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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Conduct of the 2004 federal election and matters related thereto**

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**JOINT STANDING COMMITTEE ON  
ELECTORAL MATTERS**

**Monday, 8 August 2005**

**Members:** Mr Anthony Smith (*Chair*), Mr Danby (*Deputy Chair*), Senators Brandis, Carr, Forshaw, Mason and Murray and Mr Ciobo, Mr Melham and Ms Panopoulos

**Members in attendance:** Senators Brandis, Carr, Forshaw, Mason and Murray and Mr Ciobo, Mr Danby, Mr Anthony Smith and Ms Panopoulos

**Terms of reference for the inquiry:**

To inquire into and report on:

Conduct of the 2004 election and matters related thereto.

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**Committee met at 9.33 am**

**CHAIR (Mr Anthony Smith)**—I declare open this public hearing of the inquiry of the Joint Standing Committee on Electoral Matters into the conduct of the 2004 federal election. To date we have received 176 submissions. Many of course were detailed and self-explanatory, and accordingly the committee does not have to hear from every person or group who made a submission. However, there are some submissions which we wish to consider more fully. We have identified a number of issues in those on which we want to take additional evidence in this sixth round of hearings.

Prior to today, the committee has held hearings in Dalby, Longreach, Ingham, Brisbane, Tweed Heads, Melbourne, Adelaide, Canberra—last Friday and again today—and Perth. I would like to thank all of today's witnesses for appearing and to remind each of them that, although the committee does not require them to give evidence under oath, the hearing is a legal proceeding of parliament and warrants the same respect as proceedings in the parliamentary chambers. The giving of false or misleading evidence is a serious matter that may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will be covered by parliamentary privilege.

[9.34 am]

**GREEN, Mr Phillip, Electoral Commissioner, Australian Capital Territory Electoral Commission**

**CHAIR**—I welcome our first witness, Mr Phillip Green, the ACT Electoral Commissioner. We have received evidence from a number of groups and individuals urging the committee to examine electronic voting arrangements. The work of the ACT Electoral Commission in this field has been mentioned in a number of submissions; that is, you were the first to develop such procedures for people with disabilities—the vision impaired and the blind. It is for that reason that we have asked you to come along today, as I am sure you are aware. I invite you to make an opening statement on what the ACT has been doing in the last couple of elections and on how, as a federal government, we might benefit in federal elections from that experience. I am sure that there will then be some questions from my colleagues.

**Mr Green**—Thank you for inviting me to the hearing to show off a system that we are quite proud of, a system that we think is a world-leading system in what it attempts to do. I have a short PowerPoint presentation for you which will give you a feel for what the screens look like and how the system works in practice. I would like to extend a formal invitation to the committee to come to my office to have an actual demonstration of the working system; unfortunately, it was rather too complex to bring along here today.

**CHAIR**—We can come along and conduct a ballot!

**Mr Green**—You certainly can!

**CHAIR**—You would have no problem getting us to do that!

**Mr Green**—We are just across the lake, in the city, so if you would like to come along and see the system we can arrange that for you. I will now take you quickly through my presentation, which will cover the main points and give you a feel for how the system works. At the end of that, I will invite you to ask questions.

*A PowerPoint presentation was then given—*

**Mr Green**—Firstly, I will give you some context. The ACT has been self-governing since 1989, and it has had a mixed history of electoral arrangements. As you would know, the ACT Electoral Commission was established in late 1992, and in 1995 it ran the first Hare-Clark election used in the ACT. Since then, we have run elections in 1998, 2001 and 2004. In the last two elections we have used electronic voting and counting.

At the last election, we had about 220,000 enrolled voters. As of the 2004 election, there are now four-year fixed-term elections. The ACT Electoral Commission is independent. With the Northern Territory Electoral Commission, we are one of the two smallest commissions in the country. We only have six permanent staff, so the fact that we have done something so ambitious with six people is a tribute to the people involved; there were not many of us.



As I said, we use the Hare-Clark system: a single transferable vote in a multimember system. We also use Robson rotation. It is essentially the same system as is used in Tasmania for their lower house. However, we go further with our Robson rotation of names on ballots. We have 420 different versions of the ballot papers for Molonglo and 60 different versions of the ballot papers for Ginninderra and Brindabella. It makes computerising it even harder, but we met that challenge. We currently have 17 members, elected in three electorates—although, if you read the front page of the *Canberra Times* this morning, you would see that the Chief Minister would like to increase that. Obviously, our electronic voting system could cope with that if that happened.

We used electronic voting for the first time in 2001, and we used it again in 2004. We did not have it in all locations, and I will talk more about why that is a bit later. We had electronic voting at all of our prepoll voting centres; we have four of them at the moment, in the main town centres in Canberra. In 2004 we had electronic voting for the full three-week prepoll period. In the 2001 election, we had electronic voting for the last two weeks of prepolling. On polling day, those four prepoll voting centres turn into ordinary polling places. We had another four polling places set up as electronic voting centres, so on election day we had eight polling places issuing electronic votes, out of a total of 83. In 2004 we took just over 28,000 votes electronically, which was 13.4 per cent of all votes counted. In 2001 we took about 16½ thousand votes electronically, which was about eight per cent of all votes counted. So there was quite an incremental increase in 2004.

We used the same number of locations at both elections, but we consciously tried to increase the number of votes taken in 2004. We achieved that by having more computers in each polling place. We had 10 computers in each polling place in 2001. We had 15 in each polling place in 2004, except in our biggest one in Civic, where we had 20 machines. We are also very keen on persuading electors, when they come into the polling place, to use the electronic voting system. They do have the option of using the paper system if they would like to. Another thing we did in 2004 was that we increased the proportion of people who chose to use the electronic voting system.

