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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2001 federal election

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JOINT COMMITTEE ON ELECTORAL MATTERS

Friday, 16 August 2002

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

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

Terms of reference for the inquiry:

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

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Committee met at 10.01 a.m.

CHAIR—I declare open the inquiry by the Joint Committee on Electoral Matters into the conduct of the 2001 federal election. Since 1984, Commonwealth governments have referred such inquiries to this committee after each federal election with a view to improving the operation of the Australian electoral system. The committee's reports have played a central role in developing the electoral system we have now. The current inquiry was referred to the committee by the Special Minister of State on 13 May. To date the inquiry has received 156 submissions from Australia and overseas, demonstrating a healthy interest by the community in ensuring that our electoral system is kept up to date.

Today we will be hearing from the Australian Electoral Commission and from the Liberal Party of Australia. I remind witnesses that although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and warrants the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

[10.03 a.m.]

BECKER, Mr Andrew, Electoral Commissioner, Australian Electoral Commission

DACEY, Mr Paul, Deputy Electoral Commissioner, Australian Electoral Commission

DAVIS, Ms Barbara, First Assistant Commissioner Business Support, Australian Electoral Commission

EVANS, Mr Tim, Director, Elections, Systems and Policy, Australian Electoral Commission

FARRELL, Mr David, Australian Electoral Officer for New South Wales, Australian Electoral Commission

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ORR Mr Doug, Assistant Commissioner, Elections, Australian Electoral Commission

PICKERING, Mr Tim, First Assistant Commissioner, Electoral Operations, Australian Electoral Commission,

CHAIR—I welcome representatives of the Australian Electoral Commission to today's hearings. The committee has received your submission, which has been authorised for publication. Are there any corrections or amendments which you would like to make?

Mr Becker—No, but I would like to make an opening statement.

CHAIR—Please do.

Mr Becker—The Australian Electoral Commission has presented to the committee a wide ranging submission on the conduct of the 2001 federal election. This submission was drafted following extensive consultation with our staff across Australia and provides a total of 36 recommendations. It looks back at the conduct of the 2001 election but more importantly looks forward to identify what we believe is needed to ensure the continual improvement in the delivery of federal electoral services.

The AEC is able to report that the election was an operational and administrative success, with our customers and stakeholders satisfied with how we met their needs and their expectations. I believe that this success can be directly credited to the expertise and dedication of our staff. Recognising and meeting our customers' needs has been a major force driving the

commission's process for continuing organisational improvement. The key aspect has been the holding of a number of workshops to ascertain our customers' perceptions as electors and to elicit from them suggestions as to how we may improve our services.

While it has been heartening to hear how the commission is meeting and at times surpassing customers' expectations, it is also becoming clear that these expectations are increasing at an unparalleled rate. They are fed in part by the rapid change of our technological and social environments but also by the commission's past record. The community expects us to continue to meet their electoral needs as those needs increase and diversify. Although the commission is working harder and smarter, our ability to match resources to work load is becoming increasingly more difficult in our current funding climate. Our present funding model, in combination with our highly dispersed organisational structure, presents us with difficulties in merely continuing our current service delivery, let alone enhancing it. You would have observed that throughout the submission we seek the committee's support for appropriate funding to match those recommendations that may be adopted.

As one would expect, we conduct elections according to our rule book, the Commonwealth Electoral Act 1918. Unfortunately, the act, having grown like topsy, has become so convoluted that instead of contributing to the administrative enhancement of the system the act is often an obstacle. For the past 20 years, it has been modified on a reactive and ad hoc basis in response to particular issues. The effect has been that while the immediate issues were handled, it has resulted in increased complexity and lack of relevance. The act has become so unwieldy in parts that the question of who is serving whom is difficult to determine.

We cannot continue to run elections effectively under outdated and complex legislation. The legislation needs to be reformed so that it truly meets the expectations of our clients in the 21st century. A thorough reform is not only needed but is seriously overdue. We are keen to canvass the views of the committee and other stakeholders upon how such a reform could be conducted.

I would like to recognise once again the role and influence of this committee in fostering continual improvement of our electoral system. It provides an invaluable forum for all participants in our system to present their views. As the hearings continue, the AEC proposes to provide further submissions and to respond to particular issues raised in other participants' submissions and at all times be available to assist the committee as you see fit. Thank you.

CHAIR—Mr Becker, there are some fairly large claims made in your submission. Starting with the issue of your request that this committee recommends significant additional resources for the commission, I have read the submission fairly carefully but I do not see any financial data or any analysis of why you need more resources. All that is there is evidence that the number of enrollees has increased.

Mr Becker—The latter is there.

CHAIR—Yes; that is the only piece of evidence. Would you please outline why your resources are inadequate and give us some data on funding over the years, on the commission's personnel position and on what savings have been made through enhanced computer and other linkages, because as it stands, all you have is an assertion saying, 'We need more'?

Mr Becker—We did not have the full data when this submission was written—we are getting much closer to having that available for you. If you want us to pick those points off one by one, we will have to take them on notice. Suffice it to say that we are also victims of our own success. The continuous electoral roll update system that we are now running on is adding to mainframe costs to the tune of about \$600,00 extra per annum—just a simple thing like that.

Our certified agreement is adding increased pressures to our costing because we have a large, diverse organisation. If we were structured in the same way as the Taxation Office, for example, it has 20,000 people, 60 locations and can run one line to each of those 60 locations for its data services. In our case, we have 160 locations and 850 people. We have nowhere near the same economies of scale that somewhere like the tax office has. For example, if we had 40 locations instead of 160, we would have a saving in data cabling of \$2 million a year.

What we have got at the moment is a situation where we are likely to blow out by about \$10 million unless we make some serious changes to the way in which we are doing our business. But if you want further detail in terms of the way you asked the question, I think we will have to take that on notice.

Ms Davis—I can explain what our approach has been to addressing what we knew would be our financial situation for some years. For about three years we have been aware of our increasing costs. As you are probably aware, with the changeover to accrual budgeting, the government's initial intention was to strike pricing agreements with every agency. Before those pricing agreements were to be struck as to how much they would actually fund you for outputs, there was to be something called an output pricing review. The AEC was scheduled for an output pricing review last financial year. We argued with the Department of Finance and Administration that we really thought it would be of benefit to reschedule to this financial year because we would have seen a more recent federal election go through so we could track the real costs of the election events to a much more improved level of refinement. We had in place a new financial forecasting and monitoring system.

So we are in the situation this year where we are actually going through output pricing review. We have discussed with the department of finance what our approach is. Whilst they have taken output pricing reviews off the agenda in some sense—cabinet has made some decisions about that—we are still progressing because we see it as very important. We have been building up this year to being able to help all our stakeholders understand—the department of finance is one of those stakeholders; we see this committee as another stakeholder—in more detail and to give you the data as to why our costs increase and in what sense.

There are things which have changed since the act was formed. Andy mentioned how the act has grown over time. For example, in terms of funding and disclosure activities, we have had no additional funding for those since 1987. Our international contribution, which is recognised worldwide, we subsidise to the extent of about \$1½ million a year. We do get a lot of funding from AusAID; a lot of our projects are directly funded by AusAID. Andy mentioned our changing processes. Whilst we have a much greater reliance on IT processes than we did in 1984, we have gone through the outsourcing exercise—and the initial intention of that was to derive savings. We are going through exercises such as the market testing and contracting out, where government mandated the contracting out of corporate services activities. So we are trying to achieve savings there. We are looking at innovations like our strategic property plan

and how we might be able to reduce our leasing costs. But they are, in one sense, fiddling around the edges. So I think that, given the committee has expressed some interest, we would be very keen to loop you in to more detail as to exactly how that is all broken down.

CHAIR—My difficulty is that there is a very large request of the committee in terms of endorsing your approach in negotiations with Finance for more funding. My difficulty personally is that there is simply no basis for actually evaluating what your needs are. The submission is full of indications that significant savings have been made in this area or another area. Mr Becker made a point about continuous roll update; on the other hand you have knocked off the habitation reviews. So, simply on the face of it, I cannot see that any reasonable evaluation of that assertion can be made.

Mr Becker—Habitation reviews, for example, are funded from the same bucket that funds continuous roll update. The statement that we have knocked off habitation reviews is wrong; we have not. The only thing we do today is that we target. We are not going to knock on doors at addresses where we know that the information we have on them is correct. The problem we had with the habitation review was that it was a snapshot once every two years, it took three to four months to actually get a decent roll out of that snapshot—so consequently the roll was out of date even by the time that we corrected it—and 80 per cent of the information we got we already had. We are now in the situation with the data matching of being able to say that we are pretty confident that what we are getting is good data for those 80 per cent, say, and we only have to look at the 20 per cent directly.

CHAIR—My apologies. I thought that the reviews had been substantially knocked off as the prime mode of operations.

Mr Becker—The biennial door knock has been knocked off, but we are now targeting on a continuous basis. We are still knocking on doors. It is not as though we are not knocking on doors. We have just had a major habitation review of the address base in New South Wales; that was a million dollar exercise where we checked the validity of addresses. We are still doing a lot of this stuff. Our rolls are far cleaner now than they have ever been, and there is no way in the world that we could ever go back to that biennial door knock and expect the same sort of clean rolls that we have now. But, on the other side of the coin, the amount of money we have for that is running out, as we are now being funded on an annual basis, not a biennial basis.

As I said before, we are victims of our own success. We are processing so much more information that we are increasing our mainframe time—and mainframe costs are not going down, they are going the other way. We had a brief meeting this morning and talked about our roll management system. That was a \$30 million investment in 1987. It is 15 years old. The likelihood of a rewrite is very real, and that is going to cost money. We are not in a position to start those sorts of things in our current funding climate. Consequently—hopefully not reducing services—we need to look at the ways in which we are managing this organisation. One of the issues that we have to face is the dispersed nature of the way in which we are structured.

CHAIR—As an aside, what was the outcome of that \$1 million review of the accuracy of addresses in New South Wales? It is something that this committee is interested in.

Mr Farrell—In the first six months of this calendar year a physical verification of addresses in numbered streets and areas of New South Wales was conducted. About 10,000 census collection districts were covered, and verging on two million addresses were physically checked. A whole range of things were verified, such as the addresses that were not there, the addresses that were enrollable or not enrollable and actual flat numbers. There are 2,000 CCDs that have not yet been physically verified. These are the rural and unnumbered streets in country New South Wales. However, the outcome of that review was that we had a good, high-quality address base. But at this point in time we have discovered 82,000 addresses in New South Wales of which we had no record. They have been added to the address base. We review vacant houses. A major part of our CRU program is to write to houses where no one is enrolled. About three to four weeks ago we sent out well over 400,000 vacant house notices, including these 82,000 addresses that we had found.

This is not to say that the address base was not good, but in the old door knock we used to use a card index system, and the computer system at that time did not have an address register built-in. Around two or three years ago, the computer system became address based. It simply took in the addresses that we had records of where people had been enrolled. There has never been a physical process to make sure that we had completeness in that address register. I am pleased to say that the outcome was very good. Not only did we add 82,000 enrollable addresses, we added towards 100,000 addresses that were not enrollable, so we can detect fraud when people try to enrol with their address as a phone box, a park or a Kentucky Fried Chicken car park—which is a popular one. Not only will we know that an address is enrollable, the red lights will flash if someone tries to enrol with an address which is not enrollable. There is a way to go in this, but accuracy and completeness will be fundamental to management of the roll. I am pleased to say the outcome there has been very good.

What funds we will have to do this in the rest of Australia is a matter of how much we need to survive. We are doing the ACT at the moment. We do not have to do a physical verification because the quality of address data there comes from the ACT government. We are doing a physical computer match to make sure that we have similar completeness, accuracy and knowledge of whether addresses are enrollable or not enrollable.

We also put in a measure of the size of the habitation—whether we think that two, four or six people should live there, or whatever—so we can generate extra activity where we are not seeing whether the numbers are right. We are also getting a level of transients. We know that at certain addresses we would expect to see a move four times a year. At other addresses you might see a move once in five years. So we can actually target high and low demographic change. That is a summary of how it went.

Ms HALL—With these 82,000 to 83,000 addresses that have come up where no-one is enrolled, are they in new estates? Is there any pattern to the types of addresses that have come up?

Mr Farrell—Yes, there are about three types. Firstly, you have a scattering of addresses everywhere where people have never been enrolled. They fall into two subclasses: first, people who have been avoiding us who have not got on the roll—there are not very many of those but there are some who do not get enrolled and we are tracking those people down—and, secondly,

non-citizens who have never been enrolled and we have had no knowledge that they were at those addresses. They are the two main types that are scattered across the board.

The other areas are where we have had substantial urban infill development at a very high rate. Again, this is in two classes. The huge bodies corporate of inner Sydney are moving very rapidly and they are security buildings. We do not get information by going in; we have to actually talk to the bodies corporate. The flat numbering systems are not 1 to 150, there are no No. 13s, there are extra No. 8s in Chinese buildings, and there are all sorts of things that need to be done not by just thinking that we have it right but by physically knowing that there is no flat 13. There are as many ways of numbering blocks of flats as there are blocks of flats, basically. The Bennelong Apartments in Macquarie Street, Sydney is an area we are doing right now. We were not up to date in that area but it is reasonably new infill.

The other areas are the housing commission areas of New South Wales, which are very large. They are generally put in without contact with the local government areas so the street numbering is not done as formally as in other areas. We have picked up a lot of housing commission stuff—some of it quite new—that we would not otherwise have had.

Ms HALL—What about where you have new suburbs built overnight? How do they show up and what is the accuracy of your addresses in those areas?

