



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2007 federal election and matters related thereto

THURSDAY, 24 JULY 2008

SYDNEY

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**JOINT STANDING
COMMITTEE ON ELECTORAL MATTERS**

Thursday, 24 July 2008

Members: Mr Melham (*Chair*), Mr Morrison (*Deputy Chair*), Senators Birmingham, Bob Brown, Carol Brown, Hutchins and Ronaldson and Mr Danby, Mr Bruce Scott and Mr Sullivan

Members in attendance: Senators Hutchins and Ronaldson and Mr Danby, Mr Melham and Mr Morrison

Terms of reference for the inquiry:

To inquire into and report on:

The conduct of the 2007 federal election and matters related thereto, including the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008, with particular reference to:

- a. the level of donations, income and expenditure received by political parties, associated entities and third parties at recent local, state and federal elections;
- b. the extent to which political fundraising and expenditure by third parties is conducted in concert with registered political parties;
- c. the take up, by whom and by what groups, of current provisions for tax deductibility for political donations as well as other groups with tax deductibility that involve themselves in the political process without disclosing that tax deductible funds are being used;
- d. the provisions of the Act that relate to disclosure and the activities of associated entities, and third parties not covered by the disclosure provisions;
- e. the appropriateness of current levels of public funding provided for political parties and candidates contesting federal elections;
- f. the availability and efficacy of 'free time' provided to political parties in relation to federal elections in print and electronic media at local, state and national levels;
- g. the public funding of candidates whose eligibility is questionable before, during and after an election with the view to ensuring public confidence in the public funding system;
- h. the relationship between public funding and campaign expenditure; and
- i. the harmonisation of state and federal laws that relate to political donations, gifts and expenditure.

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Committee met at 9.07 am

CHAIR (Mr Melham)—I declare open this hearing of the Joint Standing Committee on Electoral Matters inquiring into the conduct of the 2007 election. This is the second day of hearings in Sydney for this inquiry. As I said yesterday, the committee might return to Sydney later in the year if it needs to take evidence from additional witnesses. As I mentioned yesterday in my opening statement, to date the committee has received 181 submissions to this inquiry and submissions have raised numerous issues which the committee is considering carefully. While examining the submissions, the committee identified a number of issues which it would like to take additional evidence on and we will certainly be doing that later in the year. I would like to thank today's witnesses for appearing.

[9.07 am]

HUGHES, Mr Digby, Policy and Research Officer, Homelessness NSW

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you and I now invite you to either present any additional submissions or make an opening statement to the committee.

Mr Hughes—I will be fairly brief. People who are homeless or who are experiencing homelessness are amongst the most disadvantaged in our society. They are often without a home, without security and without a voice. Homelessness New South Wales, after talking to our members who work with people who are homeless, have found that many homeless people are not involved in the electoral system. The evidence or the information that we receive from our members is that they would like to see more being done by all levels of government in this area so that people who are homeless can be active participants in our society. I will leave it there.

CHAIR—Paragraph 3 on page 2 of your submission states:

It is not unreasonable to expect that many people experiencing homelessness would not see voting or enrolling to vote as the highest priority in their lives. Issues such as shelter, food and safety would take precedence. Accordingly, we would support a widespread information campaign mainly targeted through providers of services to people who are homeless to encourage them to both enrol and vote.

I spoke to you informally before your giving evidence today, but I am interested in looking at what service providers, the Homelessness people, mainly come in contact with. Would that be Centrelink?

Mr Hughes—They would come into contact with a range of services. There would be direct service provision of homeless services, so you would have the SAAP services in their shapes and forms around the country. That would be one area. Centrelink would be another area in which a lot of people who are homeless have extensive dealings. Other areas would be departments of housing and community housing providers and even the public health system, because people who are homeless, especially if they are at the hard end, the roofless—just not homeless but roofless—will often use hospitals as a temporary shelter for the night or a place on a colder night to get away from the cold.

CHAIR—I am interested in exploring the feasibility of some of those organisations interacting with the Australian Electoral Commission. People change addresses or, if they go to those organisations and it is evident that the form applying for benefits indicates a change of address or whatever, might there not be some mechanism in place whereby people could at the same time fill in either an enrolment form or a variation form, and that it is fitted into their own forms and is then able to be passed on to the electoral authorities?

Mr Hughes—I think there is a good chance that Centrelink would be a good agency for that. We have had some talks with Centrelink in the last few months about some of the additional work they would like to do around the area of homelessness and this has been raised with them, because their front-line staff do recognise people coming in and changing address regularly or having of no fixed address. So they recognise that these are people who are homeless or at risk of homelessness. So there would be an opportunity for Centrelink to be involved there, definitely.

CHAIR—Centrelink is a prime candidate for having an additional part on their form or—

Mr Hughes—Yes, a sort of a case management role for them. If Centrelink got involved in case management of people who are homeless, it could be an additional part of their work in that.

CHAIR—What about Medicare offices, or do they not have much contact with a Medicare office in terms of their—

Mr Hughes—Not much contact. Many people who are homeless do not have a Medicare card. They lose them. Identification is one of their issues.

CHAIR—But you would see a benefit in Centrelink playing a role—

Mr Hughes—I think Centrelink far more than Medicare.

CHAIR—What would be the next most important organisation?

Mr Hughes—I think the SAAP providers—going through the actual direct service provision to people who are homeless—the 300 or whatever there are in New South Wales SAAP providers, talking to them about information they could have available to them.

CHAIR—What numbers are we looking at here?

Mr Hughes—Of what, SAAP providers or homeless people?

CHAIR—Homeless people that might be picked up by this. Do you have a view?

Mr Hughes—The statistics on homelessness are unfortunately fairly vague. The most recent ones that we have are from the 2001 census; we have not had the data from the 2006 census on homelessness released yet.

CHAIR—There were 26,676 people in New South Wales in—

Mr Hughes—In New South Wales in 2001, yes.

Senator RONALDSON—I fear it is a matter of ‘how long is a piece of string’, Chair.

CHAIR—Yes.

Mr Hughes—It is one of those, yes.

CHAIR—But Centrelink is the one they would come in constant contact with—

Mr Hughes—More likely.

CHAIR—and would be regularly advising of changes of address?

Mr Hughes—Yes.

CHAIR—So that is one that could be of benefit in having an interaction with the Australian Electoral Commission.

Mr Hughes—Yes.

Senator RONALDSON—Without diminishing the extraordinary issues facing all homeless people, I would like to concentrate on those who are the victims of domestic violence. Just so I am clear, someone in that situation can apply to be a silent voter and general postal voter, but you say in your submission that fear for physical safety is not one of the triggers for a general postal vote.

Mr Hughes—For a postal vote or a GPV, correct.

Senator RONALDSON—Chair, I think that is something we need to pursue with some vigour.

CHAIR—Absolutely. There is no problem with that. It is an important issue. If you want to pursue it, we can pursue it.

Senator RONALDSON—I think we should raise that with the commission.

CHAIR—But I would not mind getting some evidence. Mr Hughes, you say in your submission that, in your experience, that it is a real problem.

Mr Hughes—It is, yes, especially in many regional and rural areas. We have a service in Narrabri and I have talked to that officer about this issue a few times. There are two polling places in Narrabri and in some country areas there would be one polling place. It would not be overly difficult to sit outside and wait—

Senator RONALDSON—Someone could sit outside there all day.

Mr Hughes—That is right, and see the person turn up to vote. In the CBD, it is a bit more difficult obviously to cover 25 polling places.

Senator RONALDSON—But, all the same, that fear for physical safety should be, from your experience, a legitimate ground for such an application.

Mr Hughes—Yes.

CHAIR—At the moment their name appears but their address does not.

Mr Hughes—If they are a silent voter, yes.

CHAIR—You are suggesting that it go the next step.

Mr Hughes—Yes, and their name physically not appear on the physical printed electoral roll. It would have to be on the electronic copy so that their name could be marked off, but not on the physical copy that gets printed off and sent around. The other part of that is—

CHAIR—So what would happen is that, when they come to vote either on election day or beforehand, they would do it by way of a declaration vote and then that would be marked off against the electronic roll. We can explore that. Where does their name appear? It appears on the divisional roll.

Mr Hughes—On the divisional roll.

CHAIR—Just as a name. That identifies at least a region.

Mr Hughes—That is right.

CHAIR—That is your experience.

Mr Hughes—Yes.

CHAIR—So you are saying that the name appearing is of itself unsatisfactory.

Mr Hughes—Yes. We have heard of cases where women have been tracked down through that.

CHAIR—We can look at that.

Senator RONALDSON—Yes, and this is part of the process. The name is there and the general area is there. You go to Narrabri, where you have one or two polling booths, and you have a 50 per cent chance, if you sit there all day, of finding someone.

Mr Hughes—The other matter I raised in the submission is that people who work for the Electoral Commission—

Senator RONALDSON—I was just about to come to that. Go on, please.

Mr Hughes—Again, the Electoral Commission puts on thousands of people for election day and we just believe that they should have to fill in some form of statutory declaration, not dissimilar to the working with children form, saying that they are not subject to any order. It will not stop everybody—and we know that.

CHAIR—That is something that I would want to explore a lot more. I have a legal background. I am not saying that vexatious accusations are made, but there are many cases where interim orders are never followed through with final orders where arrangements have been made. That is something that we would need to explore a lot further. That brings in matters other than enrolling or voting. I know what you are saying, but—

Mr Hughes—If I am a desperate man trying to find my ex-partner, then I could go and work for the Electoral Commission. I might think that, if I work for the Electoral Commission for one day, I get a copy of the roll in front of me and have all day to have a read through.

CHAIR—But I am worried about using a sledgehammer to crack a walnut. I am not convinced that someone would go and work for the Electoral Commission just to find their wife. I think there are other methods of doing that. I am not dismissing your raising the issue; I am just wondering, in practical terms and in reality, about those concerns. I do not want an abuse of a situation in relation to employees by either side; I am not making that as a general statement. If you have some evidence of particular instances that have occurred, we will examine that. I know there are other penalties that flow in terms of accessing or privacy of information. I know that the same happens in relation to every other agency. I know of someone in a particular agency who was dismissed for accessing inappropriately. With computer technology as it now is, people can be tracked in terms of their access. As I say, I do not want to dismiss you. We can pursue it.

Senator RONALDSON—Yes. You make a very legitimate point about interim orders. That can be addressed by way of the definition of formal or final. But I do accept the chair's point on this. What does the Women's Tennis Association do? You refer to it in the submission on page 4. This is in relation to the apprehended violence order:

It is interesting to note that the issue of women's safety has spread to other areas of employment ...

Mr Hughes—The Women's Tennis Association. They brought in a rule last year. That is one of those things that I have picked up in my spare time following tennis. They brought in a rule last year. In the past any player could turn up on the tour and anybody in their entourage would be allowed to be automatically signed in to go into the dressing rooms and to hang around the players and the whole lot. This year in February, after the Australian Open, they brought in rules about having to sign declarations so that people have to be authorised—a higher level of security. It is interesting that a totally different area understood that there was an issue there about women's safety and that it needed some action. They are totally different areas.

Senator RONALDSON—The mechanics for putting something in place, as the chair said, would be very difficult. But it may well be that we can ask the commission questions about the integrity of access, as to whether that is their wish, which may resolve some of those—

CHAIR—And I am interested in the idea of making sure that there is nothing that appears on the roll where people have genuine fears for their safety, so that would lead to access.

Mr Hughes—Going back to the point you made, if it is computerised, you can track people's access through there. But the physical roll is printed off and sitting in front of a person—

CHAIR—I understand. We accept the point you are making on that and we will follow it through.

Senator RONALDSON—Yes. I think that fear for physical safety is one that we can definitely look at, Chair.

CHAIR—Yes. Do you have any ideas about how the AEC could practically deal with integrity issues if they did not require proof of identity for homeless persons? We are looking at the re-introduction of electors witnessing the enrolment of someone as an alternative to someone who does not have a drivers licence or something that falls into the proof of identity provisions. Is that sufficient, in your view?

Mr Hughes—I think in many cases that would be okay. Going back to using a Medicare office, you could set a guideline of who should be a witness. Again, a person is going to Centrelink for the last two or three years collecting their benefits and regularly talking to them would be well known in the office.

CHAIR—So you could have an officer of Centrelink or someone like that.

Mr Hughes—Yes.

CHAIR—Are there any specific strategies that you want to suggest to us in terms of homeless voting for subcategories like youth, women escaping domestic violence et cetera, or is the general homelessness thing sufficient? Is there any specific subgroup that might require different attention or more particular attention?

Mr Hughes—The AEC is doing a lot of work these days in schools around getting people of 17 on the roll for when they turn 18, but young people who are homeless, sleeping rough or couch surfing often will not be attending school that regularly. So I think it is probably again a matter of talking to the services that are out there—the youth centres, the drop-in centres, the SAAP services and the neighbourhood centres—and having information readily available there.

CHAIR—At the moment, the act allows provisional enrolment for 17-year-olds; in other words, they can have their names on the roll in anticipation of them turning 18. Do you see any benefits, or are there more problems than it is worth, if we were to look at provisional enrolment for anyone aged 16 and over?

Mr Hughes—I do not see it as an issue around homelessness at all.

CHAIR—So you think provisional enrolment could work for people 16-years old and above—

Mr Hughes—Sixteen-year-olds, yes.

CHAIR—who are homeless?

Mr Hughes—Yes.

CHAIR—And, if those other provisions kick in in relation to Centrelink, coupled with that you would have a continuity of knowledge of current addresses?

Mr Hughes—Yes.

Senator RONALDSON—I think you have probably hit the nail right on the head with your comment on page 3 that there is no typical homeless person and the ability to vote is different for different people. I suspect that there is not one policy outcome that will capture all—

Mr Hughes—Yes.

Senator RONALDSON—I think we have briefly touched on this before: the widespread information campaign targeted through providers of services, which is on page 3. What form do you think that should take? Again, as you said, there is no such thing as a typical homeless person. I presume there would be some homeless people with significant service provider contact and there will be others with very minimal contact.

Mr Hughes—If you go bush walking around parts of Sydney, you find people stuck out between Berowra and Brooklyn living in caves; they probably have no or very little contact with anybody. But I think areas such as post offices would be ideal places to have an ongoing information campaign. We have spoken about Centrelink. Centrelink is looking at moving into some sort of case management of some people who are homeless, so it could be part of that package for them as well. There are SAAP providers out there and neighbourhood centres. We have just had consultations around the green paper and some of the neighbourhood centres—we were looking at mid north coast—up there have regular contact with lots of people who are homeless and sleeping rough.

Senator RONALDSON—Does it need to be targeted to the extent that there is different information provided, or should it be an extension of the advertisements that you see on TV and some of the newspaper advertisements? Is it targeted to the extent that general information is provided into more specific areas, or is specific information required for specific areas—if that makes any sense?

Mr Hughes—Yes. I think there needs to be both. Some people who are homeless have inordinately high levels of education and literacy, but other people who are homeless have very poor levels of literacy. So it would be a case of making information available in a format accessible by them.

CHAIR—As I understand it, some schools have a relationship with the Electoral Commission where for every enrolment they forward to the commission a dollar or two dollars might be forwarded to the school. That is a bit of an incentive for the school to capture some of the young people on to the rolls. Do you see any advantage with that being available to some homeless organisations; with them being involved in that sort of relationship with the Electoral Commission so that there is an incentive—money going back into the services of the organisation—for them to ensure that people are being enrolled?

Mr Hughes—I think it would be very worthwhile because most of our members, most of the SAAP service providers, are—

CHAIR—Strapped for cash.

Mr Hughes—Yes, very much so. Anything that they can do to get an increase and some extra funding—

CHAIR—What might a homeless person might use as an address for the purposes of Centrelink and Medicare et cetera? Do they use—

Mr Hughes—Again, it depends. They will sometimes use a friend's address. They sometimes are staying at some sort of refuge—a Mathew Talbot or a place like that. A lot of people are staying in what we call in New South Wales unlicensed boarding houses, so that is the boarding house regime, but they are still homeless under the SAAP definition.

CHAIR—How long would they stay there? Under the act, you have to be at a particular address for 30 days, I think, before you are eligible to be on the roll.

Mr Hughes—That is right. It depends, I suppose. Again, some people would stay at a SAAP service. They have a limitation of three months, so people would be there for a minimum of three months. But many of the services we know provide an intervention beyond that three months. People can stay in a boarding house until they cannot afford it or they are evicted, because they have no tenancy rights in boarding houses.

CHAIR—So a number of these people would not qualify under the act to be enrolled at a particular address for any length of time, but they could still qualify for a Senate vote because they are resident within the state.

Mr Hughes—Yes. Maybe the act could be looked at then.

CHAIR—So, when you say 'looked at', you mean look at the definitional section for homeless and itinerant people.

Mr Hughes—That is right, yes.

CHAIR—You would need a qualifier, maybe. Anyway, that is something we could look at.

Mr Hughes—Yes. If a person is a citizen of the country, they should be entitled to vote.

CHAIR—If they are nomadic within a state, there is an argument that they are still entitled to a vote for the Senate. I am worried that is that, because we actually have boundaries, whilst they are citizens of the state, to qualify to vote in a particular area you are required to be—

Mr Hughes—On the roll.

CHAIR—living in an area for a minimum of one month. There are reasons for that. When it comes to close elections, amongst other things, you just cannot have a nomad picking and choosing. Although I must confess that in my earlier years on this committee, when we were looking at Norfolk Island, there were some special provisions in relation to Norfolk Islanders, who were able to nominate to vote in an electorate if they had an association with that electorate.

It might be that we can look at something like that: if there is an established association with an electorate, a homeless person could nominate to vote there. There are creative ways through this.

Mr Hughes—Apparently, they can currently nominate an address. If they do not have a fixed address, they can nominate an area they are familiar with—the area that they are most familiar with.

CHAIR—We can look at it. It is a question of having integrity in the system and having a philosophy running through that is consistent with what the act hopes to achieve. Thank you for your attendance today. If there is any additional material that you want to provide or if you see some evidence or submissions that are subsequently made to the committee that you want to comment on, please feel free to do that. This is an area that we want to have a rigorous look at and see whether we can come up with some solutions that are satisfactory to all. A copy of your transcript will be sent to you and you can make any corrections on grammar and fact. We appreciate your attendance.

[9.35 am]

POULOS, Reverend Elenie, National Director, UnitingJustice Australia, Uniting Church of Australia

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you. If you want to present any additional submissions or make an opening statement to the committee, please feel free to do so.

Rev. Poulos—I have a short opening statement. I would like to thank the committee for the opportunity to speak to you today, particularly as our submission was focused solely on a few matters of broad principle. It is the first time that a national agency of the Uniting Church has participated in an inquiry into a federal election. UnitingJustice was moved to do so this time around because of the widespread concern amongst many Uniting Church agencies and members about the changes made to the Electoral Act in 2006. The Uniting Church's commitments in this area of Australia's national life go back to the first public statement made at our inauguration in 1977. In its first statement to the nation, the Uniting Church affirmed its commitment to uphold the rights for each citizen to participate in decision making in the community and declared that it would 'oppose all forms of discrimination which infringe basic rights and freedoms'.

Australia's representative democracy is one of the most robust and healthy in the world, and for this reason we believe it is especially incumbent upon us all to remain vigilant—not taking our achievements for granted but continually striving to improve what we have. In 2006 the Uniting Church adopted a human rights statement in which it pledged to assess public policy and practice in the light of Australia's obligations to the international human rights instruments. In this case, we are concerned that Australia makes every effort to meet its obligations under the International Covenant on Civil and Political Rights, especially article 25 on the right and opportunity of every citizen, without unreasonable restrictions, to vote.

The essence of our submission is that we believe we must do all we can to enable as many citizens as possible to vote. We believe that the 2006 amendments to the Electoral Act are a backward step in this regard, placing unnecessary impediments in the way of some of our already most marginalised citizens. We are hoping that the committee will agree with our assessment and recommend repealing those changes. Thank you.

