinary votes, and is confident that there is no justifiable reason for retaining the written declaration for pre-poll votes issued as ordinary votes.

### **Recommendation 10**

- 4.33 **The Committee recommends that the requirement at section 200DH of the *Commonwealth Electoral Act 1918* for an applicant for a pre-poll ordinary vote to complete and sign a certificate be repealed.**
- 4.34 Opposition Committee members feel that section 200DH of the Commonwealth Electoral Act being repealed will increase the likelihood of voter fraud and threaten the integrity of the electoral roll. Providing a signature when placing a pre-poll vote is not an onerous responsibility for the elector and Opposition members believe there is not only no reason to repeal this section of the Commonwealth Electoral Act but doing so could lead to an increase in fraudulent voting. Opposition Committee members therefore reject Recommendation 10.
- 4.35 The Committee understands the complexities involved in preparing, printing and distributing ballot papers in the short window of opportunity that exists following the deadline for the lodgement of group voting tickets.
- 4.36 In respect of other issues relating to timing of events during the election period, the Committee makes recommendations about the timeframes for nominations in Chapter 9.
- 4.37 The Committee notes that if Recommendations 33 and 34 are taken up by the Government, the slight reduction in the nominations period will allow the AEC an extra day for the printing of ballot papers.
- 4.38 The Committee agrees, however, that an application for a pre-poll vote should not be made prior to the Monday, 19 days before polling day.

### **Recommendation 11**

- 4.39 **The Committee recommends that section 200D of the *Commonwealth Electoral Act 1918* be amended to provide that an application for a pre-poll vote cannot be made before the Monday, 19 days before polling day.**

## Pre-poll declaration votes

4.40 Just over 1.5 million pre-poll votes were cast at the 2010 federal election, representing an increase of 37.9 per cent of the 1 110 334 pre-poll votes cast in 2007. Pre-poll voting commenced on Monday 2 August 2010.<sup>25</sup>

4.41 The AEC advised that 531 pre-poll voting centres operated at the 2010 federal election; an increase of 102 from the 2007 election.<sup>26</sup> It noted that the increase reflected voter demand and was consistent with recommendations contained in the Committee's report on the conduct of the 2004 federal election, and with comments made in the report on the 2007 federal election.<sup>27</sup>

4.42 The AEC's State Manager for Queensland, Ms Anne Bright, noted that an increased number of PPVCs were provided in Queensland, but that there were some issues arising from a winter election:

Due to the timing of the election, in winter, there was a marked increase in the number of electors travelling across Queensland and, I would say, the neighbouring states and territory too...

As a result of the number of fellow Australians travelling across Queensland, there was evidence of queues in particular polling places and also some ballot paper shortage issues that arose in various locations.<sup>28</sup>

4.43 As the 2010 federal election was the first winter election since 1987, the AEC had to provide polling venues in places that had not been serviced for some considerable number of years. Ms Jenni McMullan, AEC State Manager for Victoria, explained:

A winter election meant that there were a lot of people holidaying in the snow and we needed to work out the best way to provide a service to those electors...

As a consequence, we established additional pre-poll voting centres in the towns around the base of the mountains and undertook an extensive advertising campaign through local

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25 Australian Electoral Commission, Submission 87, p. 77.

26 Australian Electoral Commission, Submission 87, p. 77.

27 Australian Electoral Commission, Submission 87, p. 77.

28 Ms Anne Bright, State Manager for Queensland, Australian Electoral Commission, Transcript, 4 March 2011, p. 43.

media, flyers at tourism outlets and visual messaging signs along the highways.<sup>29</sup>

- 4.44 In Western Australia, the AEC took some steps to try and address issues which arise because of the number of fly-in fly-out workers who require pre-poll facilities. The AEC State Manager for Western Australia, Mr Peter Kramer, informed the Committee that:

In 2010, in addition to what we had done before, we included the operation of pre-poll voting centres from six sites for a two-week period leading up to the election day in the domestic and general aviation terminals...

We took a bit over 9,000 votes at the airport polling stations. Given the total size of that workforce we were fairly pleased with that.<sup>30</sup>

- 4.45 Not all inquiry participants supported the increase in pre-poll availability, with some questioning the rationale behind the establishment of some PPVCs and the number of pre-poll votes issued.<sup>31</sup>
- 4.46 The Nationals submitted that the rise in early voting was cause for concern and called on the Committee to examine the trend to early voting and the application and relevance of the provisions of the Commonwealth Electoral Act.<sup>32</sup>
- 4.47 Others noted the inconvenience caused by the increased numbers of travellers and interstate visitors especially in rural and remote centres. The Hon Warren Snowdon MP submitted that:

The large number of tourists voting pre-poll resulted in long queues and wait times at the pre-poll booths and exacerbated the difficulty experienced by the AEC in recruiting sufficient staff for the booths.<sup>33</sup>

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29 Ms Jenni McMullan, State Manager for Victoria, Australian Electoral Commission, Transcript, 30 March 2011, p. 16.

30 Mr Peter Kramer, State Manager for Western Australia, Australian Electoral Commission, Transcript, 30 March 2011, p. 19.

31 Dr. Mal Washer MP, Submission 7; and Mr Russell Broadbent MP, Submission 9.

32 The Nationals, Submission 93, p. 4

33 The Hon Warren Snowdon MP, Submission 70, p. 2.



## Committee conclusion

- 4.48 The Committee notes that the AEC has provided additional pre-poll voting centres in response to recommendations made by the Committee in the past and that attempts are being made to address comments made in previous reports.
- 4.49 The Committee is satisfied that the AEC is taking appropriate actions to address the issues arising out of previous inquiries.
- 4.50 The Committee notes that some inquiry participants were concerned about the increase in early voting and the provision of more PPVCs by the AEC in response to the demand.
- 4.51 However, the Committee is of the view that the electoral system must be adjusted to respond to the changing expectations of the community. One example of these changes, to which the AEC is responding appropriately, is the growing number of fly-in fly-out workers, both in Western Australia and in Queensland. It is appropriate that such workers be afforded an opportunity to participate in elections and the Committee supports moves by the AEC to do so.
- 4.52 However, the Committee also notes the delays to voters, especially those in rural and remote areas, where PPVCs encountered increased demand as a result of the election being conducted in winter.
- 4.53 The Committee takes some comfort that the AEC now has a new winter election benchmark to take into account in its future planning, as indicated in the evidence presented by the AEC State Manager for Queensland, Ms Bright, who advised that:
- I think the winter election in 2010 now gives us a more accurate benchmark as to the likely numbers of people that may be travelling right across Northern Queensland in fact.<sup>34</sup>
- 4.54 The Committee will continue to monitor the uptake of early voting into the future, with a view to assessing any effects on the efficient conduct of elections.

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34 Ms Anne Bright, State Manager for Queensland, Australian Electoral Commission, Transcript, 4 March 2011, p. 49.

## Postal voting

- 4.55 Postal voting continues to increase at every election. The AEC submitted that it issued 133 832 more postal votes in 2010 than it did in 2007.<sup>35</sup>
- 4.56 The AEC advised that it received 821 836 postal vote applications, in addition to the 209 426 General Postal Voters (GPVs) registered, totalling 1 031 262 applications in all.<sup>36</sup> It issued 957 322 postal voting packs (PVPs) from within Australia, with another 9 252 PVPs issued at overseas posts.<sup>37</sup>
- 4.57 Postal voting continues to be an integral element of the democratic process, and is one aspect of election processes that has been successfully modernised over the past decade, reducing workloads in divisional offices, despite its increased usage. Opposition members maintain that much of the success of this system is because political parties process a number of postal vote applications prior to handing them to the AEC, and argue that any change to the legislation which would stop political parties from doing this would significantly increase the AEC's workload.
- 4.58 The AEC utilises an automated process for the production and despatch of postal voting packs, each containing a postal vote certificate (PVC) envelope, ballot papers and postal voting instructions to electors. This process, known as the automated postal vote issuing system (APVIS), was first used at the 1999 referendum and has become a permanent and accepted feature of election processing.
- 4.59 The Committee examined the operation of APVIS following the 2004 federal election at which a number of postal vote issuing irregularities occurred.<sup>38</sup> However, since then APVIS has performed to a high standard, with the AEC placing an increased focus on the system and its performance.

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35 Calculated by subtracting PVCs issued in 2007 from those issued in 2010, Australian Electoral Commission, Submission 87, p. 82.

36 Australian Electoral Commission, Submission 87, p. 80.

37 Australian Electoral Commission, Submission 87, p. 80.

38 For a full discussion of the 2004 APVIS issues, see Joint Standing Committee on Electoral Matters, *Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, September 2005, Commonwealth Parliament of Australia, available at <http://www.aph.gov.au/house/committee/em/elect04/report.htm>.

4.60 Despite the continued and successful use of APVIS, the Commonwealth Electoral Act does not expressly provide that it may be used. The AEC has submitted that it should do so, and explained that:

As outlined in previous submissions to JSCEM, since the 1999 Referendum the AEC has been using APVIS to facilitate the centralised issue of postal votes. Enhancements to this system over the years have led to increasing level of automation required to issue large numbers of PVPs over a tight timeframe. The recent amendment to the Electoral Act that provides for online PVAs will most likely increase the level of automation including automated matching against the electoral roll. Accordingly, the current provisions of the Electoral Act should be amended to reflect both manual and automated issue of postal votes.<sup>39</sup>

4.61 The AEC noted that few problems were encountered with processing postal vote applications by contractors in 2010. However, it was aware of some instances where lodgement of PVPs with Australia Post was delayed.

4.62 The AEC indicated that it views any delays in the issuing of postal vote certificates to electors with concern, and advised the Committee that it has reviewed the performance with the contractor and has agreed improved processes for the future.<sup>40</sup>

4.63 The AEC again submitted to the Committee that it was aware of delays in the return to it of PVAs sent to political parties by electors in response to political party mail-outs and supplied Table 4.2 below to illustrate its concerns.

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39 Australian Electoral Commission, Submission 87, pp. 82-83.

40 Australian Electoral Commission, Submission 87, p. 82.

Table 4.2 Period between witness signature date and receipt of postal vote applications

Date PVA signed	AEC PVAs	Labor PVAs	National PVAs	Liberal PVAs	Other PVAs
Same Day	15 013	792	24	607	212
1 day later	36 619	6 094	299	9 222	228
2 days later	33 215	9 572	594	13 896	237
3 days later	28 152	10 268	639	13 664	334
4 days later	22 955	10 793	773	13 433	305
5 days later	14 581	9 529	758	10 962	270
6 days later	9 214	7 478	638	8 987	257
7 days later	5 884	5 883	610	6 942	219
8 days later	3 391	4 258	417	4 309	92
9 days later	2 020	2 842	287	2 964	57
10 days later	1 616	2 508	315	2 636	67
11 days later	1 399	2 371	281	2 429	39
12 days later	1 120	2 109	350	2 360	18
13 days later	947	1 914	314	2 304	15
14 days later	3 996	6 315	392	5 016	50
Total	180 122	82 726	6 691	99 731	2 400

Source Australian Electoral Commission, Submission 87, Table 5.6., p. 84.

4.64 Inquiry participants appear to be divided on the issue of political party involvement in the postal voting process. Some, like The Nationals, argued that political parties should not be removed from the postal voting processes, and were opposed to the proposal to require PVAs to be returned directly to the AEC.<sup>41</sup>

4.65 The Liberal Party of Australia also opposed any changes which would limit political party participation in postal voting. It submitted that:

The present system for the handling of postal vote applications - including the opportunity for parties to process applications returned to them - has worked well for many years and no significant problems have been identified. The Liberal Party is

41 The Nationals, Submission 93, p. 6.

therefore strongly opposed to any change to the current arrangements.<sup>42</sup>

4.66 In contrast, the Labor Party proposed that the Committee recommend banning political parties from reproducing and distributing PVAs and making the AEC the sole entity responsible for these functions.<sup>43</sup>

4.67 The Committee explored the issue during public hearings, in an attempt to find a solution that would be acceptable to all involved in elections. The AEC indicated that it was seeking to address the problems in a way that did not disadvantage political parties. The Electoral Commissioner stated that:

Our concern is the potential for a delay between the sending of the postal vote application back to the political party, who then do whatever they need to do with it, and then the forwarding of it on to us. We need to get the postal vote pack out to the individual very quickly. We believe the way to do that is to have the postal vote application remitted directly back to us, where we can process the postal vote application and send out the certificates, but still look for a way to provide you with information about who was responding and so forth.<sup>44</sup>

4.68 Timeliness of receipt for PVAs was also addressed by the AEC in the context of the cut-off timeframes for PVAs received in Australia for both domestic and overseas despatch. The AEC submitted that:

Under current arrangements, an application for a postal vote may be made up until 6 pm on the Thursday before polling day. Statistics for the 2010 federal election show that PVPs sent in response to PVAs received on the Thursday before polling have a limited chance of being received by the voter in time for them to complete and return them to the AEC, whereas a far higher percentage of those issued in the 24 hour period prior to that are received back in time to be admitted to the count. The AEC is concerned that by having a deadline so close to polling day electors may be misled into thinking that they will receive their ballot papers in time to complete and return them before the close of polling, when the reality it is that in many cases they will not.<sup>45</sup>

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42 Liberal Party of Australia, Submission 94, p. 3.

43 Australian Labor Party, Submission 55, p. 3.

44 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 25 May 2011, p. 16.

45 Australian Electoral Commission, Submission 87, p. 80.

- 4.69 The AEC proposed that the cut-off for domestic issuing purposes should be 6 pm on the Wednesday prior to polling day, consistent with that provided for in New South Wales. For those being posted overseas, the cut-off for a receipt of a PVA should be 6 pm on the Monday prior to polling day. The latter also being consistent with New South Wales provisions.
- 4.70 Opposition Committee members note the Australian Electoral Commission's submission advises that approximately two thirds of electors, over 550,000 people, sent their postal vote application back to a political party. Electors choose this option in the full knowledge they will receive a How-to-Vote card from their chosen political party and the recommendation that all PVAs are now returned only to the AEC contravene the right of an elector to receive voting information. For this reason the Opposition does not support recommendation 13 and believes that voters should continue to have the choice as to where they return their PVA.
- 4.71 Opposition Committee members believe the AEC is seeking unnecessary restrictions on postal voters. The Opposition members note that the AEC has gone to great lengths to assist blind and vision impaired people vote, which is to be applauded, but their recommendation to deny electors the right to send their PVA to their chosen candidate goes against this. It is disappointing to see that once again the AEC's recommendation mirrors the position of the Australian Labor Party. Opposition members strongly believe it is not within the purview of the AEC to recommend changes of this nature, but simply to provide information about the process.
- 4.72 Opposition members feel that moving the day for postal vote applications to be received from 6 pm Thursday before polling day to 6 pm Wednesday before polling day will disadvantage postal voters by giving them less time to send in their application. Postal voters are well aware that there can be a delay in processing forms and leaving it late could mean they don't receive their ballot papers on time. However, it is better to focus on the efficiency of the AEC in processing these forms rather than giving electors less time to send in their application. The task of the AEC is to serve voters, not to make their own job easier.
- 4.73 Opposition members feel that the AEC should conduct a study about the effectiveness of the cut-off dates used at the March 2011 NSW Election, which is being proposed for federal elections. It is important to determine whether these dates affected the number of postal vote applicants and whether the cut-off dates resulted in postal voters missing out on their chance to vote. These members feel that the Committee should consider

the findings of any such study before implementing the NSW system at a federal level.

## Committee conclusion

- 4.74 The Committee believes that postal voting is a fundamental aspect of the electoral system in Australia and that it services the needs of many in the community who, for a variety of reasons, are unable to attend a polling place or pre-poll voting centre. Like all voters, Opposition members believe that postal voters have the same right to a secret ballot as do ordinary or pre-poll voters. Opposition members also note that tens of thousands of electors send postal vote applications to their chosen political party knowing that they will receive information about how to vote for that political party prior to Election Day. These members believe that tampering with this system will ensure that voters do not receive adequate voting information.
- 4.75 The Committee notes that postal voting again increased at the 2010 federal election, moving closer toward one million PVPs being issued.
- 4.76 The APVIS, used by the AEC to automate the issue of PVPs has been of significant benefit to the community and to the electoral process, notwithstanding that some minor problems have been experienced as a result of its implementation by the AEC.
- 4.77 The Committee agrees with the AEC that the use of the APVIS should be specifically provided for in legislation and makes the following recommendation to remove any doubt about its use.

## Recommendation 12

- 4.78 **The Committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to specifically allow for the automated issuing of postal votes by the Australian Electoral Commission.**
- 4.79 The Committee further believes that political parties have a right to be involved in postal voting, not least because it provides an opportunity for them to communicate with the electorate, and to provide their campaign material to electors much in the same way as when they hand out how to vote material at polling places and PPVCs. This freedom to communicate with electors is also one of the fundamental aspects of the election process in Australia.

- 4.80 However, the Committee is of the view that the delays associated with PVAs that are returned directly to political parties before being passed on to the AEC are not being reduced to the extent necessary to ensure that all electors receive their postal voting material in the most timely manner.
- 4.81 These delays must be reduced. The Committee has sought to identify a solution to the problem of delays, which does not disadvantage electors or political parties but provides for a more timely issue of PVPs.
- 4.82 The majority of the Committee is satisfied that amending the Commonwealth Electoral Act to require PVAs to be returned directly to the AEC should be made. In addition, amendments should be made to retain the ability for political parties to address campaign material to postal voters in a timely fashion, but in a way that provides a level playing field to all political parties, and does so in a transparent manner. However, the Opposition members believe that this would come at the expense of the postal voter's right to have a secret ballot and denies the right of the voter to choose to communicate solely with the candidate of their choice.

### **Recommendation 13**

- 4.83 **The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide specifically that completed postal vote application forms must be returned directly to the Australian Electoral Commission for processing.**



## Recommendation 14

4.84 The Committee recommends that, should the Government accept Recommendation 13 above, that the *Commonwealth Electoral Act 1918* be amended to require the Australian Electoral Commission (AEC) to provide particular information contained on postal vote applications processed by the AEC:

- political parties who have endorsed candidates for the Senate for the state or territory, or candidates for the House of Representatives division in which the applicant for a postal vote claims to be enrolled; and
- candidates for election to the Senate for the state or territory, or candidates for the House of Representatives division in which the applicant for a postal vote claims to be enrolled.

The information provided must:

- be made securely available to eligible parties and candidates;
- be protected by appropriate safeguards;
- contain only the surname, given names, date of birth, claimed enrolled address and claimed enrolled division of the applicant, and, if provided by the applicant, the address to which the postal vote is to be delivered; and
- must not include any information that is subject to broader restrictions on release of information currently provided for in the *Commonwealth Electoral Act 1918*.

- 4.85 The majority of the Committee believes that the above recommendation is an appropriate solution to the problem and notes that it can now be done partly as a result of the use of APVIS, but also due to PVA modernisation measures recommended by the Committee following the 2007 federal election that have now taken effect.<sup>46</sup> Opposition members oppose this recommendation because it ignores the elector's right to a secret ballot if they choose to apply for a postal vote because their details will be made available to parties the elector does not wish to have them. The Australian Greens believe that while the Committee has acknowledged the problems associated with political parties sending postal vote forms to constituents the recommendations do not go far enough in resolving these problems. The Australian Greens support the recommendations to ensure forms are sent straight to the AEC rather than being routed through party offices, but want to see a halt to party-political material being attached to postal vote forms at all.
- 4.86 The Committee agrees with the AEC that the Thursday prior to polling day does not provide sufficient time for PVAs to be processed with the resulting PVPs being received with sufficient regularity to enable the electors to cast votes prior to polling day.
- 4.87 The Committee also agrees with the AEC regarding the cut-off time for PVAs received in Australia that require PVPs to be mailed overseas. However, the Committee notes that the AEC can fax or email such PVAs to overseas posts, where postage times may be sufficient for the despatch of PVPs to electors.

### Recommendation 15

- 4.88 **The Committee recommends that subsection 184(5), and any other relevant provisions, of the *Commonwealth Electoral Act 1918* be amended to provide that the deadline for the receipt of postal vote applications be 6 pm on the Wednesday, three days before polling day.**

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<sup>46</sup> These measures were contained in *The Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010*.

### Recommendation 16

4.89 The Committee recommends that section 184, and any other relevant provisions, of the *Commonwealth Electoral Act 1918* be amended to provide that the cut-off for postal vote applications received in Australia for addresses outside Australia be 6 pm on the Monday, five days before polling day.

### Recommendation 17

4.90 The Committee recommends that the Australian Electoral Commission send postal vote applications received in Australia after the cut-off, for addresses outside Australia, by facsimile, email or by other electronic means, to the most appropriate overseas post for processing, in order that, wherever possible, a postal voting pack may be sent to the applicant in sufficient time for the elector to cast a vote prior to polling day.

## Absent voting

- 4.91 Absent voting continues to be a service utilised by many voters, although there is no evidence to indicate that it is increasing at the same rate as forms of early voting, including pre-poll and postal voting.
- 4.92 The AEC's virtual tally room indicates 832 950 absent votes were issued,<sup>47</sup> and 759 452 absent votes were counted.<sup>48</sup> This compares favourably with the trend over recent elections.
- 4.93 With the exception of matters already canvassed regarding waiting times in the Northern Territory and queues at some polling places, which may or may not have been attributable to absent voting, there was little comment made to the Committee regarding absent voting by inquiry participants.

47 AEC website, <http://results.aec.gov.au/15508/Website/GeneralDecVotesIssuedByState-15508.htm>, viewed 21 June 2011.

48 AEC website, <http://results.aec.gov.au/15508/Website/SenateVotesCountedByState-15508.htm>, viewed 21 June 2011.

4.94 The AEC, however, submitted that there were efficiencies to be gained if it was permitted to issue both absent and pre-poll ordinary votes. It stated that:

The AEC is of the view that the Electoral Act should allow for the issuing of all pre-poll and absent votes as ordinary votes. The opportunity to do this exists through leveraging recently passed legislation that enables the use of electronic certified lists. Rather than just containing divisional certified list information, electronic certified lists could be loaded with national or state certified list data. This would facilitate the issuing of a greater range of declaration votes as ordinary votes.<sup>49</sup>

4.95 The Committee sought further information from the AEC and discussed the proposal in some detail during the hearing on 4 March 2011. The Electoral Commissioner indicated that they anticipate growth in declaration voting and had started to explore measures to limit the number of votes in declaration envelopes.<sup>50</sup>

4.96 Under the AEC's proposal, the elector would be marked off an electronic certified list and cast their vote. Their ballot paper would still go in an envelope for transportation to the relevant division, but would be treated as an absent ordinary rather than a declaration vote.

4.97 The use of an electronic list, which could be updated when the voter attends a polling place, would go some way to addressing concerns about possible multiple voting.

4.98 The AEC has proposed a trial at the next election of absentee votes as ordinaries. There were, however, concern was expressed that any attempt to change voting processes should occur at all polling venues, not just some.<sup>51</sup>

4.99 However, the Electoral Commissioner explained that the use of technology at every polling place to electronically mark the certified list has its practical limitations, stating that:

There is no doubt that we could have an electronic certified list in every single polling station around Australia. There is no doubt, with the technology that is available, that that could be linked back to a central database and the electoral roll updated almost instantly as people's names are marked off the

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49 Australian Electoral Commission, Submission 87, p. 109.

50 Mr Ed Killesteyn, Australian Electoral Commissioner, Transcript, 4 March 2011, p. 10.

51 Senator Scott Ryan, Transcript, 4 March 2011, p. 12.

roll. Technically, it is possible. The cost would be rather large, however. It would be an extreme cost that I am not sure the government would be willing to invest in.<sup>52</sup>

## Committee conclusion

- 4.100 The Committee notes that the use of electronic certified lists is now permitted as a result of recent changes to the Commonwealth Electoral Act arising out of recommendations made by the Committee following its inquiry into the 2007 federal election.
- 4.101 However, the Committee remains concerned to ensure that the pace of change to election processes is one that can be managed by all election participants. Equity is one of the fundamental principles of Australian's electoral system.
- 4.102 Another concern to the Committee is whether the AEC is able to adequately prepare for the logistical arrangements that would be necessary at the next election, should such a move be permitted.
- 4.103 If absent votes were to be treated as ordinary votes, the AEC would be required to move all absent and pre-poll ballot papers issued as ordinary votes in all polling places and pre-poll centres across a state or territory, to the respective home divisions in such a short space of time as is required to ensure that the result is delivered much quicker than is provided for under the current arrangements.
- 4.104 The Committee notes that the AEC already moves large volumes of votes through the declaration vote exchange processes that it currently has in place. However, there are checks and balances in that process, including the retention of counterfoils in issuing divisions, that can be relied upon should some unforeseen event occur to prevent the vote reaching its destination.
- 4.105 The Committee is of the view that the efficiencies that could be gained by such a move justifies conducting a limited trial that can be properly evaluated by the Committee following the next election.
- 4.106 Whilst the Committee recognises that such a trial may not dispel the concerns regarding equity, it is also mindful that a limited trial will help in bedding down some of the various issues and processes that must be worked through in the minds of Committee members before a more permanent change to the Commonwealth Electoral Act is recommended.

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52 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, pp. 10-11.

### **Recommendation 18**

- 4.107 **The Committee recommends that section 222 of the *Commonwealth Electoral Act 1918*, and any other relevant provisions, be amended to enable the Australian Electoral Commission (AEC) to undertake a trial at the next election during which absent votes may be issued as ordinary votes in selected polling places where electronic certified lists containing state or territory certified list data are deployed.**
- **Votes issued in this manner must be placed in envelopes designed for the purpose of the trial and are to be forwarded to the Divisional Returning Officers for the divisions for which the vote is issued as soon as practicable following the close of polling.**
  - **When received by the Divisional Returning Officer for the enrolled division, the votes must be removed from the envelopes in accordance with the processes established for the trial and treated and counted as ordinary votes.**
  - **The AEC must keep adequate records of the trial for the purposes of evaluation by the Joint Standing Committee on Electoral Matters following the next federal election.**

### **Recommendation 19**

- 4.108 **The Committee recommends that Part XVA of the *Commonwealth Electoral Act 1918* be amended to specifically allow electronic certified lists to be used as a basis for issuing pre-poll votes as ordinary votes.**
- 4.109 Opposition members feel that this recommendation should be altered to change 'certified lists' to 'copies of the electoral roll'. These members believe that marking off pre-poll votes from an electronic copy of the electoral roll is a good idea to help reduce voter fraud and efficiently process electors, however, using certified data from sources other than the electoral roll dramatically reduces the integrity of the roll and thus it is important to make it clear that only information from the electoral roll is being used. It is the view of Opposition members that Recommendation 19 should therefore read:

The Committee recommends that Part XVA of the Commonwealth Electoral Act 1918 be amended to specifically allow electronic copies of the electoral roll to be used as a basis for issuing pre-poll votes as ordinary votes.

## Voting for blind and low vision electors

- 4.110 An important part of the AEC's role in administering the conduct of elections is to maximise the opportunities for eligible electors to exercise their voting franchise, while maintaining integrity in the electoral system.
- 4.111 At the 2010 federal election electors who are blind or have low vision had the choice of being assisted in casting in their vote by a person of their choice or a polling official at a polling place, postal voting or telephone voting through a call centre.
- 4.112 The new telephone voting system was utilised by 410 electors, who were blind or had low vision, during the polling period for the 2010 federal election.<sup>53</sup> It was at a cost of \$205 917, equating to approximately \$502 per vote.<sup>54</sup>
- 4.113 Telephone voting involved the elector attending a specified location and having their name marked off the electoral roll. They would then be taken to a private area, where a call would be put through to an official at an AEC call centre.
- 4.114 The call centre operator reads the candidate options and the elector gives instructions on how they want their ballot paper to be marked. This transaction is listened to by a second call centre operator to ensure that the preferences were marked according to the voter's instructions. The identity of the voter is not revealed to the call centre worker, thus providing the voter with some independence and a degree of anonymity.
- 4.115 However, organisations representing blind and low vision persons did indicate that they had received some negative feedback from their memberships about the telephone voting system. They brought to the Committee's attention certain incidents and concerns expressed by blind and low vision voters who utilised the service to vote in the 2010 federal election.

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53 Australian Electoral Commission, Submission 87, Annex 6, table A6.1, p. 189.

54 Australian Electoral Commission, Submission 87, p. 89.

4.116 Concerns expressed by Blind Citizens Australia members about telephone voting at the 2010 federal election included:

- the length of time taken to cast votes by telephone;
- privacy when voting, for example in cases where the booth had a curtained or concertina door and the voter was concerned that they could be overheard by others in the vicinity;
- the locations at which telephone voting was available may not have been readily accessible by public transport;
- the accessibility of How-to-Vote information in formats accessible by people who are blind and low vision; and
- limited options for persons with dual sensory (vision and hearing) loss.<sup>55</sup>

4.117 Blind Citizens Australia also noted the short time between the call of the election and the late legislative amendments to permit other methods of voting, namely to provide for the telephone voting option. This meant that voters were not made aware of the telephone voting option at the outset and so many may already have applied for postal vote applications and were not aware that they could still choose to utilise the telephone voting option.<sup>56</sup>

4.118 The Committee also notes Vision Australia's advice about problems experienced by electors who are blind or have low vision, including that:

- there were two incidents of voters' names being inadvertently given to the call centre operators;
- the NSW based contact centre was not properly set up by the first day it was due to be operational for pre-polling, which led to a voter who attended a polling place in Enfield being marked off the roll at 9 am, but was unable cast his vote until mid-afternoon, after twice returning to the polling place;
- some pre-paid mobile phones supplied to polling officials to be used for voters to talk with the contact centre operator ran out of credit; and
- routing problems occurred with the 1800 number used by the polling officials to link the voter with the contact centre.<sup>57</sup>

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55 Blind Citizens Australia, Submission 56, pp. 5-9.

56 Blind Citizens Australia, Submission 56, pp. 5-6.

57 Vision Australia, Submission 69, p. 4.



4.119 These incidents aside, generally the feedback about the telephone voting system at the 2010 federal election was positive, with many voters finding it to be a 'satisfactory way to cast a secret, independent and verifiable vote'.<sup>58</sup> Blind Citizens Australia submitted that:

Many described the system as 'easy', 'stress free', 'simple and pleasant' and stated that AEC officials were helpful and friendly. First time users of electronic assisted voting were particularly grateful for the availability of an accessible voting system...<sup>59</sup>

4.120 In its submission, Blind Citizens Australia quoted feedback from one of its members in regional Victoria, who stated:

The centre is on the other side of town so it took me over an hour by bus to get there, but it was definitely worth it. The system is extremely easy to use. It's certainly not as good as the computer system which was in place in the last federal election, and which will also be available in the upcoming Victorian election on November 27, but it is a far better option than what was available to us before, ie, going into a polling centre and having someone else fill out a ballot paper for you.<sup>60</sup>

4.121 When compared to most previous federal elections, telephone voting was a good additional option for electors who are blind or have low vision. However, some submitters felt that the 2010 telephone voting option fell short of the electronic assisted voting method trialled at the 2007 federal election.

4.122 The Royal Society for the Blind of South Australia, Blind Citizens Australia and Vision Australia all expressed a preference for the electronic assisted voting system trialled at the 2007 federal election over the more limited telephone voting option in 2010.

4.123 The trial of electronic voting at the 2007 federal election involved electronically assisted voting for blind and low vision electors, and remote electronic voting for selected Australian Defence Force personnel serving overseas. The electronically assisted voting component of the trial for blind and low vision electors was at a cost of \$2.2 million, or \$2 597 per

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58 Blind Citizens Australia, Submission 56, p. 4.

59 Blind Citizens Australia, Submission 56, p. 4.

60 Blind Citizens Australia, Submission 56, p. 5.

vote. This was in sharp contrast to the average cost for standard voting in the 2007 federal election at \$8.36 per elector.<sup>61</sup>

- 4.124 The previous Committee, regrettably, could not support the continuation of the form of electronic voting trialled due to the considerable cost.
- 4.125 Electronic voting options clearly held considerable appeal for electors who require assistance when voting. A number of submitters brought the NSW iVote system to the Committee's attention.
- 4.126 The iVote system is a remote electronic voting option that allows eligible electors to vote by telephone or the internet. This system was in place at the NSW state election in March 2011.
- 4.127 While the impetus for the NSW iVote system was to allow blind and low vision electors to vote independently, the legislation to permit its use extended eligible electors for this option to include electors who are illiterate, or have other disabilities, live more than 20 km from a polling place, or will be interstate or overseas on election day.<sup>62</sup>
- 4.128 The Royal Society for the Blind of South Australia supports extending the use of electronic voting options to groups other than exclusively to electors who are blind or have low vision, stating that:
- To be viable in the longer term, any system that comes about needs to be not too expensive yet still address the issues or the difficulties blind people have.<sup>63</sup>
- 4.129 The Committee notes that key features of the iVote system include:
- eligible voters are provided with a iVote number and a PIN;
  - voters have a 12 hour period to complete their vote;
  - the web based option allows voters to navigate the voting application using the assistive technology, screen magnification, synthetic speech screenreader, or refreshable Braille display, that they have at home or work and are familiar with;
  - voters can review their ballot papers before submitting; and

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61 Joint Standing Committee on Electoral Matters, *Report on the 2007 federal election electronic voting trials: Interim report of the inquiry into the conduct of the 2007 election and matters related thereto*, March 2009, Commonwealth Parliament of Australia, p. 50.

62 NSW Electoral Commission website, <http://www.elections.nsw.gov.au/voting/ivote>, viewed 6 April 2011.

63 Ms Katherine Johnson, Royal Society for the Blind of South Australia, Transcript, 30 March 2011, p. 53.

- voters are issued with a receipt number for submitted votes, which can be used to later confirm their vote was counted.

4.130 Vision Australia General Manager, Mr Michael Simpson, indicated the organisation had some involvement in the testing of the iVote system used in NSW prior to its use at the state election in March. He noted that Vision Australia had received 'nothing but positive feedback about the phone system that was deployed and mostly positive comment about the web based system'.<sup>64</sup>

4.131 However, the Computing Research and Education Association of Australasia (CORE) expressed concern and stressed the need for exercising caution in the wider adoption of remote electronic voting technology. The CORE's expert in election voting systems, Dr Teague, stated:

I see four big issues that need to be addressed. One is vote verifiability, meaning whether the vote that gets recorded and transmitted actually is the vote that the voter asked for. Another is whether the privacy of the vote is maintained. Third is voter authentication – in this case I am talking about remote voting. Authenticating the voter is in the sense of making sure you know that the voter at the other end of the internet connection really is the eligible voter that you think they are. Fourth is demonstrating that the vote count is correct. If you take a big system like iVote, it takes in 47,000 votes and tells you at the end what they were. I feel that there needs to be a demonstration that they are clearly correct.<sup>65</sup>

4.132 The Committee notes that the AEC has worked closely with stakeholder groups in developing the telephone voting option for use at the 2010 federal election and options for future elections.

4.133 In its submission, Blind Citizens Australia outlined the stages of the 'road map' that had been developed during the AEC consultations with these groups. It stated:

Stage 1: Telephone assisted voting made available from AEC divisional offices (this was the system used for the 2010 Federal election)...

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64 Mr Michael Simpson, General Manager, Vision Australia, Transcript, 18 April 2011, p. 5.

65 Dr Vanessa Teague, Computing Research and Education Association of Australasia, Transcript, 13 April 2001, p. 47.

Stage 2: This interim model will only be used if Stage 3 cannot be implemented in time for the 2013 election. The process will be similar to Stage 1, with the exception of having a person in the call centre. In its place, the call centre will be automated and the system will prompt voters in the same way as the trial model in the 2007 election. This removes the need to have someone physically record the vote and allows for greater secrecy and a greater feeling of independence.

Stage 3: This model is proposed for implementation at the 2016 election and for future elections. Voters will pre-register, receive a PIN and will be able to vote using any telephone, including a telephone in their own home. This will provide the greatest level of independence and secrecy.<sup>66</sup>

- 4.134 The Committee notes the advice from Blind Citizens Australia that the telephone voting option was only a stepping stone towards future voting options that will allow blind and low vision voters to exercise more independence in the casting of their vote.

### Committee conclusion

- 4.135 The Committee commends the AEC for its consultation with stakeholders in developing options for blind and low vision electors to cast their votes with a greater degree of independence.
- 4.136 The Committee notes with interest the iVote system utilised by the NSW Electoral Commission for the state election in March 2011. The iVote electronic voting system has considerable potential for enabling blind and low vision electors to vote independently and secretly.
- 4.137 The Committee also noted CORE's advice about the security risks inherent in remote electronic voting systems.
- 4.138 The Committee appreciates that some degree of compromise is necessary when providing voting services to certain groups, such as people who are blind or have low vision, to make the method of voting accessible and ensuring the vote is secure.
- 4.139 The Committee believes that electronic assisted voting systems should be closely examined and rigorously tested, particularly before seeking to extend these options to other groups.

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<sup>66</sup> Blind Citizens Australia, Submission 56, p. 2.

- 4.140 The Committee believes that electronic voting poses the challenge of striking the right balance between accessibility and user-friendliness for the elector and having a system that is reliable, transparent and secure. The Committee anticipates that this issue will feature prominently in future elections.
- 4.141 The Committee looks forward to the AEC progressing the road map it has developed in consultation with stakeholder groups to better ensure that blind and low vision electors can cast their vote with a greater level of independence and security.

### **Recommendation 20**

- 4.142 The Committee recommends that the Australian Electoral Commission continue to work with organisations representing electors who are blind or who have low vision to develop sustainable voting arrangements which will provide secure, secret and independent voting for electors who are blind or who have low vision.**

## **Antarctic voting**

- 4.143 Australians working in Antarctica may cast votes under provisions contained in Part XVII of the Commonwealth Electoral Act.
- 4.144 In order to vote, Antarctic electors must first be correctly enrolled before the close of rolls and registered as an Antarctic voter before nominations close for an election.
- 4.145 After the announcement of an election, the AEC liaises with the Australian Antarctic Division to finalise the list of registered Antarctic voters for each station. An Antarctic Returning Officer and an Assistant Antarctic Returning Officer are appointed for each station. Some 49 electors were eligible to cast votes from Antarctic stations in the 2010 federal election, with 43 votes actually cast.<sup>67</sup>
- 4.146 One of the inherent problems with voting in Antarctica is the process used to transfer the votes of electors. While votes are cast in secret, they are placed into envelopes with the electors' names on them. These envelopes are subsequently opened, the ballot papers stapled to them, and, at an

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<sup>67</sup> Australian Electoral Commission, Submission 87, p.p. 91-92

arranged time, a telephone call made by an Assistant Returning Officer to an AEC Operations Manager in Hobart.<sup>68</sup>

- 4.147 The voters' details and the preferences indicated on ballot papers cast by the voters' are transcribed onto ballot papers by an AEC employee in Hobart, the transcribed ballot papers are placed into a pre-poll envelope then sealed and signed by the Australian Electoral Officer for Tasmania.<sup>69</sup> Votes are subsequently sent to the relevant Divisional Returning Officer where they are admitted to the count along with other pre-poll votes.
- 4.148 The AEC submitted that an opportunity to modernise the process used for Antarctic voters is now available with the introduction of a legal framework which enables development of an electronic voting solution to allow blind and low vision voters to cast a secret ballot. It suggests that the solution adopted for blind and low vision voters could be extended to Antarctic voters, affording them the same opportunity to cast a secret ballot.<sup>70</sup>
- 4.149 The AEC notes that the solution used at the 2010 election, discussed earlier in this chapter, could be adopted as telephone facilities are available at Antarctic Stations and the supply vessel. The AEC further noted that in the event of system failure, it would be possible to have the current process in reserve to provide a back-up process.<sup>71</sup>
- 4.150 Under the existing legislative provisions, the AEC is obliged to compile a list of Antarctic electors who are based at each station. A person is only entitled to vote and receive a ballot paper if they appear on the list of electors at the particular station.
- 4.151 The AEC notes that with the increasing accessibility of Antarctica, and the mobility of expeditioners in the summer months, the current arrangements pose challenges for ensuring that a list of electors at a station reflects those electors who are actually based there as at the time of polling.<sup>72</sup>
- 4.152 The AEC recommended that there were efficiencies to be achieved if the Commonwealth Electoral Act was amended to enable the production of a list of all Antarctic electors to be used at all Antarctic polling stations.<sup>73</sup>

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68 Australian Electoral Commission, Submission 87, pp. 91-92

69 Australian Electoral Commission, Submission 87, p.p. 91-92

70 Australian Electoral Commission, Submission 87, p.p. 91-92

71 Australian Electoral Commission, Submission 87, p.p. 91-92

72 Australian Electoral Commission, Submission 87, p. 93.

73 Australian Electoral Commission, Submission 87, p. 93.

## Committee conclusion

- 4.153 The Committee sees merit in utilising the system which is already in operation for blind and low vision voters, to provide a secret ballot for the benefit of Antarctic electors, noting that there has been no final decision made yet as to what system might eventually be used into the future for blind and low vision voters.
- 4.154 The Committee believes it is appropriate that any system used for the benefit of blind and low vision electors could also be used by Antarctic electors.
- 4.155 The Committee believes that there is no reason to restrict the voting of Antarctic electors to a particular station, and finds merit in the AEC's proposal that a list of all Antarctic electors be available at each Antarctic Station.