Mr Farrell—We have good contacts with local government, which are ongoing. Most of our divisional returning officers would be meeting on a fairly regular basis with general managers or the people who handle the geography using geographic information systems et cetera. That goes on. This year we set a high-quality base and we will maintain it so that we will be ready to put in these new suburbs overnight. That will be a lot easier for us. The process of maintaining it now becomes easier. As Mr Becker, the Electoral Commissioner, was saying, we still knock on doors. The proposal for New South Wales is that when we go around to target the people who have not responded to our letters saying, ‘Dear Householder, why aren’t you enrolled,’ or ‘Dear David Farrell, why aren’t you enrolled,’ people in the field will actually verify the addresses that are out there where we have a new urban infill or new suburb or part suburb. That will happen simultaneously.

Senator ROBERT RAY—Getting back to the funding issue, from the corporate knowledge at the table you might first of all tell me whether you can think of an example where a government body has put a submission to a parliamentary committee that has recommended an increase in funding and the government has ever reacted to it. Can you think of one example?

Mr Becker—I cannot think of one example actually, Senator. But the issue is that, if there is a recommendation that comes out of the committee and that committee is then supported by the government, it ought also to be supported by some funding. One of the problems we have had over many years is the fact that we have had many initiatives—one of things that Barbara mentioned earlier was international services—where we have built quite an exceptional reputation. That initiative is being funded from within the commission to the tune, as Barbara said, of about \$1½ million. It is all very well for governments to make these decisions that impact upon an agency but they have to fund them as well. All I am saying is that we cannot go for pie in the sky stuff or we cannot necessarily meet the obligations of a recommendation

which is supported by government without funding. It is one thing to make a recommendation; it is another thing to recommend that funds be made available.

Senator ROBERT RAY—I just think you will save money if you don't waste your time. It is your minister who determines your funding, and you go to him; you do not come to this committee because, regrettably, we cannot deliver a thing to you.

Mr Becker—But it is just a few words—that is all I am saying.

Senator ROBERT RAY—You mentioned that the difference between the Electoral Commission and the tax office is self-evident. What is an analogous organisation with similar funding to yours so that we can look at how it copes with strategies to survive in a modern world?

Mr Becker—We do not have an analogous organisation other than perhaps our counterparts in the states or overseas. There is no analogous organisation in this country.

Senator ROBERT RAY—But in terms of making savings from a relatively small outfit, the Department of the Senate, for instance, has the same difficulties.

Mr Becker—The Department of the Senate does not have 160 offices. That is where our problem is.

Ms Davis—Over time, a lot of APS federal agencies have looked to their decentralised structure and have withdrawn. Even the department of finance itself several years ago withdrew its presence from capital cities. In response to your previous question, Senator—and Mr Dacey might help us here—a previous JSCM did actually recommend to government that there be increased funding for the AEC to support its divisional office structure, and government did respond.

Senator ROBERT RAY—How much did you get?

Ms Davis—It was not sufficient. A partial amount went forward to changing the funding from two-person to three-person offices. But of course that did not take into account the infrastructure that was also needed to support them, supply them with up-to-date equipment and cover all the other infrastructure costs.

Mr Becker—With all the leave, we can go to three but it takes more than three to support three. It might take 3.4 to support three because people do take leave.

Senator ROBERT RAY—In terms of an efficiency dividend, how much have you had to pay over the last seven years, do you know?

Ms Davis—We would probably have to get back to you, but over the last seven years—

Senator ROBERT RAY—I am taking one year of the previous government and six of this one. If someone wants to suggest a longer period or a shorter period, I am happy.

Ms Davis—In terms of general funding supplementation, it has only been keeping rate with the CPI. The general approach is that unless there is a new policy proposal—

Senator ROBERT RAY—No, it is not a question of adjusting with the CPI, supplementation or a new policy proposal. Most units have been hit with an efficiency dividend over the last few years and have had to generate efficiencies. I am just asking whether you have—how much—and then trying to assess what effect this has had. Efficiency dividends are like a chain letter—eventually you run out.

Ms Davis—Yes. Perhaps later in the session we can give you a figure on that, Senator. One example would be just covering staffing costs. Again, we have a lot of dedicated staff in the commission. With our certified agreement provisions we have managed to date not to enter into large-scale redundancies—a lot of other agencies have. This year is different. There are not large-scale redundancies but we are certainly having to target positions. That is the only way we have been able to cope with our shortfall, and salary is obviously a big component of that. That is having an effect on our staff.

In order to keep up with market rates and to pay our staff a decent wage we have had overall salary increases of 22 per cent since 1999. But this year we have put a number of measures in place in terms of cutbacks to salary in particular, and that is affecting staff all over the country by way of reduced development opportunities and reduced training opportunities, and we are a little fearful about our skills base diminishing. These are all the issues that we are building up in terms of approaching the department of finance. In presenting the case to the committee we were seeking your support, I suppose. We wanted to bring you into the picture in terms of what our situation was, but of course all the data that we have available, if you are interested, we would like to share with you.

Senator ROBERT RAY—I think you argued in your submission that your initial funding was based on an enrolment level that has increased by 29 per cent since that model was adopted. Would you like to expand on that? What problems is that giving you?

Mr Moyes—As a basic premise, the more people you have on the roll the more people there are to consider in the review of the roll. It affects very basic levels such as the costs related to the printing of the roll. There would be a vast range of costs involved that are premised on the number of people on the roll. A 29 per cent increase is a fairly substantial increase when we are talking about millions.

Senator ROBERT RAY—Who has quantified those costs? If you have a basic funding model, costs have gone up and that funding model does not reflect it, I want to know how much costs have gone up—what the shortfall is. Who has done that and what is it?

Mr Moyes—One of the areas we look at is the cost per vote. We are also looking, at the moment—I think it was mentioned earlier—at our pricing base. We are working on those figures to quantify the costs in detail.

Senator ROBERT RAY—I assume if you are working on the figures you have not been back to the Department of Finance, either through the budget process or your normal activities, to argue this case of the funding model.

Ms Davis—Not yet. That was always intended to be part of the pricing output renegotiations with the Department of Finance, which we are building up to at the end of this year.

Senator ROBERT RAY—At the end of this year, do you think you will be in a position to go to the Department of Finance with your case? Will you have all the figures in by then?

Ms Davis—Yes. Our timetable is October-November but we have preliminary figures available now. As I said, we are going through a process of investing effort in ensuring that our case is a very strong one so that we can explain exactly how our costs have increased and in what areas, specifically. We are trying to trap that information for all who are interested. In relation to your previous question, my information is that since 1999-2000 and the introduction of accrual budgeting there has been no efficiency dividend imposed. Prior to that we were losing about half a million dollars per year. It was based on one per cent of running costs.

Senator ROBERT RAY—In the general part of your submission, and in Mr Becker's opening statement, mention was made of the burden of such a complex Electoral Act, which has been amended ad hoc. Who do propose to do the review of the Electoral Act?

Mr Becker—Obviously we would be making submissions ourselves. I think perhaps the JSC would be an appropriate body to oversee that.

Senator ROBERT RAY—Oversee it? Who would do the drafting?

Mr Becker—The AEC along with the Australian Government Solicitor.

Senator ROBERT RAY—I assume you would submit it to us at the end of the process, not the start. When are you going to do this?

Mr Becker—We can do this at any time we have the resources to do it. The fact of the matter is that it has to be seen by somebody else as a priority. We see it as a priority.

Senator ROBERT RAY—How much will it cost? What is your estimate?

Mr Becker—I have no idea at this stage.

Senator ROBERT RAY—You cannot ask for money unless you know how much it will cost.

Mr Becker—We are not asking for money for that at this stage. We are just saying that we believe the act really needs reviewing. It is getting convoluted because it is not written in 21st century language.

Senator ROBERT RAY—I am acting on that assumption. I think you are probably right. I think we have found some evidence that subdivisions going back 18 years are still in there. You say it should happen; I want to know when it should happen and how much it will cost and you are telling me that you do not know.

Mr Becker—I am telling you we do not know because we do not know. That is the straight answer.

Senator ROBERT RAY—Why don't you come back to us when you know? We cannot make an evaluation and recommendation when we do not know what the cost is and we do not know what the timetable is.

Mr Becker—This not our only submission, as I pointed out, that we want to put to this committee. Perhaps at some later date, before we wind it up, we can come back with something like that.

Senator ROBERT RAY—I think that would be a very good idea. You do not have go down to the last cent or anything like that, just provide a rounded submission saying what the need is and who is going to do it—you frightened me when you said 'the Government Solicitor's office', so I am already in terror now—and you also need to know how much, to know whether or not it is a priority.

Mr Becker—It is the fact that we have got ambiguity in there. That is more the issue than the cost at this stage. We just want to make sure that we have some clarification of what the words mean.

Senator ROBERT RAY—Are there any prime examples that you can point to?

Mr Becker—A prime example is sections 89 to 92. There is ambiguity in there. It is not up to date; it is not good enough for us at the moment. We have problems with the way we are structured with statutory officers. We are the only organisation with statutory officers in charge of each state. We have a situation where the Remuneration Tribunal sets the salaries but, on the other side of the coin, I can actually have some sort of say as to how those salaries may vary, but I do not have any say whatsoever in who gets the job. We can conduct the interviews, we can say who is suitable, who is unsuitable and who is marginal et cetera, but we have no say as to who actually gets the job. We cannot move our statutory officers, for example, from a state into a section 35 type environment. For example, I could not move Mr Farrell into central office to work in a temporary vacancy that might be an assistant commissioner or first assistant commissioner position. That is no way to run an army. You have got to have flexibility to move appropriate people into appropriate positions at appropriate times, and we just cannot do that because of the structure we have. Those are a couple of examples.

Senator ROBERT RAY—You do not know how much or what it will do, but do you have any idea how long the task could be?

Mr Becker—I think it would be at least a 12-month exercise—at least.

Senator MURRAY—The committee members know well, and have said so, that it is the government which will determine funding, but we also know that committees heavily involve themselves in taking views on the resources and expenditure of, say, the ATO, APRA, ASIC, ACCC, and your organisation. It is proper that you alert the committee to your needs, but I think the committee has clearly said to you that you need to put a much more informed case before us detailing some history, where your savings have been, where your cost pressures are and where

your needs are. I concur with my colleagues. You have set a hare running, but you have not given us the basis on which we can make an informed response. Am I to choose if you do that? I would support the committee making an informed response because that helps government come to a view, especially given the experience of the people on this committee.

One of the things I want to address is the issue of core business versus other activities. It seems to me that the committee is primarily interested in your core business, which is making sure the democratic election system runs well. Governments—both this one and previous ones—have quite rightly focused on identifying where services are provided to other agencies or other divisions of government and where user-pays should apply. I can identify at least two areas—and you might identify more—in which there are substantial costs. You have mentioned your foreign activity and I think you mentioned a figure of \$1½ million. That would seem to me to be, on a user-pays basis, a Foreign Affairs function. It does not do much for the efficiency of Australia's election system; it does a great deal for the efficiency of other countries' election systems. Another one that comes to mind is the use of the roll by other agencies, departments and so on. Do you have a view that the committee should take on board as to whether you are recovering or should be recovering those uses of your services and data?

Mr Becker—I will take the first one first: the international activity. That is one where, in fact, Finance did recommend that we go to Foreign Affairs to underwrite the infrastructure that we need to support the people that we have working overseas. That is a reasonable approach, and I have no problem with us approaching Foreign Affairs for that particular service which we, in effect, provide to them. In terms of extracting money from other agencies, I suppose we could put a loading on the cost of extracting data for those agencies in respect of the information we provide about the roll to, for cost recovery on whatever legitimate purpose they wish to use it for. At the moment we do not have any loading on extracts: it is only on a direct costs basis, so we do not make a profit out of it.

Senator MURRAY—Not even indirect costs? I am talking in financial terms.

Mr Becker—It is the actual cost.

Senator MURRAY—As you know, in accounting language direct and indirect costs are two different things, and they are entirely different from profit.

Mr Becker—We have to draw up an invoice saying—

Senator MURRAY—I am asking if you are doing full costing.

Mr Becker—Probably not. I do not know whether we would include for an agency the costs of actually drawing up the invoice or something like that other than just working out what the costs of the mainframe activity were and the costs for the actual production of the hard copy, the disks or however it was supplied. But that is an area that one could look at. It is matter of judgment as to the sort of loading you would have to put on it to make it worth your while. It would be a bit like asking, 'Should we charge our 226 parliamentarians for the data we extract for them every month?'

Senator MURRAY—Why not? We are discussing here the recovery of costs so that you can do your core business. In a hard-headed way—

Senator ROBERT RAY—The reason why not is that it is in their core funding to begin with, but anyway they would have to take it out of there.

Senator MURRAY—That is right.

Mr Becker—But it was not though—that is the point. We are still operating on 1984 funding rates. This is long before you got that sort of data. There is no accommodation made for that. It was not in our core funding at all. It has just been absorbed by the agency.

Senator MURRAY—What I am suggesting is simply that these questions need to be asked and answered, and if there is a judgment to be made government and the committee must make that judgment. But in a hard-headed way I would say to you, as an independent statutory organisation, that if you were short of money and the government would not give you any you would simply cut out any non-core activity. If the government want you to do a foreign activity and it is costing you \$1½ million, I would say, ‘No, unless you pay for it.’

Mr Becker—We are getting to that point.

CHAIR—How much assistance do you get from AusAID?

Mr Becker—Significant—all the in-country workers are paid by AusAID.

CHAIR—In quantum?

Ms Davis—Perhaps we could give the example of the Papua New Guinea work that we are doing.

CHAIR—I think you said you had an expenditure of \$1.5 million.

Mr Becker—That is for internals—that is what it costs us.

Mr Dacey—I do not know what the quantum would be.

Ms Davis—In relation to the work we have been undertaking for AusAID in Papua New Guinea, there is actually a memorandum of understanding in relation to what our costs would be. I have not been involved in the Papua New Guinea project.