CHAIR—Thank you very much.

Senator RONALDSON—Reverend Poulos, I am interested that you think that the proof of identity requirements are unreasonable. On what basis do you think they are unreasonable?

Rev. Poulos—There are many groups of Australian citizens who are already very marginalised in the community and, in our view, that they do not have the necessary documents becomes an unreasonable impediment to them enrolling. For example, we work with remote Indigenous communities. There is a community named Mowanjum in the Kimberley and,

according to our chaplain there, very few people have proof of identity documents. They have no drivers licence or Medicare card—that sort of stuff. Proof of identity makes it difficult for them when they are already facing the difficult circumstances of life. Our idea in principle is to make it as easy as possible for people who are already marginalised to participate, and then to deal with the other issues that relate to their social inclusion in a broader policy setting.

Senator RONALDSON—Is it unreasonable to ask someone to get two electors to confirm a person's identity?

Rev. Poulos—In a community like Mowanjum it is often difficult—

Senator RONALDSON—Why?

Rev. Poulos—Because they are actually just dealing with trying to get through life. If you are in a community where a significant number of people are not enrolled to vote, it is not as easy as asking a couple of your neighbours to come along with you.

CHAIR—What if it were sufficient for one person to witness? That would be similar to what used to happen.

Rev. Poulos—Yes, I think so. That would be much better. You could take, for example, a Uniting Church minister who regularly visits those communities with you to do that.

Senator RONALDSON—With great respect—and I accept the difficulties that are faced by people—you seem to be talking about that as a matter of principle. If you can get one person to witness, what is the issue with getting two people to do that? It just does not seem to make much sense to me—either that requirement should not be there or two people is not an unreasonable requirement. We may well need to agree to disagree on that.

Rev. Poulos—Maybe we will. Our interest is that it not be an extra burden on them, because they are struggling to get through every day.

CHAIR—I suppose it is like most other forms: only one witness is required in relation to a lot of transactions that people make, provided they have a credible witness. Would you argue that that is sufficient as against the need for two?

Rev. Poulos—Yes.

Senator RONALDSON—With voting and registering to vote, there is a very strong element of rights, but there also has to be some element of responsibility, doesn't there?

Rev. Poulos—Yes, that is right.

Senator RONALDSON—And, as such, is it unreasonable to expect that people take some ownership of notifying the Electoral Commissioner of a change of address or change of any other details?

Rev. Poulos—It is not unreasonable for most people but, again, we want to make it as easy as possible for people to vote. The electronic rolls would help a lot in this regard. I notice that a number of submissions refer to moving to electronic rolls. We would support that wholeheartedly. That would allow a number of other changes to be made to increase opportunity for as many people as possible to be enrolled at the time when they need to vote.

Senator RONALDSON—I put it to you that the integrity of the roll involves the rights of people who are legitimately enrolled to have their vote protected vis-a-vis someone who might potentially be abusing the system and debasing that person's legitimate vote. Do you accept that there has to be a principle of protection of the vote of someone who is legitimately enrolled?

Rev. Poulos—Yes. It is my understanding that an electronic roll would make that kind of protection of the integrity of the roll much easier.

Senator RONALDSON—Yes, but if someone for fraudulent or other reasons is enrolling and they can do that easily, that diminishes the value of the vote of the person who is legitimately enrolled, doesn't it? Therefore we should be vigilant—to use your words—to make sure that the integrity of the roll is paramount?

Rev. Poulos—I think any fraud in any area of society's life diminishes society generally. We are certainly not advocating that things are made so easy that the level of fraud increases. What we are concerned about is that our democracy is as healthy in terms of the level of participation of people as possible. The enrolment and the responsibilities of the Australian Electoral Commission are only part of the responsibility that we have as a nation to work on the health of our participatory democracy.

Mr DANBY—The widening of the democratic franchise is presumably also one of the issues.

Rev. Poulos—Yes it is, and that was our submission with regard to prisoner rights.

Senator RONALDSON—But not to the diminishment of a legitimate franchise. That is my point.

Mr DANBY—Senator, you are not suggesting that the previous government was elected illegitimately in 1998, 2001 and 2004, are you?

Senator RONALDSON—Chair, that is a silly comment. My colleague knows exactly what I am talking about. We have got an obligation to defend the integrity of the vote of someone who is legitimately enrolled as opposed to allowing a system where the legitimacy of the roll and the integrity of the roll can be compromised.

CHAIR—Before you ask your next question, Senator Ronaldson, I will come in on that. Is another approach possible, Reverend Poulos—that what we look at is increasing the penalties for fraud and for violating these particular provisions as against disenfranchising a whole range of people?

Rev. Poulos—I do not know what the penalties for fraud are. This is our first foray into this so we are still trying to come up to speed on all the details.

CHAIR—Okay. I will follow up on that later.

Senator RONALDSON—There has been considerable discussion about this matter in the last 24 hours. In relation to the early closure of the rolls, in the AEC's submission they say that in 2007, 100,370 people missed the close of rolls deadline for enrolling or changing their enrolment details compared with 168,394 people who missed the deadline in 2004. There will be some debate amongst the committee about this but the AEC's own submission puts lie to the notion that people were disenfranchised because of the earlier closure of the rolls. Did you look at the 2004 and 2007 figures?

Rev. Poulos—The 2004 figures also showed that over 16 per cent of new enrolments occurred during that seven-day close of roll period and, of those, 87½ per cent were for people aged between 17 and 24. I think both sets of figures need to be considered next to one another. This is another place where we think that this is an unreasonable impediment. Repealing this particular part of the legislation will not affect the integrity of the roll.

Senator RONALDSON—And replace it with what?

Rev. Poulos—At the very least going back to the seven-day period before the 2006 changes. If you have an electronic roll then you have greater possibilities open to you, as they do in Canada and New Zealand where they have electronic rolls and people can enrol up to the day before the election or even when they turn up at the polling booth.

Senator RONALDSON—You do not accept that there would be a real risk to the integrity of the roll if that were the situation?

Rev. Poulos—I do not believe so. I believe an electronic roll would enable the integrity of the rolls.

Senator RONALDSON—I think we had better agree to disagree on that issue. On the question of prisoner voting rights, are you aware that other democracies also prevent prisoners from voting?

Rev. Poulos—Some but not all, is my understanding. But this is an instance where we believe that our obligation under the international covenant is to not disenfranchise any group of people indiscriminately. There may be extreme examples of prisoners who have committed crimes, such as treason and others, that would make their integrity to vote doubtful. We believe that should be handled as part of the sentencing process and that to remove one of the most basic rights of citizens as a kind of extrajudicial punishment on people is contrary to our obligations under international instruments. We also believe that the majority of our prisoners, like other marginalised groups in society, are really struggling to cope with the reality of their day-to-day life. Anything that further excludes them—

Senator RONALDSON—So are a lot of the victims of those crimes.

Rev. Poulos—I understand that, too. Any further impacts of social exclusion that are imposed on them we believe—

CHAIR—Should come from a judge.

Rev. Poulos—Absolutely.

Senator RONALDSON—So your belief is that someone who has perpetrated a crime against society or against an individual should still retain the right to participate in the process?

Rev. Poulos—Yes, that would be the church's position.

Senator RONALDSON—What about the rights of those who have been violated. Should their views be taken into account when something as basic as that has been decided?

Rev. Poulos—The justice system has dealt with that in the imposition of their sentence.

Senator RONALDSON—It has been suggested, and I gather you are taking this up as well, that it would be dealt with at sentencing. What if a victim was to indicate that they did not believe that person should retain the right to vote while in prison? What value should be accorded the victim's views on this subject?

Rev. Poulos—In this matter the same value that is accorded to the victim's desires in relation to the whole of the situation.

CHAIR—The sentencing process.

Rev. Poulos—Yes.

Senator RONALDSON—So you do not think it is appropriate to suspend those rights during the term of imprisonment?

Rev. Poulos—No, we do not.

CHAIR—Except for certain offences, as I understand it.

Rev. Poulos—That is right. Something like treason, for example, might be something that a court would consider a crime sufficient enough to be open to the punishment of removing the right to vote.

CHAIR—But others should be left to the judge in the sentencing process, where the victim has an opportunity to also make a statement.

Senator RONALDSON—When was the last time someone in this country was jailed for treason?

Senator HUTCHINS—I do not know, but I reckon that captain who sold those rocket launchers should have been—and shot.

CHAIR—Are you suggesting, Senator Ronaldson, that we remove treason from the books?

Senator RONALDSON—You know that is not what I am suggesting at all. But I think the point is well made. Thank you.

Senator HUTCHINS—Turning to homelessness, do we have two groups of homeless people? Is there a group of people who given the opportunity for accommodation each night will take it? And do we have another group of people who just continually live in the parks and shopfronts?

Rev. Poulos—I am not aware enough of the situation of homeless people other than to say that I think there are far more than two groups.

Senator HUTCHINS—I wonder if UnitingJustice could respond to that because it would make it a little easier for the likes of me and, say, Senator Ronaldson to comprehend a claim for voting rights from certain people. If a person was able to say, ‘One or two nights I have been able to sleep at Matthew Talbot,’ then you can probably establish that that is a reasonable, regular address for people. Matthew Talbot is run by St Vincent de Paul. The other thing I am assuming is that a number of homeless people do have access to some government services when they have some identity. Would that be correct?

Rev. Poulos—As far as I am aware, yes.

Senator HUTCHINS—I would be concerned, like Senator Ronaldson, that we could well have in the homeless population here any number of—and I do not single them out—people from other countries who once upon a time were eligible to vote here, such as people from former British Commonwealth countries who were no longer eligible after, I think, 1984. If you have a homeless New Zealander and he or she—mainly he, I imagine—has been here for some time and has lost his twang, for all intents and purposes we would probably think he is an Aussie when in fact he is not and he is not eligible. Would it be a concern that someone like that, under a scheme to allow people who are homeless to vote, may be improperly enrolled because there is no evidence that he is not an Australian citizen, but none that he is? This is something you might wish to take on notice and respond to us. My concern is that, particularly in Sydney, there would be any number of people from the old Commonwealth countries who have possibly lost their accent—they say ‘six’ now rather than ‘sex’, and things like that.

CHAIR—Where are we going with this!

Senator HUTCHINS—I am going along with Senator Ronaldson’s concern about trying to establish if there is some regular habitat for some people, so that when we come to deliver—

Rev. Poulos—My impression from talking with my colleagues is that that is rare. One of the big issues at the moment is that there is not that regular accommodation available for everyone. But I would like to take that question on notice and I will talk to my colleagues in Uniting Care community services and see what we can offer you in response to that.

Mr DANBY—I do not want you to think that there are no alternative views to the views put by Senator Ronaldson so I am going to ask you some questions that might draw that out. In your submission you speak of people who believe ‘their ability to participate in the process has been curtailed by changes to the electoral laws’. Does that include early closure of the roll?

Rev. Poulos—Yes, it does.

Mr DANBY—Are you aware that the previous government was elected under the previous system in 1998, 2001 and 2004?

Rev. Poulos—Yes.

Mr DANBY—Are you aware that under the previous system people who sought, in particular, provisional votes and who might have been excluded at this election had to have a signature and then the Electoral Commission checked on their address to see whether it correlated with where they said they lived—

Rev. Poulos—Yes.

Mr DANBY—so the Electoral Commission took more responsibility and there was less on the person who, under the new regulations, is excluded because they did not go down to the electoral office five days later and give them proof. So does UnitingJustice Australia favour reversion to the previous system of provisional voting that we used to have, where it was much easier for people to have their vote included at federal elections?

Rev. Poulos—Yes.

Mr DANBY—What about the previous system of identification?

Rev. Poulos—Yes, we think that that was a more satisfactory situation than we have now with the proof of identity requirements. We support anything that makes it easier for people's votes to be counted and anything that enables their enrolment and participation in electoral voting.

Mr DANBY—I want to go to the level of fraud and so-called integrity of the roll issues. You note in your submission that in South Australia following the 2001 election they found no evidence of fraud in a roll of over one million people. Are you aware—I am sorry I am asking you these questions but I am putting some of this on the record by getting you to say whether you are aware or not aware—that federally in the period 1990 to 2002 there were six electoral events including one referendum, so five elections and one referendum, and at each election there were 12 million people who voted? That means 72 million votes. And are you aware that the Electoral Commission found that there were 72 proven cases of electoral fraud in that period of time?

Rev. Poulos—I was not aware that the figure was so low.

Mr DANBY—It is one per million. The position I come from is that that is a great testament to the Australian political system, compared to, say, the United States, with its hanging chads and problems with different systems in each state and county.

Rev. Poulos—I am aware that we rate very highly internationally in that regard. I was not aware of the actual figures.

Mr DANBY—By the way, just so that you are aware, the Electoral Commission established that most of the cases of electoral fraud were by people in either New South Wales or Queensland, on the border, who wanted to establish identity requirements for drivers licence infringements. So those 72 cases were not motivated by trying to change their address so that they could vote in some marginal seat in Queensland and New South Wales; it was done to get their drivers licence. That gives you a whole different image of the integrity of the electoral roll and issues of fraud versus democratic franchise.

I would be interested in your comments on the fact that we have to judge the many people who lost their rights to vote at the immediate past election versus the people whose rights were violated by infringements of the electoral roll or the integrity of the electoral roll. I think it is a chimera. One is almost nonexistent and the other is tens of thousands of people. In my view, when one judges these things one has to balance the real against the theoretical.

Rev. Poulos—When the Uniting Church assesses the practice and the implementation of government policy it will always consider the needs of the most marginalised people first. That is our call as a church. That is where our concern lies. With regard to the possibility of fraud, we have stated on other policy issues not related to electoral matters that the needs of the most vulnerable must always be taken account of as our first priority.

Mr DANBY—I might point out to you that some of the people at the last election who were in the process of losing their vote by various mechanisms that were introduced by legislation were not necessarily marginalised people. There has been a change in lifestyle in Australia. People are travelling a lot interstate and overseas and they do not advise the Electoral Commission of their change of address because they are working for six months in the Pilbara or in Indonesia. I know someone who lives in and works in London and commutes to my electorate. He is not very interested in responding to questions from the Electoral Commission asking, ‘Do you live here? Otherwise we will take you off the roll.’

Rev. Poulos—I moved house prior to the last election. I am a reasonably competent individual. I am competent with technology. I was very busy. I had just moved house and was caught up in my work and changing my enrolment details was a hassle. I tried to change my enrolment online. I do not know whether I went to the wrong place, but it took a few goes for me to make that happen.

Mr DANBY—You can understand people in business with busy family situations just getting impatient with this. They will be less focused than you and will just say, ‘I can’t be bothered. I tried once. Bad luck.’

CHAIR—To summarise: you are concerned about the integrity of the roll but you are worried that a lot of these changes have resulted in people being disenfranchised—

Rev. Poulos—Yes.

CHAIR—and that the balance has gone too far in terms of disenfranchisement.

Rev. Poulos—Yes. We certainly believe that the 2006 changes were unnecessary and they unnecessarily disenfranchised people.

CHAIR—Would it be fair to say they were like using a sledgehammer to crack a walnut?

Rev. Poulos—Particularly in light of the figures that I have just heard about regarding the extent of fraud, absolutely, if that was the intention of those changes.

CHAIR—I do not want to cut away from Mr Danby, but I want to come back to what you said earlier about offences in relation to—

Mr DANBY—I have finished.

CHAIR—section 339(1) providing a penalty of imprisonment for six months and section 339(1A) providing a penalty of 10 penalty units in relation to offences relating to ballot papers. I am just wondering whether that is an insufficient penalty—and if we were to make recommendations and look at removing what I regard as some red tape. Whilst the intent could be seen as honourable it has actually resulted in many people who would otherwise have been eligible to vote losing the vote. I am not talking about 10,000 or 50,000 people; I am talking about over 100,000 people. Do you see more severe penalties being introduced if people were engaging in electoral fraud or tampering with ballot papers as something that is reasonable if we were to recommend changes?

Rev. Poulos—I think that the penalties should suit the crimes.

CHAIR—I am saying that fraud or attempting to interfere with the result of an election is a pretty serious offence.

Rev. Poulos—It is. But there is a difference between people who are trying to get drivers licence matters sorted and people who are deliberately trying to influence the outcome of an election. Without having considered this in any detail, I would think that the penalty needs to suit the crime and that maybe a range or an upper limit—

CHAIR—Not all the penalties are going to be the same in relation to the act, but I have just highlighted some penalties in relation to the act. What I am concerned about is a deterrent effect, maintaining the integrity of the electoral roll and having people be confident that they are getting the right result. I am uncomfortable that, over the last little while, a number of electoral changes have, not inadvertently, led to legitimate voters or people who were previously legitimate voters now being disenfranchised.

The Commonwealth Electoral Act determines whether people have the right to vote. If people do not follow the requirements of the act then their vote is lost. If you do not respond to the Electoral Commission and are taken off the roll in your electorate then you could now, through that laziness, be disqualified from voting whereas previously a check on the day—filling out your ballot paper, filling out a form and lodging it with the returning officer or the electoral official on the day and then having the signatures scrutinised—could have reinstated your vote.

Rev. Poulos—Yes.

Mr DANBY—To be fair, it might not be the Reverend Poulos's laziness; she might be overseas.

CHAIR—This is not about her. What I am worried about is that, in a modern, changing society, you have given some evidence here about how difficult it was for you to get back on the roll or notify a change of address. You are articulate, you are intelligent and you know how to work your way around a computer I assume.

Rev. Poulos—Yes.

CHAIR—And yet it was a problem for you. Mr Danby talked about busy people.

Mr DANBY—And people overseas.

CHAIR—I do not mind people who are not entitled to get the vote getting the vote. What I do not want is electoral laws that are cumbersome and result in hundreds and thousands of people losing what is their right—whatever they vote for; I do not care who they vote for.

Rev. Poulos—We do not want that either, which is why we are asking for the 2006 changes to be repealed.

CHAIR—And what I am asking is: should a trade-off be that we review the penalties in the act to make them fit what we think are modern penalties?

Rev. Poulos—Maybe that would be an appropriate avenue for review but, as I said earlier, I really have not done the work on it to be able to offer any formal response.

CHAIR—No, that is okay; it is just the principle that I am interested in. I take very seriously the fact that if someone tries to fraudulently obtain a vote at an election then it might determine whether a government is elected or not. We have just had one seat determined by a very small margin—and it went all the way to a court case to determine the final result. If we have a close election, I do not want a situation where the votes could be fraudulently put in. Alternatively I do not want a situation where thousands of votes are excluded from those who are the most vulnerable in the community. That could also influence the election.

Rev. Poulos—Yes.

CHAIR—Thank you for the evidence you have given and for your attendance today. I advise you that if you have any comments you want to make on submissions or subsequent evidence to the committee please feel free to do so. We value the fact that this is the first time that you have come before a parliamentary committee.

Rev. Poulos—On electoral matters.

CHAIR—On electoral matters, yes.

Senator HUTCHINS—I think you have been to quite a few parliamentary committees.

CHAIR—I think that says something, and it is very important.

Rev. Poulos—Thank you.

CHAIR—With that, we will suspend for morning tea.

Rev. Poulos—Thank you very much for your time.

Proceedings suspended 10.11 am to 10.31 am

FREYS, Mr Ivan, Private capacity

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you and, if you wish to present any additional submissions, please feel free to do so. Do you wish to make an opening statement to the committee?

Mr Freys—Yes, thank you. I would like to mention two things. I have read through most of the submissions and looked at the details and there are two matters I would like to comment on: automatic enrolment and overseas voting. Would you like me to start on those topics now or go on to them later?

CHAIR—Feel free to cover those topics now.

Mr Freys—On automatic enrolment, I have suggested that the actual roll take a different format to the electronic roll where it is based in two segments. We have the people who are on the roll and those who have been on the roll and deleted for whatever reason. Usually the reason is that the person has left their address and we do not know where they are. But their enrolment would stay on the roll as a potential elector because we have confirmed in the past that they are entitled to be on the roll. They have been on the roll and have probably voted over many years, but we just do not know where they are and they are due to come back on the roll at some later stage.

