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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, 20 September 2002

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

Senators and members in attendance: Senators Murray and Robert Ray and Mr Danby, Mr Georgiou and Mr Melham

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 10.02 a.m.

CHAIR—I declare open this public meeting of the Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2001 Federal election. Since 1984, successive Commonwealth governments have referred similar inquiries to this committee's predecessors after each federal election with a view to improving the operation of Australia's electoral system. The committees and their reports have played a major role in developing the electoral system we have. The current inquiry into the 2001 federal election was referred by the Special Minister of State on 13 May 2002. To date, the inquiry has received over 160 submissions from Australians and overseas. We thank the Southern Cross Group for providing a significant number of submissions. It shows that there is an interest in the community in ensuring that our electoral system is kept up to date. Today we will be hearing from the Southern Cross Group, Mr John Rogers, the Hon. Chris Gallus and the Australian Labor Party. I remind witnesses that, although the committee does not require you to give evidence under oath, this hearing is a legal procedure of parliament and warrants the same respect as proceedings of the parliament. The giving of false or misleading evidence is a serious matter and will be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

[10.04 a.m.]

MACGREGOR, Mr John, Australian Coordinator, Southern Cross Group

CHAIR—I welcome Mr John MacGregor from the Southern Cross Group to today's hearing. Please state the capacity in which you appear.

Mr MacGregor—I appear for the Southern Cross Group, but you will recall that I also made a private submission, so perhaps at some stage there might be a slide over from a private view to the group's views.

CHAIR—The committee has received your submission. It has been numbered 148 and authorised for publication. Are there any corrections or amendments you would like to make your submission?

Mr MacGregor—Yes. We cited a figure of 9,064 as the number of enrolled, eligible overseas electors. Subsequently, the Electoral Commission have issued their report on the election, and they reported a figure of 10,636. Other than that, we are happy with the submission.

CHAIR—Mr MacGregor, would you like to make a brief opening statement?

Mr MacGregor—Yes. Thank you for the opportunity to appear today. As you know, many of the submissions received by the committee in respect of this inquiry were forwarded via the email facility provided by the Southern Cross Group on its website. We hope we have encapsulated the views that were put in those submissions in the recommendations we have made in our submission. Central to our submission is the belief that the right to vote is a privilege of citizenship, a privilege that cannot be taken away merely on the basis that a person is resident overseas or fails to vote while resident overseas. We have indicated that this right is supported by international treaties. That belief underlies our recommendations Nos 1 to 5, 7 and 11 in respect of changes to the Commonwealth Electoral Act. Recommendations Nos 6, 8 to 10,

13 and 14 are aimed at facilitating the inclusions of overseas Australians in the process of voting in federal elections. While we realise that recommendation No. 12—which seeks an inquiry to explore the ways and means by which the Australian diaspora may be better supported and utilised—is at first glance outside the terms of reference of this inquiry, we believe that it picks up the underlying problem faced by overseas Australians in many aspects of Australian public administration—not the least being the conduct of federal elections. We seek merely to have the committee canvass the need for an inquiry in its report to parliament.

CHAIR—Could you outline the history of your group and describe its structure?

Mr MacGregor—There is a fairly formal statement on our website, but I will just cover the highlights of it. We are a non-profit advocacy organisation, internationally set up, I suppose. We hope that we speak on behalf of some of the 860,000 Australians living overseas. The group's aim is to work for changes to existing law and policy where these adversely impact upon the Australian expatriate community. We believe that the Australian expat community is an integral part of Australia in a globalising world, despite the fact that its members are geographically outside Australia's territorial boundaries. The group was formed in Brussels, Belgium in January 2000 on the initiative of my daughter Anne MacGregor, who is an Australian lawyer living in Brussels, and John Russell, an Australian public affairs consultant, also working in Brussels. They and other Australians in Belgium at the time were concerned about their situation under Belgian social security law—there is currently no bilateral social security agreement between Belgium and Australia. Under Belgian law, even though people could be paying for many years into the Belgium social security system, as a non-EU citizen, if they left Belgium, they could not draw pensions. One solution to that was to become a Belgian citizen. Then we ran into problems with section 17 and losing Australian citizenship. Most Australians overseas really do not like doing that.

That was the genesis of the group. There was a sort of 'town meeting' of Australians, and from that meeting a number of other issues arose and it was decided to form the group. We are self-funded in that several members of the committee provide the limited amount of funds we need. We sell some logos on our website to commercial firms for a very small fee to cover the cost of the website, but the rest of the work is done by volunteers, who give considerable time to it. We are unincorporated at the moment but we are moving towards incorporation in the United Kingdom.

CHAIR—Just as an aside, I was very impressed by the quality and cogency of the submission. You talk about 500,000 eligible Australian overseas, DFAT talks about 615,000 and you just mentioned the number of 860,000. What is your best estimate?

Mr MacGregor—For years now, the Department of Foreign Affairs and Trade have responded to our requests for their estimates of the number of Australians overseas. The figure of 860,000 is what they gave us as at the end of December last year. It is the estimate provided by the various overseas posts of the number of Australians in their particular regions. I have a copy of the list here if the committee would like it.

CHAIR—That would be very useful.

Mr MacGregor—The figure of over 500,000 who we think might be possible electors is purely just applying the mathematics of the Australian population and the number of voters here in Australia. It is a ballpark figure. The census does not recognise or seek to quantify the number of Australians overseas. We have done some checks with other governments about the number of Australians turning up in their census statistics and the DFAT figures are reasonably consistent with those. Also, there is a net long-term emigration of Australians of about 40,000 a year. I think the figure of 860,000 is a reasonable ballpark figure, but I am not going to go to the wall on that.

CHAIR—The philosophy behind your proposals is very powerful, in my view. How do you feel about people voting for two governments in two electoral systems? Do you see any dilemmas in that?

Mr MacGregor—No, I do not. You must remember that most countries attach voting rights to citizenship. The UK does not; I think if you are a resident there you can vote. In the United States you cannot vote unless you are a citizen. The question of voting in two electorates has not become a major issue. I think it will, because a great number of Australians have started seeking citizenship of other countries since April, when the law on dual citizenship was changed.

If you accept that Australians overseas have pretty strong ties to Australia as well as where they live and that they are concerned with changes to the law which could affect them, it is quite legitimate to think that people might vote in more than one country's election. Certainly changes to law in Australia do affect overseas Australians in all sorts of ways such as citizenship; immigration of relatives who are not Australian citizens, which can be an issue for them in later life; payment of taxation, rates and council dues et cetera; and all sorts of issues that come up in Australian law.

CHAIR—You make a significant number of observations and recommendations in your submission. What is at the heart of your submission and your key recommendation?

Mr MacGregor—Right at the heart of most of our recommendations is the fact that the current law acts to deny Australians overseas the right to vote. We feel that ignores the right to vote that comes with citizenship. There are various time periods in which you can enrol or you can nominate to be a registered overseas elector. When you take the time periods allowed in the Australian electoral process itself and the fact that we do not have fixed terms and fixed election dates, all of those factors work in unison to disenfranchise Australians overseas. There are many issues—the lack of information when people leave, people not being sure how long they are going to be away, and so forth. The crux of the matter is disenfranchised voters, and a very significant issue in that is the lack of information available on departure and while you are away about the conduct and timing of elections.

CHAIR—Basically you are saying that it is the time frames that people have to enrol as overseas voters, compounded by the lack of information about what people have to do.

Mr MacGregor—Yes. Any time frame, whether it was six years, or two years as in some parts, or even 20 years, would still have the same effect.

Mr MELHAM—So you are against any time frame being imposed on eligibility to vote in Australian elections?

Mr MacGregor—Yes.

Mr MELHAM—I put to you a couple of examples that I know about. I am interested as to whether you think these people should be entitled to vote in Australian elections. I will declare an interest in the first example because it is my uncle. He resides in Lebanon but he came to Australia in the early 1970s legally, worked, took out his citizenship, never intended to stay in Australia in the long term and then returned to the Lebanon. He has no intention of returning to Australia and he does not draw a pension from Australia. He is very proud of his Australian citizenship and displays his certificate of citizenship in his home. Should he be entitled to a vote? When he was in Australia he was properly registered to vote and he complied with Australian laws while he was here—in every way.

Mr MacGregor—His situation is similar to that of a lot of migrants that came here postwar and have gone back to live in their countries of birth. The figures for Greece reveal that there are about 130,000 Australians living there. It is very hard to see that they are all working overseas. I think the majority of those would be people who have returned, like your uncle. Firstly you have said that he was an Australian citizen. Presumably if he worked here he earned some entitlements to our social security system in age pensions and things like that.

Mr MELHAM—He does not retain those entitlements.

Mr MacGregor—Many do. It is dependent on the length of time that you have worked in Australia. You can draw your pension overseas, to a certain extent, depending on the range of—

Mr MELHAM—I will come to that as a second example. He does not draw a pension. He has Australian citizenship lawfully but no intention to return to Australia, although he still prides himself on his citizenship. Why should he be entitled to vote? Where would he vote? Would he vote at the address for which he was registered? Where do you say his entitlements should be—should it just be a Senate entitlement because of the state in which he was enrolled?

Mr MacGregor—I would not see that he needs to be differentiated against in any way from a person living in Australia as to where he votes and the electorate he votes for. The law presently allows you to register at your last address or a preferred address. Whether or not he chooses to vote would be a matter for him to decide. If he feels that his vote will influence the shape of the parliament—

Mr MELHAM—Let us say his vote did influence the shape of a particular election. If his vote were to make the difference how do you think that would be perceived in the Australian community?

Mr MacGregor—I would think that there are issues that he would still have an interest in, in Australia. If he feels inclined not to vote then we are not advocating that he has to vote. We are saying that—

Mr MELHAM—It is optional.

Mr MacGregor—We would retain the non-compulsory requirement for overseas voting.

Mr MELHAM—The reason I am saying that is because I think the current Electoral Act balance is right in relation to the two-year and six-year periods, and that is what I am seeking to test. I believe that the conditions are such that they are not onerous, but they get the balance right in relation to that. In the example I have given you, there is no intention to return to Australia and there was no registration within the two years of leaving Australia, because it was a conscious decision. I am interested as to whether maintaining his citizenship alone would entitle him to vote.

Mr MacGregor—Yes, in that we believe that the right to vote is an inalienable right of citizenship and we have international treaties which support that. I would have to say that, yes, I believe he has the right to vote. Whether or not he exercises that right to vote is more the issue, I think. I would have to register a strong disagreement with you on the balance of the act and the time frames at the moment, which you appreciate.