Mr Dacey—It is approximately \$10 million over a three-year period. That is for having a permanent presence there of a team of four AEC staff, which is very costly.

Senator MURRAY—All I am suggesting, and this follows the theme that other members of the committee have spoken about, is that if you want us to get involved in this, you have to give us a very considerable paper which addresses all the various aspects—core business, non-core business, recovery of costs et cetera—so that we can meaningfully point a finger at an area and

say, 'Yes, they do need more money there,' or 'No, they don't.' Just on the surface of what we have, as a committee member, I could not go to government and say that you need more money, because you have not made the case.

CHAIR—On the issue of rewriting the act, you use some very strong language about the current state of the act. Is it really an impediment to effective electoral administration?

Mr Becker—It is not just an impediment, it is also something we can hide behind. It is such a prescriptive piece of legislation. For example, the committee could say, 'Why don't you do something?' and we could say, 'The act doesn't specify that we can do it.' Because the act is silent and prescriptive, the view is that, unless it is in the act, you cannot do it. Yes, there are some real impediments in terms of how we could deal with our divisional structure.

CHAIR—With respect, the divisional structure is a matter of decision, not a matter of the overall structure of the act. It depends on whether or not the government want to allow you to change it.

Mr Becker—In part, you are right.

CHAIR—Despite the general problems with the act, you have a number of recommendations bearing on your divisional structure which will take more legislative amendment within the context of the present act.

Mr Becker—That is true. Let us take the divisional structure. It was set up in 1901. We are not talking about something which is now in the 21st century. We had horse and cart, and that sort of approach in those days. Look at the American system—they still work on the basis that they have to get on a pony and then take the state's votes to Washington. That is just antediluvian, and yet they cannot get around to changing that. I think we are in a far better position; we can get around to changing it, and we are in a position to change it when we can identify where there is an impediment. Having a three-person office is an impediment. If two people are on leave—one is on leave and one goes home sick—we have to shut the office down because we cannot keep it open for occupational health and safety reasons.

CHAIR—But that is essentially an argument about the operation of part of the act. What you want to do is something much broader—which is to rewrite the act entirely. Given the asserted resource constraints on the commission, I am querying whether this is a worthwhile endeavour if you are primarily thinking that you do not like your present divisional structure.

Mr Becker—That is not the only thing we do not like about it.

CHAIR—Primarily.

Mr Becker—If we just pick off the various things—if we do not like the divisional structure and you change that part of the act—we are doing nothing better than we have done in the past, when we put in funding and everything else that has gone on through the last hundred years. If you are just picking it off on a piecemeal or reactive basis, then you are not doing anything. If you are going to be serious about electoral reform in that sense, you have to look at the whole context of what the act is purporting to do.

CHAIR—Maybe I am an incrementalist and I believe that, when you focus on a problem and you resolve it, that may work. If you try to rewrite an act entirely, you may be creating unintended problems that may be of some significance, which is particularly important with respect to the Commonwealth Electoral Act.

Senator MURRAY—Before you move off that point, I want to touch on the act. What I think the chair is driving at is that an alternative to rewriting the entire act, if that is too costly, takes too long or is too difficult, may be to address a division of the act where you believe there is a priority. I think that is really what the chair is saying. I have read that entire submission and, on the organisational side, what I have seen is that you want greater flexibility, less prescription, more discretion and the ability to manage and organise it on a modern, professional and discretionary basis. People have to make a judgment on that, but the fact is, if that is the impression we get from reading this, you should identify the division or divisions of the act where your priority need is. It is easier to address a division, I think, than to try and redo the whole act, if there are time and money constraints.

Mr Dacey—We have done that for sections 89 to 92, for example, in relation to the electoral rolls. We have recognised difficulties there. For example, the act still contemplates and requires us to print bound copies of electoral rolls once in the life of the parliament. That does not take into consideration new technologies and that people may have electronic access. We spend half a million dollars printing the rolls, which might sit in a storeroom and never be used, because we need to print them.

You are right; one way to approach it is on a part-by-part basis. For example, whilst we are not suggesting we change voting systems or methods of scrutiny, the scrutiny section still contemplates that everything is done in a manual way. We know that in recent times we had to make amendments to that part of the act to cater for the keying in of below the line Senate ballot papers. There are other options with technology that currently are not possible in terms of the House of Representatives within the act because it is so prescriptive and relies on traditional 100-year-old methods of doing things. I take your point that we could pick it up on a division-by-division or part-by-part basis within the act.

Senator MURRAY—Through the chair, that is what I would like to ask you to do. From my reading, the committee has so far asked you to come back to us with a fuller picture of exactly what you want to do to the act and what you mean by more principle based versus less prescription. The committee has asked you, as an alternative, to identify for us those parts or divisions in priority order because if the government takes the view that they will not or cannot—or for some reason may not be able to—address the act in totality we should really focus on where the greatest problem is.

Ms HALL—We have moved past what I was going to talk about.

CHAIR—At page 6 of the submission you say:

For the 2001 federal election, the AEC detected no widespread or organised electoral fraud that could have affected the result in any Division.

What did you find, short of 'widespread' and 'organised'?

Mr Becker—There are always apparent multiple voters and things like that, and they take a bit of following up. It depends on what resources AFP can put into the exercise. What we were saying is that there was no apparent organised fraudulent activity.

CHAIR—What was the magnitude of any fraudulent activity that you discovered?

Mr Orr—There are 88 which have either been referred, or are to be referred, to the AFP for investigation.

Mr Dacey—Those are cases of apparent multiple voting where there have been two or more marks on certified lists.

Senator ROBERT RAY—They are not all necessarily fraud.

Mr Dacey—Not necessarily. It could have been officer error—we have tried to eliminate that—and some may have been confusion. History shows that quite often cases of apparent multiple voting are elector confusion. For example, someone in a nursing home may have a postal vote or attend a mobile polling station and on Saturday the family might come and take mum to vote and mum may vote—that is often the case.

CHAIR—We will move to the section on the issuing of the writs. There seems to be quite a bit of angst on the part of the commission about this particular matter. You want to be advised ahead of the public announcement that the Prime Minister has gone to Government House and asked for an election. You do not want the job of issuing the writs. There seem to be a lot of problems.

Mr Becker—I am sorry if that is confusing but it is no less confusing to us, I can assure you. I have checked with my predecessors and at no stage have we had formal advice from the Department of the Prime Minister and Cabinet that there is going to be an election. On this occasion when I asked for some formal advice about the dates and so on I got a copy of the press release. I think that is a little bit odd. For a start, the writ from the Governor-General is addressing me, as Electoral Commissioner, commanding me to conduct elections. It seems nonsense for me to draw up the writ to give to somebody else who then sends it back to me commanding me to run an election. It should be done in PM&C or in the Australian Government Solicitor's office. I do not draw up a writ to give to the Speaker to give back to me to run an election in Cunningham. The Speaker does that and we get a writ. That is my point. All I am getting at is that the formal advice would be nice. We do not need to know in advance.

Senator ROBERT RAY—Let's face it, that would be an action for PM&C to carry out. I have to put on the public record an acknowledgment that they are relatively efficient and fair to whoever is in government; they get most of these things right. I would like to follow this up: who was the officer that just sent you the press release?

Mr Becker—I could not tell you. I just went into our own parliamentary—

Senator ROBERT RAY—I just wanted to ask them why they sent you a press release and not a more formal thing, because I think that is contemptuous.

Mr Becker—We have never had formal advice.

Senator ROBERT RAY—I understand that.

Mr Becker—That press release is as formal as we have had it.

Senator ROBERT RAY—My view is that you should get formal advice or you do not get told, but you do not get faxed a press release. I think that is the worst of all three options. Could you take it on notice to provide me with that officer's name?

Mr Becker—Yes.

Senator MURRAY—It is especially poor if you were not rung and advised that it was coming through on the fax machine, but that it was simply popped on there and no-one knew it was coming through.

Mr Becker—Actually, Media Monitors rang and told us that the Prime Minister was in Dunrossil Drive. That was the first we heard of it.

Senator ROBERT RAY—I do not think that anyone on this committee is going to say you should know about it until he has left Dunrossil Drive and is coming back.

Mr Becker—No, we are not saying that either.

Senator ROBERT RAY—I think we are all agreed on that.

CHAIR—There have been occasions when the attempt has fallen through.

Senator ROBERT RAY—We are not referring to 1983, are we?

CHAIR—No, of course not!

Ms HALL—What you would like is a formal process that is going to be followed each time.

Mr Becker—I just want to see the writ for the election which has already been signed off by the Governor-General.

Senator ROBERT RAY—Clearly, their coming back rag tail does affect things. I think the committee would like a uniform date for the Court of Disputed Returns.

Senator MURRAY—That is right.

Senator ROBERT RAY—I know we are pondering looking at this whole area because that is one of the more arcane sections of the act that has not been looked at for a long while. If they come back rag tail on different days—

Mr Becker—We had a problem in 1998 when a couple of the states were not prepared to issue the Senate writs at the times that we wanted them issued. That really caused us some angst because we would have had different polling days as it was under state legislation. That legislation has in all cases been corrected. It is all uniform now but that gave us a bit of worry.

CHAIR—Have you raised this issue with the Department of the Prime Minister and Cabinet?

Mr Becker—No.

Senator ROBERT RAY—Would it be a good idea?

Mr Becker—Yes, it is a good idea, but I think that it might be an idea for the committee to provide a view as to whether it should be raised with PM&C, the AGS or whatever. But I do not think it should be the commission preparing the writs.

CHAIR—No, I was actually asking about formal notification. After your nose was put out of joint by the press release, did you go and say, ‘Hey! What’s going on here?’

Mr Becker—We asked for some sort of formal advice and the formal advice was a press release. That is the extent to which it has been raised.

Senator ROBERT RAY—I think what Mr Georgiou is starting to move towards is the question of whether this is a matter of legislation or a matter of you developing protocols with PM&C that will relieve us of the responsibility of legislative change.

Mr Becker—It does not have to be a matter for legislation, no; it is only administrative.

Senator ROBERT RAY—We are suggesting then that you type up the letter, get the procedures under way, sort it out and get back to us if there is a problem.

Mr Becker—I am happy to do that.

CHAIR—It just strikes me as odd that you have a concrete problem that you should be discussing with PM&C, now nine months have elapsed and this has struck a nerve end and you have not gone to Max.

Mr Becker—I do not think the issue is the fact that we have not done anything about it at this stage or that we would not address it between now and the next election either. It is the fact that we do not just put things in front of the committee for possible legislative change; we are putting things in there for information as well. When the committee writes its report it does not just talk about legislative change; it talks about other ways of doing things.

CHAIR—My point is that one would have expected that you would have tried to sort it out directly with the Department of the Prime Minister and Cabinet by saying, ‘We have got a problem here. Can we sort it out?’ I would like to move on to the call centre. I have a fundamental problem with the call centre, in that on the day that you knew would have the heaviest utilisation of the call centre, 50 per cent of the calls were not responded to.

Mr Hallett—Yes, that was a problem. There are two issues there. One issue is that, as previous elections have shown, we always receive more calls than we can handle on close of rolls day. The second issue relates to the staffing and training of operators with the contractor. We were very concerned that, despite our advice and the figures and statistics we had provided to them from the previous elections and the referendum, they did not ramp up the centre in the way that we had asked. We had discussions with them about that. They provided further staff towards the middle of that particular day, but they staffed according to a commercial model and made a decision which, as it proved, was wrong.

CHAIR—But you alerted them to the fact, you made special arrangements for that day, and they ignored them. Is that what you are saying?

Mr Hallett—That is correct.

Senator ROBERT RAY—Did you pay them in full?

Mr Hallett—No, we did not.

Mr Becker—They lost out quite significantly.

CHAIR—What are you going to do about this for the future? Some 68,000 unanswered calls on one day is a fairly substantial shortfall—and I am a bit animated on this one—especially given your extensive criticism of some delays in return of postal votes by political parties. You carry on about that quite a lot yet, on the most important day, 68,000 calls were unanswered.

Mr Hallett—There are two ways of looking at that. One is that we do acknowledge—and we acknowledged after the 1998 election—that it is an issue. We need to look at the messages we provide electors. Perhaps we should not necessarily be encouraging as many people to ring us if they have not changed address or do not need to enrol. At the moment, we are also looking at other models for conducting our call centre. We did an extensive review following our experience in 2001. We have spent a lot of time this year talking to other agencies like Centrelink and the Australian Taxation Office and visiting call centres in places like Tasmania to look at best practice. We are currently formulating a model to improve the service for the next event.

Senator ROBERT RAY—In the same section, I think you canvass tally-rooms. Where are you up to there? Do you still want to keep the tally-room?

Mr Becker—I think so; for the moment, anyway. I suppose we could run a totally virtual tally-room, but every time you talk to the media about the possibility that you might shut the tally-room down, there is an objection. The tally-room has a significant cost. It costs around \$600,000 for that one day, but it is a showcase for the media and the AEC. If you have been to the tally-room, Senator, you have probably seen the huge queues of Canberra-ites, who are prepared to stand in a queue for an hour or an hour and a half—

Senator ROBERT RAY—They would stand in a queue to watch the traffic lights change.

Mr Becker—That is the situation. I do not think that we are quite at the virtual tally-room stage yet. We could run it in-house. We could keep it in central office, get the data in there and have a direct feed out to the media.

Senator ROBERT RAY—I am not pushing you one way or the other. I just wondered where you were at.

Mr Hallett—We trialed it at the referendum. We did not have a tally-room and we only provided results on the web site and by direct feed to the media.