I am proposing that we add another two sections to that with the same potential enrolment—one would be schoolkids. As you know, a lot of people do not enrol when they get to 18. They do not think it is important or they have different priorities in their lives. In this case, for a child to enrol at school they need to produce a birth certificate showing their place of birth and date of birth. If there was access to that in high school and it was compulsory for children to enrol, we would have the details of their date of birth and their Australian citizenship. They could be put on the roll as a potential elector and then become a full elector when they turn 18. That way, we would know exactly how many people are due to be enrolled at any particular point in time.

CHAIR—While you are on that subject, would it be beneficial if, say, you changed the age of provisional voters from 17 to 16? Would it make it more workable for schoolkids? You know that the current provisional enrolment age is 17.

Mr Freys—I know what you are saying. I do not know if it is really workable. What I am suggesting is that they become potential electors. Once they have been accepted as potential electors all they have to do is advise you of their address and that they want to become a voter.

CHAIR—I am saying: would that scheme work if you were to change the provisional voting age to 16 years?

Mr Freys—Yes, it would work.

CHAIR—It is the same principle. It captures a lot of young people—more younger people, I would suggest.

Mr Freys—That is right. You could make them provisional voters at 13. The problem is, though: at what address do you put them on the roll for?

CHAIR—I am talking about expanding provisional voting from 17- to 16-year-olds at their home address.

Mr Freys—Yes, that could be done.

CHAIR—The only reason I raise this—I am not fixed in my view—is that I am just testing the waters. If we are going to capture young voters, I have some high schools in my electorate, but 17-year-olds move off pretty quickly whereas 16-year-olds are still in years 10 or 11. There is a whole class of people you could pick up for the future.

Senator RONALDSON—They move off quickly, but they are still living at home!

CHAIR—Yes, they are. That is what I am saying.

Mr Freys—That is right. But that could have problems too: their home may change; there could be a divorce and you do not know which home your child will move to. The other problem is that if you go to automatic enrolment, in the case where somebody turns 16 and they do not know they are on the roll and they do not vote, then you have automatic penalties as well. You need to look at the consequences.

CHAIR—You could generate letters to them at a certain time—if you have their age and a provisional enrolment at the age of 16.

Mr Freys—Yes, and if a letter comes back saying ‘Left address’ or ‘Unknown’ you do not proceed. The fourth category is citizenship enrolment. We go to citizenship ceremonies; we have the data. Once a person becomes an Australian citizen, we could put them on the roll at the ceremony. There are also others who are not 18 as yet. They could be captured too and put on the same database as a potential elector. The benefit of all this is that you then have a database of four different types of categories, including those who are on the roll and potential electors, so you know exactly how many people are out there that should be on the roll at any particular point in time. So instead of guessing and saying, ‘We’ve got 96 per cent on the roll,’ we would know exactly how many are on the roll. The only thing we would need to do on a regular basis is check the births and deaths, so we can take people off if there is a problem and we can add citizenship details.

I believe that if you have potential enrolment then it becomes much easier to enrol a person or transfer a person from one address to another address. Once you have confirmed that person is an Australian citizen and over 18 and told they will be on the roll, why do you have to go through all the rigmarole again of obtaining where they were born or citizenship details when it is all on the database? All you would need is for them to give you their new address and transfer them to the new address. The identification to do that, the POI, goes to—

Senator RONALDSON—Could I interrupt. That has the potential, does it not, to involve third parties without the knowledge of the addressee? Are you suggesting that—

Mr Freys—How do you mean ‘third parties’?

Senator RONALDSON—What would be the method of communication about current details—in person, or a telephone call?

Mr Freys—At present there are two methods of review. One way is by having someone call at the address. We have—

Senator RONALDSON—But I am taking up your view about writing to that person. If they are on the database and you write to them—

Mr Freys—I have not mentioned writing to the person. All I have suggested is that they are on the database and we have a campaign to explain that, once they turn 18, they can enrol by simply giving us their address and confirming their details.

Senator RONALDSON—I must have misheard what you said. My apologies.

Mr Freys—My point is that, rather than going back to POI and all the data, if you have a database with the details of a person and the confirmation that they are entitled to enrol, all you need, firstly, is the name that they are entitled under. Normally, that is their birth name and date of birth. If they have married, they will have to provide their name on their birth certificate to confirm their enrolment. If they have changed their name—because people anglicise their name—it goes back to the actual name that they were confirmed under. That is the POI check. You do not put someone on the roll unless they confirm the name that they were born under, and then you confirm their current address and put them on the roll.

Senator RONALDSON—They would have to initiate that themselves, though, wouldn’t they?

Mr Freys—Yes, they would have to initiate that themselves, but the data they provide would be much simpler. It would simply be a matter of giving the name that they were confirmed under, their current name and their address.

Senator RONALDSON—Isn’t there an inherent risk in this that, if it were done in school, for example, there would be an assumption from that young person. They would, in all likelihood, queue up because they were told to queue up and go through the formalities of effectively provisionally registering, as the chair said, and then there would be an assumption on their part that they were enrolled to vote. You would have to have a very substantial advertising campaign, wouldn’t you?

Mr Freys—That is right. If they are provisionally enrolled, they will get a letter when they turn 18 to tell them that they are on the roll and that they are able to vote.

CHAIR—That happens at the moment.

Mr Freys—But if they are not provisionally enrolled then it is up to them, unless we intervene and pick them up and say it is up to them to enrol to vote. The enrolment to vote should be much simpler. Rather than having a form about this size and having to fill out the sections to enrol, it could be a simple card.

CHAIR—If you do it through schools and there was an incentive for schools to get them on the rolls, as there has been in some areas—

Mr Freys—What do you mean by ‘incentive’?

CHAIR—As I understand it, some schools are remunerated if they get their kids provisionally enrolled. That is my understanding.

Mr Freys—I have heard that but I have never seen it.

CHAIR—In some schools there has been a program where you get a dollar or \$2. Maybe I am wrong. I will check with those who are advising us. I understood that there is an arrangement in some areas in Queensland where schools get a dollar or \$2, but I have just been told there was an arrangement at different times.

Mr Freys—Yes. I heard there was an arrangement in one of the states, but my view is that it has never happened in New South Wales.

CHAIR—I did not suggest New South Wales; I thought it was Queensland and some other states. There was a trial arrangement.

Mr Freys—We do whatever we can to obtain school enrolment. I go to all the schools, particularly in an election period. I go to all the high schools and have an enrolment drive. I have gone to the trouble of going to a movie house and getting movie tickets. When people enrol I put their names in a ballot box, take out a name and whoever has the enrolment card that comes out gets two movie tickets. There are all sorts of things we can do to generate youth enrolment.

CHAIR—Before I go to questions from Senator Ronaldson, I want to question you on one thing that you talk about in your submission, which is early voting. You suggest that we should look at anyone who is away from their electorate on polling day being entitled to an early vote.

Mr Freys—That is right.

CHAIR—In that regard, are you talking about either postal or prepoll?

Mr Freys—Yes.

CHAIR—At the moment, if they are in an adjoining electorate or somewhere within the state, they are not entitled to an early vote under the rules.

Mr Freys—That is right.

CHAIR—You are saying we should relax the rules; that if you are outside your electorate you should qualify. That would result in a larger number of pre-poll and postal votes.

Mr Freys—I am saying relax the rules not where it is next door but where it is a significant distance and it is a problem. I will give you an example: someone who is holidaying in Byron Bay. I have so many people who holiday in different locations. They are in the location and they do not know where the polling booth is. Often there is no data on how they should vote, no preferred voting sequence. They may not have a car. It is very difficult for them.

Mr DANBY—At the moment you actually tell them not to come down and pre-poll?

CHAIR—They are not entitled to.

Mr Freys—We cannot. The rules say they are not entitled to a vote. If someone comes in, say, at Castle Hill and tells me, ‘I am going to Byron Bay for a week; I want to vote now,’ I say, ‘I am sorry, you cannot do it; you will be in New South Wales.’ They say: ‘But I don’t know where the polling booth is there. I don’t know where to go. I haven’t got a car.’

CHAIR—There is no doubt that in some instances people look the other way, but what you are saying is: let’s face the reality.

Mr Freys—That is right.

CHAIR—I want also to explore another trade-off. Because we are getting more and more pre-poll votes, it has been suggested that they be treated as ordinary votes and counted on election night rather than there being a delay. If we were to go down the path that you are suggesting, which is that if people are outside their electorate they can have a declaration vote, what is your view about those votes being counted on election night, providing proper checks and mechanisms are in place, so that we are not delaying the results?

Mr Freys—That could be done, but there are a couple of administrative problems that you would have to look at.

CHAIR—That is why I am asking you this.

Mr Freys—Okay. No. 1, what the AEC is trying to do is replicate what happens in a polling booth in a pre-poll centre. In a polling booth—it is a large booth—you separate the two sections. When you go in, you see that there might be four tables at one end for ordinary voting and that, right at the far end, there is absent voting. The reason for that is that the ballot papers of the people who absent vote must go into an envelope. Every election you get people who refuse to do that. They say, ‘I am not going to put it in an envelope because it identifies me. They will go out of their way to put it inside the ballot box with the ordinary votes.

If you have been a scrutineer you will know that, No. 1, when the House of Representatives votes are opened those that are out of that division will be rejected because they cannot be counted. What happens with the Senate ballot paper? With the Senate ballot paper, you can identify it because normally the absent table initials it on the back in ink, whereas for the ordinary ballot paper it is done in pencil. So you can fish it out and reject the Senate ballot paper

as well. In a prepoll centre you do not have that luxury. Everyone will have pens and it is a smaller area. It is much easier to mix them up. If you get anywhere between 15 and 20, on average, that go into the ordinary box rather than into the envelope, how are you going to differentiate them? You are going to have ballot papers that should go to another division inside your ballot box and you cannot differentiate them. You might have, say, 150 polling places in New South Wales. You will have 2½ thousand to—

CHAIR—What about the vast majority of the prepoll votes that are in the actual division itself? Why can't they be counted? They are the ones that I am worried about.

Mr Freys—Each day, when a ballot box fills up, what are you going to do with that ballot box? You will have to have scrutineers there to seal the ballot box, take it down to security somewhere, bring it out the next day, reopen it, and then have all the ballot papers added to the box.

CHAIR—That is why I am asking you about the practical difficulties.

Mr Freys—That is a practical difficulty. When it is in the divisional office it is no problem. You go back to the divisional office and your scrutineers can check the ballot box. If it is in a location like a coastal town in a division such as Page, there might be prepoll centres in four different locations. It is impossible to go back 100 kilometres to the divisional office, so it will be stored somewhere else. Where does the person take them? Do they take them home; do they take them to a local police station; where do you store them? It means some sort of security. The scrutineer there wants to be absolutely sure that the ballot box is not tampered with. You want to check the seals each day when it is locked and again when it comes back the next day to make sure that it has not been tampered with.

CHAIR—If we and the major parties looked at having those treated as ordinary votes, as a returning officer of long standing do you have any suggestions how to securely deal with those votes and have them counted on election night?

Mr Freys—That is the secure way to do that. The seal will be checked; once the ballot box is full then you start a second ballot box—you keep track. That could be counted at the end of the night. It would be much easier to count them at the end of the night. It just means that you will have your own scrutineers—

CHAIR—Yes, like you have scrutineers in polling places. You would have a scrutineer at the divisional returning office.

Mr Freys—That is right. You could do it that way.

CHAIR—In effect, it is like an extra polling place on election night.

Mr Freys—Yes, you could do that. Your problem might be that it would be a fairly small area where prepolls are taken. You might have to move to a larger location. But apart from that it is certainly feasible.

Mr DANBY—I am just following up this idea. What we are talking about is having pre-poll voters allowed to cast their votes as ordinary votes. That means that they are not enveloped, they are put in a ballot box and the ballot boxes are kept as securely as they were before. When would they be counted—at the end of each day or on the election night?

Mr Freys—On election night.

Mr DANBY—It is like mobile polling. I think they are treated as ordinary votes.

Mr Freys—That is right. Yes, it is. That is counted.

Mr DANBY—So they would be marked off the roll and this would be insurance that they could not vote on election day.

Mr Freys—There is no insurance that they could not vote on election day because there is no insurance unless you have an electronic mark back. They could still vote anywhere.

CHAIR—There is no insurance now, is there?

Mr Freys—No. At present what happens is at the end of each night in a pre-poll centre you might have, for example, three ballot boxes—one ballot box full of your own division's envelopes with the ballot papers inside of them, another one for other divisions in New South Wales and then a third one for all the other states. When polling closes, those ballot boxes are opened, all the envelopes are taken out and sorted out into division order, rubber-banded, counted up, taken back to their divisional office and amalgamated with all the other votes taken on previous days. What happens is that over a two-week period they are all amalgamated and then, in the very last week when we are allowed to mark them back to the actual roll and get them ready to be opened, all the envelopes are marked back to one particular roll. They are opened and counted on a Sunday after polling day. Now, there is nothing to stop you taking those envelopes and actually counting on a Saturday—having a lock-up so that on Saturday all the envelopes that we have from pre-poll centres are taken to a location like a school hall, secured, counted in that school hall and the results given at the end of the night.

CHAIR—The problem with that is that that would be different to every other vote that is cast in the country. But there is nothing stopping them being placed in a situation where they can be counted at 6 pm on the night, similar to another polling place within the electorate.

Mr Freys—The advantage is that ballot papers that are loose in the ballot box are easier to pull out and count, whereas for those in an envelope you have to slit the envelope and take them out. For 2,000 votes, that can take three to four hours before you start to count. So on polling night you are looking at 10 o'clock before you can start counting.

CHAIR—That is a large polling booth.

Senator RONALDSON—But you would be required to transport them back to a central point at the close of business on any particular day and you would then have to transport all of those votes back to a counting centre.

Mr Freys—That is right.

Senator RONALDSON—Logistically it is—

CHAIR—But you could bring in a system where they get transported by the Thursday night to a divisional returning office.

Mr Freys—That is right.

CHAIR—I want to talk through ways of achieving it, if that is where the major parties are going to be recommending that that happens—and, as I understand it, they are. I want to ask the Electoral Commission and other professional people: if this is the way we go, how do we do it in a secure way that everyone is happy with? It is all about an early result. And if you are saying, ‘Let’s have a relaxation of postal and prepoll,’ so that if you move out of your division you are entitled to it, you are talking about a big bundle of votes.

Senator RONALDSON—I do not think you could have any form of security unless there were transport on election day; I do not think otherwise—

CHAIR—Anyway, we will talk about that.

Mr Freys—The security can be done. That is not a great problem. They can be counted on the night. If a ballot box is loose, it is quite easy to pull them out and count them; there is no problem there.

Mr DANBY—But, theoretically, at the end of prepolling on a Friday night, Armaguard could pick them up and take them to an agreed location—maybe the electoral office in that division—and have them—

CHAIR—Let us just ask: when does prepoll finish at the moment in these centres?

Mr Freys—In the state, it finishes at 6 pm on the day.

CHAIR—I am not talking about interstate—

Mr Freys—It finishes on polling day at the same time as a polling place closes—at 6 pm.

CHAIR—That is right. But, within the division, when does it finish?

Mr Freys—On Friday at 6 pm.

CHAIR—So where are those votes taken?

Mr Freys—They go back to divisional office.

CHAIR—They go back, and they are in divisional office by 6 pm on the Saturday night, aren’t they?

Mr Freys—That is right.

CHAIR—In every division in the country?

Mr Freys—Well, not by 6 pm, but by later that time. And then, over the Saturday, obviously there are people in there sorting them into alphabetical order—all the ones from your division you can sort into alphabetical order.

CHAIR—Okay, we will talk that through.

Mr DANBY—I was a bit alarmed by your idea of a second Senate ballot paper. Don't you think this could cause confusion amongst voters and might increase informal voting if we had just the group voting in one Senate ballot paper and all of the individuals in another Senate ballot paper?

Mr Freys—I think it would greatly reduce informal voting because you would not give a person two ballot papers—you would give them the option of one ballot paper. It would be simply a matter of explaining to the person how it worked. At present, 96 per cent vote by group. Why disadvantage 100 per cent of people when 96 per cent vote by group?

CHAIR—You would introduce, then, something where there is a discussion between a voter and an electoral official which is going to lead to more queuing, because you are going to have to talk to them—another sentence—before you issue something.

Mr Freys—Yes, that is right, but there would be advertising beforehand.

Senator RONALDSON—I would hazard a guess that 95 or 98 per cent of people would seek an explanation, and I have to say that I think it would lead to massive disruption on polling day. I suspect there would be queues 300 metres long.

Senator HUTCHINS—Just imagine, Mr Freys, if you had a ballot paper that long, as you have seen throughout your career; you can imagine it would be too delicious for the AEC to say, 'Well, if you are really only going to put '1' in a box, why do you need something that long?' You would just say to them, 'There it is. They are all down there, in little names,'—that no-one can read—and I would suggest that might identify how you were going to vote.

CHAIR—But I dread the conversations with voters, a lot of whom do not understand the voting system anyway, and having to try to explain it to them. Anyway, we hear you. I think the view is that it might create more problems than it solves. But if you want to submit something further to us as to how it might happen, I would be interested to see that. I am not attracted to it, but that is another matter.

Mr Freys—Okay, that is fine. It is just an option.

CHAIR—No, I appreciate your raising it.

Mr Freys—I could see the percentages increasing. I think it started at about 85 per cent who were voting above the line, and each year it appears it is growing: it is now about 96 per cent. What is to say that, at the next election, it will not be 98 per cent?

CHAIR—You are thinking outside the square, I appreciate.

Mr DANBY—Mr Freys, can I ask you some questions, from your experience as an Electoral Officer, that are slightly outside your submission. First of all, what is your experience with MPs and return-to-sender mail? Did you receive, from local MPs, return-to-sender mail, asking—

Mr Freys—Yes, I did, on a regular basis.

Mr DANBY—You used to deal with it on a regular basis? You used to get it regularly from MPs?

Mr Freys—Yes.

Mr DANBY—And do you encourage MPs to send back return-to-sender mail to you?

Mr Freys—Yes. It is one method we use to update our enrolment. It is an important tool that we use.

Mr DANBY—So, when they are sending out mail and it comes back to them, if they send you back the address and the name it helps you to establish, on a first basis, that there might be something wrong with that elector?

Mr Freys—That is right.

Mr DANBY—Are you happy with the process of excluding people who do not come back to you? Do you feel that the—

Mr Freys—What do you mean by ‘do not come back to you’?

Mr DANBY—If they have changed their address.

CHAIR—Provisional voters.

Mr DANBY—No, not provisional voters. People who are written to and who do not get back to you within a certain period of time.

Senator RONALDSON—When it comes to their attention that it has been returned or whatever.

Mr Freys—Sure.

Mr DANBY—You take them off the roll.

Mr Freys—No, we do not take them off the roll. We initiate a process. What happens is that we send an objection form saying that we have reason to believe that they are no longer at that address and asking them to confirm the data. If they confirm that they have left or it comes back unclaimed then we go through the steps to take them off the roll. If there is not a positive reply or there is a reply saying, 'I'm still here,' we leave them on the roll.

Mr DANBY—Wait a second. Take a step back there. If there is not a reply, you leave them on the roll?

Mr Freys—We send a letter out saying that we will take them off the roll unless we are provided evidence otherwise. If we do not get a positive response then we go through the process of taking them off the roll. That is right.

Mr DANBY—What happens if, through the continuous roll update process that the electoral commission uses in its more sophisticated way of approaching things these days, the transport accident commission, the electricity board and Medibank say that the person is still there but they have not responded to your letter? Do you still take them off the roll?

Mr Freys—If we send the objection letter, we take them off the roll. We send them a further letter to say that they have been taken off the roll.