Mr MELHAM—I accept that. Given your statement, there is no need for me to use a second example.

CHAIR—Could I pursue one point, which I think is very relevant. You think there are 500,000 voters out there, most of whom are disenfranchised and most of whom at the moment are unable to enrol.

Mr MacGregor—That is right.

CHAIR—I think the point that Mr Melham made is very germane. Where would you put those voters? Just say everybody said yes: which electorates would they go to? This is quite important.

Mr MacGregor—In my personal submission, I flew a kite to the effect that perhaps, at some time in the future, we should have electorates for overseas voters.

CHAIR—That may be a bridge too far at the moment.

Mr MacGregor—I appreciate that. I think that people who would be interested in registering to vote would have ties to Australia to a significant point. They may intend to return to and retire in Australia; they may have property in Australia; they may have relatives that they visit.

CHAIR—Let us say they have close ties. To which House of Representatives electorate do you allocate them and to which state, for the purpose of Senate voting, do you allocate them?

Mr MacGregor—I think that they nominate that. If the Electoral Commission feels that they have justified that choice, then that is where they get registered. There are all sorts of reasons to nominate a particular address rather than an electorate, because the electorate could change. I think they register to an address for which they have an affinity.

Senator MURRAY—One of the most important elements in our electoral law is an absolute determination to ensure that people vote relative to where they reside. All the allegations and strong arguments about fraud in the electoral system—from whomever and from whichever political party—have always focused on making sure that people vote from where they actually live. That is the biggest issue. The huge expense to the AEC to check residence matters enormously, and therefore the proposition that someone living overseas can just select an electorate is absolutely contrary to that tradition and consensus on all sides. I am personally much more sympathetic—I am not sure it is practical—to the idea of a whole of Australia seat, if it were constitutionally possible, so that people would be voting in a way which could not affect the outcome in a marginal seat. How do you react to those remarks?

Mr MacGregor—At the moment, we have 63,000-odd overseas electors with overseas addresses who are registered at an Australian address. Presumably, if the Electoral Commission tries to make contact with them at their registered address in Australia, they will realise that that person is overseas. If you have growing numbers, which obviously is a concern, I would think that they would use something like the Centrelink approach, where, if you register for any of the Centrelink or welfare benefits, you get constant streams of letters to your residential address. I would think that that would apply to addresses overseas. I cannot see that the fact that the person resides overseas is an impossibility to overcome in verifying their existence. They would be passport holders; we have the opportunity of checking passport records to see that they are, or were at the time of issue of the passport, legitimate Australian citizens. If you have particular worries about a flood from a particular area, you have Australian missions overseas which, in many cases, know the people involved or are able to make more direct contact with them. That would only be in the extreme cases where there was some real doubt about the issue. If you are going to accept the fact that overseas Australians should be allowed to vote, then you have to find a way to check that. I think it is an administrative issue which is not completely beyond the realms of being solved.

Senator MURRAY—It is not just administrative; it is how you can avoid electoral fraud which is at the heart of the system. The present electoral system does a habitation review check, which is—

Mr MacGregor—I was present at the last meeting when it was explained.

Senator MURRAY—It is related technically to the actual zoning and planning statistics and data which are available, so that there is no longer any chance of somebody recording that they live in a park or a forest somewhere.

Mr MacGregor—That is right.

Senator MURRAY—The numbers here indicate that those voting are starting to approximate to the numbers which are apparent in a House of Representatives electorate, which is around about 80,000, I think. It is about that, isn't it?

Mr MacGregor—It is a hundred and something thousand in the ACT.

Senator MURRAY—Somewhere in that region. You are getting near that stage—and I do not know what the constitutional restraint is—where it would seem to me to be far easier, far

less costly and far less onerous to simply create one electorate for the whole of Australia which is for Australians resident overseas and let them vote for that electorate. That would deliver one extra seat to the House of Representatives—which is neither here nor there—but there would be no chance then, in my view, of a particular electorate being influenced by the deliberate location of Australians overseas on a random basis into that electorate. Would the Southern Cross Group be unhappy if attachment to a particular electorate was withdrawn and they were placed in an ‘Australia at large’ constituency?

Mr MacGregor—It is not an issue that we have canvassed with the people on our list. I doubt that they would be unhappy on that issue. I think the difficulty is that the figure of 63,000 that we are quoting is under the figure that rises under the present constraints. If you lift the time frames and change the act as we recommend, I think you might find there are 500,000 or more—

Senator MURRAY—Who would vote?

Mr MacGregor—that would be eligible to vote.

Senator MURRAY—Not ‘would be eligible’, but would vote. Do you think they would?

Mr MacGregor—It is hard to say how many would vote. We have a 95 per cent turnout in Australia but, if people were interested enough to register as overseas electors, you would think that it would be somewhere around the same proportion of people that would vote. But it is all speculation really. I think that the 63,000 would increase significantly. The previous South Australian government had a discussion paper seeking to establish seats in both houses for expatriate South Australians, be they elsewhere in Australia or overseas, but that was just a discussion paper and nothing further happened on that.

This is one of the issues that the group would like to see taken up in an inquiry on what to do about the Australian diaspora. There are a number of overseas models of getting representation for other countries’ diasporas. France has a separate council that people elect to. Italy announced recently that they are going to create seats for various parts of the world so that their overseas citizens can vote people into the Italian parliament. What the solution is for Australia it is difficult to say, and I would think it depends a lot on the Constitution. I think there would be a number of constraints, though we seem to be able to get over them in terms of territory representation.

Mr DANBY—Mr MacGregor, can you take me through some of the figures, please. Are the 63,000 eligible overseas voters or people who actually vote?

Mr MacGregor—They are people who actually voted at the last election.

Mr DANBY—How many were eligible?

Mr MacGregor—Some 10,636 were registered as eligible overseas voters. But you have to remember that, of the 63,000 that voted, the majority were probably short-term overseas people.

Mr DANBY—Tourists?

Mr MacGregor—Yes. The cut-off point for short and long term is 12 months. When you are leaving Australia and you fill out your departure card, if you expect to be away for more than 12 months, you are a permanent overseas Australian at that point in time. If it is for less than 12 months, you are not a permanent overseas person.

Mr DANBY—To pursue Senator Murray's point, neither the Electoral Commission nor any other recognised body of opinion has stated that there have been any instances of fraud or patterns of fraud with overseas electors?

Mr MacGregor—I am not conscious of any. I have not read anything from the Electoral Commission about that. Certainly there was nothing in their report on the last election to suggest that. I gathered from the evidence they gave at your last meeting here that there was only a handful of cases which they had not followed through.

Mr DANBY—Again, on the dimension of the problem, there are two different figures given in your submission: 645,000 and 500,000. Can you explain those to me?

CHAIR—I think the 500,000 is your estimate.

Mr MacGregor—Yes, I think we said at least 500,000.

Mr DANBY—Of the existing voters who currently have the opportunity to pursue their right to vote, what are the reasons for the discrepancies in the votes despatched?

Mr MacGregor—The figure that the Electoral Commission keep is votes issued—in other words, the number of postal votes that they issue. I was in Washington at the time of the last election. The anthrax scare was on at that stage and there were major difficulties associated with the post. The voting papers for the Washington embassy postal votes actually arrived four or five days into the two-week period. They had to be posted out by the embassy staff and then completed and returned to the embassy before the close of polls. I understand that there was a similar problem in London, which was the biggest overseas voting place in the whole of the election. The fact that the number of votes issued is probably always greater than the postal votes received back is largely explained by the vagaries of the mail. It takes the best part of a week for an airmail letter to be delivered in Europe and slightly longer for it to come back. So a two-week period in which to get and return a postal vote is not so good. Have I reached your point?

Mr DANBY—You have explained it very well. Is it your experience that our overseas posts normally receive ballot papers to issue after the elections—that is, late, as in your experience in Washington? Or was that just a one-off?

Mr MacGregor—After talking with Foreign Affairs here in the consulate branch recently, I suspect that it is not. I was in Brussels for the 1999 referendum. I was not conscious of any delay there, but I was not particularly interested in doing anything other than registering my vote at that election. But from the messages we received from people who contacted us about that I think it is probably a problem. The present use of the postal system to distribute postal votes and to get the return of the postal votes, whether it is back to Australia or the embassy or the mission, is just too fraught. Some countries—the United States and the United Kingdom—have relatively efficient postal services; in other countries, from my own experience in Europe,

ave relatively efficient postal services; in other countries, from my own experience in Europe, it is not so good. It is interesting that the New Zealanders used the Internet extensively for their last election. You could apply over the Internet to register and to seek a postal vote. If you did that, the ballot paper was sent back to you over the Internet and all you had to do was download it, fill it in and then post it back. You saved a considerable amount of time in moving the postal vote itself around.

Mr DANBY—If the thrust of your recommendations were to be accepted, what do you think the effect would be on the difference between the 63,000 people who vote and the potential 500,000? Have you any evidence for what you think?

Mr MacGregor—No, I have no evidence at all on what it is; it is purely speculation. The issue of voting, with respect, is not as high as the issue of citizenship was in the dual citizenship campaign. We were able to generate 800 submissions to the department about dual citizenship. On this issue we have generated somewhere around 120—I am not too sure of the figures—which indicates the degree of interest that people feel on this voting issue. We had at that stage a distribution possibility of about 4,000 or 5,000 addressees; we have about 2,500 addressees on our own email lists but many of those are expatriate groups, chambers of commerce and other information services that spray our message to their own electorate.

We started a campaign on the resumption of citizenship this week; I would estimate we might reach 12,000 to 15,000 people indirectly with that. If we play those figures back to estimate how many people would register, it is hard to say. Many of the Australians overseas have been overseas for a long time. There are quite a few war brides and people like that who have probably lost the inclination to cast a vote but they still want dual citizenship. You might be getting up to, initially, 200,000 as a ballpark figure, but I could not guarantee that. If the law is changed and there is better information for those departing, the number would keep increasing over time because we are still losing 40,000 people a year overseas, on a net basis. You could expect the number to increase, I think.

Senator ROBERT RAY—You lost me when you said people could have two votes—it is just an anathema to me. For instance, you could be a resident in Europe and voting for candidates in their local or national elections that insist on agricultural subsidies that absolutely destroy the Australian way of life—and then you are supposed to get a vote within Australia. I think that will drag your whole submission down. A lot of the points are quite reasonably made and follow the original philosophy of this committee: easy to enrol, easy to vote et cetera. I would have thought that if you put the whole range of your reforms forward and then put in that one provision—that if you vote in another national action then you are not eligible to vote in this one—then you would move your submission way forward. But saying that people can have two votes in two sets of national elections will not wash with the Australian public and is unlikely to wash with the Australian parliament.