### Recommendation 21

- 4.156 **The Committee recommends that Part XVII of the *Commonwealth Electoral Act 1918* be amended so that provisions similar to those which allow blind and low vision voters to cast a secret ballot by telephone or any other suitable electronic means be applied to Antarctic electors.**

### Recommendation 22

- 4.157 **The Committee recommends that Part XVII of the *Commonwealth Electoral Act 1918* be amended to enable the production of a list of all Antarctic electors to be used at all Antarctic Polling Stations.**

## How-to-Vote cards

- 4.158 One of the benefits of the legislation under which elections are conducted in Australia is that the publication of How-to-Vote cards (HTVs) is both permitted and regulated.
- 4.159 Regulation is achieved by the operation of section 328B of the Commonwealth Electoral Act, which requires that HTVs must be authorised by or on behalf of a political party or candidate.

- 4.160 The authorisation must appear at the top or bottom of each printed face of the HTV and must contain the name and address of the person who authorised it, the name of the political party, or if not endorsed by a political party, the candidate's name and the word 'candidate'.
- 4.161 Subsection 328B (2) of the Act specifies the font sizes in which the authorisation must appear and provides that the font size is determined by the size of the printed HTV. The relevant provisions relating to font size were not in place at the 2010 election but have since been implemented.
- 4.162 The Liberal Party of Australia noted that while it was not required to implement the font sizes for authorisations used at the 2010 election, it did so, seeking to observe the spirit of the amendment. The Liberal Party submitted to the Committee that the font size specified was too large, noting that:
- The principle that the authorisation can be readily seen by voters is important. However, we believe that the font sizes prescribed need adjusting. The font sizes currently outlined in the Act are impractically large for some sizes of card.<sup>74</sup>

## Committee conclusion

- 4.163 The Committee notes the issue of font sizes on How-to-Vote cards raised by the Liberal Party of Australia.
- 4.164 The Committee is mindful that the font sizes specified for HTVs will affect all political parties and candidates and believes that in order to address the issue raised, it would not be appropriate for the Committee to propose alternative font sizes. However, the Committee considers it appropriate to recommend that the font sizes be reviewed.

### Recommendation 23

- 4.165 **The Committee recommends that the Government review the minimum font sizes specified in section 328B of the *Commonwealth Electoral Act 1918* as being required for the authorisation on How-to-Vote cards.**

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74 Liberal Party of Australia, Submission 94, p. 5.



## Safeguarding the franchise

### Background

- 5.1 Australia has enjoyed electoral legislation that has become increasingly inclusive. There have been a number of changes to make it more so occurring in the past 50 years, including extending the franchise to Aboriginal Australians (1962), allowing British Subjects to retain the franchise when Australian citizenship became the new qualification (1984), and extending the franchise to include certain Norfolk Islanders (1992).<sup>1</sup>
- 5.2 Similarly, other amendments allow itinerant electors to remain enrolled even though they do not meet the one month residency qualification for enrolment. Australian citizens who depart for overseas, who have a fixed intention to return to Australia within a defined period (currently six years) may remain enrolled, or enrol from outside Australia under certain conditions, and provisional enrolment is now available to Australian citizens over 16 years of age and those who have applied for Australian citizenship.
- 5.3 However, it has been argued that certain amendments made to the *Commonwealth Electoral Act 1918* in 2006 by the then Government had the effect of disenfranchising some electors and potential electors.
- 5.4 In relation to enrolment entitlement, the High Court cases of *Rowe v Electoral Commissioner (Rowe)* and *Roach v Electoral Commissioner (Roach)* upheld challenges to certain amendments to the Commonwealth Electoral Act made in 2006. The matters considered by the High Court were the close of rolls period and prisoner entitlement, respectively.

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1 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto* (2009), Commonwealth Parliament of Australia, pp. 40-41.

- 5.5 The Committee has found it necessary to consider these changes and subsequent cases as they impacted on the franchise of electors and potential electors. In the case of *Rowe* the High Court's findings directly impacted on the conduct of the 2010 federal election.

## Rowe v Electoral Commissioner

- 5.6 The High Court case of *Rowe* was a challenge to the 2006 amendment of the Commonwealth Electoral Act that reduced the close of rolls period. Prior to this change, new electors could enrol, previous enrolled electors could re-enrol, and enrolled electors could update their details in the seven days following the issue of the writs. The close of rolls period for new enrolments, re-enrolments and detail updates had been seven days since the 1984 federal election.
- 5.7 However, as a result of the changes, for the 2007 and 2010 federal elections new enrolments and re-enrolments had to be received by the Australian Electoral Commission (AEC) by 8 pm on the day of the issue of the writs, and changes to enrolment details had to be received within three days of the issue of the writs.
- 5.8 The plaintiffs in *Rowe* were Shannen Rowe and Douglas Thompson. Ms Rowe turned 18 on 16 June 2010 and was not enrolled at the time the election was announced. She did not lodge her completed application with the AEC until Friday 23 July 2010, which under section 102(4) of the Commonwealth Electoral Act, at the time, was required to be lodged by 8 pm on Monday 19 July 2010.
- 5.9 Mr Thompson was enrolled in the electoral Division of Wentworth, but had moved to a new address in the Division of Sydney in March 2010. He had made unsuccessful attempts to lodge a claim of transfer form under section 101. He subsequently completed a form which was signed on 22 July and it was lodged by facsimile by his solicitor. However, the requirement under section 102(4AA) was that it be lodged by 8 pm on 21 July 2010.
- 5.10 Ms Rowe and Mr Thompson subsequently commenced court proceedings on 26 July 2010, challenging the constitutional validity of the legislative changes that shortened the close of rolls period.
- 5.11 On 6 August 2010, the High Court, in a 4-3 decision, ruled the shortening of the close of rolls period to be invalid, as it contravened sections 7 and 24 of the Australian Constitution. The summary of judgment stated:

Chief Justice French, Justices Gummow and Bell, and Justice Crennan held that these provisions contravened the requirement, contained in ss 7 and 24 of the Constitution, that members of both Houses of the Commonwealth Parliament be "directly chosen by the people". The Chief Justice considered that the adverse legal and practical effect of the challenged provisions upon the exercise of the entitlement to vote was disproportionate to their advancement of the requirement of direct choice by the people. Justices Gummow and Bell, with whom Justice Crennan broadly agreed, held that the provisions operated to achieve a disqualification from the entitlement to vote and that the disqualification was not reasonably appropriate and adapted to serve an end compatible with the maintenance of the system of government prescribed by the Constitution. Justice Crennan held that the democratic right to vote is supported and protected by the Constitution.<sup>2</sup>

5.12 In contrast, Justice Heyden stated:

The denial of enrolment and voting for an election, for a legitimate reason, does not intrude too far upon the system of voting. It is, and has always been, a part of that system. It reinforces the requirement that persons qualified to vote enrol in a timely way, which is conducive to the effective working of the system. No denial of the franchise is involved. It is not possible, logically, for the plaintiffs to suggest that these provisions are incompatible, but those allowing for a few more days for enrolment are not.<sup>3</sup>

5.13 As discussed earlier in the report, this resulted in new enrolments, re-enrolments and changes to elector details that had been received by the AEC by 26 July 2010 being processed. The AEC advised the Committee that this resulted in an additional 57 732<sup>4</sup> new electors on the electoral roll, and some 40 408<sup>5</sup> changes to enrolment details being made.

5.14 The Government subsequently gave effect to this decision in the *Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011*, which restored the close of rolls period to seven days following the issue of writs. This Act also made amendments to prisoner voting entitlements.

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2 High Court of Australia website, <http://www.hcourt.gov.au/publications/judgment-summaries/2010-judgment-summaries>, viewed 20 October 2010.

3 *Rowe v Electoral Commissioner* [2010] HCA 46, paragraph 489.

4 Australian Electoral Commission, Submission 87, p. 32.

5 Australian Electoral Commission, Submission 87, p. 32, Table 3.5.

## Roach v Electoral Commissioner

- 5.15 The entitlement of prisoners to enrol, remain on the roll and vote was another issue considered by the High Court. In *Roach v Electoral Commissioner* [2007] HCA 43, Ms Vicki Roach challenged the constitutional validity of the 2006 amendments to the Commonwealth Electoral Act that changed the voting entitlement for prisoners. The effect of the amendments removed the entitlement for people serving less than a three year term of imprisonment to vote at federal elections. All prisoners were thus excluded from voting.
- 5.16 In 2004, Ms Roach was sentenced to six years imprisonment for burglary, including negligent injury and endangerment. She argued that she should have the right to vote.
- 5.17 In *Roach*, in a 4-2 judgement, the High Court ruled on 26 September 2007, that:
- ...the 2006 amendments were inconsistent with the system of representative democracy established by the Constitution. The Court held that voting in elections lies at the heart of that system of representative government and disenfranchisement of a group of adult citizens without a substantial reason would not be consistent with it.<sup>6</sup>
- 5.18 It was in 2011, three years after the *Roach* judgement, that the *Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011* gave effect to this principle, restoring the right to vote to some prisoners serving less than three-year terms. However, this means that persons in similar situations to Ms Roach would still be excluded if serving more than three years in prison.
- 5.19 Prisoners serving a term of imprisonment of less than three years<sup>7</sup> now have the option to remain enrolled for the Subdivision for which they were enrolled when they began their sentence. If not already enrolled, a prisoner serving less than three years is entitled to enrol for:
- (a) the Subdivision for which the person was entitled to be enrolled at that time;
  - (b) if the person was not so entitled, a Subdivision for which any of the person's next of kin is enrolled;

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6 High Court of Australia website, <http://www.hcourt.gov.au/assets/publications/judgment-summaries/2007/hca43-2007-09-26.pdf>, viewed 3 June 2011.

7 *Commonwealth Electoral Act 1918*, s. 93(8AA).

- (c) if neither of paragraphs (a) and (b) is applicable, the Subdivision in which the person was born; and
- (d) if none of the preceding paragraphs is applicable, the Subdivision with which the person has the closest connection.<sup>8</sup>

### Committee conclusion

- 5.20 The Committee took the view that the *Rowe* and *Roach* cases are important, as they demonstrated that there are processes in place to help safeguard the enrolment and voting franchises.
- 5.21 The Committee believes that they also signal to governments that protecting the enrolment and voting franchises must be at the core of any reforms to Australia's electoral system.

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8 *Commonwealth Electoral Act 1918*, s. 96A



## Reinstatement to the roll

- 6.1 The High Court decisions in *Rowe* and *Roach* drew certain constitutional limits on the ability of the Commonwealth Parliament to legislate with respect to the franchise. The Opposition members of the Committee note that *Rowe* established that a sentence of three years or more acts to disenfranchise a prisoner, but believes that one year is more appropriate.
- 6.2 As discussed in Chapter 5, the Government has since given effect to these High Court decisions with the *Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011*. However, there are other significant changes made in 2006 by the then Government that have now been in place for two elections (2007 and 2010). Opposition members believe these changes improved the integrity of the electoral roll by ensuring electors who no longer lived at a particular address were removed from the electoral roll.
- 6.3 One such matter is the requirements for the reinstatement of electors to the electoral roll. The Committee previously examined this issue during its review of the 2007 federal election.
- 6.4 The Commonwealth Electoral Act previously provided less restrictive provisions for the reinstatement of voters to the electoral roll – and consequently the admission of their declaration vote to the count – in certain prescribed circumstances. However, the effects of the 2006 legislative changes which tightened restrictions on reinstatements are again evident in the 2010 federal election. In this chapter, the Committee seeks to examine both the supporting and alternate views presented in submissions and evidence to the current inquiry, along with updated data that shows the effects of the changes being discussed.

## Background

- 6.5 Electors who attend polling places in order to cast a vote in an election or referendum generally do so because they are required by law to participate because of Australia's compulsory enrolment and voting system and because they believe that they are correctly enrolled and want to cast their votes.
- 6.6 In most cases they are correctly enrolled, and their names are marked against the certified list at the polling place. They are questioned as to whether they have previously voted and if they answer 'no' are handed ballot papers. Most cast their vote with the expectation that it will be counted and have some effect on the election result. Others deliberately vote informally, whilst thousands, particularly in Queensland and New South Wales where optional preferential voting applies at the state level, simply put a '1', a cross or a tick against the name of the person they wish to vote for. Unfortunately for the elector, this vote is formal in both New South Wales and Queensland state elections but informal at a federal election for the House of Representatives.
- 6.7 Those electors who present at a polling place on polling day and whose names cannot be found on the certified list of voters for that electoral division may only cast a provisional vote for that division, being the one they claim to live in.
- 6.8 Electors who present at a polling place outside their electoral division but still in their home state, or those who present at a pre-poll voting centre, whose names do not appear on the certified list of voters for the division in which the pre-poll centre is located, or electors who cast postal votes, are permitted to cast a vote of the respective type. Votes cast in such circumstances are sealed within an appropriate envelope and sent to the Divisional Returning Officer (DRO) for the electoral division in which the elector claims to be enrolled.
- 6.9 Each of these types of votes are known as declaration votes because they require the elector to declare that they are entitled to vote, and all are subjected to a number of checks by the relevant DRO before they are either admitted to the count or rejected. These checks are known as the preliminary scrutiny of declaration votes.
- 6.10 The rules which govern how the preliminary scrutiny is conducted are contained in Schedule 3 of the Commonwealth Electoral Act. These detailed rules governing the checks must be strictly followed by DROs, who are provided with no discretionary powers to enable any departure



from the rules. All of the checks required by Schedule 3 may be observed by scrutineers acting on behalf of candidates contesting the election.

- 6.11 Opposition members noted that there were over 20 633 cases of multiple voting in 2007 and that the Australian Electoral Commission (AEC) gave evidence during this current inquiry that it does not have adequate powers to investigate or provide briefs for prosecutions.<sup>1</sup>

## **Reinstatement – ensuring the voting franchise is not lost**

- 6.12 The AEC submitted that over 200 000 pre-poll, absent and provisional votes were rejected<sup>2</sup> at the 2010 federal election due to the persons casting the vote being incorrectly enrolled or not enrolled and thus not complying with the law which requires each elector to enrol and update their details when they change their address. One of the main ways of dealing with this, and saving some of these votes, is through reinstatement provisions.
- 6.13 At all elections and referenda between 1984 and 2004, electors who cast declaration votes, but whose names were not on the certified list, were reinstated to the roll in situations where the DRO determined during the preliminary scrutiny that they had previously been enrolled for the relevant electoral division, and that there was no evidence of a later enrolment in any different electoral division.
- 6.14 In such situations it was deemed that the electors' names had been removed from the roll in error by the AEC. The electors were reinstated to the electoral roll, their House of Representatives and Senate ballot papers were included in the scrutiny and thus, the franchise was restored to them.
- 6.15 Likewise, electors who were found to be enrolled in a different electoral division, but still in the same state or territory as the division in which they claimed to be enrolled, had their Senate ballot papers included in the Senate scrutiny, but their House of Representatives ballot papers were set aside. Such declaration votes were commonly referred to as being 'partially admitted'. It is for this reason that often the number of Senate ballot papers counted in Senate elections exceeds the number of House of Representative ballot papers counted.

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1 Discussion with Mr Paul Pirani, Chief Legal Officer, Australian Electoral Commission, Transcript, 25 May 2011, pp. 7-9.

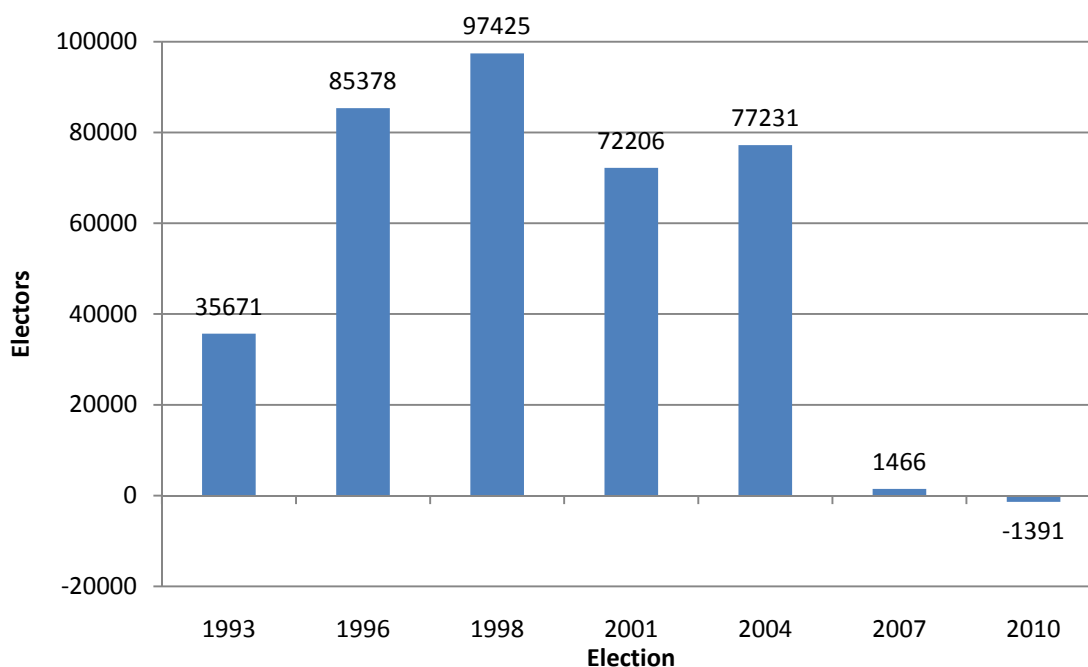
2 Australian Electoral Commission, Submission 87, p. 62.

- 6.16 The 2006 legislative changes put in place stricter requirements for dealing with this situation, by providing that:
- provisional voters were to provide evidence of identity either on polling day or in the week after polling day; and
  - provisional votes cast by persons who had been removed from the roll by objection on the basis of non-residence would be inadmissible to the election count.<sup>3</sup>
- 6.17 This put a greater onus on voters to follow up identity requirements if they initially were not able to provide them at the polling place, and it removed the AEC's ability to reinstate electors who may have been erroneously removed from the roll due to objection requirements.
- 6.18 The proof of identity provision has now been addressed by the *Electoral and Referendum Amendment (Provisional Voting) Act 2011*. The requirement for provisional voters to provide proof of identity on polling day or in the week following has been repealed. However, at the time of writing, the restriction on the reinstatement of electors contained in Schedule 3 is still in place.
- 6.19 The effectiveness of reinstating the franchise to electors who have been removed from the roll in error is readily apparent when the difference between the close of rolls enrolment at a particular election or referendum and the election enrolment for that election or referendum is calculated.

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3 Australian Electoral Commission, Submission 87, p. 85.

Figure 6.1 Difference between election roll and close of rolls enrolment, 1993 to 2010 elections



Source *Joint Standing Committee on Electoral Matters, Report on the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, p. 384; and AEC website.*<sup>4</sup>

6.20 As can be seen in Figure 6.1 above, at Commonwealth elections held between 1993 and 2004, election enrolment is significantly higher than close of rolls enrolment. This is mainly due to the number of electors for whom reinstatement to the electoral roll was permitted by the rules which then governed the conduct of the preliminary scrutiny.

6.21 However, at the 2007 election, following the amendments made to Schedule 3 discussed above, the election roll increased by a mere 1 466 electors, and at the 2010 election, enrolment actually declined between close of rolls and the election with the result that election enrolment was 1 391 electors fewer than at the close of rolls.

4 AEC website, <http://results.aec.gov.au/15508/Website/GeneralEnrolmentByState-15508.htm>, viewed 16 March 2011.

6.22 The AEC explained the difference between close of rolls enrolment and election enrolment figures at the 2010 election:

The roll does not remain static after the close of rolls. Between the close of rolls and polling day, a number of changes may occur...

These include:

- a small number of additions to the roll (primarily as a result of processing enrolment forms that were received prior to close of rolls but not processed due to time constraints), there were 942 in this period in 2010 (compared to 1 562 in 2007); and
- a small number of deletions from the roll (primarily the removal of deceased electors), there were 6 031 in this period in 2010 (compared to 7 710 in 2007).

In addition, after polling day persons who were not enrolled but who are nevertheless eligible to have their votes counted are 'reinstated' to the electoral roll, having been originally removed in error by the AEC (for example, removed as a death deletion in error). Fewer reinstatements were required following the 2010 election (3 698) compared to the 2007 election (7 614). Note that such reinstatements did not apply to those who had been removed from the roll by objection action on the ground that they were no longer resident at their enrolled addresses...<sup>5</sup>

6.23 The Committee also notes evidence from the Community and Public Sector Union that there were a number of problems with the GENESIS system limiting the number of enrolment applications that could be processed:

We understand from the user tester groups that things are improving, but we are not in a position to say that the throughput of GENESIS is comparable to that which was achieved through RMANS in years gone by. And you do note earlier that there were previous elections with a greater number of enrolment transactions occurring. In 1990, when RMANS was introduced, they put through 594,612 at that time, and it is curious that 20 years later a new system is slower.<sup>6</sup>

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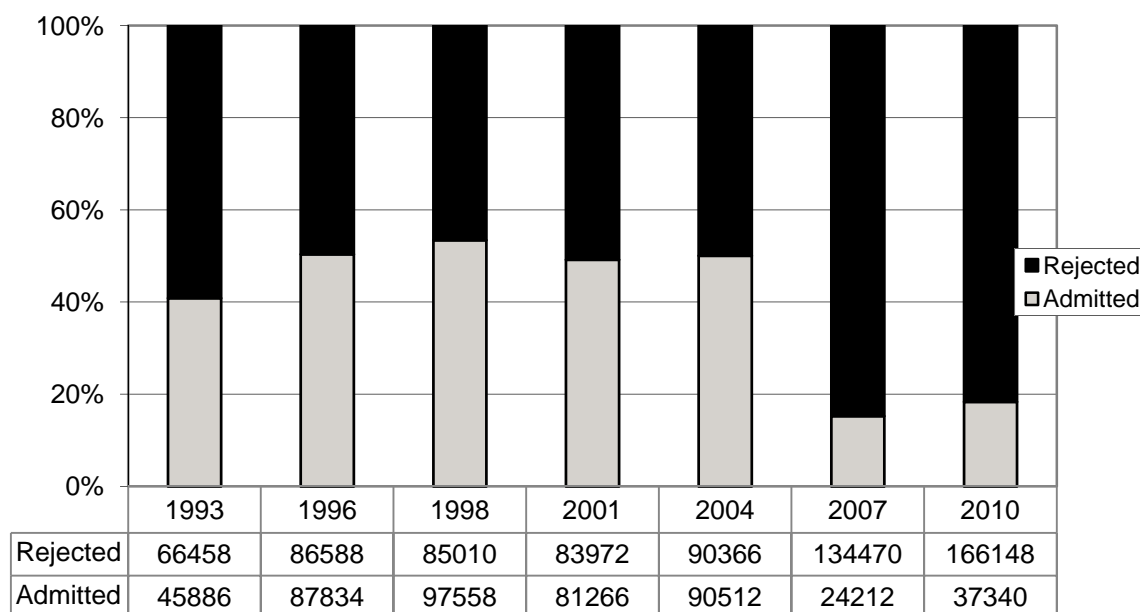
5 Australian Electoral Commission, Submission 87, pp. 22-23.

6 Mr Jonathan Ring, National Organiser, Community and Public Sector Union, Transcript, 15 June 2011, p. 3.

## Provisional votes – reinstate or reject?

- 6.24 Another way to gauge the effect of the amendments to Schedule 3 is to examine the number of provisional votes that have been accepted into the count after the preliminary scrutiny of those votes.
- 6.25 Prior to and at the 2004 election, a relatively high percentage of provisional voters were reinstated to the roll during the preliminary scrutiny of provisional votes on the basis that the electors had, prior to their removal from the roll, previously been enrolled in the division in which they cast their vote. In the majority of cases, it was found that the elector had been removed from the roll in error by the AEC, on the basis that the AEC had a strong reason to believe that the elector no longer resided at their enrolled address or another address within that electoral division.
- 6.26 Figure 6.2 below shows the number and proportion of provisional votes rejected at elections from 1993 to 2010. It is evident that there has been a significant increase in the proportion of provisional votes rejected since the 2004 federal election.

Figure 6.2 Provisional votes rejected at federal elections, 1993 to 2010



Source *Joint Standing Committee on Electoral Matters, Report on the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, p. 380; and the AEC website.*<sup>7</sup>

6.27 The AEC addressed this issue in its first submission, noting that the 2006 amendments to Schedule 3 were responsible for the increased rejection of provisional votes. It observed that:

As a result of these amendments, at the past two federal elections, a far greater proportion of provisional votes have been rejected at preliminary scrutiny.<sup>8</sup>

6.28 The AEC advised that the requirement for provisional voters to provide proof of identity at the time of voting or by the Friday following polling day or their votes would not proceed into the preliminary scrutiny, resulted in some 27 529 provisional votes being rejected at the 2007 election and some 28 065 at the 2010 election.<sup>9</sup> Further provisional votes were also rejected as the AEC was not able to reinstate electors who had been removed from the roll in error.

7 AEC website, <http://results.aec.gov.au/15508/Website/GeneralDecVotesReceivedByState-15508.htm>; and <http://results.aec.gov.au/15508/Website/HouseVotesCountedByState-15508.htm>, viewed 16 March 2011.

8 Australian Electoral Commission, Submission 87, p. 85.

9 Australian Electoral Commission, Submission 87, p. 87.

6.29 The Australian Labor Party also noted the increased rejection rate, observing that:

In the 2010 Federal Election, we have witnessed the continuation of a trend in which a large proportion of provisional votes are being rejected.

In the 2004 Federal Election, around half of provisional votes were accepted and counted. However, in the 2007 Federal Election over 80% of provisional votes were rejected. This trend continued in the 2010 Federal Election, with over 80% of provisional votes being rejected again.<sup>10</sup>

6.30 Similarly, the Greens NSW, arguing in support of automatic enrolment, noted the higher rejection rate, commenting that:

The 2010 election once again saw a very high rate of disallowance of provisional ballots. According [to] the AEC, 131,123 provisional vote applications were refused, 64% of the total issued. In 2007, the rejection rate was 75%, but in 2004, prior to the introduction of the Howard Government's "roll integrity" changes, the rate was 38% on a much lower total number issued.

These figures demonstrate that the enrolment rules, although improved in 2010, are still effectively disenfranchising large numbers of voters.<sup>11</sup>

6.31 In contrast, The Nationals supported the retention of the 2006 amendments, arguing that the stricter requirements for provisional voting help to reduce the potential for electoral fraud. The Nationals stated that:

Up to and including the 2004 election, the rules surrounding provisional voting provided a loop-hole in the integrity of the electoral roll. Essentially, the system was vulnerable to potential abuse by people who enrol in marginal electorates and vote to influence a close result, despite not living in that electorate.

In 2006 legislative amendments were introduced that required (a) provisional voters to provide evidence of identity either on election day or in the following week, and (b) the removal from the count of provisional votes cast by people who had been removed from the roll by objection on the basis of non-residence.

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10 Australian Labor Party, Submission 55, p. 3.

11 The Greens NSW, Submission 86, p. 3.

After a significant increase in the number of provisional votes submitted to and included in the count at the 2004 election, the amendments have resulted in a decrease in these numbers at both the 2007 and 2010 elections.<sup>12</sup>

6.32 It has been suggested in the past that many provisional voters believe that they are in fact enrolled, only to find out that they are not correctly enrolled when they attend a polling place to vote.

6.33 When the Committee reviewed the issue at a roundtable discussion on the Government's Electoral Reform Green Paper *Strengthening Australia's Democracy*, in November 2009, Mr Peter Brent of the Democratic Audit of Australia indicated that:

There is a large number who want to vote and cannot on election day – they turn up to vote and they are not on the roll so they try to vote provisionally or they just turn around and leave. This is all complicated of course by compulsion. If it is compulsory then everyone should do it, I suppose we could say. But if we were to imagine that we did not have compulsory voting, there are people who want to vote but suffer because the electoral roll is in bad shape. So it is not just the die-hard people who refuse to vote who do not vote on election day.<sup>13</sup>

6.34 Professor George Williams claimed the disenfranchisement of provisional voters could be avoided if government was to use data it already had to update enrolments. He stated that:

With those numbers that have been mentioned we are talking about hundreds of thousands of people; it is not a small number of people but in fact is literally hundreds of thousands of people who do want to vote but find that their details have not been updated, generally through their own inadvertence. I have seen the Australian Electoral Commission say in the past that with many of those people it seems to be that they assume their details are updated. They believe that the government collects this information and they cannot understand why it has not used the information that it already has about their moving address – it has been notified through a tax return or another authoritative source. Many of these people just cannot understand why they are not there. From my point of view I think that they have a good point about that. The system should ensure accuracy, integrity and the

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12 The Nationals, Submission 93, pp. 6-7.

13 Mr Peter Brent, Democratic Audit of Australia, Transcript, 20 November 2009, p. 41.



like but it should also make it as easy as possible for people to cast their vote and should not put artificial barriers in their way.

Unfortunately, the data is very clear in that there are hundreds of thousands of people who are at the moment being disenfranchised through the weakness in the system.<sup>14</sup>

- 6.35 Opposition members of the Committee believe the integrity of the roll is critical. The burden to enrol and update enrolment details is not a significant one. Indeed many Australians fill out substantially more complex forms to access Government services or support. Opposition members do not support any measure to reduce or otherwise water-down the requirements to maintain one's electoral enrolment. Accordingly, any proposal to allow voters to vote despite knowledge of their details being incorrect should be opposed.

### Committee conclusion

- 6.36 The Committee notes the decreased number of electors on the electoral roll used at the 2010 election when compared to the close of rolls figures (Figure 6.1). The Government members of the Committee are of the view that the roll had not decreased at any previous election. They believe that there are two reasons for the increased number of provisional votes rejected at the 2007 and 2010 elections: the proof of identity requirement for provisional voters, and the restriction on reinstating persons to the roll who had been removed by the AEC on the basis that it believed they no longer resided at their enrolled address. These changes were made as part of the then Government's 2006 amendments to the Commonwealth Electoral Act.
- 6.37 The net effect of the 2006 legislative changes on provisional votes is demonstrated in Figures 6.1 and 6.2. Government members of the Committee feel that the changes, which were based on an erroneous assumption that they would somehow increase electoral integrity, have had no such positive effect. Opposition members of the Committee believe the 2006 reforms enhanced the integrity of the roll.
- 6.38 Conversely, Government members believe these changes have disenfranchised genuine electors who had previously been protected by the safety net provided by the reinstatement provisions over the past two federal elections.

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14 Professor George Williams, Transcript, 20 November 2009, p. 41.

- 6.39 Government members agree with the AEC's observation that:
- Provisional voting provides a safety-net in recognition that the absence of a person's name from the roll cannot provide a final and definitive answer to the question of whether that person should be permitted to vote.<sup>15</sup>
- 6.40 It is simply wrong to assume that an elector who does not respond, or on whose behalf others do not respond to letters from the AEC, does not live at a particular address, or does not live at another address in the same electoral division.
- 6.41 Further, it is against the principles of natural justice to then disqualify an elector from voting on the basis of an incorrect assumption made by an electoral authority, even when that decision is made in good faith on the available evidence, and not provide an avenue of appeal against the decision.
- 6.42 The Committee believes that the reinstatement provisions were designed to provide relief to those electors so affected, to ameliorate the objection processes mandated by the legislation, which are prone to error.
- 6.43 The Committee notes that an elector who presents at a polling place and who is found to be on the electoral roll at a different address to that which is shown on the certified list, but still in the same electoral division, is entitled to cast an ordinary vote, and that vote will be counted.
- 6.44 However, if that same elector had been taken off the roll on the basis of an erroneous belief that they did not reside at the enrolled address (even if they moved to another address in the same electoral division), and they presented at the polling place, they would be required to cast a provisional vote, which under the current provisions, would not be counted.
- 6.45 Clearly, the effect of the amendment is that the elector who is retained on the roll is treated significantly different to an elector who is removed from the roll, even when the removal from the roll occurred in error.
- 6.46 The Committee therefore concludes that the amendments made to Schedule 3 to prevent reinstatement should not have occurred, and recommends that the Commonwealth Electoral Act be amended to provide for reinstatements to the electoral roll to be made in the same circumstances as they were before the 2006 amendments took effect.
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15 Australian Electoral Commission, Submission 87, p. 85.

**Recommendation 24**

6.47 The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that where an elector who had lodged a declaration vote at an election has been removed from the electoral roll by objection action on the ground of non residence; and

- the removal from the roll occurred after the election prior to the election to which the scrutiny relates, or
- where there has been a redistribution of the state or territory that includes the division since the last election but one before the election to which the scrutiny relates, the removal from the roll was made after the last such redistribution, then:
  - ⇒ if the address at which the elector claims to be enrolled at the time of voting is within the electoral division for which he or she was previously enrolled, his or her House of Representatives and Senate votes will be counted; but
  - ⇒ if the address at which the elector claims to be enrolled at the time of voting is in a different electoral division in the same state or territory, his or her Senate vote will be counted, but his or her House of Representatives vote will not be counted.



## Formality issues

- 7.1 The Constitution<sup>1</sup> provides for Australia's representatives to be directly chosen by the Australian people. Consequently, ensuring that the valid votes cast by eligible electors count towards the election of their representatives is fundamental to Australia's democratic electoral system. Opposition members of the Committee note that the Constitution provides for Australia's representatives to be directly chosen by the Australian people, and, consequently, votes of individual electors should never be decided by a third party nor directed to a party the elector never had any intention of voting for. Opposition members believe the South Australian ticket system is not constitutionally sound.
- 7.2 At every election, it has been the case that some ballot papers do not meet formality requirements and so cannot be included in the vote count. This may be the result of a deliberate choice or a genuine mistake by the elector. The effect is that these electors are not having a say in who will be their representatives in Parliament.
- 7.3 For this reason, it is important after each election to tackle vote formality issues. It is vital to closely examine informal ballot papers and attempt to understand the intention of the voter, to explore the underlying contributing factors to informality, and to act to ameliorate the problem.

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1 *Commonwealth of Australia Constitution Act*, ss. 7 and 24.

- 7.4 The 2010 federal election saw informal votes for the House of Representatives at 5.55 per cent (729 304 votes), an increase of 1.6 per cent on the 2007 federal election.<sup>2</sup> Senate informality was 3.75 per cent (495 160 votes), an increase of 1.2 per cent on the previous election.<sup>3</sup>
- 7.5 In its examination of the level of informal voting at the 2010 federal election, the Australian Electoral Commission (AEC) observed that:
- In every election, it is likely that a small proportion of the votes cast will not meet the specified voting requirements and will therefore be deemed informal. Levels of informal voting can provide an indication of people's engagement with (and understanding of) the electoral process and, together with enrolment participation rates and measures of turnout, are therefore a key indicator of democratic health.<sup>4</sup>
- 7.6 In recognition of the importance of the informal voting issue, the AEC now routinely undertakes an analysis of informal voting in the House of Representatives following federal elections.
- 7.7 In practical terms, the rising level of informality means that more and more people (hundreds of thousands) are turning up at designated polling places (or voting by post) and lodging ballot papers that then do not count towards the election of their representatives.
- 7.8 Not all informality is unintentional. The AEC analysis of House of Representatives informality revealed that 51.4 per cent of informal votes were assumed to be unintentional, with the remaining 48.6 per cent assumed to be deliberately informal.<sup>5</sup> Opposition members contend the actual intentional informal figure is likely to be far higher than 48.6 per cent, with many electors who vote only '1' or place a tick or a cross deliberately choosing not to number every box. It is important that those who intend to vote informally do not have their vote counted against their wishes for a candidate they did not wish to vote for.

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2 Source: AEC Virtual Tally Room, Election 2010, House of Representatives Informal votes by State, <http://results.aec.gov.au/15508/Website/HouseInformalByState-15508.htm>, viewed 1 June 2011.

3 Source: AEC Virtual Tally Room, Election 2010, Senate Informal votes by State, <http://results.aec.gov.au/15508/Website/SenateInformalByState-15508.htm>, viewed 1 June 2011.

4 Australian Electoral Commission, *Analysis of Informal Voting: House of Representatives, 2010 Federal Election*, Research Report Number 12, 29 March 2011, p. 3.

5 Australian Electoral Commission, Submission 87.4, p. 3.

- 7.9 The level of informality for voters genuinely trying to cast a formal vote is of concern. This means that upwards of 370 000 voters are attempting to vote, but for various reasons are failing.

### Committee view

- 7.10 The Committee believes that as part of a system that seeks to maximise participation in the democratic process to elect Australia's representatives, reasonable measures should be taken to help ensure that votes are not wasted. In particular, in cases where it is clear that an eligible voter has attempted to cast a formal vote, but it is informal perhaps due to confusion over what is required to make their vote count.

## Requirements for a formal vote

- 7.11 Ballot papers must satisfy certain requirements before being accepted into the vote count. Each ballot paper must first undergo authenticity checks to ascertain that:
- it is a genuine ballot paper – carrying the official mark and initials of the issuing officer; and
  - it does not identify the voter.<sup>6</sup>
- 7.12 Each ballot paper is then checked to ensure that the vote cast is 'formal' (in keeping with requirements set out in the *Commonwealth Electoral Act 1918*).
- 7.13 A House of Representatives vote will be formal if:
- one first preference is indicated and all boxes are numbered consecutively; or
  - one first preference is indicated and all boxes (except one) are numbered consecutively.
- 7.14 The Senate voting system provides voters with two options for casting a vote: above-the-line (group ticket voting) and below-the-line (indicating all preferences). A voter can vote above-the-line by indicating one, and only one, first preference against one of the group voting squares, and their preferences for all the other candidates will be taken to be in accordance with the group voting ticket (or tickets) lodged with the AEC by that political party or Senate group. Voters may number more than one

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6 Australian Electoral Commission, *Scrutineers Handbook: Federal election 2010*, Version 3, p. 47.

preference above-the-line, but preferences will still be determined as per the voting ticket of their first preference candidate.

