



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Implications of the New South Wales Parliamentary Electorates and  
Elections Amendment (Automatic Enrolment) Bill 2009**

TUESDAY, 2 FEBRUARY 2010

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**JOINT STANDING  
COMMITTEE ON ELECTORAL MATTERS**

**Tuesday, 2 February 2010**

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

**Members in attendance:** Senators Ryan and Feeney and Mr Danby, Mr Melham and Mr Sullivan

**Terms of reference for the inquiry:**

To inquire into and report on:

The implications of the New South Wales Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009 for the conduct of Commonwealth elections, including any consequences for the enrolment of persons living in New South Wales for the purposes of Commonwealth elections.

**WITNESSES**

**BARRY, Mr Colin, Electoral Commissioner, New South Wales Electoral Commission ..... 1**

**BEEREN, Mr Paul, Director, Enrolment, New South Wales Electoral Commission ..... 1**

**BRENT, Dr Peter, Researcher, Democratic Audit of Australia ..... 23**

**DACEY, Mr Paul, Deputy Electoral Commissioner, Australian Electoral Commission ..... 1**

**KILLESTEYN, Mr Ed, Electoral Commissioner, Australian Electoral Commission..... 1**

**MUSIDLAK, Mr Boguslaw Czeslaw (Bogey), President, Proportional Representation Society of  
Australia..... 23**



**Committee met at 12.11 pm****BARRY, Mr Colin, Electoral Commissioner, New South Wales Electoral Commission****BEEREN, Mr Paul, Director, Enrolment, New South Wales Electoral Commission****DACEY, Mr Paul, Deputy Electoral Commissioner, Australian Electoral Commission****KILLESTEYN, Mr Ed, Electoral Commissioner, Australian Electoral Commission**

**CHAIR (Mr Melham)**—I declare open this public hearing of the Joint Standing Committee on Electoral Matters. The committee is inquiring into the New South Wales Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009. The committee notes that the act was passed by the New South Wales parliament on 1 December 2009 and received assent on 14 December 2009. The committee is examining the implications of the New South Wales legislation for the conduct of Commonwealth elections, including any consequences for the enrolment of persons living in New South Wales for the purposes of Commonwealth elections. At this public hearing the committee will hear from the Australian Electoral Commission and the New South Wales Electoral Commission, who will appear together, followed by representatives from the Proportional Representation Society of Australia and the Democratic Audit of Australia. I refer members of the media who may be present at the hearing to the need to fairly and accurately report the proceedings of the committee. Mr Killesteyn, do you wish to make an opening statement at this stage?

**Mr Killesteyn**—Yes, I do. I thought it would be useful to provide the committee with some context about the process of enrolment and enrolment levels to illustrate how we have come to be discussing moves by the NSW parliament to institute a smart roll program. I would then like to briefly discuss how the smart roll program may affect that process of enrolment and enrolment levels both for NSW electors and in terms of enrolment for federal elections.

The Australian Electoral Commission strives to deliver the best possible electoral system for the benefit of those who are eligible and entitled to enrol and vote—that is, Australian electors. Enrolment is not an end in itself; it is an instrument for ensuring, firstly, that eligible people are able to exercise their fundamental right to participate in the governance of the country, and, secondly, that those rights are not compromised by people voting who have no right to do so. From that perspective, the critical qualities required of the roll are that it be as complete, as accurate and as trusted as possible. These qualities are enduring, but how these qualities will best be achieved is likely to vary over time depending upon the nature of society and the prevailing technological opportunities.

It is important to bear in mind that the way in which enrolment works in Australia today is largely a product of history. It was the only approach which was feasible when the rolls were first set up over 100 years ago. If the task before us today was to create from scratch a new electoral enrolment system, it is inconceivable that we would devise a system predominately dependent on paper based forms for enrolment and updates. We would adopt current technologies; optimise the benefit of existing, trusted datasets; and have a range of interfaces designed for elector convenience. Our systems design would be capable of adapting to emerging

technologies and, importantly, we would seek legislation that allowed rapid adjustment to new opportunities for efficient delivery of the franchise.

Implicit in this contemporary model for constructing a complete and accurate roll would be processes for building trust in it. In Australia, trust in the rolls has several sources. Firstly, there is general trust that enrolment data, once provided to the AEC and in whatever manner, will be processed accurately and against standards of integrity, with no improper interference. Secondly, even without a formal process for public display of a preliminary roll—as is done in many countries—a considerable degree of transparency in the enrolment process is provided by the fact that enrolment data is systematically made available to a range of stakeholders with an interest in its accuracy, in particular parliamentarians and registered political parties. Finally, the introduction of proof of identity requirements has given some observers greater confidence in the accuracy of the data held. These mechanisms are well entrenched and also likely to be enduring. Taken together, these points give us a basis for considering not just the opportunity which the smart roll model program presents but also factors which ought to be taken into account to ensure that any change does not compromise the enduring qualities which underpin a high-integrity electoral roll.

In an earlier appearance before this committee, in March 2009, I informed you that at that time there were about 1.2 million eligible voters currently not on the electoral roll and therefore not able to exercise their franchise. At the end of September 2009, some six months after that hearing, the estimate had grown to 1.3 million Australians. And at the end of December 2009 it was 1.39 million Australians. To put it another way, enrolment participation levels have dropped from an estimated 92.3 per cent at the 2007 election to 90.9 per cent at the end of 2009. Electoral roll decline is not a new phenomenon and nor is it confined to the Commonwealth roll. In fact, it is evident that electoral enrolment generally has been in decline for almost a decade, falling from the high levels achieved prior to the 1998 federal election.

I draw your attention to the graph on page 7 of the AEC submission. This graph shows that the trend of decline has been evident since at least the 2001 election; and, despite the gains made during the targeted enrolment stimulation in the lead-up to the 2007 election, the long-term trend of decline continues. I draw these figures out for you because they highlight a need to modernise the way electors are able to interact with the AEC and vice versa. Significantly, this committee has recognised that need, making a number of sound recommendations in its report into the conduct of the 2007 election aimed at enabling modernisation to occur.

Continuation of the existing processes for enrolment as defined in the Commonwealth Electoral Act will, however, aggravate the situation, and in my view has led jurisdictions like NSW to seek new alternatives to mitigate those effects. While there may be some—and I stress only some—criticism of the AEC in focussing in the past on short-term temporary fixes to roll stimulation, ultimately this is not about the AEC per se but rather the tools that it has its disposal to perform this important task. I can assure you that the AEC is ready to innovate if it is given the tools to do so.

I do not believe that there is a single remedy which will bring about a sustainable and ongoing increase in enrolment participation. Rather, we need to extend the range of tools in our toolset and be flexible enough to change them as necessary in order to keep up with the times. In addition to the manual, paper based processes that we currently employ, the data matching that



we currently use and our public awareness activities, modernisation in the form of electronic interactions, use of data for direct enrolment updates and various forms of automatic enrolment are but some of the tools required.

Such electronic processes must be supplemented by a real commitment to improving levels of electoral awareness and social obligation in our society if we are to see the long-term trends in electoral participation turned around. This would ideally include encouraging an understanding of our electoral system and the benefits of electoral participation through integrated civics education in primary and secondary schools. While it is not the focus of this particular inquiry, it is another aspect of electoral participation that will be the focus of the AEC's strategic activities in the years to come and an aspect on which I will have more to say at a later time and place. It is salient to note that nearly 200,000 of the 600,000 people who were enrolled but did not vote at the 2007 election were 18- to 30-year olds. In other words, it is one thing to get them on the roll; it is another challenge to get them to the ballot box. I acknowledge that there are a range of views about the way in which we should access and use data about potential electors for the purposes of maintaining the electoral roll. This inquiry presents a timely opportunity for us to further discuss such matters.

The essence of the NSW legislation is that it opens a new channel by which an elector, eligible to exercise his or her franchise for a NSW state or local government election or referendum, can have his or her enrolment details updated if their name or address has changed or have their name included on the roll for the first time without them taking any overt action. This is a fundamental change in the manner in which electoral roll administration has been engineered in Australia but is not unique and reflects the practice in other countries.