Mr MacGregor—Firstly, I think that there would be a difficulty in enforcing the provision that if you voted elsewhere you could not vote here. Short of putting a stamp on the back of your hand and having to present your hand before you voted for Australia, that would be very difficult to implement. It would involve the Electoral Commission in an awful lot of international communications with other electoral bodies to—

Senator ROBERT RAY—Sorry to interrupt you. That may be the eventual enforcement mechanism, but I said it should relate to enrolling from overseas in Australia. As part of the enrolment form, you would have to swear—either by affirmation or oath—that you do not vote in another national election. Any Australian citizen, any person on the roll, can challenge your enrolment on their knowledge that you voted in other elections. I am not suggesting that the Electoral Commission—they have got such a penchant for overseas travel, I am not about to encourage them—should wander around the countryside looking for errant double voters overseas.

Mr MacGregor—I can see your point of view; I concede that it is a valid one. Probably there would be people in the Australian electorate that feel like that. On the other hand, many of those people do have financial and economic commitments and are overseas for a period of years but intend to come back to Australia. As I said before, the Australian law—

Senator ROBERT RAY—Can I just stop you there. In that case, they have this commitment to Australia, which I accept. These are the sorts of people we are trying to get to vote. Their commitment should go just far enough to say, ‘I am not going to vote in someone else’s election. That is my commitment to the citizenship of this country. My commitment to Australia says that I am going to vote in Australia, and this is what determines my future.’ You do not have the luxury then of having another vote. That is my point.

Mr MacGregor—It is a similar discussion to that which was put forward by some proponents in the dual citizenship vote, about divided loyalties.

Senator ROBERT RAY—I have been consistent on that, too.

Mr MacGregor—The question of divided loyalties is at various levels. One is this: where do your loyalties lie at a time of war? That is the way most people think about loyalties to a country. Certainly in the time since the Second World War, very few people are placed in that situation of asking, ‘Who do I fight with?’ I know we have had some classic situations, but they are fairly isolated cases. The fact that you are a citizen of the United States, you live in the United States and you are also a citizen of Australia does not mean that political loyalty or loyalty to the welfare of your particular country need to be seen as indivisible. If you live in the United States and you are affected by their laws, you should have a right to vote on those laws.

Senator ROBERT RAY—I am actually arguing the opposite. Dual citizenship gives you some rights and has been introduced so that people can maximise some rights. A lot of it is property rights in the original country and a whole range of other things. But it was never introduced to give you the right to two votes. If it had been known that dual citizenship would be used for people to get two votes, it may not have been introduced. I think we are coming at it from entirely opposite angles but not actually disagreeing that much. We both agree that dual citizenship confers dual rights but does not necessarily confer all rights.

Mr MacGregor—I would have to note your position but disagree with you. I think that, once you grant citizenship to a person, you give them all rights of citizenship unless you deny them those because they are a felon or mentally incapable. They are the only two issues that I could see there. If it comes to a time of war or something like that and the person sides with the other

side, then it would be natural to take the vote away. But I could not agree with you that the ability to vote in two locations, or in two countries, is an invalid position to have.

Senator ROBERT RAY—If that is going to be an element of all this, I think the rest of your amendments, most of which are sensible, will sink on that point. Can I follow up with one last question on the performance of our embassies in terms of voting overseas. In 1999 I was even asked for identification before I could vote, and this was at the Australian consulate. I had an office right downstairs from it for a few months. The officials wanted photographic identification, and I pointed out to the electoral person who was issuing the ballot that that was not part of the Electoral Act. He said, ‘How would you know?’ and I said, ‘Well, I bloody helped write part of it—I think I might know.’

The more you scrutineer—and I do not scrutineer much because I am usually a candidate; I do not know if Mr Georgiou has done this—the more you find a lot of faults in the overseas voting: things written the wrong way, people given the wrong ballot papers and all the rest of it. Do you think there is a big case for having an electoral education program for consular officials before they go overseas or for some penalties on them for failing to carry out their electoral duties, which are an integral part of their job?

Mr MacGregor—I am not sure about the penalties for them, but I would certainly agree that there is a very significant education requirement. Talking with the consulate branch people in Foreign Affairs recently, I asked about whether the Electoral Commission provided guidance on elections. They said they get instructions in relation to the particular election and the handing out of papers at the time of the election. But my view would be that there is an ongoing problem about electoral matters—registration and so forth. Frequently you will find at our missions that the people you are dealing with in this area are locally engaged staff who may or may not be Australian citizens, and even if they are Australian citizens they do not understand the law.

As I understand it, the Electoral Commission has never provided the department of foreign affairs with an electoral procedure manual. In my past existence I wrote a number of procedure manuals for the department of foreign affairs, and I strongly believe that there is a need for substantive things. In fact, part of the submission that we never had time to polish and therefore deleted dealt with a number of ways in which better information could be put forward. One of those was better training of embassy staff.

Incidentally, in the latest brochure available from the department for Australians living overseas there is a very short section on voting rights, which in itself is misleading because it says voting overseas is not compulsory. That is an interpretation that is open to a lot of questions because, if you are a registered overseas voter and you do not seek to vote by getting a postal vote or to actually vote, then you are deregistered. We know of embassy or mission staff that tell Australians—this is similar to your case—‘You don’t have to bother about voting’ and things like that. They are poorly informed, I would think, about what they have to do. I have not personally heard of anybody being asked for photo identification. I had no problems at the mission when—

CHAIR—The bloke got an Iron Cross, second class, after he asked that.

Senator ROBERT RAY—Michael Baume did about 10 minutes later.

Mr MacGregor—My experience was that as long as I was able to fill in the covering envelope then I was accepted without any difficulty at all. I suppose my accent might have had something to do with it too.

CHAIR—Could you not reflect on the senator, please. Senator Murray has some questions.

Senator MURRAY—If we are dealing with accents, I would struggle, wouldn't I? Back to the issue of the integrity of the roll, we had evidence in our inquiry into that that the AEC are getting a lot better at preventing dead people from voting. It would seem to me that the two-year and six-year restrictions give you some protections against voting by dead people who lived overseas. By making access to the voters roll unrestricted for anywhere between 500,000 and 700,000 Australian citizens overseas, you have some danger of never identifying those who have died. Use the case of Mr Melham's uncle.

Mr MacGregor—You do have crossmatching.

Senator MURRAY—Yes, but use the case of Mr Melham's uncle. He has been out of the country for so long, I doubt if his tax, social security records or anything of that sort are up to date. They probably have been put in the archives, so there would be no Australian way of verifying his being alive or dead, particularly if they are not going to check on his residence.

Mr MacGregor—I seem to recall that the registers of deaths in Australia are part of the commission's crosschecking.

CHAIR—In Australia?

Mr MacGregor—Yes, but you can also register a death at an Australian mission overseas.

Mr MELHAM—You can also do a signature check in terms of the enrolment.

Mr MacGregor—Just to digress—and I am not advocating this—you might be interested in thinking about the US arrangements, where voting is not compulsory. Before each election, they have a very extensive overseas campaign inviting people to attend their embassies to register for that particular election. That might go some way towards meeting your requirements, but the difficulty I see is that we are not as well favoured on the ground with missions as the Americans are. In some of the countries, getting into the embassy or the consulate is an extremely difficult job. Even in the United States, where I think we have 13 offices, it is a major trip to go in and register to vote. The desire to vote might not be strong enough to force you to travel from here to Melbourne to register. I concede that there might be a lot of dead people voting, but there are ways around that, as I say, such as mail-outs beforehand. If the Electoral Commission established an online registration system, you would have more confidence in the roll being up to date than you do under the current arrangements.

CHAIR—Mr MacGregor, thank you very much for coming. You have given the committee lots of things to think about very seriously, and thank you for your submission.

Mr MacGregor—Thank you.

[10.53 a.m.]

ROGERS, Mr John (Private capacity)

CHAIR—Welcome to today's hearing. The committee has received your submission. It has been numbered 106 and authorised for publication. Are there any corrections or amendments that you would like to make to your submission?

Mr Rogers—I would like to make a slight change of emphasis to my final recommendation. I believe the clerk may have circulated a single sheet of paper, and it is the final sentence there that is concerned. But it is a very slight change of emphasis.

CHAIR—Thank you very much. Mr Rogers, would you like to make a brief opening statement? With regret, I do emphasise 'brief', both because we have kept you waiting and because we are running a little behind.

Mr Rogers—Thank you very much for hearing me today. I am hoping to persuade this committee that vote counting programs have to be correct and have to be seen to be correct by the public, and that this is not true at the moment. I am not saying that the program that was used to distribute Senate preferences for the last general election was in error, but that we do not know whether it was correct. Clearly, if it were now discovered that there was some bug in the program, we could easily put the government in a singularly invidious position—or perhaps in a very beneficial position.

CHAIR—More likely the latter.

Mr Rogers—For instance, if they should have gained control of the Senate, clearly that would have a serious effect on the public's respect for government and what was going on generally in parliament. You might ask why the program would not necessarily be correct. From discussion with the Australian Electoral Commission, I discovered that they did put a considerable amount of effort into making it so. They also went on to have it audited by the Australian National Audit Office. However, I submit that it is ordinary experience that programs are extremely complex and tend not to work. We have all had the 'five o'clock loss of all our data' experience. Ordinary programming leads to mistakes. There is also a good possibility of dishonest programmers concealing flaws that they are going to use to their own advantage, and anyone else with electronic access could change the program post hoc.

There are methods for making programs very reliable indeed. They are naturally more expensive than the usual methods. The term in the industry is 'Trusted Computing' but it is very little known. The principles basically are that the writing of the program, in the first instance, is done to a very careful format, that the environment in which it is written is put under strict security controls and all changes to the programs are also strictly controlled so that it makes it very difficult for anyone to introduce something that should not be there. In addition and very importantly, throughout this whole process the programs are independently validated by some outside body. This process is already in operation in Australia and abroad for programs that are designed for security purposes. We have what are known as Australian Information Security

Evaluation Facilities, of which I think there are two or three now, which do this for both government and private industry—for banks and other people as well.