7.15 When voting below-the-line for the Senate the vote will be formal if:

- a first preference is shown by the number '1' marked in the square opposite the name of one, and only one, candidate; and
- where there are 10 or more candidates, not less than 90 per cent of the squares opposite the names of candidates on the ballot paper are numbered as required, or would be if no more than three numbers were changed; or
- where there are nine or fewer candidates, all squares opposite the names of candidates on the ballot paper (or all but one of these squares with only one square left blank) are numbered as required, or would be if not more than two numbers were changed.<sup>7</sup>

7.16 In keeping with the principle of erring in favour of enfranchisement, some deviations in numbering are acceptable, and may allow a ballot paper to remain in the count. However, a repetition of a first preference is not acceptable in Senate or House of Representatives voting. Table 7.1 outlines some of the main deviations that may occur and compares how they will affect ballot papers in the House of Representatives and the Senate.

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7 Australian Electoral Commission, *Scrutineers Handbook: Federal election 2010*, Version 3, p. 54.



Table 7.1 Comparison of acceptable numbering on ballots papers

<b>Ballot paper marking<sup>(a)</sup></b>	<b>Acceptable on Senate ballot paper<sup>(b)</sup></b>	<b>Acceptable on House of Representatives ballot paper</b>
Single first preference (figure '1')	ATL: Yes BTL: No	No
Single first preference (figure '1', a tick or a cross)	ATL: Yes BTL: No	No
Incomplete numbering (consecutive preferences beginning with 1 are shown, but the last square is left blank)	ATL: Yes BTL: Yes, the blank square is deemed to express the voter's last preference	Yes, the blank square is deemed to express the voter's last preference
Incomplete numbering (consecutive preferences beginning with 1 are shown, but more than one square is left blank)	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No
Number sequence errors (missed numbers)	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No
Repeated numbers	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No

(a) The Commonwealth Electoral Act (CEA) prescribes the ballot paper formality requirements for federal elections.

(b) The Senate's two forms of voting are above-the-line (ATL) and below-the-line (BTL).

Source Australian Electoral Commission, *Scrutineers Handbook: Federal election 2010, Version 3*.

7.17 On Senate ballot papers provision is also made for when a voter has attempted to vote both above and below-the-line. If both votes would have been formal if recorded on their own then the below-the-line is given precedence and used for the count, with the ticket vote treated as if it had not been attempted, as it is assumed that marking all preferences is a better indication of the voter's intent.

7.18 If the votes attempted both above and below-the-line would have been informal if recorded on their own then the ballot is rejected. However, if the voter made an error when marking their ballot paper that made either, but not both, their ticket or full preferential vote informal, then the vote may still be formal in the following cases:

- where the ticket vote would have been formal if recorded on its own, but the preferential vote would have been informal if recorded on its own, the ballot paper is formal and the preferential vote below-the-line is treated as if it had not been attempted; or

- where the preferential vote below-the-line would have been formal if recorded on its own, but the ticket vote would have been informal if recorded on its own, the ballot paper is formal and is treated as if the ticket vote had not been attempted.

7.19 The Senate voting system currently allows more opportunities for saving informal votes than the House of Representatives arrangements.

## **Informal voting in the 2010 federal election**

7.20 In the 2010 federal election, the rate of informal votes for the House of Representatives was 5.5 per cent. Other than the 1984 election, this was the highest informal vote since the introduction of compulsory voting for federal elections in 1924. In 1984, informality in the House of Representatives ballooned as a result of confusion from the introduction of above-the-line Senate voting. However, the Committee accepts that optional preferential voting in New South Wales and Queensland, and the prevalence of 'just vote 1' campaigns in these jurisdictions, has, along with other factors, also contributed to increased levels of informality in the last few years.

7.21 The total House of Representatives informal vote in 2010 (729 304 informal votes) was equivalent to 7.8 average electoral divisions at the 2010 federal election. The rise in informality since the 2007 federal election is equivalent to 2.3 electoral divisions. These equivalents were calculated based on the national average for enrolment at 31 July 2010, which was 93 804 electors.

7.22 The 2010 federal election saw a substantial increase in assumed intentional informal voting in the House of Representatives, most readily identified by ballot papers that are left blank or have slogans or other messages written on them. This means that some electors see it as their right to submit an informal vote and Opposition members believe it is thus important that their votes are not given to bureaucrats to fill out the rest of the form for them. For the House of Representatives, 48.6 per cent of informal votes were assumed to be deliberately informal.<sup>8</sup> Notably, the AEC found that 2010 was the first election since the informal ballot paper survey began that the proportion of blank ballot papers (210 587) – a key

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8 Australian Electoral Commission, Submission 87.4, p. 3.

indicator of a deliberate informal vote – was higher than the proportion of number ‘1’ only ballots (202 432).<sup>9</sup>

7.23 The AEC analysis of House of Representatives informality revealed that 51.4 per cent of informal votes were assumed to be unintentional, with the remaining 48.6 per cent assumed to be deliberately informal.<sup>10</sup> Opposition members believe the actual intentional informal figure is likely to be far higher than 48.6 per cent, with many electors who use only a ‘1’, a tick or a cross deliberately choosing to not number every box. It is important that those who intend to vote informally do not have their vote counted against their wishes for a candidate they did not wish to vote for.

7.24 The AEC noted the media coverage of the call by a former Member of Parliament, prior to the 2010 federal election, for voters to submit blank ballot papers.<sup>11</sup> The AEC observed that:

It is not possible to determine whether the increase in blank ballots is related to Mr Latham’s comments or indeed to any other public commentary. It is possible that the level of blank ballots was simply a reflection of the mood of the electorate.<sup>12</sup>

7.25 In its analysis of House of Representatives informal voting, the AEC provided a breakdown, by state and territory, of the categories of informal votes (see Table 7.2).

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9 Australian Electoral Commission, Submission 87.4, p. 3; Australian Electoral Commission, *Analysis of Informal Voting: House of Representatives 2010 Federal Election*, Research Report Number 12, 29 March 2011, p. 79.

10 Australian Electoral Commission, Submission 87.4, p. 3.

11 For example of news coverage see <http://www.smh.com.au/federal-election/lathams-blank-vote-blather-from-mouth-of-truculent-teen-20100816-125ns.html?comments=302>, viewed 10 June 2011.

12 Australian Electoral Commission, Submission 87.4, pp. 3-4.

Table 7.2 2010 House of Representatives informality, by State and Territory

State/Territory	Number '1' only	Ticks and crosses	Sum of Number '1' only and Ticks and crosses	All other informal categories	Total Informal Votes
New South Wales	93 466	40 405	133 871	159 892	293 763
Victoria	31 005	13 606	44 611	105 088	149 699
Queensland	44 247	13 626	57 873	79 522	137 395
Western Australia	13 786	7 061	20 847	40 120	60 967
South Australia	13 124	7 258	20 382	36 183	56 565
Tasmania	2 595	1 440	4 035	9 756	13 791
Australian Capital Territory	2 969	1 535	4 504	6 422	10 926
Northern Territory	1 219	793	2 012	4 186	6 198
<b>National</b>	<b>202 411</b>	<b>85 724</b>	<b>288 135</b>	<b>441 169</b>	<b>729 304</b>

Source Provided by the Australian Electoral Commission, based on Analysis of Informal Voting: House of Representatives, 2010 Federal Election, Research Report Number 12, 29 March 2011.

7.26 It is evident that the highest numbers of informal votes were in New South Wales, Victoria and Queensland. Accordingly, most of the higher rates of informal voting by division are also predominantly in these states, in particular New South Wales (see Table 7.3). Opposition members of the Committee observe that this shows that many voters are confused by the difference between the state and federal systems, in particular in NSW and Queensland where optional preferential voting is used, this is confirmed by noting that the highest proportion of informal votes where the elector has just put a '1', a tick or a cross come from these two states.

7.27 When examined by division, the ten divisions with the highest informality rates are all located in western Sydney: Blaxland, Fowler, Watson, Chifley, McMahon, Werriwa, Greenway, Barton, Reid and Parramatta.<sup>13</sup>

<sup>13</sup> Australian Electoral Commission, Submission 87.4, p. 3.

Table 7.3 2010 Informal vote—Divisions with highest informality rates

Rank	Division	State	Formal votes	Informal votes	Total votes	Informal %	Informal swing %
1	Blaxland	NSW	73 830	12 081	85 911	14.06	5.17
2	Fowler	NSW	76 882	11 314	88 196	12.83	4.35
3	Watson	NSW	76 757	11 265	88 022	12.80	3.71
4	Chifley	NSW	80 371	10 097	90 468	11.16	3.25
5	McMahon	NSW	79 860	9 710	89 570	10.84	3.24
6	Werriwa	NSW	75 314	8 692	84 006	10.35	3.77
7	Greenway	NSW	79 308	9 075	88 383	10.27	4.09
8	Barton	NSW	78 683	8 572	87 255	9.82	3.25
9	Reid	NSW	79 628	7 680	87 308	8.80	3.22
10	Parramatta	NSW	78 317	7 418	85 735	8.65	2.03
11	Banks	NSW	83 869	7 665	91 534	8.37	2.61
12	Lindsay	NSW	83 227	7 402	90 629	8.17	2.65
13	Kingsford Smith	NSW	82 029	7 280	89 309	8.15	2.84
14	Macarthur	NSW	78 203	6 899	85 102	8.11	2.54
15	Lingiari	NT	42 927	3 482	46 409	7.50	2.65

Source *Parliamentary Library, Exhibit 3, p. 1.*<sup>14</sup>

- 7.28 In the Senate, the informality rate at the 2010 federal election was 3.75 per cent (495 160 votes). There is clearly a gap between that and the higher House of Representatives informality of 5.5 per cent.
- 7.29 However, this was not always the case. Prior to the introduction of group ticket voting in the Senate for the 1984 federal election, Senate informality was approaching ten per cent (see Table 7.5 later in the chapter).
- 7.30 Since its first use at the 1984 election, the more user friendly ticket (above-the-line) voting is now firmly established as the voting option used by the vast majority of voters for Senate elections, especially in states with high candidate numbers. This is clearly illustrated in Table 7.4.

14 This data is also available in the AEC's informality analysis: Australian Electoral Commission, *Analysis of informal voting: 2010 House of Representatives election*, Research Report Number 12, 29 March 2011, Appendices C and F.

Table 7.4 Method of voting in the 2010 Senate federal election, by State and Territory

State/ Territory	Number of Senate Candidates	Number of ticket votes cast	Percentage of total Senate vote cast using Ticket	Number of Below the line Senate Votes cast	Percentage of total Senate vote cast using full preferential
NSW	84	4 059 558	97.76	92 966	2.24
Vic	60	3 122 603	97.01	96 148	2.99
Qld	60	2 374 789	96.91	75 722	3.09
WA	55	1 196 446	96.94	37 773	3.06
SA	42	950 000	94.1	59 578	5.9
Tas	24	263 944	79.82	66 747	20.18
ACT	9	174 086	75.93	55 186	24.07
NT	15	87 665	90.67	9 022	9.33

Source Australian Electoral Commission, *Virtual Tally Room, Election 2010*.<sup>15</sup>

7.31 As is evident in Table 7.1 earlier in the chapter, comparing the acceptable numbering on Senate and House of Representatives ballot papers, the voting safety net for saving potentially informal votes is much wider for the Senate. However, the above-the-line ticket voting option is what has had the biggest impact on reducing Senate informality.

## Historical context to Senate voting changes

7.32 In 1983, the Joint Select Committee on Electoral Reform (JSCER) was formed to inquire into and report upon all aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto. Its inquiry included an examination of federal voting systems.

7.33 The JSCER observed that there had been various experiments with aspects of voting systems since federation, and outlined key developments in its report.<sup>16</sup> The AEC also keeps timelines of Australia's major electoral developments.<sup>17</sup>

15 AEC website, <http://results.aec.gov.au/15508/Website/SenateNominationsByState-15508.htm>, viewed 3 May 2011; and <http://results.aec.gov.au/15508/Website/Downloads/SenateFirstPrefsByStateByVoteTypeDownload-15508.csv>, viewed 3 May 2011.

16 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Commonwealth Parliament of Australia, p. 49.

17 AEC website, [http://www.aec.gov.au/Elections/Australian\\_Electoral\\_History/Reform\\_present.htm](http://www.aec.gov.au/Elections/Australian_Electoral_History/Reform_present.htm).

7.34 One of the issues of concern at the time of the JSCER's inquiry was the high level of Senate informal votes at the 1983 federal election. For example, in a parliamentary debate that year, it was observed that:

When we look at the election results around Australia for the 1983 Senate election, we find that the informal vote for the Senate was, in fact, the third largest bloc of votes nationally for the Senate. The informal vote for the Senate actually exceeded the vote for the Australian Democrats around Australia. That is the dimension of the problem. It is even more starkly highlighted by the fact that the number of informal votes in New South Wales and Victoria this year exceeded one electoral quota for the Senate. So, the informal vote could have elected one senator in both of those States.<sup>18</sup>

7.35 In the *First Report*, the JSCER concluded that the introduction of 'proportional representation' in 1948 had resulted in a more evenly balanced composition of the Senate. However, the troubling trend of rising levels of informal voting emerged in the Senate. The Australian Electoral Office Survey of informal voting at the 1977 federal election revealed nine per cent (731 555 ballot papers) informality for the Senate, as compared to 2.52 per cent (204 912 ballot papers) for the House of Representatives.<sup>19</sup>

7.36 Various stakeholders made submissions to the JSCER, advocating changes to address the informality issue. The Australian Labor Party advocated for optional preferential voting, as it argued that the full preferential system led to increased informal votes and forced voters to cast a preference for all candidates. It recommended that the voter only need express the number of preferences equal to the number of vacancies in the House of Representatives or the Senate. The Liberal Party and the National Party opposed optional preferential voting, as it was similar to, and came with, the disadvantages of a first-past-the-post voting system.<sup>20</sup>

7.37 The Australian Electoral Office proposed the introduction of a voting system in which a vote could be cast by ticking a box indicating a registered 'list' of party preferences. The vote would then be counted as if

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18 Senator Graham Maguire, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2980.

19 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Commonwealth Parliament of Australia, p. 53 and Appendix 3, p. 284.

20 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Commonwealth Parliament of Australia, p. 63.

it has been fully completed. The Liberal Party expressed a preference for the 'list' system over optional preferential voting.<sup>21</sup>

7.38 The JSCER decided that the introduction of the 'list' system whilst retaining the existing system – having the option to allocate all preferences – was the most feasible solution. It recommended that:

- (15) the current system of voting for each house should be modified as follows –
  - (a) for the Senate, a 'list' system should be introduced together with the retention of the existing system as an option open to those who wish to exercise their allocation of preferences, provided that a vote is not considered invalid if a mistake in sequence is made, but the voter intention is clear, i.e. a Senate vote should be considered formal as far as its intention is ascertainable provided that numbers are placed in at least 90% of squares;
  - (b) a House of Representatives vote should be considered formal as far as its intention is ascertainable provided that all except one of the squares is numbered.<sup>22</sup>

7.39 The then Government sought to give effect to this recommendation with the introduction of the Commonwealth Electoral Legislation Amendment Bill 1983. This Bill was part of major electoral reform, and included: the establishment of an independent Australian Electoral Commission to administer the federal electoral system; changing the franchise qualification to Australian citizenship; registration of political parties; and public funding and disclosure arrangements.

7.40 In his second reading speech on the Bill, the then Special Minister of State expressed concern about the high number of informal votes in the Senate elections, stating:

On Senate voting, the Government has accepted the recommendation of the Committee to provide; firstly, that a voter may mark one square indicating the adoption of his preferred party's how to vote ticket and, secondly, for the validation of any

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21 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Commonwealth Parliament of Australia, p. 63.

22 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Commonwealth Parliament of Australia, pp. 203-204.



person's vote up to the point where the voter's intention remains clear. It has been a matter of notoriety that the complexity of the ticket has contributed to a substantial informal vote and also just as significantly to the throw-away vote, known as a donkey vote. The Joint Committee had before it material from the Australian Electoral Office which showed how the most trivial mistakes were the major factors in the Senate informal vote. The figures were taken from an analysis of the 1977 Senate and House of Representatives vote. The Senate informal vote was 9 per cent nationwide compared to 2.5 per cent for the House of Representatives. Of the Senate informal votes almost eight out of 10, 78 per cent, had been disqualified on one or two grounds, that is incorrect numeric sequence, or some squares left blank. This meant the disfranchisement in that election for the Senate of almost 600,000 Australians, more than the population of Tasmania. The situation is palpably absurd and this legislation will go a long way towards correcting it.<sup>23</sup>

7.41 In the course of debate on the 1983 Bill various concerns were raised in relation to aspects of the change to the Senate voting system:

- Senator Peter Baume argued that the attempt to address Senate informality would have other undesirable consequences:

It is true that the voting process in the Senate can be simplified, but the use of the list system will reduce the effectiveness of the whole concept which lies behind a preferential system of voting...

While this might minimise informal votes in one respect, it could well encourage them in another. The fact is, of course, that at present 90 per cent of all electors are able to cast formal votes. That is a credit to the voters. It just puts out of court the claim by the Government that the community cannot handle a full preferential voting system. Clearly, the community can handle it. The fact that 90 per cent of votes are formal indicates to us that the task should be rather to increase that number of formal votes than to try to change it and move to a list system which carries at least as many problems as it does advantages.<sup>24</sup>

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23 The Hon Kim Beazley MP, House of Representatives Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 2 November 1983, p. 2213.

24 Senator Peter Baume, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2977.

- The then Leader of the National Party of Australia argued that the 'list' voting was an oversimplification and 'an insult to the intelligence of the average Australian voter to assume that he cannot fill in a significant number of squares' to indicate preferences.<sup>25</sup>
- Senator Sir John Carrick argued that the 'pre-occupation with eliminating informal votes ends up in a first-past-the-post system...[that] will certainly weaken the integrity of the preferential and proportional systems'.<sup>26</sup>
- Mr Steel Hall MP, objected to the further simplification of the Senate ballot paper by also allowing a tick and a cross to be deemed a figure '1'.<sup>27</sup>

- 7.42 Many of the JSCEP's recommendations were given effect by the *Commonwealth Electoral Legislation Amendment Act 1983*. The Act introduced above-the-line voting and Group Voting Tickets (GVTs). Senate candidates could choose to form groups and submit a GVT to the AEC setting out the order in which preferences should be distributed if a voter chose to vote above-the-line by just marking one box with a number '1', a tick or a cross.
- 7.43 These changes had the desired effect of reducing Senate informality. However, in most elections since 1984 the rate of informal votes in the House of Representatives has exceeded Senate informality.
- 7.44 Table 7.5 shows the percentage of informal votes in House of Representatives and Senate elections since 1977. The marked difference between levels of informal votes in the Senate and House in the late 1970s and early 1980s has again emerged, but the case has reversed with the House of Representatives now recording a higher level of informal votes than the Senate.

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25 Senator Douglas Scott, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2985.

26 Joint Select Committee on Electoral Reform, *First Report*, September 1983, Dissenting report, Sir John Carrick KCMG, 5 September 1983, Commonwealth Parliament of Australia, p. 224.

27 Mr Steele Hall MP, House of Representatives Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 10 November 1983, p. 2624.

Table 7.5 Percentage of informal votes for the House of Representatives and the Senate, 1977 to 2010 elections

Election	1977	1980	1983 ★	1984	1987	1990	1993	1996	1998	2001	2004	2007	2010
House	2.5	2.5	2.1	6.3	4.9	3.2	3.0	3.2	3.78	4.8	5.2	3.95	5.55
Senate	9.00	9.6	9.9	4.3	4.1	3.4	2.6	3.5	3.24	3.9	3.8	2.55	3.75

Source Australian Electoral Commission, for 1977 to 2007: *Informality percentage House of Representatives and Senate*, [http://www.aec.gov.au/Voting/Informal\\_Voting/summary.htm](http://www.aec.gov.au/Voting/Informal_Voting/summary.htm), viewed 22 June 2011.

★1983 figures include missing and discarded ballots

7.45 The examination of the historical context of the changes to the Senate voting system to address high levels of informal votes and the higher level of informal votes in the House of Representatives currently being experienced, reveal compelling similarities between the type of mistakes made on ballot papers and the groups whose votes are affected.

7.46 When discussing the issue in 1983, South Australian Senator Graham Maguire stated:

The Australian Electoral Office conducted a study of all informal ballot papers at the 1977 federal election and the report showed uniformly in all States that the errors which caused informal votes were basically of two types: Incorrect numbering sequence and cases where people had left some squares blank. It was quite striking that in virtually every State about 77 per cent or 78 per cent of informal votes could be put down to those two types of errors. So clearly people were trying to fill in their ballot papers. People were trying to cast formal votes, but they were just frustrated by this system which required 30 or 40 preferences to be placed on a ballot paper...

...

Who votes informally is a very important question that has to be faced up to. We carried out an investigation in my State some years ago. We found that, in many suburbs where there are large numbers of senior citizens, where migrants have arrived recently from certain countries or where there are citizens with low levels of schooling, we got high informal votes.<sup>28</sup>

28 Senator Graham Maguire, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2980.

- 7.47 Today, the Joint Standing Committee on Electoral Matters faces many of the same policy and practical challenges in reducing informality in the House of Representatives as faced by the Joint Select Committee on Electoral Reform when it looked at the high level of Senate informality in 1983.

## Factors affecting informal voting

- 7.48 In its analysis of informal voting for the House of Representatives in the 2010 federal election, the AEC observed that:

There are many factors that could influence a voter to intentionally or unintentionally cast an informal vote and it is not possible, in many cases, to accurately quantify or even separately identify the impact these factors might have. Of those factors identified as significant influences on (unintentional) informal voting at previous HoR elections, English language proficiency and the number of candidates appear to be the strongest predictors of informality rates (or changes in informality rates) in 2010.<sup>29</sup>

- 7.49 The key factors contributing to informal voting brought to the attention of the Committee included: lack of English language proficiency, high number of candidates, socioeconomic considerations, and the differences between voting systems at both the federal and state and territory levels. However, Opposition members believe none of these factors justify authorising a bureaucrat to deem the rest of the elector's ballot paper being cast in accordance with a registered ticket.

## English language proficiency

- 7.50 In its analysis of informality in the 2010 federal election, the AEC found English language proficiency to be one of the strongest predictors of unintentional informality.<sup>30</sup> It stated that:

Five out of the 10 divisions with the highest informality rates at the 2010 House of Representatives election also had the five highest proportions of persons who, at the 2006 Census of Population and Housing, indicated that they did not speak English well, or did not speak English at all.<sup>31</sup>

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29 Australian Electoral Commission, Submission 87.4, p. 3.

30 Australian Electoral Commission, Submission 87.4, p. 3.

31 Australian Electoral Commission, *Analysis of Informal Voting: House of Representatives 2010 Federal Election*, Research Report Number 12, 29 March 2011, p. 7.

7.51 Elections analyst, Mr Antony Green, also acknowledged the links between high migrant populations and higher informal voting rates. He advised the Committee that:

...certainly there are many people who came to Australia from overseas who have voted in other systems, and we are one of the only countries in the world that numbers a ballot paper. We are certainly the only country in the world that insists you number every box on the ballot paper.<sup>32</sup>

7.52 The AEC strategies to assist people from culturally and linguistically diverse (CALD) backgrounds and minimise informality in the 2010 federal election included:

- translating a range of information (including the *Official Guide to the 2010 Federal Election* - a leaflet that was distributed to all households) into 22 different languages for use in the polling place. Additionally, all translated election communication materials were available on the AEC website in an “information in your language” section. This information was also accessible through an AEC telephone translation service which provided assistance in 16 languages...[;and]
- employing multi-lingual staff in divisions with a high percentage of people with culturally and linguistically diverse (CALD) backgrounds; an interactive “How to vote practice tool” was available on the AEC website to enable electors to practise filling in their ballot papers; this was promoted through the advertising and public relations materials.<sup>33</sup>

7.53 The AEC also undertook a pilot project in western Sydney in the lead-up to the 2010 federal election. Areas that had high informality rates in previous federal elections were targeted: Blaxland, Watson, Chifley, McMahon, Fowler, Reid, Parramatta, Werriwa, Banks and Bennelong. The AEC noted that:

The primary objective of this project was to increase voter knowledge in relation to casting a formal vote. The secondary objectives were to engage and build community connections and to evaluate the content methodology used in delivering community education.<sup>34</sup>

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32 Mr Antony Green, Transcript, 2 March 2011, p. 19.

33 Australian Electoral Commission, Submission 87.4, p. 4.

34 Mr Doug Orr, State Manager for New South Wales, Australian Electoral Commission, Transcript, 4 March 2011, p. 42.

- 7.54 The pilot project was managed by consultants working closely with the AEC. Bilingual educators, in many cases with extensive links in the relevant community, were engaged and trained by AEC staff. In conducting the workshops, the AEC noted that:
- The educators were provided with appropriate tool kits and information and presentation material. Each workshop was attended by an AEC staff member who provided technical expertise and support for the relevant bilingual educator.<sup>35</sup>
- 7.55 The pilot project was cut short by the announcement of the 2010 federal election. In total, 90 workshops were conducted, with 1772 participants across 13 language groups in the three week period leading up to the 2010 federal election, at a total cost of just under \$210 000.<sup>36</sup>
- 7.56 While formal written feedback on the courses was limited, educators confirmed an increase in the knowledge and understanding exhibited during the course of the workshop.<sup>37</sup>
- 7.57 In the 2010 federal election, eight of these western Sydney divisions in which the workshops were conducted were ranked in the top ten highest percentages of divisions with informal votes.<sup>38</sup>
- 7.58 The AEC conducted a voter survey at seven locations in western Sydney on polling day. Forty-five of those interviewed had attended a workshop and found it useful. However, the AEC found that those interviewed were ‘...no less likely than other western Sydney respondents who speak languages other than English to vote informally, nor were they more confident about voting than those who had not attended a workshop’.<sup>39</sup>
- 7.59 In its evaluation of the project targeting voters from non-English speaking backgrounds (NESBs) in western Sydney the AEC concluded that the project had little impact on informality rates in those divisions, but was optimistic about the potential impact of a longer term project of this kind. The AEC found that:

The workshops did not directly result in a reduction in informality in the targeted divisions during the 2010 federal election. However, they were perceived by attendees as useful. Given an

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35 Mr Doug Orr, State Manager for New South Wales, Australian Electoral Commission, Transcript, 4 March 2011, p. 42.

36 Australian Electoral Commission, Submission 87.4, pp. 5-6.

37 Australian Electoral Commission, Submission 87.4, pp. 5-6.

38 Parliamentary Library, *2010 Informal vote by division: Ranked by informal vote percentage*, p. 1.

39 Australian Electoral Commission, Submission 87.4, pp. 6-7.

average of 170-180 workshop participants in each of the target divisions consisting of around 100,000 voters, an immediate impact in informality statistics could not be expected. However, the adoption of the program on a continual basis with opportunity for repeat visits and broader topic coverage could be expected to have an impact on informality figures over time.<sup>40</sup>

- 7.60 SydWest Multicultural Services provides support services in the south western Sydney area to refugees and humanitarian entrants, including many from NESBs. It recognises that a lack of functional English is a significant challenge for people from NESBs carrying out a range of necessary activities, including casting a valid vote. Mr Agwa stated:

We do admit that language is the big issue, therefore it is important to engage with these people and give them resources so they can be able to cast their vote and exercise their democratic rights effectively and efficiently.<sup>41</sup>

- 7.61 The problem is not only restricted to new arrivals, as some Indigenous voters face the challenge of low functional English language skills. The Hon Warren Snowdon MP, the Member for Lingiari in the Northern Territory, raised this as a matter of concern in relation to Indigenous voters. He commented that:

...we had the highest enrolment figures but lowest turnout by percentage and highest informal vote over the 2001-2010 period. That is an issue. It reflects one issue that we need to be confronting that prior to 1996, there was a very active Aboriginal education voter enrolment division within the Electoral Commission. That was subsequently removed and therefore the capacity for people to get educated about their voting obligations was not what it ought to be. I think that is reflected in these voting figures, in the turnout and in the high informality, and is a question which I think we need to be confronting.<sup>42</sup>

## Number of candidates

- 7.62 Generally, there has been a steady rise in the number of candidates contesting House of Representatives and Senate elections over the last few elections. In addition to cost implications, increasing numbers of

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40 Australian Electoral Commission, Submission 87.4, p. 6.

41 Mr Abulla Agwa, SydWest Multicultural Services, Transcript, 18 April 2011, pp. 17-18.

42 The Hon Warren Snowdon MP, Member for Lingiari, Commonwealth Parliament, Transcript, 11 May 2011, p. 8.

candidates have resulted in a more complicated – and at times unwieldy – ballot paper that represents a logistical challenge to the AEC and a practical challenge to voters trying to cast a formal vote.

- 7.63 The AEC expanded on how this has evolved since federation, and observed that:

...the task faced by the average voter is now clearly more complex than when full preferential voting was introduced in 1918. Up until then, there had been seven general elections, at which a total of 525 vacancies were filled, and for which a total of 1060 nominations were received. Over those seven elections, the overall average number of candidates per vacancy was 2.02. Over the last eight general elections, from and including that of 1990, 1,191 vacancies have been filled, for which a total of 7,775 nominations have been received, at an average of 6.53 candidates per vacancy. This trend came to a climax at the 2009 Bradfield by-election, contested by 22 candidates, at which the informal vote reached 9%, by a substantial margin the highest ever recorded in the division, and more than double the rate for that division at the 2007 election.<sup>43</sup>

- 7.64 The impact of the increasing number of candidates in Senate and House of Representatives election is discussed in more detail in Chapter 9.

### Differences between voting systems

- 7.65 Having differences between the voting systems for the Senate and the House of Representatives at the federal level itself, and with states and territories, can be confusing and pose a problem for voters trying to cast a formal vote.
- 7.66 Mr Antony Green observed in his analysis of previous elections that occurrences of a first preference only being marked on House of Representatives papers was higher in both New South Wales and Queensland, where optional preferential voting is used for state elections.<sup>44</sup>
- 7.67 This is supported by AEC statistics that show a substantially higher informal vote (with only number '1', ticks or crosses) for New South Wales (133 871 votes) and Queensland (57 873 votes).<sup>45</sup>

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43 Australian Electoral Commission, Submission 87.4, Attachment B, p. 4.

44 Mr Antony Green, Submission 88, p. 5.

45 See Figure 7.2.



7.68 When considering the differences at the federal level itself, Mr Green commented that:

While the interaction with state laws on optional preferential voting plays a part in varying the incidence of '1' only voting by state, what we also know from research is that the use of the Senate ballot paper, and its instruction that voters place a '1' above the line on the ballot paper plays a part in inducing '1' only voting in the House.

Research at by-elections has shown that without the distraction of the senate ballot paper, the incidence of '1' only voting declines...<sup>46</sup>

7.69 When the Commonwealth Electoral Legislation Amendment Bill 1983 (which introduced group voting tickets in the Senate) was considered, the potential for confusion was foreshadowed in debate, with Senator Baume stating:

We think it is far simpler for people to know that when they vote, the process they use will be to follow a full preferential listing of numbers and that that will occur whether they are voting for the House of Representatives or for the Senate. It is very difficult to ask people to use ticks or crosses on one of their voting papers and to write numbers on the other voting paper and not to expect that some inefficiency or unavoidable error will occur as a result.<sup>47</sup>

#### Committee view

7.70 The Committee agrees that greater harmonisation of voting systems is desirable. It would be much easier for a voter to be able to look at a ballot paper for the election of representatives to the Senate, House of Representatives or their state or territory Parliament, and have confidence that the same thing is expected of them to make their vote count.

7.71 While the Committee acknowledges that at present national harmonisation of voting systems is unlikely, it believes that the Government must take the necessary steps to mitigate the impact that confusion over – or indeed ignorance of – different voting systems may have on levels of informal voting.

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46 Mr Antony Green, Submission 88, p. 5.

47 Senator Peter Baume, Senate Hansard, second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2977.

## Socioeconomic considerations

7.72 In evidence to the Committee, the Victorian Electoral Commissioner, Mr Steve Tully, noted the correlation between socioeconomic disadvantage and levels of informal voting. He observed that:

The data is also there to support the view that informality is directly related to the electorate in which people live. In the eastern suburbs of Melbourne, informality is a lot lower than it is in the western suburbs. The population make-up is also different, and I do not think it is drawing too long a bow to say that there are socioeconomic and other factors involved in informality – and literacy, I suspect, is also a big issue in informality, particularly with blank ballot papers.<sup>48</sup>

7.73 A comparison of socioeconomic indexes for electoral divisions<sup>49</sup> with the electoral divisions ranked by levels of high informal voting<sup>50</sup>, reveal some correlations. For example, of the top 15 electoral divisions ranked by index of relative socioeconomic disadvantage and ranked by highest levels of informal voting in 2010, there were four divisions present on both lists (Lingiari, Fowler, Watson and Chifley).<sup>51</sup>

## Addressing informality through education

7.74 The AEC delivers various education services, including school and community visits, sessions at their electoral education centre, and professional development workshops for educators.

7.75 Information is available on the AEC's website regarding the conduct of elections. In the lead up to the 2010 federal election the *Official Guide to the 2010 federal election* went directly to households, and was available in a range of languages, Braille and a sound recording to make it accessible to a wide range of electors.

7.76 The AEC also conducts targeted programs to help specific groups more effectively exercise their voting franchise. Over many years these activities have included:

48 Mr Steve Tully, Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 17.

49 Parliamentary Library, *Socio-economic indexes for 2009 electoral divisions: 2006 Consensus*, 28 July 2010, Research paper no. 1, 2010-11, Table 1b, p. 16 and Table 4b, p. 22.

50 Parliamentary Library, Exhibit 3, p. 1.

51 Parliamentary Library, *Socio-economic indexes for 2009 electoral divisions: 2006 Consensus*, 28 July 2010, Research paper no. 1, 2010-11, Table 1b, p. 16 and Table 4b, p. 22; and Parliamentary Library, Exhibit 3, p. 1.

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- providing printed How-to-Vote information in up to 21 different languages;
  - including formality information in the Official Guide to the Election at federal elections;
  - providing telephone translation services through specialist providers; and, more recently, providing special programs in targeted divisions in the lead up to an election;
  - adapting press advertising for placement in Indigenous media, and placing translated press and television advertising in media for persons from non-English speaking backgrounds;
  - directly mailing community organisations and groups, and migrant resource centres, with translated how to vote correctly fact sheets, posters and DVDs featuring translated television advertisements;
  - employing staff with particular language skills in polling places in targeted divisions;
  - providing extra training to polling staff in divisions with a high level of persons from non-English speaking backgrounds;
  - translating the three questions issuing officers are required to ask of electors into 21 languages for use in targeted polling places;
  - playing looped video information in targeted polling places in divisions with persons from non-English speaking backgrounds;
  - providing information to Candidates through the Candidate's Handbooks, advising candidates about minimising unintentional informality through the design of their How-to-Vote cards;
  - providing an interactive How-to-Vote practice tool on the AEC website; and
  - conducting school and community education sessions in areas with high levels of persons from non-English speaking backgrounds (with a view to providing information to students and other persons who speak English from such families in order that they may assist in passing information to parents).<sup>52</sup>

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52 Australian Electoral Commission, Submission 69 to Inquiry into the conduct of the 2007 federal election, pp. 63-65.

- 7.77 As discussed earlier in the chapter, the AEC pilot project in western Sydney sought to address the high levels of informal voting in those electoral divisions.
- 7.78 The Indigenous Electoral Participation Program (IEPP) provides targeted assistance to Indigenous electors and potential electors. The IEPP commenced in 2010 and is funded for four years as part of the Government's Closing the Gap initiatives. It is a national program that aims to:
- increase levels of knowledge of democratic and electoral processes;
  - increase levels of enrolment;
  - increase levels of participation in democratic and electoral processes; and
  - decrease levels of informal voting.
- 7.79 Ms Bright, the AEC State Manager for Queensland, outlined the work of the IEPP in Queensland, stating that:
- Education sessions for Indigenous Queenslanders were conducted by staff of the AEC's Indigenous Electoral Participation Program at some 18 very diverse locations around the state, from the Gold Coast right up to the Torres Strait, as far west as Cunnamulla and St George and right out west to Mount Isa. Staff also used these events to promote employment opportunities for Indigenous people at the upcoming election. In addition, an electoral awareness officer program was trialled throughout Queensland for the election. One hundred and fifty Indigenous officers were engaged to assist with educating electors and to provide information in communities about enrolling, the voting process and how to cast a formal ballot. In the Cape, the Torres Strait and areas of metropolitan Brisbane where these officers worked, the rate of informality decreased.<sup>53</sup>
- 7.80 The AEC Manager for the Northern Territory, Mr Pugsley, advised the Committee that IEPP staff were also in the field in the Northern Territory in the weeks leading up to the 2010 federal election.<sup>54</sup>

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53 Ms Anne Bright, State Manager for Queensland, Australian Electoral Commission, Transcript, 4 March 2011, p. 43.

54 Mr Robert Pugsley, Manager for the Northern Territory, Australian Electoral Commission, Transcript, 30 March 2011, p. 22.

- 7.81 At the 2010 federal election, there was a decrease in voter turnout in the Northern Territory to 82.7 per cent.<sup>55</sup> Statistics for various mobile polling stations in the Northern Territory also revealed high levels of vote informality in some remote areas.<sup>56</sup>
- 7.82 However, Mr Pugsley was optimistic about the future impact of the IEPP program. He noted that the IEPP program had only been operating for a few weeks prior to the 2010 federal election being called.<sup>57</sup>

### Committee conclusion

- 7.83 The Committee acknowledges the role that education must play in helping to address informality. Targeted programs conducted by the AEC such as the Indigenous Electoral Participation Program assisting Indigenous people, and the pilot project in western Sydney to assist voters from non-English speaking backgrounds, are valuable and should continue.
- 7.84 The Committee notes the range of education-based and other activities that the AEC has undertaken in recent years to try to decrease the levels of unintentional informality, especially in areas where there are high levels of persons from non-English speaking backgrounds. It is clear, however, that despite these efforts informality continues to rise.
- 7.85 The Committee believes that unintentional informal voting is a growing and complex problem that requires action beyond the improvements that education programs have been able to deliver. Opposition members of the Committee point out that there has been no extensive research as to what proportion of informal voting is deliberate and what is accidental. At the moment, the AEC merely assumes that all ballots that are numbered '1' only are accidentally informal and those that are blank are deliberately informal. Clearly there needs to be more extensive research done. The Opposition members believe education programs do deliver better outcomes, particularly in states with optional preferential voting and believes that people are entitled to vote informally if they wish.
- 7.86 The Committee notes the 1983 amendments for reducing informality in the Senate. However, the increasing amounts of informal votes in House of Representatives elections means action is required to reduce these

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55 Mr Robert Pugsley, Manager for the Northern Territory, Australian Electoral Commission, Transcript, 30 March 2011, p. 22.

56 The Hon Warren Snowdon MP, Member for Lingiari, Commonwealth Parliament, Submission 70.1, p. 1.

57 Mr Robert Pugsley, State Manager and Australian Electoral Officer for the Northern Territory, Australian Electoral Commission, Transcript, 30 March 2011, p. 22.

numbers before the House of Representatives is faced with the alarmingly high levels of the Senate prior to 1983. The Opposition members note that this is a false comparison as no House of Representatives ballot paper would ever resemble a Senate paper in terms of numbers of candidates nominating. It is also necessary to point out that Senate electors are still able to fill out every square if they wish.