There are a number of reasons why we introduced electronic voting after the 1998 election. With Hare-Clark, margins are often very small, as people would know. It is just like the Senate system: every vote counts. In our largest electorate of Molonglo, our seven-member electorate, we were counting 75,000 ballots. We were getting through the scrutiny and we got to the point where we had to decide which of two candidates to exclude, and they were five votes apart. We went back and looked at how accurate our hand counting was, and we decided that our hand counting was not accurate enough to be confident that we had got the right result. We did a full recount by hand, and it actually changed the result. The candidate who was in front at the beginning of the count was behind at the end of the count. It took an extra 10 days on top of the count to do that.

In doing that, we analysed how easy it was to misinterpret handwriting on ballot papers. We analysed just how difficult it is to read the handwriting of voters. We also found that lots of voters were making mistakes in their numbering of the ballot papers. There were a fairly high proportion of informal votes that were clearly people unintentionally casting an informal vote. So we thought: there has to be a better way of both voting in the first place and counting them in the second place to make it a much more accurate process.

The other thing—and I know the committee is very interested in this—is that a paper ballot is not very accessible if you have a disability, particularly if you have vision impairment. Essentially, with a paper ballot you have to have someone to help you and fill out the ballot paper for you, so you do not have a secret ballot.

We wanted the system that we devised to be used at normal polling places. We wanted it to be fairly low cost. The ACT does not have a huge amount of money to spend on its elections. We wanted it to be very secure. We wanted it to be very reliable. We wanted it to effectively mirror what people were able to do on a paper ballot, but we wanted it to be a much more accurate process.

So, in the polling places where we had electronic voting, we used a local area network that was confined to the polling place. We never transmit votes on the internet, so there is no way—unless you physically get into the system in the polling place—that someone could hack into a system. We used standard PCs. We used a small keypad, which is just a standard number pad, as the interface that voters used to actually cast their votes. There was a bar code reader. When voters came to vote, they would be marked off the electoral roll, just as they would if they were getting a paper ballot. But, instead of getting a ballot paper like one of these, they would get a bar code. The bar code was unique to the polling place. It identified the electorate that the person was entitled to vote for, but it was otherwise an anonymous thing that was not connected back to the person's vote. So, once the electronic vote is cast, there is no way of working out which individual actually cast that vote.

Once people were issued with a bar code, they would then go over to the polling screens. From a distance, they are just standard cardboard voting equipment—that is the same standard equipment that the AEC uses. We also use the same equipment, but the screens are modified so that, in the horizontal face of the voting screen—that is just a standard PC monitor; underneath that is the standard PC box with the hard disk and everything else in it. The little black thing you can see at the front of it is the bar code reader that the bar codes are swiped through. The keypad is one of these, and you are welcome to come and have a closer look at that, if you would like to.

The other thing we trialled in one polling place at the last election was this thing, which is a customised voting tablet, as we call it. It is essentially a PC, all enclosed in a solid-state unit. There are no moving parts in this. It has a touch screen face. Although we did not program it as a touch screen, it is touch screen capable. This was developed in South Australia by a company called Entech. We trialled this as an improvement on using standard PC equipment, because the problem we find with standard PC equipment is that it is quite cumbersome to set up. Putting things into the cardboard screens is a fairly labour-intensive process. In the future, we would like to simply roll out a series of things like this to our polling officials and all they would have to do is take them out of the box and turn them on. That is where we see this sort of process heading. If you come to our office, we can actually show you this thing working.

This slide gives a closer view of the tablet. You can see the ballot papers on the screen. We also had on the front of the cardboard screens a series of instructions about how to use them. We also had a staff member in each polling place who was there to help people familiarise themselves with the electronic voting system and, if they had any problems with it, they could help them out. An extra staff officer in each polling place was responsible for doing that.

When they come up to the screen, the words ‘Welcome to the ACT’s Electronic Voting System’ is the first thing they will see on the screen. Another thing that is possible with this system is that you can have instructions in any language you like. So the first thing a voter had to do was to choose which language they would like their instructions in. If you were to choose a language other than English, there would also be an English subtitle on each set of instructions. So, if you ended up with the wrong language by mistake, there was always an English version there for you to look at.

The other thing to note at this point of the process is that there was the opportunity for people who were vision impaired to use headphones and to be talked through the whole process so that they could—

**CHAIR**—That is particularly the issue we are interested in.

**Mr Green**—Yes, so I will talk you through how that happens and, if you come to my office, we can demonstrate this for you. At this point, in every polling place we had one computer set up that was our multi-accessible polling place. It was on a table where people could use a wheelchair. It had a screen larger than the standard screen—it had a 21-inch screen for people who wanted something larger. It also had a set of headphones, so even someone who was totally blind could still use the system. At this point, the headphones are continuously broadcasting a message that says, ‘Press any key to hear a description of what that key does.’ So, at that point, before swiping the bar code, pressing any key on the keypad will teach the voter what all the keys do. Because this is not a standard arrangement—the only keys are an up arrow, a down arrow, a previous group, left group, select, start again, finish and undo—the voters could learn what all the keys did by listening to the headphones and being given feedback as to what was happening.

Once they felt they had learned how the keyboard operated, swiping the bar code would bring up the ballot paper screen. The one on the slide is the screen for the electorate of Ginninderra, which is a five-member electorate. On the voting screen is a representation of the ballot paper I am holding. Our ballot paper is very much like a Senate ballot paper, except we do not have an above-the-line component. What we have in our electoral act is the capacity for me as commissioner to determine a form of the ballot paper that will fit on the electronic voting screen. So it is up to me to decide just how to fit this ballot paper onto a screen. Obviously with a square screen it is very difficult to get all of the candidates visible on the screen at once.