Assessed against current enrolment processes, the AEC believes the NSW smart roll legislation will have positive effects on roll growth and maintenance of the New South Wales electoral roll. NSW will be able to add to and update their roll based on smart roll processes. Bearing in mind that one-third of our estimated 1.3 million missing electors are in the 18- to 25-year-old cohort, the NSW roll will grow at a faster rate than the Commonwealth roll, firstly, because the ability to automatically enrol young Australians now exists in that state, and, secondly, because the NSW Electoral Commission will be permitted to use data received from other agencies to facilitate direct enrolment update for existing electors.

The AEC are strongly supportive of these changes. We have been working in full cooperation with the NSW Electoral Commission for the past 12 months to ensure not only that the processes employed for implementation of the new legislation lead to the anticipated roll growth but also that the roll grows with the integrity that we all continue to expect. This is important to us because, in the absence of changes at the federal level, we want to be able to use the data about new electors gathered by the NSW Electoral Commission to pursue federal enrolment. Our approach to the implementation of any such automated measures will be to proceed with an abundance of caution, conservatism and carefully designed business rules that result in roll growth with integrity. However, in the absence of similar provisions being introduced at the federal level, there are a number of implications for the electoral system which need to be assessed and understood. These implications arise both from the perspective of the elector and from the perspective of Australia's electoral system, for which I and the other electoral commissioners act as custodians.

There is no doubt that some electors will believe, or certainly expect, that by being enrolled on the NSW roll they will be enrolled for federal elections. The fact that they are not may only become apparent when they have been refused a vote at a federal election. The potential for elector confusion is therefore increased as electors added to the NSW roll, or those who have their electoral details updated by the NSW Electoral Commission using the processes provided for in the NSW legislation, will not be similarly added to or updated on the Commonwealth roll unless they complete and submit to the AEC an enrolment form that is compliant with the Commonwealth legislation.

Further, electors who have complied with the NSW legislation or had their enrolment details updated but who have not done so for federal elections may still be omitted from the Commonwealth roll because of their possibly unintentional noncompliance with the Commonwealth regime. In addition, the time during which an elector may be added to a roll for the purpose of a NSW election will be increased, with NSW electors able to enrol up to and on election day, with votes being cast as declaration votes and counted once their entitlement has been confirmed by the NSW Electoral Commission.

Conversely, at federal elections, those who attempt to enrol on election day will not be enrolled for the election, nor will their votes be counted, unless, as is currently the case, a valid entitlement already exists. The potential for elector confusion and dissatisfaction with federal electoral processes is therefore likely to increase as a result.

From the perspective of Australia's electoral system, in this and other fora there has been much debate about the benefit of more contemporary approaches to enrolment. The steps being taken by New South Wales are broadly consistent with the ideas canvassed in those debates and there is every prospect that their reforms will deliver a more complete roll for New South Wales electors. In the absence of parallel measures at the Commonwealth level, there is also every prospect that other jurisdictions with whom we have joint roll arrangements will seek to implement similar reforms. That may make the ideal of even rudimentary harmonisation of electoral systems even more difficult to achieve.

The impacts of differential Commonwealth and New South Wales enrolment processes will not materialise overnight, and will be affected by the relative order of the federal and New South Wales elections. But, over time, the differences are real and, over time, perhaps a couple of elections, voter confusion will be exacerbated, and it seems inevitable that public dissatisfaction with electoral processes will grow. If that leads to wider disaffection with electoral processes, our current concerns about enrolment participation could pale significantly.

**CHAIR**—Thanks, Mr Killesteyn. We have received a formal submission from the Australian Electoral Commission and that, together with four other submissions, has now been authorised for public release. They will be put on our internet site for people to access. Mr Barry, the New South Wales Electoral Commission has not made a formal submission to the committee. However, we do have a copy of your submission to the electoral reform green paper and that has been circulated to each member. We do not propose to make it a submission because it is publicly available in any event, but I will invite you, if you wish, to make a statement.

**Mr Barry**—Thank you. I welcome the opportunity to help this committee to understand how the new smart roll processes will work in New South Wales. I just want to state for the record

that of course this is legislation that has now been passed by the New South Wales parliament with bipartisan support so, of course, members of the committee will understand that I am not here to debate the policy implications or the policy merits of the legislation. My job is to administer the law.

What I would just remind the committee is that there are four aims of the smart roll process. Firstly, as Mr Killesteyn pointed out, to reduce the gap. We estimate that there is somewhere in the order of about 500,000 New South Wales electors who are missing from the roll. We want to try to reduce that. Secondly, we want to improve the time in which electors' address details are changed when they move address. That is for existing electors. Thirdly, we want to improve the quality of the enrolment register in New South Wales. We want to be proactive in enrolment strategies, we want to better align the electoral register to the demographic makeup of New South Wales and we want to improve the coding of addresses to local government areas.

The fourth outcome of the project is to provide electors and citizens with a simpler system to enrol and have their addresses updated. To that end, there are really three components to the automatic enrolment, or smart roll as we call it, and they are principally to automatically enrol electors where the electoral commissioner is satisfied that they are so entitled to be enrolled based on information from a trusted agency—I am happy to talk about that later on; secondly, to change an elector's address where they are already enrolled based on information from a trusted agency; and, thirdly, to be able to enrol electors post the issue of a writ for an election right up to and including on election day and allow such electors to vote. They are the three principal components of the smart roll process.

I mentioned that it is law in New South Wales; my job now is to give effect to this. As Mr Killesteyn pointed out, we are very conscious of the fact that there is likely to be a federal election before the next New South Wales state election. We are very conscious of the fact that we do not want to create confusion in the mind of electors, and we have been working closely with the AEC in order to come up with some strategies as to how we may avoid that confusion.

The other point that I would make is that this is not an alternative to the current arrangement; my view is that it is augmenting the current arrangements. For the foreseeable future, indeed, I do not see there being a radical change in how electors continue to enrol. They will continue to fill out the purple form, but there will be an increasing number of electors, particularly younger people, who will be put on the roll without application. Mr Chair, thank you for the opportunity to address the committee.

**CHAIR**—Thanks, Mr Barry. I will just open up with a few things and then pass to my colleagues. The first observation I want to make—and I think it is one that you made, Mr Barry—is that what has happened in New South Wales is now the law and we have an arrangement at a federal level which is also the law, but there are some differences. So, in effect, whether we like it or not, we have two systems. My concern is: how do we proceed from here? I do not think anyone is opposed to maximising those on the roll; the argument is about the integrity of the roll and the accuracy of the information. They seem to me to be the two things that need convincing resolution.

But, from a Commonwealth point of view, what are we being asked to do in terms of a Commonwealth legislative response? If we legislate the New South Wales changes into the

Commonwealth act, are we to then say they are only to apply to New South Wales electors, so you have a mirrored system there, and not to the rest of Australia, and what does that mean—so that you have, in effect, New South Wales with automatic electoral enrolment with some differences and the other state and territory jurisdictions with a different one? Or do we legislate for the whole of Australia as a national parliament and then have a situation where, again, you have seven other jurisdictions that do not have the mirrored system—only New South Wales and the ACT? So what are we being asked to do—to bring in national legislation, if we were minded to do so, at a national level for every state and territory in response to what New South Wales has done or to have transitional provisions where, as they come online, we have mirrored situations in each state or territory, which could lead to differentiation? I am a centralist; I do not apologise for that. I believe in national uniform systems. But, whichever way we go, we are not going to have a uniform system here. Is that legitimate?

**Mr Killesteyn**—Perhaps I can start and Mr Barry can add any further comments. It would seem to me to be preferable, if the committee were considering making such recommendations, to proceed with similar provisions that it would apply Australia wide. I would find it extremely odd and, in fact, probably unconstitutional that you could only apply it to one particular set of electors. Nevertheless, I am not a constitutional lawyer. I would have to rely on people like Mr Pirani to help me with that comment.

**CHAIR**—Except that I can remember the case of *Snowdon v Dondas*, and the electoral provisions do not have to apply uniformly around Australia in relation to subdivisions. At one stage *Snowdon* lost that unanimously in the High Court. You had subdivisions within the Northern Territory and the electoral act was the electoral act and that governed the qualification of electors. I am not a constitutional lawyer and I am not saying it is preferable, but I just needed to know whether you were asking for a national system.

**Mr Killesteyn**—Absolutely. I think you are absolutely right, Mr Chair, that there is an element of differentiation in that over time we are likely to see differential systems operating. The question is, if committees and parliaments were minded to bring in these provisions, whether you would find over time that there would be harmonisation, but it would not necessarily happen overnight.