## **Saving informal votes in the House of Representatives**

7.87 The Committee notes the Australian Labor Party's observation about addressing informality:

The AEC has made significant efforts to try to address it, but those do not seem to be really improving the situation. I think we do need to look at something a bit more fundamental.<sup>58</sup>

7.88 There are various options that could be explored to reduce the amount of informal votes. Mr Antony Green proposed that the Committee consider optional preferential voting, a system of progressive informality and the South Australian ticket voting system, as options for lowering the informal vote in the House of Representatives.<sup>59</sup>

### **Optional preferential voting**

7.89 Some have suggested optional preferential voting as a way to reduce informality in the House of Representatives, as it provides voters with the flexibility to indicate as few or as many preferences as suits.<sup>60</sup> Groups such as the Electoral Reform Society of South Australia support optional preferential voting on the basis that it would make it easier for voters and fairer for ungrouped candidates, in the case of the Senate.<sup>61</sup>

7.90 Others object to an optional preferential voting system.<sup>62</sup> Not only opposing its introduction at the federal level, The Nationals advocated for

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58 Mr Nick Martin, Assistant National Secretary, Australian Labor Party, Transcript, 25 May 2011, p. 25.

59 Mr Antony Green, Submission 88.

60 Mr Antony Green, Submission 88, p. 7.

61 Mr Deane Crabb, Electoral Reform Society of South Australia, Submission 85, p. 3.

62 Mr Anthony van der Craats, Submission 64, p. 7, and FamilyVoice Australia, Submission 12, p. 7.

greater harmonisation of voting systems, calling for full preferential voting to be standard at the federal and state and territory levels.<sup>63</sup>

7.91 In terms of addressing informality, Mr Andy Becker, a former South Australian Electoral Commissioner, noted that:

Optional preferential voting (OPV) does go some small way toward saving such votes but the rationale is not directed solely to that end. The main purpose of OPV is to enable a voter not to have to indicate a preference if he or she does not have one. The consequence is that a great many ballot papers exhaust in the process of preference distribution and take no part in the final distribution.<sup>64</sup>

### Committee conclusion

7.92 The Committee has repeatedly considered the optional preferential voting system when proposed in the course of its various post-election reviews and other inquiries, but continues to support a system of full preferential voting at the federal level.

### Progressive informality voting system

7.93 Elections analyst, Mr Antony Green, proposed a new voting system of 'progressive informality' that retains compulsory preferential voting, but relaxes the formality criteria. Under his proposed system ballot papers with valid first preferences would be admitted to the count and the ballot papers with incomplete preferences would only be excluded at the point that preferences were required to be counted.<sup>65</sup>

7.94 Mr Green outlined his counting procedure as follows:

- (1) Initial count admits any vote with a valid first preference.
- (2) If one candidate has a majority of first preference votes, no further checks for formality are required on ballot papers admitted to the count under Step (1).

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63 The Nationals, Submission 93, p. 4.

64 Mr Andy Becker, Submission 103, p. 3.

65 Mr Antony Green, Submission 88, p. 8.

- (3) If preferences require to be counted to determine a winning candidate, the ballot papers of a candidate are re-examined for formality before they are distributed. Any ballot papers that do not have a valid next preference are excluded from the count.
- (4) Having excluded some first preferences as informal, a check is made to determine that the leading candidate has not now reached 50% of the new formal total. If preferences are still required to determine the winner, proceed to step (5).
- (5) Distribute preferences. Return to step (3) and determine if further distributions need to be undertaken.<sup>66</sup>

- 7.95 Under this model an elector's vote is counted if their first preference candidate secures a majority of first preference votes. However, if further preferences are required, and the ballot paper has no other preferences marked, the vote will be deemed informal at that point.
- 7.96 In a situation where a candidate secures an absolute majority on first preferences, those incomplete ballot papers will count toward the result. The candidate will win the election; however, during the full distribution of preferences, those ballot papers (if any) that were deemed formal at the first preference count for the remainder of the candidates would be informal at the point where the candidate was excluded, if no further preferences were indicated.
- 7.97 Under that situation, ballot papers for the winning candidate may be treated differently to ballot papers for the other candidates.
- 7.98 Another relevant factor is that the number of ballot papers deemed formal at the first count, may be different to the number of ballot papers deemed formal at the end of the full distribution. It is likely, therefore, that the number of ballot papers counted toward the final result would be different to the number of ballot papers that counted toward the candidate being elected. Opposition members are in strong disagreement with this assessment, the idea that a vote which exhausts under an optional preferential system because the elector deliberately chooses not to preference certain candidates does not make their vote informal. Opposition members feel that pointing out that some votes may exhaust is a very poor argument against 'progressive informality' or optional preferential voting, and that saying that these votes are informal is very deceptive.
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<sup>66</sup> Mr Antony Green, Submission 88, p. 8.



- 7.99 Similarly, the result achieved in a division in which a candidate achieves an absolute majority of first preference votes, would treat incomplete ballot papers in a different way than in a division where a full distribution of preferences is required to determine the result.
- 7.100 Mr Green acknowledged that while progressive informality gives effect to the intent of more voters than the current rules, there are disadvantages in that: it does disadvantage minor parties and independents as the ballot papers given their first preference are more likely to have to be excluded and thus become informal if full preferences are not indicated; and election night counts would be less reliable, as ballot papers with first preferences counted on election night may later need to be excluded.<sup>67</sup>
- 7.101 In evidence to the Committee, Mr Green argued that his progressive informality model struck the right balance between saving votes and respecting compulsory voting. He asserted that:
- Under progressive informality, you cannot vote 1 and hope your vote will exhaust before it reaches somebody and have an effect on the count. If you voted 1 and your preferences need to be counted, your vote will still end up informal. But what I am arguing, which the AEC has argued since the 1987 informal vote report and which is evident if you look at the South Australian research in detail, is that for every vote we reject from the count to protect compulsory preferential voting – in other words, if somebody has not filled in all their preferences and those preferences are required – there are nine votes with a valid first preference that could have counted and did not need to have their preferences counted. So we have a very high test of formality to protect compulsory preferential voting when nine in 10 of those votes are not damaging compulsory preferential voting anyway.<sup>68</sup>
- 7.102 At the Committee's request, the AEC considered Mr Green's progressive informality model and what effect it could have had on House of Representatives informality in the 2010 federal election. The AEC concluded that of the 729 304 informal votes, 273 035 could possibly have been saved at the first preference count, with a further 85 724 potentially saved if ticks and crosses were also accepted, and potentially another 4 816 if other symbols such as alphabetic characters were accepted. However, a

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67 Mr Antony Green, Submission 88, p. 8.

68 Mr Antony Green, Transcript, 2 March 2011, p. 18.

number of ballot papers may then be rendered informal if a distribution of preferences was required.<sup>69</sup>

7.103 The Committee also notes the following AEC observations about the progressive informality model:

- the progressive informality system and optional preferential voting systems are practically equivalent, sharing many of the same merits in minimising unintentionally formality;
- the system would be more effective than the current system in giving effect to first preferences expressed by voters;
- broadly, progressive informality would be simpler to implement than the South Australian ticket system; and
- the impact of the system on the clarity of election night results is likely to only be marginal and have less impact than uncounted declaration votes.<sup>70</sup>

7.104 Dr Brent of the Democratic Audit of Australia also commented on the similarity between optional preferential voting and progressive informality, suggesting that progressive informality was 'really OPV with a bit of a semantic change'.<sup>71</sup>

### Committee conclusion

7.105 The Committee supports a system of full preferential voting. It notes the similarities between progressive informality and optional preferential voting.

7.106 The Committee does not consider the progressive informality voting system proposed by Antony Green to be a viable option. In particular, the Committee is concerned about ballot papers being treated differently from one electoral division to another. It is not equitable to say that in the event an elector has voted with a single '1', that if the elector's first preference happens to be for a candidate that received an absolute majority then it can be treated as formal, but if their first preferences is for another candidate and additional preferences are required then the ballot paper will be deemed informal.

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69 Australian Electoral Commission, Submission 87.4, Attachment B, p. 17.

70 Australian Electoral Commission, Submission 87.4, Attachment B, p. 3.

71 Dr Peter Brent, Democratic Audit of Australia, Transcript, 4 March 2011, p. 67.

- 7.107 The Committee believes that the progressive informality system could potentially be more confusing, for voters and election officials administering the count, than the current system that the Committee is seeking to improve.
- 7.108 The Committee also believes that, wherever possible, ballot papers deemed to be formal should be treated consistently, both within and across electoral divisions. Progressive informality, unlike the South Australian savings provision dealt with below, does not treat ballot papers deemed formal in an equal and consistent manner.

### South Australian ticket voting

- 7.109 The South Australian voting system is full preferential, but has a savings provision (SA ticket voting) for the House of Assembly which permits candidates to lodge one or two preferences ticket, and provides that some ballot papers may be rendered formal if a voter has only indicated some preferences on their ballot paper where the preferences indicated are consistent with the ticket or tickets lodged.
- 7.110 In the 2010 South Australian state election, 32 638 House of Assembly votes were saved by South Australia's ticket voting system. In the two previous elections in 2006 and 2002, 43 553 and 37 897 votes were saved.<sup>72</sup>
- 7.111 The Committee received evidence that at the 2010 state election the informal vote in South Australia, which was 3.3 per cent under ticket voting provisions, would have been 6.5 per cent had federal rules applied.<sup>73</sup>
- 7.112 In the South Australian House of Assembly, provided a ballot paper is not marked in a way that identifies the voter, it is formal if:
- consecutive preferences are indicated against the names of all candidates, commencing with a '1', a tick or a cross;
  - consecutive numerical preferences commencing with a '1' (or a tick or a cross) are indicated against the names of all candidates except one; or
  - the previous criteria are met, and the elector has corrected an error (for instance by crossing out and renumbering), but the correction still leaves the elector's intention clear.<sup>74</sup>

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72 Australian Electoral Commission, Submission 87.4, Attachment B, p. 8.

73 Mr Antony Green, Transcript, 2 March 2011, p. 18.

74 Electoral Commission of South Australia, *Scrutineers Handbook*, R018, 2010, pp. 32-33.

7.113 South Australian House of Assembly ballot papers are informal if:

- it is marked in a way that positively identifies the voter;
- it is blank or if no first preference is indicated by either a '1', a tick or a cross;
- more than one first preference is indicated (i.e. if a '1', tick or cross appears in or against two or more squares);
- there is a break in the consecutive numerical preferences, a duplication, or two or more preferences are omitted; or
- the ballot paper was not placed in a ballot box, even if it meets other formality requirements.<sup>75</sup>

7.114 Uniquely, a savings provision in section 93 of the *Electoral Act 1985* (SA), allows some votes to be saved in certain circumstances. Under the South Australian ticket voting system, candidates are entitled to lodge one or two voting tickets.<sup>76</sup> An incomplete ballot paper may then be saved when:

- a first preference has been marked (with a '1', tick or a cross) for a candidate who has lodged one or more tickets; or
- a first preference and some – but not full – preferences have been marked that are consistent with the ticket(s) lodged.

7.115 If these requirements are met, then the vote can be saved and preferences will be allocated according to the voting ticket(s) with which it is consistent. In cases where there is only a first preference indicated and two tickets are lodged, subsection 93(3) provides that:

...then the ballot paper is to be grouped with other ballot papers marked in the same manner and –

- (c) if the number of those ballot papers is an even number – half of them will be taken to have been marked in accordance with one ticket and half in accordance with the other; or
- (d) if the number of those ballot papers is not an even number –

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75 Electoral Commission of South Australia, *Scrutineers Handbook*, R018, 2010, pp. 34-35.

76 *Electoral Act 1985* (SA), s. 63.

- (i) one of the ballot papers will be taken to have been marked in accordance with whichever of the 2 tickets is determined by lot by the returning officer; and
- (ii) half the remainder (if any) will be taken to have been marked in accordance with one ticket and half in accordance with the other.<sup>77</sup>

7.116 In cases where a first preference and some further preferences are indicated, subsection 93(5) provides that:

- (5) Where –
  - (a) a voter marks a ballot paper by placing the number 1 in the square opposite the name of a particular candidate and proceeds to indicate further preferences by consecutive numbers; and
  - (b) there are 2 voting tickets registered for the purposes of the election in relation to the candidate; and
  - (c) the preferences indicated by the voter are consistent with one or both of those voting tickets; and
  - (d) the ballot paper would, apart from this subsection, be informal,

the ballot paper, if consistent with both voting tickets, will be treated as if it had been marked only with the number 1 and dealt with in accordance with subsection (3), but if it is consistent with one only of the voting tickets, it will be taken to have been marked in accordance with that voting ticket.<sup>78</sup>

7.117 This means that if the preferences indicated on an otherwise informal ticket deviates from the preference on the ticket(s) lodged by the candidate for whom first preference is marked it will not be saved by the ticket voting provision.

7.118 On polling night, the votes that may potentially be saved are still counted as informal at the polling place, with the savings provision subsequently applied by Returning Officers once they are satisfied that the necessary requirements have been met, specifically, that the candidate has lodged

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<sup>77</sup> *Electoral Act 1985 (SA)*, s 93(3)(c)-(d).

<sup>78</sup> *Electoral Act 1985 (SA)*, s 93(5).

one or two tickets and that the preference(s) indicated are consistent with one or both of those tickets.<sup>79</sup>

- 7.119 The South Australian Electoral Commissioner acknowledged that the ticket voting requirements do represent an additional administrative challenge for election workers. Ms Mousley noted that:

You will find that the voting ticket provisions are somewhat difficult for polling place staff to understand. Primarily, they are employed once every four years and, whilst some staff have problems with preferences, particularly with the number of candidates, the higher the number, just following the preferences and sorting to informal or formal, is problematic in itself. With the voting ticket provisions we advise our polling place managers on the night of election itself that a fully preferential vote is sorted to formal and anything that is not fully preferentially marked is put out to informal.<sup>80</sup>

- 7.120 The likelihood of ballot papers with some preferences being saved by tickets reduces as more preferences are indicated. The Electoral Commission of South Australia (ECSA) confirmed that:

If the partial numbering does not match a voting ticket it will fail in formality. We do some analysis on informality. Unacceptable preferencing is around 21.8 per cent. The great majority of informals are blanks or messages.<sup>81</sup>

- 7.121 Mr David Gulley of the ECSA, advised the Committee that the majority of South Australian House of Assembly votes saved by their ticket voting system are first preferences only (marked with a '1', tick or a cross). He observed that:

In our election reports we have reported a figure of less than 0.1 per cent of total formal ballot papers are partially preferenced where they fail the ticket, so the great majority of ticket votes are single 1s, ticks or crosses. The highest figure that I could find was in the 2002 report where it referred to the previous election. In the

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79 Australian Electoral Commission, Submission 87.4, Attachment B, p. 9.

80 Ms Kay Mousley, Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 2.

81 Mr David Gulley, Deputy Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 14.

2002 election it was less than 0.1 per cent of the formal vote, but 0.6 per cent in 1997.<sup>82</sup>

- 7.122 A vote cannot be saved unless a candidate has lodged at least one preference ticket with the ECSA. Candidates can choose not to lodge tickets.
- 7.123 The AEC advised that in the 2010 South Australian election, there were 40 candidates who did not lodge a voting ticket (28 Greens, 9 Fair Land Tax – Tax Party, and three independent candidates).<sup>83</sup> As Table 7.6 illustrates, the number of candidates in 2010 choosing not to lodge tickets was unusually high compared with previous years.

Table 7.6 Number of candidates who lodged no, one or two tickets for the 2010 South Australian election

Year	Number who lodged no voting ticket	Number who lodged a single voting ticket	Number who lodged two voting tickets
1993	6	148	73
1997	2	94	101
2002	2	244	56
2006	1	157	111
2010	40	206	7

Source Australian Electoral Commission, Submission 87.4, Attachment B, p. 12.

- 7.124 Despite this unprecedented rise in candidates not lodging tickets in 2010, discussions during the inquiry revealed that, generally, having first preference votes for them saved is a good incentive for parties and candidates to lodge tickets.<sup>84</sup>
- 7.125 Concerns about this model of ticket voting being seen as a move away from full preferential voting are addressed in section 126 of the South Australian *Electoral Act 1985*, which prohibits advocating forms of voting other than full preferential voting.
- 7.126 The provision prohibiting advocating methods of voting other than full preferential helps protect against problems encountered in the past.<sup>85</sup>

82 Mr David Gulley, Deputy Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 13.

83 Australian Electoral Commission, Submission 87.4, Attachment B, p. 12.

84 For example, see Transcript, 25 May 2011, p. 4; Transcript, 30 March 2011, p. 8.

85 Mr Antony Green, Transcript, 2 March 2011, p. 20.

- 7.127 It is pertinent for the Committee to consider the issues associated with Langer-style voting, as they highlight how individuals or groups, for a variety of reasons, may seek to subvert a savings provision aimed at reducing informality.
- 7.128 The background to this is that as part of the major electoral reforms of 1983, a safety net was introduced for ballot papers where full preferences had been indicated, but a sequencing error had occurred. It provided that on ballot papers on which all squares were numbered, if there was a mistake in the sequence and numbers were repeated, for example 1,2,3,4,5,5,6,7,8, then the ballot paper would be formal, and the preferences would remain valid until the point at which the error occurred.
- 7.129 In the lead up to the 1996 federal election a political activist, Mr Albert Langer, encouraged electors to deliberately make sequencing errors on their House of Representatives ballot papers, so as to deny major parties preferences, but still have the elector's desired preferences counted. Mr Langer's activities included an advertisement in *The Australian* with instructions on how to cast their vote in this way. This style of voting became known as Langer voting.
- 7.130 The AEC took legal actions against Mr Langer, as his activities were in breach of the Commonwealth Electoral Act. At the time, section 240 of the Act provided that a voter must indicate their first preference with a '1' and then number all the remaining squares, and section 329A made it an offence (with a maximum penalty of six months imprisonment) to encourage voters to vote other than in accordance with section 240.
- 7.131 This matter and associated issues were heard in the Victorian, Federal and High Courts. The outcome was that Mr Langer served three weeks of a ten week sentence, and the constitutional validity of section 329A was upheld.<sup>86</sup>
- 7.132 In 1998, following consideration of this issue in the inquiry into the 1998 federal election, section 240 of the Commonwealth Electoral Act was subsequently amended to explicitly provide that numbers could not be repeated, and the savings provision allowing the repetition of numbers was removed.
- 7.133 The Langer experience is a useful cautionary tale that savings provisions must be carefully designed to strike a balance between seeking to better

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86 AEC website, [http://www.aec.gov.au/Elections/federal\\_elections/1996/report/litigation.ht](http://www.aec.gov.au/Elections/federal_elections/1996/report/litigation.ht), viewed 21 June 2011.



give effect to voters' intentions and upholding the system of full preferential voting.

- 7.134 During its hearings, the Committee considered the possible effect of Langer voting on a system based on SA ticket voting. The ECSA confirmed that under the SA savings provision a Langer voter would be informal.<sup>87</sup>
- 7.135 While the South Australian *Electoral Act 1985*, section 126, prohibits the advertising of the ticket voting provision, the reality is that a campaigner would not benefit from conducting a Langer-style campaign.
- 7.136 Unlike the sequencing savings provision that was in place at the 1998 federal election, which Langer sought to exploit, the ticket voting system is still a full-preferential voting system. If an elector only indicates one or two preferences and their ballot paper is saved, their vote will still be full-preferential in keeping with the ticket lodged by their first preference candidate. It cannot be manipulated to become a de-facto optional preferential system.
- 7.137 Former South Australian Electoral Commissioner, Mr Tully, acknowledged that while administering a provision that is not widely known was 'tricky', the amount of votes saved made it worthwhile. He observed that:
- The complexity of having what some people regarded as a secret provision was often a bit challenging to explain but, nonetheless, its impact was significant. My recollection in two elections that I conducted in South Australia – both were extraordinarily close – was that ticket votes accounted across the state for about four per cent. In other words, if there were not ticket votes informality would have increased by a further four per cent.<sup>88</sup>
- 7.138 However, the fact that the operation of the SA ticket system in the House of Assembly is not widely publicised, and by extension, not widely known, could give rise to concerns about the extent to which voters are aware that their ballot papers are being deemed formal and preferences distributed as per their first preference candidate's voting ticket.

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87 Ms Kay Mousley, Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 10.

88 Mr Steve Tully, Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 18.

- 7.139 While having acknowledged that the SA ticket system does have some positive input into the democratic process by saving unintentional informal votes of voters confused by the different voting systems,<sup>89</sup> Emeritus Professor Dean Jaensch argues that ticket voting makes too many assumptions and turns the informal ballot into a formal one, without asking the permission of the voter concerned.<sup>90</sup>
- 7.140 In its analysis, the AEC similarly made the distinction between the Senate group ticket system – which allows the voter to make the choice to vote above-the-line and have their preferences distributed as per the group ticket or to vote below-the-line and indicate their own preferences – and the South Australian system that does not explicitly provide voters with a choice.<sup>91</sup>
- 7.141 The AEC observed that the effect of potentially allocating preferences that were not intended by the voter is to some degree mitigated by the fact that further preferences will not necessarily need to be drawn on. The AEC commented that:

...[in most cases] the second and later preferences on many ballot papers never need to be revisited after the formality check. In particular, many voters in seats where a preference distribution is not needed to determine the result, and many voters in other seats who cast first preference votes for candidates not excluded during the count (e.g., most major party candidates), would be significantly advantaged by the adoption at the federal level of the South Australian system, since in many cases their first preference votes would be counted, and the later preferences attributed to them due to the operation of the voting ticket system either would not be counted, or would not change the result in the seat.<sup>92</sup>

- 7.142 Elections analyst, Mr Antony Green, advised that:

The South Australian provision almost overwhelmingly captures one-only votes. There are a small number of cases where someone has gone 1 and 2 and it gets saved, but the vast majority are people who have just voted 1, and we know from past research that between a third and a half of the ballot papers are from people

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89 Professor Dean Jaensch, *Community Access to the Electoral Processes in South Australia since 1850*, A Research Report presented to the South Australian State Electoral Office, 2002, p. 87.

90 Australian Electoral Commission, Submission 87.4, Attachment B, p. 11.

91 Australian Electoral Commission, Submission 87.4, Attachment B, p. 18.

92 Australian Electoral Commission, Submission 87.4, Attachment, pp. 18-19.

who just voted 1. Of course, it is higher in New South Wales and Queensland because of the experience of optional preferential voting at the state level.<sup>93</sup>

7.143 In the context of the 2010 South Australian election, Mr Green found that:

Of the 32,638 ticket votes admitted to the South Australian count, only 2,020 or 6.2% would have been required to have their preferences examined to determine the winning candidate in a contest. The other 93.8% could have been formal based on their first preferences because further preferences did not need to be examined to determine the winner.<sup>94</sup>

7.144 Mr Andy Becker, a former South Australian Electoral Commissioner, was involved in the development and implementation of the SA ticket voting system. Mr Becker has a long professional history in the administration of elections in South Australia and nationally.

7.145 He informed the Committee that the rationale for the savings provision was that:

...with a compulsory system every effort should be made to make it as easy as possible for an elector to comply with the legislation and in doing so be as effective as possible in casting a meaningful vote.<sup>95</sup>

7.146 The SA ticket voting savings provisions that emerged were administrator-driven rather than government or politically driven. Mr Becker recalled that in 1985 the drafting instructions provided by the SA Government at the time were 'fairly loose' and he, as Electoral Commissioner, working in conjunction with the Parliamentary Counsel, had considerable latitude in developing South Australia's new Electoral Act.<sup>96</sup>

7.147 Mr Becker outlined for the Committee the emergence of ticket voting as the preferred savings option. He recollected that:

We then went and reviewed a lot of the legislation interstate and some of the provisions that they had like the safety net provisions in New South Wales for optional preferential voting. That in itself did not appeal to me greatly because it seemed to me that, in many cases in New South Wales in the lower house, they were electing people with fewer than 50 per cent of the vote. So that is when the

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93 Mr Antony Green, Transcript, 2 March 2011, p. 20.

94 Mr Antony Green, Exhibit 1, p. [5].

95 Mr Andy Becker, Submission 103, p. 2.

96 Mr Andy Becker, Transcript, 30 March 2011, p. 57.

alternative of putting in voting tickets came up for consideration. What that really enabled us to do was to separate out the instructions that we give to the elector from the instructions that we give to the scrutineer people performing scrutiny. Everything up to and including polling day is saying you shall vote – number every square and do not leave any blank. There are safety provisions saying if you leave the last square blank that that is still considered a preference. However, we then said when it comes to the scrutiny we put in the safety provision in exactly the same way as we have for the Senate that, in the event of a voting ticket having been lodged, we should give effect to that ballot paper that might have a tick, a cross or a 1 and a voting ticket has been lodged for that tick, cross or 1, and we will give effect to that ballot paper in accordance with the voting ticket.

Generally speaking that was considered fairly well by all sides. There was a heck of a lot of debate about it but it passed in the end.<sup>97</sup>

7.148 In evidence to the Committee, Mr Becker advised that twenty-six years later the provisions had served South Australia well for seven elections, and that he was not aware of any objection to, nor any attempt to amend, the legislation covering voting tickets.<sup>98</sup>

7.149 That has also been the experience of South Australian Electoral Commissioner, Ms Mousley, who advised that:

I have only been commissioner in South Australia for the 2006 and 2010 elections and I cannot see any evidence from the election reports where there has been any record of concerns that were raised throughout the election because of that provision.<sup>99</sup>

7.150 The South Australian Deputy Electoral Commissioner, Mr David Gulley, also shared that view, telling the Committee that:

I have been with the commission since 1995 and deputy commissioner since 1998. I am not aware of any great concerns with the process, other than some punters out in the community think it is undemocratic, as they do with other things.<sup>100</sup>

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97 Mr Andy Becker, Transcript, 30 March 2011, p. 57.

98 Mr Andy Becker, Submission 103, p. 2.

99 Ms Kay Mousley, Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 5.

100 Mr David Gulley, Deputy Electoral Commissioner, Electoral Commission of South Australia, Transcript, 30 March 2011, p. 5.

7.151 Senator Nick Xenophon, a Senator for South Australia, similarly found that:

From my observation, the South Australian system – and I may be wrong in terms of the comments of the Liberal Party and the Labor Party; I do not know what they commented – has not been controversial. In my 10 years in the legislative council, I am not aware of a push to change that system.<sup>101</sup>

7.152 Table 7.7 is a comparison of acceptable number on ballot papers in the Senate, House of Representatives and the South Australian House of Assembly.

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101 Senator Nick Xenophon, Commonwealth Senator for South Australia, Transcript, 13 April 2011, p. 37.

Table 7.7 Comparison of acceptable numbering on ballots papers in the Senate, House of Representatives and the South Australian House of Assembly

Ballot paper marking <sup>(a)</sup>	Acceptable on ballot paper for the:		
	Senate <sup>(b)</sup>	House of Representatives	South Australian House of Assembly (Ticket voting)
Single first preference (figure '1')	ATL: Yes BTL: No	No	Yes If candidate lodged ticket(s)
Single first preference (figure '1', a tick or a cross)	ATL: Yes BTL: No	No	Yes If candidate lodged ticket(s)
Incomplete numbering (consecutive preferences beginning with 1 are shown, but the last square is left blank)	ATL: Yes BTL: Yes, the blank square is deemed to express the voter's last preference.	Yes, the blank square is deemed to express the voter's last preference.	Yes If candidate lodged ticket(s) and is consistent with one or both of the tickets
Incomplete numbering (consecutive preferences beginning with 1 are shown, but more than one square is left blank)	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No	Yes If candidate lodged ticket(s) and is consistent with one or both of the tickets
Number sequence errors (missed numbers)	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No	No
Repeated numbers	ATL: Yes BTL: Yes, if certain requirements are met (CEA s. 270(1)(b))	No	No

(a) The Commonwealth Electoral Act (CEA) prescribes the ballot paper formality requirements for federal elections.

(b) The Senate's two forms of voting are above-the-line (ATL) and below-the-line (BTL).

Source Australian Electoral Commission, *Scrutineers Handbook: Federal election 2010, Version 3*; and the Electoral Commission of South Australia, *Scrutineers Handbook, R018, 2010*.

7.153 At the Committee's request, the AEC undertook an analysis of the House of Representatives informality under the current system, and the potential impact on informality under the proposed options of progressive informality and the SA ticket voting provision.<sup>102</sup> Accordingly, the AEC made certain assumptions, including that: all candidates lodge tickets;

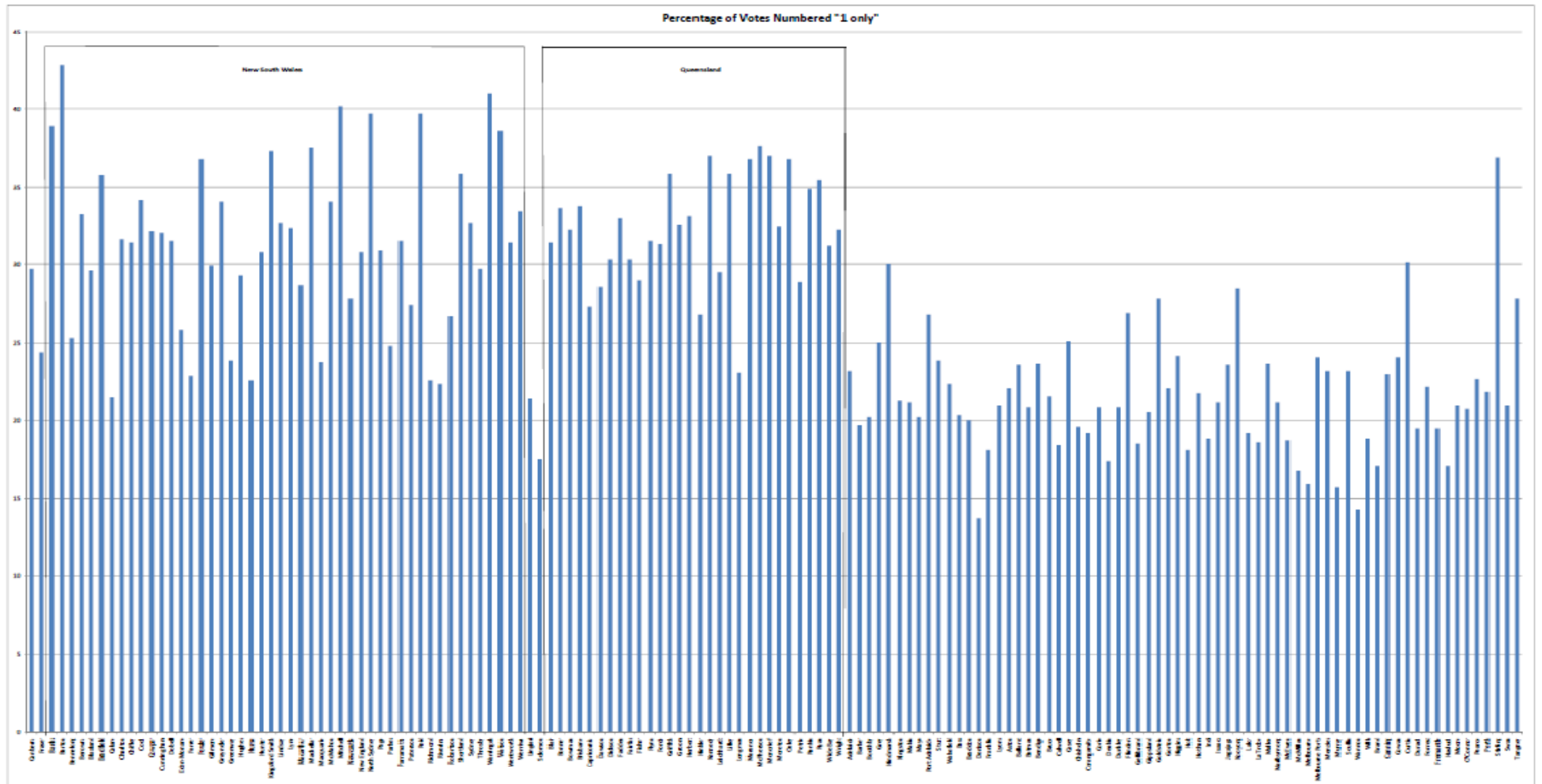
ballot papers do not identify voters; ballot papers match tickets; and it relates to the first count only.<sup>103</sup>

- 7.154 From this analysis, it appears that the South Australian ticket voting system, if applied to House of Representatives ballot papers, could save a significant portion of informal votes. For the 2010 federal election, this could have been as much as 42.12 per cent (307 156 votes), assuming that all the relevant candidates had lodged tickets.

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103 Australian Electoral Commission, Submission 87.4, Attachment B, p. 17.

Figure 7.1 Indicative analysis of '1' only votes by division



Source Provided by Opposition members of the Committee.



- 7.155 As can be seen in Figure 7.1, the highest concentration of '1' only votes were cast in New South Wales and Queensland, where optional preferential voting is permitted in state elections.
- 7.156 To properly appreciate the scale of the informal voting problem, it is important to also consider it at the level of electoral divisions. A breakdown of House of Representatives informality by division revealed a number of divisions with high levels of ballot papers marked with a '1' only, a tick or a cross. Table 7.8 depicts the ten divisions with the highest numbers of informal votes of that type. A full list of all divisions, by state, is in Appendix C.

Table 7.8 Top ten divisions with informal votes that were number '1' only, ticks or crosses

Division	Number '1' only	Ticks and crosses	Sum of Number '1' only and Ticks and crosses	All other informal categories	Total Informal Votes
Fowler	4 163	2 361	6 524	4 790	11 314
Watson	4 346	1 886	6 232	5 033	11 265
McMahon	3 311	2 182	5 493	4 217	9 710
Barton	3 666	1 422	5 088	3 484	8 572
Blaxland	3 573	1 454	5 027	7 054	12 081
Chifley	3 171	1 460	4 631	5 466	10 097
Werriwa	2 910	1 636	4 546	4 146	8 692
Reid	3 047	1 084	4 131	3 549	7 680
Banks	2 979	1 119	4 098	3 567	7 665
Kingsford Smith	2 713	978	3 691	3 589	7 280

Source Relevant rows extracted from Appendix C, Table C.2.

- 7.157 There were nine divisions,<sup>104</sup> all in New South Wales, which had between 4 000-6 500 informal votes of this type. Six divisions<sup>105</sup> with more than 3000 votes of this kind and 31 divisions with more than 2000 votes of this type.<sup>106</sup> A savings provision along the lines of the SA ticket voting system would mean that if a candidate has lodged a ticket these votes would be saved.

104 These divisions are Banks, Barton, Blaxland, Chifley, Fowler, McMahon, Reid, Watson and Werriwa.

105 The divisions are Grayndler, Kingsford Smith, Lindsay, Parramatta, Rankin and Port Adelaide.

106 Appendix C, Table C.2

- 7.158 When the Committee sought the Australian Labor Party's view on the SA ticket voting system, the ALP noted that:

The AEC has made significant efforts to try to address it, but those do not seem to be really improving the situation. I think we do need to look at something a bit more fundamental. It seems like the South Australian position has led to some improvement.<sup>107</sup>

- 7.159 However, the SA ticket voting system has its opponents. The Nationals did not support the adoption of the South Australian model at the federal level, and stated that:

We advocate the status quo in terms of the current federal system. We think that is the ideal system and with uniform adoption of that we think that you would significantly reduce informality.<sup>108</sup>

- 7.160 The Liberal Party of Australia strongly opposed the SA ticket voting system. Federal Director, Mr Brian Loughnane, was adamant that:

The Liberal Party is strongly opposed to the introduction of the model that has operated in South Australia since 1985. We believe that the integrity, more than anything, of the voting system is critical. We believe that the South Australian model works in contradiction to the principles of compulsory preferential voting where a vote is required to allocate a preference to both their most and least desired candidate.

If the South Australian model were adopted federally it would create yet another voting system which would complicate and confuse the electorate. We do not believe that it would reduce the incidence of unintended informal voting. I would be happy to expand on any of those points, but the position of the Liberal Party on this issue is very clear. We have obviously had extensive experience since 1985 on the application of it in South Australia. We do believe that it contradicts the principle of compulsory preferential voting and is at odds with the concept of the integrity of the voter's choice.<sup>109</sup>

- 7.161 The AEC cautioned that if seeking to apply the South Australian ticket model at the federal level, a careful examination to ensure that the model complies with section 24 of the Constitution – that members of the House
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107 Mr Nick Martin, Assistant National Secretary, Australian Labor Party, Transcript, 25 May 2011, p. 25.

108 Mr Brad Henderson, Federal Director, The Nationals, Transcript, 23 March 2011, p. 16.

109 Mr Brian Loughnane, Federal Director, Liberal Party of Australia, Transcript, 18 April 2011, p. 46.

of Representatives be directly chosen by the people – is required. The AEC noted the challenge on constitutional grounds that arose with the introduction of group ticket voting in the Senate in 1984.<sup>110</sup>

- 7.162 In the High Court case *McKenzie v Commonwealth* [1984] HCA 75 (*McKenzie*), a Senate candidate for Queensland claimed that Form E in the schedule to the Commonwealth Electoral Act setting out the ballot paper format for above and below-the-line voting was beyond the power of the Parliament. Mr McKenzie sought an injunction to stop the new style of ballot papers being distributed, which would have prevented the election from being held as planned on 1 December 1984.
- 7.163 Effectively, *McKenzie v Commonwealth* was a challenge to the use of ticket voting in the Senate. The challenged provisions were upheld by the High Court. There are clear parallels between this case and the arguments that could emerge if the SA ticket savings provision was adopted at the federal level. Opposition members believe the key difference in this case is that while voters for the Senate are told that if they just vote '1', use a tick or a cross their preferences will be distributed elsewhere, in the proposed SA ticket system, it will be illegal to advise people to just vote '1', use a tick or a cross and most electors will remain uninformed about how their vote will be counted.
- 7.164 In his judgement in *McKenzie v Commonwealth*, Chief Justice Gibbs discussed the new method of Senate voting, stating that:
- The voter may mark his vote either by placing numbers in the squares opposite the names of the candidates below the line or simply by placing the figure "1" or a tick or a cross in one only of the squares above the line: s. 239. Where the paper has been marked in a square above the line, it is deemed to have been marked in accordance with the group voting ticket or tickets lodged by the candidates in the relevant group: s. 272.<sup>111</sup>
- 7.165 Gibbs CJ ruled that the ticket voting was not inconsistent with the Constitutional requirement that Senators be directly elected. He found that:
- ...it is right to say that the electors voting at a Senate election must vote for the individual candidates whom they wish to choose as senators but it is not right to say that the Constitution forbids the use of a system which enables the elector to vote for the individual

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110 Australian Electoral Commission, Submission 87.4, Attachment B, p. 19.

111 *McKenzie v Commonwealth* [1984] HCA 75.

candidates by reference to a group or ticket. Members of Parliament were organized in political parties long before the Constitution was adopted and there is no reason to imply an inhibition on the use of a method of voting which recognizes political realities provided that the Constitution itself does not contain any indication that such a method is forbidden. No such indication, relevant to the present case, appears in the Constitution.<sup>112</sup>

- 7.166 Arguably, it could be inferred that what was found to be valid for Senate voting is likely to be applicable to House of Representatives voting.
- 7.167 In its comparison of the progressive informality and South Australian ticket voting systems, the AEC found that broadly, 'progressive informality would be simpler to implement'.<sup>113</sup> It also indicated that with either system, it anticipated practical implementation issues, including revisions of handbooks, changes to computer systems for vote tabulation, and whether, if required, the display of all voting cards would be practicable at a federal election.<sup>114</sup>
- 7.168 Optional preferential and progressive informality were generally regarded by submitters as 'practically equivalent'.<sup>115</sup> Opposition members contend that as such it should be noted that a correct comparison between optional preferential and the South Australian ticket system shows that optional preferential voting saves more votes than the SA system.
- 7.169 When considering the SA ticket voting model and optional preferential voting as options for the House of Representatives, Mr Andy Becker concluded that:
- I believe that if the ticket voting option is not acceptable for federal purposes, that the current situation should be left unchanged as it provides a much safer outcome than optional preferential voting.<sup>116</sup>
- 7.170 Opposition members of the Committee strongly oppose any measures that allow the counting of votes and preferences in absence of such being expressed by the voter on the ballot paper. Unlike the Senate ticket voting system, used for elections for multiple positions, the House of
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112 *McKenzie v Commonwealth* [1984] HCA 75.