Why do programs have to be seen to be correct? I think you are well aware of the public right and the difficulties it would cause if, after the event, the government discovered that things had been counted incorrectly. They can be seen to be correct if they are independently evaluated and possibly if they are published. This is where my slight change of emphasis on my recommendations comes in. I discovered very recently that the ACT have published the source code for the program they used for voting during their last election. It occurred to me that, if someone—and I understand that the Australian National University are planning to examine this program most carefully—were now to discover that there was an error in it, the repercussions would be very serious. That is all I have to say, and I am open to questions.

CHAIR—Thank you, Mr Rogers. I found your analysis of the problem compelling. I thought it was so powerful that it negated the solution. In my view, there are real difficulties in moving away from the very straightforward and archaic mark the ballot paper and count the bundles approach. I am simply not sure that you can get the perfect system that would persuade people that the system is transparent. I once had a situation in the Liberal Party where we randomised numbers for the selection of central delegates to preselection conventions and, in my simplicity, I made them pick the numbers out of a ball so that people could watch. When we moved to randomisation, people got very suspicious. I will throw in another question: what happens if the system goes down? That is not quite analogous to the ballots being burnt in a fire, but there is a real issue there.

Mr Rogers—There was a very recent case in America that was on the news last weekend with regard to a ballot in California that had something to do with national gay and lesbian rights—I am not sure exactly what it was. In fact, the voting system did go down at the crucial moment and many people are now complaining that they did not have the opportunity to vote. However, that aspect was not really the thing I was thinking of, although it is clearly an important point. My contention is: how can you be quite sure that, when they decide to eliminate a candidate and redistribute their preferences, they eliminate the right candidate at the right moment? There are those sorts of questions, because that is all hidden in the program; whereas on the paper system, of course, the scrutineers can see it happen.

Senator ROBERT RAY—The breakdown of the computer system is the same situation as a flood: if you do not get the opportunity to vote because the computer system breaks down, you get another opportunity later on. The presumption is that it would be the same as if there were a flood. Would you agree with that?

Mr Rogers—Yes, I would agree with that.

Senator ROBERT RAY—So we can probably take that one off the list. Do you think the Electoral Commission—and I do not think this is classified, from your previous job—would go to someone like DSD, who are the acknowledged experts, I think, in government in the protection of computers and computer programs, for advice?

Mr Rogers—As far as security protection is concerned, the directive says that they are entitled to but they do not have to. I think they probably would. I am sure in this instance the

Electoral Commission took every precaution they knew of. I have spoken to Mr Tim Pickering, who is the Assistant Commissioner, IT, at the Electoral Commission. He was unaware of the existence of Formal Methods. That probably is not surprising, because he is no doubt an administrator rather than a technical person. I also spoke to a person—and I cannot remember the person's name; I just met him casually at a conference—who had been in charge of the writing of the present preference distribution program, and he was unaware of the existence of Formal Methods.

This is not out of the way, because it is being introduced rather casually in undergraduate courses at the moment. It is said to be for special purposes and that is the end of it. Most people do not use them. There are a limited number of centres of excellence in this country. As it happens, a friend and erstwhile subordinate of mine, Dr Jeremy Dawson, is with us this morning. He is working on the automated reasoning project at the Australian National University and has been looking at the ACT programs. This is an esoteric field, but it is very important inasmuch as two states in this country had their railway signalling systems looked at by an organisation that is into this Formal Methods business and it was discovered in both instances that, under some circumstances, you could have—guess what?—two trains on the same track approaching one another. That would not have been discovered had it not been the case that people examined the programs from this point of view.

Senator ROBERT RAY—In terms of hacking in—and that is the concern—should the Electoral Commission use stand-alone computers with no outside connections for the entire count?

Mr Rogers—It is a question of risk management. It is received wisdom in the industry that, if you have even an indirect electronic connection to a computing system, you can take control of that system. If you wanted an accurate statement of that, you would probably have to go to DSD and get a classified report on the subject. I could not say that I am exactly up to date on that. In general, it is almost invariably possible to hack into any electronic system that is on a network. If it is totally stand-alone, you should be all right, as long as no-one did something to it before you made it stand-alone.

Senator ROBERT RAY—Yes, I follow that. I just thought that using a stand-alone computer may be one of the potential safeguards in a Senate count.

Mr Rogers—A stand-alone computer is fine, as long as you have protected yourself against the person who wrote the program in the first instance.

Senator ROBERT RAY—You said a moment ago that, if an error is made, that is it and there is nothing you can do about it. At the moment, you could go to the Court of Disputed Returns if you discovered it within 40 days of the return of the writs. That, I think, is about all you can do.

Mr Rogers—This is something that I had thought about and I was rather interested in what would happen. If someone had, within the 40 days, gone to the Court of Disputed Returns and subpoenaed the program, if that is possible, it is almost certain that fairly shortly afterwards they would have found a few errors in it—not necessarily errors that would change the voting, but some errors. They could then say, 'This program is suspect. It's got errors in it.' The ACT

program, according to the *Canberra Times*, did have a bug in it. If you say, 'This program is suspect,' can you then ask the court to have it thoroughly validated—which is a totally enormous task if it has not been written for that purpose in the first instance—and then wait, say, three years for the result to come in? What happens if you find it is really bad?

Senator ROBERT RAY—One of the difficulties we currently have is that, if there is an election, let us say, on 10 May in a full cycle, and for some reason 200 people nominate in one particular state, without computers the Electoral Commission cannot get a formal count done by 30 June, and the new Senate starts on 1 July. One of the potentially compelling reasons to cut that off as a problem is that the ticket votes—which are not too hard—or all the individualised votes are then, as you know, put into the computer. I think that is one of the reasons for going to computers. There are several, but that is one of them.

Mr Rogers—I have been in the industry for 40 years; I am not a Luddite about this. I am not suggesting that we should go back to paper and pencil.

Senator ROBERT RAY—Yes.

Mr Rogers—I am suggesting that our efforts should be to make sure that the future programs are right.

Senator ROBERT RAY—I do not know if I will be a Senate candidate in the future, but should I be able to authorise another computer to be my scrutineer? I have one or two people who might be able to scrutineer a computer process, but most could not.

Mr Rogers—One of the suggestions in relation to the ACT election was that there should, in fact, be two independently written programs and the results should be compared. That is exactly your second computer.

Senator MURRAY—I have always been nervous of this area because of my own technical deficiencies. I think there are only two ways you can deal with this, because you cannot walk away from use of computers—both you and Senator Ray have made that point clear. One is a parallel entry and processing process, and then you match the two. That raises cost issues, but it is a check. The other is either a sample or a full post-process audit, using appropriate systems and so on, in which case the law would need to be changed to ensure that errors which were found not to be material and that would not alter the result—minor errors—would not result in the whole thing being set aside. What do you say to those two propositions?

Mr Rogers—I am afraid it falls into the category of testing. One of the truisms of IT is that testing tends to find the mistakes that you anticipated would be there. Computer programs have so many possible outcomes, and there are so many questions as you go through the program, that it is totally impossible to test all the possibilities. If you put in the results of one constituency and said, 'Do we, comparing paper with computer, get the right answer for that constituency?' it would tell you very little about the situation for the count for another constituency. These things usually fail in extreme cases, for example, where two candidates are very close. If there were a draw—I am not quite sure what the federal law is on what happens if there is a draw—with two minor candidates—

Senator MURRAY—If it is the final candidates, it is actually out of a hat.

Mr Rogers—But if it were a question of two people who are about to be eliminated and who have the same number of votes, is it out of a hat then or do they both get eliminated together? I do not know. Apparently, in the ACT it is out of a hat, which means you have to interrupt your computing to make the decision and feed the decision in.

Senator ROBERT RAY—In the federal election in the Senate, it will be the chief electoral officer of the state who breaks the tie—but he always does it out of a hat anyway.

Senator MURRAY—It seems to me that, from what you have said about the audit testing route, the one to contemplate is the parallel process. It would seem to me that the law would have to be specific if you were ever to take that route. If the parallel process came up with a different quantum but the same candidate result, it would not be invalidated because there would be data entry errors. That is the only way in which you could deal with it, because, in my understanding of human beings, you could never get a data entry system for large numbers where you would end up without any error at all.

Mr Rogers—We see that, when there are manual recounts, there are almost invariably slight discrepancies. They never come out with the same answer twice. The thrust of my submission is intended to be towards getting the program right in the first instance. The use of Formal Methods means that you are effectively ‘mathematically’ proving the correctness of the program in the first instance. If you can do that, then you do not have this problem in the end although you would do some testing for it—of having to run parallel systems or anything of that sort. You ‘know’ the program is correct in the first instance.

Senator MURRAY—As an audit feature in the almost prudential system that you are recommending, would you suggest that it would be appropriate to have a parallel system running in a couple of House of Representatives electorates and perhaps in one state or territory for the Senate, just to keep a prudential check going?

Mr Rogers—It would certainly do no harm. It is a positive, and it would certainly build confidence for the electorate if electors see that the manual count and the electronic count are coming up with the same thing. But I go back to the point that the important thing is to get it written correctly in the first instance and, although that is going to be more costly than the present situation, getting things right in the beginning is usually much less costly than trying to fix them when you discover that they are wrong later.

CHAIR—Mr Rogers, I have one last question, because I may appear to be a Luddite. It seems to me that one of the great protections against electoral fraud in the system is that it is so difficult to manage and that the returns for substantial efforts are pretty minimal in the context of how elections are held. I am concerned that the rewards for being able to manipulate a computer count and a computer outcome are so huge—and it would mean shaving just 300 or 400 votes here and 300 or 400 votes there—that the incentives would just skyrocket.

Mr Rogers—Yes, and we have not even discussed the sorts of things that the Electoral Commission were suggesting to you a month or two ago about Internet voting and things of that

nature, which are orders of magnitude harder. Yes, I agree, but I also agree with Senator Ray that it is realistic to say that you must, nowadays, use electronic systems.

CHAIR—Mr Rogers, thank you very much. That was very useful.

Mr Rogers—Thank you very much for your time.

CHAIR—It is always fun looking for that last bundle of a hundred votes!

Mr Rogers—The computers have taken the fun out of it in many ways.

CHAIR—Thank you very much.

Proceedings suspended from 11.16 a.m. to 11.33 a.m.

GALLUS, Mrs Christine, Federal Member for Hindmarsh

CHAIR—Welcome. The committee has received your submission. It is has been numbered 162 and authorised for publication. Are there any corrections or amendments that you would like to make to your submission?

Mrs Gallus—No.

CHAIR—Would you like to make a brief opening statement to the committee?

Mrs Gallus—Thank you. I think my submission is fairly self-explanatory. The reason I felt compelled to make this submission at this time is that in every election there are concerns, and part of that can be put down to the natural paranoia of a marginal seat member, but what has distressed us over a number of elections—I have been through five in all—is the feeling that it is very hard to get the AEC at all interested in any concerns that you may have.