Senator ROBERT RAY—Do you think you have got your web site right now? I remember we went over that issue in the Ryan by-election, when we talked about how difficult it was trying to assess a preferred vote when it did not indicate—

Mr Hallett—We certainly learnt some lessons from the Ryan by-election because it was so close. We did make some changes, particularly to the two candidate preferred figure, which quite clearly at the federal election was indicated to be a projected result, as it was on election night. We are actually rebuilding our virtual tally-room, which is the part of the web site that gives the results. We are also reviewing our own election management screens so that they work as a coordinated suite. That work is well progressed.

Senator ROBERT RAY—What you need to do is give more thought not to election night but to the following 10 days. You need more information on the site: the amount of postal votes applied against maybe those of the last three or four elections; what the absentee figures were, so people can make their assessments; and what the provisional votes are. You could even go to the point of saying, ‘We expect to count so-and-so today.’ If you could make that a good site, you would not have us ringing you and driving you mad as we try to get information all the time while you cannot get on with the count. If you put that on the site, that would be great.

Mr Hallett—I hear what you are saying, and that will certainly be part of our considerations, but there is actually a screen on our web site that gives a breakdown by vote type, so that, for example, people following the vote in close seats can see on the day how many pre-poll votes or postal votes have been done. I also hear what you are saying about how many are expected to be done. We can take that on notice and consider it.

Senator ROBERT RAY—I appreciated the latest update although sometimes the latest update actually changed nothing, as I think you might have found, but you updated to that point.

Mr Hallett—If you refresh and there has not been an update, it should not change.

Senator ROBERT RAY—I just think you can make that page a lot more meaningful for people so they know which direction that result is going in. That would be very helpful and it would also take pressure off your divisional returning officers or your counting centre.

Ms HALL—I endorse that. I have noticed that the site has changed and improved. It did improve a little at the last election but there was still a lag time and sometimes it was difficult to work out what votes had been counted that day and where the preferences were going.

CHAIR—I would like to skip over the issue of your divisional structure, because we have touched on it and will come back to it again. On the issue of advertising, you say that it achieved a high reach, that people knew all about voting and that 93 per cent felt that they were effective in their votes and their knowledge. But in the section on postal votes you identify a number of points of ignorance amongst the public. Could you connect the effectiveness of the campaign with the problems with postal voting? On page 36 you say:

As the AEC has stated in previous submissions, many electors casting postal votes assume they cannot vote before polling day ...

And there are other references about ignorance on the public's part.

Mr Hallett—That is related to one of the questions that we asked about where people thought they could obtain a postal vote application from. I do not have the full report with me but I can take that on notice and provide the information. From memory, there did seem to be some confusion when people were asked a specific question about where they could obtain a postal vote application from.

CHAIR—No, this is actually about postal voters assuming that they cannot cast a vote before polling day.

Mr Hallett—I will provide to the committee for your information that part of the report as to both the question and the results that the market research company found.

CHAIR—That would be worthwhile. In terms of inappropriate names, can we be told what the situation is with SCAG?

Mr Moyes—The commissioner has written to the minister asking him to approach the Attorney-General. I understand that letter has gone to the Attorney-General.

CHAIR—So the question has been overtaken?

Mr Moyes—Yes.

Ms HALL—We were talking about advertising a moment ago. We received a submission from groups representing homeless people in Melbourne in which they highlighted the fact that this particular group of people was not targeted, as advertising campaigns on enrolment et cetera ignored it. Would you comment on that and give me an indication of what strategies the commission is looking at to improve advertising and targeting these people? The address of a KFC car park may be appropriate there.

Mr Hallett—It is probably fair to say that the homeless as a group were not a particular target, or a specified target, as part of our public awareness plan for the last federal election. A journalist from the *Big Issue*—I presume you are aware of that publication—did talk to me once the campaign had started and I did provide her with material and information. We have done a review of the public awareness program and I think it is reasonable to say that, even before this committee begins its deliberations, we will be looking at that group along with other targets such as young people, Indigenous people, people from non-English speaking backgrounds, and

so on. However, there will be some challenges in reaching that group. That is not to say that we will not look very carefully and try to do the best we can but it certainly will feature in our public awareness program for the next election.

Mr Dacey—You will recall that in Melbourne —and it is in the submissions as well— advocates for the homeless were suggesting some fairly complex amendments, particularly in relation to our itinerant enrolment provisions. There is the enrolment issue and the voting issue as well. We have sympathy with the submissions and we need to assess what they are suggesting and come up with what we can best do in terms of strategies. Obviously, one strategy they suggested that we could pick up on immediately is that we perhaps use some of the welfare agencies as information imparters for us so that we can actually make contact with some of the welfare agencies, have the enrolment forms available and talk about the processes.

There is the assertion that all of these people are only enrolled and that they do not vote but we are not too sure whether they are or not. We do not ask for homeless status when people enrol. I guess it is fair to assume that youth in particular who are homeless are perhaps unenrolled. It is people who have subsequently become homeless who may have maintained enrolment for the previous address. So it is an issue that we need to focus on.

Senator ROBERT RAY—The conundrum we have is that we have compulsory enrolment and we go to a person and say, ‘You have to be on the roll. Fill in this form.’ They say, ‘But I do not live anywhere.’ We say, ‘Well, you cannot go on the roll.’ But you have to be on the roll and you have to have an address. That is where the conundrum is at the moment. With a compulsory enrolment environment we cannot cope with that until we find a spot on the earth.

Mr Dacey—With modification of the itinerant enrolment provisions, there will be more scope to cope with that. One of the other issues that was brought up in Melbourne on Monday is homelessness perhaps being a valid and sufficient reason for not voting and that the AEC’s confidential information that we provide to our divisional returning officers may in fact be made publicly available. I would like to be on the record as pointing out that we will not be making that publicly available, and that decision of ours has been endorsed by the AAT. It is confidential to the AEC. I am sure the committee can understand some of the implications of making public what we can suggest to some DROs or AEOs as valid and sufficient reasons for not voting. They would find a lot of people not voting, choosing to call themselves homeless, and using that as an excuse.

Senator ROBERT RAY—Have you ever done a survey of those who are not on the electoral roll? Have you gone out and, by random sample, done a profile on who is not on the roll and interviewed them as to why they are not on the roll?

Mr Hallett—Not to my knowledge, Senator.

Senator ROBERT RAY—You do that with informal votes and a lot of good work is done. Yes, initially getting the sample is not going to be easy—I understand that. But you spent all this other money on advertising and all the stuff that Mr Farrell’s been through with us—all very good stuff—yet deep down you do not know yet why we assume the missing five per cent who are eligible to be on the roll are not on the roll and why they do not go on the roll.

Mr Hallett—The closest we came to that was before, I think, the 1998 election, when we were testing a youth television commercial. We held a focus group with some young people. We were basically testing the storyboards for the commercial, but we took the opportunity to ask, admittedly, some fairly superficial questions. The answers will not surprise you. They were things like feelings of disempowerment, feelings that other things were more important and misunderstanding that you were automatically enrolled when you turned 18. I think we would agree with you that it is an area that we could look at in the future.

Senator ROBERT RAY—Let me make it quite clear, because I am quite iconoclastic when it comes to focus groups; I think they are mostly a waste of time. It has to be a quantitative survey, not a qualitative survey that will enrich the company. I pursue my views on a lot of focus groups. Occasionally they are useful but mostly they are absolute rubbish. I know you would not rely on those. Getting the sample may be hard but, when you think of all the money you are spending and all the effort you are going to, trying to get to the heart of why people will not go on the electoral role may well reap dividends in future.

Mr Moyes—On that subject, research in the commission is being cranked up, and that is one of the areas that we are looking at from the enrolment end. We have not formalised that, of course. There are a number of areas in the context of completeness and accuracy of the role. One of the questions that immediately comes to mind is ‘why aren’t people enrolling?’—and following that down a burrow. That is one of the areas that we are thinking about.

Senator ROBERT RAY—Very good.

CHAIR—The commission obviously does not like political parties distributing postal vote applications. Having read the submission reasonably carefully, it seems to me that the evidence that you put forward for your concerns about it is not really strong.

Mr Becker—The evidence we have is pretty significant. I walked into the division of Leichhardt just before the election and saw six postal vote applications, all from the same party, all from the same person, and not one of them being witnessed. So we had to get back to that person and say, ‘We can’t accept your six postal vote applications.’ We know that there is a timelag between the time that the application is completed and the time that we receive it in the office, when it goes to a party. We cannot prove that that has not been given to us as quickly as the party can deliver it, but the reality is that the parties do sit on them. The trouble is we cannot prove that a party sits on them until such time as we have the resources to go back to the electorate and say, ‘When did you actually complete that?’ Whether that would be anything other than prima face evidence and how credible that evidence would be are other issues. We do not like the parties getting between us and the elector. That is where the issue is. I know that the legislation allows that to happen, but it has caused people to be disfranchised in the past.

CHAIR—There is no evidence here that anyone has been disfranchised. Your illustration about the Leichhardt office is precisely what you want to happen.

Mr Becker—Six applications for one person?

CHAIR—No. In your report you say that, where there are errors, they should be dealt with by the electoral office. That is precisely what happens, so I am not sure what your problem is.

Mr Becker—I think it is absolute nonsense that a person has to complete six application forms because they believe that they received six through the mail addressed to them.

CHAIR—But the process that you require is that, when an error is made, that error should be determined by the Electoral Commission, which is precisely what happens.

Mr Becker—That is true—it is determined by us. But one of the issues that we have is that the party workers have tried to determine the errors, and that is definitely not on, because then they go back to their elector directly and try to make the corrections. We hear the story that the parties are doing the Electoral Commission a favour. Thanks very much, but we do not need those sorts of favours. We are seeing a situation where the parties are doing their own self-serving stuff. You are not spending a million dollars on sending out application forms for the goodness of our health; you are doing it for the goodness of your health. I do not see it as a service to the elector because we are more than capable of getting to the elector. We have the problem that the elector's likelihood of getting the franchise is likely to be affected, even if there is only one. In 1998, about 150 people were disfranchised because we had received their information too late. That is something that we do not consider acceptable.

Ms HALL—I hear what you say, but maybe the electors do not always agree that by contacting the parties they are not getting the service that they want. Maybe they find that it is very difficult to contact the Electoral Commission, and maybe they find that the way you would like it to operate is actually a barrier to their getting the information, even given the advertising that the commission undertakes. If it were such a good system, every phone line in offices like mine would not be totally blocked from the day the election was called until a few days before the closing of postal votes. Maybe those people would be able to access information a lot more freely if that were the case.

Mr Becker—I accept that. For many years, we have been giving out postal vote applications to all offices. They respond to people who are going to move, going interstate, are unable to attend a polling place because they live too far away, and so on. That has been going on since the year dot. That is not the issue that we are trying to curtail. The likelihood that a person is entitled to a postal vote in that circumstance is quite significant. When you blanket electorates or states or what have you, and everybody gets a postal vote application, we are in the situation where people who are not entitled to a postal vote are likely to be sending postal votes in. That is increasing our declaration vote scrutiny, our time, our money and everything else. We can see through the stats that we have that our declaration voting is rising. We are more mobile but—

CHAIR—The postal votes actually dropped in the last election.

Mr Dacey—The 1998 election was held in school holidays.

Ms HALL—The one before was disastrous.

CHAIR—We are hearing in the submissions that they are increasing when in fact they decreased between 1998 and 2001.

Senator ROBERT RAY—You would have to do a very sophisticated trend line to know whether they went up or down because of the school holidays.

Senator MURRAY—This is a matter that was discussed in the previous JSCM and probably before that. I must put on the record that I think it is entirely wrong for members or senators to send out postal vote applications, generally, which have not been requested. I think it is wrong because people will receive it and will take the view that they can use it as an alternative form of voting. Whether the trend line is up or down, we need to address that issue.

Mr Becker—The only other option is to say, ‘If for any reason you cannot attend a polling place or if you do not feel like going to a polling place on Saturday, have a postal vote.’ Then you would see some sort of logic in it: we will make it for everybody because we can give everybody a certificate vote. Then the cost of the election would just go through the roof, of course, if they all used that and did not attend at the polling places. We would have 65,000 to 70,000 people sitting around in the polling booths and twiddling their thumbs, at least for the first election.

CHAIR—For the record, I think that the distribution of postal votes assists the democratic process and maximises political participation. But also for the record, I do think that the evidence that is put forward here takes a lot of pages but does not amount to very much about the problems that it causes.

Senator ROBERT RAY—I am not as critical as Mr Georgiou on this. I think we might have to have a look at the way political parties behave en masse on postal voting. I cannot imagine why they would sit on postal votes for two weeks, other than incompetence.

Mr Becker—You wait until you get a decent number and then you can get your economy rate for postage.

Senator ROBERT RAY—I think you are a babe in the woods on this one. These are the things you get, you process them, and you go and grab the votes and influence it—and all that within the law. I cannot imagine anyone—other than a fool, and there are plenty about in politics—sitting on a couple of thousand votes.

Mr Becker—You would not want to sit on them, but it seems as though people have been sitting on them.

Senator ROBERT RAY—You do not know that their motive is bad, other than it is incompetent?

Mr Becker—I am not saying their motive is bad at all.

Mr Orr—In 1998 I was in the New South Wales head office and the different parties processed PVAs in different ways. From one of the major parties we received a daily distribution of PVAs for subsequent distribution to our offices to speed the process up. In my limited analysis of that there was some pattern in the delays. The party processed the votes for the marginal seats, the blue ribbon seats and the leader’s seat quickest. Others that were received for the other side of the House came in later. They were often delayed. There was a trend in that. That is only one state.

Senator ROBERT RAY—That is easily solved—we will put senators in charge of it.

CHAIR—Don't push that!