113 Australian Electoral Commission, Submission 87.4, Attachment B, p. 21.

114 Australian Electoral Commission, Submission 87.4, Attachment B, p. 21.

115 Australian Electoral Commission, Submission 87.4, Attachment B, p. 3; and Dr Peter Brent, Democratic Audit of Australia, Transcript, 4 March 2011, p. 67.

116 Mr Andy Becker, Submission 103, p. 4.

Representatives ballot paper is far less complex and for a single election only. Opposition members believe any attempt to compare the SA ticket model with the Senate model is an attempt to mislead voters about important differences between the two.

- 7.171 Opposition members believe that the institution of such a measure constitutes a nothing less than a fraudulent means of counting votes. To be clear, votes will be counted and assigned to candidates where no expression of preference for that candidate is marked on the ballot paper. These and other concerns of Opposition members are detailed further in the Dissenting Report.

### Committee conclusion

- 7.172 The Committee continues to support the full preferential voting system at the federal level. However, the high level of informal ballot papers for the House of Representatives requires that action be taken to address the hundreds of thousands of votes being unintentionally wasted.
- 7.173 The Committee notes the similarities between Antony Green's system of progressive informality and optional preferential voting, and that, based on the AEC's analysis, more votes would potentially be saved under the South Australian system of ticket voting. It also notes that Opposition members of the Committee vehemently oppose this proposition as being both constitutionally unsound and saving less informal votes than optional preferential.
- 7.174 When the Committee last considered the South Australian savings provision following the 2007 federal election, it noted that had the SA ticket voting system been in place federally, 154 000 House of Representatives votes could potentially have been saved at that election.
- 7.175 However, at the time the previous Committee did not recommend the adoption of the SA savings provision as it had reservations that the practical effect of the model may be to encourage optional preferential voting.<sup>117</sup>
- 7.176 During the course of the inquiry into the conduct of the 2010 federal election, the Committee had the opportunity to delve further into the background to, and practical operation of, the SA ticket voting system.

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117 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Commonwealth of Australia, June 2009, p. 243.

- 7.177 The Committee is now satisfied that SA ticket voting is consistent with the full-preferential voting system. Campaigners would derive no benefit articulating this savings provision or from a Langer-style campaign, because even when a ballot paper with few preferences is saved, the vote will still be a full preference vote in line with the relevant candidate's ticket.
- 7.178 The Committee also notes concerns expressed that the constitutional validity of applying the SA ticket voting system to the House of Representatives could be challenged.
- 7.179 However, the Committee believes that the issue of using ticket voting at federal elections has been substantively dealt with by the High Court in *McKenzie v Commonwealth* [1984] HCA 75. The legality of group ticket voting in the Senate was upheld and the principle has not been subject to challenge since.
- 7.180 The Committee supports the introduction of a savings provision, along the same lines as the SA ticket voting system, as part of the solution to addressing the challenge of growing informality in the House of Representatives.

### **Recommendation 25**

- 7.181 **The Committee recommends that Parts XVI, XVIII, and any other relevant provisions of the *Commonwealth Electoral Act 1918* be amended to include a savings provision for House of Representatives ballot papers, based on the South Australian House of Assembly ticket voting provisions. Such a provision should serve to save ballot papers marked by the use of a tick, a cross, or the number 1, and which do not express preferences for all candidates, in cases where the first and subsequent preferences (if any) match an order of preferences lodged with the Australian Electoral Commission by a political party or candidate in the election. This will serve to reduce the impact of unintentional informal voting resulting from incomplete preferences being indicated by electors on House of Representatives ballot papers.**

**Recommendation 26**

- 7.182 **The Committee recommends that Part XXI of the *Commonwealth Electoral Act 1918* be amended to specifically prohibit advocating the completion of House of Representatives ballot papers other than by full preferential numbering. The offence should attract a penalty sufficient to deter such actions.**





## Redistribution of electoral boundaries

- 8.1 As part of its inquiry into the conduct of the 2010 federal election, the Committee received submissions and heard evidence that the recent redistribution in Victoria caused some confusion for political parties and electors. The Committee therefore decided to examine the factors that led to the redistribution being necessary at that time and problems which resulted, with a view to identifying possible solutions.

### Background

- 8.2 The timing of redistributions is provided for in section 59 of the *Commonwealth Electoral Act 1918*. In general terms, there are three triggers which may prompt the need for a redistribution of electoral boundaries in a state or territory.
- 8.3 A redistribution of electoral boundaries must occur in a state or territory when the number of members of the House of Representatives that the state is entitled to changes. Such redistributions are commonly referred to as 'entitlement redistributions'. Entitlement redistributions must commence forthwith after the making of a determination that the entitlement has changed and will generally commence in the 13<sup>th</sup> month following the first sitting of a House of Representatives.
- 8.4 A redistribution must commence when at least one third of the divisions in a state have deviated from the average enrolment for the state by 10 per cent or more for longer than two months. This type of redistribution is commonly referred to as a 'malapportionment redistribution'. There has not yet been a need to conduct such a redistribution.

- 8.5 A redistribution must commence if a period of seven years has elapsed since the last redistribution of the state was determined. These are commonly referred to as 'seven-year redistributions' and along with entitlement redistributions occur on a regular basis.
- 8.6 Neither a malapportionment redistribution nor a seven-year redistribution can commence if a redistribution is already underway in the respective state, or within one year before the date of expiry of a House of Representatives by effluxion of time.<sup>1</sup>
- 8.7 Once commenced, redistribution may take up to between 10 and 14 months to complete, although there is no set length of time prescribed in Part IV of the Commonwealth Electoral Act.

## **The 2010 redistribution of Victoria**

- 8.8 The 2010 redistribution of Victoria commenced on 1 February 2010. In an Australian Electoral Commission (AEC) media release, the Electoral Commissioner indicated that this redistribution, caused by the seven-year distribution requirement, was expected to be completed by 17 December 2010. However, in the event that an election was called prior to its completion then the electoral boundaries for Victoria in place at the 2007 federal election would apply.<sup>2</sup>
- 8.9 The AEC and others were aware of how close the commencement was to the date, 12 months prior to the effluxion of the House of Representatives. It was foreseeable that if an election was called during 2010, the redistribution would be an added complication for some stakeholders and electors.
- 8.10 As the AEC noted on its website at the time of the announcement of the redistribution, there was little time to spare:

The *Commonwealth Electoral Act 1918* (the Electoral Act) provides that the Electoral Commission shall commence a redistribution of a State if a period of seven years has elapsed since the State was last distributed into Electoral Divisions (paragraph 59(2)). That paragraph of the Electoral Act also provides that the redistribution must be commenced within 30 days after the expiration of that

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1 *Commonwealth Electoral Act 1918*, s. 59 (3).

2 AEC website, [http://www.aec.gov.au/About\\_AEC/Media\\_releases/2010/2-01b.htm](http://www.aec.gov.au/About_AEC/Media_releases/2010/2-01b.htm), viewed 18 June 2011.

seven year period. The last redistribution of Victoria was determined on 29 January 2003. Therefore the redistribution of Victoria must be commenced during a period starting 29 January 2010.<sup>3</sup>

- 8.11 The AEC was aware that an election announcement could possibly occur while the redistribution was underway, but had no actual indication of when any election announcement might be made.
- 8.12 The AEC released an indicative timetable for the redistribution which set out the dates of significant milestones as well as the predicted finalisation date. This was later updated on 21 October 2010, after the federal election had occurred.

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3 AEC website,  
<http://www.aec.gov.au/Electorates/Redistributions/2010/vic/announcement.htm>, viewed 19 June 2011.

Table 8.1 Indicative redistribution timetable – 2010 redistribution of Victoria

<b>Milestone</b>	<b>Indicative Date</b>
	Updated: 21 October 2010
Direction to commence redistribution	1 February 2010
Enrolment statistics available on AEC website	9 March 2010
Government Gazette call for public suggestions	10 March 2010
Newspaper call for public suggestions	13 March 2010
Suggestions close	9 April 2010
Suggestions available for public perusal	12 April 2010
Comments on suggestions open	12 April 2010
Comments on suggestions close	23 April 2010
Comments on suggestions available for public perusal	27 April 2010
Proposed Redistribution Report released	30 July 2010
Objections invited by Gazette notice	30 July 2010
Newspaper invitation for objections	31 July 2010
Objections close	27 August 2010
Objections available for public perusal	30 August 2010
Comments on objections close	10 September 2010
Comments on objections available for public perusal	13 September 2010
Augmented Electoral Commission commences considerations	11 September 2010
Public inquiry (if required)	14 – 15 October 2010
Augmented Electoral Commission makes public announcement	21 October 2010
Further objection period	21 October – 1 November 2010
Further public inquiry	8 November 2010
Augmented Electoral Commission must finish considerations	9 November 2010
Augmented Electoral Commission makes final determination by Gazette notice	24 December 2010
Augmented Electoral Commission's report is tabled in Parliament	After 24 December 2010
Augmented Electoral Commission's report publicly available	After Tabling

Source AEC website, [http://www.aec.gov.au/Electorates/Redistributions/2010/vic/indicative\\_timetable.htm](http://www.aec.gov.au/Electorates/Redistributions/2010/vic/indicative_timetable.htm), viewed 19 June 2011.

- 8.13 As shown in Table 8.1, the Redistribution Committee released its proposed redistribution on 30 July 2010, with objections to the proposed redistribution to be submitted by 27 August 2011.
- 8.14 As noted in Chapter 2, the election was announced on 17 July 2011 with nominations closing on 29 July, nominations declared on 30 July, and pre-poll voting commencing on 2 August 2011.
- 8.15 It is reasonable to assume that those with a vested interest in the outcome of the redistribution, including candidates and political parties who wished to contest the election in Victoria, had pressing election business

on their minds and would have had to concentrate their efforts on both events in order to comply with the redistribution timetable.

- 8.16 The Liberal Party of Australia certainly found that having the redistribution and election occurring simultaneously was challenging. It submitted that:

The timing of the 2010 redistribution of Federal boundaries in Victoria meant parties and the AEC were forced to dedicate considerable time and effort to the redistribution process in what was almost certain to be an election year. This in our view was highly undesirable...

In the event, the first draft of new boundaries was published in the middle of the 2010 campaign, which was of course being held on a different set of boundaries. The risk of confusion for the voting public, as well as the distraction and unnecessary diversion of resources this process required for the Commission and the parties in an election year, was considerable and unnecessary. It is difficult to understand what public interest was served by the redistribution taking place in 2010 rather than 2011.

While there is a provision in the Act that intends to prevent a redistribution occurring close to a forthcoming Federal election, this provision is clearly inadequate as it stands. We ask JSCEM to consider this matter as part of its current inquiry.<sup>4</sup>

- 8.17 The Liberal Party argued that this problem could be addressed by amending the Commonwealth Electoral Act to extend the period during which the direction to commence a redistribution cannot be given, from within one year to within one year and 11 months before the date of expiration of a House of Representatives by effluxion of time.<sup>5</sup>

- 8.18 The Nationals were similarly concerned about the timing of the Victorian redistribution, and argued that:

The result was widespread confusion and unnecessary angst for all involved, particularly for the candidates, their parties and the communities that were adversely affected by the release of the draft boundaries on 30 July. These proposed abolishing the regional electorate of Murray in favour of the creation of a new electorate in the suburban north of Melbourne. The scheduling of the redistribution in conjunction with an election also created a

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4 Liberal Party of Australia, Submission 94, p. 4.

5 Liberal Party of Australia, Submission 94, p. 4.

significant additional workload on political parties and others involved in the election who also wished to participate effectively in the redistribution process.<sup>6</sup>

- 8.19 Elections analyst, Mr Antony Green, noted that the seven-year period following the previous redistribution of Victoria expired on 29 January 2010 and that twelve months prior to the effluxion of the House of Representatives was 11 February 2011. He argued that:

The rigid rules in the Commonwealth Electoral Act that initiated the Victorian redistribution at such a ridiculous time should be varied to give the Electoral Commissioner greater authority to defer a redistribution.<sup>7</sup>

- 8.20 However, the AEC submitted that providing it with the discretion to defer a redistribution was not an appropriate solution. It argued that:

The redistribution timing provisions are fundamentally intended first to ensure that redistributions will be conducted with sufficient frequency to limit malapportionment and secondly, to ensure that the timing of redistributions cannot be, or perceived to be, manipulated for political advantage. The legislative provisions associated with the timing of redistributions, introduced during the 1984 legislative electoral reforms, operate to ensure that there is a clear and distinct separation between the decision makers' discretion and the determinations of the redistribution process. Ultimately, they constitute an integral element of a neutral and apolitical redistribution process.<sup>8</sup>

- 8.21 In response to the Liberal Party suggestion to increase the deferral period, the AEC cautioned that alterations to timing provisions for the redistribution process required careful consideration. The AEC commented that:

Extensions to the deferral period for redistribution boundary processes are likely to diminish the capacity for redistributions to be accurately assessed in relation to such factors as population changes. With considerations such as an increasingly mobile population emerging in Australia, a decision to extend substantially the deferral date for the redistribution process would

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6 The Nationals, Submission 93, p. 10.

7 Mr Antony Green, Submission 88, p. 4.

8 Australian Electoral Commission, Submission 87.5, p. 13.

be considered to be a set-back to an exemplary redistribution standard.<sup>9</sup>

- 8.22 The AEC also noted the difficulties encountered delivering a redistribution according to the timetable specified in the Commonwealth Electoral Act, in situations where the proposed redistribution formed by the augmented Electoral Commission differs significantly from that proposed by the Redistribution Committee.<sup>10</sup>
- 8.23 The AEC submitted that the period during which the augmented Electoral Commission is required to consider objections to the Redistribution Committee's proposed redistribution, hold an inquiry into the objections, form its own proposed redistribution and call for further objections, then hold a further inquiry into the further objections and make a final decision, was not sufficient.<sup>11</sup>
- 8.24 The AEC recommended that an increase of 42 days was required in order to allow the augmented Electoral Commission to adequately discharge its duties.<sup>12</sup>

## Committee conclusion

- 8.25 The Committee understands that there are problems experienced by election participants when a redistribution is in progress and an election is announced.
- 8.26 The Committee notes that section 76 of the Commonwealth Electoral Act provides a solution to this situation when an entitlement redistribution is in progress. It sees that no similar provision exists to provide a remedy in circumstances as experienced in the 2010 redistribution of Victoria.
- 8.27 The Committee agrees with submitters that action should be taken to help address the issues arising from the Victorian redistribution in 2010. The Committee was swayed by the AEC's arguments against the suggestions made by Mr Antony Green to provide the AEC with greater discretion in relation to redistributions, and the Liberal Party proposal to extend the period in which a redistribution cannot be commenced from within one year to within one year and 11 months of the effluxion of the House of Representatives.

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9 Australian Electoral Commission, Submission 87.5, p. 13.

10 Australian Electoral Commission, Submission 87.5, p. 15.

11 Australian Electoral Commission, Submission 87.5, p. 15.

12 Australian Electoral Commission, Submission 87.5, p. 16.

- 8.28 The Committee believes that the redistribution processes as now provided for in the Commonwealth Electoral Act are amongst the best and most apolitical redistribution processes in the world. However, while it is rare that a seven-year redistribution will be in progress when an election is announced, the events in 2010 show that it can occur.
- 8.29 The Committee does not favour extending the deferral period and has searched to find the most appropriate remedy should the same situation occur into the future.
- 8.30 The Committee has therefore opted to recommend that in such situations (except in the case of an entitlement redistribution which is already provided for), it would be appropriate for the redistribution process to be suspended on election announcement, with it being recommenced once all election processes have been finalised.

### **Recommendation 27**

- 8.31 **The Committee recommends that Part IV of the *Commonwealth Electoral Act 1918* be amended to provide that, where a redistribution has commenced, because of the operation of subsections 59(2)(b) or 59(2)(c), and a Senate election, or an election of members of the House of Representatives, or a Senate election and an election of members of the House of Representatives conducted concurrently, is announced before that redistribution is completed, proceedings in the redistribution are to be suspended until the date specified in the writ or writs as the date for the return of the writ.**

### **Recommendation 28**

- 8.32 **The Committee recommends that should the Government agree to recommendation 27 above, that Part IV of the *Commonwealth Electoral Act 1918* also be amended to allow the Redistribution Committee or the augmented Electoral Commission (as the case may be) to recommence the redistribution at the step which would, if the redistribution had not been suspended, follow the step last completed in that redistribution. The redistribution timetable, and, if necessary, the projection time for the redistribution should be adjusted accordingly.**



- 8.33 In respect of an increased timeframe for an augmented Electoral Commission to discharge its duties when it forms an opinion that its proposed redistribution is significantly different to that proposed by the Redistribution Committee, the Committee agrees with the AEC that the timetable should be varied according to the circumstances.
- 8.34 However, the Committee has not formed a firm view about how many days should be provided additional to the sixty day period already specified following the end of the comments period on objections.
- 8.35 The Committee therefore does not seek to specify the number of days, preferring that the additional period be the subject of further discussion between the AEC and the responsible Minister.

### **Recommendation 29**

- 8.36 **The Committee recommends that section 72, and any other relevant sections, of the *Commonwealth Electoral Act 1918* be amended to provide that, where an augmented Electoral Commission has formed an opinion that its proposed redistribution is significantly different to the Redistribution Committee proposal, a further fixed period be provided during which the actions required by subsection 72(13) of the Act are to be undertaken.**

### **Recommendation 30**

- 8.37 **The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that, where a further fixed period is provided during which the actions required by subsection 72(13) of the Act are to be undertaken, the number of days specified in subsection 72(2) of the Act also be increased by the same number of days provided for in the further fixed period.**



## Other issues

### Ballot papers

- 9.1 Commonwealth electoral legislation sets out the design of ballot papers.<sup>1</sup> On House of Representatives ballot papers some modification is permitted; if there are more than 30 candidates, two or more columns can be used. There is currently little flexibility for Senate ballot papers, which are to be:

...laid out in a landscape design, with squares for those groups that have lodged Group Voting Tickets (GVTs) at the top of the ballot paper (the 'above-the-line' portion of the paper), followed by a thick black line, followed by the names of individual candidates organised in groups across the paper in the 'below-the-line' portion.<sup>2</sup>

- 9.2 The increasing number of Senate candidates and groups in New South Wales, in particular, has led to an expanded ballot paper. In the 2010 federal election, the NSW Senate ballot paper contained 84 candidates distributed across 33 columns. It was 1020 millimetres wide, which is the widest ballot paper that the printers were able to produce as a single sheet.<sup>3</sup>
- 9.3 The legislative requirements for the Senate ballot paper meant that when faced with the New South Wales Senate ballot paper in 2010, the Australian Electoral Commission (AEC) was limited to reducing the font

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1 Section 209 of the *Commonwealth Electoral Act 1918*.

2 Australian Electoral Commission, Submission 87.5, p. 20.

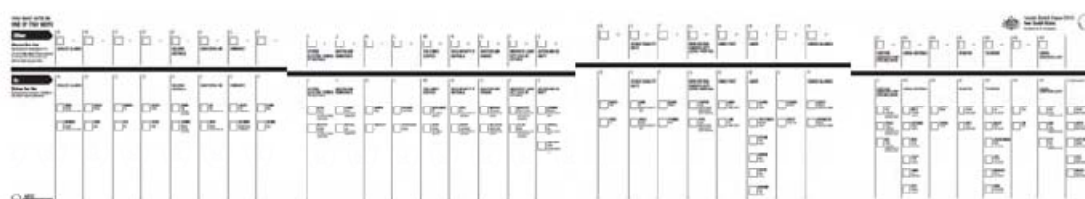
3 Australian Electoral Commission, Submission 87.5, p. 21.

and hyphenating names. Mr Doug Orr, AEC State Manager for NSW, observed with regard to the NSW Senate ballot paper that:

In managing this ballot paper, one candidate's name had to be wrapped over two lines, and font sizes were reduced to 8.5 for candidate names. I am concerned over the potential effect of the increased group numbers on legibility for future Senate ballot papers, given the inability to print a wider ballot paper.<sup>4</sup>

- 9.4 Given the size of the NSW Senate ballot paper and the reduced font size (8.5 point), it was impractical to reproduce a legible copy for this report. Figure 9.1 provides some indication of the scale and the amount of information covered in the ballot paper. Figure 9.2 is a more readable sample ballot for the election of Senators for the Australian Capital Territory, which contains 9 candidates in 5 columns.

Figure 9.1 Sample Senate ballot paper, 2010 federal election, New South Wales

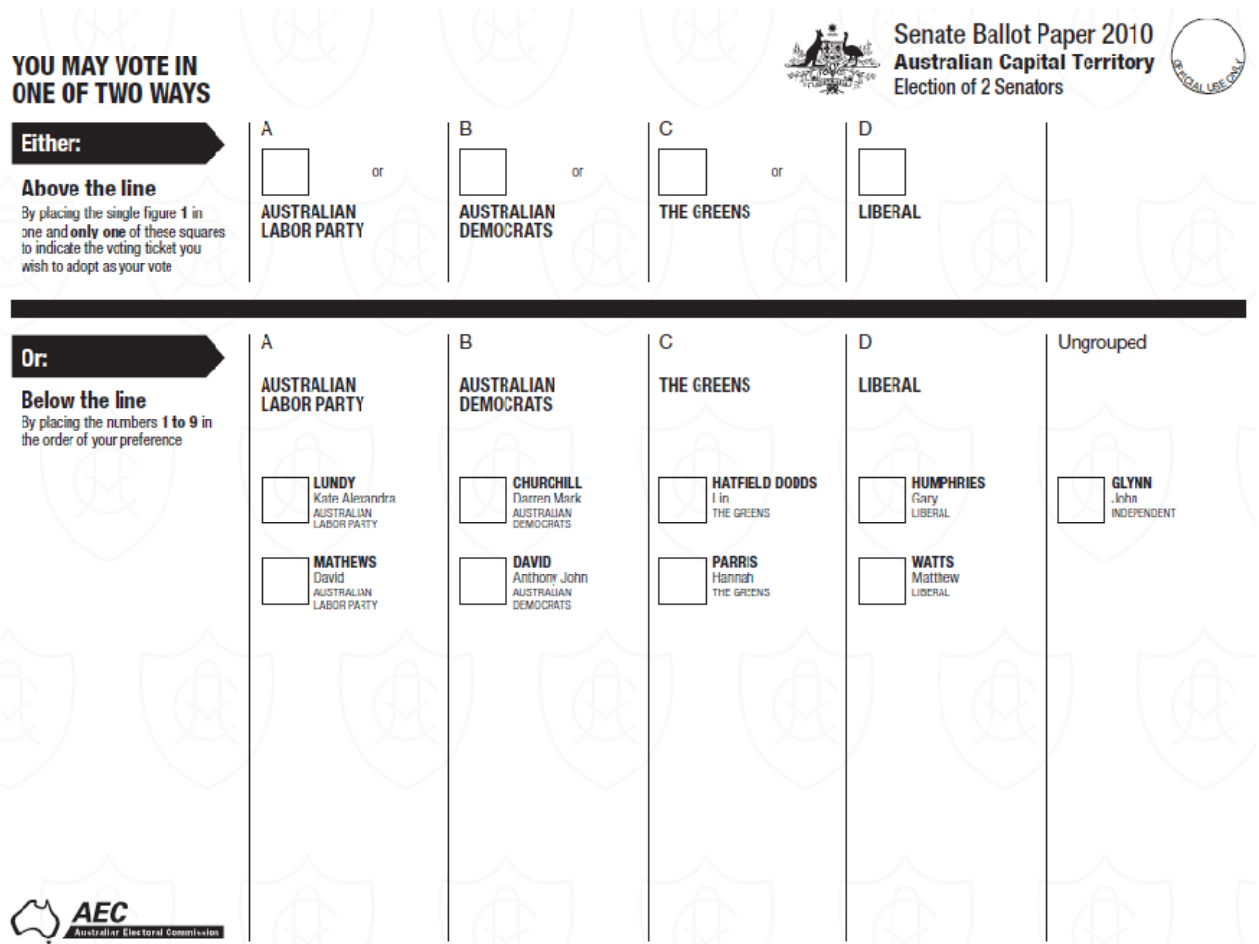


1.02 metres

Source Provided by the Australian Electoral Commission.

4 Mr Doug Orr, State Manager for New South Wales, Australian Electoral Commission, Transcript, 4 March 2011, p. 41.

Figure 9.2 Sample Senate ballot paper, 2010 federal election, Australian Capital Territory



Source Provided by the Australian Electoral Commission

9.5 In evidence to the Committee, Mr Antony Green argued that:

Ballot papers of such size [as the NSW Senate ballot paper] are distorting the choice of voters. A ballot paper one metre wide is difficult to manipulate in a polling place.

The point of an election is to elect representatives to the parliament. The current rules for Senate nomination allow people with no hope of election to nominate...<sup>5</sup>

5 Antony Green, Submission 88, p. 10.

9.6 The AEC also expressed its concern about the growing size of ballot papers. It argued that:

...the NSW Senate ballot paper does not currently strike an appropriate balance between providing voters with a choice of candidates representative of their views and interests, and the countervailing need to ensure ballot papers are not so unwieldy and difficult to complete that, in effect, they operate to diminish the capacity of voters to exercise their franchise.<sup>6</sup>

9.7 Concern about the size of the NSW Senate ballot paper is not new. When discussing the issue during a second reading debate on the Commonwealth Electoral Legislation Amendment Bill 1983, a Senator recounted an anecdote that:

...in 1974 there were 73 candidates in New South Wales. This meant that electors in New South Wales who went to the polls were obliged to fill in numbers from one to 73. I can recall a story about a lady who picked up her ballot paper, took it out of the polling booth, which I suppose is against the electoral legislation, took it home, made a cup of tea and while she was drinking her cup of tea filled in the numbers from 1 to 73. She took it back and put it into the ballot box. That was probably a long-winded way of filling in a ballot paper. However, many people made errors when confronted with that number of candidates.<sup>7</sup>

9.8 The debate was in the context of the introduction of above-the-line voting in the Senate to help combat the high level of informality. However, the size of ballot papers still represents a challenge for voters in areas, such as New South Wales, where there are large numbers of candidates.

9.9 A noteworthy example at the state level is the 'table cloth' in the 1999 NSW Legislative Council election, which saw a one metre by 700 millimetre ballot paper produced. There were 264 candidates representing 81 groups, and the ballot paper was triple-decked.<sup>8</sup>

9.10 If the number of candidates for NSW Senate elections increases at future federal elections, there is limited scope for expansion on the NSW Senate ballot paper. Any increases in candidates and columns on future ballot

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6 Australian Electoral Commission, Submission 87.5, p. 24.

7 Senator Malcolm Colston, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2987.

8 Australian Electoral Commission, Submission 87.5, p. 22; and ABC website, Antony Green blog: <http://blogs.abc.net.au/antonygreen/2009/06/nsw-legislative.html>, viewed 31 May 2011.

papers would see the AEC further reducing font sizes and hyphenating names, and voters continuing to navigate the casting of their vote over more than a metre of paper.

9.11 The increasing number of candidates for the House of Representatives is also of concern. Given the strict formality requirements for House of Representatives ballot papers, as outlined in Chapter 7 and in Table 7.1, it is apparent that the more preferences the voter is required to mark and keep track of, the greater chance there is of errors creeping in that will render their vote informal.

9.12 The Victorian Electoral Commissioner, Mr Steve Tully, highlighted the problem of high candidate numbers and its effect on informality, stating:

There is a clear correlation – there is research on this that I am sure you have seen – that the more candidates that you have on the ballot paper in a fully preferential system, the more likely you are to have duplication or errors and informality. For local government elections in Victoria, in areas like Brimbank, where they can have as many as 30 or 40 candidates, the informality rate can be as high as 25 per cent for some wards.<sup>9</sup>

9.13 Increasing the nomination deposits for candidates has been proposed as a means of discouraging candidates who are not seriously in contention for election and so reducing the number of candidates on ballot papers.<sup>10</sup> This is applicable to both the Senate and the House of Representatives. The Australian Greens did not agree with this approach. The Greens were of the view that increasing deposits makes it more difficult for people to participate in democratic elections. They believe that if there are problems with too many names on the ballot paper then that particular issue needs to be addressed, but the answer should not be to restrict candidature to only the people or parties who can most afford it. The Greens felt that a doubling of the deposit in such a short time span seems to be an overreaction to this perceived problem. They observed that past deposit increases have never been more than \$150, so to increase it by \$1000 for the Senate and \$500 for the House is unjustified. If there is to be an increase the Greens suggest it should be by a modest amount.

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9 Mr Steve Tully, Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, pp. 16-17.

10 Antony Green, Transcript, 2 March 2011, p. 16; and Australian Electoral Commission, Submission 87.5, p. 24.

## Nomination deposits

- 9.14 As part of the nomination process, candidates for Senate and House of Representatives elections are required to deposit the sums of \$1000 and \$500, respectively, with the AEC.<sup>11</sup>
- 9.15 The nomination deposits are returned to the candidate or their agent if:
- the nomination is rejected;
  - the candidate dies before election day;
  - if the candidate is elected, or:
    - ⇒ in the case of ungrouped Senate candidates, the candidate has first preferences that are at least four percent of the total number of formal first preference votes cast for all candidates in that state or territory; or
    - ⇒ in the case of grouped Senate candidates, the sum of the first preferences received by the group is at least four per cent of the total number of formal first preference votes in that state or territory; or
    - ⇒ in the case of the House of Representatives, if the candidate receives first preferences that are at least four per cent of the total number of formal first preferences cast in that division.<sup>12</sup>
- 9.16 Spurred by his concerns about ballot paper complexity, Mr Green argued that:
- We need to significantly increase the nomination fee or put a fee on for access to an above-the-line ticket vote on Senate nominations, or at some stage we are going to have a Senate ballot paper which cannot be printed in time for the start of voting, or is going to be so unwieldy that it will do even worse damage to the informal voting rates in the lower house.<sup>13</sup>
- 9.17 The AEC similarly recommended the increase of nomination deposit requirements. It also recommended the indexation of the nomination deposit at the same rate as is used for the public funding payment.<sup>14</sup> The AEC noted that:
- Mechanisms such as deposits and requirements for multiple nominators are widely used to balance the principles of ensuring
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11 *Commonwealth Electoral Act*, ss. 167 and 170 (3).

12 Australian Electoral Commission, *Candidates Handbook federal election*, p. 31.

13 Antony Green, Transcript, 2 March 2011, p. 2.

14 Australian Electoral Commission, Submission 87.5, p. 24.



voters have a choice of representative candidates with the need to ensure candidature is serious.<sup>15</sup>

9.18 The Committee notes that there have only been moderate rises to the nomination deposit fees since 1918, as detailed in Table 9.1.

Table 9.1 Changes to the nomination deposit amount since 1918

Year	Senate	House of Representatives
1918	£25	£25
1965	£100	£50
1966	Australia changes to decimal currency	
(as at 1973 CEA reprint)	\$200	\$100
1983	\$500	\$250
1998	\$700	\$350
2006	\$1000	\$500

Source Figures taken from amendments to the Commonwealth Electoral Act 1918, ss 170 (from 1991) and s 73 (1918-1983)

### Committee conclusion

9.19 The Committee agrees that in some states, such as New South Wales, ballot papers have become increasingly complex as the number of candidates has risen. The resulting administrative challenges and cost implications are naturally of concern, but the impact that this may have on voters unintentionally voting informally is particularly worrying. The deposit amount should be an amount that does not unduly hamper participation, but acts as a deterrent to frivolous candidacies.

### Recommendation 31

9.20 **The Committee recommends that subsection 170(3) of the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Senator to \$2,000.**

15 Australian Electoral Commission, Submission 87.5, p. 22.

## Recommendation 32

- 9.21 **The Committee recommends that subsection 170(3) the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Member of the House of Representatives to \$1,000.**

## Nominations period and commencement of pre-polling

- 9.22 The close of nominations for Senate and House of Representatives candidates is noon on a fixed date that shall not be less than 10 days or more than 27 days after the issue of the writ. The nominations are then declared the following day at noon.<sup>16</sup>
- 9.23 The date fixed for polling is then not less than 23 days and not more than 31 days after the date of nomination.<sup>17</sup> However, at combined House of Representatives and Senate elections, pre-polling may commence no sooner than the second day after the declaration of Senate nominations.<sup>18</sup>
- 9.24 As ballot papers must be issued to postal voters and an extended pre-polling period has become an accepted feature at recent elections, a rapid printing turnover is required. As outlined in Table 2.1, the 2010 federal election declaration of nominations was noon Friday 30 July 2010. Pre-poll voting commenced the following Monday 2 August 2010. This meant that 43 million ballot papers had to be produced over that weekend.<sup>19</sup>
- 9.25 The AEC further noted that Senate Group Voting Tickets are to be lodged 24 hours after the declaration of Senate nominations, which in practical terms left less than 24 hours to prepare, print and distribute ordinary and postal ballot papers across Australia in time for the commencement of early voting.<sup>20</sup>
- 9.26 The challenge of preparing and printing ballot papers is made more difficult when facing the complexity of ballot paper layout and size that has come with more candidates, especially on Senate ballot papers.<sup>21</sup>

16 *Commonwealth Electoral Act 1918*, ss. 156 and 175.

17 *Commonwealth Electoral Act 1918*, s. 157.

18 Australian Electoral Commission, Submission 87, p. 70.

19 Australian Electoral Commission, Submission 87, p. 70.

20 Australian Electoral Commission, Submission 87, p. 70.

21 See sample ballot paper for the election of Senators for New South Wales, Figure 9.1

9.27 In its evidence to the Committee, the AEC sought more time in which to undertake this considerable printing task. It noted that fortuitously declarations of nominations have occurred on a Friday, making the first possible voting day a non-business Sunday. If this was not the case then the printing and distribution time of ballot paper could potentially be even further shortened.<sup>22</sup>

### Committee conclusion

9.28 The Committee believes that addressing the timing of the candidate nominations is merited, in recognition of the administrative demands on the Australian Electoral Commission in the production of ballot papers for postal votes and pre-polling periods in the short period following the close of nominations.

9.29 By bringing the deadline for the receipt of nominations forward one day the AEC will have an extra day in which to undertake the huge task of finalising ballot papers and arrange for their printing and distribution.

### Recommendation 33

**The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to reduce the nominations period for an election by one day so that nominations close not less than nine or more than 26 days after the issue of the writ, rather than ten and 27 days, respectively.**

### Recommendation 34

**The Committee recommends that, should the Government accept recommendation 33 above, the *Commonwealth Electoral Act 1918* be amended to require the date fixed for polling is not less than 24, or more than 32 days, after the date of nomination.**

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22 Australian Electoral Commission, Transcript, 4 March 2011, pp. 38-39.

## Overseas voting and expatriates

- 9.30 At the 2010 federal election, 74 084 overseas votes were issued (64 832 pre-poll and 9 252 postal votes).<sup>23</sup> There were 104 overseas posts which provided postal and pre-poll voting services to eligible electors voting outside of Australia.<sup>24</sup>
- 9.31 The issues of overseas enrolment entitlements and voting arrangements arose in the inquiry into the conduct of the 2010 federal election. As in the review of the 2007 federal election, the Southern Cross Group generated interest through its networks, resulting in a number of submissions. In total there were more than 35 submissions to the Committee that raised the subject of overseas voting.
- 9.32 Submitters raised concerns about the difficulties encountered by Australian citizens travelling or living overseas in maintaining their enrolment and voting while overseas.
- 9.33 The Committee notes that the AEC has a 'frequently asked questions' section on its website providing information on voting entitlements and arrangements whilst overseas. It can be accessed from the AEC homepage.<sup>25</sup>
- 9.34 It is not compulsory to be enrolled and vote in Australian elections while overseas. Electors who are leaving Australia, or who are already overseas, can notify the AEC of their absence and be removed from the electoral roll.
- 9.35 However, the Commonwealth Electoral Act does make provision for Australians travelling and living overseas who wish to remain on the electoral roll and participate in Australian federal elections. As at 26 July 2010, 16 199<sup>26</sup> Australians were enrolled as eligible overseas electors.
- 9.36 A person already enrolled for a particular electoral division can apply to be treated as an eligible overseas elector. The elector must be intending to return to reside in Australia within six years, and apply within three months prior to their departure date from Australia or within three years of having ceased to reside in Australia.

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23 Australian Electoral Commission, Submission 87, p. 75, Table 5.2.

24 Department of Foreign Affairs and Trade, Submission 97.

25 AEC website, [http://www.aec.gov.au/FAQs/Voting\\_Overseas.htm](http://www.aec.gov.au/FAQs/Voting_Overseas.htm), viewed 31 May 2011.

26 Australian Electoral Commission, *AEC Electoral Pocketbook 2010*, May 2011, p. 52.

- 9.37 An eligible overseas elector will then be retained on the electoral roll at the address at which they were enrolled before leaving Australia, and can vote in that electoral division. The AEC makes the appropriate notation against the elector's name on the roll to indicate their status as an eligible overseas elector.
- 9.38 If the person is not already enrolled, they can apply from outside Australia to be enrolled in the electoral division:
- in which they last had an entitlement to be enrolled;
  - if they never had an entitlement, for an electoral division in which any of the person's next of kin is enrolled; or
  - if the above does not apply, in the division in which they were born, or failing that, in the division in which the person has the closest connection.<sup>27</sup>
- 9.39 This eligible overseas elector status is initially granted for six years after the day on which their residency ceased, but under section 94(8) of the Commonwealth Electoral Act, the AEC can extend the period for one year following expiry of the six years, if the elector notifies the relevant Divisional Returning Officer (DRO) each year of their intention to resume residency in Australia. Effectively, if an elector intends to again live in Australia, they can continue to remain on the Commonwealth electoral roll if they take the necessary action each year of advising the AEC.
- 9.40 The AEC provides voting services to electors who are temporarily overseas during an election period, eligible overseas electors and Australian Defence Force personnel serving overseas. These electors can choose to vote by attending an overseas polling place or by postal vote.
- 9.41 A number of submissions brought to the Committee's attention the various difficulties individuals had encountered when attempting to maintain their enrolment. Complaints included:
- not being aware of their options until after they had left Australia;<sup>28</sup>
  - electors being removed from the roll as a result of the objection process when they are found not to be currently residing at the relevant address and not being able to re-enrol once they have been removed;<sup>29</sup> and
  - that there were time restrictions on the overseas eligibility entitlement.<sup>30</sup>

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27 *Commonwealth Electoral Act*, s. 94(3).

28 For example, see Mr Thomas McCann, Submission 57.

29 For example, see Mr Ross Mair, Submission 40.

9.42 Some submitters argued that there should not be any limit on how long expatriate Australians can remain eligible overseas electors, if that person remains engaged in Australian issues and wishes to continue to participate in the election of the country's representatives. Ms Shipra Chordia, an Australian living and working overseas, stated that:

There is no substantial reason that might justify this curtailment of an overseas Australian citizen's right to vote. Unlike a prisoner incarcerated for a sufficiently serious crime, an overseas Australian citizen has not necessarily withdrawn from his or her responsibilities to participate in Australian civic life. Merely choosing to reside in a particular place is not an indicator of willingness to carry civic responsibility. This is even acknowledged within the legislation - an individual is not disenfranchised at the point at which he or she emigrates, but rather, at an arbitrary point three years later.<sup>31</sup>

9.43 The Committee noted submitter observations that some professionals are increasingly choosing to work overseas, but keep close ties with Australia. It was suggested that their experiences would be beneficial to Australia on their return.<sup>32</sup>

9.44 For those eligible electors seeking to exercise their vote while overseas, some submitters found that they experienced difficulties due to limited access to pre-polling locations in their country of residence or, in the case of postal voting, not receiving their ballot paper in sufficient time to allow its return to the AEC by the required time.