We feel it is very important to have all the candidates visible. We do not like the thought of putting a screen up there where the voters would have to scroll side to side to see candidates who were not visible on the screen. So we try very hard to make sure that all the candidates are visible. Even with Molonglo, which was much bigger than that, we were still able to get all the candidates visible on the screen and have it quite legible.

At this point, voters use the up arrows and the down arrows to navigate up and down within columns and across columns and, once a voter arrives at a candidate that they want to vote for, pressing the select key, like so, will automatically begin to number their preferences for them. So the number 1 would be for the first choice. You navigate to your next choice, press select for the number 2, navigate to your next choice, press select for the number 3 and so on. You can number as many or as few candidates as you wish. The ACT system is fully optional preferential. Even

though the instructions on the ballot paper ask people to number five candidates in the five-member seats and seven candidates in the seven-member seats, the formality rules actually allow a single first preference to be a formal vote. With that sort of thing, regardless of your formality rules, you could program the system such that, if you required full preferential voting, you could have a warning that comes up if someone tries to vote other than formally.

With our system, if you vote for no candidates at all, that is an informal vote. If you were to do that, the system would give you a warning and say: 'You are about to cast an informal vote. If you want to proceed, swipe your bar code; if you do not want to proceed, go back and start again.' So the system warns people that they are about to cast an informal vote, which, again, is something that a paper ballot cannot do.

For people who are hearing impaired, a recorded message reads the instructions the first time they arrive at the screen. Thereafter it tells the voter what particular candidate and what particular party they are currently residing at with their cursor. For example, if we were still at Roslyn Dundas and we had just cast our last preference, it would be saying 'Preference number 4, Roslyn Dundas, Australian Democrats'. It would say that over and over until you moved somewhere else. So if you are totally blind you can still use this system to navigate your way around.

Once you have finished with your vote, you press the 'finish' key. That brings up a confirmation screen, which asks people to check that their vote is as they want it to be. Again, this is something you cannot do with a paper ballot. It lists preferences in order, so you have the opportunity to look in preferential order at your vote and to review it. On the slide we are looking at, that is actually the greatest number of candidates that we had in our election. It is what our Molonglo confirmation screen would look like if someone were to vote for all 41 candidates. It only shows the candidates that you have voted for. So if you did not vote for a particular candidate it would not be listed at this point. Again, the audio component for this screen reads out everything you see, and it also gives people the instruction that if they swipe the bar code at this point their vote will be completed.

Essentially all you would see if you were casting a normal vote would be the welcome screen, the ballot screen and the confirmation screen. If people had difficulty at this point, pressing the 'select' key would bring up a screen that would hide their vote. Then they would be able to call someone over to assist them. So the system is designed with secrecy of the ballot very much in mind. If, for example, someone was sight impaired and they could not work out the bar code, pressing the 'select' key at this point would hide their vote so someone could come and assist them without seeing how they voted.

Assuming you swiped the bar code at that point, you would get a screen saying: 'Your vote has been accepted. Thank you for using it. Place your bar code in the ballot box on the way out.' One of the fairly minor problems we had was that some people were issued a bar code that they did not end up swiping that second time to finish the vote off and they left it open at the voting screen. That does not get recorded as a vote, because you need the bar code to do that. But, even taking those numbers into account, the number of people who voted informally using the electronic voting system was in the order of 1½ per cent, while the number of people who voted informally on the paper ballot was something like 2.9 per cent. The commission has finished its report on the 2004 electronic voting system. It is currently with the Chief Minister and it is going

to be tabled in the Assembly when the Assembly resumes later in August. I can arrange to get you a copy of that when that is tabled.

To finish, we think there are lots of benefits to electronic voting. It means you do not have to manually count all those ballots that you have captured electronically. We think it is reliable, secure and transparent. Obviously lots and lots can be said about that but we will only go into that if you want to go there. We use open source software, which we think is an important element with regard to the transparency of the system. Anyone can download the software from the internet and actually see how it works, analyse it and be sure that it is doing what it is meant to be doing. If we were to be challenged in court, the system is run from a series of CD-ROMs. The original program is set up with a set of CD-ROMs. Every night of polling, all the voting data is backed up onto CD-ROM. If we had a court challenge, we could go to court with a series of CD-ROMs and say, 'This is the entire election. You can reconstruct the whole process using this set of CD-ROMs.' That is the way we feel that the transparency of the system is guaranteed.

We feel that, because it numbers candidates for the voters as they are going, it eliminates unintentional voter errors. It certainly has had the effect of reducing the proportion of informal votes we get. We think the audio version is a very important part of the system. There are instructions in 12 languages. That is obviously something you cannot do with a paper ballot. We are also combining this with an electronic counting system, which is similar to the Senate counting system that is used federally. It was designed for us by the same people who designed the electronic voting software, which is a local Canberra firm called Software Improvements.

Every paper ballot is entered twice by independent operators, the program checks for errors and they are corrected by supervisors. With our 176,000 papers, we had a final result announced 11 days after polling day, which included waiting for the first six days after polling day for postal votes. The very earliest we could have a result is seven days after polling. We would like to get it down from 11 days, but the most we could ever get it down to is seven days. We are pretty close to getting there already.

With electronic counting we think we achieved what we set out to achieve after the 1998 election, which was to come up with an extremely accurate way of counting ballot papers. We think it has effectively eliminated sorting and counting errors. We think it has reduced the time needed to produce an accurate count. We feel we have achieved a system that is so accurate that the concept of doing a recount when the result is close is no longer necessary, because, unless you can point to an error being made in the data entry process, a recount is not going to achieve a different result.