In fact, when we have raised concerns with them they have absolutely stonewalled those concerns. I would have thought that the AEC would have an enormous interest in ensuring the integrity of the roll and that any time anything was brought to their attention they would immediately say, ‘We had better investigate this to ensure that something untoward hasn’t happened.’ Rather than taking that sort of line, the AEC have always said: ‘There’s nothing wrong. You are imagining it.’ Although this is on 2001 election, it is for that reason that I did include what had happened during the 1993 election, when I had a nutty conversation with a commissioner about an instance my constituents had told me about in which people were actually registering to enrol to vote at their house. I could not get any interest from the AEC, until we got to the ridiculous situation where they suggested I would not have a complaint anyway because I did not know which way the young man had voted—which is really getting ludicrous. That, I suppose, is the feeling that we get through all elections: the AEC really see no evil, hear no evil and speak no evil.

I will just raise something else. I only thought of this this morning, so I have not had time to really look at it. You may not know this, but the Parliamentary Library gets information from the Electoral Commission about the number of people in each CCD who vote at particular booths. They know how many vote at each CCD. Somewhat belatedly this morning I rang up the library and asked them to do me a comparison of the 2001 census with the number of people who actually voted in each CCD. The library have the number of people listed by the ABS in each CCD and the number of people who voted. Neither the library nor I can explain the figures that we got, because there does not seem to be much sense in them. It so concerned the officer at the library that he actually checked to see if any of the CCD boundaries had changed—which would perhaps account for them by showing that the AEC was going on previous CCD boundaries—and he asterisked the ones that had changed.

But the numbers that changed are not asterisked. We have in fact the rather odd situation that in 2001 there were 649 citizens aged 18 and over in CCD number 4092018. Only 460 voted, leaving 189 unexplained. I am not sure what that means but I think those figures in themselves are interesting. There are quite a few CCDs where the opposite happens and more people vote

than are actually registered. Clearly, that was what I was looking for. Because the numbers are all over the place, I do not think I can draw any conclusion from it except that it should have been of interest to the AEC, who undoubtedly have these figures, to wonder why there is so little correlation between who voted and the number of people over 18 who were entitled to vote in that CCD. I add that as something—

Mr DANBY—We do not have these figures.

Mrs Gallus—No, you do not. I just got them on my way here, in the last five minutes.

Senator ROBERT RAY—Where did you get them from?

Mrs Gallus—From the Parliamentary Library.

Senator ROBERT RAY—Do we know they are right?

Mrs Gallus—I would presume so if they are from the Parliamentary Library. At this stage I am not trying drawing any conclusion from it, but the figures do concern me. I will have to check with the library whether they are happy for me to put them in the submission.

CHAIR—A number of issues that you have raised amount to a picture of AEC indifference. The first one is not altogether uncommon—this is about 1998—and regards the advising of when pre-poll would start. It is a not uncommon problem that people get advice at different times and get different advice about when pre-poll starts.

Mrs Gallus—During an election, that there is certain confusion in an electoral office, and perhaps people get that impression. But in this case it was absolutely clear that we were informed that the pre-poll would not open on a Tuesday.

Mr DANBY—Not open on a Monday.

Mrs Gallus—That it would not open on the Monday; it would open on the Tuesday. I queried it. My staff went back and assured me that they were told it was Tuesday. At that stage, I heard that the neighbouring electorate was opening on the Monday, because we were helping them with some of their people at the poll, so I personally rang up the divisional officer, in front of other people in my office, to check on this information. This was on the Friday. I said that I had heard that Adelaide was opening on the Monday and could he assure me that we were not opening. He said, 'Definitely not. You are not opening until the Tuesday.' It was mid-morning on the Monday when we got calls to say why did we not have people down there. They were from people who noticed that we did not have anybody at the pre-poll.

CHAIR—What was their explanation?

Mrs Gallus—I cannot remember that they had one. Part of the problem was that this was all done by phone. We have frequently found that, when we have problems with the AEC, they can simply deny that things happen. You will find that my correspondence with the AEC after this

last election is all documented because we have found that they are not reliable when you go back to telephone calls that you have made to them.

CHAIR—How many AEC officers have you had at Hindmarsh?

Mrs Gallus—I can certainly remember the first gentleman, whose name I have, who unfortunately died. In the 1998 election, the gentleman was different from the one in the 2001 election. Certainly, in the 1998 election, there was not a friendly feeling between my office and that particular electoral division head, to the extent that during the declarations of the polls he implied that one particular office had been absolutely impossible to work with. He did not mention the office but I took it to imply that this was our office.

CHAIR—That was very discreet of him. Do you have any insight into why the Electoral Commission does take, in your view, a ‘hear no evil, see no evil, speak no evil’ perspective? What produces that?

Mrs Gallus—I have no idea. I have inquired about this and somebody has indicated to me that they think it is a very old-fashioned organisation that goes at its own pace or that it is a typical bureaucracy that protects itself and that, if it delves too far, it might find things it does not want to know. As I think has been indicated in the submissions given by the AEC to this committee in previous years, perhaps it simply does not have the funds to do the checking that is needed. I do not know the reason, but you tend to find this stonewall attitude in the organisation.

Senator ROBERT RAY—Why did it take you until yesterday to forward this submission to us?

Mrs Gallus—I did write to the chairman when the committee was called. I think the chairman has a letter from me where I explain that I am trying to get this information from the AEC and have been trying to get the information since post the election. The last letter from the AEC, it arrived on my desk on Friday, or maybe even yesterday. The last election was last November and it took me until this time to complete that correspondence.

Senator ROBERT RAY—Let us go through your complaints one by one. In relation to the pre-poll, did you lodge a protest or a complaint with the Chief Electoral Officer in South Australia?

Mrs Gallus—I do not know at this stage. As you will be aware, Senator—or maybe you are not because you are not in the House of Representatives—you go through a very hectic electoral process. The pre-poll is very much at the beginning of it and you are out there every day, all day.

Senator ROBERT RAY—To interrupt you—was this in 1998?

Mrs Gallus—I am explaining, Senator. Obviously, the time to make the complaint is when it is immediate, but everything else takes over. As we have very rarely had responses from the AEC, we rarely bother to make that sort of issue.

Senator ROBERT RAY—Now would you like to answer my question? I asked you whether you lodged a written complaint to the Chief Electoral Officer in South Australia about this incident.

Mrs Gallus—I have implied that I do not know. I would think not, but I can go back to check my records if you so require.

Senator ROBERT RAY—In relation to point 2 under 1998, I ask the same question: did you lodge a complaint with the Chief Electoral Officer of South Australia following your allegations contained here?

Mrs Gallus—This, I must confess, was all done by phone. I phoned the divisional officer and I made a complaint. More than that, I did take it to the state divisional officer, again by phone, to say that I did not think this was a satisfactory way of dealing with it. I do not have any correspondence; I did not make a written complaint. I might add that this is why I felt, when this committee inquiry began, it was really time that I put some of these complaints I had on paper and took the opportunity.

Senator ROBERT RAY—You have had a subsequent inquiry, and you did not think to put your complaints to that.

Mrs Gallus—I did, in fact. As you would know—or maybe you do not know—in the House of Representatives we have many things that take up our minds. Perhaps I have been very remiss in not reporting my concerns to a committee before the state, but I am pleased that finally I have managed to find the time to do so.

Senator ROBERT RAY—In relation to the third point under the 1998 election, which was four years ago, did you lodge an official complaint in writing with the Chief Electoral Officer of South Australia?

Mrs Gallus—Sorry, I misunderstood which one you meant. Can we go back over No. 2? I thought we were talking about that one too.

Senator ROBERT RAY—I have been going through 1988: point 1, point 2, point 3.

Mrs Gallus—I do not particularly feel any hostility to you, but I feel that I am being—

Senator ROBERT RAY—I am reading accusations that are four years old.

Mrs Gallus—I am trying to assist the committee. I would appreciate it if you would give me the opportunity to assist the committee.

Senator ROBERT RAY—See if you can improve your memory.

Mrs Gallus—If I can go back to the senator's question which I misunderstood, in regard to the postal application form of my husband, there were several calls made about this and I did make verbal complaints. That was the third point. As to the second point, which was in regard

to the postal vote application forms, my office made continual calls to the Electoral Office about this issue of the pre-poll forms, because every day we were having people ring up to ask and say, 'I haven't got my postal vote form.' It was admitted to us verbally that they had been accidentally discarded, but we were reassured that they had all been recovered and all sent out. Despite that, in that election we got many calls from people who still did not have them towards the end of the period that they could lodge them. If they were going away, this was creating a problem. We did not subsequently make any written complaint to the Electoral Commission about that at all.

Senator ROBERT RAY—You realise that for them to now respond, four years later, it is going to be a lot harder than if you had done it at the time. If they have got a case to make out that you are wrong—

Mrs Gallus—I am very well aware. But are you suggesting that, because I had not made it at the time and I was making a submission at this particular hearing, I should not have referred to it if it was one of the concerns that I had?

Senator ROBERT RAY—No, I am pointing out that it is going to be difficult for the Electoral Commission to respond four years later to a specific complaint.

Mrs Gallus—I am sure you are right. I have attempted in this submission to give to the best of my ability my concerns that I have had in the last five elections, and I have done so.

CHAIR—Excuse me, Senator—

Senator ROBERT RAY—No, I am going to finish, Chair.

CHAIR—I did want to say something that I should have said earlier. Mrs Gallus actually approached me and I said, 'If you have a problem, appear without submission and give testimony to the committee.'

Senator ROBERT RAY—You did not tell us that, did you?

CHAIR—No, I did not think there was any need to until you actually raised the issue.

Senator ROBERT RAY—I would like to have a submission. I just read this. From the time Mrs Gallus sat down, I have had to read this.

CHAIR—Whatever. What I am saying, for your information, is that I was happy to have Mrs Gallus appear without a submission—just so you know.

Senator ROBERT RAY—We call witnesses; you do not. We as a committee call witnesses.

CHAIR—Yes, the committee agree between themselves.

Senator ROBERT RAY—Going back, I just want to finish with 1998. The original mistake in point 3 was made by your husband, not by the Electoral Commission.

Mrs Gallus—Yes, that is right.

Senator ROBERT RAY—I agree that their attitude is cavalier. Had he voted in the postal vote, it would have been discarded—

Mrs Gallus—I understand that.