9.45 The issue of postal voting delays was discussed in Chapter 4. The Committee noted that the AEC were aware of, and expressed concern about, the delays in the issues of postal votes, which may have led to some electors not having their vote counted. Further, the Committee noted that the AEC had reviewed the performance of the contractor responsible for the issue of the postal vote packs and they have agreed on improved processes for the future.<sup>33</sup>

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30 For example, see Submissions 22, 23, 28, 37, 81 and 82.

31 Ms Shipra Chordia, Submission 75, p. 2.

32 See Submissions 21, 30, and 34.

33 Australian Electoral Commission, Submission 87, p. 82.

## Committee conclusion

- 9.46 The Committee was pleased to hear from a number of Australians living overseas who seek to remain engaged in Australia's election process. It is regrettable that some eligible electors have encountered difficulties maintaining their enrolment and casting their vote.
- 9.47 The Committee believes that the current provisions and voting entitlements for Australians living overseas are appropriate. However, more should be done by the Australian Electoral Commission to ensure that voters are made aware of their options before leaving Australia, and are not disenfranchised in cases where they remain eligible and willing to cast their vote while overseas.

## Senate ballot paper packaging

- 9.48 One of the many logistical challenges faced by the AEC is the distribution and return of polling materials and ballot papers for over 7 760 ordinary polling places, 531 Pre-poll Voting Centres (PPVCs), 455 special hospitals mobile teams, 38 remote mobile teams, 19 prison mobile teams, 104 overseas posts and five overseas Australian Defence Force teams.
- 9.49 On the outward journey ballot papers are mostly provided to polling places and other voting venues as arranged by DROs. Ballot papers are generally pre-packaged in the boxes in which they are received from the printer who produced them.
- 9.50 On the journey back from polling places and other venues, ballot papers are packaged according to instructions provided by the DRO. Where ballot papers are returned from polling places and pre-poll voting centres, and where counts have been conducted, the Commonwealth Electoral Act specifies how they must be packaged.
- 9.51 In the case of Senate ballot papers, those instructions appear in subsection 273 (2)(b), which provides that in the case of ballot papers marked below-the-line, they must be sorted and packaged separately, meaning that the ballot papers must be a sorted to each candidate, counted, then parcelled separately for return to the DRO.
- 9.52 At the 2010 federal election, there were 84 Senate candidates in NSW, 60 each in Victoria and Queensland, 55 in Western Australia, 42 in South

Australia and 24 in Tasmania. The Australian Capital Territory had nine candidates and the Northern Territory had 15.<sup>34</sup>

- 9.53 Following the conclusion of the count, at each polling place and PPVC, a separate parcel must be prepared and packaged by the Officer in Charge for each candidate who received a first preference vote below the line.
- 9.54 The AEC submitted that this requirement is a legacy from the time prior to the introduction of the computerised Central Senate Scrutiny (CSS) system, and is no longer required.<sup>35</sup>
- 9.55 The AEC noted in its submission that by removing the need to sort separately, the number of sorts required in each polling place in New South Wales could have been reduced from 117 to 70 and the number of parcels reduced from 117 to 34.<sup>36</sup>

### Committee conclusion

- 9.56 The Committee notes the Australian Electoral Commission's concerns about workloads relating to the parcelling of Senate ballot papers.
- 9.57 The Committee is of the view that the sorting and counting of preferences on Senate ballot papers should continue in the same way that it has been done in the past.
- 9.58 The Officer in Charge of a polling place records the count in the Polling Place Return, and scrutineers are able to watch the counting and sorting. While the information may not be made public on polling night, candidates and political parties are entitled to receive it from their scrutineers.
- 9.59 Further, the Polling Place Return is a record of what transpires in a polling place on polling day, and it is important record that in the event of some unforeseen circumstance can be relied upon.
- 9.60 The Committee agrees, however, that there is no reason why, once the count has been recorded, below-the-line ballot papers should not be parcelled together for return to the DRO, which will reduce workload in a polling place on polling night.

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34 AEC website, <http://results.aec.gov.au/15508/Website/SenateNominationsByState-15508.htm>, viewed 22 June 2011.

35 Australian Electoral Commission, Submission 87, p. 113.

36 Australian Electoral Commission, Submission 87, p. 114.



### Recommendation 35

- 9.61 **The Committee recommends that Part XVIII of the *Commonwealth Electoral Act 1918* be amended to require that once the first preference count in polling places or counting centres on polling night, or in scrutines conducted after polling day, has been completed and appropriate records made, all Senate ballot papers indicating a first preference for individual candidates below the line may be parcelled together for return to the Divisional Returning Officer.**

### Undertakings by persons employed by the AEC

- 9.62 One important feature of democratic processes that assists the community to maintain faith in election processes and election results in Australia is that federal elections are conducted by an independent and impartial Electoral Commission.
- 9.63 One way of ensuring that impartiality is to make sure that persons employed by the AEC undertake their duties in an impartial fashion and that they act with integrity. Accordingly, the Commonwealth Electoral Act requires that officers and other employees who undertake duties at an election or referendum sign an undertaking in the approved form.<sup>37</sup>
- 9.64 In the past, when all employment forms were paper-based, this was achieved by providing a form to the officer or employee, who duly signed it prior to commencing work at the election or referendum.
- 9.65 In 2010, the AEC implemented a number of changes to the way it interacted with potential employees, moving to a secure Internet-based application process, with offers of employment generated and sent by email to the potential employee.<sup>38</sup>
- 9.66 Under this new arrangement, potential employees would receive then review employment documentation attached to the email and accept the offer of employment by email. A paper based process was still available for applicants who did not have access to the internet or chose not to correspond online.<sup>39</sup>

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37 Commonwealth Electoral Act 1918, s. 218A.

38 Australian Electoral Commission, Submission 87, p. 97.

39 Australian Electoral Commission, Submission 87, p. 97.

- 9.67 The AEC submitted that by removing the legislative requirement that the Officer and Employee Undertaking be signed, it would facilitate electronic interactions with potential employees. The AEC proposed that the Undertaking would still be made, as it would remain a condition of acceptance of the offer of employment, however, the requirement for an actual signature on a paper-based form, would be removed.

### Committee conclusion

- 9.68 The Committee believes that any person who accepts employment with the AEC at a federal election or referendum must be bound by an undertaking to carry out their duties in an impartial fashion.
- 9.69 The Committee notes that there have been instances where, even though an employee has made such an undertaking, their previous employment or activity in the political arena has been a cause for concern to some, and actions have been taken by the AEC to mitigate such concerns.
- 9.70 The Committee is mindful that the AEC is moving toward electronic interactions to a greater extent in its everyday business and that employment of casual staff in non-election periods is also now carried out using secure internet-based and email interactions.
- 9.71 The Committee agrees with the AEC that removing the requirement that an undertaking be signed would provide greater flexibility in employment processes both in and out of election and referendum periods, with the undertaking still remaining a condition of employment.
- 9.72 However, the Committee notes that not all potential employees are prepared to interact electronically; therefore any paper-based employment regime must also be consistent with an electronic regime.

### Recommendation 36

- 9.73 **The Committee recommends that section 202A of the *Commonwealth Electoral Act 1918* be amended to remove the requirement that the officer and employee undertaking be signed. Instead, the officer and employee undertaking should be made and accepted as part of the offer of employment.**

## Impact of election earnings for polling staff employed by the AEC

- 9.74 The AEC employed 66 874<sup>40</sup> temporary staff in order to prepare for and conduct the 2010 federal election. Of this number, some 23 500 persons over 55 were employed on polling day and received a package payment amount, ranging from \$339.83 to \$799.84 depending on the position for which they were employed.<sup>41</sup>
- 9.75 In the context of discussing issues around the employment of polling staff, the Community and Public Sector Union told the Committee that some persons who had been employed as polling officials in previous elections had declined to be employed again at the 2010 federal election, and some who were employed at the 2010 federal election, were not inclined to make themselves available in future, because their pensions (or part-pensions) would be reduced.
- 9.76 The Committee heard that in the past, those persons had been able to have their election earnings 'averaged out' over the financial year, but due to changes in the rules, some had lost or had their pensions reduced for that period.<sup>42</sup>

### Committee conclusion

- 9.77 The Committee notes the valuable contribution made by persons who are employed as polling officials and election staff. The Committee is concerned to ensure that sufficient, skilled and experienced staff are available to assist with the conduct of elections and referenda, whenever they may occur.
- 9.78 The Committee is, therefore, reassured by a letter from the Electoral Commissioner dated 27 June 2011, informing the Committee that the matter had been addressed by the Government.
- 9.79 The Electoral Commissioner indicated that he has been advised that changes to income support legislation, effective from 1 July 2011, will over time deliver more generous benefits than the previous annual averaging rules, while retaining the clarity and certainty that the fortnightly assessment arrangements have provided.

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40 Australian Electoral Commission, Submission 87, p. 94.

41 Letter from the Australian Electoral Commission to the Joint Standing Committee on Electoral Matters, dated 27 June 2011.

42 Mr Jonathan Ring, Community and Public Sector Union, Transcript 15 June 2011, p. 6.

## Referenda

- 9.80 The Committee notes that a number of recommendations made in this report, would, if not also made in respect of referenda, result in inconsistency between the operation of the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984*.
- 9.81 The Committee believes that wherever possible, consistency of operation should be maintained.

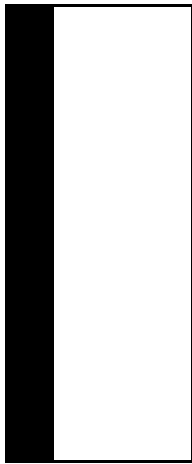
### **Recommendation 37**

- 9.82 **The Committee recommends that any recommendations in this report that propose amending the *Commonwealth Electoral Act 1918* should, where also appropriate, be incorporated into the *Referendum (Machinery Provisions) Act 1984*, to ensure consistency between the provisions applying to elections and referenda.**

Daryl Melham MP

Chair

29 June 2011



Dissenting report – The Hon. Bronwyn  
Bishop MP, The Hon. Alex Somlyay MP,  
Senator Scott Ryan, Senator Simon  
Birmingham

# **The 2010 Federal Election**

**Report on the conduct of the election and related matters**

**Joint Standing Committee on Electoral  
Matters**

## **Dissenting Report**

**The Hon. Bronwyn Bishop MP**

**The Hon. Alex Somlyay MP**

**Senator Scott Ryan**

**Senator Simon Birmingham**

**July 2011**

## Summary of Opposition recommendations

The Opposition opposes the following recommendations from the Government Committee members:

**1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 16, 24, 25, 26, 33, 34, 36**

The Opposition does not oppose the following recommendations:

**9, 12, 15, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 35**

The Opposition makes the following recommendations:

- *That a dedicated fraud squad be established within the AEC to investigate and prepare briefs for the DPP to prosecute cases of fraudulent voting.*
- *That the AEC should concentrate on continuing to check the accuracy of the roll by canvassing and advertising to make people aware of their obligations to properly initially enrol and advise of change of address when it occurs.*
- *That the current system of cleansing the electoral roll is maintained to ensure that elections are decided by an accurate record of eligible voters.*
- *That pre-poll voting be open on the Monday 12 days before the election and that electors continue to be required to sign a declaration when casting a pre-poll vote.*
- *That the current postal vote application system remains as it is noting the successful outcomes it achieves.*
- *That current dates for the receipt of postal vote applications from overseas voters are maintained, that voters should not be disadvantaged by being given less time to receive ballot papers.*
- *That electors wishing to cast a valid declaration vote must provide correct information about their address prior to the close of rolls, failure to do this will result in their vote not being included in the count.*

- *That the voting system used in Federal elections remains constitutionally sound and calls on the Government to ensure that South Australian ticket voting or a similar system is not implemented at a Federal level.*
- *That the current system maintains in place where nominations close between ten and 27 days after the issue of the writ and the date for fixed polling is not less than 24 or more than 32 days after the date of nomination.*
- *That the AEC retains the need for Election Day officials to sign a written contract acknowledging their important role and responsibilities.*

## **Dissenting report**

The Coalition has a number of concerns with the Joint Standing Committee on Electoral Matters' (JSCEM) inquiry into the 2010 Election. These concerns are chiefly related to maintaining the integrity of the electoral roll, ensuring that the successful postal vote application system remains in place and ensuring that any moves towards a ticket voting system in the House of Representatives, as is currently practiced in South Australia, are rejected outright.

In the previous dissenting report into the JSCEM enquiry into the 2007 Election, Opposition members noted that:

The Commonwealth Electoral Act mandates that Australian citizens undertake some basic tasks to meet their obligations in relation to the conduct of elections, namely:

- to enrol to vote,
- to accurately maintain their enrolment at their permanent place of residence,
- to cast a vote when an election is called, and,
- to fully extend preferences to all candidates contesting election for the House of Representatives in their local electorate.

Three years later, the Labor Party and the Greens are still avidly pushing that the above requirements are too difficult for a number of Australians and that Government intervention is required to ensure people carry out their democratic obligations. The Opposition remains concerned with the Government members reaffirming their commitment to introduce automatic enrolment and updates to the roll based on potentially dubious data from other Government agencies that this will lead to people being placed incorrectly on the electoral roll who have no



right to vote and others being placed on the roll against their knowledge. Members new to the Committee since the 2010 Election share this concern.

The Government members on the Committee have also expanded on previous recommendations and advised that a system needs to be implemented that would see electors have their ballot papers filled out by bureaucrats should they fail to number every box. Opposition members believe that moves towards the South Australian ticket system is a fundamental attack on a voter's democratic right to select which candidates they wish to vote for.

Opposition members are also manifestly concerned with the Committee's proposed restrictions on postal vote applications. In the 2010 election, 2.63 per cent of postal votes were informal compared to 5.55 per cent overall,<sup>1</sup> this is similar to the 2001, 2004 and 2007 elections and demonstrates the success of the current system where postal voters have the option to return their postal vote application form to either the candidate of their choice or to the Australian Electoral Commission (AEC) directly. Whilst trying to relax rules for other voters, the Government members on the Committee are seeking to restrict the rights of postal voters by recommending that all postal vote applications must be returned directly to the AEC.

The Opposition members on the Committee are concerned with trying to change a successful arrangement which allows postal vote applicants to receive information from their chosen candidate and results in a far lower percentage of informal votes than any other form of voting. The Opposition believes that Labor and the Greens are simply moving to punish postal voters for their own political advantage, which is evident by Recommendation 14 which would see the details of all postal vote applicants sent to all political parties, irrespective of whether the elector wishes their details sent there or not.

## Fraudulent Voting

The Opposition Committee members believe that the problems experienced at the 2010 Election show there is a definite need to establish a fraud squad as part of the Australian Electoral Commission which would have the power to investigate and prepare briefs for the Department of Public Prosecutions to prosecute cases of fraudulent voting. A number of Committee members note that the AEC provided figures which outlined there were 20 633 cases of multiple voting in 2007, 14 402 cases in 2004 and 16 949 cases in 2001.

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<sup>1</sup> AEC Analysis of Informal Voting, 2010 Federal Election, Table 5, p. 18.

Whilst many of these cases could have been genuine mistakes, it does show that multiple voting is a serious problem that has not been sufficiently reviewed by the Committee. The AEC claims that these cases resulted in no prosecutions, although further advice from the Parliamentary Library confirms that there were in fact three prosecutions. The Parliamentary Library provided the Opposition members with advice that the Australian Federal Police cited a lack of resources for its inability to make successful prosecutions:

Of the 31 incidents of possible enrolment fraud recorded by the AEC during the 39<sup>th</sup> Parliament, 25 were referred to the AFP for investigation. The AFP declined to investigate six of the matters referred to it. In all but one of these cases, the AFP indicated a lack of resources prevented it from investigating. Six incidents remain under investigation by the AFP, and six incidents were accepted by the AFP but did not proceed any further due to lack of evidence. Of the remaining seven cases, two remain under consideration by the DPP, two were rejected by the DPP due to lack of evidence, and three resulted in prosecutions.

Indeed, the Australian Electoral Commission noted in Committee briefing papers that 'the AEC can only refer matters to the AFP for investigation and possible prosecution'.

Opposition Committee members feel there is a strong need to combat fraudulent voting, which has not been seriously investigated by successive governments in recent years. These Committee members feel that a dedicated fraud squad within the AEC with the power to investigate and refer matters to the Department of Prosecutions is vital to reduce the impact of voter fraud, serve as a deterrent to potential criminals and to help maintain the integrity of the Electoral Roll.

The Opposition Committee members recommend:

**That a dedicated fraud squad be established within the AEC to investigate and prepare briefs for the DPP to prosecute cases of fraudulent voting.**

### **'Automatic' enrolment**

Noting that Opposition membership has changed since the inquiry into the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW), it still expresses the view as stated, a summary of which is set out below.

No evidence at the this inquiry addressed the substantive concerns raised by Opposition members of the Committee in 2010, and a number of questions about

the operation of these provisions following the Victorian 2010 election and NSW 2011 election remain unanswered.

A complete expression of the arguments against such provisions can be found in the Dissenting Report into the earlier inquiry, which can be found at:  
<http://www.aph.gov.au/house/committee/em/autobill2009/report/dissent.pdf>

### Summary of the key issues

The reliance on external data sources that have been collated and that are utilised for other purposes does not make them fit for use in forming the electoral roll.

As outlined in the previous report into these proposals, a 1999 report by the House of Representatives Standing Committee on Economics, Finance and Public Administration: *Numbers on the Run – Review of the ANAO Report No.37 1998-99 on the Management of Tax File Numbers*, found that:

- There were 3.2 million more Tax File Numbers than people in Australia at the last census;
- There were 185,000 potential duplicate tax records for individuals; 62 per cent of deceased clients were not recorded as deceased in a sample match.

Similarly, an ANAO Audit Report (No.24 2004–05 Integrity of Medicare Enrolment Data) stated that ‘ANAO found that up to half a million active Medicare enrolment records were probably for people who are deceased’.<sup>2</sup>

In simple terms, where there are such examples of inconsistency in Commonwealth data, there cannot be sufficient faith in this data being used to automatically add people to the electoral roll.

The potential for error is even greater when using data from state or territory governments, as the Commonwealth cannot determine its accuracy and the relevant agencies are outside the scope of oversight by Commonwealth Parliament or Auditor-General.

The current ‘paper trail’ that sees electors initiate enrolment with a signed form provides a unique security feature to address any questions regarding roll integrity. The placement of people on the roll automatically will undermine this important element of roll integrity.

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<sup>2</sup> Australian National Audit Office, *Integrity of Medicare Enrolment Data No. 24 2004-05*, p. 12.

Given that there is neither consent nor a signature required for automatic enrolment, it is doubtful that someone could be pursued for false enrolment or other aspects of electoral fraud.

Furthermore, given the relatively light identification requirements present in the Australian electoral system, removing this security feature only weakens one of the few critical protections for the integrity of the roll and its policing.

Given that it is not uncommon for individual electorate results to be determined by less than 1000 votes, even a 1 per cent error in the information sourced from the various agencies could have significant ramifications for the outcome of a seat, or even an election.

This is not to suggest that current processes cannot be refined and updated, but a move away from an individual enrolling on his or her own initiative in compliance with electoral legislation to a situation where the state can enrol a person of its own accord represents a drastic and dramatic change in our enrolment processes.

The AEC has previously submitted that the declining enrolment rate is partly due to the outdated and overly prescriptive enrolment procedures and requirements. If this concern is to be taken at face value, then this is a reason to reconsider some of these practices – it does not justify a movement away from individual registration to automatic enrolment.

Despite the fact that Government majority recommends that the power to declare data sources as ‘trusted’ be given to the AEC, Opposition Members and Senators do not believe this addresses this problem in its entirety.

We are concerned that the power to deem data sources ‘trusted’ in determining the use of such data in compiling the roll as a potential risk to the office.

The inclusion of such data, if erroneous, would be extremely damaging to public faith in our electoral process. Furthermore, the inclusion of such data may well be controversial due to lack of faith in its inclusion or utilisation.

Placing the Electoral Commissioner at the heart of such a potentially politically charged dispute can only damage the standing of the office and the AEC.

One change that the ALP has made to this recommendation since the previous inquiry involves the publication of the data to be utilised. This reflects a concern raised in the previous inquiry into this issue that the data sources being utilised in NSW were not required to be made public.

The Government members’ current proposal is to allow the determination of such data utilisation to be a disallowable instrument. But this fails to address the point

raised above, indeed it increases the risk of drawing the Electoral Commissioner into a dispute that is, by its nature, highly political.

Opposition members believe it would be a retrograde step to diminish the independence of the AEC to such a degree that decisions about a basic function such as enrolment would once again be over-ruled by the Parliament.

Opposition members restate their view that none of these self-evident risks to the integrity of the electoral roll and public faith in it are justified.

The current enrolment process is transparent to all – completion of a form by an eligible individual. Put simply, filling out an enrolment form is not difficult.

Finally, the argument about roll divergence between some states and the Commonwealth put by Government members is not worthy of serious consideration.

As outlined previously, the fact that NSW and Victoria have legislated for automatic enrolment provisions that do not sufficiently address the above issues is no reason for the Commonwealth to simply follow.

To allow State Parliaments to effectively set the standards for the Commonwealth electoral roll through the ‘joint roll at all costs’ approach advocated by the Government members is to allow ‘the tail to wag the dog’.

Each proposal should be considered on its own merits, regardless of the activities of other jurisdictions. A joint roll is obviously desirable, but not at the cost of a loss of integrity or the potential for political disputation around electoral administration.

## **AEC and ALP submissions**

Disappointingly, Opposition members must note that the Australian Electoral Commission and Australian Labor Party have very similar recommendations when it comes to automatic enrolment and believes that it is not up to the AEC to take such a partisan line:

The ALP renews its call for an automatic enrolment system to be introduced before the next Federal Election following significant confusion regarding enrolment and successful challenges in both the Federal Court and High Court to enrolment determinations made by the AEC in the 2010 Federal Election. (Australian Labor Party, Submission 55, p. 1)

**Recommendation 1:** The AEC recommends that legislation proceed to amend the Electoral Act to allow the direct update of enrolment.

**Recommendation 2:** The AEC recommends that the Electoral Act be amended to enable the AEC to directly enrol eligible electors on the basis of data provided by specific sources. (Australian Electoral Commission submission 87, p. 13)

It is particularly concerning that the Australian Electoral Commission seems to be pushing a political agenda when it comes to updating enrolments, these are decisions which should be made by the nation's elected representatives and not unelected bodies employed to carry out these decisions. The AEC should not be recommending that the Electoral Act be changed, but should be carrying out any changes decided by the Parliament. The changes recommended suit a specific political agenda which would have wide ranging implications affecting the integrity of the electoral roll.

## Election Day enrolment

No case has been made that there is a need for Election Day enrolment. And no evidence addressing the previous concerns of Opposition members, maintained by current Opposition members, has been raised in this inquiry.

Election Day enrolment poses a number of problems.

As well as exposing the roll to fraudulent enrolments, it will potentially cause significant delays on Election Day, additional to those that have been reported and are of increasing concern, especially at peak voting times.

It cannot be expected of election officials, only engaged on a casual basis, given the pressures and time constraints placed upon them on polling day to closely cross-check every enrolment form accurately. The Opposition notes the evidence of the CPSU to the inquiry that experienced casual officials are not offering themselves for duty as previously because of the impact of the new Labor changes to pension arrangements which can result in the loss of pension entitlements.

Secondly, the recommendation will cause additional queues on polling day. It will also provide delays in finalising the count while awaiting verification of the enrolments received that day. It is a significant additional administrative burden for the AEC at a time when measures, such as processing pre-poll votes as 'ordinary votes' have been taken to quicken the vote counting process on Election Day.

Thirdly, Election Day enrolment will inadvertently provide an incentive to people to not comply with the existing law and initially enrol or update their election details when they move residence. The knowledge that one can simply turn up on Election Day and enrol to vote after turning eighteen, taking out citizenship or moving residence will only weaken the effectiveness of the AEC enrolment and education campaigns. This will reduce the accuracy and integrity of the roll between elections.

Finally, Election Day enrolment breaches an important principle – that candidates should know their electors.

The Opposition opposes Recommendations 1-5 of the Committee's report and recommend:

**That the AEC should concentrate on continuing to check the accuracy of the roll by canvassing and advertising to make people aware of their obligations to properly initially enrol and advise of change of address when it occurs.**

## Electronic signatures

Opposition members do not oppose the use of electronic signatures for signing electoral enrolment forms, however, the Coalition reaffirms its commitment to the integrity of the electoral roll and believes that electronic signatures should only be accepted if appropriate photographic identification is also included. This could include a current driver's licence or passport details which are the two forms of identification currently accepted on the AEC enrolment form.

## Electoral Roll cleansing

Opposition members believe that the responsibility for an elector to keep their details up to date. Recommendations 7 and 8 will result that if a person actually lives at a different address to the one they claim when they attend a polling booth, they will still have their vote counted. The proposal that electors who provide an incorrect address should have their vote counted sets a dangerous precedent relating to providing information to Government authorities and makes current provisions for electors to provide identification when enrolling essentially meaningless.

The Labor and Greens parties continue to argue that the current requirements that electors enrol to vote, accurately maintain their enrolment when they change address and then cast a vote when an election is called is far too onerous for some Australian citizens. The Coalition believes that enrolling to vote and casting a vote on Election Day is the responsibility of each individual citizen.

Opposition members oppose Recommendations 7 and 8 on the basis that these moves will reduce the integrity of the electoral roll and recommend:

**That the current system of cleansing the electoral roll is maintained to ensure that elections are decided by an accurate record of eligible voters.**

## Pre-poll enrolments

Opposition Committee members feel that section 200DH of the *Commonwealth Electoral Act 1918* being repealed will increase the likelihood of voter fraud and threaten the integrity of the Electoral roll. Providing a signature when placing a pre-poll vote is not an onerous responsibility for the elector and these Committee members believe there is not only no reason to repeal this section of the Electoral Act but doing so could lead to an increase in fraudulent voting.

Opposition members believe that pre-poll voting should not open until the Monday 12 days before polling day, as opposed to the Monday 19 days before polling day as recommended by the Government members on the Committee. This would ensure that electors are still given ample time to cast a pre-poll vote prior to Election Day should they need to.

The Opposition members are concerned that allowing pre-poll voting for 19 days prior to Election Day takes the focus of polling day itself, which is where the overwhelming majority of votes should be cast. By having pre-poll 12 days before polling day this will also ensure that the AEC has sufficient time to accept nominations and check all details before printing ballot papers.

Opposition Committee members therefore oppose Recommendations 10 and 11 and recommend:

**That pre-poll voting be open on the Monday 12 days before the election and that electors continue to be required to sign a declaration when casting a pre-poll vote.**

## Postal vote applications

Opposition Committee members note the Australian Electoral Commission's submission advises that approximately two thirds of electors, over 550,000 people, sent their postal vote application back to a political party. The Opposition believes that changing this system will confuse electors who are comfortable with the current arrangement which has worked very well for a number of years.

The current system not only gives elderly, disabled and less mobile electors the opportunity to cast their vote as is their democratic right, it also ensures they have



access to how-to-vote information from their chosen candidate. The success of this system is demonstrated by the fact that informal voting amongst postal voters was 2.63 per cent compared to 5.55 per cent overall. The Opposition members are very concerned that changing this system will lead to an increase in the informal rate amongst postal voters.

Electors choose this option in the full knowledge they will receive a How-to-Vote card from their chosen political party and the recommendation that all PVAs are now returned only to the AEC contravene the right of an elector to receive voting information. Many postal voters, who are often elderly or disabled, would be confused by a change to this system and it could see an increase in the informal vote for postal voters. Opposition Committee members believe the AEC is seeking unnecessary restrictions on postal voters. The same Committee members note that the AEC has gone to great lengths to assist blind and vision impaired people vote, which is to be applauded, but their recommendation to deny electors the right to send their PVA to their chosen candidate goes against this.

It is disappointing to see that once again the AEC's recommendation mirrors the position of the Australian Labor Party. Opposition Committee members strongly believe it is not within the purview of the AEC to recommend changes of this nature, but simply to provide information about the process.

Opposition Committee members feel that Recommendation 14 is not consistent with an individual elector's right to a secret ballot by distributing information about which form an individual elector is choosing to vote. An elector has the right to privacy not only about which party they choose to vote for but also about how they cast their vote, be it as an ordinary vote, a postal vote, an absentee vote or a pre-poll vote. This recommendation singles out postal voters by not giving them the same right to a secret ballot that other voters receive.

Postal voters are also used to a system where they receive how-to-vote information only from the candidate of their choice, allowing all candidates access to this information takes away the responsibility of the candidate to contact the elector with information about the postal voting option whilst giving them the opportunity to post a How-to-Vote card. The Opposition members believe that voters send their postal vote application back to a political party, having made up their mind about which candidate they wish to vote for, with the full knowledge they will receive a How-to-Vote card from that candidate alone.

Similarly, postal voters who have previously returned their application directly to the AEC, not wishing to have their details sent to a political party, will now receive unwanted information from candidates.

For these reasons the Opposition members completely reject Recommendations 13 and 14, the Opposition recommend:

**That the current postal vote application system remains as it is noting the successful outcomes it achieves.**

The present system protects the secret ballot option for postal voters and gives electors the opportunity to receive information or not receive information as is their democratic right. The proposed changes will mean postal voters will not have access to a secret ballot, as does every other type of elector, and will receive unwanted information from candidates. This change is simply to ensure that Labor and the Greens are able to distribute their how-to-vote information without having to pay for the costs of distributing postal vote applications, and ignores the democratic rights of postal voters and puts the extremely low informal rate of postal votes in jeopardy.

### **Cut-off date for receipt of postal vote applications**

Opposition Committee members feel that moving the day for postal vote applications received in Australia for addresses outside Australia to be 6 pm Monday before polling day will disadvantage postal voters by giving them less time to send in their application and will particularly disadvantage Australian Defence Force personnel serving overseas, often in remote locations. It is better to focus on the efficiency of the AEC in processing forms rather than giving electors less time to send in their application. The task of the AEC is to serve voters, not to make their own job easier.

Opposition Committee members feel that the AEC should conduct a study about the effectiveness of the cut-off date used at the March 2011 NSW Election, which is being proposed for Federal Elections. It is important to determine whether these dates affected the number of postal vote applicants and whether the cut-off dates resulted in postal voters missing out on their chance to vote. These members feel that the Committee should consider the findings of any such study before implementing the NSW system at a Federal level.

The Opposition therefore opposes Recommendation 16 and recommend:

**That current dates for the receipt of postal vote applications from overseas voters are maintained, that voters should not be disadvantaged by being given less time to receive ballot papers.**

## Declaration votes

Recommendation 24 outlines that if a person resides at a different address to the one they claim when they attend a polling booth, they will still have their vote counted when they actually live at a different address.

Opposition members believe that the responsibility for an elector to keep their details up to date and to provide their correct address when they attend a polling booth is not an onerous responsibility for an elector and notes that the overwhelming majority of the Australian population carries out these requirements with no issue. The proposal that electors who provide an incorrect address when attending a polling booth should have their vote counted sets a dangerous precedent relating to providing information to Government authorities and makes current provisions for electors to provide identification when enrolling essentially meaningless.

The Labor and Greens parties continue to argue that the current requirements that electors enrol to vote, accurately maintain their enrolment when they change address and then cast a vote when an election is called is far too onerous for some Australian citizens. The Coalition believes that enrolling to vote and casting a vote on Election Day is the responsibility of each individual citizen.

Opposition members oppose Recommendations 24 on the basis that these moves will reduce the integrity of the electoral roll and recommend:

**That electors wishing to cast a valid declaration vote must provide correct information about their address prior to the close of rolls, failure to do this will result in their vote not being included in the count.**

## South Australian ticket voting

Opposition members strongly oppose Recommendation 25 and believe the consequential proposal contained in Recommendation 26 will be ineffective and is little more than a political fig-leaf to cover the political agenda of Government members to count informal votes.

Opposition members challenge the terminology around this proposal. This is not about 'saving' votes that are somehow valid and discarded on technicalities.

This proposal is about ballot papers that have not expressed a valid preference being deemed to do so and admitted to the count according to preferences expressed by other than the voter themselves.

A commitment to full preferential voting has long been a bipartisan one at the Commonwealth level. As the 'Langer' incident illustrated, when challenges to this have been forthcoming, the Commonwealth Parliament has acted to ensure that the requirement of voters to express a complete set of preferences regarding the candidates for election has been maintained and reinforced.

There is no doubt that there has been an increase in informal votes cast. But there is no agreement whatsoever on the reasons for this.

The Opposition believes that the Government members of the Committee have, for the convenience of their argument, failed to give due consideration to the following factors:

- the institution (by ALP Governments) of optional preferential voting in state elections in NSW and Queensland;
- the 'Just vote 1' campaigns that have subsequently followed in elections in those states, again by the ALP; and
- the impact of the 'vote informal' campaign at the last election by former Labor Opposition Leader Mark Latham.

Government members of the Committee have contrived an argument that somehow these informal votes which it wishes to count are unintentionally informal by virtue of not expressing a valid preference. A short examination of their arguments is important at this point.

The AEC analysis outlines that 51.4 per cent of informal votes were 'assumed to be unintentional'. Opposition members do not agree with this conclusion, and highlight the term 'assumption'. This is not a fact, it is merely an assertion.

The Government members of the Committee outline their plan to address this, through the institution of a mechanism to count votes that do not express a complete set of preferences '...in cases where it is clear that an eligible voter has attempted to cast a formal vote, but it is informal perhaps due to confusion over what is required to make their vote count...'. (Paragraph 7.10)

No explanation is provided on how one can be 'clear' that an attempt to make a valid vote has been undertaken when it is informal 'perhaps due to confusion'.

Despite a helpful analysis of the history of the institution of above-the-line voting for the Senate in 1984, Government members arrive at conclusions not supported by the evidence in stating 'Today, the Joint Standing Committee on Electoral Matters faces many of the same policy and practical challenges in reducing informality in the House of Representatives as faced by the Joint Select Committee

on Electoral Reform when it looked at the high level of Senate informality in 1983.’ (Paragraph 7.47)

This statement is simply wrong.

First, the level of informality in the House of Representatives in 2010 was approximately half of that of the Senate in 1983.

Second, completing a Senate ballot prior to the introduction of above-the-line voting was obviously and patently more complex than any House of Representatives ballot paper in the 2010 election.

Another critical inconsistency between the proposed measure and that of the Senate voting system relates to public information.

When voting for the Senate, it is made clear that voting above-the-line for one party distributes preferences according to a ticket lodged by that party. Information about party tickets is freely available from the AEC on polling day, from political parties and on the AEC website. While it is obvious that voter knowledge of this process is far from perfect, it is required to be made available to voters.

Conversely, the proposed ‘SA model’ relies on secrecy.

Not only are voters still prohibited from voting in an optional preferential fashion, it is illegal to advocate this fact.

This is where the Opposition’s objection to Recommendation 26 is pertinent.

The advent of new technologies and social media forms makes such a ban almost irrelevant. The AEC cannot enforce such a ban in a timely fashion, due to many of these means (e.g. Twitter) being virtually anonymous, international and not located within Australia.

The recent Canadian election provided an example of this. Despite a ban on broadcasting results of the eastern provinces before voting concluded in western provinces, some threatened to do so via Twitter (see: <http://www.cbc.ca/news/technology/story/2011/04/21/cv-section329-reaction.html>).

While no specific campaign was undertaken as threatened, Canadian authorities would have been powerless to act to prevent it if it had.

This demonstrates the ineffectiveness of any proposal that relies on laws to prohibit particular information being circulated to voters.

The combination of Recommendations 25 and 26 is substantially worse than the alternative offered by Antony Green, 'progressive informality' and poses a substantial risk to the integrity of elections. The majority proposal would also result in less informal votes being, to use the Government's language 'saved', than would Mr Green's proposal or a optional preferential model.

The implementation of these recommendations could well see an electronic campaign being conducted outside the power of Australian law to prevent, halt or address that may encourage people to only 'vote 1' for one party in order to mislead voters that this would mean votes were informal.

Under this provision these votes could then be counted according to the wishes of a party who had people associated with it conduct such a campaign. Such an incentive has no place in electoral law.

Opposition members have numerous other concerns with these proposals.

First, the constitutionality of 'deeming' votes to have been lodged a particular way is questionable. Unlike the case of the Senate ticket voting system, the information about how these votes are to be counted is specifically withheld from voters.

Second, this represents a substantial disenfranchisement of the voter in order to advantage political parties. In our compulsory enrolment and attendance regime, we require citizens to attend and effectively vote (the absence of a requirement to vote validly is not widely understood, indeed it may be the increasing level of understanding this due to campaigns such as that by Mr Latham that is increasing the informal vote).

Currently, a voter can cast an informal vote by not filling out the ballot paper as instructed. They may also register a 'protest' by only partially completing the ballot paper.

This proposal would remove that right of a voter and effectively appropriate that vote for a candidate and/or political party.

This represents a new level of involvement and privilege by candidates and certain political parties in the election process. Not only do we, by law, require them to enrol and attend, the state would now 'deem' their vote to be cast a certain way in the complete absence of the intention of such by the voter.

This represents nothing less than the institution of a fraudulent method of counting votes, compounded by the fact that it is proposed to be effectively done 'in secret' by prohibiting its broadcast.

Opposition members are resolutely opposed to any proposal that purports to count votes in a way not so marked or cast by voters themselves.

In Australian football parlance, this proposal is the equivalent of a drawn Grand Final being decided not by extra time or by a replay, but by adding the number of near misses to the scores to determine a winner after the siren sounds.

Opposition members therefore oppose Recommendations 25 and 26 and the Opposition recommend:

**That the voting system used in Federal elections remains constitutionally sound and calls on the Government to ensure that South Australian ticket voting or a similar system is not implemented at a Federal level.**

## Close of nominations

The Opposition believes that Recommendations 33 and 34 are unnecessary and that the current arrangements are suitable for conducting elections effectively and efficiently. If the AEC feels that the current timing is too restrictive, it is better to focus on their own administration of the election, rather than giving themselves more time to complete their required tasks.

Furthermore, the Opposition believes that these recommendations would be completely redundant should their recommendation be accepted that pre-poll voting not begin until the Monday 12 days before polling days as opposed to a week prior to this.

The Opposition opposes Recommendations 33 and 34 and recommend:

**That the current system maintains in place where nominations close between ten and 27 days after the issue of the writ and the date for fixed polling is not less than 24 or more than 32 days after the date of nomination.**

## Contracts for Election Day officials

The Coalition opposes Recommendation 36 which would potentially increase the risk that a potential worker for the Australian Electoral Commission is employed without appropriate knowledge of what their job entails, including undertaking an agreement to remain impartial at all times to ensure confidence in the Australian electoral system.

It is not an onerous responsibility for an AEC employee to sign an agreement which outlines the unique nature of their job and the vital responsibilities that come with it, including this information in an electronic copy of an employment agreement alongside other 'fine print' details in the contract will see that many employees are unaware of their unique responsibilities.

It is therefore important that the AEC requires employees, both temporary and ongoing, to sign an agreement on paper which outlines their important role.

The Opposition opposes Recommendation 36 and recommend:

**That the AEC retains the need for Election Day officials to sign a written contract acknowledging their important role and responsibilities.**

**The Hon. Alex Somlyay MP**  
**Deputy Chair**

**The Hon. Bronwyn Bishop MP**

**Senator Scott Ryan**

**Senator Simon Birmingham**





Additional comments—Senator Scott Ryan

**Senator for Victoria, Liberal Party of Australia**

### **Additional comments regarding Recommendations 25 and 26**

As well as joining the comments of my Coalition colleagues in the Dissenting Report, I would like to highlight an obvious issue that has seemingly been avoided at all costs by the proponents of these recommendations – the potential to introduce optional preferential voting.