To a certain extent all of the electoral commissions around Australia are focused on this particular issue—they are all concerned about it; they are all adopting different measures. If the Commonwealth moved, then we would in some way be trying to catch up with what New South Wales was doing. Other jurisdictions would then be faced with the same prospect.

I understand, however, that the other jurisdictions do move relatively quickly to harmonise with the Commonwealth legislation, particularly the smaller states, where the reliance that they have on the Australian Electoral Commission to complete their enrolment is quite strong. You would probably find that there would be pressure on those organisations and parliaments to move in similar ways.

**CHAIR**—To further clarify the comments we made in relation to constitutionality, the one difference in the Northern Territory, of course, is that it is not a state, which is why the High Court found it easy in its determination—that is how states and territories are treated can be

different in the Electoral Act. You are saying, 'Let's have a national provision that makes us uniform with New South Wales and other states can be encouraged to come on board.'

**Mr Killesteyn**—My concern is 1.39 million, not half a million. The half a million are part of the 1.39 million, even though the New South Wales roll represents the largest component of the numbers that are not on the roll. I therefore have to look at it as a national issue.

**CHAIR**—Being the devil's advocate, we have had a debate in this committee over a number of years as to whether the rolls should close at the time an election is called or within seven days and so on. I understand there was bipartisanship in New South Wales, Mr Barry, but it is the integrity question that would need to be addressed in terms of late enrolments under this system, particularly on the day. I know you have provisional voting allowed for on the day. I assume that would have to be before the day in question as well. What are the time frames we need to allow for here?

**Mr Barry**—Would like me to explain how it operates?

**CHAIR**—Yes, please. I think it needs to go on the record.

**Mr Barry**—One thing I will say for the record is that this legislation was passed in December; it is now February. We still have a bit of work to do on various parts of it, but I will describe our preliminary thinking around election day enrolment. Certainly all our advertising would be directed strongly to people to enrol or update their enrolment before the issue of the writ. Once the writ is issued, our advertising strategy would change along the lines that, if you have not enrolled in time, all is not lost. There is a savings provision: you can turn up on election day and enrol. If you turn up on election day, you will only be able to enrol and vote if you have a New South Wales drivers licence or a proof of identity card issued by the New South Wales RTA for the address that is on that identification. You will fill out a declaration in much the same way as the declaration is currently on the purple form. That ballot paper will go into a declaration envelope—in a sense it is a declaration vote.

**CHAIR**—What do you do, then, for people between the issue of the writ and election day itself? Can they show up to the Electoral Commission—

**Mr Barry**—They would be able to do it at pre-poll as well.

**CHAIR**—So they would have a declaration vote but also have to provide proof of identity for that declaration?

**Mr Barry**—Correct, in exactly the same way.

**Mr Dacey**—If I could go back to the harmonisation issue that Mr Killesteyn was discussing, I will have to clarify this for the committee, but I think that Northern Territory, ACT and Queensland law automatically picks up Commonwealth law—so if we made a change it would be picked up. That would be one way to convince the states that, if the Commonwealth makes a change, those jurisdictions would follow Commonwealth enrolment provisions, rather than each having separate, restrictive provisions.

**CHAIR**—They are things that we have not fleshed out, but that is what I need on the record so that people know.

**Mr DANBY**—Mr Barry, and maybe Mr Killesteyn, would you like to comment on this? We have a submission from the Democratic Audit of Australia that makes the—I think, sound—point, given the changes in New South Wales, that there will be more confusion if the New South Wales Electoral Commission publicly advertises the implementation of automatic enrolment before the federal election. What are your intentions?

**Mr Barry**—That is a very good point, and I mentioned earlier that we have been having ongoing discussions, through a working party, with the AEC about the strategy. The strategy, at a very high level, is as follows. If the writs for the federal election are issued sometime between July and August, we certainly will not be doing any advertising in New South Wales between now and July-August. So the best case scenario is: the writs are issued sometime in July-August, the federal election is held, and that creates a clear run-up for us to do our advertising with smart roll processes. In the event that the writs are not issued for the federal election by August, then that is where we are having a lot of discussions with the AEC at the moment about what messages—because we would have to do some of our smart roll processes—we would give people about their federal entitlement.

**Mr Killesteyn**—That was the point, Mr Danby, that I made in my closing remarks: that the relative confusion of this, at least in terms of the next six to nine months, will be based on the timing of federal elections. As Mr Barry points out, the later the federal election is held, the more pressure there is on the New South Wales Electoral Commission to get on with the job, the more potential there is for confusion, and the more then that we in the AEC have to be careful about our messaging to electors about the enrolment process at the next federal election. How we do that, I guess, will be an art form, and we will be relying on people in the media who know better about messaging, but it will clearly require us to have different messages for New South Wales electors than for the rest of Australia.

**Mr DANBY**—I suppose the new New South Wales system will not be implemented before then, but in the event that we did not have legislation for Commonwealth automatic enrolment, would the New South Wales automatic enrolment system be a point of reference, like the Road Traffic Authority, for federal roll update? If you had evidence from the New South Wales enrolment that this person was at this address, would you use that as a basis for attempting to update?

**Mr Killesteyn**—Yes. It would be another source of information; it would not necessarily be a primary source. But we, at the moment, collect information from other third-party agencies such as Centrelink, Australia Post and the New South Wales Electoral Commission, to the extent that they are using other sources for update, particularly information from the education boards. We would look at that other data and see whether it is of sufficient credibility for us to then pursue our own federal enrolment processes, as we currently do.

**Mr DANBY**—I think we all appreciate you updating us with the situation we have got to now, with 1.39 million people being unenrolled, and the seriousness of this before a federal election and the parliament determining that we should take some action. But I was also very interested in your figure of 200,000 18-year-olds, of the 600,000 who were enrolled, not voting. If you

added them together with the number of 18-year-olds who were not enrolled, what percentage of the 18-year-old cohort did not participate in the last election?

**Mr Killesteyn**—Can I take that on notice? I have not quite got the arithmetic in my head.

**Mr DANBY**—Yes. Sorry—it is just the 200,000, plus the figures that you gave us last time. It really worries me that there was a high enough figure who were not enrolled, but when you add that to the 200,000 who did not vote—

**Mr Killesteyn**—I think I have been on record before as saying: if you are just focusing on the total number, we have got close to 1.4 million people not on the roll. If you add the average number of people who do not vote who are on the roll as around 600,000, you are already up to two million. If you then add, on top of that, the people who vote informally for one reason or another—either they do not understand the system or they do it deliberately—then that is another 400,000. So you are getting close to 2½ million franchised Australians who are not exercising a franchise. So the numbers are quite high and, I think, revealing.

In terms of enrolment activities another number which I think is perhaps astounding is that over the next six months, as part of the AEC's enrolment stimulation activities, we will be issuing in the order of 3½ million letters to chase people. That is a large number of letters.

**Mr DANBY**—You have a positive result from a very large number of letters.

**Mr Killesteyn**—We get about one quarter back in terms of responses. We then send reminders to the remainder and we get about one quarter of that remainder. So it is a hard slog to get new enrolments—that is not only new enrolments but also updates of enrolments. So you can see the extraordinary effort, under the current toolset, that we have to go to to generate enrolments and updates of enrolments.

**Mr DANBY**—My very last question: if that trend was to continue would we have a growth in the number of provisional votes that we had per seat at the last election who were not able to register their vote?

**Mr Killesteyn**—There is a potential. To a certain extent the growth is natural because the number of electors continues to increase. So we are likely to see a growth in all the numbers, whether it is in formal voting, provisional voting, declaration voting or pre-poll voting. All of those will continue to grow.

**Mr Dacey**—Just following on, Mr Danby, at page 16 of our submission we give a hypothetical number based on responses to actual letters. So if Mr Barry gave us details for 200,000 electors that they had enrolled, changed address for or enrolled through smart roll, we would expect to get a positive response, given our current responses to mail-outs, of about 34 per cent.

**Mr SULLIVAN**—Mr Barry, I want to ask about automatic enrolment, particularly of young people. I noted you said that we would predominantly be using the purple form in New South Wales for some time. What is the situation of a young man or young woman who leaves school

at year 10, before you can get information from that trusted source to enrol them? How does the system propose that they would be enrolled presently?