In the ACT we fill our casual vacancies by count-back, as they do in Tasmania. Where we used to get ballot papers by hand and recount them if we had a casual vacancy, now the program does that automatically. We had one casual vacancy after the 2001 election, when Gary Humphries resigned to move to the Senate, and I think the program took less than five minutes to run. It actually took longer to read out the names of candidates and to describe how the system works than it did to run the program.

In 2004 we really had no significant problems to report. There were a few in 2001. The most significant one was that the bar code we used was printed larger than it is now and the bar code readers had difficulty reading it. You had to swipe several times to make it read. We think we

nailed that problem in 2004, so most people could get a swipe first time with these bar codes. We are very confident that no votes were lost through computer failure. There are lots of fail-safes built into the system, which I could describe to you, if you are interested. We polled people as they left the polling places and 86 per cent of the people we polled found that the electronic voting system was easy to use. All our major parties have accepted the result. There was some debate from some minor candidates at the last election about wanting a voter-verified paper trail, which is something we addressed in our report, which will be available shortly. Very briefly, we think a voter-verified paper trail is more trouble than it is worth. If you want to know our reasons on that, I can give you chapter and verse.

How reliable is it? We think it is more reliable than paper voting, because there is a very easily definable audit trail with the whole process. Once an electronic vote is recorded onto the disk, there is really nothing you can do to change the vote that has been cast, whereas with a paper ballot, if you really wanted to, you could get out there and fill in all those blank squares with extra numbers and no-one would really ever know. I am not saying that that ever happens, but there is a potential for that which clearly is not there with electronic voting. We extensively tested and audited the system. We had a reference group of political party representatives and members and other interested groups who were involved in testing the system and being consulted on how the system would look. We feel that having the software code available publicly also makes the system more reliable.

With regard to the future, we do not believe that internet voting is an appropriate way to go. I can give you chapter and verse on that too, if you want it. There are a few reasons listed there. The security of the internet is, to my mind, a worry. I think proving voter identity is a worry. We do not have a national identity system. If we did have a national identity system, it would be a good thing for voting processes, but we probably do not want to go there. There is the possibility of voter coercion or vote selling and, if you are voting from home over the internet, I think that is an issue. It would actually change quite dramatically the whole concept of how you go to a polling place and cast a vote, if you are voting from home by internet. I think that is an issue that should be thought about before we get too carried away with internet voting. In the long term, of course, all these things can change.

As far as where we go from here, we came to the conclusion after 2004 that setting up standard computer equipment in polling places just for one day was not a good use of time and not a good return for our resources. We are thinking that if we use standard equipment at the next election we will be more likely to have what we are thinking of as super polling places—prepoll centres which will be set up in the major town centres. We would probably have more than the four that we currently have. They would also be available on polling day and we would try to get as many voters as possible through the super polling places rather than the small suburban polling places. If the voting tablets that we have can be made cheaper and easier to deploy, we feel that is also a possible solution to the issue of deploying just for one day on polling day. I am sure that internet will be an option one day. There is our web address. We have quite a lot of stuff on our web site about our electronic voting system, so watch this space.

**CHAIR**—Thank you very much for that presentation, and thanks for agreeing to come in at short notice. We certainly appreciate the briefing, and we will take up your offer to come down there and look at the equipment operating first hand. It will be an opportunity for members of the committee to question you in more detail about its actual operation. But what we wanted to get

today was a brief rundown on how it actually worked, as a result, specifically, of some representations we have had from vision impaired and blind groups, who have, for a long period of time, advocated electronic voting so that their constituents could cast a secret ballot, which is not possible at present. We will come down and do that briefing in greater detail. We have got time for a couple of questions. I know Senator Brandis and Senator Murray have each got questions. We will ask those questions and then wrap it up and move to our next witness.

**Senator BRANDIS**—Mr Green, that all sounds terrific, but I was a little startled by the figure in the survey you reported that 86 per cent of people found the computerised system easy to use. This tells me that 14 per cent did not find it easy to use. It strikes me that the level of informality of voting in a system like that could be concealed, couldn't it? If a person were confused about how to use the computer voting technique, they might well throw up their hands and cast a vote which was not the vote they had planned to cast. There are lots of older people particularly who might think, 'It's all too hard'. If a person intimidated by or uncertain about how to use computerised voting were to do that, then that would appear as a formal vote, wouldn't it? How do we allow for that category of persons who, confused by the technology, actually cast a ballot which misrecords their preference, but appears, because of the science of the system, to be a formal vote?

**Mr Green**—There are a number of issues in there. I think an 86 per cent approval rating is quite high for a computer system that someone has only ever used for five or 10 minutes in their lives.

**Senator BRANDIS**—No, it was not an approval rating, Mr Green. The question was: did you find it easy to use?

**Mr Green**—Yes. What you have to do is balance this system against the paper voting system. We have got lots of evidence that on their paper voting system people are making mistakes that this system will prevent them from making. Because we have an optional preferential system, we have a lot of people who cast a formal ballot but do not cast a fully effective ballot because they miss numbers out or they duplicate numbers. Federally, I know there are a lot—particularly when you have 10 or more candidates on a ballot, you get informal vote rates of 10 per cent or more happening with paper ballots. Yes, there will always be people who are confused about the voting process and have difficulty in casting a valid vote. The point I would make is that they are much more likely to make a mistake and to cast an ineffective or totally invalid vote on a paper voting system than on our system.

**Senator BRANDIS**—I am not sure how you can say that, when an informal paper vote will almost invariably be manifest, but an informal vote using computer technology will seldom be manifest. That is my point. It is not a true comparison.