#### **The Labor proposal**

The language used to support or justify the Labor proposal as outlined in Recommendations 25 and 26 is Orwellian.

‘Saving’ votes somehow implies that Australians are being denied their right to vote through circumstance, conspiracy or chance. The Labor members then argue that this proposal will address this alleged flaw.

This is patently not the case – votes are deemed informal if they do not comply with the instructions as outlined on the ballot paper and in substantial advertising campaigns during every election period.

I do not lightly dismiss the fact that certain demographic groups experience a higher level of vote informality, nor that it is higher in those states that have an optional preferential voting system. However, these issues can and should be addressed through education rather than tampering with the method of counting votes and ‘deeming’ votes to have been cast when that has not occurred.

The contrived arguments in favour of a system that allows political parties to 'deem' a voter's preference and count an informal vote according to the wishes of a political party betrays the agenda of the Australian Labor Party (ALP) in this regard.

## Optional preferential voting

If the desire to count as many votes as possible was the over-riding desire of electoral administration, then there is no comparison to the simplicity and success of an optional preferential voting system. This system ensures that ballot papers that reflect any preference or number of preferences are counted accordingly.

This occurs by numbering all or some of the candidates, or simply a tick, cross or other indicative mark next to a single candidate. All such votes would be considered valid and counted until a result was achieved.

Of course, such a result may not lead to a majority of the two candidate preferred vote, but this is a consequence of such a system.

The fact that the ALP majority of the committee outline all their alleged concerns about informal voting, the reasons behind it and the justification for a change to the current system but do not consider optional preferential betrays an agenda.

That agenda is to allow political parties to count votes according to their wishes, priorities and potentially even deals made, regardless of whether tickets are distributed to voters or their awareness of them.

As the beneficiary of preferences from minor parties in many close elections, and a regular participant in deals with the Greens Party in recent campaigns, this proposal simply illustrates the concern of the ALP that it may fail to continue to be a beneficiary of such preference flows due to voter objections with such deals or, indeed, Labor's own performance in office.

## Some other issues

There are numerous other problems that this proposal creates, particularly around incentives for behaviour and 'dealing' (some of which are outlined in the Opposition committee members' dissenting report).

In close seats, deals over preferences may now include the 'deemed' counting of informal votes that do not indicate a preference.

Indeed, as the votes would be counted according to tickets lodged by parties or candidates, deals could even be made to lodge additional tickets to split the distribution of these partially marked ballots, even where such How-to-Vote cards are not actually distributed to voters.

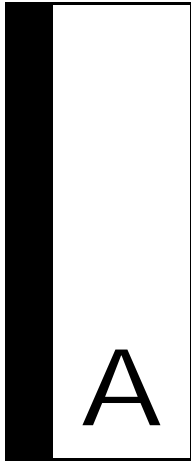
## Conclusion

If our prime concern is the counting of as many votes as possible, then consideration should be given to a system of optional preferential voting.

Only optional preferential voting counts all ballots that would be counted under the Labor members' proposed 'SA ticket' model as well as ensuring that the decision and vote remains with the voter, rather than with party officials attempting to peer into voters' souls in the privacy of a ballot booth.

**Senator Scott Ryan**





## Appendix A – Submissions and Exhibits

### List of submissions

No.	Provided by
1	Mr Geoff Horton
2	Mr S Laurence Cachia
3	Mr Andrew Murray
4	Mr P Williams
5	Mr Chris Hayes MP
6	Mr J Roberts
7	Dr Mal Washer MP
8	Senator the Hon Ian Macdonald
9	Mr Russell Broadbent MP
10	Ms Lyndall Ryan
11	Mr Peter Hallinan
12	FamilyVoice Australia
13	Mr Michael Doyle
13.1	Mr Michael Doyle
14	Mr Christopher Alger
14.1	Mr Christopher Alger
15	Mrs Tricia Gibson

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16	Professor George Williams
17	Mr Ian Bleys
18	Mr Phillip Kerle
19	Mr Bruce Parker
20	Mr Garry Gordon
21	Mr Robert Lawton
22	Ms Andrea Snashall
23	Ms Fiona Jackson
24	Mr Ron Hosking
25	Dr Martin Wesson
26	Mr Richard McCarthy
27	Mr Craig Thorburn
28	Ms Angela Kirgo
29	Mr John Kilcullen
30	Mr Alexander Johnston
31	Mr John O'Reilly
32	Mr Rowan Ramsey MP
33	Ms Heidi Hughes
34	Mrs Felicity Deane
35	Monash University
35.1	Monash University
36	Democratic Audit of Australia
37	Mr Anthony Kennedy
38	Ms Emily McBurnie
39	Ms Simone Girdham
40	Mr Ross Mair
41	Mr Dale Reeve
42	United Nations Youth Association of Australia
43	Mr Paul Slyth
44	Mr Simon Dux
45	Dr Peter Macdonald
46	Mr Brian Bagnall
47	Mr Peter Higgins
48	Mr Peter Morris

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49	Ms Lyn Eyb
50	Mrs Sylvia Petter
51	Name withheld
52	Mr Garry Nichols
53	Mr Justin Bell
54	Mr Werner Thurnheer
55	Australian Labor Party
56	Blind Citizens Australia
57	Mr Thomas McCann
58	Ms Susan Czermak
59	Ms Samara Rivett
60	Mr Malcolm Binns
61	Ms Julia Weller
62	Ms Rachel Burgess
63	Name withheld
64	Mr Anthony van der Craats
65	Senator Nick Xenophon
66	Council for the National Interest, Western Australian Committee
67	Shopping Centre Council of Australia
68	The Australian Greens
69	Vision Australia
70	The Hon Warren Snowdon MP
70.1	The Hon Warren Snowdon MP
71	Mr Bart van der Wel
72	Royal Society for the Blind
73	Mr Nigel Brown
74	Ms Tammy Wells-Putz
75	Ms Shipra Chordia
76	Mr David Anthony
77	Name withheld
78	Mr Richard Andrew
79	Mr David Thomas
80	Ms Janet Magnin

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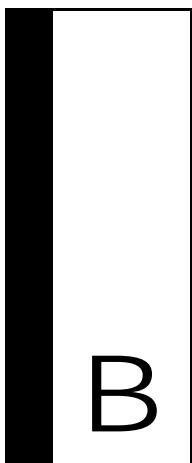
81	Ms Amanda Rowell
82	Ms Lily Petkovska
83	Mr Duncan Evans
84	Mr & Mrs Russell and Jennifer Tait
85	Electoral Reform Society of South Australia
86	The Greens NSW
87	Australian Electoral Commission
87.1 – 87.9	Australian Electoral Commission
88	Mr Antony Green
89	Professor Ian Marsh
90	Dr Joo-Cheong Tham
91	Australian Collaboration
92	Professor Graeme Orr
93	The Nationals
94	Liberal Party of Australia
95	Community and Public Sector Union
96	Mr K G Martin
97	Department of Foreign Affairs and Trade
98	Senator the Hon Eric Abetz
99	Mr Ian Thackeray
100	Mr Neville Albury
101	Computing Research and Education Association of Australasia
101.1	Computing Research and Education Association of Australasia – Supplementary Submission
102	GetUp!
103	Mr Andy Becker
104	The Commonwealth Director of Public Prosecutions
105	Australian Federal Police



## List of exhibits

- 1 Democratic Audit of Australia, Dr Peter Brent – *Time to introduce automatic enrolment in Australia*, Discussion Paper 3/08, February 2008
- 2 Democratic Audit of Australia - *Response to Electoral Reform Green Paper: Donations, Funding and Expenditure*, 20 February 2009
- 3 Parliamentary Library, Statistics and Mapping Section – *2010 Informal vote by division: Ranked by informal vote percentage*
- 4 ABC Elections - *Antony Green's Election Blog: Informal Voting – Two Ways of Allowing More Votes to Count*, 28 February 2011
- 5 Australian Electoral Commission - *Sample ballot papers: New South Wales Senate Ballot Paper 2010 – Election of 6 Senators; New South Wales Senate Ballot Paper 2007 – Election of 6 Senators*
- 6 Democratic Audit of Australia - *Copy of the Democratic Audit of Australia's submission to the Victorian Electoral Matters Committee inquiry into the conduct of the Kororoit District By-Election*, 28 February 2008, dated 3 August 2009
- 7 The Electoral Commission – *Analysis of cases of alleged electoral malpractice in 2010: Associations of Chief Police Officers and Electoral Commission Analysis*, February 2011, United Kingdom
- 8 Material in support of Submission 98: GetUp! - *Email*, dated 18 August 2010 on Issues Scorecard; *GetUp! 2010 Election Survey email*, dated 26 May 2010; *Constitution of GetUp! Limited*; *Copy of Canberra 2CC interview on 8 September 2005*
- 9 Material compiled by Mr Anthony van der Craats - *various blogs*, dated 12 November 2010, 11 September 2010, 8 December 2010, 10 December 2010 and 11 December 2010
- 10 Material supplied by Mr Abulla Agwa – *Background information about refugees and humanitarian entrants*
- 11 Electoral Commission NSW - *Handbook for Parties, Groups, Candidates and Scrutineers at Legislative Assembly and Legislative Council Elections: NSW State Election 2011*, pages 54-56. *Sample Ballot Papers, examples 6, 7, 8, 11 and 12 indicate when the use of ticks and crosses can be accepted*
- 12 Article: *The Sydney Morning Herald, 'Fair voting'*, Wednesday, 12 July 2000





## Appendix B – Public hearings

### **Wednesday, 2 March 2011 – Canberra**

#### **Private Capacity**

Mr Antony Green

### **Friday, 4 March 2011 – Canberra**

#### **Australian Electoral Commission**

Mr Ed Killesteyn, Australian Electoral Commissioner

Mr Paul Dacey, Deputy Electoral Commissioner

Mr Paul Pirani, Chief Legal Officer

Mr Doug Orr, State Manager for New South Wales

Ms Anne Bright, State Manager for Queensland

Ms Claire Witham, Acting State Manager South Australia

#### **Democratic Audit of Australia**

Professor Brian Costar, Coordinator

Dr Peter Brent, Member

**Wednesday, 23 March 2011 – Canberra****The Nationals**

Mr Bradley Henderson, Federal Director

**Wednesday, 30 March 2011 – Adelaide****Electoral Commission of South Australia**

Ms Kay Mousley, Electoral Commissioner

Mr David Gully, Deputy Electoral Commissioner

**Australian Electoral Commission**

Mrs Jenni McMullan, State Manager for Victoria

Ms Sandra Riordan, State Manager for Tasmania

Mr Peter Kramer, State Manager for Western Australia

Mr Robert Pugsley, Manager for Northern Territory

**Electoral Reform Society of South Australia**

Mr Deane Crabb, Secretary

**FamilyVoice Australia**

Dr David Phillips, National President

Mrs Roslyn Phillips, National Research Officer

**Royal Society for the Blind**

Mrs Katherine Johnson, Royal Society for the Blind of South Australia

**Private Capacity**

Mr Andrew Becker

**Greens South Australia**

Mr Jamnes Danenberg, Campaign Coordinator

**Wednesday, 13 April 2011 – Melbourne****Victorian Electoral Commission**

Mr Steve Tully, Electoral Commissioner

Ms Liz Williams, Deputy Electoral Commissioner

**Blind Citizens Australia**

Ms Robyn Gaile, Executive Officer

**Commonwealth Parliament of Australia**

Senator Nick Xenophon, Senator for South Australia

**Australian Collaboration**

Professor Emeritus David Yencken AO, Chair

**Computing Research and Education Association of Australasia**

Dr Vanessa Teague

**Private Capacity**

Mr Anthony van der Craats

**Monash University**

Professor John McNeil, Head, School of Public Health and Preventative Medicine

Associate Professor Bebe Loff, Director, Michael Kirby Centre for Public Health and Human Rights

**Monday, 18 April 2011 – Sydney****Vision Australia**

Mr Michael Simpson, General Manager, Policy and Advocacy

**Shopping Centre Council of Australia**

Mr Milton Cockburn, Executive Director

Mr Angus Nardi, Deputy Director

**SydWest Multicultural Services**

Mr Abulla Agwa, African Project Worker and Coordinator of African Foster Care Project

**Private Capacity**

Professor George Williams

**Liberal Party of Australia**

Mr Brian Loughnane, Federal Director

**Wednesday, 11 May 2011 – Canberra**

Senator the Hon Eric Abetz, Senator for Tasmania

Senator the Hon Ian Macdonald, Senator for Queensland

Mr Rowan Ramsey MP, Member for Grey

The Hon Warren Snowdon MP, Member for Lingiari

**Wednesday, 25 May 2011 – Canberra****Australian Electoral Commission**

Mr Ed Killesteyn, Electoral Commissioner

Mr Paul Pirani, Chief Legal Officer

Mr Michael Maley, Special Adviser Electoral Reform and International

**Australian Labor Party**

Mr George Wright, National Secretary

Mr Nick Martin, Assistant National Secretary

**Wednesday, 15 June 2011 – Canberra****Community and Public Sector Union**

Dr Kristin van Barneveld, Deputy National Secretary

Mr Jonathan Ring, National Organiser



## Appendix C – Selected data

Table C.1 2010 House of Representatives informality by State and Territory

<b>State or Territory</b>	<b>Number '1' only</b>	<b>Ticks and crosses</b>	<b>Total '1' only ticks and crosses</b>	<b>All other informal votes</b>	<b>Total Informal votes</b>
NSW	93 466	40 405	133 871	159 862	293 763
VIC	31 005	13 606	44 611	105 088	149 699
QLD	44 247	13 626	57 873	79 522	137 395
WA	13 786	7 061	20 847	40 120	60 967
SA	13124	7258	20382	36183	56565
TAS	2 595	1 440	4 035	9 756	13 791
ACT	2 969	1 535	4 504	6 422	10 926
NT	1 219	793	2 012	4 186	6 198
National	202 411	85 724	288 135	441 169	729 304

*Source* Provided by the Australian Electoral Commission, based on *Analysis of Informal Voting: House of Representatives, 2010 Federal Election, Research Report Number 12, 29 March 2011.*

Table C.2 2010 House of Representatives informality by Division – Informal % (highest to lowest)

Division	State	Number '1' only	Ticks and crosses	Total '1' only and ticks and crosses	All other informal votes	Total Informal votes	% Informal vote
Blaxland	NSW	3 573	1 454	5 027	7 054	12 081	14.06%
Fowler	NSW	4 163	2 361	6 524	4 790	11 314	12.83%
Watson	NSW	4 346	1 886	6 232	5 033	11 265	12.8%
Chifley	NSW	3 171	1 460	4 631	5 466	10 097	11.16%
McMahon	NSW	3 311	2 182	5 493	4 217	9 710	10.84%
Werriwa	NSW	2 910	1 636	4 546	4 146	8 692	10.35%
Greenway	NSW	2 173	7 83	2 956	6 119	9 075	10.27%
Barton	NSW	3 666	1 422	5 088	3 484	8 572	9.82%
Reid	NSW	3 047	1 084	4 131	3 549	7 680	8.8%
Parramatta	NSW	2 339	1 096	3 435	3 983	7 418	8.65%
Banks	NSW	2 979	1 119	4 098	3 567	7 665	8.37%
Lindsay	NSW	2 418	949	3 367	4 035	7 402	8.17%
Kingsford Smith	NSW	2 713	978	3 691	3 589	7 280	8.15%
Macarthur	NSW	1 982	868	2 850	4 049	6 899	8.11%
Lingiari	NT	744	361	1 105	2 377	3 482	7.5%
Rankin	QLD	2 257	859	3 116	3 359	6 475	7.49%
Bennelong	NSW	1 723	455	2 178	4 642	6 820	7.37%
Longman	QLD	1 367	333	1 700	4 229	5 929	7.29%
Port Adelaide	SA	1 871	1 317	3 188	3 803	6 991	7.18%
Forde	QLD	1 687	602	2 289	3 108	5 397	7.13%
Grayndler	NSW	2 165	1 025	3 190	3 154	6 344	7.08%
Charlton	NSW	1 952	630	2 582	3 594	6 176	6.92%
Throsby	NSW	1 843	837	2 680	3 517	6 197	6.9%
Gorton	VIC	1 558	740	2 298	4 750	7 048	6.71%
Oxley	QLD	1 885	673	2 558	2 565	5 123	6.68%
Calwell	VIC	1 125	759	1 884	4 230	6 114	6.53%
Hughes	NSW	1 765	766	2 531	3 489	6 020	6.52%
Robertson	NSW	1 545	361	1 906	3 889	5 795	6.36%
Shortland	NSW	2 036	864	2 900	2 771	5 671	6.34%
Farrer	NSW	1 285	582	1 867	3 744	5 611	6.34%
Herbert	QLD	1 755	585	2 340	2 941	5 281	6.26%
Eden-Monaro	NSW	1 467	530	1 997	3 693	5 690	6.25%
Lalor	VIC	1 321	412	1 733	5 131	6 864	6.24%



Table C.2 continued

Wakefield	SA	1 310	860	2 170	3 667	5 837	6.22%
Hunter	NSW	1 658	649	2 307	3 076	5 383	6.21%
Moncrieff	QLD	1 842	652	2 494	2 491	4 985	6.18%
Capricornia	QLD	1 435	457	1 892	3 371	5 263	6.15%
Makin	SA	1 170	539	1 709	3 823	5 532	6.09%
Dobell	NSW	1 679	782	2 461	2 872	5 333	6.06%
Fadden	QLD	1 563	460	2 023	2 711	4 734	6.04%
Wills	VIC	1 018	329	1 347	4 056	5 403	6.02%
Scullin	VIC	1 173	520	1 693	3 362	5 055	5.99%
Leichhardt	QLD	1 478	426	1 904	3 113	5 017	5.91%
McPherson	QLD	1 841	522	2 363	2 527	4 890	5.9%
Blair (Qld)	QLD	1 440	437	1 877	2 712	4 589	5.88%
Murray	VIC	784	325	1 109	3 877	4 986	5.83%
Cook	NSW	1 888	727	2 615	2 913	5 528	5.81%
Riverina	NSW	1 205	418	1 623	3 755	5 378	5.76%
Dawson	QLD	1 449	494	1 943	3 127	5 070	5.76%
Pearce	WA	1 083	390	1 473	3 289	4 762	5.71%
Holt	VIC	1 045	536	1 581	4 183	5 764	5.69%
Newcastle	NSW	1 376	488	1 864	3 084	4 948	5.69%
Cunningham	NSW	1 717	873	2 590	2 769	5 359	5.68%
Maribyrnong	VIC	971	534	1 505	3 102	4 607	5.68%
Hasluck	WA	843	397	1 240	3 687	4 927	5.64%
Paterson	NSW	1 349	535	1 884	3 040	4 924	5.64%
Wright	QLD	1 449	353	1 802	2 695	4 497	5.63%
Mitchell	NSW	1 991	858	2 849	2 103	4 952	5.58%
Hinkler	QLD	1 276	423	1 699	3 066	4 765	5.57%
Richmond	NSW	1 073	318	1 391	3 361	4 752	5.55%
Sydney	NSW	1 512	745	2 257	2 363	4 620	5.5%
Macquarie	NSW	1 204	334	1 538	3 529	5 067	5.48%
Barker	SA	1 071	776	1 847	3 596	5 443	5.46%
Fremantle	WA	923	590	1 513	3 211	4 724	5.43%
Bowman	QLD	1 504	439	1 943	2 729	4 672	5.39%
Sturt	SA	1 198	487	1 685	3 331	5 016	5.38%
Kennedy	QLD	1 720	508	2 228	2 420	4 648	5.38%
O'Connor	WA	960	453	1 413	3 219	4 632	5.37%
Grey	SA	1 250	981	2 231	2 766	4 997	5.35%
Flynn	QLD	1 419	393	1 812	2 690	4 502	5.33%
Wannon	VIC	671	237	908	3 768	4 676	5.32%
Petrie	QLD	1 231	364	1 595	2 658	4 253	5.28%

Table C.2 continued

Wide Bay	QLD	1 410	396	1 806	2 713	4 519	5.25%
Brand	WA	736	512	1 248	3 056	4 304	5.23%
Bruce	VIC	911	662	1 573	2 647	4 220	5.21%
Mackellar	NSW	1 793	1 074	2 867	1 913	4 780	5.2%
Perth	WA	963	652	1 615	2 785	4 400	5.2%
Hindmarsh	SA	1 462	541	2 003	2 865	4 868	5.17%
Fisher	QLD	1 165	428	1 593	2 420	4 013	5.17%
Batman	VIC	875	588	1 463	2 739	4 202	5.15%
Hume	NSW	1 077	426	1 503	3 261	4 764	5.13%
Cowan	WA	1 039	629	1 668	2 652	4 320	5.12%
Gilmore	NSW	1 391	565	1 956	2 702	4 658	5.11%
Bonner	QLD	1 494	430	1 924	2 505	4 429	5.11%
Kingston	SA	1 042	718	1 760	3 165	4 925	5.09%
Solomon	NT	475	432	907	1 809	2 716	5.06%
Fairfax	QLD	1 268	524	1 792	2 394	4 186	5.03%
Parkes	NSW	1 176	738	1 914	2 831	4 745	5.02%
Stirling	WA	1 573	172	1 745	2 514	4 259	5.02%
Gellibrand	VIC	811	325	1 136	3 242	4 378	5%
Maranoa	QLD	1 665	411	2 076	2 454	4 530	4.94%
Calare	NSW	997	460	1 457	3 174	4 631	4.93%
Swan	WA	853	417	1 270	2 819	4 089	4.9%
Griffith	QLD	1 484	385	1 869	2 268	4 137	4.89%
Canberra	ACT	1 708	917	2 625	3 130	5 755	4.88%
Durack	WA	719	643	1 362	2 316	3 678	4.86%
Moreton	QLD	1 336	477	1 813	2 315	4 128	4.85%
Adelaide	SA	1 021	437	1 458	2 936	4 394	4.81%
Lyons	TAS	692	345	1 037	2 279	3 316	4.8%
Isaacs	VIC	955	442	1 397	3 119	4 516	4.71%
Warringah	NSW	1 694	608	2 302	1 833	4 135	4.64%
Boothby	SA	839	254	1 093	3 055	4 148	4.63%
Berowra	NSW	1 375	529	1 904	2 219	4 123	4.59%
Mayo	SA	890	348	1 238	3 176	4 414	4.58%
Lilley	QLD	1 491	418	1 909	2 244	4 153	4.56%
Forrest	WA	855	419	1 274	2 570	3 844	4.55%
Canning	WA	874	492	1 366	2 429	3 795	4.52%
Corio	VIC	814	270	1 084	2 821	3 905	4.51%
Wentworth	NSW	1 281	733	2 014	2 071	4 085	4.5%
North Sydney	NSW	1 581	619	2 200	1 786	3 986	4.44%
Hotham	VIC	803	343	1 146	2 538	3 684	4.44%

Table C.2 continued

Fraser	ACT	1 261	618	1 879	3 292	5 171	4.43%
Dickson	QLD	1 139	264	1 403	2 352	3 755	4.41%
McEwen	VIC	905	311	1 216	3 627	4 843	4.4%
Page	NSW	1 211	460	1 671	2 247	3 918	4.39%
Aston	VIC	850	395	1 245	2 609	3 854	4.35%
Moore	WA	780	536	1 316	2 418	3 734	4.35%
Cowper	NSW	1 237	579	1 816	2 041	3 857	4.33%
Braddon	TAS	591	396	987	1 974	2 961	4.32%
Mallee	VIC	852	355	1 207	2 387	3 594	4.23%
Casey	VIC	929	374	1 303	2 392	3 695	4.22%
Groom	QLD	1 192	302	1 494	2 161	3 655	4.15%
Flinders	VIC	1 048	363	1 411	2 484	3 895	4.13%
Bradfield	NSW	1 333	720	2 053	1 669	3 722	4.1%
Menzies	VIC	810	367	1 177	2 320	3 497	4.09%
La Trobe	VIC	703	307	1 010	2 763	3 773	4.07%
Bass	TAS	551	289	840	1 874	2 714	3.98%
Jagajaga	VIC	839	286	1 125	2 431	3 556	3.97%
McMillan	VIC	589	318	907	2 604	3 511	3.97%
Dunkley	VIC	727	367	1 094	2 404	3 498	3.92%
Indi	VIC	647	237	884	2 565	3 449	3.91%
Gippsland	VIC	716	83	799	2 697	3 496	3.79%
Brisbane	QLD	1 071	362	1 433	1 736	3 169	3.76%
Bendigo	VIC	851	318	1 169	2 419	3 588	3.74%
Lyne	NSW	1 065	391	1 456	1 838	3 294	3.73%
Ballarat	VIC	816	456	1 272	2 184	3 456	3.72%
Melbourne	VIC	532	267	799	2 557	3 356	3.62%
Denison	TAS	333	169	502	1 933	2 435	3.62%
Chisholm	VIC	565	263	828	2 052	2 880	3.59%
Deakin	VIC	517	186	703	2 264	2 967	3.58%
New England	NSW	1 031	448	1 479	1 868	3 347	3.54%
Tangney	WA	841	348	1 189	1 839	3 028	3.48%
Franklin	TAS	428	241	669	1 696	2 365	3.48%
Melbourne Ports	VIC	686	287	973	1 875	2 848	3.25%
Corangamite	VIC	599	191	790	2 327	3 117	3.22%
Goldstein	VIC	760	296	1 056	1 679	2 735	3.13%
Curtin	WA	744	411	1 155	1 316	2 471	2.93%
Ryan	QLD	934	249	1 183	1 448	2 631	2.87%
Higgins	VIC	566	266	832	1 511	2 343	2.8%
Kooyong	VIC	663	291	954	1 372	2 326	2.78%

Source Provided by the Australian Electoral Commission, based on Analysis of Informal Voting: House of Representatives, 2010 Federal Election, Research Report Number 12, 29 March 2011.

Table C.3 Senate votes counted, by type and jurisdiction, 1993 to 2010 elections

	1993	1996	1998	2001	2004	2007	2010
<b>NSW</b>							
Ordinary	3 211 735	3 319 040	3 107 128	3 376 156	3 379 647	3 449 290	3 707 435
Absent	224 977	216 030	296 893	266 289	252 692	251 301	230 244
Postal	95 686	105 342	164 093	131 719	189 502	205 924	209 520
Pre-Poll	117 297	150 758	268 599	210 628	261 702	368 640	159 896
Provisional	32 043	34 567	47 608	36 932	34 043	14 289	26 172
Adjustment	-125	-66	-	-	-	-	-
Total	3 681 613	3 825 671	3 884 321	4 021 724	4 117 586	4 289 444	4 333 267
<b>Victoria</b>							
Ordinary	2 494 785	2 503 061	2 482 393	2 599 902	2 574 485	2 541 221	2 763 592
Absent	156 682	148 550	164 441	195 165	188 561	195 804	184 670
Postal	85 251	96 458	119 732	123 007	176 776	213 144	243 756
Pre-Poll	85 428	96 204	157 793	146 750	190 134	330 292	140 782
Provisional	11 163	24 877	30 487	27 035	28 685	9 758	17 870
Adjustment	-91	124	-	-	-	-	-
Total	2 833 218	2 869 274	2 954 846	3 091 859	3 158 641	3 290 219	3 350 670
<b>Queensland</b>							
Ordinary	1 630 700	1 687 564	1 714 385	1 848 840	1 920 562	2 002 158	2 103 947
Absent	122 936	130 973	142 557	139 033	136 531	144 665	154 440
Postal	66 138	80 321	92 766	107 947	136 924	154 169	182 987
Pre-Poll	63 561	76 944	103 054	99 378	118 299	168 590	84 814
Provisional	5 698	13 627	13 807	20 329	17 995	7 237	13 084
Adjustment	119	12	-	-	-	-	-
Total	1 889 152	1 989 441	2 066 569	2 215 527	2 330 311	2 476 819	2 539 272
<b>Western Australia</b>							
Ordinary	873 508	881 036	920 134	965 578	949 116	1 007 611	1 048 898
Absent	72 655	80 661	84 042	94 632	107 223	95 684	101 545
Postal	19 394	26 218	29 860	32 476	39 409	48 760	62 044
Pre-Poll	26 135	39 570	48 695	44 458	57 044	74 677	54 904
Provisional	5 090	13 075	10 701	9 410	16 815	5 815	7 318
Adjustment	-27	108	-	-	-	-	-
Total	996 755	1 040 668	1 093 432	1 146 554	1 169 607	1 232 547	1 274 709
<b>South Australia</b>							
Ordinary	857 851	841 944	791 057	857 273	845 255	856 774	867 272
Absent	56 052	54 549	70 173	63 032	64 516	63 067	67 265
Postal	26 873	29 582	55 940	35 632	44 785	52 027	71 790
Pre-Poll	24 502	27 019	47 809	33 326	41 479	56 134	30 455
Provisional	3 117	12 235	9 261	8 308	7 127	3 318	5 289
Adjustment	-30	-1	-	-	-	-	-
Total	968 365	965 328	974 240	997 571	1 003 162	1 031 320	1 042 071

	1993	1996	1998	2001	2004	2007	2010
<b>Tasmania</b>							
Ordinary	282 224	267 801	276 516	275 848	279 291	281 875	291 231
Absent	16 340	21 514	14 889	15 395	15 314	15 514	16 120
Postal	9 357	13 577	13 269	12 862	15 844	17 124	23 062
Pre-Poll	8 232	12 662	12 549	11 843	14 577	20 440	10 251
Provisional	731	3 499	858	3 207	3 732	723	1 074
Adjustment	-	-	-	-	-	-	-
<b>Total</b>	<b>316 884</b>	<b>319 053</b>	<b>318 081</b>	<b>319 155</b>	<b>328 758</b>	<b>335 676</b>	<b>341 738</b>
<b>Australian Capital Territory</b>							
Ordinary	148 297	158 907	140 574	167 335	168 295	177 174	209 120
Absent	3 793	5 262	3 864	5 334	4 411	3 104	3 423
Postal	5 714	5 463	10 172	5 955	7 567	9 984	8 560
Pre-Poll	27 071	25 308	45 302	30 353	33 460	38 311	13 056
Provisional	1 939	1 977	1 075	1 421	2 898	653	1 112
Adjustment	-	-	-	-	-	-	-
<b>Total</b>	<b>186 814</b>	<b>196 917</b>	<b>200 987</b>	<b>210 398</b>	<b>216 631</b>	<b>229 226</b>	<b>235 271</b>
<b>Northern Territory</b>							
Ordinary	73 405	77 874	81 113	81 680	78 808	80 591	90 217
Absent	-	-	-	2 081	2 084	1 926	1 745
Postal	2 166	2 643	2 839	2 304	3 064	3 431	3 254
Pre-Poll	5 075	6 376	8 576	8 881	10 102	16 246	4 733
Provisional	811	1 234	2 361	756	1 265	369	446
Adjustment	-	-	-	-	-	-	-
<b>Total</b>	<b>81 457</b>	<b>88 127</b>	<b>94 889</b>	<b>95 702</b>	<b>95 323</b>	<b>102 563</b>	<b>100 395</b>
<b>National</b>							
Ordinary	9 572 505	9 737 227	9 513 300	10 172 612	10 195 459	10 396 694	11 081 712
Absent	653 435	657 539	776 859	780 961	771 332	771 065	759 452
Postal	310 579	359 604	488 671	451 902	613 871	704 563	804 973
Pre-Poll	357 301	434 841	692 377	585 617	726 797	1 073 330	498 891
Provisional	60 592	105 091	116 158	107 398	112 560	42 162	72 365
Adjustment	-154	177	-	-	-	-	-
<b>Total</b>	<b>10 954 258</b>	<b>11 294 479</b>	<b>11 587 365</b>	<b>12 098 490</b>	<b>12 420 019</b>	<b>12 987 814</b>	<b>13 217 393</b>

*Note* For the 1993 and 1996 elections, an adjustment column is shown in this table. At these elections ballot papers for candidates were amalgamated for the whole division for rechecking and counting prior to the distribution and transfer of preferences. In some cases, this fresh scrutiny showed that an earlier count was in error. As it was not possible to identify where the error was made, the adjustment column accounts for these discrepancies between the earlier count and the final divisional total.

*Source* AEC website, 'Senate votes counted by state', viewed on 23 June 2011 at: <http://results.aec.gov.au/15508/Website/SenateVotesCountedByState-15508.htm>; Joint Standing Committee on Electoral Matters Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C. 2, pp. 374-375.

Table C.4 Declaration votes received, by type, by jurisdiction, 1993 to 2010 elections

	Provisional	Absent	Pre-Poll	Postal	Total received
<i>1993</i>					
NSW	60 051	253 491	124 720	103 474	541 736
VIC	18 560	165 971	89 044	91 230	364 805
QLD	11 796	129 691	68 734	74 351	284 572
WA	7 916	77 149	27 573	21 022	133 660
SA	6 817	59 327	25 539	28 468	120 151
TAS	1 592	16 953	8 587	9 994	37 126
ACT	2 992	4 171	28 184	6 218	41 565
NT	2 620	-	5 450	2 511	10 581
National total	112 344	706 753	377 831	337 268	1 534 196
<i>1996</i>					
NSW	53 687	242 867	160 441	111 757	568 752
VIC	49 709	173 563	103 724	103 313	430 309
QLD	21 728	141 715	80 264	84 819	328 526
WA	19 879	91 092	41 958	28 410	181 339
SA	18 037	63 412	29 109	31 616	142 174
TAS	4 626	22 811	13 310	14 517	55 264
ACT	2 970	5 868	26 649	5 841	41 328
NT	3 786	-	7 029	2 991	13 806
National total	174 422	741 328	462 484	383 264	1 761 498
<i>1998</i>					
NSW	73 416	334 937	282 075	187 726	878 154
VIC	48 621	186 007	166 954	135 383	536 965
QLD	22 257	154 155	107 538	104 443	388 393
WA	17 641	93 150	51 574	32 814	195 179
SA	13 887	77 174	50 045	60 089	201 195
TAS	1 547	15 530	13 217	14 142	44 436
ACT	1 823	4 095	46 492	10 499	62 909
NT	3 376	-	9 176	3 194	15 746
National total	182 568	865 048	727 071	548 290	2 322 977
<i>2001</i>					
NSW	59 469	294 184	219 596	154 591	727 840
VIC	40 979	213 627	151 746	138 949	545 301
QLD	29 244	150 154	103 903	123 775	407 076
WA	14 445	101 004	46 790	36 388	198 627
SA	12 637	68 637	34 900	39 149	155 323
TAS	4 419	16 467	12 445	14 284	47 615
ACT	2 228	5 589	31 158	6 505	45 480
NT	1 817	2 283	9 569	2 817	16 486
National total	165 238	851 945	610 107	516 458	2 143 748

Table C.4 continued

<b>2004</b>					
NSW	50 583	279 071	270 907	204 288	804 849
VIC	48 293	210 802	196 943	188 982	645 020
QLD	29 416	148 427	122 928	147 045	447 816
WA	24 832	119 149	59 519	42 944	246 444
SA	16 155	72 372	43 367	48 172	180 066
TAS	5 108	16 522	15 183	16 991	53 804
ACT	4 315	4 865	34 511	8 117	51 808
NT	2 176	2 363	10 740	3 791	19 070
National total	180 878	853 571	754 098	660 330	2 448 877
<b>2007</b>					
NSW	48 035	275 657	380 922	220 040	924 654
VIC	38 995	216 538	339 392	225 953	820 878
QLD	35 392	164 021	175 449	164 333	539 195
WA	21 853	107 116	77 814	52 167	258 950
SA	14 344	70 390	58 536	54 864	198 134
TAS	4 162	16 901	21 221	18 076	60 360
ACT	2 726	3 458	39 552	10 485	56 221
<b>NT</b>	<b>2 175</b>	<b>2 360</b>	<b>17 401</b>	<b>3 648</b>	<b>25 584</b>
National total	167 682	856 441	1 110 287	749 566	2 883 976
<b>2010</b>					
NSW	70 073	255 110	172 449	223 042	720 674
VIC	49 986	204 185	149 891	257 721	661 886
QLD	38 046	168 356	90 866	194 721	491 989
WA	22 738	111 581	31 894	66 123	258 716
SA	13 130	71 002	58 536	76 088	192 114
TAS	4 037	16 952	10 941	24 184	56 114
ACT	3 581	3 773	14 383	9 235	30 972
NT	1 897	1 978	5 522	3 509	12 906
National total	203 488	832 937	534 220	854 726	2 425 371

Source AEC website, 'declaration votes received by state', viewed on 23 June 2011 at: <http://results.aec.gov.au/15508/Website/GeneralDecVotesReceivedByState-15508.htm>; Joint Standing Committee on Electoral Matters, Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C. 3, pp. 376-377.

Table C.5 Declaration votes counted, House of Representatives, by type and jurisdiction, 1993 to 2010 elections

	Provisional	Absent	Pre-poll	Postal	Total counted
<b>1993</b>					
NSW	26 525	216 929	115 851	94 326	453 651
VIC	8 087	152 497	84 524	84 372	329 496
QLD	3 121	113 892	63 597	67 083	247 710
WA	3 870	70 746	25 847	19 247	119 710
SA	1 384	53 946	24 058	26 351	105 738
TAS	320	16 027	8 153	9 239	33 739
ACT	1 775	3 739	26 861	5 647	38 022
NT	804	-	5 062	2 147	8 013
National total	45 886	627 776	353 953	308 412	1 336 079
<b>1996</b>					
NSW	30 297	211 290	149 246	104 499	495 332
VIC	20 352	143 464	94 925	95 401	354 142
QLD	9 831	126 677	75 798	79 814	292 120
WA	10 763	77 469	38 965	25 812	153 009
SA	10 400	52 628	26 581	29 085	118 694
TAS	3 199	21 277	12 560	13 378	50 414
ACT	1 761	5 184	25 139	5 399	37 483
NT	1 231	-	6 369	2 637	10 237
National total	87 834	637 989	429 583	356 025	1 511 431
<b>1998</b>					
NSW	40 908	283 037	264 453	171 835	760 233
VIC	25 291	159 762	156 145	123 625	464 823
QLD	10 859	139 311	102 126	95 489	347 785
WA	8 823	81 583	48 124	29 918	168 448
SA	7 796	68 633	47 307	55 530	179 266
TAS	612	14 693	12 471	13 098	40 874
ACT	917	3 826	45 049	10 055	59 847
NT	2 352	-	8 580	2 822	13 754
National total	97 558	750 845	684 255	502 372	2 035 030



Table C.5 continued

2001					
NSW	27 608	254 834	207 499	141 392	631 333
VIC	19 451	186 107	144 452	128 689	478 699
QLD	16 583	135 115	98 202	114 915	364 815
WA	6 756	91 299	43 816	33 487	175 358
SA	6 154	60 307	32 773	36 460	135 694
TAS	2 778	15 149	11 746	13 439	43 112
ACT	1 291	5 265	30 174	6 021	42 751
NT	645	2 049	8 868	2 388	13 950
National total	81 266	750 125	577 530	476 791	1 885 712
2004					
NSW	28 544	245 680	259 022	189 256	722 502
VIC	22 201	180 961	187 468	176 645	567 275
QLD	14 667	132 752	116 870	136 977	401 266
WA	13 078	102 246	56 078	39 226	210 628
SA	4 843	61 997	40 807	44 662	152 309
TAS	3 353	15 038	14 465	15 837	48 693
ACT	2 643	4 368	33 289	7 567	47 867
NT	1 183	2 070	10 050	3 107	16 410
National total	90 512	745 112	718 049	613 277	2 166 950
2007					
NSW	8 378	243 876	364 678	205 906	822 838
VIC	5 609	190 254	326 906	213 833	736 602
QLD	3 849	140 946	166 853	155 225	466 873
WA	3 191	92 113	73 687	48 914	217 905
SA	2 002	61 232	55 655	52 002	170 891
TAS	459	15 343	20 300	17 128	53 230
ACT	493	3 073	38 162	9 990	51 718
NT	231	1 910	16 098	3 468	21 707
National total	24 212	748 747	1 062 339	706 466	2 541 764
2010					
NSW	13 657	218 491	155 418	209 537	597 103
VIC	9 491	175 825	137 272	244 523	567 111
QLD	5 815	146 256	82 047	184 250	418 368
WA	3 830	96 894	53 640	62 302	216 666
SA	2 908	64 721	29 865	71 828	169 322
TAS	599	15 906	10 166	23 079	49 750
ACT	756	3 396	12 919	8 566	25 637
NT	284	1 715	4 653	3 291	9 943
National total	37 340	723 204	485 980	807 376	2 053 900

Source AEC website, <http://results.aec.gov.au/15508/Website/HouseVotesCountedByState-15508.htm>; JSCEM, Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C. 4, pp. 378-379.