**Mr Barry**—It will not.

**Mr SULLIVAN**—So they would have to take the action of filling out the purple form.

**Mr Barry**—Correct.

**Mr SULLIVAN**—Do you—

**Mr Barry**—That is the case unless they go to TAFE. I think you were talking about somebody who has left the system.

**Mr SULLIVAN**—They have left the education system so they have left your trusted source.

**Mr Barry**—Yes. They would be outside.

**Mr SULLIVAN**—Okay. So, what happens to that young person when they leave home and the RTA alerts you to the fact that XYZ has now changed their address from A to B? What happens in the Electoral Commission when you get that information and they have not enrolled?

**Mr Barry**—We will get information from the RTA indicating that a person—who I would call ‘unknown to our electoral register’—has changed their address. I think that is what you are referring to.

**Mr SULLIVAN**—Yes.

**Mr Barry**—The legislation gives the Electoral Commissioner the power to enrol a person from any trusted agency where the commissioner is satisfied that the person has an entitlement. I will not be exercising that for the forthcoming state election outside of the information provided from the Board of Studies and possibly from TAFE. I will not be using that information from the RTA for the next election.

**Mr SULLIVAN**—Okay. Obviously the issue is that very few sources are going to be able to tell you that they have been collected somebody’s citizenship information. I do not recall that on a licence application there is a requirement to say whether you are a citizen of the country. If you were born in the country it is pretty obvious. So the person we are talking about would be required to fill in a purple form to take the action to enrol—in the foreseeable future, anyway.

**Mr Barry**—They would.

**Mr SULLIVAN**—Mr Killesteyn, there are two separate joint roll arrangements operating. Is that a major problem for the AEC?

**Mr Killesteyn**—No it is not. There are two forms of joint roll arrangements. One set applies to Victoria and Western Australia and the other form of joint roll arrangement applies to the remaining states. The joint roll arrangement with Victoria and Western Australia you might



regard as more contemporary than the other. That is based on a sharing of information between the agencies and a recognition that we ought to be focusing on outcomes rather than the inputs and activities that are associated with the other joint roll arrangements.

My concern about joint roll arrangements, however, is that the Electoral Council of Australia—that is, the joint commissioners—have been working for some time now to see whether there is a way in which we can move unilaterally to one set of joint roll arrangements with a notion that there ought to be one roll for the whole of Australia. A phrase that I have coined is, ‘One roll, many elections.’ It just seems to be more efficient that we run it that way. The danger with the sorts of initiatives that New South Wales is pursuing, notwithstanding that I am a strong supporter of them, is that there is potential for the joint roll arrangements to start to be separate, for individual joint roll arrangements to be negotiated, each with its separate provisions. I think if that path continues then that sort of ideal of ‘one roll, many elections’ starts to be in jeopardy. At the moment we are pretty good, but I think that if there is not action to promote harmonisation of the way in which people get on the roll then that is a potential outcome.

**Mr SULLIVAN**—Given that harmonising the roll is the ideal, the reality is that we are now about to acquire our third different set of arrangements unless we do something about it.

**Mr Killesteyn**—We have not started negotiating yet with the New South Wales Electoral Commission about the joint roll arrangement and we would obviously try to model it on those that are currently in place, but Colin and I are yet to sit down and work this through.

**Mr SULLIVAN**—But the reality of it is that, unless we make some sort of change, change of address information that is provided to the New South Wales Electoral Commission will have no force in the federal roll. Similarly, automatic enrolments of young people will have no force in the Commonwealth roll. It seems to me that sitting nine ministers and their electoral commissioners down in a room and coming up with a single roll is not impossible but will take the same sort of path as virtually every other piece of harmonisation legislation—in other words, time. We are facing a situation where in the short term we have got elections to look at and changes being made. Would it not be possible for the federal legislation to adopt, in relation to people living in New South Wales, the New South Wales arrangements for the federal roll in the same way that Queensland and the two territories adopt the federal arrangements for their state rolls?

**Mr Killesteyn**—Yes, it is. We are on a continuum here and I think the committee has already begun that journey, if I can put it in those ways. The committee has recommended that for updates of the roll the legislation ought to be amended to allow the AEC to use third-party data to automatically update the roll. So the progress is there and it is the next step if you like. As I mentioned in my opening statement, another part of the toolkit is to move to the next level of new enrolments. They are simply part and parcel of the toolkit that we would have at our disposal, none of which are going to be the key to absolutely perfect enrolment rates but all of which, when taken together, will be part of a better system I think.

**Mr SULLIVAN**—Mr Chairman, I will make this my last question. If this committee were to suggest that new enrolments identified by a state electoral commission as an interim measure were accepted, we could take the information from New South Wales. If South Australia or

Tasmania or some other state decided to go down that path independently of a national harmonisation program, we could pick that up in the same way. If a previous recommendation that the committee made in relation to updates of the roll were accepted, we would have this covered.

**Mr Killesteyn**—To a certain extent there is movement already in that direction, on the basis of your recommendation. If the Commonwealth Electoral Act were amended to allow updates of the roll based on third party information, the AEC would regard the New South Wales Electoral Commission as a trusted agency, which is essentially what you were recommending out of the 2007 election. Using that data is not an issue. But the next step—

**CHAIR**—If you regard it as a trusted agency, isn't the problem then the agencies from which it receives its information? There are suggestions that the RTA have non-accurate records. You virtually conceded that, Mr Barry, in what you said. Isn't it an anomaly to regard the New South Wales Electoral Commission as a trusted agency when some of the agencies from which it draws its information are not all that trusted because they might have inaccurate records?

**Mr Barry**—I need to correct that, if I gave you the impression that the RTA did not have accurate records. That is not the case. The RTA—

**CHAIR**—In the sense that their records might be inaccurate in relation to residence. Students, for instance, could be residing elsewhere but their parents' address is on their driver's licence, and so what those records reflect are not necessarily accurate in relation to enrolment, which is the requirement for the eligibility to vote. Residence at a particular place for a particular time is all I am meaning to say.

**Mr Killesteyn**—I think the committee was sufficiently concerned about that to introduce in its recommendations the concept of trusted agencies.

**CHAIR**—Correct.

**Mr Killesteyn**—So the question then is: how do you develop the notion of a trusted agency?

**CHAIR**—That is why I came in.

**Mr Killesteyn**—In that process, you would be working with the potential agencies and looking at the processes that they adopt to ensure that the person's identity is correct. Only at that point do you then say, 'Yes, this is a trusted agency on which we can base information to put people on the roll or to update the roll.'

**CHAIR**—That is why I came in on that point. If it is not a trusted agency in the sense that we are talking about, how can it become one merely through a ciphering arrangement?

**Mr Killesteyn**—To the extent that this opens up, it will be dealt with an abundance of caution and conservatism, and that includes understanding what a trusted agency is and who that may be.

**CHAIR**—This is where I come to my next series of questions, which are in relation to the capacity of the commission to deal with enrolments on the day. I want to go to the Democratic Audit of Australia submission. At paragraph 4, it states:

... The legislation's facilities for election-day enrolment are to be applauded, but caution must be exercised. Written electoral rolls came into being in Britain in 1832 precisely because of problems, including delays, associated with election-day "enrolment". It made sense to sort out who could or could not vote well in advance. Election-day enrolment would be time-consuming for officials and should be a fallback option only.

... ..

... The plan to have electronic versions of the state's full electoral roll at every polling booths [sic] is a good one and should mitigate concerns outlined in paragraph 4. Officials would be able to quickly determine if an elector is enrolled and where.

My worry is about the capacity. If people know that they can enrol on the day then there will be a surge of activity in terms of the close of the rolls on a particular day, be it the issue of the writ or seven days after. A lot of that is going to be transferred to election day itself. Coincidental with that will be queuing problems, which have historically reared their head, particularly in the 1990 election—my first election. Has this been looked at? I appreciate that you are all prisoners of the legislation that you been presented with, but I am trying to be devil's advocate here.