Senator MURRAY—It seems to me that at every election there is a very high number of sitting candidates up for re-election. I would almost draw an analogy of postal vote management and entitlements difficulties. Where there are entitlements difficulties it is a minority—a small minority, often—of members or senators. The Department of Finance and Administration goes along and says, 'Listen, you are not doing this right' or 'You are making mistakes' or 'There is an administrative error' or whatever and they do a face to face and fix it. It would seem to me from reading your report that you have identified a few seats—principally seats, not senators—where there are a few candidates whose electorate offices, not the candidate themselves, have bad practice, delays and just do not understand the importance of turning these things around quickly. Do you have any procedures—drawing on the entitlements analogy—such as in the Department of Finance and Administration where they go into the office of the member and counsel them as to how to do it better? Do you have any procedures so that people who have a history perhaps from 1998 or 2001 can, when it comes down to the next election in 2004, be properly trained?

Mr Becker—Not specifically.

Mr Dacey—At the end of our pages of whinge, I suppose, the bottom line is that we will be developing protocols to be distributed to all parties and candidates which will set out our position and the requirements. We will be providing that to all candidates in the process.

Senator MURRAY—My concern with that is that it is kind of out there. DOFA—to use the analogy again—are proactive on the entitlement thing. If somebody is putting in their returns badly, not signing things they should or not administering correctly they will go along and help them fix the problem. I would have thought that if you can identify seats where this has been a problem—from my reading of the report it is just a few—it would be a far easier way of fixing it come the next election. I have not heard you say that most candidates or most offices handle this badly.

Mr Becker—One of the issues is that, naturally, the candidates want to get out their paraphernalia before these people go overseas and what have you, and I can understand Senator Ray's view that it is not in the interests of the candidate to hang on to stuff unless it is in the context of what Mr Orr was just talking about. But when the reply comes back from the elector it comes back to the returning officer at a post office box number which is not related to the Electoral Commission. It is coming back into a party post office box. That, in my view, is not really giving the elector the whole story—that their application is actually going to be vetted and what have you and stuff sent out from the party head offices. They do not know that at the time. All they do is fill out an application that has been delivered to them, and in many cases they are not aware that that is going to go through the party system before it gets to the AEC. I think that that ought to be stated.

Senator MURRAY—That is a privacy matter.

Ms HALL—I think it would be very difficult for them not to know that it is going back to the actual party when they return those votes because that is the address that they send it to. That is

the address that is written on it. It does not have 'the AEC' written on it. If I send it out it has 'Jill Hall' on it.

Mr Becker—No, it has 'to the returning officer' and the post office box number.

Ms HALL—No, not at all—not on the form they return. Mine is a standard one—the same one that is used throughout New South Wales.

Mr Dacey—Some of them that were organised on a national level certainly had either the postal voting officer or the postal returning officer at a PO box, and did not have any party name.

Mr Moyes—To take up a point you were making before about being proactive in relation to this issue, in my capacity as the AO for WA in the last election we did talk to the major parties that were sending this material out to reinforce the requirement to get it back as quickly as possible. I also take the point that was made before, that it is not in the party's interests to delay them, and the state secretaries were quite aghast that there may be delays. They then took it up with their various campaign offices to make sure that that material came in very quickly. We monitored that and where there were any difficulties we took them up with them on the spot and had them correct them at the time. We do undertake those sorts of activities.

CHAIR—What is the standard turnaround time in the commission between the receipt of a postal vote application and a dispatch of the ballot?

Mr Orr—The process is that once all postal vote applications are received the intention is to enter them in as a priority for that day. A daily extract is done on our automated postal voting system, usually late in the afternoon. That picks up everything that has been entered from the cut-off the day before until that time. Generally speaking, unless there were huge numbers received, we would aim to meet everything that day at that time. Then it rolls over. Over the last two weeks the mail-out and processing are continued through the weekends to ensure that all the PVAs are processed and out as quickly as possible.

CHAIR—So the intention is that they should be turned around the same day. What does the data show in terms of the actual time taken?

Mr Orr—We have not undertaken a quantitative analysis of that but I expect that at least 90 per cent would be turned around on that day.

CHAIR—And the other 10 per cent?

Mr Orr—I would expect the other 10 per cent to be the next day.

CHAIR—So you are saying 48 hours maximum for 100 per cent?

Mr Orr—Yes. That would then be in the postal system.

Senator ROBERT RAY—I would like to ask about pre-poll ordinary voting. It is not an issue I have followed, but I note that you have put this up two or three times and it gets knocked over every time. What are you really proposing here—that you can just go into a pre-poll voting centre and vote?

Mr Becker—Yes.

Senator ROBERT RAY—Do you have to have a reason?

Mr Becker—You have to have a reason. It is on the basis that you are not going to be in the division on that day.

Mr Dacey—It is voting without a declaration, without declaring that you are entitled, that you have that reason as they do in the ACT and Victoria.

Mr Becker—You make an oral declaration—that sort of thing.

Senator ROBERT RAY—You would not have to fill out an envelope and put your vote in it?

Mr Becker—That is correct.

Senator ROBERT RAY—Which means you could count it on the night?

Mr Dacey—That is correct.

Senator ROBERT RAY—I know you have reasons, but it is still beyond me that we cannot count more of the declaration votes on the night, and cut to the chase.

Mr Dacey—Since the last election we have had the ability to conduct preliminary scrutines from the Monday before polling day rather than starting after close of poll. We certainly would have had more declaration votes in the count last election that we have had in the past.

Senator ROBERT RAY—Obviously there is nothing you can do with absentee votes or what I would call sectional or provisional votes. However, in a lot of cases, I would have thought that postal votes and pre-polls—

Mr Becker—We would have got a lot back by then.

Senator ROBERT RAY—Yes, get a lot back and break the back of it.

Mr Becker—That was the intention.

Senator ROBERT RAY—I would not urge you to do them first and be first in with those votes. It gives a totally distorted result and no-one likes it. The divisional returning officer can be proud that he has 1,000 votes in by seven o'clock. However, if they are postal or pre-poll they should be put in—

Mr Dacey—They do not show a trend.

Senator ROBERT RAY—the mix during the night rather than get everyone excited one way or the other. As much as you can do that, we would appreciate your doing it. It also takes pressure off you the following week if you have to do a recheck and the absences and tally all that up.

Mr Becker—This move has been a good one.

Mr Dacey—Pre-polls as ordinaries would assist that much more as well.

Senator ROBERT RAY—It seems to me that the committee previously wanted to get people to vote on election day unless they have a good reason why they cannot do that. The only worry with this is that people are just going to turn up because it is more convenient.

Mr Dacey—It is probably anecdotal and we probably should not be relying on anecdotal evidence, but we have noticed a trend over some elections that people are voting before polling day. They might go along to a pre-poll centre because they are at lunch on a Wednesday lunchtime and they pass a pre-poll centre and think, ‘Oh, beauty; I’ll go and vote now so I don’t have to get up early on Saturday and I don’t have to waste my Saturday going to a polling place.’ In my view, they are signing declarations that they are entitled to do that, but perhaps they are not entitled to do it. There is a trend for earlier voting and for not voting just on the one day. If pre-polls were ordinary that would be reflecting that trend and it would mean that we would get more votes into the count on election night.

CHAIR—Can we go to the issue of which date is taken in terms of postal votes and your recommendation on that. With the best will in the world, why is it not possible for the date the postal vote is signed to be taken rather than the date of the postmark? Isn’t that very open to fraud?

Mr Becker—It has to be witnessed. It could be open to fraud now, but what you are trying to do is maximise the ability to get into the count. We are relying on another agency that does not work on weekends, and it just happens to be the weekend we are working. It seems to be nonsense to me to disfranchise a person because he has not got a proper postmark. If you have the date that it is completed and witnessed, and the crucial thing is that they coincide so you are not witnessing anything other than the signature and the declaration, that is the date that should be used. This is not new in Australian electoral law. It does operate in the states where we work on the date of the declaration, not the date of the post because Australia Post no longer works on Saturdays.

Senator MURRAY—But surely the point is that the witness could postdate it.

Mr Dacey—Yes, the elector and the witness can postdate it.

Senator MURRAY—But the post office is not going to postdate a postmark.

Mr Becker—We are saying that we are going to disfranchise people because somebody may try to commit a fraud.

Senator ROBERT RAY—But it is still possible. The person has to vote before six o'clock on polling day, no matter what. As I understand it, it is possible, although not in all circumstances because of physical circumstances, for the witness to take that declaration and give it to a returning officer who will then admit it to the count or send it through and into the count; he can take it to a polling place.

Mr Becker—If they are there just before they close the polls.

Senator ROBERT RAY—The problem we are trying to avoid is people looking at the election result and then voting. That does not seem to be tenable to anyone on this side of the table or to you.

Mr Becker—They cannot do that. They will not know the election result.

Senator ROBERT RAY—Yes, but if you can witness and postdate it—

Mr Becker—If it is postmarked Monday morning—

Mr Dacey—It is not postmarked. It is if it is dated—

Senator ROBERT RAY—This is the difficulty. It could have been posted on the Saturday or the Sunday; the postmark will not tell you that.

Mr Becker—We have no evidence. We can give you evidence about some of these other things—our funding and everything else—but this is anecdotal, hypothetical stuff. We have no evidence to suggest that that fraud has ever taken place, even in those states where they have the ability to complete a form and the date on which it is completed is the one that is taken into consideration.

Senator ROBERT RAY—You should not take me as being entirely hostile on this.

Mr Becker—No, I am not.

Senator ROBERT RAY—We try to anticipate problems. The postmark has been a traditional one. You have pointed out the weakness in it. I accept the weakness that you have pointed out. If there is any other way, though, that these votes can be admitted without the postmark, but we can be relatively sure that it is all above board, we will look at it. We have to explore this to make sure that we are not leaving a loophole.

Mr Becker—There is always that loophole but whether it is being exploited is another issue. We have no evidence that it is being exploited.

CHAIR—I think we are all coming from the same direction. We accept that there is a problem. We do not want to disfranchise people but some of us are concerned that not having an independent validation of date would be open to abuse.

Senator ROBERT RAY—The typical reaction would be to get a certain class of people—

Ms HALL—What percentage of people are disfranchised in this way?

Mr Dacey—We gave some examples but we could drag out actual figures.

Ms HALL—Yes, not examples but figures.

Senator ROBERT RAY—Could I give you an example? I have had this happen and you have had it happen to you. I get a phone call: Dad or someone has just had a heart attack, he cannot vote, he is in St Vincent's, he is refusing the anaesthesia until he can get a how-to-vote card and then vote in some way. Sometimes that is covered by mobile booths but this is the sort of circumstance that happens. You either post them the thing or in some cases—I do not know whether it is legal—divisional returning officers get the vote to them physically.

Mr Dacey—It is not illegal.

Senator ROBERT RAY—They have gone out of their way, knowing that the post would miss them and someone drops it off on their way home. These are the circumstances, mostly, where this would apply, I would think.

Mr Dacey—We are concerned about the potential for fraud, even though we have not seen any evidence. Maybe the issue will fade away to some extent as Australia Post uses fewer postmarks. The act then says that we can rely on the date of the witnessing. The trend is away from postmarking.

Senator ROBERT RAY—Does this have an overseas consequence for you?

Mr Dacey—They have to be received by our returning officer overseas before the close of the poll as well.

Senator ROBERT RAY—It is receipt not postmark there?

Mr Dacey—That is right. It is receipt overseas, so it is even stricter.

Mr Becker—We will get into other forms of voting to accommodate, in time, people overseas—like Internet voting and so on. That is instant and you know exactly when the vote has been cast.

CHAIR—As I said, we are concerned about the problem but we are not persuaded entirely about the solution. What happened with the distribution of roll updates to members of parliament after the election was called?

Mr Dacey—The ELIAS update?

CHAIR—Yes.

Mr Dacey—Are you referring to a problem?

CHAIR—Yes, my recollection is that the commission discovered that they were not entitled to distribute them to members of parliament because they were not members of parliament once the writs had been issued.

Mr Moyes—We have had advice that once the House was dissolved there were in fact no members. We could not provide information to members because they were not members as such.

CHAIR—Was that something that was newly discovered?

Mr Moyes—As I understand it, yes.

CHAIR—Has any thought been given to addressing that situation? It was personally irritating, that's all.

Mr Dacey—The short answer is no. As Senator Ray will recall from a previous life of this committee, we are very concerned now about making sure that we do not provide information to anyone who is not entitled to information. That was our advice and we are sticking to it at this stage.

CHAIR—I am not querying that, but has any thought been given to how you will address it at the next election?

Mr Dacey—No, there has not.

CHAIR—Could I ask that some thought be given to it?

Mr Dacey—Unless we specifically change the legislation to allow all candidates access to that information, nothing will change.

Mr Becker—The problem is that the amount of information you get is quite significant, and the nomination fee is not. So anyone could use that data for any purpose.

Mr Dacey—We would certainly be concerned about all candidates having electronic access to the information that currently members and senators have. As Mr Becker said, if you are paying \$500 or \$750 to nominate, it is pretty cheap advertising and a pretty cheap method of getting a roll electronically, so we do have concerns about it.

Senator ROBERT RAY—I was not going to go to any of the referendum stuff. I just want to go briefly to electoral litigation. When someone seeks an injunction, do they have to indemnify the Electoral Commission for damages? Quite often, when you seek injunctive relief, you have to guarantee that this is going call cost to persons you are injuncting.

Mr Becker—No.

Senator ROBERT RAY—You don't have to? This has two sides to it, in fact. It sometimes inhibits injunctions if you have those penalties. On the other hand, it is somewhat fairer to the organisation that is injunctioned. But it does not apply to you; I did not know that.

Mr Dacey—No, Senator.

Senator ROBERT RAY—All the Court of Disputed Returns cases from the last election just disappeared, did they? These are the ones taken under the Electoral Act.

Mr Moyes—Yes, they have.

Senator ROBERT RAY—They are dealt with?

Mr Dacey—Yes, they have been resolved.

Senator ROBERT RAY—And you won them all?

Mr Moyes—Is this 1998 that you are talking about?