**Mr Green**—If what you are aiming to do is to maximise the number of people who vote as they intend to vote, then you are more likely to get people using our system casting the vote that they want to vote, compared to the number of people who might, through the technology, cast a vote that they do not intend. If you compare the numbers of people to whom that could happen on our electronic voting system with the numbers of people who we know are trying to cast a valid vote on paper but are mucking it up for various reasons—for instance, because they cannot comply with the instruction to write 1, 2, 3, 4, 5, 6, 7—then the numbers of people who are

mucking it up on paper would be much, much higher than the number of people who are possibly making a mistake on our system. Granted you would not be able to know it was a mistake with our system, but the system does have that second confirmation screen where it is asking the voter to confirm that this is what they have done. Again, it is a superior system to a paper ballot.

**Senator MURRAY**—That was most constructive and I think it will be very helpful to us in our consideration of these matters. I am mindful of our time constraints, and my question is about time. Have you calculated the average time that a voter spends on a paper vote, compared to the average time a voter spends on an electronic vote?

**Mr Green**—We have not scientifically calculated that. With the ACT's Hare-Clark system being an optional preferential one, some voters will come in and write 1, 2, 3, 4, 5, and they will then go out, and other people will stand there and agonise over their 41st preference. So it is a bit hard to get a feel for the average time that people spend there. Our impression is, though, that it does take them longer with the electronic system, simply because it is something that is brand new to them. You never know how much people are actually playing with it, just to see what it does, before they get around to the business of casting their vote. Our feeling, without any scientific assessment, was that it went more quickly in 2004 than in 2001, partly because the bar code swiping thing went a lot more quickly; but also we think we had a lot of people who used it in 2001 who came and used it again in 2004. So, yes, it does take longer to use the electronic system, but not to the point where we were getting complaints about it.

**Senator MURRAY**—That was my expectation, but obviously if anyone was to consider introducing such a system that question matters very much, because it relates to the number of machines and the number of people you must provide for, and the nature of the facilities. Have you any feeling at all about whether it is twice as long, 50 per cent as long, three times as long?

**Mr Green**—I did not get the impression that it was more than twice as long; it was probably less than twice as long. A good indicator of how effective the whole process was is that in 2001 we used 10 machines in each polling place and we were getting to the point where all the machines were full and we had to issue paper votes to people who were in the queue. With 15 machines in each polling place in 2004 that problem did not occur, and anyone who wanted an electronic vote in 2004 could have got one with 15 machines in each polling place.

**CHAIR**—Thank you very much. As I have said, we will come down and have a look at the equipment in operation. Thank you once again for coming along today. I know that it was at short notice, following some evidence we got in Melbourne and Adelaide just last week. So thank you very much, and we will see you in the next couple of weeks down there at the ACT Electoral Commission.



[10.08 am]

**SMITH, Sir David Iser, Private capacity**

**CHAIR**—Welcome, Sir David, to today’s hearing. Is there anything you wish to add to the capacity in which you are appearing?

**Sir David Smith**—I appear today as a private citizen, but one with a longstanding professional and private interest in electoral matters.

**CHAIR**—We have received your submission, which has been numbered 159. It has been authorised for publication. Are there any corrections or amendments you would like to make to that submission?

**Sir David Smith**—No.

**CHAIR**—I invite you to make an opening statement about the substance of your submission, before we move to some questions.

**Sir David Smith**—My submission invites the committee to look at the way the Australian Electoral Commission interpreted its legislative responsibilities in conducting the 1999 referendum on the Constitution. If my concerns have any validity, and if the Electoral Commission did, in fact, misinterpret its powers in relation to the handling of referendum ballot papers, then the committee may wish to see whether the Electoral Commission also misinterprets its powers in relation to the handling of election ballot papers.

Section 24 of the Referendum (Machinery Provisions) Act 1984 does not just ask the elector to indicate whether he or she approves or disapproves of the proposed law and leave it to the elector to choose how to indicate that approval or disapproval. Parliament went on to require the elector to indicate his or her vote by writing the word ‘yes’ or the word ‘no’ in the space provided on the ballot paper. Schedule 1 to the act contains the forms to be used. Form B, the ballot paper, repeats the instruction to write ‘yes’ or ‘no’ opposite the question. The Electoral Commission’s web site also repeats the instruction to write either ‘yes’ or ‘no’. It goes on to say that a referendum ballot paper that does not show a ‘yes’ or ‘no’ vote against a question is categorised as informal and will not be counted towards the final referendum result. It also says that a referendum paper that contains slogans or symbols but does not show either a ‘yes’ or ‘no’ against a question will also be categorised as informal. Section 41 of the Referendum (Machinery Provisions) Act 1984 provides for a spoiled ballot paper to be cancelled and the voter issued with a new ballot paper.

In 1999 the Electoral Commission issued a booklet called *Guidelines to Scrutineers*, in which the quite specific instructions in the legislation and on the ballot paper were ignored or overruled, as I have indicated in my submission. Words other than the words specified in the act would be allowed; a symbol, such as a tick, that did not also show a ‘yes’ or a ‘no’ vote would be allowed; any foreign language or symbol would be allowed provided it was understood by the scrutineer; and a spoiled ballot paper could be overwritten with a different vote and would still

be counted. All of these guidelines to scrutineers were contrary to the quite specific provisions in the legislation. No doubt the Electoral Commission will argue that it was relying on section 93(8), which reads:

Effect shall be given to a ballot-paper of a voter according to the voter's intention, so far as that intention is clear.

The question is: does section 93(8) refer to the voter's intention to write the word 'yes' or the word 'no' or can its meaning be extended to enable the voter to use any word, any symbol, any language not contemplated by the legislation, provided, of course, it happens to be understood by the scrutineer? As for the Electoral Commission's guideline on spoiled ballot papers, it simply contradicts the specific provision in the act.