Mr DANBY—Is that done inflexibly?

Mr Freys—Yes.

Mr DANBY—Are you comfortable with this idea of taking more and more people off the roll, even though the CRU shows you that they are still there?

Mr Freys—The CRU does not show me that they are still there. If it did, we would not be taking that action. What we do is send people out a request that they confirm that they are enrolled at that particular address. But it is just one of the tools that we can use. It may not be 100 per cent accurate, but it is one of the tools that we use.

Mr DANBY—Don't you think that these days, with the changes in people's lifestyles, there are often people away overseas? Australians travel a lot. People are away on business. In my electorate, people are away for months on end before coming back to Australia. People are away working interstate and do not respond to mail. Don't you think that this process continually takes people off the roll whose permanent electoral address may be the one that you have taken them off the roll for?

Mr Freys—That is right. That is a very good point. But the continuous roll update also puts people continuously on the roll at the same time, so there are problems both ways. You have to look at every possible opportunity to get people on the roll correctly and at their correct address. That is one of the actions that we take. I have one other suggestion, too. People can look up their enrolment on the electoral roll by accessing our AEC database and putting in their full name, their date of birth and their address. They can check if they are enrolled or not enrolled. That is fine, but we should take that a step further. People who want to confirm their enrolment tell us that they are at a particular address, give us their full name and their date of birth. Why not at the

same time show on the computer everyone who is enrolled at that particular address and ask them to confirm that those people are still current? If someone has moved, they can tell us and, if they know what the new address is, they can tell us that, too. From that one inquiry, we can initiate further follow-ups. We can confirm that the whole family is on the roll. If previous tenants have moved, they can tell us where the tenants have moved to so we can follow up that way. By sending an objection letter out—

CHAIR—With a manual roll review, that is what used to happen.

Mr Freys—That is right. That is what used to happen.

CHAIR—Those questions were asked.

Mr DANBY—Let us go through this process again. If you believe that someone has moved, you write to them. After a certain period of time you inflexibly and automatically—and I am not criticising you for this; these are the rules that you operate under—take people off the roll. But if you know from the electricity commission and the transport accident commission or whatever that they are at that address you write to them and you say—

Senator RONALDSON—That just means that they are paying for services at that address. It does not mean that they are at that address. The service in their name is being paid for.

Mr DANBY—You are being pedantic.

Senator RONALDSON—I am not being pedantic at all.

Mr DANBY—In 99 per cent of cases, you know that they are there at that address. You then write them a letter and, unless they write back to you, you do not put them on the roll. You do not put them on the roll unless they sign the form and write back. Is that right?

Mr Freys—That is right. If they respond to the objection letter, then that tells us that it is a mistake and we will put them on the roll. But we do not have access to the electricity authority databases. We do not have that data. The only thing we have at present that I know of is the licence databases. We can check that their licence is linked to a particular address.

Mr DANBY—It depends on the state what databases the Electoral Commission has access to. I do not know what you in particular have access to. It varies by state. With the new changes to provisional voting, have you observed that electors who at previous elections would have been entitled to vote have been taken off the roll for this last election?

Mr Freys—Yes.

Mr DANBY—Did some of those people make complaints to you?

Mr Freys—I was not a returning officer at the last election. I only know because I worked in a prepoll area. But people who ran the elections have told me that. If you look at the percentage, you can see that there was a huge drop off in the number of provisional votes that were admitted. That is because they have to be admitted for the address that they were last enrolled at, not just

for within the division. People tend to think that because they have moved from one unit to another unit in the same block, within a street or within a suburb that their enrolment still stands.

Mr DANBY—Do you have any feeling that there was something unreasonable about the people who were taken off by this legislation being enrolled? Do you feel that there was something bodgie about them or that their vote was somehow illegitimate?

Mr Freys—No. I do not think that at all. That is why when I originally talked about automatic enrolment I said that, once you have confirmed that someone is entitled to be on the roll, they are entitled to be on the roll. It is only a matter of what address you put them on the roll at. Just because they have changed address should not cancel their enrolment.

Senator RONALDSON—I do not like Mr Danby's option. The process that you have at the moment is the appropriate one. It is the one with the most integrity. Have you ever seen any evidence of abuse by members or senators of the returned mail arrangement between the commission and members of parliament? Have you ever had any indications, as was put to us yesterday, that it is possible for groups of people within electorates to be targeted to initiate this return to sender correspondence, which is then passed on to the commission?

Mr Freys—No. I have never seen that or heard any evidence of it or heard anyone talk about that at all. I would be very surprised to hear—

Senator RONALDSON—I was a bit taken aback that that was even implied yesterday. But I wanted to ask you to make sure. I was going to have a chat to you about advertising of polling places, but we have your submission, so I will let that stand.

CHAIR—Thanks very much for your attendance here today, Mr Freys. If you have any additional material that you want to provide the committee as a result of submissions or evidence that comes forward, please feel free to do so. We appreciate the interest that you have taken. While we did not ask questions about everything in your submission, it certainly fits into other matters of interest that we are exploring. You will get a copy of the transcript and you can make any corrections to grammar or fact that you feel need to be made. Thank you again for attending.

[11.05 am]

GORDON, Ms Helen Mary, Corporate Lawyer, Australian Finance Conference

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you. If you wish to present any additional submissions or make an opening statement to the committee, please feel free to do so.

Ms Gordon—Thank you very much. First of all, thank you very much for giving me the opportunity to represent the Australian Finance Conference. In making our submission I thought I would just reiterate what the Australian Finance Conference is—and we have it in our submission. Essentially, we represent the finance industry on a national basis. Because we represent on a product basis rather than on an institutional basis, we have a broad range of members, including banks, building societies, finance companies and the service providers to the industry.

While like every Australian we are interested in the outcome of the election, our interest in this inquiry is specifically in relation to the electoral roll, in particular the integrity, reliability and independence of that roll as a database of personal information. We have an interest in accessing that roll and also the use of that roll where there is a public interest reason to enable it to be used for purposes beyond the conducting of an election.

The main points we made in our submission—and I understand that when you look at the breadth of your inquiry there are many more major issues that you are focusing on—are important issues for us. There are essentially three. The first two relate to the same thing. The first one relates to the proof of identity documentation process that has been introduced into the enrolment process for the electoral roll. From an industry perspective, we see this as an excellent step by a government to actually improve the integrity of the roll. That is because the roll has been used by the industry and is an integral part for compliance purposes now in the context of the anti-money-laundering reforms that took effect back in December last year for us to know who it is we are dealing with.

A concern we have in relation to the proof of identity process is that there is a verification process—and I understand that there is an entitlement for the AEC where a drivers licence number is used to actually verify that against state databases—and that that process is actually followed. Our concern is that industry and the government are facing major fraud perpetrated by people assuming false and fictitious identities, and the ease with which a drivers licence can be produced is staggering. So any process which actually brings integrity to that document and a verification of that document through accessing those databases is critical.

It is also essential, we say, where the authorised persons are being used to look at proof of identity documents as well. Birth certificates, equally, are easily fraudulently created. So, again, unless there is some process that says that is a true document, what we will end up with is a roll that not only assists people perpetrating identity fraud but actually expands that fraud because

people are able to build an identity from, first of all, the drivers licence and then get onto the roll and so on. In summary, we really recommend that there be a process, not just as a matter of theory but also in practice, to verify the identity of the people that are seeking to be enrolled.

The second component relates to another matter. At present there is the ability for people in the finance industry to approach the Electoral Commission, once prescribed, and obtain a copy of the roll to implement an identity verification process as they are required to do under the anti-money-laundering reforms. At present the information available to them on the roll is name and residential address. In the course of enacting the anti-money-laundering law reforms we lobbied as an industry generally to ensure that there were electronic verification processes, because the financier has an obligation to collect personal information from the individual and to also verify that identity information.

An electronic verification process was put into the anti-money-laundering reforms but, in terms of how it operates, it is limited because there are very few, if any at the moment, publicly available reliable and independent databases of date of birth information. The electoral roll is one of the few that currently exist. There are over 13.5 million people—I gather from the submission made by the Electoral Commission—on that roll, so in terms of its value to the industry through the inclusion of date of birth information it is incredibly important.

Again, our submission is, given the restrictions placed on financiers getting access to the electoral roll, given that there is a requirement for them to verify date of birth information and given that the electoral roll is one of the few sources of information where date of birth information is included, that we would look for expansion of the information provided to financiers that meet the criteria to include date of birth information. That would particularly assist people in rural and exterior locations who are looking to open term deposits, open bank accounts, do a whole range of things electronically. It would enable a financier to actually put in place an electronic verification process to assist them to undertake those normal day-to-day activities.

The third element relates to people that have access to the roll. This is raised in the context of the current environment where people are starting to face financial stress. It is becoming likely, when you look at the bankruptcy and other statistics, that the trend will be that people will continue to face difficulties meeting their financial obligations. The context I am talking about here is allowing the financial sector, on the basis of there being a public interest in their being able to do so, to access the electoral roll for debt collection or receivables management purposes.

CHAIR—How is that a public interest as against a private interest?

Ms Gordon—Because, I would suggest, from an Australian point of view, most customers of finance do not want necessarily to pay an increased amount for finance because of the few people that are not paying but are wandering off and are not able to be located. The fact that people cannot be located easily and efficiently reflects in the pricing of products by the financial sector.

CHAIR—That is something the financial sector takes into account, doesn't it?

Senator RONALDSON—It factors that into the price, surely?

Ms Gordon—It does, but that in turn affects what most people are paying for and what some would argue is an entitlement to them—and that is the obtaining of finance. Why is there not a public interest in the majority of Australians paying what they should for finance rather than people not paying because they avoid their debts by changing locations and making it very difficult to be located?

CHAIR—That is the first time I have ever heard that it is linked to the electoral roll, in terms of the cost of finance.

Ms Gordon—What do you mean by that?

Senator RONALDSON—That was not the point.

CHAIR—That is my interpretation of it—that there is a public interest in greater access to the electoral roll by your organisations, and that directly relates to finance.

Senator RONALDSON—No. The witness said that the electoral roll is an important aspect of ensuring that the provisions of the AML are properly met—

CHAIR—If I misheard it, I apologise.

Senator RONALDSON—and was suggesting some mechanisms to increase the integrity of that roll to assist that process.

Mr DANBY—Assisting access to items that the Electoral Commissioner has, attendant to people's addresses and names, would enable them to pursue people.

Ms Gordon—In the same way that the government sector is able to do so. When you look at the regulations, there are a range of organisations that currently have access for public revenue recovery purposes.

Senator RONALDSON—Including the tax department.

Mr DANBY—But it is possible that the government and private interests have different interests in pursuing that. I did not quite understand—you currently have the capacity to access the electoral roll for names and addresses?

Ms Gordon—I do need verification for AML compliance purposes. That is correct.

Mr DANBY—And the thing that you say will make a big difference is having access to people's ages.

Ms Gordon—Date of birth, correct.

Mr DANBY—In other words, you do have access to verifying, via the electoral roll, people's names and the addresses that they are at, at various places. Are you aware that it seems to us that only 90 per cent of Australians are on the electoral roll?

Ms Gordon—Having read the AEC submission, I am aware of that—that when you look at the population groups and the people that are looking to obtain finance, you are looking at a significant portion of the population.

Mr DANBY—Isn't it true that the finance industry would probably discover a lot of people who were not on the electoral roll when they are applying for finance and that would be a major indicator to you of the problems you might have? So actually having access to whether they are on or off, as you do at the moment, is probably a very important advantage?

Ms Gordon—I am not sure that I would agree with you that it is an advantage. At present a legal obligation is imposed on the financiers to be able to verify identity information. So there is an obligation to collect information—name, address, date of birth information—and now an obligation to actually verify components of that information so that from an anti-money-laundering, counterterrorist financing point of view the financier is able to convince government that they know who it is they are dealing with.

Mr DANBY—So it is no advantage to the finance industry to know that people are on or off the electoral roll—

Ms Gordon—They do not get the address information.

Mr DANBY—If I can finish the question, you can probably answer it. It is no advantage to the finance industry to know that people are on or off the electoral roll?

Ms Gordon—From a marketing point of view or from—

Mr DANBY—For verifying their application for finance.

Ms Gordon—It assists them to be able to know who it is that they are dealing with.

Mr DANBY—That is exactly what I was asking you.

Ms Gordon—Sorry. Which is why they want access.

Mr DANBY—No, you have got access and it does assist them. What you are asking for is further assistance. That is a reasonable point of view, but to say that the access to the electoral roll that you currently have does not assist the finance industry is wrong. You just said it does assist.

Ms Gordon—Yes. What they currently have is good, but it could be better.

Mr DANBY—Okay. That is fair enough.

Senator RONALDSON—Michael, we as legislators put these compliance requirements in place. We were the ones who made the decision about what was going to be required to meet the requirements.

Mr DANBY—That is fair enough, and we are giving access to it in areas—we just have not gone to the area of date of birth yet.

CHAIR—I will put my cards on the table. I am not convinced what you are asking for cannot be provided in a different way when it comes to anti-money-laundering and counterterrorism reforms. If that is what the inquiry comes down to—and that is what you are seeking the information for—I am sure it can be provided in a way that restricts it for those purposes. I have a problem with the particulars you are seeking being available for the general purposes of your industry.

Ms Gordon—I understand your point.

CHAIR—They are two different things.

Ms Gordon—I agree with you—and there are two specific purposes that we are looking for here.

CHAIR—I understand that. What I am interested in is whether you can come back to us with a trigger that we can look at in terms of how we can turn it into a proper legislative regime that everyone is comfortable with. I am not comfortable with providing it in a general way on the basis that it might assist in anti-money-laundering or counterterrorist financing; I am interested in it in a scheme where, if something is triggered in those two areas, it then requires that information. Then we can look at accommodating it. Does that make sense?

Ms Gordon—Yes. But at present there is regulation. They are providing what is called a safe harbour scheme in the anti-money-laundering laws where you are verifying information of an individual. The electronic verification process says you need to collect this information and if the product you are offering is medium to low risk then you can electronically validate that information—and you have to validate name and address information by two independent electronic means. Sorry, did I say ‘name and address’? Name and address and then date of birth or transaction history information. We are advised by our members that there is no current available means of reliably and independently verifying date of birth and/or transaction history information.

CHAIR—How many transactions are we looking at where you are interested in verification in terms of the total transactions of your industry?

Ms Gordon—As I said, at present, in terms of the credit side of the balance sheet, people can utilise date of birth information, as we understand, through the credit reporting files.

CHAIR—Correct.

Ms Gordon—But in terms of the deposit side of the scheme, there is no single place—there is a process with the certificate validation service, which is the births, deaths and marriage service currently operating. That, however, has limitations in that not all of the states are currently on board with that process. The Northern Territory and Tasmania are yet to be involved in that service. It also effectively requires someone to have the birth certificate to input that information

into it. It was a service designed to validate that that certificate is correct, not that date of birth is correct.

Senator RONALDSON—Just so I am absolutely clear, I take it that, because of changes in technology, it is quite easy to doctor a licence. Is that correct?

Ms Gordon—Yes. We had an example of a member of a state police force attending a meeting where it took them 15 minutes to produce a false licence of one of my colleagues.

Senator RONALDSON—Fifteen minutes?

Ms Gordon—Fifteen minutes. He passed it around the table. It was only when that gentleman got the licence and saw his photograph on it with a different name—an Asian-sounding name—but with his address that he twigged that there was a problem and then raised it with the rest of us. Then the police officer explained how easy it was to produce that licence.

Senator RONALDSON—And is that both the production of false licences and also the adulteration of existing licences with the overlay of other information? Is my understanding correct?

Ms Gordon—I understand it is easily done. I understand that the state government agencies responsible for licensing are looking at that and looking at ways to actually reduce the opportunity for fraud to be perpetrated against them. Smart chips are being looking at—the smart licence up in Queensland—but again that raises difficulties.

Senator RONALDSON—Whether the committee is prepared to facilitate the compliance of the AML is a matter for discussion for the committee. But it is my understanding that, because of these changes in technology, you are looking to the electoral roll to take a more significant role in the use of that for compliance purposes and to meet the requirements of the act and to ensure that you are getting the right information. You are therefore saying to us that we need to strengthen the ID provisions of the electoral roll to assist your members in their compliance with the AML. Is that roughly what you are putting to the committee? If it is not, tell me.

CHAIR—He is trying to verbal you here.

Ms Gordon—What I am saying is that at present there is the ability for the financial sector to access a copy of the roll, that the roll they have access to is useful in assisting them meet their AML compliance obligations, which is what it was meant to do—that is what the amendments were all about—

Senator RONALDSON—Yep.

Ms Gordon—but it falls on its face, because it still requires almost a manual component to be introduced into the financiers' process to verify date of birth or transaction history information at present. That could easily be overcome by including date of birth as a field of information that is released to the financiers, together with name and address, for the specific purpose of AML compliance.

Senator RONALDSON—Sure. I take it that you supported the changes to the ID provisions?

Ms Gordon—In terms of improving the integrity—this proof of identity scheme?

Senator RONALDSON—Yes.

Ms Gordon—We do, because we see value in that.

Senator RONALDSON—Have those changes improved the integrity of the roll?

Ms Gordon—Subject to conditions. That is the point I made at the outset. I understand that the AEC have the legal ability to verify licence information provided on an application to enrol. Our question is: are they actually utilising that ability? We would strongly recommend that they do so because of the ease with which a licence can be produced. I know that 90 per cent, I think it is—

CHAIR—Doesn't using a licence bring into question the supposed integrity of the roll? Your evidence basically says that a drivers licence can be forged quite easily; it is not as secure as some people would have us believe. We have just done a series of amendments to the Electoral Act that has disqualified thousands of people who have previously had their votes counted on the basis that there is this great protection through a drivers licence. Yet you are telling us, as I have known for years anyway, having been a lawyer before I came into parliament, that it can be easily forged.

Ms Gordon—But it can be easily verified in an electronic way.

CHAIR—That is another matter.

Senator RONALDSON—So you supported the changes because you thought it would increase the integrity of the roll?

Ms Gordon—Yes.

Senator RONALDSON—I presume that were they to be rolled back then that would impact negatively on the integrity of the roll—by design, that must be the situation?

Ms Gordon—I believe so.

Mr DANBY—In your verbal submission, you talked about some people using enrolments to establish false identities and then using those as a way of building a network of false identities. What evidence do you have of people registering on the electoral roll to establish false identities?

Ms Gordon—I do not have any evidence, but what I am saying is that, by obtaining a fraudulent drivers licence, using that to get on the electoral roll and then obtaining a Medicare card, the person effectively comes to the financier as a real person. So if there is no stopgap put in place at the points where that person interfaces with government in relation to obtaining these

identity facilities, it is going to result in not just perpetuation of the fraud but expansion of the fraud.

CHAIR—Mr Danby, can I just come in on that. In how many instances do people come to you with the electoral roll being part of establishing them as a real person, as against the other items that you mentioned?

Ms Gordon—I would have to take that question on notice, if I may—

CHAIR—Can you, please. I am just interested as to whether you have information on the extent to which the electoral roll has been used to basically perpetrate the fraud and identity fraud in particular.

Ms Gordon—Sure.

CHAIR—Or whether it is the other items, like the Medicare card and the drivers licence, that you say can be easily forged that are really the prevalent means.

Ms Gordon—The point we make, though, is that if the drivers licence can be easily created through fraud and that is the POI document that is being used to allow someone to enrol and then that electoral roll is being used by the industry to verify—

Mr DANBY—I think the problem is that you are not aware of all the things that the Electoral Commission does to verify the identity of people once they are enrolled. Anyhow—

CHAIR—I know where you are coming from; I know what you mean. I am just interested as to the roll.