Senator ROBERT RAY—No, 2001.

Mr Moyes—No, sorry; from 2001 we still have a few.

Senator ROBERT RAY—Haven't they been heard yet—or weren't there any?

Mr Moyes—There were a few, and they are in the process.

Senator ROBERT RAY—I have four listed on page 48 of your report. I took it that they came out of the 2001 election.

Mr Becker—Yes.

Senator ROBERT RAY—I am asking for their status, not for a comment on them, especially if they are still active. They are all still active, are they?

Mr Dacey—Yes, those four are still active.

CHAIR—I would like to raise a matter that was raised by the Liberal Party in terms of the powers of presiding officers with respect to distribution of materials at the polling booth. Can you tell us what powers the presiding officer has at the polling booth to deal with materials that are found to be misleading or inappropriate?

Mr Dacey—Basically, the power that the OIC has at the polling booth—and that power is limited to within the perimeter of the polling booth as defined by the act—is that they are in control of that polling booth and can ask people to stop distribution or to move on and move out. So they basically have full powers within the boundary of that polling place.

CHAIR—So they can actually deal with the problem by saying that, ‘Within these precincts, you cannot distribute that but you can distribute it elsewhere’?

Mr Dacey—If the people are outside the perimeter of the polling place, the OIC has no particular powers. That may then become an issue for the divisional returning officer or the police.

Senator ROBERT RAY—A ‘polling place’ being defined as where you put your sign?

Mr Dacey—That is correct.

CHAIR—Can you spell that out a bit?

Mr Dacey—A polling place is defined in terms of where you place the sign for a polling place. For instance, for a school, if you placed the sign on the door of the classroom that is used then that is the polling place. If you place the sign on the front fence, that is then the polling place. But then that also restricts party workers and scrutineers to six metres outside that.

Senator ROBERT RAY—Usually in the middle of the road.

CHAIR—But, if there is inappropriate material being distributed outside the precinct, what does the—

Mr Dacey—Then the OIC has no powers. Our practice would be for the OIC to inform the divisional returning officer, and the divisional returning officer would take whatever steps were necessary. These may include calling police or they may include injunctions, which we would have to consider. We have taken out injunctions on polling day in the past to stop particular action.

Senator ROBERT RAY—While we are on that subject—I do not know what you think of this, Chair—we are currently involved in a bunting war. It is like lining up for grand final tickets: you have to go earlier and earlier. We are thinking of going next week, actually.

Mr Dacey—Whoever gets their sleeping bag there earliest does the most bunting.

Senator ROBERT RAY—I am sure the political parties will think of having a truce and having it outlawed. It is getting to the point of being ridiculous.

CHAIR—It depends how earnest your workers are.

Mr Becker—Restricting the size of signs and that sort of thing, and then making sure that, say, a sign is not larger than one square metre and they cannot be nearer than one metre back.

Senator ROBERT RAY—We were there in the sixties and seventies. We have done all that; we are never going back to that.

Mr Becker—It is hopeless.

Senator ROBERT RAY—It is only in the definition of a polling place that you can do it.

Mr Becker—That is right.

Senator ROBERT RAY—You don't want to get into all the rest of that—believe you me.

Mr Dacey—We do not want to get into local authorities and councils—

Senator ROBERT RAY—We have been there and done it all.

Mr Dacey—not controlled. That is a matter for the local councils.

Senator ROBERT RAY—But, in terms of that polling place sign, it may be possible to have a hundred metre rule, or whatever, and get away from what has become totally fatuous and mutually assured destruction. We have a balance anyway. We need you to save us from ourselves.

Mr Becker—We would be quite happy about that, because it causes a lot of chaos around the booth.

Senator ROBERT RAY—The bloke who won the bunting war at the Wills by-election actually lost his deposit, as I recollect.

Senator MURRAY—Whilst we are on issues of what happens around polling booths and so on, I want to return to the how-to-vote issue. There is the circumstance of One Nation—was it One Nation or the Democrats? It was somebody—and a how-to-vote card which was misleading, which the AEC eventually had stopped, but they only stopped it at 2.30 p.m. on polling day. By that time, at least 60 per cent of all votes had been cast. Do you have any suggestions—because you were taking a series of actions and you had success only at that time—as to how you can prevent that when you embark upon such a situation? I would have thought there might be an injunction. If that is not the route to go, I wonder why you have not addressed the new Queensland regulations on how to vote, which, by memory, say that they have to be lodged with the Queensland Electoral Commission in the week prior to the election. To me, that seems to sort everything out. I wonder what your views are on that.

Mr Becker—In South Australia, they register them for display inside the polling place, but they also hand them out outside. They look nothing like the ones that are inside the polling place and they are not registered. Registration would not be a cheap exercise to organise, but that would not stop people from standing there and handing out something that is not registered or is not approved.

Senator ROBERT RAY—It is now registered in Victoria, and they can be stopped handing anything out, can't they?

CHAIR—Absolutely.

Mr Becker—Yes, but how do you physically stop them?

CHAIR—Ring the police. There is no doubt it: if they are not authorised by the chief electoral officer, they simply cannot be distributed.

Mr Becker—I know they cannot, but they can. They physically are distributable—that is the point.

CHAIR—It is illegal.

Senator MURRAY—I think you are arguing a counter-point, if I may say so, because the other political parties that are there will make sure that the matter is resolved. It is a self-regulatory device backed by the force of law. All I am saying is that how-to-vote cards remain a problem at every election on a federal basis. It seems to me that the states—Tasmania, South Australia, Victoria, and now, I understand, Queensland—have all tried to find mechanisms for improving it, which are better than the federal mechanisms. I would like to request, through the chair, that the AEC compare state legislation on that and make a recommendation to us, or take a view, on the how-to-vote issue. I do not see that what we have works well enough. If the states can address it, perhaps we should.

Mr Becker—Our official view is that we would prefer them not to be there, providing there were some other mechanism for people to understand how it is that they should vote to make it formal for their particular candidate or party, as they do in the ACT and Tasmania. I do not suggest that we have Robson rotation or Hare-Clarke—I do not have that view—I am just saying that they do not have how-to-vote cards in Tasmania or in the ACT.

Senator MURRAY—I just ask you to put a paper through to us comparing the state situations, and take a view so that we can take a view.

Senator ROBERT RAY—Usually those who advocate the abolition of how-to-vote cards cannot staff the burden, so that is my definition.

Ms HALL—I would go along with that.

CHAIR—The answer is: if you want to become a big party, become a big party.

Senator MURRAY—I think we have got a few problems.

Senator ROBERT RAY—I am not actually going to run all the stuff from the next submission before you, especially the more controversial stuff, but the Liberal Party of Australia makes the point that it thinks it is a breach of the spirit of the act—and I tend to agree with it—if loudspeakers are used just to run political jingles all through the day. Is there any way we could outlaw that?

Mr Becker—I imagine so.

Mr Dacey—By changing the legislation, I guess.

Senator ROBERT RAY—This has not actually happened in my experience, you know, but obviously they have picked it up somewhere. It is hard enough handing out how-to-vote cards without listening to political messages all day.

Mr Dacey—From the AEC's point of view, I think we would agree with you, Senator, that it is certainly not the spirit of the legislation. But unfortunately the legislation is an area where it is quite specific—

Ms HALL—I will add to that. I actually had that happening in my electorate, and it was the Liberal Party that was doing it. I contacted the divisional returning officer and it stopped after I contacted him. So he was prepared to enforce the spirit of the legislation.

Mr Dacey—He was listened to—

CHAIR—I would love somebody to play jingles at my election. I think they would lose more votes than—

Senator ROBERT RAY—Yes, probably. This is not mentioned in the evidence and it is one of my betes noires: joint polling places where you have voting for two federal electorates. It happens to me every election. People get to the school in Punt Road, South Yarra, and they are voting for Higgins or they are voting for Melbourne Ports, and confusion happens every time. I thought the way they had it arranged last time was better. Is this done for reasons of economy?

Mr Dacey—We maintain it is for client service reasons. We think it is probably less confusing for our voting clients. They do have access, and it is an access issue more than anything else. It is certainly not for reasons of efficiency.

Mr Orr—It is usually in places where we expect high voting turnout from the other divisions, which would otherwise be declaration voting. So it is to make it easier for the electors—

Senator ROBERT RAY—It is at the extreme end of where I live. That section is not in the middle of Melbourne Ports.

Mr Orr—Traditionally they would be at the extreme end—

Senator ROBERT RAY—People in Higgins have to walk over Punt Road. Every one of them has to cross Punt Road—good luck! We have to ask everyone the same question: are you in Higgins or Melbourne Ports? Of course they do not know. I first saw this happen in WA—because that is where it started—20 years ago, and it seems the virus has spread east, a bit like that alfalfa stuff on sandwiches. That started in WA and has come our way.

CHAIR—There are a number of other issues that we have not been able to touch on. We may be getting in contact again particularly about the access to electoral rolls and electoral information, which I think are quite contentious issues, and we should give some time to that. I thank you very much for your attendance here today and your testimony which has been very useful.

[12.01 p.m.]

CROSBY, Mr Lynton, Federal Director, Liberal Party of Australia

EDWARDS, Mr Bruce, Manager, Parliamentary and Policy, Liberal Party of Australia

CHAIR—I welcome the representatives of the Liberal Party of Australia to today's hearing, and a special welcome to Mr Crosby. The committee has received your submission. Are there any amendments or additions that you would like to make to it?

Mr Crosby—Not really, Mr Chairman, no.

CHAIR—Do you wish to make a brief opening statement before we ask questions?

Mr Crosby—Thank you. I suppose the first point that we would make is that this is a very regular occurrence now. The process of the joint standing committee meeting after each election and reviewing the conduct of the election is a longstanding practice. In our mind many of the issues we have raised in our submission are not some of the threshold issues that have been debated and dealt with in the past. I think we are really at a stage now where a lot of the focus is on the finetuning of the act, the application of the act and the conduct of affairs by the Electoral Commission. There are of course important components of the conduct of an election or the processes that apply to the conduct of an election that are worthy of constant focus and examination, and one of those is the integrity of the electoral roll. We have noted some movement on the part of the Labor Party in this regard with suggestions to tighten up enrolment procedures. That is something we have been advocating for a long time. Therefore we welcome some improvement in that process. So there will always be some important individual issues on which you would want to focus, but I think we are at a stage where many of the things that we cover in our submission—and through my observation of what others are saying—are not so much threshold issues as issues of management and process, not always of a second order but often at a less significant level than they sometimes have been in the past.

We are concerned about a couple of practical matters in relation to the conduct of elections. As a starting point in our submission we look at both the integrity of the electoral roll, which we may enlarge upon if there are questions, and the powers of presiding officers at polling places. I came in a bit earlier and heard some of the questions that you were asking. It seems to me that the Electoral Act makes provision for certain things to occur or not occur but there is a reluctance on the part of the Electoral Commission to actually take immediate action at a local level to deal with some of those issues and concerns.

For example, in the Ryan by-election several how-to-vote cards that were being distributed clearly breached the act. The presiding officer was unwilling to take action at the polling place, and the divisional returning officer would not take action without contacting the principal electoral officer for the state. By the time this process goes through, you have exhausted two-thirds of a polling day and an illegal how-to-vote card could have been distributed. As I recall in relation to Ryan, it was more than just not having an authorisation on it or something like that; it was a case where a party's name was incorrect. That obviously can have an impact on the

casting of a vote and in that regard is false and misleading with regard to the casting of a vote, yet you are only ever going to play catch-up because of the processes that currently apply. We think that there needs to be some empowerment of presiding officers at a local level to try to deal with some of those concerns.

In our submission we introduce some concerns relating very much to the conduct of the last election and our experiences. One was the extensive use of push polling by the Labor Party in the latter days of the election campaign. Scripts that would not have been used on television because they did not pass the approval processes that apply to television advertising were used in telephone contact with hundreds of thousands of voters across a couple of states. We think that there is a need to revisit this issue in terms of how we can more effectively police some of these practices.

We have had a practical problem with differing attitudes taken by the Federation of Australian Commercial Television Stations on the one hand and the Federation of Australian Radio Broadcasters on the other. Whilst it does not relate to the Electoral Act, the situation is that the Federation of Australian Commercial Television Stations have a very detailed process for the approval of television advertisements before they will allow them to be aired—no television station will run a television ad, as you know, unless it receives an authorisation number from the Federation of Australian Commercial Television Stations—whereas in relation to radio it is open slather; there is no approval or vetting process. At the last election radio scripts were run that were rejected by the Federation of Australian Commercial Television Stations as being false, untrue and unsustainable, but they were able to be run on radio. We think that there needs to be some capacity for consistency between the treatment of these things, otherwise we are allowing false and misleading statements to be perpetuated at least in some media.

There are two other practical issues that I flag. One is the timeliness of AEC responses. During an election campaign it is natural to have a certain amount of argy-bargy, but we were often frustrated with the delays in responses from the Electoral Commission to important issues in our mind. Many of the replies we received after the election had been concluded. We need to revisit the process of legitimate complaints from registered political parties and even some approach to the process of handling them so that there is some timeliness to it. They may consider it—not that we would do such a thing—frivolous or designed just to obfuscate. They should nevertheless come back and deal with it quickly. Letting things drag on without quick responses is a problem.

Finally, I raise a point that we made in our last submission: we believe that there are two essential features to the role of the Electoral Commission, one of which is the conduct of elections and the other is the application of the Electoral Act and all things associated with that. Consideration ought to be given to splitting the functions of the AEC so that you have both an election conduct organisation and an Electoral Act implementation and policing body. Therefore you would have two separate roles and two separate entities conducting them. That practice applies in New Zealand and it ought to be considered.