The language used by parliament in the Referendum (Machinery Provisions) Act 1984 is simple, clear and precise. It leaves no room for doubt as to how a voter should indicate his or her vote on a referendum question. In similar fashion, the act is quite specific as to how the presiding officer at a polling booth shall treat a spoiled ballot paper, as protection against fraudulent alteration after it has left the voter's hands. Yet in both cases the Electoral Commission feels free to substitute its own rules by issuing scrutineers with guidelines that seem to ignore what parliament has provided. If indeed the act is too restrictive and too prescriptive, and voters are to be given open slather in indicating their approval or disapproval of a question on a referendum ballot paper, then the act should be rewritten by parliament, and not simply ignored by the Electoral Commission. But if the act says what parliament wants it to say then the Electoral Commission should apply it.

As an ACT voter and having just listened to the ACT Electoral Commission's presentation, the Australian Electoral Commission clearly does not share the optimism of the ACT Electoral Commission about the capacity of the ordinary voter. The Australian Electoral Commission seems to feel that many voters are incapable of writing 'yes' or 'no' in the space provided opposite the question set out below.

**CHAIR**—Thank you very much. I am sure there will be a number of questions. I want to thank you again for your submission. It is, I think, the only submission that deals with referenda questions. So in that sense it is most useful to us, and that is one of the reasons we asked you along today here in Canberra.

**Ms PANOPOULOS**—In your experience and based on your knowledge of previous elections and referenda, is this the first time the Electoral Commission has interpreted the act as you describe in your submission?

**Sir David Smith**—I am sorry, I cannot answer that question because this was my first experience with the *Scrutineers' Handbook*. As you well know, this particular referendum had a special interest for me, and perhaps I exercised greater interest than I have in the past. I am not aware of what the commission has done on previous occasions. I am sorry, I cannot help you there.

**Ms PANOPOULOS**—Are you aware of what the immediate reaction of the commission was when these issues were raised with the commission during the referendum process?

**Sir David Smith**—No, I am not. As I said in the submission, I understand that a private citizen took the issue to court, but the matter was not dealt with. It was dismissed as a matter that could not be dealt with without causing the commission great inconvenience, so the issues were never tested in the court.

**Ms PANOPOULOS**—Why do you think the commission took such liberty in interpreting the legislation?

**Sir David Smith**—That, I do not know. I am sorry, I cannot answer for the commission. I know that there is a natural reaction—indeed, it is government policy—for officials to be as helpful as they can be to people with difficulties. We have heard the presentation about special measures for people with visual and hearing impairment and that sort of thing. It seems to me that a person gets on the electoral roll by acquiring citizenship. Citizenship is acquired after two years residence. Our legislation goes to a great deal of trouble to ensure that voters are protected from false or misleading advertising on the part of parties or candidates. In a referendum we go to great lengths to require a ‘yes’ and a ‘no’ case to be distributed to every household. The whole basis of our democracy relies on an informed electorate casting an informed vote. I think Senator Brandis asked a question of Mr Green about inadvertent electronic informal voting.

Our whole system relies on an informed voter. If we have a system in which we give a vote to a person who cannot understand a simple instruction saying, ‘Write the word “yes” or “no” in the space provided against the question set out below,’ then that person is not entitled, in my view, to a vote. It does not behove the Australian Electoral Commission to go to extraordinary lengths to give that person a vote. Indeed, the most extraordinary provision was the one that said, ‘You can vote in any language or symbol you like and it will be counted provided the language or symbol is understood by the scrutineer.’ So a voter goes into a polling booth not knowing the linguistic abilities of the scrutineers, casts a vote in a foreign language and goes away. They will never know whether that vote was counted by a person who understood that language and counted it as formal or did not understand that language and counted it as informal. As I said in the submission, were they conducting a referendum, or were they conducting a lottery?

**Senator BRANDIS**—It does introduce a random element—for example, whether you are lucky enough to have a Vietnamese-speaking returning officer.

**Sir David Smith**—It is more than random. The legislation is quite specific. It said ‘yes’ in quotes and ‘no’ in quotes. If parliament meant that to mean something else, parliament should say so, not an unelected official.

**CHAIR**—The legislation was not advisory.

**Sir David Smith**—I did not think it was but, obviously, some people did.

**Senator BRANDIS**—It rather assists your argument as well that, in comparing the provision that says you have to write the word ‘yes’ or the word ‘no’ with the generic provision under which the Electoral Commission—as you rightly say—presumably acted, votes should be counted if the voting intention is clear. I would have thought that any halfway decent lawyer comparing those two statutory provisions would follow the rule that particular statutory words qualify general statutory words so that, if there is an express injunction requiring the word ‘yes’

or the word 'no' to be written, that would always prevail over more general words. It seems that, on this occasion, the AEC did the exact opposite.

**Sir David Smith**—That is how it seems to me. The interpretive provision, I thought, related to the question: did the voter intend to write 'yes' or did the voter intend to write 'no'? That is, allowing them to interpret foreign languages. Indeed, the provision said that a symbol would be counted. The act says that a symbol that is not accompanied by the words 'yes' or 'no' will not be counted. I am particularly disturbed by the spoiled ballot paper provision. You can spoil your ballot paper, cross it out and overwrite your alternative vote. The legislation specifically requires a spoiled ballot paper to be surrendered and a new ballot paper issued so that there can be no doubt whether a ballot paper was fraudulently altered after it left the voter's hands.

**Senator FORSHAW**—Page 3 of your submission goes to the issue of crossing out the word and then writing 'no' if they have already written 'yes':

Of course, scrutineers would have no way of knowing whether the alteration had occurred while the ballot paper was still in the hands of the voter or afterwards.