**Mr Barry**—Yes, it has. We have taken into consideration the fact that if we were stupid enough to advertise before the close of the roll that you do not need to fix up your enrolment before the issue of the writ then, yes, we would create all of those problems. But, as I said at the beginning, we are not going to be putting those messages out. But over time there are two things that are going to happen: over time people will become aware that you can enrol and vote on election day—

**CHAIR**—One would have thought that you would be required to advertise that, quite frankly, if it is a requirement of the legislation that you have to deal with, and that—

**Mr Barry**—We will advertise it once the roll has closed.

**CHAIR**—So that is a policy decision of your electoral commission.

**Mr Barry**—It is a policy decision to tell people that if you have not updated your enrolment by the close of the roll, all is not lost—you can enrol and vote on election day. But there are two things that are going to happen over time. One is, as you have perhaps alluded to, people will become aware of the fact that you can enrol, or change your enrolment, on election day, and vote. But, equally, the smart roll processes will have been operating in the background so those people who otherwise would not have done anything through their own initiative will have been what we have called 'smart rolled'. So they will already have been caught up with. So I am not so sure that it is. We are going into some uncharted territories. There are some risks associated with the uncertainty about how many people are going to turn up on election day, and we have to manage that.

**CHAIR**—I am just merely wanting to test some of it because one of the paranoias that has been around in relation to enrolling within seven days of the writs being issued is the integrity of the roll and that you are going to have mass movement with all these characters moving into marginal seats or whatever. I can tell you that it will increase tenfold in relation to this and, in terms of advertising it, I am sure the political parties will advertise it as well because it is in their interests. It is in the interests of one particular political party, if you look at the so-called voting trends, to make sure that as many young people as possible vote on election day. I would have thought it would be part of a strategy.

**Mr Barry**—The integrity of the election day voting is the fact that a person has to physically front up to an election official with photographic identification. That is the integrity, and there is more integrity in that than what there is in the current enrolment process.

**CHAIR**—Okay. The only problem I have, Mr Barry, is this: a lot of kids under 18 show up to clubs and pubs with material that does not necessarily convey their actual age or whatever. What is the cheque or balance in relation to someone who has the wrong age, not the address? I know there are probably forms that have to be filled in which could lead to penalties but I am just wanting to throw out there all the phobias that people might have. We have an acceptable electoral system with a lot of integrity in it and a lot of acceptance. I do not think there is anyone at this table who wants to deny the vote to people who have got the right to vote. I am very attracted to automatic enrolment and things like that but I just have some reservations. I am saying this for the record about it occurring on election day itself and what it might mean in close elections for the declaration of a poll where you have to go away and involve yourself in activity. I know you also have postal vote delays so it could mirror the same period, but—

**Mr Barry**—I just repeat the same as I have already said, and that is that the integrity in the enrolling and voting on election day is in the fact that a person has to produce a driver's licence or a photographic proof of identity card issued by the RTA for the address for which they wish to enrol. And the vote is a declaration vote; it is not going straight into the ballot box.

**CHAIR**—I will just make this prediction if it comes in: young people will not even bother doing that. The way to get them on the roll is to make it as simple as possible. They are not going to show up with identification on the day of the election if they are not on a roll yet. The thing that these figures show is that it is the people from 18 to 25 that we want to attract.

**Mr Barry**—We do not anticipate that young people will be the main audience who will be coming to enrol and vote on election day. They will be picked up by the smart roll process.

**Mr Killesteyn**—The committee needs to remember that the requirement to enrol within 28 days of living at an address still remains. So the obligation is there; it is not as though New South Wales legislation is removing the obligation to get enrolled. All the normal processes that any electoral commission pursues to ensure people meet that obligation would continue.

**Senator RYAN**—I understand the point about having harmonised processes as much as rolls, but if for example the Commonwealth parliament was to act but not to exactly reflect New South Wales, let us say for example around election day enrolment, we would still have those lack of harmonisation problems. You would still have to keep effectively two separate rolls. We would

not save a huge amount of grief for the AEC if, for example, parts of New South Wales process were adopted but other parts were not. Is that true?

**Mr Killesteyn**—Even if there is difference in the area of election day enrolment, as an example, which obviously is of some genuine concern and there are things that have to be worked through, any of these provisions, whether it is automatic update, automatic enrolment, whatever the technology is, is not the panacea to totally solve the challenge that is there of 1.39 million people and growing. They are all part of a set of tools, and you use them as best you can. Automatic enrolment in the context of the New South Wales legislation has particular advantages for the youth cohort, but to apply it to other cohorts would seem to me to be not as effective. Therefore, it is about having all of these tools available. If you do not have election day enrolment, I do not think it would be a major shortcoming in the Commonwealth legislation.

**Senator RYAN**—I was just referring to your objective of one roll, many elections. Unless there was effectively mirrored legislation with mirroring processes, I presume we would not achieve that objective. We would still have to have different roles.

**Mr Killesteyn**—You could still use the information that was provided in relation to people that enrolled and voted on the same day for, then, the Commonwealth to pursue the enrolment in the normal processes. There may be timing issues, but I would think that election day enrolments are going to be the minority rather than the majority. You will never get perfect harmonisation, but the potential for us to be going separate ways right now is much larger than the potential for us to be harmonising.

**Senator RYAN**—I go to Mr Melham's point. If, for example, legislation was to be adopted and you were to see the New South Wales process in place for federal elections but other states not having a similar process—as I think I mentioned, there is a higher potential growth in New South Wales in the shorter term at least—would that have an impact on your work on redistributions? If New South Wales started to have a higher proportion and more voters, would it have an impact on the potential calculation of the number of seats that would be relevant to each state?

**Mr Killesteyn**—No, because the entitlement to seats is based on the population, not on the electors.

**Senator RYAN**—With respect to New South Wales legislation—I have not had time to read it all—I understand you mentioned earlier you were only foreseeing in the short term using Board of Studies of data and maybe TAFE data. You have the capacity to use other data, and that is at your discretion?

**Mr Barry**—Yes, it is.

**Senator RYAN**—And you specifically mention the RTA. Is there capacity in the New South Wales act to remove people via births, deaths and marriages, by looking at who has died?

**Mr Barry**—I must say we have focused so much on getting people onto the roll. On the issue of removing people from the roll—

**Senator RYAN**—I think you will appreciate that the integrity issue goes to the roll in both directions, both off and on.

**Mr Barry**—Certainly. I would have to check. There is still the objection process in the roll, and the electoral commissioner can initiate the objection process. I might ask Mr Beeren whether he is aware of it.

**Mr Beeren**—Certainly. Yes, we already receive death information from the registrars of births, deaths and marriages, as does the AEC.

**Senator RYAN**—What is the process for confirming that? You obviously cannot confirm it in the way that you would confirm a new enrollee. How do you go about confirming that someone has passed away and removing them from the roll if you get that notification?

**Mr Beeren**—Currently, we just receive the information. We have no system in place yet. The AEC can conduct that process.

**Mr Dacey**—We receive information from the registrars and we take that at face value when we receive it—that the death has been a death.

**Senator RYAN**—So if someone were erroneously removed, they would be off the roll, effectively?

**Mr Dacey**—I am not aware that we have erroneously removed anyone who was allegedly dead.

**CHAIR**—But is there also a system whereby the divisional returning officers also look at the papers and things like that?

**Mr Dacey**—They do look at the papers for death notices, but we like to confirm those through the official notification from the registrar.

**CHAIR**—And, indeed, my recollection from previous inquiries is that it is then fed into the system so there is a notation that highlights these people so that, even for the period from the closing of the rolls to election day, they can be removed, or it can highlight if someone has voted in their place.

**Mr Killesteyn**—Effectively, the registrar has to trust the agencies in accepting that information and dealing with it.

**CHAIR**—Yes, that is my understanding.

**Senator RYAN**—To go back to the question about redistributions—and, again, correct me if I am wrong: with the eligibility for the number of House of Representatives seats being based upon citizens but, as I understand it, the boundaries being drawn based upon voters, if there were, for example, a spike in New South Wales enrolments with a provision like this, that you

took advantage of under new Commonwealth legislation, the New South Wales provisions, that would also, potentially, if I am correct, lead to a higher number of voters per seat in New South Wales. If New South Wales had a higher proportion of eligible people enrolled, with their entitlement set by population, that could change the relativities between states, based on—

**CHAIR**—No, the quotas are all determined on a state-by-state basis. So the quota would be higher in New South Wales.

**Senator RYAN**—That is what I am saying.

**Mr Killesteyn**—The quota in New South Wales would be higher, so if you have more electorates you would potentially have larger electorates.

**Senator RYAN**—Yes, that is what I am saying. You would have larger electorate numbers in New South Wales as per Victoria or Queensland.

**Mr Killesteyn**—That is correct. The current quota in New South Wales for the last redistribution was 94,000 for 48 seats. If you increase the number of electors then that average number of 94,000 goes up to 94½ thousand, or whatever the number is.