You have a situation where on the one hand the Electoral Commission is responsible for overseeing the implementation of the Electoral Act, but there is also a potential conflict of interest because it is conducting the election and it is responsible for the development and

maintenance of the electoral roll. There could be a conflict of interest where it has competing roles. It is both the regulator and a participant. I will finish there but I am more than happy to respond to questions or expand on any points if the committee so wishes.

CHAIR—I want to ask about the proposed mail-out to all electors. We have just had a long discussion with the commission about how short of money it is. The total mail-out involves very substantial expenditure. Should additional money be provided to the AEC if it takes on this very discrete total mail-out responsibility?

Mr Crosby—I think it should be adequately resourced so it can do that. You can have a piecemeal approach where you do the occasional audit of a particular electorate or whatever, but we need to take a broader approach because at present, in our view, it is very hit and miss. Sometimes action responds to the circumstances of a particular state or pressures that might apply externally; for example, when there was debate about the integrity of the electoral role in Queensland and all those issues arose. When that occurred, the Electoral Commission took more interest in Queensland for a while. I think it would be better to have a standard practice so you get a benchmark contact with all voters every cycle and if that requires additional resources, that should be contemplated.

CHAIR—You are talking about eight million.

Mr Crosby—You are talking about a significant sum.

Senator ROBERT RAY—That was the evidence given on the GST mail-out—eight million.

CHAIR—I wondered where I got that figure from.

Senator ROBERT RAY—Menzies House was probably wrong about it, but that is history.

CHAIR—Could you elaborate on your notion of a split of the commission?

Mr Crosby—As I said, I think there are two roles. On the one hand you have the conduct of the election, and that is a very distinct activity which is quite different from the Electoral Commission's other responsibilities with regard to policing the act and overseeing the various requirements of the act at every level. One of the problems is that the Electoral Commission is responsible for getting everything ready for an election and then conducting the election as well. It then has to police and adjudicate on the conduct of the election. I see the potential for a conflict of interest because the commission is both implementer and policeman. That should be considered. I do not say it is wilful, but from my observation time and again you see a lack of enthusiasm by the Electoral Commission to police elements of the act. For example, that occurred in relation to the issue I raised earlier in respect of stopping the circulation of how-to-vote cards that were false and misleading or certainly in contravention of the act. It does not like political parties participating in the community service of allowing voters to apply for postal votes in a sensible way. It seems to me that it has two roles and its view on one tends to conflict with its action on the other from time to time.

Senator ROBERT RAY—Let us go to the first serious issue you raised about what happened in Queensland. I find it hard to understand how we can empower a presiding officer when they

are virtually all amateurs. I would have thought that you would have to go to the divisional returning officer for action on these things rather than to a presiding officer.

Mr Crosby—That is a fair point and that is something that we have discussed at length. If you are giving someone at a local level at a particular booth the responsibility to ensure that the election is being conducted fairly in that place, surely every element of the conduct of the election in that place needs to be administered by that person. If you have confidence that they are overseeing arrangements to have names crossed off correctly, that the right people are voting and that those requirements under the act are being met, surely it is not a big step then to give them sufficient power to ensure that distribution of material that is in accord with the act occurs as well. You rely on the judgment of a local presiding officer to determine where the entrance to a booth is, how far away people can stand and all those sorts of things. It is really not a big extension to say that it is within their capacity to use that same measure of judgment with regard to clear breaches of the Electoral Act. Maybe there is not the confidence that presiding officers have that ability—that would be a worry. I would worry about the conduct of elections if they did not have that ability.

If there is a judgment that it is too much of an extension for presiding officers to have that responsibility as well, at least there should be some form of standard process in place that would apply if someone—a party, a candidate or a member of the public—were to lodge a complaint with regard to what they believe to be a breach of the act—but, there is not. Every presiding officer, every divisional returning officer and each principal electoral officer in each state or territory seems to decide for themselves. For example, I was previously a director in Queensland and had experience with conduct of elections under Robert Longland in the past. He was the principal electoral officer during the Ryan by-election—I do not know whether he still is a principal electoral officer—and he has always taken a very hands-off view: ‘It’s not our role to police these things. If you want to take something to court, that’s up to you.’

This is part of the point I was making before about the conduct of the election and the management of electoral affairs: they are neither one thing nor the other sometimes. You have provisions in the Electoral Act and you give them responsibility to conduct elections but, when there are breaches, they walk back and say that someone else will have to do something about it. This is not a personal attack on him—it is an observation on the way he conducted elections—but he was very deliberate and up front about it and he would say, ‘It is not our role to step in here.’ Whereas, I have spoken to other DROs and principal electoral officers who have a different view and who feel that they should be able to take that action. I think, as a minimum, we need to have in place a standard process that every presiding officer can be advised of.

There are a fairly small number of options for potential Electoral Act breaches on polling day. You could probably list a maximum of 50 and have standard pro formas that apply for each so that the commission has a standard process. If there is a complaint about an illegal how-to-vote card being distributed, these are the steps that are taken. As Senator Murray said earlier, some of the states have dealt with the issue of how-to-vote cards. What I am really saying is: we have to have clarity of process, standard procedures and as far as possible they should be able to be implemented on the ground. You should not have to go through a whole series of processes in a day which is defined from 8 a.m. to 6 p.m. If there is a narrow band of time when all of this is occurring, you do not want to have a situation where A goes to B who goes to C who thinks about it and then comes back and tells the political party, ‘If you really want to do something

then you should get your own legal advice.' By the time that happens, it is two o'clock in the afternoon and the horse has bolted.

Senator ROBERT RAY—One of my first political experiences was in the state seat of Prahran in 1967 where we had the LCP—Ladies Croquet Party—ticket. They were in blue and white in classic form so it was totally deceptive to Liberal voters. Injunctive relief came but I think it took about four hours; so that is probably your point. It seems to me that DROs could do it in some electorates, like Ryan and Deakin, but they would never have a chance of doing that in Maranoa, Mallee or Grey.

Mr Crosby—That is where you need the presiding officers.

Senator ROBERT RAY—I am in agreement with you but I worry when the how-to-vote card is being distributed across 35 booths and 28 presiding officers rule it out of order and seven rule it in. It is an interpretation of that section of the act—I cannot quite remember the phraseology—about the misleading casting of votes—

Mr Crosby—False or misleading with respect of how to cast a vote.

Senator ROBERT RAY—which the court has defined only in terms of how-to-vote cards and like things, not policy or anything else. I wonder what happens then.

Mr Crosby—It may be that you just give the power to the presiding officer to take action that is based on a decision made at a higher level. With a mobile phone, fax, and email these days, in two minutes you can get a copy of anything to a divisional returning officer. If the DRO makes a judgment, there is no reason why that whole process could not occur within an hour or half an hour and advice be given to the presiding officer that the DRO has made this ruling. If there were conflict between different presiding officers the DRO in the first instance would surely be the person entitled to make the judgment.

Senator ROBERT RAY—Would you reverse the onus on this, that once the DRO or presiding officer has ruled, if you want to take injunctive relief against them, the ones who were originally handing it out have to seek the injunctive relief in the Federal Court?

Mr Crosby—That would be my view.

Senator ROBERT RAY—Accuracy of the roll is your hubris and I will leave you to it.

Mr Crosby—You have joined it. I am grateful.

Senator ROBERT RAY—No, we have always been there. Let us go to push polling, I have only one question. What was the name of polling organisation that was quoted when these people were rung up?

Mr Crosby—The company that was conducting the work was Connect Interactive Business Services. They were engaged by the New South Wales Labor Party and they conducted contact

polls in Eden-Monaro, Paterson, Banks, Barton, Hunter, Charlton, Dobell, Newcastle, Greenway, Richmond and New England.

Senator ROBERT RAY—It might have been easier if you gave me the ones where they did not conduct polls.

Mr Crosby—They confirmed to me that they had been commissioned by the Labor Party to make the phone calls. My submission is that because it was not an advocacy call—and I think this is an important distinction to make—it is entirely legitimate for me to ring up and say, ‘I am ringing on behalf of Senator Robert Ray, who is the Labor candidate for the Senate; he thinks these issues are important and he would be grateful for your support.’ That is the sort of advocacy call that we make from time to time on behalf of candidates. We may seek people’s views as well but we say that we are calling on behalf of Lynton Crosby, Robert Ray, Petro Georgiou, or whoever it is, and we release the script. We have a practice of doing that. Whenever we make such calls we release the script. At the last election, for example, when we made the judgment that in some electorates we wanted to make advocacy calls to express a view to voters—not perpetuate any false or misleading claim—

Senator ROBERT RAY—Unlike Bass in 1998.

Mr Crosby—I am talking about the last election. I do not know about Bass in 1998 but I can tell you about the 2001 federal election. We release the script, it is up-front and we release it to the media so that no-one can say there is push polling on our part, because we have a clear script and we tell people where we are doing it. What happened in the recent federal election was that right up until the Friday voters were asked, ‘Do you realise that if the Howard government is re-elected on Saturday the GST will be extended to food, and the rate of GST will go up to 15 per cent?’ There were a whole series of claims being made that were false and misleading. They were claims that had been sought to be incorporated in television advertisements and were rejected by the Federation of Australian Commercial Television Stations because they were deemed to be false and misleading. I understand the difficulty. One of the problems with the telephone is that, unlike TV, radio or print, the evidence is in the ether, to a certain extent, because you are relying on the individuals who are contacted to recall what was said.

However, we literally had hundreds of statutory declarations. There was a consistent thread. People believed that it was false and misleading. In those circumstances, we need to look at a process that enables a measure of openness. That is why we thought one avenue for consideration would be to require scripts to be released. There would therefore be some measure of scrutiny and openness which you cannot get otherwise because it is one-on-one through the phone system. In relation to Connect Interactive Business Services, I spoke, I think, to the chairman of the company—if he wasn’t the chairman, he was the managing director—who said that he had no obligation to establish whether what his company was saying was the truth. He was paid by the Labor Party to do a job and he was going to do it. I think we have to get beyond that callous disregard for obligation.

Senator ROBERT RAY—I asked the question because people—not you—often confuse ill-intentioned lobbying and push polling. The key with push polling is you represent yourself as a

polling organisation, get whatever respectability is attached to that, and then you ask the misleading questions.

Mr Crosby—No, I think that is a semantic distinction. On that basis you would say that, if I said I was ringing on behalf of Robert Ray but in the process said something that was untrue, that is okay.

Senator ROBERT RAY—No, I am not saying that. I am trying to graduate this and distinguish between misleading canvassing and push polling for the sake of having a sophisticated discussion. When push polling first started in the UK in the steel industry nationalisation, it was done by a polling organisation.

Mr Crosby—Which purported to be asking—

Senator ROBERT RAY—Yes, exactly. I think we would agree on the definition.

Mr Crosby—I understand that.

Senator ROBERT RAY—We then have a secondary problem with those who canvas by phone and put false information. You might say that you can condemn both equally, but one is probably more controllable than the other.

Mr Crosby—I would argue that it was not canvassing because it was very specifically saying, ‘Senator Ray, are you aware that if X gets elected on Saturday, on Monday GST will be extended to food?’ Canvassing is: ‘Senator Ray, what are your concerns in your local community?’—or something like that.

Senator ROBERT RAY—I do not think we are in disagreement here. It is where you say you are from an opinion polling organisation.

Mr Crosby—That is an extreme version of misrepresentation.

Senator ROBERT RAY—That gives it a higher credibility than if you say you are canvassing for Petro or me.

Mr Crosby—Of course it does, but Labor offset with the volume as well.

Senator ROBERT RAY—I understand the problem with radio advertising. What is the remedy? Is it really the Trade Practices Act?

Mr Crosby—That is a difficulty, but the electronic media should have a consistent approach and it ought to be their problem to start with.

Senator ROBERT RAY—It is tough, isn’t it?

Mr Crosby—It is difficult.

Senator ROBERT RAY—I have two or three more questions and then I will finish. Voter information seeks information on everyone who has voted. Do you want that published? You currently could access it.

Mr Crosby—It is a very arduous task to get it.

Senator ROBERT RAY—You would be aware that it is even arduous in respect of the five per cent of the votes cast in an electorate—the postal votes—let alone the 95 per cent. What is the idea here?

Mr Crosby—The idea is to provide registered political parties in particular, and Independent members of parliament, the opportunity post an election to establish what happened in relation to where people voted and what have you so it makes their capacity to represent communities and interact with voters more effective. I heard your earlier discussion with the Electoral Commission representatives about some particular problems and the fact that they were uneasy about candidates getting electronic copies of the electoral roll because, for some reason, they thought that people would decide to nominate so they could get the roll and use it in some other way. That is great, except that there are already provisions, which we strongly support being strengthened as much as you want, with regard to the proper use of the electoral roll. That is the point.

There are provisions that govern the way in which electoral information can be used. Therefore, those provisions should be the policing process—that is, if you use it for commercial purposes you deserve to face the full force of the law, because that is an improper use—but where information is available it should not be held just by the AEC. Where it relates to information that a political party or a member of parliament is entitled to have in other courses, such as date of birth or gender, it should not be different on polling day. The circumstances as to what they can get in the lead-up to an election should not be different. In the same way, in relation to what happens on polling day, political parties would responsibly use that information; it enhances their capacity to communicate with electors. All parties—certainly the major parties—have demonstrated a capacity to properly use, consistently with the act, particular information that is not more widely available. This is just an extension of that.

Senator ROBERT RAY—So they have a better track record than governments. I have just one side issue for your comment. You get the published roll. It will also tell you the five per cent who did not vote. Are you entitled to that information, or could it be misused?

Mr Crosby—Elections need to be conducted as openly as possible. If you have a compulsory voting system, surely you are entitled to know who voted and who did not. They will all have their own reasons. I accept that there probably should be some form of control on what you may do with that information, for example.

Senator ROBERT RAY—I just wondered. I do not think either of us has thought through what could be done with it yet.