Table C.6 Declaration votes rejected, House of Representatives, by type and jurisdiction, 1993 to 2010 elections

	Provisional	Absent	Pre-Poll	Postal	Total rejected
<b>1993</b>					
NSW	33 526	36 562	8 869	9 148	88 105
VIC	10 473	13 474	4 520	6 858	35 325
QLD	8 675	15 799	5 137	7 268	36 879
WA	4 046	6 403	1 726	1 775	13 950
SA	5 433	5 381	1 481	2 117	14 412
TAS	1 272	926	434	755	3 387
ACT	1 217	432	1 323	571	3 543
NT	1 816	-	388	364	2 568
National total	66 458	78 977	23 878	28 856	198 169
<b>1996</b>					
NSW	23 390	31 577	11 195	7 258	73 420
VIC	29 357	30 099	8 799	7 912	76 167
QLD	11 897	15 038	4 466	5 005	36 406
WA	9 116	13 623	2 993	2 598	28 330
SA	7 637	10 784	2 528	2 531	23 480
TAS	1 427	1 534	750	1 139	4 850
ACT	1 209	684	1 510	442	3 845
NT	2 555	-	660	354	3 569
National total	86 588	103 339	32 901	27 239	250 067
<b>1998</b>					
NSW	32 508	51 900	17 622	15 891	117 921
VIC	23 330	26 245	10 809	11 758	72 142
QLD	11 398	14 844	5 412	8 954	40 608
WA	8 818	11 567	3 450	2 896	26 731
SA	6 091	8 541	2 738	4 559	21 929
TAS	935	837	746	1 044	3 562
ACT	906	269	1 443	444	3 062
NT	1 024	-	596	372	1 992
National total	85 010	114 203	42 816	45 918	287 947
<b>2001</b>					
NSW	31 861	39 350	12 097	13 199	96 507
VIC	21 528	27 520	7 294	10 260	66 602
QLD	12 661	15 039	5 701	8 860	42 261
WA	7 689	9 705	2 974	2 901	23 269
SA	6 483	8 330	2 127	2 689	19 629
TAS	1 641	1 318	699	845	4 503
ACT	937	324	984	484	2 729
NT	1 172	234	701	429	2 536
National total	83 972	101 820	32 577	39 667	258 036

Table C.6 continued

2004					
NSW	22 039	33 391	11 885	15 032	82 347
VIC	26 092	29 841	9 475	12 337	77 745
QLD	14 749	15 675	6 058	10 068	46 550
WA	11 754	16 903	3 441	3 718	35 816
SA	11 312	10 375	2 560	3 510	27 757
TAS	1 755	1 484	718	1 154	5 111
ACT	1 672	497	1 222	550	3 941
NT	993	293	690	684	2 660
National total	90 366	108 459	36 049	47 053	281 927
2007					
NSW	39 657	31 781	16 244	14 134	101 816
VIC	33 386	26 284	12 486	12 120	84 276
QLD	31 543	23 075	8 596	9 108	72 322
WA	18 662	15 003	4 127	3 253	41 045
SA	12 342	9 158	2 881	2 862	27 243
TAS	3 703	1 558	921	948	7 130
ACT	2 233	385	1 390	495	4 503
NT	1 944	450	1 303	180	3 877
National total	143 470	107 694	47 948	43 100	342 212
2010					
NSW	56 416	36 619	17 031	13 505	123 571
VIC	40 495	28 360	12 619	13 301	94 775
QLD	32 231	22 100	8 819	10 471	73 621
WA	18 908	14 687	4 634	3 821	42 050
SA	10 222	6 281	2 029	4 260	22 792
TAS	3 438	1 046	775	1 105	6 364
ACT	2 825	377	1 464	669	5 335
NT	1 613	263	869	218	2 963
National total	166 148	109 733	48 240	47 350	371 471

Source The figures in this table are calculated by subtracting declaration votes counted (Table C.5) from declaration votes received (Table C.4).

Table C.7 Electoral roll, by jurisdiction, as at 30 June, 1991 to 2010

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
1991	3 682 249	2 827 560	1 812 526	978 359	968 098	314 107	174 825	83 631	10 841 355
1992	3 774 033	2 904 865	1 924 733	1 019 439	970 066	318 849	186 788	89 809	11 188 582
1993	3 854 030	2 943 112	1 986 587	1 043 923	1 021 568	326 821	193 945	94 765	11 464 751
1994	3 826 483	2 892 013	1 993 339	1 040 779	1 007 874	324 651	192 383	97 792	11 375 314
1995	3 876 330	2 977 197	2 009 332	1 063 318	1 003 607	315 512	198 545	93 943	11 537 784
1996	3 997 657	3 028 943	2 094 850	1 104 162	1 012 652	331 080	204 969	103 124	11 877 437
1997	3 989 416	3 018 089	2 110 149	1 119 266	1 006 034	322 127	203 632	104 151	11 872 864
1998	4 054 003	3 015 405	2 144 981	1 124 910	989 884	320 479	205 328	104 648	11 959 638
1999	4 133 129	3 106 115	2 183 729	1 156 691	1 018 589	326 374	209 063	106 101	12 239 791
2000	4 187 911	3 153 514	2 241 387	1 169 243	1 030 970	324 838	215 212	107 776	12 430 851
2001	4 154 672	3 199 570	2 326 846	1 203 847	1 024 112	325 535	214 949	105 611	12 555 142
2002	4 216 767	3 253 105	2 353 278	1 204 743	1 052 739	332 896	218 735	109 717	12 741 980
2003	4 270 127	3 265 797	2 369 873	1 207 713	1 044 802	332 228	218 949	109 250	12 818 739
2004	4 310 662	3 283 191	2 441 694	1 217 279	1 039 531	335 940	223 782	109 388	12 961 467
2005	4 311 489	3 338 389	2 463 798	1 265 107	1 054 730	341 172	226 737	113 053	13 114 475
2006	4 299 510	3 324 691	2 458 457	1 259 528	1 058 029	343 494	226 576	111 254	13 081 539
2007	4 427 879	3 405 136	2 563 157	1 291 576	1 068 303	346 911	235 015	113 237	13 451 214
2008	4 528 444	3 467 794	2 642 032	1 326 577	1 083 154	353 031	241 628	119 910	13 762 570
2009	4 554 311	3 490 260	2 688 131	1 350 559	1 087 233	356 065	245 473	120 530	13 892 562
2010	4 552 976	3 506 844	2 684 538	1 341 005	1 099 031	356 203	242 842	118 401	13 901 840

Source AEC website, 2009:[http://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/gazetted/2009/06.htm](http://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/gazetted/2009/06.htm); 2010 [http://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/gazetted/2010/06.htm](http://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/gazetted/2010/06.htm);  
 Joint Standing Committee on Electoral Matters, Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C.6,  
 p. 382.

Table C.8 Election and close of rolls enrolment, by jurisdiction, 1993 to 2010 elections

	1993	1996	1998	2001	2004	2007	2010
<i>Election enrolment</i>							
NSW	3 814 932	3 955 782	4 076 081	4 227 937	4 329 115	4 496 208	4 610 795
VIC	2 932 640	2 972 635	3 081 632	3 234 874	3 309 800	3 441 822	3 561 873
QLD	1 971 729	2 091 384	2 188 024	2 336 698	2 475 611	2 612 504	2 719 360
WA	1 038 968	1 088 487	1 149 619	1 206 422	1 248 732	1 313 201	1 362 534
SA	1 014 400	1 001 006	1 013 989	1 039 025	1 051 923	1 076 220	1 104 698
TAS	327 919	329 304	330 121	331 675	342 809	349 753	358 609
ACT	192 487	203 170	209 536	221 184	227 541	238 786	247 941
NT	91 563	98 800	105 048	111 022	112 930	118 045	121 059
Total	11 384 638	11 740 568	12 154 050	12 708 837	13 098 461	13 646 539	14 086 869
<i>Close of Rolls enrolment</i>							
NSW	3 793 616	3 926 293	4 031 749	4 204 383	4 302 122	4 495 336	4 611 228
VIC	2 925 654	2 954 596	3 056 887	3 218 746	3 292 409	3 442 096	3 562 802
QLD	1 970 226	2 082 451	2 177 556	2 319 481	2 463 402	2 612 300	2 719 746
WA	1 035 381	1 077 647	1 140 845	1 200 438	1 237 349	1 312 942	1 362 177
SA	1 014 648	989 885	1 006 398	1 034 377	1 049 814	1 075 968	1 105 076
TAS	327 879	325 750	329 751	328 829	339 589	349 788	358 567
ACT	190 458	200 828	208 684	219 876	224 896	238 742	247 659
NT	91 105	97 740	104 755	110 501	111 649	117 901	121 005
Total	11 348 967	11 655 190	12 056 625	12 636 631	13 021 230	13 645 073	14 088 260

Source AEC website, <http://results.aec.gov.au/15508/Website/GeneralEnrolmentByState-15508.htm>; Joint Standing Committee on Electoral Matters, Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C.8, p 384

Table C.9 Selected statistics by division

<b>Division and jurisdiction</b>	<b>2004 Provisional votes rejected</b>	<b>2007 Provisional votes rejected</b>	<b>2010 Provisional votes rejected</b>
New South Wales			
Banks	297	729	1158
Barton	565	1 049	1438
Bennelong	337	622	784
Berowra	264	454	666
Blaxland	599	1 731	1869
Bradfield	441	592	591
Calare	358	872	1292
Charlton	447	568	1114
Chifley	515	1 079	1411
Cook	352	730	1014
Cowper	431	738	1275
Cunningham	69	225	692
Dobell	417	509	976
Eden-Monaro	466	694	982
Farrer	300	687	734
Fowler	416	962	1891
Gilmore	296	655	1047
Grayndler	797	1 254	1519
Greenway	468	586	1361
Hughes	335	606	949
Hume	378	712	954
Hunter	233	925	1209
Kingsford Smith	607	1 095	1214
Lindsay	255	748	1110
Lowe	545	739	N/A
Lyne	210	490	700
Macarthur	463	661	1437
Mackellar	359	533	825
Macquarie	194	677	714
McMahon	N/A	N/A	1481
Mitchell	444	436	702
New England	416	849	1200
Newcastle	366	692	984
North Sydney	486	712	840
Page	416	883	1152
Parkes	398	1 107	1284
Parramatta	730	956	1445
Paterson	325	628	950
Prospect	481	996	N/A
Reid	351	1 208	1344

Table C.9 continued

Richmond	444	1 013	1301
Riverina	421	908	1048
Robertson	394	696	1112
Shortland	353	518	1030
Sydney	1 145	1 254	2014
Throsby	234	590	1017
Warringah	422	617	1038
Watson	806	1 427	2096
Wentworth	748	1 247	1811
Werriwa	720	998	1641
	<i>21 514</i>	<i>39 657</i>	<i>56 416</i>
Victoria			
Aston	379	378	614
Ballarat	610	885	1157
Batman	839	837	997
Bendigo	618	959	1229
Bruce	688	789	992
Calwell	1 082	1 574	2110
Casey	500	656	901
Chisholm	514	519	641
Corangamite	551	818	1015
Corio	699	962	1208
Deakin	489	529	694
Dunkley	768	802	1067
Flinders	671	814	1088
Gellibrand	1 035	1 194	1240
Gippsland	561	907	972
Goldstein	695	644	721
Gorton	1 204	1 605	2029
Higgins	705	795	662
Holt	1 207	1 723	2035
Hotham	847	864	919
Indi	508	680	824
Isaacs	736	1 078	1453
Jagajaga	353	455	599
Kooyong	442	443	510
La Trobe	638	790	1034
Lalor	793	1 303	1806
Mallee	455	708	775
Maribyrnong	946	860	1037
McEwen	672	949	1296
McMillan	490	734	917

Table C.9 continued

Melbourne	1 152	1 801	1807
Melbourne Ports	1 041	1 426	1398
Menzies	415	475	749
Murray	658	917	1084
Scullin	679	721	1020
Wannon	538	693	788
Wills	914	1 099	1107
	<i>26 092</i>	<i>33 386</i>	<i>40 495</i>
Queensland			
Blair	397	1 006	1200
Bonner	425	728	712
Bowman	432	923	811
Brisbane	559	941	1189
Capricornia	434	1 157	1038
Dawson	577	1 406	1391
Dickson	412	609	717
Fadden	687	1 113	1229
Fairfax	518	1 064	885
Fisher	584	973	836
Flynn	N/A	1 076	1201
Forde	581	983	1270
Griffith	695	1 044	924
Groom	432	866	834
Herbert	606	1 537	1582
Hinkler	351	760	986
Kennedy	736	1 861	1409
Leichhardt	879	2 262	1449
Lilley	590	1 152	930
Longman	503	1 207	1161
Maranoa	419	1 188	1149
McPherson	439	1 104	1174
Moncrieff	476	1 129	1258
Moreton	544	809	877
Oxley	561	1 310	1287
Petrie	398	658	882
Rankin	769	1 164	1290
Ryan	326	618	579
Wide Bay	419	895	983
Wright	N/A	N/A	998
	<i>14 749</i>	<i>31 543</i>	<i>32 231</i>



Table C.9 continued

Western Australia			
Brand	901	1 598	1529
Canning	882	1 253	1528
Cowan	864	1 169	1019
Curtin	686	1 003	757
Durack	N/A	N/A	1873
Forrest	628	1 547	1300
Fremantle	684	1 138	1214
Hasluck	780	1 189	1268
Kalgoorlie	953	1 648	N/A
Moore	587	790	917
O'Connor	680	1 368	1481
Pearce	796	1 282	1459
Perth	791	1 123	1300
Stirling	1 026	1 355	1430
Swan	914	1 355	1107
Tangney	582	844	726
	<i>11 754</i>	<i>18 662</i>	<i>18 908</i>
South Australia			
Adelaide	1 180	1 180	1063
Barker	1 227	1 239	973
Boothby	717	758	560
Grey	990	1 334	957
Hindmarsh	894	988	707
Kingston	1 119	1 146	882
Makin	860	865	787
Mayo	823	766	600
Port Adelaide	1 348	1 632	1428
Sturt	897	863	717
Wakefield	1 257	1 571	1548
	<i>11 312</i>	<i>12 342</i>	<i>10 222</i>
Tasmania			
Bass	269	613	555
Braddon	250	763	754
Denison	379	829	751
Franklin	419	789	572
Lyons	438	709	806
	<i>1 755</i>	<i>3 703</i>	<i>3 438</i>

Table C.9 continued

Australian Capital Territory			
Canberra	723	1 078	1285
Fraser	949	1 155	1540
	<b>1 672</b>	<b>2 233</b>	<b>2 825</b>
Northern Territory			
Lingiari	638	800	725
Solomon	355	1 144	888
	<b>993</b>	<b>1 944</b>	<b>1 613</b>
<b>National total</b>	<b>89 841</b>	<b>143 470</b>	<b>166 148</b>

*Source* Joint Standing Committee on Electoral Matters, Report into the conduct of the 2007 federal election and matters related thereto, June 2009, Commonwealth Parliament of Australia, Appendix C, Table C.10, pp 385-389; AEC website, <http://results.aec.gov.au/15508/Website/HouseVotesCountedByDivision-15508-NAT.htm>, viewed 27 June 2011; <http://results.aec.gov.au/15508/Website/GeneralDecVotesIssuedByDivision-15508-NAT.htm>.



## Appendix D – Status of 2007 federal election majority report recommendations

The table reproduced below was compiled by the Australian Electoral Commission (Submission 87.9).

### Key

- *MOM – Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010*
- *POM – Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010*
- *EPV – Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011*
- *PV – Electoral and Referendum Amendment (Provisional Voting) Act 2011*
- Government Response – Reflects high-level response only
- \*Status – Where legislative change was not required a general comment is provided

Table D.1 Status of legislation arising from the recommendations in the majority report on the 2007 federal elections and matters related thereto

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
1.	<p>The committee recommends that Section 155 of the <i>Commonwealth Electoral Act 1918</i> be repealed and replaced by a new section which provides that the date fixed for the close of the rolls shall be 7 days after the date of the writ.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>EPV Act</i></p>	<p>Implemented.</p>
2.	<p>The committee recommends that the provisions of the <i>Commonwealth Electoral Act 1918</i> and the Electoral and Referendum Regulations 1940 that require provisional voters to provide proof of identity: be repealed; and that the <i>Commonwealth Electoral Act 1918</i> be amended so that where doubt exists in the mind of the Divisional Returning Officer as to the bona fides of an elector who casts a declaration vote, that the Divisional Returning Officer is to compare the signature of the elector on the declaration envelope to the signature of the elector on a previously lodged enrolment record before making the decision to admit or reject the vote.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>PV Act</i></p>	<p>Implemented. Note that legislation passed included provisions requiring that where the Divisional Returning Officer is not satisfied the signature on the envelope is the signature of the elector, he or she is to make all reasonable attempts to contact the elector within 3 days after the election, to require the elector to provide evidence of his or her identity by the first Friday following the polling day for that election.</p>

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
3.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to provide that where an elector who has lodged a declaration vote at an election has been removed from the roll by objection action on the ground of non-residence and</p> <p>(a) the omission occurred after the election prior to the election to which the scrutiny relates, or</p> <p>(b) where there has been a redistribution of the state or territory that includes the division since the last election but one before the election to which the scrutiny relates, the omission from the roll was made before the last such redistribution, then:</p> <p>if the address at which the elector claims to be enrolled at the time of voting is within the division for which he or she was previously enrolled, his or her House of Representatives and Senate votes will be counted; but</p> <p>if the address at which the elector claims to be enrolled at the time of voting is in a different division in the same state/territory, his or her Senate vote will be counted, but his or her House of Representatives vote will not be counted.</p> <p><u>Government Response</u> Supported in part.</p>	Yes	Pending relevant legislation.
4.	<p>The committee recommends that the Australian Electoral Commission amend declaration vote envelopes to include fields in which electors may enter their driver's licence or Australian passport number, and:</p> <p>in those cases where electors provide a driver's licence or Australian passport number, or the elector has previously met the proof of identity requirements for enrolment, and the information provided on the envelope at the time of voting is sufficient to allow update of the electoral roll, the Australian Electoral Commission should update the roll on the basis of the information provided on the declaration envelopes; and</p> <p>in other cases the Australian Electoral Commission undertake appropriate follow up action to encourage the elector to enrol through the normal enrolment process.</p> <p><u>Government Response</u> Supported in principle.</p>	No	Under consideration given costs of implementation.

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
5.	<p>The government consider amending the <i>Commonwealth Electoral Act 1918</i> to: allow the date of the witness signature on the postal vote certificate to be the determining date for validity of postal votes; and to require postal voters and witnesses to confirm that the required voting actions were completed prior to the close of poll in the state/territory in which the electoral division for which the voter is enrolled, is located.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
6.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> and the <i>Referendum (Machinery Provisions) Act 1984</i> be amended to remove the requirement that postal vote applications be signed by an applicant and a witness, in order to facilitate the lodgement of postal vote applications online, electronically, or in written form, to reduce the incidence of postal vote applications being deemed defective, thus leading to delays in the delivery of postal voting packs to electors.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented. Systems design in progress.</p>
7.	<p>The committee recommends that that the provisions of the <i>Commonwealth Electoral Act 1918</i> and the Electoral and Referendum Regulations 1940 which provide that proof of identity for enrolment purposes be required, be amended to: require that proof of identity be required for each elector once only; and that proof of identity may be established by the provision of a drivers licence number, Australian passport number, or the signature of another person on the Commonwealth electoral roll who shall witness and attest to the identity of the applicant. Any one of these are to be considered as acceptable forms of proof of identity for electors enrolling within Australia.</p> <p><u>Government Response</u> First bullet point: Supported in part. Second bullet point: Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
8.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to reinstate section 105 (1)(ba) in a form that will allow the Australian Electoral Commission to alter the address details for enrolled electors who have previously satisfied the proof of identity measures for enrolment, on the basis of information provided by electors in written form to the Australian Electoral Commission.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes</p> <p><i>POM Act</i> and <i>MOM Act</i></p> <p>Paragraph 105(1)(ba) of the <i>Commonwealth Electoral Act 1918</i> was not directly reinserted into the Act. However, section 382 inserted by the <i>POM Act</i> and amended by the <i>MOM Act</i> enables this recommendation to be implemented if the elector meets the requirements prescribed in the <i>Electoral and Referendum Regulations 1940</i>.</p>	Implemented.

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
9.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to allow for the creation, implementation and maintenance of an enrolment website designed to facilitate the receipt and use of information provided electronically by enrolled electors, in order to update the electoral roll.</p> <p>Such a facility should only be provided for use by currently enrolled electors, who must be required to provide sufficient information to satisfy the Australian Electoral Commission that they are in fact the elector to whom the information relates, in the absence of a signature from the elector.</p> <p>The facility must not allow any unauthorised access to the electoral roll and must not permit information contained on the electoral roll to be accessed or amended directly by any person other than an appropriately authorised Australian Electoral Commission officer.</p> <p>Information provided through the facility must only be used by authorised Australian Electoral Commission officers to update the electoral roll, where that information has been subjected to and satisfies the same data integrity checks as is performed on information received through the submission of signed enrolment form.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>POM Act</i></p>	<p>Implemented.</p>
10	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to allow the Australian Electoral Commission to receive and use information for the purposes of directly updating the electoral roll, where that information has been:</p> <p>provided by an elector or electors to an agency approved by the Minister as an agency which performs adequate proof of identity checks; and</p> <p>the elector or electors have indicated their proactive and specific consent to opt in for the information to be used for the purposes of directly updating the electoral roll, and</p> <p>the data has been provided by that agency to the Australian Electoral Commission for the purposes of updating the electoral roll.</p> <p><u>Government Response</u> Supported in principle.</p>	<p>Yes</p>	<p>Pending relevant legislation.</p>



Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
11	<p>The committee recommends that in order to facilitate the enrolment of new citizens, that: section 99A be amended to allow that a person who makes an application to become an Australian citizen in accordance with the <i>Australian Citizenship Act 2007</i>, be provisionally enrolled on the Commonwealth electoral roll at the time of making the application for citizenship, where they provide proactive and specific consent to opt in, with voting entitlement gained automatically once Australian citizenship has been granted; and section 99B of the <i>Commonwealth Electoral Act 1918</i>, which provides that applicants for citizenship may apply for provisional enrolment in an election period, should be repealed as the amended section 99A will render it unnecessary.</p> <p><u>Government Response</u> Supported.</p>	Yes	Pending relevant legislation.
12.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to change the minimum age for provisional enrolment from 17 to 16 years.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>MOM Act</i>	Implemented.
13.	<p>The committee recommends that the Australian Government enter into discussions with the State and Territory governments with a view to achieving a harmonised enrolment regime which leads to the use of a single enrolment form or enrolment process for the purposes of Commonwealth and state/territory enrolment.</p> <p><u>Government Response</u> Supported.</p>	No	Harmonisation initiatives are being pursued through the Electoral Council of Australia.
14.	<p>The committee recommends that, in order to encourage the enrolment of young Australians, the Australian Electoral Commission introduce a national 'Schools Bounty Scheme' under which government and non-government schools, universities and technical colleges and the like would receive a specified amount for valid enrolment forms collected and forwarded to the Australian Electoral Commission.</p> <p><u>Government Response</u> Noted.</p>	No	Targeted enrolment activities undertaken in the lead up to the 2010 federal election are outlined at paragraphs 3.6.17 – 3.6.24 of the AEC's first submission (submission 87) to this inquiry.

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
15.	<p>The committee recommends that the Australian Electoral Commission ensure national consistency wherever possible in the state/territory-based activities and strategies undertaken to facilitate roll management activities.</p> <p><u>Government Response</u> Supported.</p>	No	Implemented through the introduction of a national enrolment business plan.
16.	<p>The committee recommends that the Australian Electoral Commission develop state and territory-based enrolment targets that reflect the contribution that is expected by each state and territory to the national enrolment target. Such targets should take account of the particular challenges faced in each state and territory and be reported annually in the Australian Electoral Commission's annual report.</p> <p><u>Government Response</u> Supported.</p>	No	Implementation in progress.
17.	<p>The committee recommends that the Australian Government provide ongoing and appropriate funding for the Australian Electoral Commission to establish, deliver and maintain a program similar in purpose to the former Aboriginal and Torres Strait Islander Electoral Information Service program to provide ongoing engagement with Indigenous electors.</p> <p><u>Government Response</u> Noted.</p>	No	<p>Implemented.</p> <p>As part of the 2009-10 Budget process, the AEC received \$13 million over four years to establish the Indigenous Electoral Participation Program (IEPP). The IEPP is part of the Government's Closing the Gap initiatives.</p>
18.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to enable the provision of remote mobile polling at town camps, such as in Darwin and Alice Springs.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>MOM Act</i>	Implemented.

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19.	<p>The committee recommends the <i>Commonwealth Electoral Act 1918</i> be amended to incorporate a definition of homelessness modelled on those in the Victorian <i>Electoral Act 2002</i> to facilitate enrolment or continued enrolment of homeless persons. This definition should include persons living in:</p> <p>crisis accommodation; or transitional accommodation; or any other accommodation provided under the <i>Supported Accommodation Assistance Act 1994</i>.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>MOM Act</i>	Implemented.
20.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to allow mobile polling and/or pre-poll facilities to be provided at such locations and at such times as the Australian Electoral Commission deems necessary for the purposes of facilitating voting.</p> <p>For example, mobile polling or pre-poll facilities should be able to be provided where there is likely to be sufficient demand for such facilities by homeless and itinerant electors, or in such other circumstances as warrant their use.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>MOM Act</i>	Implemented.
21.	<p>The committee recommends that the Australian Electoral Commission ensure that staff engaged in providing advice or services to electors with special needs (eg homelessness, sight impaired) be provided with appropriate training on how to communicate effectively and with sensitivity to the needs of such electors.</p> <p><u>Government Response</u> Supported.</p>	No	Implementation in progress. An online training package, 'Assisting people who are blind or have low vision' is available to AEC staff. The AEC is currently reviewing and updating its polling staff training material.
22.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to allow pre-poll votes cast at a pre-poll voting centre in an elector's home division prior to polling day to be cast as ordinary votes, wherever practicable.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>POM Act</i>	Implemented.

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23.	<p>The committee recommends that, in order to ensure a continuing high standard of integrity applies to votes cast as home division pre-poll votes, electors who cast ordinary votes at pre-poll voting centres should still be required to sign a declaration at the time of voting, indicating that they are entitled to a pre-poll vote. A record of such declarations is to be kept by the Australian Electoral Commission for evidentiary purposes.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>POM Act</i></p>	<p>Implemented.</p>
24.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to require pre-poll votes cast as ordinary votes in an elector's home division prior to polling day to be counted on polling night in the same manner as ordinary votes cast in polling places on polling day, wherever practicable.</p> <p><u>Government Response</u> Supported in part.</p>	<p>Yes <i>POM Act</i></p>	<p>Implemented.</p>
25.	<p>The committee recommends that schedule 2 of the <i>Commonwealth Electoral Act 1918</i> be amended to provide that being absent or expecting to be absent from an elector's home division on polling day be a valid ground of application for postal or pre-poll voting.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
26.	<p>The committee recommends that schedule 2 of the <i>Commonwealth Electoral Act 1918</i> be amended to allow fear for personal safety to be a ground for applying for pre-poll or postal votes.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
27.	<p>The committee recommends that, where possible, the Australian Electoral Commission should, prior to polling day, conduct as much of the preliminary scrutiny of pre-poll and postal votes on hand in home divisions as is possible, in order to increase the number of early votes counted in a timely manner following the close of the polls.</p> <p><u>Government Response</u> Supported.</p>	<p>No</p>	<p>Implemented.</p>

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28.	<p>The committee recommends that the Australian Electoral Commission implement its proposed mobile polling and other election services to cater for mine workers in Western Australia for future elections. Such arrangements should also be provided in other states with a large number of mine workers such as Queensland and South Australia.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implementation in progress for next election.</p>
29.	<p>The committee recommends that the definition of 'hospital' and 'special hospital' in the <i>Commonwealth Electoral Act 1918</i> be amended to reflect the current definitions of aged care under the <i>Aged Care Act 1997</i>, and that any person residing or working in a residential aged care facility, including staff, should be able to vote at the mobile polling facility.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
30.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to extend the period during which special hospital mobile polling may be conducted, to 12 days before polling day.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
31.	<p>In order to mitigate against possible accidental multiple voting, the committee recommends that the presiding officer of a mobile polling team be required to provide patients and residents of hospitals or special hospitals who vote with that mobile polling team, with a receipt or letter to indicate that they have, on that date, cast a vote with that mobile polling team.</p> <p><u>Government Response</u> Supported.</p>	<p>No</p>	<p>Implemented.</p>

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32.	<p>The committee recommends that where a pre-poll voting centre (which may be a Divisional Returning Office) is to be located within a shopping centre, the Australian Electoral Commission work with shopping centre management to arrange appropriate access by campaign workers during the times where voting is possible, including where appropriate, specifying a requirement as part of its lease arrangements, that provides full access for parties and candidates to conduct their how to vote activities. Where such an arrangement is not feasible, the Australian Electoral Commission should ensure that political parties and candidates are advised of the alternative arrangements to be put in place to allow how to vote material to be made available in these centres.</p> <p><u>Government Response</u> Supported in principle.</p>	No	Implemented.
33.	<p>The committee recommends that, in conjunction with the recommendation removing the requirement for applicant and witness signatures, the postal voting application form:</p> <ul style="list-style-type: none"> <li>be made simpler and more user-friendly;</li> <li>be gazetted at least 3 months prior to the expected date of an election where practicable; and</li> <li>only that section of the form requiring completion by an applicant for a postal vote be gazetted as the approved form.</li> </ul> <p><u>Government Response</u> First dot point: Supported. Second dot point: Supported in principle. Third dot point: Not supported.</p>	No	<p>Dot point 1 - Implemented. Dot point 2 - Implemented. Dot point 3 - Not supported by Government and not implemented.</p>
34.	<p>The committee recommends that the Australian Electoral Commission increase efforts to improve electors' understanding of the federal voting systems and take appropriate measures to reduce the rate of informal voting, especially in electorates with a high percentage of electors from non-English speaking backgrounds.</p> <p><u>Government Response</u> Supported.</p>	No	Targeted activities undertaken in the lead up to the 2010 federal election are outlined at paragraphs 1.1.12 – 1.2.12 of the AEC's Informality submission (submission 87.4) to this inquiry.

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
35.	<p>The committee recommends that:</p> <p>Section 240 (2) of the <i>Commonwealth Electoral Act 1918</i>, which provides that the numbers on House of Representatives elections ballot papers are to be consecutive numbers, without the repetition of any number, be repealed, and</p> <p>the savings provision contained in paragraph 270 (2), repealed in 1998, which provided that in a House of Representatives election in which there were more than three candidates, and where a full set of preferences was expressed on the ballot paper, but there were non-consecutive numbering errors, the preferences would be counted up to the point at which the numbering errors began, at which point the preferences were taken to have 'exhausted', be reinstated to the <i>Commonwealth Electoral Act 1918</i>, and</p> <p>the Government amend the <i>Commonwealth Electoral Act 1918</i> to provide a penalty provision sufficient to deter the advocacy of 'Langer style voting'.</p> <p><u>Government Response</u> Noted.</p>	Yes	Government noted recommendation.
36.	<p>The committee recommends that the Australian Electoral Commission adopt all recommendations contained in the report entitled Review of Ballot-Paper Formality Guidelines and Recount Policy prepared for the Australian Electoral Commission by Mr Alan Henderson, except for recommendation A(v) which is the subject of recommendation 37.</p> <p><u>Government Response</u> Supported.</p>	No	Implemented, with the exception of recommendation A(v), which was the subject of recommendation 37.
37.	<p>The committee recommends that section 268(2) of the <i>Commonwealth Electoral Act 1918</i> be amended to provide that in those cases where the Divisional Returning Officer responsible for considering the question of the formality of a ballot paper, is satisfied that the ballot paper is not informal, because the Divisional Returning Officer is satisfied that it is an authentic ballot paper on which a voter has marked a vote, the Divisional Returning Officer be required to annotate the ballot paper with the words 'I am satisfied that this is an authentic ballot paper'.</p> <p><u>Government Response</u> Supported.</p>	Yes <i>MOM Act</i>	Implemented.

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38.	<p>The committee recommends that paragraph 209A(b) of the <i>Commonwealth Electoral Act 1918</i> and paragraph 25A(b) of the <i>Referendum (Machinery Provisions) Act 1984</i> be repealed, and replaced with the words 'a feature approved by the Electoral Commission'.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
39.	<p>The committee recommends that the Australian Electoral Commission be resourced appropriately in order that it continue to provide high quality electoral services to the Australian population and to do so in a manner that does not compromise the integrity of the electoral system.</p> <p><u>Government Response</u> Noted.</p>	<p>No</p>	<p>The 2011-12 Budget includes additional one-off funding of \$10 million in 2011-12. This funding is for maintaining the operating capacity of the AEC. The funding was granted conditional to a review being undertaken of the AEC's resourcing. The review is due for completion in time to be considered in the context of the 2012-13 Budget.</p>
40.	<p>The committee recommends that the Australian Electoral Commission be required to continue with staging the National Tally Room at future elections.</p> <p><u>Government Response</u> Supported in principle.</p>	<p>No</p>	<p>The National Tally Room was in operation for the 2010 federal election.</p>
41.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to provide a flexible regime for the authorisation by the Australian Electoral Commission of approved forms, which will:</p> <ul style="list-style-type: none"> <li>allow for a number of versions of an approved form;</li> <li>enable forms to be tailored to the needs of specific target groups; and</li> <li>facilitate online transactions.</li> </ul> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>



Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
42.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to enable the Australian Electoral Commission to manage its workloads in non-election periods by allowing enrolment transactions to be processed outside the division for which the person is enrolling, provided that those transactions are processed by a division that is within the same state or territory. This will permit workloads to be managed in the same manner as is currently permitted during election periods.</p> <p><u>Government Response</u> Supported in part.</p>	<p>Yes <i>POM Act</i></p>	<p>Implemented.</p>
43.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> and the <i>Referendum (Machinery Provisions) Act 1984</i> be amended to enable the use of electronic certified lists in polling places and pre-poll voting centres, with appropriate measures implemented to ensure the security of the equipment and data.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented. Systems design in progress.</p>
44.	<p>The committee recommends that the technical and operational changes proposed by the Australian Electoral Commission in submission 169, Annex 10, with the exception of those relating to photographing and photocopying of the roll (s 90A), (see recommendation 52) and prisoner voting (ss 93(8AA), 208(2)(c) and 221(3)) (see recommendation 47), be incorporated into the <i>Commonwealth Electoral Act 1918</i> and <i>Referendum (Machinery Provisions) Act 1984</i> when other amendments to these Acts are progressed.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes</p>	<p>Implemented in part. These legislative amendments have been substantially implemented in Schedules 7 and 9 of the <i>MOM Act</i> and the <i>Statute Law Revision Act 2010</i>, however several amendments are pending further legislation.</p>

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
45.	<p>The committee recommends that any recommendations in this report that propose amending the <i>Commonwealth Electoral Act 1918</i> should, where also appropriate, be incorporated into the <i>Referendum (Machinery Provisions) Act 1984</i>, to ensure consistency between the provisions applying to elections and referenda.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes</p> <p>All legislative amendments to the <i>Commonwealth Electoral Act 1918</i> based on recommendations of the 2007 JSCEM Report also provided consistent amendments to the <i>Referendum (Machinery Provisions) Act 1984</i>.</p>	Implemented.
46.	<p>The committee recommends that the penalties imposed under s 328 of the <i>Commonwealth Electoral Act 1918</i> (\$1,000 for a natural person and \$5,000 for a body corporate) be revised to ensure that they provide a greater deterrent.</p> <p><u>Government Response</u> Supported.</p>	Yes	Pending relevant legislation.
47.	<p>The committee recommends that the Government amend the <i>Commonwealth Electoral Act 1918</i> to reinstate the previous three-year disqualification for prisoners removed from s 93(8)(b) in 2006, to reflect the High Court of Australia's judgement in <i>Roach v Australian Electoral Commissioner</i> that s 93(8AA) and s 208(2)(c) are constitutionally invalid.</p> <p><u>Government Response</u> Supported in principle.</p>	<p>Yes</p> <p><i>EPV Act</i></p>	Implemented.
48.	<p>The committee recommends that current provisions of the <i>Commonwealth Electoral Act 1918</i> regarding the eligibility of overseas electors to enrol and vote at elections be retained.</p> <p><u>Government Response</u> Noted.</p>	No	Implemented.

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
49.	<p>The committee recommends that the Australian Electoral Commission continue to work with organisations representing electors who are blind or have low vision to investigate the viability and sustainability of assisted voting arrangements aimed at providing secret and independent voting for electors who are blind or have low vision.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>POM Act</i></p>	<p>Assisted telephone voting was made available as an interim solution for the 2010 federal election. The AEC is now scoping the longer term solution, involving the provision of secret and independent voting services from any telephone.</p>
50.	<p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended so that:</p> <p>where an item in the table in s 90B of the Act entitles a Senator or Member to receive one copy of a roll or certified list, that item be amended to permit the Senator or Member to opt for the relevant copy to be supplied in electronic rather than hardcopy form; and</p> <p>where an item in the table in s 90B of the Act entitles a Senator or Member to receive three copies of a roll or certified list, that item be amended to permit the Senator or Member to opt to receive one of the copies in electronic rather than hardcopy form, and to receive either zero, one or two hardcopies.</p> <p><u>Government Response</u> Supported.</p>	<p>Yes <i>MOM Act</i></p>	<p>Implemented.</p>
51.	<p>The committee recommends that the current counting system used for Senate elections be retained.</p> <p><u>Government Response</u> Supported.</p>	<p>No</p>	<p>Implemented.</p>
52.	<p>The committee recommends that the current arrangements relating to the provision of electoral roll information to prescribed organisations for the purposes of identity verification under the <i>Financial Transaction Reports Act 1988</i> or carrying out customer identification procedures under the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> be retained.</p> <p><u>Government Response</u> Noted.</p>	<p>No</p>	<p>Implemented.</p>

Rec#	Recommendation	Leg. Change Required (Yes or No) Relevant Legislation	Status
53.	The committee recommends that the current provisions of the <i>Commonwealth Electoral Act 1918</i> relating to the inspection of electoral rolls be amended to explicitly prohibit the unauthorised photographing or photocopying of any roll that is made available for public inspection. <u>Government Response</u> Supported.	Yes <i>MOM Act</i>	Implemented