I am trying to understand the basis of that submission. You are positing that somewhere between the voter completing the ballot paper and it being, presumably, tipped out of the box at the close of the poll somehow somebody would have had the opportunity to cross out the word and write the opposite word on it. Given the way ballots are counted these days, how could that eventuate?

**Sir David Smith**—I am not alleging how it could eventuate. The statement I made was that the scrutineer would have no way of knowing when that alteration was made.

**Senator FORSHAW**—Why not? The scrutineer is there watching. It is no different if somebody changes the numbering on a House of Representatives or Senate ballot paper.

**Sir David Smith**—In that case I suggest that parliament should legislate to provide for a spoiled ballot paper to be overwritten. But the legislation says, 'This ballot paper is to be surrendered and a fresh paper issued'. My concern is that the Electoral Commission took it upon itself to say, 'We will act differently.'

**Senator FORSHAW**—I understand the basis of your submission. You are relying upon the words of the statute. It seems to me that that is an overstatement, to add emphasis to your case. You could just as easily argue that in a normal House of Representatives or Senate election any ballot paper where a person crosses out a number or blocks out a number and then writes the number more clearly, which will generally be counted as a formal vote, could have been fraudulently changed as well. But the processes effectively prevent that because the ballot papers go into the box, six o'clock comes, they are tipped out on the table and the parties have their scrutineers there. You are going to pretty quickly see somebody with a pencil changing ballot papers. In other words, to write 'yes' or 'no'—

**Sir David Smith**—I understand what you are saying, but you put me in the rather extraordinary position of having to explain to a legislator why I believe that officials should abide by the legislation. That is all I am saying.

**Senator FORSHAW**—You are arguing that that should be declared a spoiled ballot paper and should not be counted. To take your argument about potential fraud, you are arguing that any such ballot paper should not be counted as a formal ballot paper; it should be declared a spoiled ballot paper and another one issued. That, of course, relies upon the voter knowing that they have the option of going back and getting a spoiled ballot paper. In other words, it goes back to the question of how informed they are about the processes.

**Sir David Smith**—I thought the Electoral Commission's information explained all of that.

**Senator FORSHAW**—Okay. Thank you.

**Senator MASON**—Sir David, in a sense I want to bounce off Senator Forshaw's questions. You have a specific instruction as to how to vote under the Referendum (Machinery Provisions) Act and then, as you point out on page 4 of your submission, a general reference to the voter's intention. So you have a specific instruction and then a reference later, in another section of the act, to the voter's intention. You have to help me here, Sir David: are there similar or parallel sections in relation to general elections or by-elections? You are referring here to the Referendum (Machinery Provisions) Act, but are there similar provisions relating to general elections where—

**Sir David Smith**—I am sorry, I cannot answer that question. I do not know.

**Senator MASON**—It is an interesting question. If you have a specific instruction to vote 1,2,3,4,5 in accordance with your preference and there is no let-up for any other valid vote and then, at the end, there is a section that relates to 'as long as the intention to vote is clear', which is a catch-all provision to save valid votes, that may help to explain the Electoral Commission's intention. Does that make sense? In other words: are there parallel provisions that relate more generally?

**Sir David Smith**—I am not familiar with the legislation relating to elections. I have not studied that and I cannot answer your question. I am sorry.

**Senator MASON**—I just thought I would ask. I thought you could do my homework for me, Sir David.

**Senator MURRAY**—Sir David, your remarks also draw our attention to whether symbols and marks are potentially more misleading than words, and whether you should choose one or the other. I will tell you a story to make it clear. In the 1980 Zimbabwean election, which brought Mr Mugabe to power, some of Mr Mugabe's very clever advocates were running up and down the lines of the povu, which is the Shona word for peasants or people, saying: 'Our symbol is the cockerel. If you're going to vote for us, you put a large cross in the box, and if you're going to vote against us, you put a small cross in the box.' This demonstrates how symbols and marks can be abused. Of course, many of those people could not write. Do you think, as a general principle, our legislation should not include marks but only words?

**Sir David Smith**—My personal view is that words are sufficient and explicit. The commission drew attention to the difficulty. They said that a tick would be accepted as a yes vote, and a cross would be treated as an informal vote. I do not understand that distinction.

**Senator MURRAY**—You can confirm for the record that in your own experience, very commonly, crossing a box means that that is the correct answer, doesn't it?

**Sir David Smith**—If that is the mark you want to make, yes, and that in itself is confusing. The phrases they used were 'okay', 'sure', 'definitely'. I have thought of a few more of my own. Would 'why not' be accepted as a yes vote? Is 'Oh, I suppose so' a yes vote? Is 'What a good idea!' a yes vote? Where do we draw the line? Where do we stop? My simple proposition is that parliament said 'yes' or 'no'. A citizen who has been in this country for at least two years before they got the vote ought to be able to understand to write yes or no. Frankly, if they do not, then they do not deserve the vote.

Please do not let my surname lead you to the conclusion that I am unsympathetic to people who have difficulty with the English language: I am a first-generation Australian, born of Polish migrant parents. My mother came here as a young girl, at the age of 17. My father followed four years later, at the age of 24. They married in this country. They had all their schooling before they came here and in a 'foreign' language—English was not their native language. We spoke two other foreign languages in the house, but my parents quickly acquired a facility in the use of the English language. Before their deaths, my parents were as fluent in the English language as I am. I had grandparents, aunts and uncles who came to this country with not a word of English; they also very quickly acquired the English language.