Senator ROBERT RAY—with him having voted at pre-poll. So it would not have been a case of double voting, would it?

Mrs Gallus—No.

Senator ROBERT RAY—With regard to the 1993 election—nine years ago—are you aware of section 114 of the Electoral Act?

Mrs Gallus—No, I am not, Senator.

Senator ROBERT RAY—I do not expect you to know it by heart—none of us do—but it is headed ‘Objection to enrolment’. You have a case where you think someone is wrongly enrolled. You have a right, as any citizen does, under sections 114, 115 and 116 to object to that person’s enrolment. I take it that you did not undertake that right.

Mrs Gallus—Could I go through the sequence with you of what happened in that instance? I personally received a call in my office from somebody who had some connection—I had never met them—with my family and felt extremely distressed that this incident had happened, with a young man registering at their house despite the fact he had never lived there. They had a subsequent conversation with their daughter on the fact that he had registered so he could vote in the electorate of Hindmarsh, and they told her not to be so silly. She said everybody did it and many of his friends were doing it. I then rang the Electoral Commission, who I could not get any interest from. I had an absolutely Kafkaesque conversation about this particular vote and urged them to do something about it. I suspect that at that time I did give the name of the people who were involved. It was all done by phone.

CHAIR—Did they advise you of your rights under the act to object?

Mrs Gallus—No, they did not. As far as I can recall, no, Mr Chairman.

Senator ROBERT RAY—So there is hearsay evidence going back nine years that one person may have been wrongly enrolled when they were not properly challenged.

Mrs Gallus—Senator, I acknowledge that, but I think you have to acknowledge that I have used this opportunity to list a number of concerns that I have had over the years, and that was certainly one of them. The fact that I could not get any response of concern from the Electoral Commission during that time adds together with a number of issues over several elections to make me concerned about the possible integrity of the roll.

CHAIR—With respect, I would like to make the point that we are not trying to overturn an election result. We are receiving evidence about the concerns a member of parliament has about the conduct of elections. I think that is reasonable.

Senator ROBERT RAY—I am sorry, but what we are actually inquiring into is the conduct of the 2001 election. Let us make that quite clear. To come up with a lot of old accusations that are going to be very hard to respond to because they were not acted on properly at the time not only makes our task difficult but also makes the task of the Electoral Commission difficult. Mrs Gallus, I take it, quite properly, that you are not alleging bias of the Electoral Commission over these issues, or are you?

Mrs Gallus—No, I am not. I have had a series of different divisional officers and I must confess to the fact that some of them were extremely helpful to me. I suspect that, if there is bias, it differs depending on who the divisional officer is at the time.

Senator ROBERT RAY—You say that 1,043 people were enrolled in the electorate of Hindmarsh who were not entitled to vote in Hindmarsh. Can you name one of them?

Mrs Gallus—That is in the results, after correspondence with the Electoral Commission. Following the—

Senator ROBERT RAY—Can you name one of them?

Mrs Gallus—It is not up to me to name any of them. These are the figures given to me by the Australian Electoral Commission.

Senator ROBERT RAY—What figures? Where do they come from?

Mrs Gallus—If you look at the correspondence, I refer to it in the correspondence. I shall take you through the correspondence, Senator. Following the election—

Senator ROBERT RAY—How do you know they are not qualified to vote?

Mrs Gallus—Senator, may I take you through that, if you have not had time to read the correspondence? I would be happy to. Following the election, we sent out a number of letters indicating that people no longer lived in the electorate, as do all members. When we receive dead letters that have been returned to the office, we give them to the Electoral Commission as an indication that these people may not be resident. After the election, I asked my office manager to contact the electoral office to ask if there was any information as to whether any of the people who had not been registered at that address, or did not appear to be, were removed from the rolls. As you will see from the correspondence, we did not get any reply until halfway through the year, and the Electoral Commission said they did not have a chance to check until March. If we look at the correspondence—I do not believe I have it with me—something like 1,065 people had received information that they were no longer at that address.

The Electoral Commission then confirms that in March—that is, four months after the election—755 of those people were no longer on the Hindmarsh roll. Remember that the information we received that they were no longer at that address was before the election. I asked the

AEC whether they had any information about the 755 people—whether they had in fact voted or not. You will see from the answers to the letters that they do not have any information on whether they voted. I would not have thought that this was beyond the capabilities of the Electoral Commission as they clearly had the names of the people they had to remove from the rolls and they removed them from March. Of course, if they had voted they would have been marked off on the electoral roll during the election.

According to this correspondence, which you perhaps might like to read later, they say they cannot give me that information. They did say that there remained 310 people who were still on the roll and they did not know whether they had voted. Letters were sent to those and I think 22 were confirmed as still living at the address on the roll. All together that adds up to the figure that you originally read—1,043—who were still on the roll during the election, but the Electoral Commission has no idea whether they voted or not. If you will look at my correspondence it will indicate to you that I have no idea whether they voted or not, but because the Electoral Commission cannot tell us whether they did or not then they may indeed have illegally voted.

Senator ROBERT RAY—On page 1 of your submission under illegal enrolment, which is a slightly different issue from those who may have failed to correct their addresses—that is not an illegality—you say:

To claim the lack of prosecutions is evidence that illegal enrolments do not occur is naive. Illegal enrolments clearly do occur, but because of lack of vigilance and appropriate follow up by the AEC, we cannot ascertain to what extent.

Can you give me one example of illegal enrolments?

Mrs Gallus—Certainly the one in 1993 was a fairly good example of an illegal enrolment, I would have thought. I am not prepared to give you that name because, as I say in my correspondence, I was asked by the family not to give it.

Senator ROBERT RAY—I am clearly not going to ask you for the name in that instance because as you explained there was a vague family connection and that is how the information came about. I am asking you for other instances. There are a lot of people who are slack in terms of their enrolment—they move and then they finally catch up with changing their address—but are there illegal enrolments?

Mrs Gallus—Senator, I am not sure whether you are confused as to why I am here. I am not an investigator for the AEC; I am a federal member—

Senator ROBERT RAY—You have made allegations against the AEC: that they are naive and that they are not chasing down this error. I am looking for the slightest bit of evidence.

Mrs Gallus—I did refer you to the correspondence. Senator, would it not occur to you that, if there were 143 people—in this case initially 165—who were not eligible to vote but who were not taken off the rolls until March, the AEC if it had an interest in this would have checked and would have confirmed to me that those people in fact who were not entitled to vote did not vote. I put it to you that the responsibility and obligation are back on the AEC to do this and not on me as a federal member.

Senator ROBERT RAY—You are saying that the AEC is not doing its job. These are serious charges. I am asking you for evidence and you are not putting forward any evidence, so when they reappear they have nothing to answer for. If these charges are right I want to know about it because I will be backing you up—do not worry, I could not stand the concept of illegal enrolment.

Mrs Gallus—Senator, if you were in the AEC and somebody asked you to check whether certain people had been removed from the roll who it appeared were not in the electorate, and you found that they had not been removed from the roll until after the election, would you not as a concerned member of the AEC then check to see how many of that 1,065 had voted during the election to determine whether in fact they had? The situation remains that, because there was no checking, they may have done so, but clearly the AEC cannot reassure me that they did not.

Senator ROBERT RAY—If I were in the AEC, I would understand the definition of illegal enrolment.

Mrs Gallus—Could I finish what I was saying? Clearly, they have the ability to do so, but have not.

CHAIR—I think that is the point if somebody is uncertain about what has happened, raises a specific issue—

Senator ROBERT RAY—This is a load of paranoid claptrap.

CHAIR—that is giving her substantial concern as a member of parliament and says, ‘Can you advise me of how many of these people are not on the roll?’

Senator ROBERT RAY—That is not illegal enrolment. It is a different matter.

CHAIR—The matter goes to Mrs Gallus’s perception that the AEC is not assiduous in pursuing a member of parliament’s concerns.

Senator ROBERT RAY—Then make that accusation.

CHAIR—If you read the letter, the dismissiveness is quite transparent.

Senator ROBERT RAY—Read the submission.

CHAIR—I am talking about the response from the AEC.

Senator ROBERT RAY—I am asking questions on this submission about illegal enrolment, not on the matters raised in the letter.

Mrs Gallus—It is quite a suspicious letter.

Senator ROBERT RAY—They are two different concepts.

CHAIR—I am going to the issue that, although the AEC maintains that it is not widespread, the AEC does not provide any evidence or research to support such an assertion. In this particular case, Mrs Gallus had a specific concern that was not addressed. The fact that you do not like that is neither here nor there.

Senator ROBERT RAY—The heading says ‘if there is illegal enrolment here’. That is the heading and that is the chapter. We have been through the other stuff. Mrs Gallus was advising the Electoral Commission. If I were in the Electoral Commission, I would understand what illegal enrolment was before I did anything.

Mr MELHAM—With the greatest of respect, Mr Chairman, notwithstanding that you are a member of parliament, I would have thought that the AEC would be bound by the Electoral Act and that a member of parliament, if they wanted to allege illegal enrolment, should avail themselves of the provisions of the Electoral Act.

Senator ROBERT RAY—It is in section 114 onwards.

Mr MELHAM—And section 115. I think the problem here is, having served on this committee from 1990 to 1996, I know that there is the perception out there among some members of parliament that, just because letters are returned, other inferences flow. You and I know that they are not the only inferences that flow. There have been a number of investigations by the electoral committee on the specific complaint of returned letters. I remember the complaints and the allegation of dead voters in relation to the electorate of Richmond when the Labor Party won that seat. It turned out that they were actually excluded from the vote, not included in the count. That is the problem here. In her submission and in terms of the material given by the Electoral Commission, Mrs Gallus is at cross purposes. It does not substantiate the serious inferences that she is drawing, which are not the only inferences that can be drawn from the Electoral Commission’s letter. That is the point we are trying to make here.

CHAIR—I suggest that part of the difficulty with perceptions is that issues are not pursued by the AEC when they are raised.

Mr MELHAM—On the evidence we have been given, the issue was not pursued properly by the member, with the greatest of respect. And it was delayed. Indeed, in the Electoral Commission’s letter they talk about the records not being retained because they are not required to be retained. Part of the problem is that the complaint was not pursued in terms of illegal enrolment, according to the Electoral Act.

Mrs Gallus—Mr Melham, I am not sure what you would have had my office do. My office asked immediately after the election—verbally, admittedly—for this information to be checked. If you check the correspondence, it did not start because of the refusal of the Electoral Commission to do anything about it. I stand by my conclusions. I said:

1. There is a lack of appropriate safeguards within the AEC process.

I stand by that. I said:

2. The Electoral commission cannot guarantee the integrity of the electoral roll.

The correspondence would indicate that. I said:

3. There are serious questions about the legitimacy of over one thousand votes ... cast in Hindmarsh in the 2001 election.