Mr Crosby—It is an interesting thought, though.

Senator ROBERT RAY—Yes, it is. I don't know whether you heard me ask the Electoral Commission, for the first time in their life, to start to think about surveying those who are not on the roll. The corollary of that is: survey those who do not vote; do not take the excuse letters that come back in but actually do a proper survey to find out why people did not vote. It would be interesting to find out. Both of us would share that interest.

Mr Crosby—Make sure they publish it.

Senator ROBERT RAY—With regard to the timeliness of AEC responses, I assume you wrote them letters because you wanted a response in writing, which is very sensible. What was the nature of those requests, without going to the point where you tell me information that I am not entitled to? Give me just the general nature of it.

Mr Crosby—Very simply, we believed that in some way the act had been breached and we wanted to draw it to their attention. It is sensible practice, in a campaign in particular, to put that sort of contact in writing. Most times, the way we try to operate is a phone call first, with a follow up saying, 'We have observed this; we are advising you; we are going to follow this up with a written complaint or advice to you.' I accept that from time to time the commission deems some things to be technical breaches but sometimes they involve something as basic as something being circulated that is not authorised. Replies to correspondence regarding that came after the election. It is such a basic thing that you might ask, 'Why do you bother in the first place?' The act says that you have to authorise material, so the act ought to be administered, but I would have thought it was very simple for the Electoral Commission to, one, acknowledge that they had received the thing; and, two, advise you of the action they have taken.

Senator ROBERT RAY—I have one last question. It is not in your submission—I am not trying to ambush you, Mr Crosby, at all—but have you looked at all those provisions relating to the Court of Disputed Returns? My view is that they are starting to be a bit outmoded; they have not been looked at for a long while. Do you think they need to be looked at?

Mr Crosby—I have not looked at them in recent times—there have not been any elections that we wanted to overturn at federal level. It is quite possible. I would be willing to give consideration to that and respond formally. I have been watching with interest the Court of Disputed Returns in South Australia in relation to the state election.

Senator ROBERT RAY—It will not apply federally—yet!

Mr Crosby—It doesn't but, thinking aloud, there are some concerns. Time frame issues and so forth need some consideration.

Senator ROBERT RAY—You can be on either side of the fence.

Mr Crosby—Yes.

Senator ROBERT RAY—You do not know after which federal election you will be the attacker or the attacked. Therefore, you have to get the balance right.

Mr Crosby—Yes. We always have the legitimate argument, it is just which side of the argument we are on.

Senator ROBERT RAY—Exactly.

Senator MURRAY—Mr Crosby, when I begin this interaction with you, let me stress that I have a view that no political party is virtuous, and that all, including my own, have moments of which we are less than proud.

Mr Crosby—Not all political parties are virtuous.

Senator MURRAY—Yes. When I use the quote, I will use it just as an example. We have been talking about ‘false’ and ‘misleading’. The South Australian Liberal Party sent out some material concerning the Democrats, which included:

The Democrats support higher petrol prices ...

and:

Democrat spokesperson on taxation, Andrew Murray: “restoring \$2.4b worth of lost indexation on petrol excise would go a long way ...” (*Senate Hansard May 31st 2001*)

The difficulty with that is that the Senate was not sitting, it was a speech to a group of business people and accountants elsewhere, and it was preceded by the remark that, ‘If we want to end bracket creep, you have to find the money. If you do not find the money, one area where there is money is petrol indexation.’ You can see the point I am making. I can understand why it was distorted and perverted, but the fact is that all of us have to deal with these instances. I support your call for whatever mechanisms we can find to make sure that people are honest and truthful—about what Labor say about you, what we say about Labor, what you say about us et cetera.

Mr Crosby—What you say about yourselves.

Senator MURRAY—That is exactly right. I take that point. That is why I started the way I did. If we are to arrive at that and how to deal with material, I think you have made some very good suggestions. One of the areas which is endemically a problem is how-to-vote material distributed on polling day. I rather like the idea of the DRO making a determination that it is up to the political party to get an injunction if they want to overturn it. That is not a bad route to go—reversing the onus. There is another way that it can be dealt with, and I want to explore that with you. I have long advocated that we need uniformity in electoral laws in key areas of irritation. We have nine electoral laws. If we could get as much conformity between how-to-vote material as possible, in terms of preregistration such as in Victoria or Queensland et cetera, that would be good. Would you be willing to support, as a leading figure in a very major party, a drive for the government to be more proactive on a COAG type basis to create greater uniformity in key areas of irritation, such as HTVs, by getting all the ministers together and trying to thrash out something which is common for everybody?

Mr Crosby—I would be prepared to consider anything and will respond more fully after I have had a chance to consider it. Fortunately, we are not like the United States, where every state has its own rules that govern the conduct of the state and county election. The situation is there are national election laws, and I think that has worked well. We have been concerned at an apparent attempt by some states to move away from the joint management of the electoral roll, for example. If you are looking at the fundamental principles of the argument that you put, which is to have as much consistency and, as a result, transparency and fairness across all elections at a state and federal level in Australia, the starting point has to be the really big stuff, like the electoral rolls and so forth, to try to establish consistency between them, the underlying integrity, the management of the rolls and those sorts of things. Therefore, any breakdown in that practice would be very concerning.

In relation to something like how-to-vote cards—and this is a personal view—I do not have a problem with registration per se. I would, however, have a concern, about the guiding framework within which an electoral commission can register a how-to-vote card. In other words, what do they take into account? What circumstances do they take into account and how do they apply? What rules do they apply to it? That is an important consideration. You also have to take account of places like the ACT and Tasmania, which have been mentioned before. Hare-Clarke is the world's weirdest voting system—other than MMP—and it has some unique features, which means they do not even have how-to-vote cards.

I would certainly be prepared to consider the process of registering a how-to-vote card but would not want the Electoral Commission to have the capacity to improperly influence debate, because there is entirely legitimate debate. This is leaving aside what is clearly a grievous error in terms of making the claim that you said what you said in one circumstance when in reality you said it somewhere else, but the fact is that you did say the words that were quoted. Therefore it is entirely legitimate to have a debate about whether the consequences of what you said are that petrol prices will rise. That is a legitimate debate to have, and you cannot have a situation where the AEC or any bureaucracy limits your capacity to have that legitimate debate.

So, in principle, I would support the consideration of where there may be greater applicability. I note that the states are trenchantly independent in some of these areas and have particular concern to ensure that we do have the most nationally consistent standards with regard to the electoral roll. I would not want in any way to limit the capacity for legitimate public debate under the guise of administrative efficiency or regulation.

Senator MURRAY—I take the view that there are certain core areas which, as a result of uniformity, really give Australian democracy a flavour and a character which is highly desirable. I will name two: one is compulsory attendance at the polls, known as compulsory voting, and the other is the preference system. Imagine the disaster if one or two governments went to voluntary voting and first past the post voting, for instance.

Mr Crosby—You almost have it in a couple of states. The optional preferential voting in Queensland and New South Wales is in effect an optional first past the post system. In reality it is.

Senator MURRAY—You have jumped exactly to where I was going to go. In the AEC's submission, they indicate that the consequence of having optional preference voting in a couple

of states and full preference voting everywhere else creates real problems in terms of informality. I think that is a disaster, personally. The reason I am pushing this point is that I have observed that, in other areas of government interest, COAG works very hard and very effectively, but in areas of electoral law, in my time in Australian politics, I have never seen that drive. It seems to me that, if leading people such as you and your counterpart in Labor really activated within the party structure in both the state and the federal ministerial environment, we could start to address what I regard as either real problems or big irritations. I highlight those two as examples.

Mr Crosby—As a principle, I would not disagree with a large part of your thesis, but I note the practical reality of those states that have Hare-Clarke and those that currently have optional preferential voting all wanting to sustain what they would see as their relative advantage.

Senator MURRAY—But, as far as I am aware—I do not know if you are aware otherwise—they have never assembled at COAG level to discuss, for instance, the issue of optional versus fully preferential voting.

Mr Crosby—That is probably right. My understanding is that at a ministerial level they have discussed issues like the joint management of the rolls and what have you, but I do not think that has occurred at COAG. As a principle, I would not have any objection to it. I would want to consider the implications of any proposals very carefully.

Senator MURRAY—The other area that I want to pick on, which I thought you were right to address, is the issue of rapid dispute resolution—if you like to call it that. The Corporations Law introduced the takeover panel—a wonderful device—designed to speed up the situation when mergers and acquisitions go on. I think they talk about a two-day to three-day turnaround. In the consideration of options, I think the committee has got to consider how you get rapid resolution of issues which are a real aggravation in a seat or a particular circumstance. One of the ideas that I wanted to ask you to think about, because I have not thought it through fully enough, is whether there should be some kind of nationally established dispute panel, if you like, set up for an election either under the guise of AEC or some other mechanism with government people or with political party people—I am not firm on this—which would have a requirement to turn it around within a certain number of days or hours or whatever you thought was appropriate, and if they failed to do so, the objection would be automatically upheld. The issue that I see here is that they are seldom resolved until it is too late. I gave the example, and you confirmed it, of the how-to-vote cards which were eventually stopped only at 2.30 p.m. on polling day. That is useless, frankly, absolutely useless.

Mr Crosby—Whilst I am all for giving the National Secretary of the Labor Party and the Federal Director of the Liberal Party more joint power in any regard, I think you would be much better served by more effective arrangements under the current act. There are rules and it is not that those rules are at issue so much as how they have been applied. I go back to my point about the role of the Electoral Commission or the election conducting body—whatever you want to call it. They should have a role and they should take full responsibility for implementing that role.

Part of the problem now is that you have rules and they do not get policed because it is all too hard or the AEC just wants to be hands-off. Within the current framework, it would be better to

just put in place processes that require the matter to be dealt with and not go to a whole new system. I think it is a simple case of tightening up the application or specifying specific action that has to be taken within the broad current framework of the act rather than starting to look for new structures and things.

Senator MURRAY—In summary, you are saying, essentially, that the law would say that the DRO, or the principal electoral officer, must make a determination and their determination will be final.

Mr Crosby—In effect, yes.

Ms HALL—I have just a couple of quick questions and, for one of them, I am going to ask you to submit some more information. Like Senator Ray, I am not going into the issue of the accuracy of the electoral roll. In Melbourne we received a submission from homeless people. It was estimated that there are some 105,000 homeless people in Australia. The submission stated that there are a number of people currently disfranchised and it goes on to deal with issues that relate to identification, et cetera, and the other problems that these people experience. Could you give us a supplementary submission or answer to the issues that are raised in that submission and tell us how the Liberal Party would see that the two issues could be brought together? That is my first question, and you do not have to answer it now. I think that it would be good if you submitted something in writing on that—most of the other things have been covered. You probably heard me mention a little earlier that loudspeakers at polling booths were actually used in my electorate—

Mr Crosby—That was probably the reason your vote increased!

Ms HALL—Yes, and it was stopped by the Electoral Commission. I would have to say that I agree with you that that needs to be dealt with. It does not need to be a matter of discretion because it does contravene the requirement about being six metres from the entrance.

Finally, I want to look at the role of the AEC and the two separate bodies—one for maintaining the electoral roll and the other running the elections. Whilst in principle I think it sounds quite attractive, I am wondering how it would work in the long term. What are the implications for the staff working in the office—the need for them to have a wide range of skills, whether there would be too much specialisation and whether both streams would have sufficient work to keep them going? If you are thinking along this line, do you have a more detailed idea of how it would work? Maybe that might be something you would like to forward at a later date.

Mr Crosby—I might deal with the last one first. In relation to the splitting of the roles or the recognition of two principal roles, and the suggestion they become different bodies, it does apply in New Zealand. So there is some evidence that you could perhaps look to elsewhere. I am more than happy to give consideration to what more we can add and respond accordingly.

In relation to the issue of homelessness that was identified by you and is also incorporated in the Labor Party return, whilst I reiterate that we are pleased that the Labor Party have moved on this issue of the integrity of the roll and the enrolment process, I think that the two proposals they put forward in their submission and that they recommend should be considered as part of

the process of improving the integrity of the roll, actually fall apart on the very grounds that you raised. That is, at the start of their submission the Labor Party say, 'We are concerned that not enough young people are enrolling.' The provisional enrolment arrangements were introduced to try to get more young people to enrol. Once you turn 17, you can provisionally enrol and, as soon as you turn 18, you are automatically on the roll. You do not have to wait until an election is called to be triggered into doing something. Both of my daughters managed to enrol when they were 17, of their own free will—and probably voted entirely of their own free will too.

Young people, the homeless and Aboriginal voters would all be considerably disadvantaged under a driver's licence regime for enrolment proof or the alternative that was put of data matching between government agencies. In fact, most of those groups would be better served under the proposals that were put by the federal government previously. I think it was Senator Crossin who pointed to the fact that in remote communities in the Northern Territory only 26 per cent of voters have a driver's licence—so 74 per cent do not.

Ms HALL—I was actually referring to a submission that we received and asking whether you could go back and have a look at that and then submit something to the committee.

Mr Crosby—I heard what you were saying, but I just wanted to make the broader point that you need to be consistent. In dealing with the clear problem of the capacity of homeless people to be participants in the electoral process you have to be consistent in the way you deal with that and with those issues that relate to other aspects of the application of the act. I am happy to respond more fully in writing.

Ms HALL—Thank you very much.

Senator MURRAY—On that last topic, you will know from reading *Hansard* that our position was principally from the point of view of the fact that the states were threatening the joint roll arrangements if those were passed. It is another instance, frankly, where a COAG meeting to thrash it out on the principles you have just outlined is the only way in which you can resolve these things.

CHAIR—On behalf of the committee I would like to thank all participants who have given evidence.

Resolved (on motion by **Senator Murray**):

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

Committee adjourned at 12.54 p.m.