Mr DANBY—I think you have got a reasonable point, from your industry's point of view, about trying to establish the bona fides of people who are applying for finance. With your existing access to the electoral roll, I would be interested in knowing not just the answer to Mr Melham's question about how many times the industry uses roll identification to give people finance but also how many times their absence—

Ms Gordon—Can I just interrupt there. I understood the question was about how many times the roll showed up there was a problem. In terms of how many times it is used, one of our members who provides an identity verification service that has the roll built into it is doing hundreds of thousands of checks per day, using the roll and other things to work out a person's identity. So currently it is being used significantly. But in terms of the question I had understood the chair had asked—

Mr DANBY—He asked one question and I was about to ask another question, which was: how many times is people's absence from the roll, the 10 per cent of people who are not on it, used as a measure for giving or not giving people finance? That is something you have not told us. I think that is very significant. If someone is not on the electoral roll, that is surely an important trigger—and an assistance to you that you already have—that is far more significant than your claim that people register on the electoral roll to built a network of false identities, of which you have no evidence. Are you aware that—

Ms Gordon—It has the potential for that.

Mr DANBY—It is theoretical, yes. You are making theoretical claims that you have no evidence of. Are you aware that the Australian Electoral Commission said that between 1990 and 2002 there were 72 proven cases of electoral fraud?

Ms Gordon—Where I am coming from is that statistics are indicating that the industry is suffering losses of over one-point-whatever billion dollars due to fraud perpetrated through people assuming false identities.

Mr DANBY—That is an absolutely legitimate concern, but it is a leap of logic to say that the electoral roll is somehow to blame for that.

Ms Gordon—We are not saying it is to blame; we are saying it has an integral role in assisting the industry to minimise and prevent that fraud.

Mr DANBY—I am saying to you that if they are not on the electoral roll that is the assistance that it is giving to you.

Ms Gordon—But only 10 per cent of the population is not on the roll. For the other 90 per cent, that is a—

Mr DANBY—But you did not give me an answer to my question. Are you aware that the Electoral Commission showed that between 1990 and 2002 there were 72 proven cases of electoral fraud?

Ms Gordon—That would support my argument that the ability for people to create a false identity that is able to be used to perpetrate a fraud against the private and public sector is incredibly easy and also very difficult to detect. But it could be stopped.

CHAIR—Can I just interpose. It is not necessarily identity fraud; it could be multiple voting. It is the same person voting a number of times, which is a separate issue.

Ms Gordon—Yes.

CHAIR—I do not want this to be quoted for what you are saying.

Mr DANBY—Are you aware that during that period there were six electoral events—five federal elections and a referendum—at which 12 million people voted each time?

Senator RONALDSON—That were identified.

Mr DANBY—That means there were 72 million people who voted in that period, 1990 to 2002, in the six electoral events. If you place the electoral fraud against the number of people who voted, that means one per million. Why should the committee recommend to the parliament that we further restrict people's rights to enrol, based on the fact that we have one fraud per million, in order to advantage the finance industry?

Senator RONALDSON—You should clarify the question.

Mr DANBY—Can I just let my question be answered without you interjecting the answer?

Senator RONALDSON—With the greatest respect, it is identified fraud. You cannot say that that was the extent of the fraud. That was the extent of the identified fraud. If that is the question then it is fair enough, but it is a leap of faith if you are going to say that nothing else happened.

Mr DANBY—There was a vast effort by the Electoral Commission to find out other cases and they only came down to 72.

CHAIR—Can I suggest that when Ms Gordon is sent the transcript she take it on notice and if she wants to do a supplementary submission in relation to that then we can get the answer, if there is a dispute.

Mr DANBY—Okay, but, Chair, I am not satisfied with other members of this committee answering my question rather than the person I asked the question of.

Senator RONALDSON—If I think you are not putting a proper proposal to the witness, I am going to say something about it.

Ms Gordon—The comment I want to make is that it is only since April 2007, as I understand it, that there has been a proof of identity process put in place to actually verify the identity of an applicant for enrolment. I understand that there was a case—I do not recall whether it was in Australia or in the UK—where people registered cows on the electoral roll.

Mr DANBY—Surely it is important to know whether it was Australia or the UK. When you come to a committee and make claims about people using the electoral roll to create false identities, surely it is important to have evidence of it. Surely it is important to say that this is a process, to say how it is done and to say how it is affecting your industry. I can understand that you want to prevent people making claims for finance when they are not verified, but what I am saying to you is that you have great assistance in the electoral roll already. If people are not there, that is your major clue. To ask the parliament and the people of Australia to further restrict people's right to vote because of some theoretical claim about people using the electoral roll to perpetrate fraud on your industry is an outrageous leap of logic.

CHAIR—Can we just leave it there.

Ms Gordon—Can I just clarify something. My point was not that the electoral roll is being used to perpetrate fraud; my point was that people are using other proof of identity documents, like drivers licences and birth certificates et cetera, to build identities and that the ability for the industry to verify the information on those proof of identity documents is extremely limited. One way of doing that is to use the electoral roll. If the fraud in relation to a drivers licence is being continued by that then being used to allow someone to get onto the roll then that is expanding the perpetration of that fraud. That is the point I make. It is not that the roll is the instrument of fraud; it is that these other items are being used to create the identity and the roll is being used in the verification of that. So if the source of verification has been undermined and lacks integrity then the process lacks integrity.

Mr DANBY—There is an answer to that, but I will not give it.

CHAIR—Thank you. Can I ask you to consider something I mentioned earlier. You could put it in a supplementary submission. I am particularly interested in date of birth details in anti-money-laundering and counterterrorism financing. Can you look at a scheme or something that might work where you are given access to the dates of birth in terms of specific requests but then they are provided as a general release to the industry.

I am putting this on the record for you so you know where I am coming from. I am not comfortable with a general release to the industry of dates of birth as an additional item in relation to the roll. You get a limited release of certain things at the moment; you do not get the date of birth. I am interested in, if there are suspicions relating to anti-money-laundering or counterterrorist financing, you being able to access dates of birth to help you in terms of identity—if I am making my point clear.

Ms Gordon—Perhaps I am being a bit obtuse. What I am saying is that the industry has an obligation to verify date of birth if they want to adopt a safe-harbour mechanism of electronic verification of identity information. At present, there is no electronic facility.

CHAIR—So you are coming to the roll for that because that is where it is.

Ms Gordon—That is right.

Senator RONALDSON—That was the discussion this morning.

CHAIR—I am just giving a halfway house. I do not want it to be said that we are not releasing the roll for antiterrorism purposes or anti-money-laundering purposes in general. I have no problem with details of the roll being used in relation to those instances—let us put it on the record. But I have a problem with a general release of certain things. I do not think I can be more clear about that.

Ms Gordon—Maybe I should explain the process, the way the roll is released. At present, it is actually the service providers that have been prescribed and obtained copies of the roll. They build the roll and other public database information that includes address information—for example, a public phone directory created from the IPND—into a facility so that, when the financier inputs application information, the address and name information is automatically checked against those databases and they just get back a yes or no in terms of whether it is a valid person or not, whether it marries up.

CHAIR—Which is why you say you need it in general terms.

Ms Gordon—Correct. They do not actually get—

CHAIR—All right. We are at cross-purposes. That clarifies it.

Ms Gordon—In terms of getting a bounce-back that the person is not on the electoral roll, I will have to investigate whether they get that information. It may be that the information source

will just be that IPND public directory, so they may not even be notified that the person is not on the electoral roll.

Senator RONALDSON—It might be useful if Ms Gordon is prepared to put forward another submission.

CHAIR—I have no problem with that. I am just about to make that offer to her. I also want to point out that I am advised that the AEC does access motor transport department databases to verify drivers licence details prior to enrolment.

Ms Gordon—For each applicant?

CHAIR—For each applicant that are given a drivers licence for, they do.

Ms Gordon—That is what I am asking. I was wondering if it was a survey or sample of people—

CHAIR—No, I am told that they access it before everyone is entered, that that is part of their process. I have that from a longstanding AEC official.

Ms Gordon—That is terrific.

CHAIR—Thank you for your attendance today. If you do have a supplementary submission or additional material, feel free to present those. You will be sent a copy of the transcript where you can make corrections to grammar or fact but not beyond that.

Ms Gordon—Thank you.

[11.39 am]

GADIEL, Mr Aaron, Chief Executive Officer, Urban Taskforce Australia

CHAIR—Welcome to today's hearing, Mr Gadiel. Although the committee does not require you give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you. If you wish to make additional submissions or an opening statement, please feel free to do so at this point.

Mr Gadiel—I would like to make an opening statement. I appreciate the opportunity to appear before today's inquiry. The Urban Taskforce is made up of Australia's most prominent developers and equity financiers. Its membership also includes key property lawyers, planners and architects. The Urban Taskforce welcomes the current public discourse about policy concerning political donations, including the imminent release of the federal government's green paper, because it represents a rare opportunity to dramatically reshape politics in Australia.

Let's be frank: there is a need for it because the community is demanding change. The current system of funding for political parties has served the community well for more than 20 years, however the community's attitude has changed. The current system has run its course. There is a strong public feeling that the political system must be free not only of any actual corruption but also of any perception of financial influence. It is time to end the practice of funding federal, state and local campaigns by political donations.

As an industry, we recognise that political donations do not influence government decision making. However, there is no question that the wider community's confidence in the political system is undermined by the dependence of that system on financial contributions from the private sector. The Urban Taskforce's position is simple, and we have had the same position for more than four years. We advocate a complete national blanket ban on political donations from anyone—corporations or individuals, developers, lawyers, doctors, trade unions, miners, tobacco companies or environmentalists. However, this kind of change must be accompanied by substantial additional public funding. Taxpayers should meet all of the costs of election campaigns. Funding should be allocated to political parties in line with their share of the vote. Only a radical measure like this will ensure that the system is, once and for all, free of any perception of financial influence.

I again thank the committee for the opportunity to appear today, and I am happy to answer your questions.

CHAIR—How would you propose such a scheme would operate? Are you suggesting that, to access public funding, it be legislated that parties are unable to receive private funding? How do you want to do it?

Mr Gadiel—Our preferred option would be for a complete blanket ban irrespective of whether a party wants to receive public funding.

CHAIR—So you do not give them the option of going down the private route. I think in America they can opt for private donations and not access the public purse, but you are saying: ban all private donations and just have public funding cover it.

Mr Gadiel—Yes, that is correct.

Senator HUTCHINS—How would that scheme cover outside endorsements?

CHAIR—Third-party endorsements?

Senator HUTCHINS—Third party, yes.

Mr Gadiel—I think in a democracy it is difficult to prohibit third parties, who are not themselves political parties, from raising public issues, communicating things in the debate and using resources to do so.

CHAIR—There is a free speech argument, isn't there?

Mr Gadiel—Indeed. If they are acting as an auxiliary of a political party as an anti-avoidance measure, you would need to treat them as an arm of a political party, and there are various legal tests that could be constructed to work out whether a third party is acting independently or is merely an auxiliary—whether it is a sham. That kind of law exists in other jurisdictions, where different treatment is given to political expenditure versus third-party expenditure.

Senator HUTCHINS—What if it is concocted—'concocted' is probably too strong a word—or based around an issue similar to what occurred in the last federal election with the trade union movement's *Your rights at work?* How would what you are proposing affect that sort of campaign? Would they be unable to present themselves as a different group or would you see them passing this legal test—they are anti coalition; therefore they should not be able to use their private money to campaign against the coalition?

Mr Gadiel—If they are using their money to directly contribute to an organisation such as the Australian Labor Party then I think a trade union should be covered by the same rules as apply to anyone else. If a trade union is acting independently and highlighting an issue—and not directly invoking or asking somebody to vote for or against a particular party—then I think they should be free to do that, as anyone else should be. In the United States one of the tests is: are you calling for someone to vote for a particular person or not to vote for a particular person? If they want to go out and say, 'Workplace relations is an important issue. We think this about workplace relations law. We ask you to consider this when casting your vote,' I do not think there should be any restriction on their ability to do that.

Senator HUTCHINS—You mentioned the legal test. I wonder if you could provide the committee with what you are referring to so that we can have a look at it down the track.

Mr Gadiel—I have to say I do not come to this committee professing to be an expert on electoral law either in Australia or in the United States. We as a developer property organisation have not tried to model out the detail of how the system could work.

CHAIR—Just a few principles that you want us to adhere to, then it all flows from those?

Mr Gadiel—Absolutely.

Senator HUTCHINS—That covers my queries in relation to third parties.

Senator RONALDSON—Mr Gadiel, I thought you were doing really well until you answered that last question. You are not seriously suggesting to this committee that, in relation to a campaign run by the union movement on Work Choices and other aspects of the Howard government, it would be appropriate to ban all donations for everyone else but enable that sort of campaign, which quite clearly supported the Australian Labor Party, to not be affected by that. You cannot seriously be suggesting that.

Mr Gadiel—I am not suggesting that directly.

Senator RONALDSON—You are.

Mr Gadiel—No, what I put forward is—

Senator RONALDSON—I will ask you the question: would the Work Choices campaign prior to the last election be banned under your definition or not?

Mr Gadiel—I deliberately did not say the Work Choices campaign should be fine.

Senator RONALDSON—I asked you that question.

Mr Gadiel—The answer is: I would not know, because I am not familiar with the detail of all the things that were being said on the Work Choices campaign.

Senator RONALDSON—But you said just before—and I want you to confirm you said this—that perceived conflicts of interest are as real as real conflicts of interest. Is that right?

Mr Gadiel—I think there is an important need for the community to be satisfied that political parties are funded independently of the private sector.

Senator RONALDSON—But perceived conflicts of interest are as bad as real conflicts of interest, aren't they? That is what you said before in your evidence.

Mr Gadiel—What I did say is that the community needs to have confidence in the political system and that political parties should be funded independently of the private sector. And I would include the trade union movement as part of the private sector.

Senator RONALDSON—And perceptions are as important as reality.

Mr Gadiel—I think from time to time you have to address perceptions. Not every perception is the same as reality. There are some perceptions that, frankly, are illogical and not based on any evidence whatsoever and are so fanciful they should be dismissed out of hand.

But just to clarify, because I think you raise an important point: I am not suggesting that the Work Choices campaign as it was conducted would necessarily comply with any law that I am advocating. What I am saying to you is that independent organisations that are not acting as auxiliaries of political parties, not participating in a coordinated campaign with a political party and not advocating votes for or against particular political parties or particular candidates should be free to highlight issues during election campaigns—

CHAIR—Who would determine that? Do you want to leave it to the courts or do we have an independent body?

Mr Gadiel—Ultimately, that would be a law. If you are an officer of an organisation that is proposing to engage in a campaign of that kind, the law would be there and, if you spend money in breach of that law, you ultimately would be guilty of an offence. The Australian Federal Police should investigate you and convict you of an offence.

Senator RONALDSON—But you are not seriously suggesting that the trade union movement was not operating as an auxiliary to the Australian Labor Party before the last federal election?

Mr Gadiel—I am not suggesting for or against it, because I do not pretend to know the detail of that campaign. What I certainly said to Senator Hutchins and the committee is: if an organisation wanted to go out there and highlight employment relations as an issue, and it was not an auxiliary and it was not advocating a vote for or against it or a particular candidate, then I think they should be free to do so. I do not know whether the trade union movement was advocating a vote for or against it. I suspect—

Senator RONALDSON—Mr Gadiel, come on! You have been—

Mr Gadiel—Let me finish the answer, please.

CHAIR—Let him answer the question, Senator, then you can come in.

Mr Gadiel—I suspect they were advocating a vote against the Howard government. To be honest, I did not follow the detail of their campaign because—

Senator RONALDSON—You did not follow the detail of the union campaign against the Howard government?

Mr Gadiel—Certainly not. In my role as chief executive of the Urban Taskforce that was not part of my ambit. The only issue is whether I was taking an interest in the issue as a voter.

Senator RONALDSON—You have been a chief of staff to a couple of senior New South Wales ministers, haven't you?

Mr Gadiel—I have worked in the New South Wales public service.

Senator RONALDSON—And you are suggesting you did not follow the activities of the union movement before the last election?

Mr Gadiel—I have been employed in the New South Wales public service. It was never part of my job in the New South Wales public service—which, by the way, ended well before the federal election—to monitor the campaigns of trade unions.

Senator RONALDSON—So effectively what you are saying to us is that you support the right of third parties, such as GetUp!, the union movement or others, to raise funds and to participate in the process and not be subject to the same rules as corporations or—

Mr Gadiel—No.

Senator RONALDSON—That there will be two separate rules.

CHAIR—He did not say that.

Mr Gadiel—Absolutely not. The Urban Taskforce is very clear on this. There should be one set of rules for everyone. I believe an organisation like the Business Council should be absolutely free, if they think the taxes are too high or too low—more likely too high—to be able to spend money and highlight that as an issue in an election campaign. The same rules should apply to trade unions, to business organisations and to any range of NGOs. It is an important part of our civic discourse, but that should not be used as a backdoor way to get around bans on political donations.

Senator RONALDSON—You would acknowledge, surely, that the Work Choices campaign prior to the last election was a completely partisan campaign, wasn't it?

Mr Gadiel—I do not put myself forward here as an expert on the Work Choices campaign or on the relationship between trade unions and political parties. I am here to articulate principles on behalf of an industry organisation which, frankly, takes no interest in the relationship between the trade union movement and one political party.

CHAIR—Before I go—

Senator HUTCHINS—Mr Chairman, on Senator Ronaldson's point, it was my question that started this up, but I would say this: Urban Taskforce seems to suggest to me that there should be more public funding for parties, there should be no private donations—tell me if I am wrong—and there should be some legal test to see that the third parties are not rorted to make sure that they can advocate support for one party or another. Is that right?

Mr Gadiel—Absolutely.

Senator HUTCHINS—All I would like to know is what the legal test might be.

Mr Gadiel—I am happy for the legislators at the end of the day to formulate that test, but everyone needs to have confidence that some third-party organisation is not being used as a proxy for a political party.

CHAIR—Before I go to Mr Danby, I just want to clarify—

Senator RONALDSON—Oh, come on.

CHAIR—I will come back to you. You will get your go. What concerns me about those principles is that I have a reservation that it always has to be the court in the first instance to decide what the law is and to interpret the law. I am wondering if there is room for an independent authority like the AEC to be given powers in the first instance and for that to then be able to be appealed to a court. Or is it a situation where the courts should be the arbiters as to whether the third parties are in breach? I am interested in that principle. Should we have an election authority that basically determines the matter—bang—or do we have to go to a court and get the injunction straightaway?

Mr Gadiel—As an industry organisation we do not have a view on which way you do it; only that you have a process that inspires public confidence.

CHAIR—That is okay. Senator Ronaldson.

Senator RONALDSON—Mr Gadiel, I will say to you quite openly that I thought the outcome of the Wollongong sex and bribery scandal, whereby all your members were labelled as acting inappropriately, was totally inappropriate. I can understand why the organisation is moving very quickly to address these perceptions because, quite frankly, I think it was totally unreasonable for the whole industry to be tarnished by the activities of a few, and I think you are absolutely right: there is no need for a specific industry legislative attack. Having said that, your taskforce cannot expect a set of rules for one group and then be totally ambivalent about what your views are for potentially equally or even more powerful third-party groups. I have to be honest with you: I think that your submission falls down and is subject to accusations of partisan politics, real or perceived, by not addressing that third party. To leave that open, I think, quite frankly, diminishes what I thought was a very sensible and well thought out submission. What I would like you to do is to go away and revisit that issue in light of these discussions this morning. If you are ambivalent about whether the attack by the union movement on Work Choices in the run-up to the last election would or would not be viewed as inappropriate third-party behaviour, then I think, quite frankly, we have some serious definitional issues. I would like you to have a think about it. I will not put you on the spot today, but you need to have a very serious review of that part of the submission, in my view.

Mr Gadiel—Okay.

CHAIR—Did you want to say something before I go to Mr Danby?