I stand by that.

Mr MELHAM—I say that you do not have the evidence.

Mrs Gallus—I say that as a consequence of that:

4. Electoral fraud may have occurred ...

I have not asserted that it did, I have asserted that it may have. Unless there is some way the Electoral Commission is prepared to go back and check, then I will stand by that: it may have occurred. I think it is up to the AEC, as this is such an important issue, to check that its rolls are beyond question. And I stand by that.

Senator ROBERT RAY—Did you receive a letter from Mr Becker, the Chief Electoral Commissioner, this week on funding? We all did. Obviously not everyone has had time to read it, but I am wondering whether you did.

Mrs Gallus—I have no idea. I have not been back to the electorate to check.

Senator ROBERT RAY—No, it came here.

Mrs Gallus—No, I do not know. I would not have been given it this week. I have had a particularly busy week.

Senator ROBERT RAY—As it goes to the funding of the AEC—he says he is underfunded—I wondered whether you had an attitude on that, to pursue some of the issues that you would like to pursue.

Mrs Gallus—I have no attitude on whether the AEC is underfunded and how it spends its money.

Mr DANBY—I also have a marginal seat, and I assume that you do the same as me when you receive return mail from people—that is, you return it to the electoral office. Normally, any marginal seat member is regularly mailing to constituents. Do you find that this number of 1,065 people after an election is unusual? Isn't there a possible alternative explanation, rather than illegal enrolment, that there are people in transition moving in and out of your electorate like all other electorates?

Mrs Gallus—Yes. Clearly there are a lot of possibilities here; I think the point is we do not know which possibility is the true one.

Mr DANBY—But what I am saying to you is don't you normally, in the course of your parliamentary duties, find that you have a lot of return mail from people who are moving in and out of your electorate?

Mrs Gallus—Yes, particularly in my electorate, as I have a particularly old electorate and a lot of people die.

CHAIR—Thank you, Mrs Gallus. It has been a very animated discussion.

Senator MURRAY—I will just add one thing. It is not a question to Mrs Gallus; it is just a point. I think the committee needs to set aside all elements apart from 2001, because I think it is difficult for us to deal with them in the way that they are dealt with here. I think Mrs Gallus should be aware that that is my view.

Senator ROBERT RAY—That is in the terms of reference.

Senator MURRAY—The committee might take a different view, but that is my view. The second thing I would like to suggest through the chair is that the AEC should be required to answer, in writing, both the submission and the letter, particularly in regard to the 1,065 people and whether they were moving in and out of electorates, which they can establish, and whether, once they moved from your electorate, they moved to another electorate, which would substantiate the point Mr Danby is making. The AEC should be given the written submission and should provide an answer to Mrs Gallus so she can make further response to us.

Senator ROBERT RAY—I also think we should remind all our colleagues—a bit like Ministerial and Parliamentary Services—that, when they have trouble with the Electoral Commission and complaints, they put them in writing. That is not a reflection on the witness. If we do not have the written response, it is very hard to measure. I know they may say they do not want to give you written responses; we have to insist that they do.

Mrs Gallus—I can only agree with you. This is why you will find that, in regard to this last election, I have—

Senator ROBERT RAY—I am just saying that I think this is a lesson for everyone to get it in writing.

Mrs Gallus—I think it is, very much. I agree with Senator Murray—thank you for that, Senator—and I think that is probably eminently fair. The reason I did put in, though, is that I wanted to indicate that I had continual concerns following other elections.

CHAIR—I have a problem with restricting everything to 2001. There are issues that go back over time that validate concerns about the 2001 election, and I would be loath to rule them out axiomatically.

Senator ROBERT RAY—You can seek an amendment to the terms of reference.

Senator MURRAY—My point was that I do not think the AEC can follow them up.

CHAIR—The terms of reference are:

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 2001 Federal Election and matters related thereto.

Mr MELHAM—To the 2001 election.

CHAIR—I regard some of the matters that were raised here as being related to the conduct of the 2001 election.

Senator ROBERT RAY—Well, we do not. Also, I would not object if you want to put through the parliament changed terms of reference, Chair. I would not object to that at all.

CHAIR—No, I believe these terms of reference cover this particular point.

Senator MURRAY—My real point is that I think the AEC should respond. I think they would be unable to respond to 1993 stuff and to 1998 stuff, particularly where it relates to things like the pre-poll and postal vote situation. They just cannot.

CHAIR—That is, however, quite a different point.

Mr MELHAM—They might want to respond now that it is on the record, if they are able to.

Senator ROBERT RAY—They might resign over this issue.

CHAIR—I wait. Thank you very much, Mrs Gallus.

[12.09 p.m.]

GARTRELL, Mr Timothy, Assistant National Secretary, National Secretariat, Australian Labor Party

WALSH, Mr Geoffrey David Heaton, National Secretary, Australian Labor Party

CHAIR—I welcome the representatives from the Australian Labor Party. The committee has received your submission. It has been numbered 153 and has been authorised for publication. Are there any corrections or amendments that you wish to make?

Mr Walsh—No, but I might make a short statement by way of preface if that is satisfactory.

CHAIR—Please do so.

Mr Walsh—Firstly, the Labor Party welcome the opportunity to participate in this inquiry. We believe that it is important to review the conduct of elections which, of course, is at the heart of the democratic process. As a general observation, our view is that the AEC did a good job of administering the election and that it was conducted, as the community would expect, in a fair and responsible manner. Nonetheless, there is a range of issues that we have set out in our submission, which we think are matters that deserve continuing attention by this committee and by the parliament.

I will briefly run through the key elements of that submission. Firstly, we believe the effort to tighten fundraising disclosure must continue. Secondly, we think that proper rules to govern government advertising must be implemented. Thirdly, we continue to have concerns about enrolment and the fact that a significant number of Australians are not enrolled. Fourthly, we feel that the question of the registration of party names needs to be tightened to stop the registration of front parties with names of a similar character to the existing political parties. Fifthly, we think the use of parliamentary entitlements during election periods should also be tightened, particularly in an environment where the taxpayer provides considerable amounts of money through public funding. Having made those points, I am happy to respond to any questions that you or your colleagues may have.

CHAIR—With respect to the issue of full disclosure by all political fundraising bodies, you note that you strongly support the tightening of laws governing donations to make sure that all fundraising bodies promptly disclose the source of the donations. You note that the New South Wales branch has done this with respect to the moneys raised for them by Markson Sparks. So the New South Wales branch has disclosed the individual amounts that were donated to Markson Sparks and passed on to the New South Wales Labor Party?

Mr Walsh—That is my understanding.

CHAIR—Can you confirm that, please? If somebody bought a bat for \$5,000 at a Markson Sparks auction, the purchaser of the bat would be disclosed?

Mr Walsh—That is my understanding. But the responsibility for those disclosures, of course, ultimately lies with the New South Wales branch in their returns.

CHAIR—What I am pursuing is that there is a very laudable statement there saying that the ALP New South Wales branch has complied with the spirit of the law; that is, it has disclosed all—

Mr MELHAM—Chair, at this stage I should declare, so that it is on the public record, that I am a trustee of the New South Wales branch of the ALP. I don't want to—

Senator ROBERT RAY—Don't apologise.

Mr MELHAM—I was not apologising; I just wanted to declare that, having been elected at the last annual conference.

CHAIR—I would just like confirmation, because it is really moving that the New South Wales branch has done that. I would like confirmation that they have disclosed individual contributions that Markson Sparks have passed on. I am a Victorian so I do not pay intimate attention to what happens in New South Wales, but it strikes me as being important that we tie down the fact that you have disclosed individual donors to Markson Sparks and that those donations subsequently were part of moneys passed on by Markson and Sparks to the Labor Party.

Mr Walsh—My understanding, as it is expressed in this submission, is that that is accurate in terms of every single precise detail.

CHAIR—Could you come back to us and give us that information?

Mr Walsh—I could certainly have a look at that, yes.

CHAIR—The second thing I want to ask about is the power to audit and to have compliance audits for amounts of over \$25,000.

Mr Walsh—Where is that?

CHAIR—It is on page 110. Can you briefly outline what you mean by a compliance audit and what number of compliance audits would be involved for contributions of \$25,000?

Mr Walsh—Firstly, I think you would be aware that there are instances where companies do not make disclosure. Often that is administrative oversight or some other unfamiliarity with the requirements of the act—so certainly making sure they comply with the act is a sensible course. Secondly, in an instance where a company has made a large donation, I think the AEC is entitled to assure itself that that is the limit of any contribution, particularly in an instance where it has not been disclosed.

CHAIR—But you are not limiting it to undisclosed and subsequently discovered instances. My understanding was that you want a compliance audit done on all contributions of \$25,000-plus.

Mr Walsh—Yes.

CHAIR—How many compliance audits would that involve?

Mr Walsh—I cannot give you a precise number. That could be easily calculated and we could supply you with that.

CHAIR—Would it be hundreds?

Mr Walsh—I doubt whether it would be hundreds—perhaps 100-odd.

CHAIR—Do you believe that this would be an intrinsic part of what the AEC should be doing alongside all its other responsibilities?

Mr Walsh—I think the disclosure regime is intended to give people confidence that all donations are declared, including the amount. To the extent that that underlines and enforces that confidence, then it is a good thing, I would think.

CHAIR—There are no concerns about a deflection of administrative attention onto what would be donations that are, by and large, pretty straight forward? Compliance audits do take time.

Mr Walsh—There is always a debate about the application of scarce public sector resources and what the priorities are. I would have thought this was a priority and should be given due recognition.

CHAIR—What is your bottom line on donations from overseas? What do you want to have happen to donations from overseas?

Mr Walsh—Essentially, we believe that there should be a regime which, if not prohibiting them, certainly ensures that a full disclosure of the original source is available. That may be a difficult, complex and perhaps impossible task. One other we believe is—

CHAIR—On balance—I am genuinely seeking your ideas—which would you go for, given the difficulties of establishing provenance when the money is from overseas?

Mr Walsh—There are some complex considerations in it. There are companies, for example, which have considerable operations in Australia but base their legal entity overseas for a range of legitimate corporate reasons and may wish to be contributors to the party processes in this country. I would think, if it were possible to find a system that could deliver both confidence in the process and look after those instances without opening it up to abuse, that would be preferable.