**Senator RYAN**—Sure; I just wanted to check my thinking there. With respect to the integrity issues around these datasets—and you mentioned earlier that you are only looking at these two datasets in the short term—I am imagining that, given that it has only been three months, you do not have published criteria yet around what you are going to deem to be a trusted agency.

**Mr Barry**—You are correct—we do not have any published criteria. Mr Beeren may have some comments about that.

**Mr Beeren**—The issue about receiving data from other agencies has to be tempered with the view that they are not collecting electoral information. They are collecting information for their own purposes. So, in fact, whatever we do with that information, it has to be tempered by our need to get electoral information rather than the billing address for an RTA licensing process. So we are looking at all this information that we are receiving from various agencies—and, in fact, it will be more than two agencies that we will be receiving information from, from the start. As Mr Barry mentioned, it is the 17- to 18-year-olds where we are, shall we say, trusting the Board of Studies—and, to a slightly lesser extent, TAFE—as being a trusted agency. But we are looking at this information to see how we can turn what they have in their databases into electoral information, and that is a process of analysis. And we are in the middle of that as we speak.

**Senator RYAN**—One of the issues I would flag would be: are those decisions, about what agencies are deemed to be trusted, public decisions? Or are they decisions that remain within the New South Wales Electoral Commission? Is it required that you notify the public?

**Mr Barry**—The legislation empowers the electoral commissioner in New South Wales to make that decision as to who are the trusted—

**Senator RYAN**—And there is no requirement to make it public?

**Mr Barry**—No. There is no legal requirement.

**Senator RYAN**—That was what I was wanting to know: does the act require you to make it public? I am not saying you would not, but does the act require it?

**Mr Barry**—No.

**Senator RYAN**—If a decision about a trusted dataset became contentious, do you have a view on whether, if this was to be reflected at the Commonwealth level, those decisions should be made public, with a potential period for input or feedback from, say, IT experts who run the datasets? What would concern me would be that it would come out six months later that people had been enrolled based on the dataset and there had been a *Daily Telegraph* or a *Herald Sun* story about fake driver's licenses. That would concern me from the point of view of an integrity issue and a perception of integrity. Do you have a view, given that you seem to be supporting the idea, what public oversights there should be on this particular process? I understand you cannot comment, Mr Barry.

**Mr Barry**—I will comment on one aspect of the scenario you are painting. It is probably my fault that I have not given you a complete picture of some of these processes. Before we actually change an elector's address based on information from a trusted agency, we are required to advise the elector that this is what we are planning to do. If we do not hear from them, then it is regarded as a confirmation that it is all okay for us to do this. So there are some checks and balances. I think you are heading along the lines of, 'How do we test whether an agency is a trusted agency?' That is why I said at the beginning that at the moment we are really only focusing on the Board of Studies because we know from the work that we have already done with them that it is of very high integrity.

As we work with the RTA data, we are finding that yes there are high levels of integrity but it is patchy in places. We are not satisfied at the moment that we could be putting people on the roll without application based on the RTA data. What we would be doing is going through processes, checking the data by actually live sample testing with the electors to see, particularly around the RTA information about changing addresses, whether it was all okay; are we in safe territory? I want to reassure the committee that it is certainly not our approach to be going and opening the floodgates here and just grabbing data from every agency and starting to change people's enrolment.

**CHAIR**—Could you give to the committee a protocol as to the procedures that you would anticipate would be taking place in such a system in terms of both putting people on and taking people off the rolls, so we could incorporate that as part of our report? If it is not a problem, I think it would be good to include how this thing is going to operate, or how you envisage it would operate. Is that a problem?

**Mr Killesteyn**—Essentially I do not have legislation to implement. I think the joint standing committee has already adopted a model because of your recommendation for the 2007 election review for automatic update. Your recommendation was that the minister be involved to approve a trusted agency. So that is one model. Another model may be some form of gazettal so it can be subject to some form of public scrutiny. There are lots of different models that are there—you have adopted one; it is obviously one that we support.



**Senator RYAN**—I am not sure of the New South Wales time line regarding declaration of polls, but I imagine that while you are not expecting a higher number of election day enrolments, there might be a high number in certain parts of New South Wales where there are large numbers of young people or people who are otherwise not on the roll at the moment. It is a bit of a stab in the dark as to how many people will undertake election day enrolment. Do those people then remain on the roll? Is that, effectively, their enrolment process?

**Mr Barry**—Yes.

**Senator RYAN**—Do you foresee any potential problems? How many hundreds or thousands of people would stretch your resources, with you having to verify and count all those votes prior to the requirement to declare the poll?

**Mr Barry**—I want to say something about this election day enrolment. These people already turn up to the polling place. Many of these people are already turning up now, thinking they are enrolled. What we are doing is turning them away. There is this idea that there are going to be thousands of people turning up, but these people already turn up to the polling place. They are either incorrectly enrolled or they are not enrolled.

Now, we know that because we introduced the iRoll, and you might recall that at the last New South Wales state election. It caused us some interesting challenges, because for the very first time we had the entire state roll on a PDA. In the past, when a person turned up at the polling place saying, 'My name's not on the roll,' we gave them—if they jumped up and down loud enough—a provisional vote. Invariably, when it went back to be checked, the person had been taken off the roll or they were not enrolled in that electorate; they were actually enrolled somewhere else. But because we did not have a vision of the whole state we never knew that when those people turned up. The iRoll enabled us, for the very first time, to show those people, 'You're not enrolled here but actually there,' and they said, 'Oh yeah, I forgot about that.' Or we could tell them, 'You're not enrolled anywhere; here is the PDA to show you.' This brought us some interesting challenges because about 80,000 people were turned away. Whereas in the past they would have been given an absent vote or a provisional vote, this time they were turned away, and it gave us a few interesting media issues to deal with. But these people already turn up to the polling place.

**CHAIR**—In terms of the electronic versions that you are proposing at every polling booth, does that mean that every polling booth is going to be fully electronic or are you just going to have one electronic version of the roll and then still have the paper version to mark off?

**Mr Barry**—We certainly would not have electronic versions of the roll in every polling place. There are polling places out in the bush who certainly would not do that. But in the metropolitan Sydney area we would have a device in the polling place that enabled the polling place manager to see the entire state if not the national roll. At the moment we can give them a PDA and they can see the entire state roll.

**CHAIR**—And that would be up to date as of the date of the election, so it would be more accurate than the paper roll, which closes at a particular point in time—or not?

**Mr Barry**—It would be up to date as of the date of the close of the roll.

**CHAIR**—Okay. Thank you.

**Mr Killesteyn**—The committee has also made a recommendation to allow electronic certified lists for the Commonwealth level, which, as Mr Barry is alluding to, we would—if given that authority—implement in the large superbooths, not necessarily in every booth around Australia. It is where you get multiple electors from multiple divisions that that electronic roll helps.

**CHAIR**—Okay. Michael?

**Mr DANBY**—In the AEC submission, you have the depressing participation rate for 18- to 19-year-olds of 61 per cent and, even more depressing, a rate for 20- to 24-year-olds of 84 per cent. But what I found astonishing was that the participation rate for 75- to 79-year-olds is 96 per cent; for 80- to 84-year-olds, 96 per cent; and, for voters aged 85 plus, 94 per cent. There is a widespread belief amongst seniors that they can take themselves off the roll. Are they the participation rates of those who are left on the roll, or are they for all of the people who are—

**Mr Killesteyn**—That is the estimate of the total population of 85-year-olds plus who are on the roll. So it is the percentage of electors who are aged 85 plus as a percentage of total 85-year-olds eligible to enrol.

**Mr Dacey**—Mr Danby, if I could just add that people cannot take themselves off the roll, even if they are seniors. There has to be medical evidence that suggests—

**Mr DANBY**—It is a widespread belief.

**Mr Dacey**—It is a widespread belief. For local government in Victoria, I think they can do that.

**Mr DANBY**—They can do that, yes.

**Mr Dacey**—Certainly not at the Commonwealth level.

**Mr DANBY**—They extrapolate from that. In paragraph 1.11 of the AEC submission, it says:

The AEC recommends that the Joint Standing Committee give consideration to recommending that the Commonwealth include similar provisions in the Commonwealth Electoral Act to provide a capacity for the AEC to continue to maintain electoral rolls now and into the future using modern methods and processes, whilst maintaining high levels of stakeholder trust in the electoral roll.