Mr Gadiel—Only to comment that it is not a matter of ambivalence. We are advocating clear tests. It is for others to apply those tests to particular campaigns. I again emphasise that part of the test that I articulated was: is the third party advocating the votes for or against a particular party or a particular candidate? Senator Ronaldson, I am sure, would be more familiar than me with the material that was put out by the ACTU. I will leave it for him and others to judge whether or not they would satisfy the tests that I am articulating.

Senator RONALDSON—If the test is for or against then, quite frankly, I think this whole thing will fall down. You know as well as I do that the Work Choices advertising campaign was not specifically advocating a vote for Labor but it was viciously undermining and attacking the

Howard government and the only thing you could take from that campaign was to vote for the Labor Party and not for the coalition.

Mr Gadiel—I might be able to add something that Senator Ronaldson will find of assistance. I understand—and I do not pretend to be an expert—that in other jurisdictions, particularly the United States, one element of the test that is sometimes used is, for instance, when there is an overlap in officers—that is, when officers of a political party are controlling or directing the affairs of the third parties. In the case of the campaign you are referring to, I believe there probably was an overlap in officers. People who hold office in the ACTU or the Labor Council of New South Wales also hold office in the Australian Labor Party. If that sort of concern existed, I do not think people in our industry would have any problem with that kind of test being applied.

Senator RONALDSON—Using the US model is not necessarily the right way to go because it is full of imperfections.

Mr Gadiel—I agree with that.

CHAIR—We can look at that. He is just interested in the principles.

Mr DANBY—I congratulate a business organisation on having as idealistic views as you do, and I want to drill down into that idealism a bit. How would you propose to operate a system of public funding for political parties? You suggested that that be the sole method by which it would be done. Would we rely solely on performance at past elections as a way of generating our income? If so, why? If not, why not?

Mr Gadiel—Firstly, I do not pretend to have researched the detail of how the system could operate. We articulate the principles. But, nonetheless, I am happy to engage in a discussion with you on that to demonstrate that what we advocate is workable. Certainly for the funding in substance for the major political parties a good guide would be voting or electoral performance. Probably you would want a system which gave the two major political forces approximately equal funding so that it did not so closely follow electoral misfortune, that merely because a party was defeated at the last election it would get less funding than the party that was victorious. You do also need to have a system that can take into account independents and newer parties. The particular area we are saying this should apply to is the local council level. Some component of funding might need to be paid after an election based on actual voting results.

Mr DANBY—Okay. How do you suggest treating in-kind donations under your proposed ban on donations? I am particularly interested in what your view would be of funding of the ongoing administration of political parties, not during the campaign period, and what the Urban Taskforce's view of—

Senator RONALDSON—Do you mean taxpayer funded administrative costs?

Mr DANBY—No. I am talking about the administrative costs of political parties, non taxpayer funded.

Senator RONALDSON—Okay.

Mr DANBY—And I am interested in what your view is of foundations such as the Greenfields Foundation or the Cormack Foundation—and I am sure there are similar ones for the Labor Party too—that fund the ongoing administration of the Liberal Party. Would there be a ban on them as well? How far do we go? Is it just for donations for local, state and federal campaigns or are you extending it to a total ban on all donations to political parties—even to trusts, fronts or whatever, like Greenfields or Cormack, that give donations in the interim for administration?

Mr Gadiel—Firstly, I do not profess to be knowledgeable at all about the two organisations that you have mentioned, so my answer will not in any way be directed towards them. You certainly need a set of rules for campaign expenditure. I think campaign expenditure is slightly different from expenditure or revenue raised for the purposes of funding a party. Nonetheless, I think you still need fairly strict rules about revenue raised for the funding of a party and how that money is spent, to ensure that a general ban is not circumvented. Certainly, for instance, members of a political party should be able to pay a reasonable membership fee to be part of that political party and that money should go towards the administration of the party. For instance, the New South Wales government funds both political parties for political education, which really is an administrative expense not a campaign expense. I do not think we in the Urban Taskforce or the community generally would have a philosophical problem that the state should also play a role in funding the administration of parties. Some parties are engaged in commercial activities. The Labor Party in New South Wales and, I believe, in Queensland have owned radio stations and other assets. They should continue to be entitled to be involved in commercial activities and raise revenue from that. Of course, there should be strong laws in place to ensure that people are not, for instance, overpaying for an asset through commercial activities in order to funnel money secretly into a political party, but I think the legal system can cope with that.

Mr DANBY—It is obviously very important that this is not just a New South Wales thing or a Wollongong Council thing. This would require harmonisation of the entire donation system all around the country, at every level: federal, state and local government.

Mr Gadiel—That is our view. We think it is very problematic if you do it on a state-by-state basis. For instance, political parties can fund and allocate resources across state boundaries, as they are quite entitled to do. When the same organisation is engaged in activity at different levels of government, it creates all sorts of problems if a different regime applies at local, state and federal levels. The best possible outcome is a uniform system across the country.

Mr DANBY—In your submission you say ‘making a donation to a political party has been recast as something unsavoury and distasteful’—that is on page 1. You do not think this is a New South Wales-centric view that has emerged from recent scandals with councils here? Isn’t it possible that you could design a donation regime that would lead to an improved perception of the electoral system? We have had some suggestions: that there be a more transparent system for donations; that it be done quicker; that it be done on a database; that people are able to see it. Other people have suggested that only individuals be allowed to do it. After all, Barack Obama has, via individual donations and small donations on the internet, raised a vast amount of money as the Democratic presidential candidate—more than Hillary Clinton via corporate donations and certainly more than his opponent, Mr McCain. A lot of people have said that this is a reflection of the democratic will of the American people—that they, the ‘small’ people of America, are determined to get this guy in. Isn’t it possible that your idealistic business

presentation is going to militate against some of the ideas that other people have raised and also against the idea that supporting a political party can be a democratic activity as well?

Mr Gadiel—Certainly, I have no problem with people supporting political parties. However, if the purpose behind donations reform is to remove any perception of securing influence through cash then allowing individual donations, even small individual donations of \$1,000, can be problematic. Certainly, in the United States experience, groups of individuals and networks of individuals are formed and do exist for the purposes of securing the requisite below-threshold amount from a large number of individuals. Those groups can sometimes be quite powerful in securing influence on their behalf. I do not pretend to be an expert on Mr Obama's campaign and on how he is securing his money. Our concern—and I do not believe it is just a New South Wales concern; I think this issue affects most states in Australia, including states like Western Australia and so forth where there have been similar debates about these sorts of issues—is that companies which are doing what they perceive to be their civic duty are getting their names dragged through the mud and getting no thanks from large parts of the broader community because they have done what they have always done, which is support non-profit organisations. We would like to see a basis for removing that any potential for that whatsoever. It does not help us if one of our member companies finds that one of their employees made a donation of \$1,000 and then some newspaper makes a link between that donation and a development application or a rezoning that might have been granted.

Senator RONALDSON—The way around that of course is to make the cap on those individual donations very, very small—

Mr Gadiel—Perhaps.

Senator RONALDSON—which would address the perceptions.

Mr DANBY—That comes to the general point that you are not opposed to regimes of more transparency, more databases, low individual donations et cetera which are offered as an alternative to your 'no donations at all under any circumstances to any one program'?

Mr Gadiel—We certainly do not support just a tinkering with the current system. You can have all the disclosure in the world. To be honest, disclosure is an excellent thing, but I think one of the issues that disclosure always puts into the arena is that if donations are made and are utterly unrelated to a government decision, the fact that a donation is made will always lead to a proportion of people thinking, 'Is there a link between the two?' It is not something that is readily communicable. So that is why we favour a ban on just disclosure regimes because it removes that issue once and for all from the public domain. Having said that, I accept that there can be practical limits in prohibiting very, very small donations. I accept that at some stage people may need to contemplate that. But our preference would be for a complete ban for all amounts.

CHAIR—As there are no other questions, I thank you for your attendance today. You will be sent a copy of the transcript, to which you can make corrections in relation to grammar or fact. If you want to make a supplementary submission or comment or provide further material in the light of some questions that have been asked of you, feel free to do so. Just forward it to the secretariat and that will become part of a supplementary submission.

Proceedings suspended from 12.08 pm to 12.15 pm

LARBALESTIER, Ms Elizabeth, Secretary, New South Wales Young Labor**PARKIN, Mr Christopher, President, New South Wales Young Labor**

CHAIR—Welcome. Although the committee does not require that you give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission from you and if you wish to present any additional submissions or make an opening statement to the committee, please feel free to do so.

Mr Parkin—Firstly, we would like to thank you for the opportunity to present to the Joint Standing Committee on Electoral Matters. We also thank you for the leniency you have shown us in allowing us to lodge a late submission. I would like to acknowledge that I do actually work for a member of the committee, Senator Hutchins. I am on annual leave for part of today to cover that because I am not acting in my capacity as a staffer for Senator Hutchins; I am acting in my capacity as President of New South Wales Young Labor.

New South Wales Young Labor is the youth wing of the Australian Labor Party's New South Wales branch. It represents members between the ages of 15 to 26. It is also the official advisory body of the party on youth matters. So, understandably, much of our submission is geared towards youth involvement in politics and democracy. As I am sure you are aware, we have a keen interest in this. We think that some of the changes that were made prior to the last federal election have served to disenfranchise not just voters generally but young voters in particular. There are three particular things that we want to draw the committee's attention to. The first is the closure of the rolls one day after the writs are issued, the second is the identification requirements for provisional votes and the third is the changes to interelectorate enrolment rules when dealing with provisional votes. Before the changes to the Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act, if you changed your address but still lived within the same electorate, you could actually lodge a provisional vote and that would still be counted. We understand that that is no longer the case.

I think that it is pertinent to first look at what the stated motives for these reforms were. They were primarily to improve the integrity of the electoral roll and to make it easier for the Australian Electoral Commission to manage the influx of enrolments as they came in when an election was called. We want to refute those two arguments. Firstly, the integrity of the electoral roll: it has been very clearly noted in our submission that there have been very few cases of electoral fraud. I think Mr Danby had an exchange with the former Special Minister of State, Gary Nairn, where it was acknowledged by Mr Nairn that in the 2004-05 financial year, the period of time covering the 2004 federal election, there were, I think, no prosecutions for electoral fraud. There was also another matter where Mr Danby asked the Special Minister of State how many prosecutions had take place over the last 10 or 15 years, and there were about three or four selected cases used to justify the changing of these laws. We would submit that the gravity of these changes cannot in any way be justified by three or four hand-picked select cases. That is the first point.

In terms of making it easy for the AEC to manage the influx of voters in the lead-up to polling day, we would suggest—as suggested in exchanges that I believe Senator Ronaldson has had in the course of these proceedings—that the AEC actually have very little difficulty in managing the additional enrolments. In fact, the additional enrolments time is probably one of their peak periods and all they have to do is put on extra staff and spend extra hours managing that. We would submit that in a compulsory voting system it is actually our obligation to do that. It is not our obligation to constrict the manner in which and the method by which people can enrol but rather to make it as open as possible. Naturally, when an election is called, people realise there is an urgency—there is a set time frame in which they can enrol—so, logically, it is during the lead-up that they are going to get their act together and submit their change of address or submit their first electoral enrolment.

We want to note that we believe that there are some partisan agendas behind these reforms. I think it is no secret to anyone here that young people tend to vote progressively. That means they tend to support Labor or other progressive parties like the Greens. We think that was one of the motives behind the passage of these laws. I think it is very clear. There were a couple of Newspolls prior to the last federal election that showed Labor leading 54-34 nationally on a primary basis with young people and there were numerous other media articles outlining young voters' preference for Kevin Rudd and Labor in the lead-up to the last election.

Secondly, you will find that the majority of people who do lodge provisional votes are people who tend to be, for one reason or another, Labor sympathisers. You will find they can be from low socioeconomic backgrounds, have lower standards of education and that sort of thing.

Senator RONALDSON—Chair, can I just interrupt briefly. Can Mr Parkin ensure that he does not make statements as if they are fact but in terms of 'it is the belief of Young Labor that this was the situation, this was the motivation'. They are two entirely different things. I am happy for Mr Parkin to—

Mr Parkin—I apologise, Senator. I am happy to take that on board.

Senator RONALDSON—say that 'it is the view of Young Labor'.

Mr Parkin—I would like to change that to 'it is the view of Young Labor' if that is the case.

CHAIR—We will hold committee members to that standard too, Mr Parkin!

Mr Parkin—Much appreciated, Chair. If you were to go to Mount Druitt, say, as I have done, and assist in an election out there and you requested some form of photo identification from the people out there, you would find that there would be a large number of people who would submit, for example, their Rooty Hill RSL membership card as their photo identification. The number of people with drivers licences or passports is substantially lower, in our experience.

In terms of enrolment, we think there needs to be a re-evaluation of Australia's enrolment system generally. It needs to be more inclusive rather than exclusive and it needs to be easier, to put it simply. It needs to be easier to enrol. We have made one suggestion in our submission, and that is to consider the Canadian system, where they take official government documents and use

the information on those to enrol people or to change their details. We think that is something that there is room to look at in Australia.

Finally, we have made a couple of points in our submission about ways that we could improve young people's participation in the Australian democratic system. We want to put a caveat on that first: we are not endorsing these in any way. We are simply saying that technology has come a long way and, since there is a lack of participation or a reduction in participation by young people in the system, we think we should be looking at things like maybe online voting or SMS voting—taking that technology that is now available to us and looking at ways that we can incorporate that to improve people's participation in the Australian political system. Now, we recognise that there are a number of flaws in that that I am sure the members of the committee would probably want to throw at us. But I will put it out there first of all that we are not endorsing these; we are simply saying that these are things that can be looked at. There are safeguards that I am sure we could put in place, that the legislators could look at, with greater examination. They are just a few ways in which we believe that we can improve participation.

Ms Larbalestier—I will add that, with the changes that were made to the laws about the close of rolls, in the New South Wales election, where there is a fixed term, it may not be so much of an issue. But where the setting of the election date is a politically motivated date it is extremely important that people are given as much notice as possible to get themselves on a roll. New South Wales Young Labor, at a state level, has tried to overcome the changes that were made by calling on the New South Wales government to increase civic education courses in high schools to get more young people enrolling to vote. So on this level we ask for the laws to be reformed, but on a state level we have had to look at other ways such as increasing civic education. On this level we strongly call for the laws to be reversed so fewer people are disenfranchised than previously.

Mr DANBY—I will come back to the substance of your submission later, but I want to focus on a couple of things that I am not 100 per cent sure of in the submission. Do I take it from what you have just said that you think younger people are in favour of fixed term elections, as they are here in New South Wales, being introduced nationally? What effect do you think that would have on enrolments of younger people and interest in politics—would it affect it one way or the other? The other thing which Mr Parkin did not make absolutely clear in my mind is the question of 16- and 17-year-olds. What attitude does New South Wales Young Labor have to enrolling them and to their participation in the electoral process? We have had suggestions from other people that they also be provisionally enrolled.

CHAIR—I just raised for discussion that instead of having provisional enrolment at 17 we do it at 16, which might capture more people in their later years at school. The same principles would apply—that they would get to vote once they turned 18.

Mr DANBY—Those are two extra things, apart from what you have said and apart from your submission. I will come back to the substance of it later.

CHAIR—Can we keep it discrete?

Mr Parkin—First of all, on the matter of four-year terms, I do not think Liz was necessarily saying that young people would overwhelmingly endorse four-year terms as a proposal. Having

said that, in terms of the substance of our submission, I think four-year terms would remove the element of surprise that comes along with the current way in which we set election dates. I think that enrolments over the period would be more standard—there would not be such a spike once the election is called and there would not be the disadvantage that there would be if we were to keep it as it is now, where enrolments close one day after the writs are issued. I do not think that would be such an issue if we had four years notice of the next election date.

As for 16- and 17-year-olds, it is actually the longstanding position of New South Wales Young Labor that we support lowering the voting age to include 16- and 17-year-olds. There is a lot of discussion about how you can do that—whether you make it optional for 16- and 17-year-olds or whether you just make it a compulsory system for 16- and 17-year-olds—but that is our position when it comes to that. If we were talking about enrolment for that age group, that is what we would say.

Senator RONALDSON—At the outset, can I say that I congratulate you on being involved in the political process. It is a tragedy that there is not more of it amongst young people in this country. I will, I suppose, counter that by saying it is a pity you are so terribly misguided, having been influenced, I would suspect unduly, by your employer. Putting that to one side—and of course I had my tongue planted firmly in my cheek—I do congratulate you on being involved. It is important irrespective of what people's party politics are. I think young people need to take more ownership of the political process. I support, obviously, your counterparts on the conservative side of politics as well; it is very important, in my view. Do you know, off the top of your head, what the voting patterns were for young people in the 2001 and 2004 elections?

Mr Parkin—I could not say, to be honest. I can take that on notice.

Senator RONALDSON—I suspect that they were not as polarised as might have been evidenced by the 2007 election, but I cannot remember what—

CHAIR—That is my recollection as well.

Senator RONALDSON—Can I take you to paragraph 4 in your submission, on page 1. You talk there about disenfranchisement created by the closing of the rolls and then you give an example of 67,000 voters added to the roll immediately prior to the Victorian election. Then you say that 'many voters were well aware of the fact they needed to enrol months prior, owing to a significant VEC campaign'. To me, those two comments would seem to be greatly at odds.

Ms Larbalestier—It says 'owing to a significant VEC campaign'.

Senator RONALDSON—Yes. But you acknowledge that people were 'well aware' of the fact that they needed to enrol months prior. Following on from that, is it unreasonable to say that there has got to be some responsibility accepted? People having been made well aware, as you acknowledge, through this VEC campaign, there must be some responsibility, surely, flowing from that, to do with the rights and responsibilities of voting. Surely, if they have been made well aware, there is a responsibility falling onto everyone, isn't there, to facilitate their enrolment?

Mr Parkin—We would accept that there is an element of individual responsibility when it comes to enrolling yourself on the electoral roll. But, at the same time, we would argue that some of the draconian exclusionary methods that have been included in these reforms are just not justified. We would argue that, while there is responsibility on the individual to ensure they are on the electoral roll, there is an element of surprise that comes with the current system of calling elections—especially if you are to close the rolls a day after. Who knows what sorts of personal and individual circumstances you will find yourself in? The fact of the matter is that, particularly for the people that we are speaking on behalf of—working students, people who are studying full time and working part time—the stress is on their time to ensure that this sort of information is up to date and there to be seen for all.

Senator RONALDSON—I take your point. I have got kids who are studying and working and I understand. I do not think they study and work nearly as hard as I did. Having said that, if there is a 24-hour time frame but you acknowledge that people are made well aware and were well aware prior to that election—

CHAIR—It is actually close of rolls on the day, so it is not 24 hours. It is three days if you are altering your enrolment.

Senator RONALDSON—But there is plenty of room to accommodate those dynamics if you have been made well aware of the requirements. It is not as if there is only a three-day time frame where there is any knowledge at all about the requirement.

Ms Larbalestier—But why decrease it?

Senator RONALDSON—I will come back to that. Do you accept that the integrity of the roll is fundamental to this process?

Mr Parkin—Absolutely, but do we believe that there is any cause to believe that the roll was not of superb integrity prior to these changes coming in?

Senator RONALDSON—What are you saying?

Mr Parkin—What we are saying is that we do not believe there were sufficient challenges to the integrity of the roll justifying these changes being passed.

Mr DANBY—Is that based on Nairn's answers to me?

Mr Parkin—Yes.

Senator RONALDSON—I assume that you have read the AEC submission.

Mr Parkin—Parts of it.

Senator RONALDSON—And you have heard the discussion over the last day and a half about the commission's figures showing the people who missed out due to the close of the rolls in the 2007 election. I will just articulate it again. In 2007, 100,370 people missed the close of rolls deadline, but in 2004 it was 168,394. That would actually indicate that the changes that you

are alleging were so draconian were indeed not so and they did not have the negative impact that you allege they did.

Mr Parkin—Can I just ask you to repeat those two figures.

Senator RONALDSON—It was 100,370 in 2007 and 168,394 in 2004. So the draconian measures that you are talking about are not evident in the submission from the AEC itself.