CHAIR—If you have any further thoughts on that, the committee would appreciate them because this is an important issue.

Senator MURRAY—You will find it dealt with in my minority report in 1998.

CHAIR—We have come back to it and we are all pretty open-minded as long as there is an effective mode of dealing with it. We now come to the issue of inappropriate government advertising. I have to disclose an interest; I am on MCGC. Part of my difficulty with the notion of inappropriateness and, indeed, with the parliamentary counsel and audit report on this is the difficulty of defining what is party political matter. I think that is a problem of no mean dimension. In your complaint, you raise things like the benefits for pensioners and older Australians. There was a very real problem in that particular area—we did not know a lot of the people who would be beneficiaries because they were not on any databases. I would not regard that as party political advertising. The other problem is that when it came to the committee defining the notion of ‘party political’, it was essentially around a perception that an ad was party political. How would you differentiate legitimate from illegitimate?

Mr Walsh—We are not without assistance in this task. The Auditor-General has put forward draft guidelines. He could be regarded as approaching the issue with some objectivity and no barrow to push, and he has given some guidance there. It is difficult sometimes to differentiate between public information campaigns of a straight forward character and those where the temptation to step over the line and try to send a political message is too great. If you look at the pattern of expenditure, however, you would have to say it is, at the very least, curious that the need for large amounts of public information have coincided rather dramatically with elections. I have a little graph here that might assist you.

CHAIR—I have just read that the British government had the top expenditure for advertising in its election year. I think it was £141 million. I do not think you can draw conclusions by timing. I think you have to go to something that is reasonably apt in terms of an acceptable definition of political advertising, and that is, believe me, a huge problem.

Mr DANBY—But you do not have to stray as far as Britain. Look at Australia in terms of government advertising expenditure during election years, particularly in the last election.

CHAIR—I think there is an increased demand for communication; governments use whatever communication means are open to them. Leaving that aside, there is a basic problem about getting an acceptable and transparent definition of what is party political and what is not. That is a real issue, and if you could come up with something—and I should say that the report of the Auditor-General and of the Auditor-General’s committee is not very tight on that issue, which is what gave me problems with it.

Mr DANBY—Mr Walsh and Mr Gartrell, do you have an attitude to a suggestion that was made in that auditor’s report that perhaps in any legislation that is passed there be legislation for government advertising, and if that got through the parliament that would be the way that was done, otherwise it should not be done. Does the ALP have an attitude to that?

Mr Walsh—We do not have a formed view, although it is an interesting way to deal with it.

Senator MURRAY—To assist the committee and Mr Walsh, and as Senator Ray knows, there is a report that has just come out from the Senate Finance and Public Administration Committee which reviews four private members' bills, one of which is the advertising bill. That is a useful reference for arguments, and there were public submissions arising from that. My first question to you, Mr Walsh, is not covered by your submission but it relates to the Liberal Party proposal that the committee should examine the issue of splitting the Electoral Commission into two—effectively, one to run the election and one to administer the roll and everything to do with that side of things. How do you react to that view? Do you see that there is any merit in it?

Mr Walsh—I am not immediately attracted to it. It seems odd that at a time when the AEC feels some pressure on its resources that a process like that which would inevitably increase the cost of servicing elections would be the way you would choose to go. The fact that they do it in New Zealand I do not think adds to its attraction.

Senator MURRAY—The second area is to do with the AEC and its organisation and it was referred to earlier by Senator Ray. The AEC is on a campaign for increased funding. It is also on a campaign for having far greater flexibility as to how runs its offices. Essentially, in summary, it wants more money and it wants to reduce the number of divisional electorate offices it runs. Do you have a view on those issues? As someone closely involved with the performance of elections, do you feel that there are signs of strain in the fulfilment of AEC duties and that it would not matter if some of the divisional electorate offices were closed and coordinated on a more flexible basis?

Mr Walsh—I think the starting point for us is what do we want to see the electoral office do. We set out in our submission concerns about the involvement of young Australians, Aboriginal Australians and homeless Australians, who are not enrolled in percentages that we believe they should be. If AEC resources were increased we would hope that would give them a capacity to act more effectively in those areas. It is a question as to what priorities the AEC would direct increased resources to as well as whatever arguments they may bring for their own internal needs. As far as closing divisional offices goes, the critical thing is the outcomes that they deliver in terms of these areas that we have a concern about.

Senator MURRAY—Can you confirm a remark I saw in the press the other day that members of the public cannot join the Labor Party unless they are members of a union? Is that right?

Mr Walsh—I might get my colleague to deal with that. It has been a matter that we have looked at in the course of the Hawke-Wran review.

Mr Gartrell—That varies from state to state and there are differences in compliance and how that is policed. I cannot remember an occasion in the recent past where that has been issue.

Senator MURRAY—I would have thought that if it was true it would be a basic case of discrimination. I would not have thought that you would have wanted to be in that.

Senator ROBERT RAY—They would have to have a Rorschach test before they joined the Democrats!

Senator MURRAY—I would agree with that, by the way!

CHAIR—Is it the case that some states do not have that requirement?

Mr Gartrell—That is my understanding.

CHAIR—Does that mean yes, or that is your understanding? If you do not understand, who does?

Mr Walsh—There are nine sets of rules.

CHAIR—At least one of them does not require it.

Senator MURRAY—I wonder if it would contravene the various discrimination acts, but I suspect those acts exclude political parties from their purview. Surely you would not sit here and support discriminating against members of the public who are not union members joining the party.

Mr Walsh—As my colleague has indicated, there are rules that govern lists in various parts of the party. The administration of the party rules, the membership and those sorts of concerns are matters for constituent branches. We do not have responsibility for—

Senator ROBERT RAY—You would be concerned, though, if the treasurer of the Labor Party just resigned citing lack of fiscal rectitude, of failure to properly account for money, and as party agent as well you would be very concerned about that, wouldn't you?

Senator MURRAY—Like me. I am deeply concerned.

CHAIR—Hansard cannot record meaningful face movements.

Senator MURRAY—The point that Senator Ray is somewhat unobtusly making is that the Democrats are far from a band of angels, and I accept that on the record. I simply say that I am concerned about discrimination in our community. Let's be wild about it: let's assume the Labor Party discriminated against Jews or blacks or gays or women—any category. You would think that was absolutely out of the question and offensive, and I would agree with you. I simply find it odd that, in this day and age, any political party would exclude somebody because they were not members of a particular organisation.

Mr Walsh—In the course of the Hawke-Wran review, one of the issues that was clarified was the question of employers of labour being required to have their employees join unions. That is something that we have done away with because that is not in line with the provisions of the Workplace Relations Act, for example. I think the point that has been made about the trade union membership is that it is a Labor Party. The review has come to the conclusion that that relationship remains an essential part of the character of the organisation and it would be very odd that someone would want to join the organisation with that very clearly and publicly stated and known and, in many cases, it is the reason why people do join.

Senator MURRAY—But, as you know, there are millions of people who are not members of the union movement, who support the union movement. I am one of them. I am not a member of the union. I think it is a terrific movement. If ever I wanted to join the Labor Party, I would hate to discover that I would have to join a union to do so.

Senator ROBERT RAY—We do draw the line somewhere, let me assure you.

Mr Gartrell—Senator, if you look at Hawke-Wran report, it says that people should be encouraged to be members of unions. That is the sort of recommendation that they have made.

Mr DANBY—And there is no evidence of any discrimination practised against people who are not in one?

Mr Gartrell—No, that is the point I made before. I cannot think of a recent time where it has been an issue, and we do have a lot of membership churning through the system.

Senator MURRAY—By the way, on the record, whilst we are amusing each other, I did get an official application to join the Labor Party just recently, which I would be glad to show you.

Senator ROBERT RAY—I think I know who sent it to you.

Senator MURRAY—I think it had Mr Crean's name on it, which is amusing. The last question I have is about the driver's licence approach. As you know, the government put a set of regulations to the Senate that were disallowed. The principal reason for disallowance—because I carried the balance of power vote on that—was that we were afraid that the reaction of the state governments were such that they might be so distressed as to reintroduce joint roles. It seems to me, Mr Walsh, that your recommendation on the driver's licence essentially says to have the existing system of verification but to that add the drivers licence requirement. Obviously, you would recognise that many of the people you are talking about who are disenfranchised do not have drivers licences—the homeless, Aboriginal people, poor people. That is essentially what you are saying, isn't it, to keep the existing system and add the driver's licence?

Mr Walsh—Yes.

CHAIR—I would like to pursue the point about the AEC's direct address change proposal which you seem to be in favour of. Do you have any problems with people being changed from one electorate to another without any direct involvement on the part of the person who is being changed? This proposal says that, if you have a change on one of the databases, you are changed automatically.

Mr Gartrell—As I understand it, you would tick a box, but you would still have to sign. For example, if you move in the ACT, they provide several boxes for you to tick. You would still sign a declaration that all those things were correct. That is my understanding.

Mr DANBY—You are saying that the electoral aspect of that would be incorporated with other change of services—

Mr Gartrell—Yes, into that verification.

Mr DANBY—to the one address and that you would sign a declaration covering the whole lot?

Mr Gartrell—Yes. You are still verifying that you agree to those changes but you are ticking boxes—gas, telephone.

CHAIR—So that is an essential part of what you understand to be the proposed change?

Mr Gartrell—Yes.

CHAIR—Because that is not my understanding, but so long as I understand where you are coming from.

Mr Walsh—We have given an example.

CHAIR—Thank you very much for coming. I am sorry it was not more animated, but it was worth while. Can we come back to you on some of the issues which are not contentious and get some more information on the overseas contributions and the direct change of address? I would like to come back to you on it because my understanding is not quite the same as yours.

Mr Walsh—Yes.

Mr DANBY—Before you close the committee, you mentioned ‘overseas contributions’. Did you ask a question about that while I was out?

CHAIR—Yes.

Mr DANBY—Can you repeat to me what it was?

CHAIR—The question was, essentially: would the Labor Party prefer to knock overseas contributions off entirely or to find some mid-way position? The response was that there were organisations that had their centre overseas but had significant involvement in Australia and it would be desirable to find a middle way rather than jumping to extremes. Is that broadly your response?

Mr Walsh—Pretty well, yes.

Senator MURRAY—I liked most of your recommendations. That means if they and we combine, you have the votes.

Mr Walsh—Thank you, Senator. If you would like a union to hunt you down to sign you up, we can probably arrange that, too.

CHAIR—On behalf of the committee, I would to thank the witnesses who have given evidence.

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

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 12.36 p.m.