When you say ‘similar provisions’, are there specific provisions the AEC would not want to see introduced into Commonwealth legislation? If there were changes to the Commonwealth Electoral Act prior to the next federal election, would the AEC have the administrative capacity to implement these provisions before the next federal election? And does this include provisions which facilitate the possibility of voters enrolling for the first time, re-enrolling or updating their enrolments on polling day?

**Mr Killesteyn**—The submission is essentially focused on the notion of automatic enrolment for the first time. I have not gone to the level of each specific provision within the New South Wales legislation because our focus, wrongly or rightly, is on the 1.39 million.

**Mr DANBY**—The big picture.

**Mr Killesteyn**—This is perceived to be another part of the tool kit. Bear in mind, the committee went an extraordinarily long way in making its last recommendation to allow automatic update of the roll. That, in my view, is a significant recommendation. Why is it significant? Because of the three-million-odd enrolment transactions that we do each year, probably 80 per cent are around updates of the roll, not new enrollees. The next step seems to me to be a logical next step which adds another bit in my quiver to try and deal with the 1.39 million. It is only another part of it. That is the provision that I think is strongly worth considering. It is another tool and adjunct to what we have already got, or what we hopefully may get some day in the future.

**Mr DANBY**—If we were to legislate in the next few months, would you have the capacity?

**Mr Killesteyn**—I think you will find that for the next election in 2010 that would be a tall order because of the same sorts of issues that we have been discussing here in the committee: the need to go through proper process, the need to understand the data that is being offered by various agencies, the need to carefully design systems rules about when you do and when you do not, and all those sorts of things. I would be very cautious about offering automatic enrolment before the next election.

**CHAIR**—If the committee's earlier recommendations were picked up and legislated, that would go a long way for the next election?

**Mr Dacey**—The automatic update?

**CHAIR**—Yes.

**Mr Killesteyn**—It depends upon if and when we get the legislation and—

**CHAIR**—Yes. I am just saying: if they were picked up and legislated.

**Mr DANBY**—Would you anticipate that, if we had legislation, you would get a flood of people seeking to electronically update their enrolment? There was some evidence that you gave us last time about an enormous number of electronic contacts that you have with the public.

**Mr Killesteyn**—Yes—2.6 million people go on our website to check whether they are properly enrolled. That was in the 2007 election. If the provision were there for online update of information, we would get a large number of people utilising that facility. It is likely, given the propensity of young people to use that sort of electronic interface with government that a large number of the people we are currently chasing would use the facility. That still relies on them doing something overt—getting on the web and doing something active. This is another bit to enable us to focus on those people who are not so willing to get off their backsides from time to time.

**CHAIR**—I thank you for your attendance here today. If there is anything you wish to add, feel free to put in a supplementary submission. Thank you.

**Mr Killesteyn**—Thank you.

[1.29 pm]

**BRENT, Dr Peter, Researcher, Democratic Audit of Australia**

**MUSIDLAK, Mr Boguslaw Czeslaw (Bogey), President, Proportional Representation Society of Australia**

**CHAIR**—Welcome. We have received a submission from each of you that has now been resolved by the committee to be made public so that will go on the website of the secretariat. If you want to make an opening statement, please feel free to do so. Dr Brent, would you like to go first?

**Dr Brent**—I listened to the previous session. It was very interesting and so many issues were covered. The Democratic Audit is very much in favour of this move in New South Wales and congratulates the commission and parliament for doing this. There will certainly be some of the issues that have been mentioned. There will be issues that no-one has thought of that will occur. I worry for Mr Barry. I hope it all goes well, but there will be some unforeseen consequences, but it is a very good move.

**CHAIR**—We will explore that a bit more in a minute.

**Mr Musidlak**—The interests of our society are usually about effective voting, but certainly having the right to be enrolled and the right to vote are very important. And from that point of view, given that only about one-third of the roll operations are voter instigated these days, according to the AEC in its annual reports, automatic enrolments are going to make a big difference and, therefore, we have tried to think, without looking at the current situation, what sort of a framework would you really want to have in place. That is what we have set out in the submission, about what the ordinary voter would expect in terms of the appropriate standard of evidence to be deemed no longer at a particular address and to be deemed most likely at a different address, the privacy safeguards that need to be in place, because there are whiffs of electoral commissions wanting to get their hands on just about every piece of administrative data, whether or not it is valuable in practice. The Australian National Audit Office in 2003 recommended that there be a strategic approach and data sets be identified for use this way that add some value.

We have put some thoughts about the protections that would want to be in place, and one model would be for the Commonwealth to say, ‘Well, if these particular conditions are met, we would automatically take the word of a particular state commission provided that a certain level of evidence was supplied,’ or something like that. That gives us a workable operational framework. We have also set out some minor problems with the New South Wales legislation. I looked at it in relation to potential silent voters and there are some issues that have not been taken up. If someone has escaped from a domestic violence situation, you really want to make sure that those people have the opportunity to either opt out of having all of their administrative particulars forwarded to the Electoral Commission or to have some way of being able to apply straight away to be a silent voter. The way the New South Wales legislation reads, that is in fact

not the case—that is, the would-be silent voter has to initiate something, and you could get two processes crisscrossing.

**CHAIR**—Dr Brent, you heard the discussion earlier on. Are there any concerns that come to mind arising out of that discussion? Obviously integrity is something that the committee is interested in. Is that sufficiently covered by what is proposed in your opinion? I know we cannot be 100 per cent certain.

**Dr Brent**—I believe it is. You talked also of perception of integrity—

**CHAIR**—Yes, that is a separate issue.

**Dr Brent**—That is a different variable and it depends how people decide to represent the levels of integrity, especially with election day voting. I think that the systems are there. As Mr Barry said, it is more onerous than filling in the purple form, enrolling on election day, if lots of people do it. As Mr Barry said, they are not going to advertise that you can enrol on election day this time. Until the writs are issued they will tell people to enrol. Then after the writs are issued, they will say, ‘Okay, if you didn’t get around to doing it, you can do it on election day.’ There are long-term repercussions for elections that come after this. But as Mr Barry said, hopefully the roll is in such good shape that—

**CHAIR**—That is one area where I cringed, I must confess, when he said, ‘We’re not going to advertise this provision until after the rolls are closed.’ It would seem to me that at a national level the AEC have an ongoing campaign some time out from an election. For the life of me I cannot see why they would not advertise that at the same time as they advertise that to fix the electoral roll you have got until election day to do it or you can do it on election day. It seems to me that it is a campaign that you would run simultaneously with your other campaign. You would not run one campaign one minute and a new campaign after the close of the rolls. Would you do that? I do not know.

**Dr Brent**—That is what he is saying he would do.

**CHAIR**—I know he is saying that. I am just wondering about its effectiveness.

**Dr Brent**—Telling people all along that you do not have to really worry until election day would defeat the purpose of any advertising so I think that is the way you would have to do it. But eventually people will know that it is not true and other people will point it out in newspapers and so on.

**CHAIR**—Or do we accept that you have the advertising campaign and if the commission have a knowledge of the statistics out there they can then anticipate in terms of resources on election day what might come their way. It is not about playing tricks with the electorate. That is one aspect that concerns me. You are right: it does defeat the campaign. But you have got to have a consistent campaign.

**Dr Brent**—Yes. Let us see how it goes. Eventually there will be such a comprehensive roll that not many people will have to do it on election day.

**Mr DANBY**—Dr Brent, you heard the extraordinary figures that Mr Killesteyn gave us: 1.39 million people not enrolled as of the end of September plus 600,000 who did not vote at the last election plus 400,000 informals—nearly 2½ million people who did not participate in the last election.

**Dr Brent**—You could add, say, a million overseas Australians as well.

**Mr DANBY**—Do you have a short editorial that you would like to give us on that?

**CHAIR**—So, Dr Brent, you are saying residency should not be a requirement for the vote but citizenship should be.

**Dr Brent**—I was not saying that. I was just saying, if you wanted to make the numbers sound even bigger, you can add another million on just like that very easily. It depends how seriously you take the compulsion in our system. Personally, I am not that hung up about compulsion. I think if people do not want to vote maybe they should not have to. But they should be able to vote if they want to and they should be on the electoral roll on election day if they want to vote. There were at the last election some 300,000 or 400,000 who tried to vote and could not vote. To me that is more important than the numbers who do not. Also informal votes is a big problem as well. If they are accidental informal votes, which I think most of them are, that is an issue and that is something we really should look at, but it is a topic different from what we are looking at today.