Mr Parkin—I would ask: what is the basis for those figures? Are they people who came in and asked to get on the electoral roll after the close of the rolls?

Senator RONALDSON—I will read it for you, if you like. The AEC submission says:

In 2007 ... 100,370 people missed the close of rolls deadline for enrolling or changing their enrolment details (by providing an enrolment form between close of rolls and polling day, too late for the election), compared to 168,394 people who missed the deadline in 2004.

Mr Parkin—The argument could be made that in this case it was so well known and so well advertised that the rolls closed at 6 pm the day the writs were issued—is that right?

CHAIR—That is right.

Mr Parkin—I would argue that that fact was so well known that few people attempted to enrol after that date.

CHAIR—You did such a good job that they were gone.

Mr Parkin—They just did not bother.

Senator RONALDSON—On that basis, I will again put to you that if the integrity of the roll is fundamental and the AEC is widely advertising beforehand—and you acknowledge that it has worked and that there are more people there—if there is a risk to the integrity of the roll, why would you go back to where this legislation was prior to the changes when there is no evidence of disenfranchisement?

Ms Larbalestier—Why was the change made in the first place, and did the AEC increase their advertising because of the very fact that the laws had changed and it would be known that if people were not well aware then there would be a substantial number of people who would be disenfranchised? The issue is whether the laws can be changed back without any negative impact. With the changes to the laws that were previously made, there were negative impacts, and people in the AEC, organisations, youth groups and student organisations were well aware of what the impact would be if the changes were not advertised.

CHAIR—I suppose what could be said is that if you could still save another 40,000 or 50,000 without affecting the integrity of the roll it is worth doing. We have now got something to compare it with—that is, that the real issue is the integrity of the roll.

Mr DANBY—Is it possible that a lot of the people whom Senator Ronaldson was pointing to—who were, as you say in your submission, alerted by the VEC and did not enrol because they knew of the changes to the roll—were the kinds of young people whom one would have to put a great deal of effort into to see that they had a stake in the Australian political system? They were probably the more disaffected. They had not taken their civic duties as seriously as someone from Young Labor, the Young Liberals or the Young Nationals would have done. Who are the kinds of people you feel were affected by these changes to the law? Do you have an instinct for this from talking to people?

Mr Parkin—Our experiences indicate that the type of people who are affected are indeed those with lower levels of political engagement, which I guess is no secret. You have raised that and suggested that it is well known. There are also the university students who move at the end of every six-month lease and have to change all their details—their banking details et cetera—every time they do that. Particularly when it comes to provisional vote exclusions, that change to the interelectorate enrolment rule would have knocked a lot of them out, perhaps even 35 per cent of them.

Ms LARBALÉSTIER—Particularly rural and regional students.

Mr Parkin—Yes, particularly rural and regional students. Even just with our membership—for instance, our members enrolled up in Lismore—we will send a letter to them one week and then the next week they are gone. They have moved to another address, another residential college or something like that. So those are the sorts of people that we believe are vulnerable.

Ms LARBALÉSTIER—I think we are also talking about those students in between high school and university. Those first years after high school are often a period where they are unstable in their living arrangements. They have not quite got that down. You have gone from the stable environment of high school where they can be notified of the need to get enrolled, but in that period between high school and starting university they are not quite as engaged in terms of being able to be notified of such changes.

Mr DANBY—We have had some evidence that only 90 per cent of Australian citizens are enrolled. That has decreased over the last decade. Are you concerned that if people do not enrol the first time then that becomes a pattern set for life? Are the kinds of people we are talking about the kinds of people we need to get in at the beginning because otherwise they will stay out of the system in the long term?

Mr Parkin—What you are saying is that once they are on the roll they are more likely to stay on the roll than if they do not get on there in the first place. Yes, we would absolutely agree with that.

Mr DANBY—Turning to provisional voting, and apart from all of those young people who did not turn up because they did not have that extra time that they usually used to put themselves on the roll and adjust their enrolment, are you aware that at the last election—and I will give you the 2004 figure first of all—there were 61,000 people nationwide who applied for and got their provisional vote, and this time 3,000 people who applied for a provisional vote received it, according to figures on the AEC's virtual tally-room website? Do you have a comment to make on that as far as it affects young people? Would they have been included in those figures?

Ms Larbalestier—I think absolutely, as we have said before, that young people are more mobile and so that change of electorate and change of living address definitely impacts on young people. They are especially moving around during their studies.

Mr Parkin—Young people who have just enrolled to vote for the first time and who are new to the electoral roll are not the sort of people who have houses in the suburbs and a family to keep them there for 20 years. These are people who go out. They are studying at university and moving house every six months when their rent goes up. They are moving back and forth. They have uncertain accommodation at times. So when keeping track of their personal details a lot of those people, particularly those who are not engaged in the process, would find changing the details of their electoral enrolment would be at the bottom of their list of things to do every time they moved.

Mr DANBY—You will be encouraged to know that you are one of several organisations that have suggested this idea of automatic enrolments, such as the Canadian system or other systems. What would you think of the idea of the Electoral Commission writing to students? There is a system at the moment in New South Wales—I think it is in New South Wales; it is certainly in Victoria—where people get a birthday card from the AEC and are reminded that it is possible for them to enrol. They have to send something back in order to provisionally put themselves on the roll. I am in favour of the birthday card, but I am also in favour of them saying, ‘We have you at this address, blah, blah, blah; you will be on the roll unless you write back to us saying that you want to be excluded or that you are not at that address.’

Mr Parkin—An opt-out system?

Mr DANBY—Yes.

Mr Parkin—We would fully support that. That is probably one of the most inclusive proposals.

Mr DANBY—Do you think that would capture those kinds of people who do not enrol? Aren't there a lot of people who are not at school. How would we go about finding them?

Ms Larbalestier—So, not through the education system.

Mr DANBY—We could use that as our first point of contact but it is the vulnerable ones who are not there.

Ms Larbalestier—In that sense, that is where the enrolment form would need to be.

CHAIR—What I am thinking—and I have raised this with witnesses—is whether we have provisional enrolment from age 16. I think it would be better at age 16 if we are going to go to this next system. If you had that and then if you had an integrated system with the Roads and Traffic Authority people and, say, Centrelink, which is probably an area which young people use as well, then you could have provisional enrolment through those organisations so that there is a coordinated campaign. When young people come to apply for a licence or for a benefit they are given a provisional enrolment form, and if they are over 18, a proper enrolment form. That could integrate them into the system. Do you have a problem with that?

Mr Parkin—No, not at all.

Ms Larbalestier—That has been suggested.

CHAIR—It is an alternative to automatic enrolment because it does require a level of activity. What I am interested in is trying to get young people at places where they go for official purposes, and then look at whether we can get them to fill in an additional form.

Mr Parkin—Absolutely.

Senator RONALDSON—You made some comments about provisional votes and you talked about a few seats in that context. You are obviously aware of the provisional voting ID changes and you have said that they are inappropriate. Have you seen the figures for those who do not provide ID on polling day and who did not then, within the five days, provide that proof of ID? I will just give them to you: approximately 80 per cent of voters who did not provide proof of identity when voting on polling day did not provide it at all. The result is that 27,000 votes were rejected at preliminary scrutiny because an elector did not provide proof of identity. There was an opportunity over five days. I do not care how hard you study or how much part-time work you do, within five days you can provide some proof of identity—but 27,000 people failed to provide that proof of identity. Would you accept that that is a clear indication that those changes to the ID requirements were necessary and overdue?

Ms Larbalestier—So you are saying those people had five days to come back and provide proof of identity?

Senator RONALDSON—Yes.

Ms Larbalestier—I think it is more a matter that people make that effort to get to polling day because they know they could be faced with a \$50 fine. And then: ‘Holy hell, I’ve made all this effort to come on the Saturday, amongst all the sporting arrangements, and now over the next five days I have to provide proof of identity!’ Four of those days are working days and Sunday can also be a working day for casuals.

Mr DANBY—Senator, was that 27,000 out of the whole of the Australian population.

Senator RONALDSON—There were 167,500 provisional votes. Of those, 75 per cent met the ID requirements on the day. Of those who did not provide evidence on the polling day, approximately 20 per cent provided that by the cut-off on the first Friday following the polling day, which was 30 November, and 80 per cent did not provide it. That is 27,000 people who when given the opportunity to establish their identity failed to do so.

Mr Parkin—I think that the problem is that the senator is presuming that all of these people were not bona fide. I think that that is the wrong presumption to be starting from.

Senator RONALDSON—I did not say that they were not, but—

Mr Parkin—The implication of your question was that maintaining the integrity of the roll—

Senator RONALDSON—you cannot say that they were all bona fide.

Mr Parkin—No, we cannot. I will admit that.

Senator RONALDSON—I put it to you that that is why those ID requirements were put in place; to maximise the bona fides of people who are casting a vote, the importance of which you have referred to in your answer.

CHAIR—My understanding is that each of these 20,000 people signed an envelope into which their vote was placed, and in previous elections, as in this election, those signatures could have been compared to the signatures on their enrolment form. If there were no objections to the similarity of those signatures, those votes could have been admitted to the count. In other words—

Senator RONALDSON—Where is the 27,000?

CHAIR—I am talking about the 27,000, and what I am saying is that, unlike a proof of identity being a licence or whatever, the signature itself, which is there as a matter of record for the commission, is the proof of identity provided on the day by the potential voter. If the signatures do not match, the vote could be excluded. Is that an alternative that is to the requisite standard, especially when it applies to postal vote applications and postal votes returned?

Mr Parkin—I think that that is probably an acceptable view of things. The 27,000 that Senator Ronaldson is referring to, in many cases, would be the mums and dads who went out at 8 am to do the right thing, left their drivers licence at home and then thought, ‘Oh, stuff it!’

CHAIR—The point that I am making is that they signed, the same as they signed the return of a postal vote form. The way they are admitted to the count is, even with POI at the moment, that the Electoral Commission looks at the signature on the application for a postal vote and the signature on the postal vote returned.

Mr Parkin—Having scrutineered postal votes, I would agree with that.

CHAIR—It is absurd to argue this nonsense that we are dealing with all these phantoms.

Mr DANBY—I think that these 27,000 people are an example of a pattern. You have the other people who did not apply when the electoral rolls closed early and 80 per cent of provisional votes who were excluded would have been included in previous elections. What you have are categories of people who we are making it more difficult for and who we are excluding from the roll. The difference in Australia—and I know that Senator Ronaldson supports this too—is that we have a compulsory voting system.

CHAIR—Compulsory attendance.

Mr DANBY—Compulsory attendance is a more accurate description of it, Chair. But the point is that that gives us an even greater responsibility to see that the roll is as inclusive as possible and that we do not exclude categories of people. That is why I think that your submission is a valuable addition to our considerations. I cannot help but think that the exclusion

of younger people, of provisional voters and of the different categories of people who have been excluded from this last election did not have some political thought behind it. Again, I make it clear that that is my view; it is not the view of the committee. I am offended by the democratic offence—

Senator RONALDSON—This is now a statement rather than a question.

Mr DANBY—I am just saying this to these people because I appreciate their appearance here and the essence of what they are saying. It is because it is a compulsory voting system that we have the responsibility as a parliament to be as inclusive as possible, and you are dead right that this is a problem for young people and for provisional votes

Senator RONALDSON—Do you guys accept that if there is a Young Labor Party supporter who goes in to cast their vote in a very marginal seat they are entitled to know that their vote is not going to be effectively cancelled by someone voting the other way who is not entitled to vote? Are they entitled to know that everything that needs to be done to maintain the integrity of the roll, to protect the value of their vote, is done?

Mr Parkin—I think that is perfectly acceptable. But I would say: why did it take the Howard government 11 years to make these changes? For four elections it was considered perfectly acceptable for the integrity of the roll until they were in trouble, essentially.

CHAIR—In fairness, they did not have the numbers in the Senate. It was just in the last term that they blew their brains out.

Mr Parkin—Yes. I think it is clear that on the other side of the House and the crossbench—

Senator RONALDSON—I assume that was not a question either.

CHAIR—I am helping you. It was the first time that you had the opportunity to get it through the Senate. I just want to make sure the record is right. There had been a number of efforts over the years but a lot of changes were resisted by the Labor Party and the minor parties. It was not until the last term that these amendments went through.

Senator RONALDSON—I think, Mr Parkin, that your employer would acknowledge that indeed there are ongoing changes to a variety of Commonwealth laws that are not determined by when a party is or is not elected, and there should be no inferences drawn otherwise. I wish you had left *Big Brother* out of your submission. I personally would have left it out. I accept that you are floating the idea and I will ask you the question: have you looked in any in-depth way at how this could possibly be implemented or are you just throwing it out there for discussion? I am quite happy if it is the latter, but I am just wondering whether you have put it out there to have a yak about it or whether you have actually done any work on looking at how the security issues, which obviously are—

Mr Parkin—We flagged the security issues in our submission, obviously, and we put that caveat in. There has been no in-depth analysis as to how this could be implemented. This is simply an idea that we are putting to the committee that perhaps could be examined by

organisations and government authorities that have greater resources than New South Wales Young Labor does.

Ms Larbalestier—There is just the fact that people are now accessing their bank accounts online. High security is needed. And there are also many universities that undertake online voting. So young people are aware of online—

Mr DANBY—Can you explain that?

Ms Larbalestier—Universities carrying out—

Mr DANBY—Yes. What do they do? Do they do online voting for student elections or what?

Ms Larbalestier—Yes, for student elections. Each student has their own student number, so they can go in and do it. But there are obviously issues with that such as who is around at the time when they cast that vote. Universities can provide a computer polling station area. That does occur. Young people are aware of that technology.

Mr DANBY—So you vote on a computer screen. Can you vote from home and send the vote in?

Ms Larbalestier—Yes. It is on the university network, so you can log in from home or at uni.

Mr DANBY—So if you are sitting in a chemistry lab in the medical faculty and it is too much of a pain to go into the union building, you can just vote online?

Ms Larbalestier—Yes.

Senator RONALDSON—Mr Parkin, I am very keen for your career to advance, so if you want to change jobs I am happy to provide you with a character reference!

CHAIR—Thank you for your attendance today and for the way that you changed your times to assist us. If you do have any additional material or a supplementary submission that you want to make in light of further submissions and evidence, we would appreciate it. You will also be given a copy of your transcript in due course where you can make some corrections to grammar or fact, but unfortunately not necessarily to some of the content that might warrant it.

Proceedings suspended from 1.00 pm to 2.03 pm

CHAIR—Before we call the next witness, can I just have a motion to confirm beyond doubt that the additional submission by New South Wales Young Labor be accepted as evidence and authorised for publication?

Senator RONALDSON—So moved.

CHAIR—There being no objection, it is so ordered.

Mr MORRISON—Are there any sensitive items in there, Chairman, that may be before the courts?

CHAIR—No.

[2.03 pm]

HARWIN, The Hon. Donald Thomas, Member of the Legislative Council, Parliament of New South Wales

CHAIR—Welcome. Could you please state the capacity in which you appear before the committee?

Mr Harwin—I have been invited to substitute for the Chairman of the Select Committee on Electoral and Political Party Funding, Reverend the Hon. Fred Nile MLC, who sadly could not be with us today. I was the deputy chair of that select committee and, in fact, the mover of the original motion to establish it.

CHAIR—Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. The Hon. Don Harwin MLC was the Deputy Chair of the New South Wales Legislative Council Select Committee on Electoral and Political Party Funding. The select committee's report was tabled in the Legislative Council on 19 June 2008. This committee did invite members of the former New South Wales select committee to appear today. As I understand it, you are appearing in your capacity as a member of the Legislative Council. Do you wish to make an opening statement?

Mr Harwin—Yes, I will be brief and I do apologise that I have been unwell most of the day, so I may not be able to help you as much as I ordinarily would. So I will try to keep it brief.

The Select Committee on Electoral and Political Party Funding was established by resolution moved by me in the Legislative Council on 27 June 2007. The Greens had a similar motion on the *Notice Paper*. An earlier attempt moved in the Legislative Assembly by the Leader of the Opposition, Mr O'Farrell, to give similar terms of reference to our parliament's Joint Standing Committee on Electoral Matters was defeated along party lines. The key concerns that led to our House establishing the select committee were the escalating costs of election campaigns; the imbalance in resources available to the parties, particularly to the party of government; the perception that the huge funding advantage achieved by the party of government resulted from donations from corporations in industry sectors subject to close regulation by the state government, including property, liquor and gaming; and specific grievances held by minor parties with aspects of the electoral funding regime.

The select committee had five of the six parties represented in the House included in the membership. Two were from Labor and one from the Liberals, the Nationals, the Shooters Party and the Christian Democrats. The House selected the cross-bench members, with the Greens failing to gain a position on the committee as a result of the Labor and conservative cross-bench MPs in the majority to block them. The Reverend Nile was elected as the chairman by the committee—he sends his apologies today—and I was elected deputy chair. The committee received 189 submissions. The most significant, apart from the party submissions, were submissions from Action on Smoking and Health Australia, otherwise known as ASH; the Cancer Council; the Public Interest Advocacy Centre; the Democratic Audit of Australia; Dr Joo-

Cheong Tham of the University of Melbourne; the Urban Task Force; and the Property Council of Australia.

The committee held five public hearings and heard from 32 witnesses. We also held a public forum. Half of the submissions received by the committee advocated a complete ban on political donations or a partial ban on donations from certain sources. Two-thirds of submissions argued for tighter rules on disclosure.

In our report we make 47 substantive recommendations designed to apply to state and local government in New South Wales. I would like to emphasise that only two of those 47 recommendations were the subject of a division at the deliberative stage of the committee's proceedings. There was agreement across the committee that we should move to effectively the model that applies at a federal level in Canada.

Our key recommendations are: political donations from corporations and other organisations to be banned; political donations from individuals to be capped at \$1,000; individual donations to be linked to the electoral roll, so only enrolled persons can donate; disclosure every six months of donations and of spending over \$500; compulsory online lodgement of disclosure returns and the publication of those returns within one month of lodgement; caps on election spending by parties, groups and candidates; caps on election spending by third parties; public funding increased for state government elections; public funding investigated for local government elections; and a party administration fund created to subsidise administration costs of the parties represented in the New South Wales parliament as a response to caps on donations. There were also a broad range of other reforms for state and local government recommended by the committee which were in fact adopted by the government even before we reported and they were legislated in the week following the tabling of our report so they could be in place for the local government elections on 13 September this year.

Two key legislative changes already adopted by the New South Wales parliament are to reduce the disclosure limit to \$1,000 and implement six-monthly disclosure of donations and electoral expenditure. These are seen as interim steps while the green paper process initiated by Minister Faulkner proceeds. A key feature of our recommendations is a preference for harmonisation between state and federal jurisdictions as far as possible, but I think there is a willingness to consider going it alone if the discussions around the green paper process do not lead to the sort of major systemic reforms that we are suggesting. I might leave it there.

CHAIR—You have just mentioned a \$1,000 threshold—so, in other words, one of the two dissenting recommendations. Basically, you have picked up what the dissenters have wanted in the interim, namely, a \$1,000 threshold as against a \$500 one, for consistency purposes.

Mr Harwin—Yes. Just to be clear about that, the committee wants a system where there is a cap of \$1,000 on all donations. We also recommended that disclosure be \$500. There was dissent in the committee about the \$500 disclosure limit. The two dissenting members argued for a \$1,000 cap and a \$1,000 disclosure limit, which we thought was a bit ridiculous, because then there would be no donations to disclose—at least that was the position of the majority. But, as you say, the actual position taken up by the two dissenting government members was that the disclosure limit should be \$1,000, and that has now been picked up.

CHAIR—So, in effect, there is only the one recommendation where there is a difference of opinion to do with the Auditor-General.

Mr Harwin—Yes, that is quite right, and it is only to do with government advertising.

CHAIR—Yes, which is a separate issue.