**Mr DANBY**—Let us drill down into the 300,000 or 400,000 that you have just mentioned. Your submission says that you are pleased, as I think we are, that the AEC is giving consideration to having electronic copies of the rolls at, as I think Mr Killesteyn said, most of the significant polling booths—so not every one in the country and not in small rural booths. These are significant polling booths where you get mixtures of people across electorates coming in. Do you think that will be the way to solve the problem of provisional voting or are there other issues of identity that did not exist prior to the changes made in 2007?

**Dr Brent**—The changes made in 2006—

**Mr DANBY**—Before 2007, yes.

**Dr Brent**—Certainly will not be overcome by the iRoll. As Mr Barry said—so our submission was slightly misleading—they did it at the last New South Wales election and they are doing it again at this New South Wales election, the next New South Wales election. As Mr Barry said, there was an unforeseen consequence of that, which was that 80,000 people who previously would have gone along and to whom the electoral official would have said, ‘You’re not on this roll. Fill in a form as to where you think you might be enrolled. Fill in a provisional vote.’ That vote would have been thrown away but the 80,000 people would go away thinking they probably voted. At the last election they were just turned away and told, ‘You’re not on the roll. Go away.’ This is again a perception thing that they feel disenfranchised, whereas they did not know that they were disenfranchised before. But it is certainly a good development and if the AEC does it at most booths that would be a very good thing too. It means, as the commissioner has explained, you can look up the whole country or the whole state and say, ‘Yes, you’re enrolled’ in so-and-so and then they can vote there.

**Mr DANBY**—But it is only half the story—isn't it?—having the electronic voting machines there. The other half is the system of photographic ID being used if they were not at their current address. The people who got votes previously and who had moved, particularly within the electorate, and were disenfranchised at the last federal election are the group I am thinking of.

**Dr Brent**—It is actually a third of it. There are two thirds that you have mentioned. The other is the people who under the previous law had moved house within the same electorate and had been knocked off the roll and then turned up on voting day and showed that they were still living in the electorate and were put back on the roll and their vote was counted. Under the new laws that applied in 2007 they stayed off. So there were three. To quote ID is another thing. A lot of the people after election day who registered a provisional vote obviously did not go to the Electoral Commission—

**CHAIR**—Four per cent did nothing.

**Dr Brent**—Right—and why would you as the result was already in?

**Mr SULLIVAN**—I would like to ask Mr Musidlak some questions. You have stated in your submission a preference for harmonising the federal and state processes and suggested, if that were not able to be done, that the Commonwealth go it alone. Mr Killesteyn, in his evidence earlier, indicated at least a belief, I think, that other states will follow the New South Wales example. I do not say that he gave us a time frame as to that but I understood that there is probably a deal of interest being shown by other states in what New South Wales has done and yet they might all have regional variations that they want to apply because, after all, they have different regions and they pride themselves on that. Obtaining a single roll and satisfying everybody will be a difficult and lengthy process I imagine based on virtually everything else that has been done apart from the gun legislation after Port Arthur, which happened pretty quickly. That would leave us with the opportunity to have serious fragmentation between the Commonwealth roll and virtually every state roll in the short term, which I think would be a problem but you think would protect the integrity of our roll.

**Mr Musidlak**—What we have said may not be completely clear. When we are talking about the Commonwealth going it alone, we are looking at it from a voter's point of view. What we really do not want to do is have voters turning up for two elections a fortnight apart and being told two different stories. So the idea is to have a situation where if a state uses data to do an automatic update of some sort then the Commonwealth accepts that as sufficient evidence to do that on the Commonwealth roll by having standards met. That is what we were trying to say.

**CHAIR**—It is like what was said earlier: the state body would be then a trusted authority if it met certain levels which flow on down the line.

**Mr Musidlak**—Indeed. Do you, say, accept them holus bolus or accept them provided that they supply evidence of an individual transaction? Again, our concerns are about the level of resources being put into roll activities vis-a-vis alerting voters about how to make use of their vote and so on. That part is the poor relation. We would like to think that in the modern world you could get down from \$60 million or \$70 million a year and have a bit of that resource available for educational voter mail outs and other things that are more about effective voting.



**Dr Brent**—This obsession with a uniform national roll—as Mr Killesteyn said, one roll, many elections—is almost a semantic one because the AEC would have in its databases the electoral roll, they have names of people they believe should be on the roll, and it probably does not look like this but they have a column that says enrolled for the federal election but not enrolled for the WA election because they have been in jail or are in jail or something like that. There are differences between the jurisdictions now. If you have your databases properly set up, that sort of stuff does not really matter. If you have the data there, there is a tick in a field that says yes enrolled or no not enrolled for this jurisdiction. The only problem is confusing the elector themselves. That is the only reason it matters, in my opinion. If an elector is led to believe their situation vis-a-vis state elections is such and such because they were told something about federal elections, then that is a problem.

**Mr SULLIVAN**—I am more concerned in the other direction, where a young person automatically enrolled in New South Wales is likely to consider he is automatically enrolled on the federal roll and automatically enrolled on the local authority roll rather than think that he has to go out and take an action. The big concern for me is automatic enrolment in New South Wales not flowing directly through to the Commonwealth. Those of us in this room are interested in the electoral process; the majority of the country's citizens are somewhat less interested.

**Dr Brent**—Which is a good reason why it would be best if they left the public advertising and so on until after the election. Mr Barry was talking about the writs being issued between July and August, or until July or August. They wait until after election day is finished and then they can send their letters out.

**CHAIR**—Do either of you have any concerns about the new legislative provisions in New South Wales being exploited by people seeking to commit electoral fraud?

**Mr Musidlak**—Yes. The Shepherdson inquiry in Queensland has given us examples of where people might look at that sort of caper to influence preselections particularly. In New South Wales, a letter goes out; it strikes a phoney address; there is a return to sender. The legislation does not say, in those circumstances, automatically consider this one false. The legislation, the way we have read it, says that that person goes on the roll but then the Electoral Commissioner can form the view that that person is not entitled and it can go onto a second process. I do not think that that possibility is actually taken up with the security that one would hope to have.

**Dr Brent**—I do not have misgivings. It is always possible that that sort of thing can happen, but there has never been evidence that it has happened to a significant or even anything approaching a significant degree. In that situation, my understanding is that the legislation gives a lot of power to the commissioner in many areas, and that is one situation where it is up to the commissioner to decide. I imagine the commissioner will err on the side of conservatism in a situation like that.

**Mr Musidlak**—But, when you read the actual words, it says that in the absence of an objection from the contacted elector you put someone on the roll. I think that technically what would have to happen is that the person would have to be put on and then immediately they would form the view that, 'Oh, this return-to-sender letter says you should not be on there,' and start action to remove. I have a feeling.

**Dr Brent**—And it is on for a second or so. It is just—

**Mr Musidlak**—I think they have to go through two separate processes, the way the wording is set out, and ditto for people who want to be silent voters. In the New South Wales legislation, that has to be voter initiated, so, again, if someone has come into a new situation and does not want an address to be published, the Electoral Commissioner, having formed a view, is obliged to put someone on the roll, and that could represent a risk to those people, unless we have mechanisms that are saying you can get in at the critical point and stop that prospect.

**CHAIR**—We will have a look at that. If we need to follow that up, we will, with some correspondence with the commission just to clarify it. I need to close the meeting because question time is about to start. I thank you each for your attendance today and also for the effort that you have put into making submissions. If you need to put in a supplementary submission or comment on the transcript today, please feel free to do so.

**Mr Musidlak**—We have had data about roll operations at the state level. We have not been able to find any at the electorate level. It would be good to get some information about the degree to which people come forward just before an election in different electorates and the degree to which voters initiate changes of enrolment or the continuous roll update activities are responsible for them—

**CHAIR**—I think in the past we have certainly had some gross figures. I do not know whether it has been broken down on an electorate-by-electorate basis.

**Mr Musidlak**—It would certainly be very handy. If that information were available, it would be very handy to see how that connects with other parts of the electoral system.

**CHAIR**—We will check with the commission whether that is available, and if we can receive it we will.

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

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

**Committee adjourned at 1.52 pm**