Mr Harwin—No, we would contend that it is not. The committee took the view that it was not a separate issue simply because of the indirect supplement to political parties' budgets represented by government and the passing in the lead-up—

CHAIR—But on all the other substantive recommendations there is agreement in New South Wales?

Mr Harwin—Yes. There is also one matter which, if you actually look closely at the minutes, did not make it into the report. That is the issue of members' entitlements to communications budgets and that sort of thing. The two opposition members felt that that also should be brought within the purview of our recommendations if we were capping spending, but the majority of the committee thought otherwise.

Mr MORRISON—Could you expand a little further on how that report has been received since being brought down—the responses of the government here in New South Wales, other parties, commentators? How has the report been received?

Mr Harwin—The report has been received very well. There was a lot of controversy about the Greens being excluded from the committee, because obviously, apart from the strong position taken by my leader, the Greens have been extremely active in the area of political donations in New South Wales and they have had an online project as well. Nevertheless, they held a press conference straight after our chairman and I think the opening line from Lee Rhiannon was that history is littered with examples of good reports gathering dust, and then she went on to praise the report and endorse it. So, effectively, what needs however to be understood is that we had a select committee process that lasted about a full year. We deliberately decided to delay commencement until after the federal election because we did not want the policy issues involved to be sidetracked by people making submissions in the lead-up to the federal election. So we did not really kick the ball off until about October-November last year. But, as is well known, during the course of the inquiry, there was major controversy with allegations and, in fact, proven findings to do with Wollongong council and councillors and then allegations about a member of our parliament, which were subsequently found by ICAC to be not completely true.

However, during the course of our inquiry, there were two major announcements by the Premier of new positions; so, in fact, we were virtually overtaken by events. The Premier announced, in the immediate aftermath of the Wollongong revelations in February, that there would be changes in time for the local government elections. They were largely picked up in the bill that went through our parliament in the last week of June and are now being implemented in pretty much the form that was announced in February. Then there was a further shift in position by the Premier—in fact, on Easter Saturday—which my leader likes to describe as the Premier's on-the-road-to-Wollongong conversion, where he announced that he wanted the general secretary of the Labor Party to lead inter-party talks to come up with a major reform. There was

naturally at the time some cynicism that that was all just about trying to remove the Wollongong issue from the news cycle. That arguably has been proven by events that followed, because the inter-party talks have not really gone anywhere, but then the general secretary has been fairly busy.

Mr MORRISON—Have they been initiated?

Mr Harwin—Yes. The general secretary has had one meeting with each of the parties. To be fair to the general secretary, the privatisation of electricity has been a major concern of his, but since that all blew up before the state ALP conference there really has not been any movement at all on that issue, and now we have the situation of our report coming out. The Premier, on Easter Saturday, said his preference was to ban all political donations or what he called all private donations. When we had an opportunity to put to the general secretary of the ALP at the committee what that meant, we found that it effectively meant all donations from corporations, organisations, individuals and, indeed, from trade unions—but not affiliation fees from trade unions, because of the nature of the Labor Party's structure, and obviously not membership fees generally from all political parties. That was what was suggested by the Premier on Easter Saturday as the direction that he wanted the parties to look at.

Since our report, however—and I would draw the committee's attention to an article on page 2 of the *Sydney Morning Herald* on 17 July—the Premier has suggested that he is more supportive of what we had suggested in the report, which is a donations cap of \$1,000 and the restrictions on donations. When Minister Hatzistergos moved the changes to election funding laws in the last week of June—when they came before our parliament—he indicated fairly clearly that he would be the minister that would be involved in the intergovernmental committee of state and federal ministers that would be looking at harmonisation at a federal level, and he indicated that Professor Anne Twomey from the law faculty at the University of Sydney would be asked to write a paper on the constitutional implications of moving down the path suggested by our committee. That really is about where it is. The government is not required to respond formally to the parliament until six months after we tabled the report.

Mr MORRISON—Which I assume is around October. Is that right?

Mr Harwin—No. I think it will be November-December.

Mr MORRISON—So at this stage that is the status. In your report you canvass a wide range of issues and provide what I would describe as a holistic response to dealing with the issues of campaign finance. Currently we have this committee undertaking a review federally and we have a green paper that is due to come out at some point. There has already been—

Senator RONALDSON—Papers; there are two green papers.

Mr MORRISON—Two green papers, and we have already had a bill before the federal parliament relating to tax deductibility. That suggests to some of us on the committee that this is a fairly multifaceted approach.

Senator RONALDSON—And disclosure too.

Mr MORRISON—And disclosure. Could you comment on the virtue of trying to deal with this problem or this issue in a holistic way in the way that your report has done as opposed to what appears to be a disjointed process at the federal level.

Mr Harwin—Certainly at a state level we are doing it in a disjointed sort of way at the moment as well because the legislation effectively came within seven days of us tabling this report. It took up bits and pieces. It is not a very satisfactory situation, but the government felt that it needed to do something before the local government elections. But my very strong recommendation is that we should, as quickly as possible, have all federal and state governments come up with a holistic proposal. Right through our report we talk about the importance of harmonisation. I think we concede that, in particular, a lot of the regulation that comes on the supply side of the election funding issue, it needs to be dealt with at a national level for it to be effective. The whole issue of intra-party transfers, the whole issue of definitions of what a donation is and the whole issue of how it is disclosed and what sort of detail is disclosed would be immensely benefited by coordinated and quick reform to deal with the whole issue.

On the issue of the demand side it is a little different. An individual jurisdiction could decide to go it alone, and that is, in fact, what my leader, Barry O'Farrell, has suggested that New South Wales should do, if the federal government and other states could not be brought along. We strongly advocate and a number of other parties advocate spending caps regardless of what is done on the income side.

Mr MORRISON—With spending caps but, more specifically, with the campaign finance side of things and fund-raising and your comments about harmonisation, which is a specific term of reference for this committee, do you believe that it is possible for us to separate the more general issues we are dealing with in this inquiry, which range from everything from optional preferential voting in the Senate and arguably the House and other matters relating to postal votes and declaration votes and whatnot—and there are a whole range of issues about reducing the amount of informality and so on; that can be one issue that can be pursued at a harmonisation level in the COAG process—and then deal more specifically in the COAG process with the more straightforward issues about the receiving of funds for political purposes and how they are regulated? We could have one national system of regulation that deals with campaign fundraising and that can be done through a COAG process and established with one national authority.

Mr Harwin—They are separate issues and, yes, I agree with you.

Mr MORRISON—On the issue of establishing a national authority, if there is one thing that Wollongong established it is what we are talking about there was not even necessarily a deficiency in current laws but the breaking of existing laws. I would be interested in your comments about whether you think—at both a state and, indeed, a federal level—agencies, whether they be the Federal Police, the Australian Electoral Commission or the state electoral office, have a capacity and a mandate to both investigate and, if necessary, prepare briefs for prosecution.

Mr Harwin—I could only really comment on the evidence that we had at the select committee in relation to the New South Wales Election Funding Authority. The Election Funding Authority of New South Wales has no staff to conduct any investigations and does not conduct

any investigations. If they think there is a matter worthy of further investigation, they just simply refer it to the police. They do no audits and no investigations.

Mr MORRISON—We have received evidence from the Australian Electoral Commission that they are also in a similar position when it comes to investigation and so on. These matters are referred to the Federal Police, and the Federal Police, to our knowledge, from the last election have not brought any charges in relation to any double voting issues or anything of that nature and seem also to have neither the resources nor the ability to bring any of these matters to any sort of positive finality.

Mr Harwin—Whatever limited resources the AEC has, it is still substantially more than EFA of New South Wales. But there are just not any audits done by the EFA. Individual political parties in New South Wales supply a certificate done by a registered company auditor. That is accepted and then it is just made publicly available. That is as far as we go. Moreover, we had—but I might not be able to go into that because I think it was subject to an in camera hearing.

Mr MORRISON—So, if we are to have this range of new laws at a national level and hopefully harmonise with the states, would you agree that it is important that we have the resources and capacity to enforce those laws and that enforcement capacity and that investigatory capacity can be conducted at arm's length from government?

Mr Harwin—I think the electoral authorities need to be able to do more than they do, but I think there will always necessarily be a role for the state and Federal Police in terms of prosecutions.

Mr MORRISON—You say that the report largely reflects the Canadian model.

Mr Harwin—Yes.

Mr MORRISON—For the record, could you just generally provide some observations on the Canadian model—what you believe some of its virtues are and issues that would probably need to be addressed in applying it to an Australian situation?

Mr Harwin—I visited Canada last year and met with Canadian academics, the election authorities in Nova Scotia, Ontario and Quebec, and also Elections Canada, so I have a reasonable knowledge of those. I would strongly advise you, if you have a personal interest, to have a look at the Elections Canada website, because it is very good. But all of the key elements in our report are derived from the Canadian model, which in itself arose out of provincial arrangements in Quebec. Essentially, they have completely banned corporate, trade union and—

Senator RONALDSON—I am sorry; legislated from the—not the states; what do they call them?

Mr Harwin—Quebec was the first jurisdiction in Canada to adopt what is effectively now referred to as the Canadian model. As a response to the whole ad scam scandal in Canada, former Prime Minister Chretien basically picked up what they had done in Quebec in the seventies and put it in place nationally in Canada, as a response politically, to be seen to be responding to the ad scam scandal. Effectively, it is to cap donations at \$1,000; to ban donations

from corporations, trade unions and any other entities; and to introduce a more extensive system of public funding of political parties. They now have quarterly allowances to political parties to fund their administration, as well as their election expenses. In Canada, the proportion that is being paid for out of taxpayers' funds is about 50 per cent. They also have spending limits. The spending limits are fairly substantial. They are much higher than, for example, the spending limits in New Zealand but not as high as in Britain. But, as I have said, approximately 50 per cent of what parties spend comes from taxpayers in Canada. They are the principal pillars of what is in place in Canada.

CHAIR—Did your committee have before it any advice on a constitutional level or on any other level that could prove difficulties in implementing some of these recommendations?

Mr Harwin—First of all, the committee did not commission any legal advice. The budget was just not there for our committee to do that. It was felt that it would have been desirable but that we would couch our report in terms of: 'These are the recommendations we make. We recognise that there might be constitutional issues involved, but this is what we would prefer.' We were mindful of the fact that in Canada there is a charter of rights in place. It is of course a common-law country with similar issues to those we have but with a charter of rights. There have been legislative challenges to the Canadian model—in fact, most notably in the case of *Harper v Canada*—by the current Prime Minister, Stephen Harper as the plaintiff, when he was an executive director of, I think, the National Citizens Coalition—which is the equivalent of the IPA or the Centre for Independent Studies—to try to knock over the third-party spending limits. That action failed. Most of our witnesses and members of the committee viewed the suggestions that there are constitutional problems with placing caps on spending and caps on donations as probably being a bit overblown.

Senator RONALDSON—Mr Harwin, it is nice to have a—

CHAIR—A soul mate?

Senator RONALDSON—Apart from the obvious from this morning, in a party sense, yes, but, more importantly, in the sense of someone who has been through this process—a fellow traveller who has finished the process that we are in the middle of. Recommendation No. 19 of your report states:

That the Premier cap election spending by third parties ... and consider whether spending by associated entities should also be capped.

This morning—and I do not mean in any way to make any reflection—we heard from Mr Gadiel from Urban Taskforce Australia. We were talking about third parties and associated entities. Mr Gadiel indicated that he could not make up his mind as to whether the Work Choices campaign run by the union movement prior to the last federal election should be banned, because it did not actually stipulate a vote for a particular party. My strong suggestion to him was that that was errant nonsense and that clearly it was a direct contribution to the federal Labor Party from the union movement. What were the views of your committee in relation to third parties and associated entities and, indeed, what is your definition of those?

Mr Harwin—We did not decide on a definition, but we were mindful of the fact that there are definitions in British, Canadian and New Zealand legislation that were worthy of further consideration.

CHAIR—When you say ‘definitions’, what tests—

Mr Harwin—Definitions of—

CHAIR—What constitutes—

Mr Harwin—what constitutes third-party expenditure. But time did not permit us to actually consider which of those provisions we preferred. From memory, the evidence was a preference for the New Zealand model, but I could not be sure on that point and we did not finally take a view as to which one we preferred.

Senator RONALDSON—Recommendation 9 is:

That the Premier exempt party membership and affiliation fees, including union affiliation fees ...

I presume that would exclude special election-type levies, as the union movement levied from their members prior to the election to help fund this campaign. Did you look at that at all?

Mr Harwin—We did not have specific evidence on it.

CHAIR—Are you talking about union levies?

Senator RONALDSON—A levy over and above an affiliation fee.

Mr Harwin—I think our view would have been that a special election levy would have been analogous to a donation. The committee, in reaching the degree of unanimity it did, decided to agree to a ‘respect for party structures’ sort of approach to the affiliation fees issue, and we did not recommend against excluding trade union affiliation fees. What we did suggest, however, was that that should not necessarily be uncapped and that we would have to have some sort of a mechanism that limited it.

Senator RONALDSON—Recommendation 13 is:

That the Premier ensure that the legislation to ban all but small individual donations places no restriction on genuine volunteer labour.

Did you drill down, for want of a better word, to the manning of polling booths or other such associated party activities at all when you were looking at the genuine volunteer labour? I put that in the context of the ACTU having provided very substantial polling booth assistance to Labor candidates certainly in Victoria and I would presume elsewhere. Did you look at that aspect of volunteer labour; if not, what context—

Mr Harwin—We did and we recommended a ban on in-kind donations other than volunteer labour.

CHAIR—In other words, people who are not being paid to staff polling booths would not come within the definition.

Mr Harwin—And that has now been legislated for in New South Wales. In-kind donations over \$1,000 are banned in local government and state elections in New South Wales. I am troubled by those. Volunteer labour, as we understand it in terms of our party members coming out and helping—obviously we could never restrict that; that would just be completely farcical. My problem is that, without a whistleblower, by and large you will not know about contravention of that in-kind donation provision. So it is going to be very difficult, I think, to police. My particular concern, when I spoke on the legislation in the House, was the tradition that Labor has of allocating a union to a seat and the use of equipment. It will be impossible for anyone to know, unless there is a whistleblower, that there is a paid union organiser in a marginal seat, sitting there with their work laptop and their work Blackberry and their work—

CHAIR—But a paid union organiser falls into a different category. Why shouldn't a union or anyone with any ability allow resources to be diverted? I am talking about voluntary labour here. I understand that at one stage at the last election certain booths were abandoned by the conservatives in an attempt to rescue others. That is a legitimate thing. Are we saying that that sort of activity—moving boundaries or shifting resources, which is voluntary; and I am not talking about paid labour but putting that in a separate category—is not a legitimate form of participation?

Mr Harwin—Absolutely. But I think my concern was that it will often be without a whistleblower. I am talking about it being impossible to know whether someone really is a volunteer or being paid.

CHAIR—It seems to me that, if you have a paid official in an area, that would come under the disclosure provisions. Someone working there in a paid capacity or being sent there as a union organiser or whatever, I would have thought, come under the declaration provisions. If we ban that sort of stuff, that is another matter.

Mr MORRISON—I am just trying to understand what you are suggesting. Under the proposal put forward in your report, in-kind donations are banned. That would include the secondment of staff of external organisations working full time on a campaign.

Mr Harwin—Absolutely.

Mr MORRISON—That would include people driving around in 'your rights at work' trucks, following candidates for 12 months—

Mr Harwin—Absolutely.

Mr MORRISON—as occurred in Eden-Monaro.

CHAIR—If they are paid labour.

Mr MORRISON—Yes. If people were paid by a union to work in a campaign, using union trucks and vehicles and putting up union signs, would that also—

Mr Harwin—It is not a case for saying that that is now contrary to New South Wales law, if those people are now directly involved in supporting the election campaigns of particular candidates.

Mr MORRISON—So, under what you are proposing, an in-kind donation would also include the use of cherry pickers driving around streets and putting up signs, where those cherry pickers are owned by, say, energy companies.

Mr Harwin—If the political party is not paying market price for the use of those cherry pickers, including the cost of the labour, they are now, on my reading of the Election Funding Act of New South Wales, illegal, if the value is more than \$1,000.

Mr MORRISON—But only to the extent to which those things were being undertaken for state and local elections.

Mr Harwin—Yes, for state and local elections.

CHAIR—My interpretation of recommendations 13 and 11, where they talk about voluntary labour or genuine voluntary labour, is that, if it is unpaid, it is okay.

Mr Harwin—That is right.

CHAIR—If it is unpaid, if it is unionists or whatever going there as part of their political—

Mr Harwin—That is right. If it is outside their work time and they are not being reimbursed for it—

CHAIR—And they are not being paid.

Mr Harwin—That is absolutely fine.

Mr MORRISON—I just wanted to be sure that we were talking about the same thing. But, where they are paid, on the payroll, working—

Mr Harwin—And they are doing it in work time, yes.

Mr MORRISON—and using external organisational material—

Mr Harwin—Yes, absolutely.

Senator RONALDSON—There are some real issues with that though. You are never going to know whether time in lieu has been given. I would have thought it was open to gross abuse.

Mr Harwin—That is the point I think I made at the outset. I think it is going to be almost impossible to enforce this law properly without—

Mr MORRISON—Some enforcement powers and resources.

CHAIR—The point is that, if you have penalties and legal provisions and people are in breach of the legal provisions, consequences flow. If there is legitimate volunteer activity, wherever it comes from, I have a real problem with any suggestion to put a price on that and ban that as well.

Mr MORRISON—No, I do not think that has been suggested.

Mr Harwin—I think it is no particular secret that state governments decided to do it in response to the revelations in the Wollongong case regarding the provision of a free campaign office to a candidate. Obviously, that is the principal catalyst for action in this area. But, in terms of the way the law has been written, I think it is going to be quite wide.

CHAIR—But there is some suggestion, isn't there, that, under existing law, that should have been disclosed. You did not need a change to the law.

Mr Harwin—That is right; it had to be disclosed. But the point is that it is now illegal.

Mr MORRISON—Therefore, it is not disclosed.

Mr Harwin—You have to pay for your campaign office now; it cannot be donated.

Mr MORRISON—How did you then deal with the issue of commercial discounts and those types of things? When is something an in-kind donation and when is it a good deal? That is a very tricky issue.

Mr Harwin—We have moved on now and we have an act, and the act makes certain requirements.

Senator RONALDSON—Was the \$1,000 an accommodation of committee dynamics or was there a very strong view that that was the appropriate course of action?

Mr Harwin—The Canadian cap was \$1,000, although it is now indexed.

CHAIR—And you have indexed it?

Mr Harwin—The Canadians have indexed it, so it is a little higher than \$1,000 now.

Senator RONALDSON—At the public hearings, was any view expressed by committee members that the \$1,000 might undermine the integrity of that sort of provision because it left it wide open, or was there general consensus that \$1,000 was an appropriate course of action? Was any concern expressed within the committee at all?

Mr Harwin—No, not at all. It was seen as an appropriate figure. From recollection, it was also the Greens' figure.

Senator RONALDSON—What was the reason for deciding—I am sorry to return to this—not to make a recommendation about associated entities?

Mr Harwin—We felt that we had not had enough evidence.

CHAIR—What was the evidence before the committee—

Mr Harwin—Evidence as to the virtues of which of the particular definitions we should adopt—the Canadian, the British or the New Zealand.

CHAIR—There was evidence before the committee, but there was not agreement in terms of the definition.

Mr Harwin—That is right.

Senator RONALDSON—So was the view that something needed to be done but you were not too sure of which system, or were you not too sure whether anything should be done at all?

Mr Harwin—We might be at cross-purposes here. We particularly looked at the initial third-party spending caps. We did not spend a lot of time on the regulation of third-party entities; that was because of lack of evidence.

CHAIR—Thank you for your attendance today.

Mr Harwin—It has been a pleasure.

CHAIR—You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact.

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

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

Committee adjourned at 2.48 pm