So I am not unsympathetic to people who are of a non-English-speaking background, but my simple proposition to you is that, if a voter, after two years residence in this country, cannot write 'yes' or 'no' on a ballot paper, how on earth would they understand the referendum handbook giving them the 'yes' and 'no' cases? How on earth, in an ordinary election, do they understand the mass of material that comes in through their letter boxes, newspapers and television sets? Our whole democracy is based on having an informed electorate, and the Australian Electoral Commission does us no credit when it makes it possible for votes to be given to people who simply do not know what they are doing. I think Senator Brandis made that point in relation to the ACT submission, and I repeat it to you now.

**Senator BRANDIS**—I was wondering about the issue of the cross. I understand why a tick might be regarded as acceptable, because I think most people regard a tick as a universal symbol of assent. But a cross is ambiguous, it seems to me. Some people regard it as a mark which may be a symbol of assent, and other people regard it as a mark which may connote disapproval.

**Sir David Smith**—I agree.

**Senator BRANDIS**—I would have thought you would be on much stronger ground on the 'cross' issue than on the 'tick' issue.

**Sir David Smith**—I do not think either symbol should be allowed. Indeed, parliament itself said that a symbol on its own, without the word 'yes' or 'no', would not be counted. The Electoral Commission said that a symbol on its own, without the word 'yes' or 'no', will be counted. Where does that leave the legislation?

**Senator BRANDIS**—Incidentally, Sir David, following Senator Mason's questions I have been having a look at the act. The analogue for general elections seems to be section 240, for the

House of Representatives, and section 239, for the Senate. Section 240, in particular, is quite explicit:

(1) In a House of Representatives election a person shall—

it is in imperative terms—

mark his or her vote on the ballot-paper by:

(a) writing the number 1 ...

(b) writing the numbers 2, 3, 4 (and so on, as the case requires) ...

If your argument is good for referenda, I suspect it is just as good for general elections. Would you agree, Senator Mason?

**Senator MASON**—You are the barrister, Senator Brandis! The secretary was good enough to find for me section 268—

**Senator FORSHAW**—Answer the question.

**CHAIR**—No, Senator Forshaw: committee members cannot question each other, as much as they would like to. They do that enough outside the committee!

**Senator MASON**—Sir David, there are imperative provisions in section 240 with respect to the House of Representatives, and the saving provision is section 268(3), where it says:

A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as that intention is clear.

It is not quite parallel.

**Sir David Smith**—I presume there that, if a voter is numbering 1 to whatever and skips a number—leaves one number out altogether—their voting preferences are still clear; they have indicated their intention. If they duplicate the same number, they have not indicated their intention, so presumably there would be a different ruling. I can conceive a situation where you start from 1 and you go down to 25 and you miss out one number—you go from 23 to 25. Your intention, in ranking the candidates in your order of preference, has been made clear. I can understand using discretion there. However, if you put the same number in twice, against two boxes, you have not indicated your preference—at least not in relation to those two candidates.

**Senator FORSHAW**—Sir David, your first example would be informal too. There would be an argument amongst the scrutineers, but if the next number in the sequence is left off—

**CHAIR**—Senator Forshaw, I am keen to stick to the schedule.

**Senator MASON**—I just raised the issue. I do not have the answer.

**Senator FORSHAW**—That is why the provision is there: because it is preferential.

**Sir David Smith**—I can visualise situations in which an official would have a discretion there, but I find it extraordinary that parliament contemplated that the use of a foreign language, or an expression—half a sentence—was the equivalent of a yes or no.

**Mr DANBY**—Sir David, I apologise; I had an unavoidable matter that prevented me from being here during your entire testimony. Do you know how many spoiled ballot papers were treated in the way that—

**Sir David Smith**—No, I have no idea. I have had no access to information about the referendum. My submission is solely based on my reading of the legislation, my reading of the handbook and my drawing the conclusions which I have presented to you.

**Mr DANBY**—So you also would not know how many people actually went back and got a new ballot paper.

**Sir David Smith**—No, I have no idea; sorry.

**CHAIR**—They are matters we could refer to the AEC.

**Mr DANBY**—It would be interesting for us to get statistics on that, some empirical evidence—

**Sir David Smith**—Frankly, even if they were able to tell you that they did not get a single one, my proposition still applies: by what right does an official issue an instruction to scrutineers that is contrary to what is in the legislation?

**CHAIR**—Your point is a simple one, isn't it, Sir David: the legislation says one thing and that is the only way in which it should operate.

**Sir David Smith**—And if it does not say what parliament intended then please let parliament change it, but let us not have it altered by officials. That is my simple proposition.

**Ms PANOPOULOS**—Sir David, I share quite passionately your disdain for unelected officials interpreting legislation as—

**Sir David Smith**—I have been an unelected official most of my life, Ms Panopoulos.

**Senator BRANDIS**—And he was partly responsible for the greatest act of democracy in the history of the Federation.

**Ms PANOPOULOS**—Too true, Senator Brandis.

**Senator FORSHAW**—Does that include High Court judges, Sophie?



**Ms PANOPOULOS**—My concern, particularly as it relates to the legislation you referred to in your submission, is that it seems to follow a trend from government officials of dumbing down the message and of appealing to the lowest common denominator from election to election or referendum to referendum. Do you believe that, in order to clarify the legislation—although it is very clear in its words—we should provide additional examples of what is not a formal vote, because I have found that, unless you tighten legislation even more, officials find very imaginative and inventive ways of getting around the intention of parliament. We have seen that in other areas, such as in taxation. I suppose the question is: how do we ensure that we can tighten up the legislation?

**Sir David Smith**—I think the legislation is tight enough. My simple proposition is that a referendum question which asks the voter to indicate whether they approve or disapprove by writing the word ‘yes’ or writing the word ‘no’ should be applied literally in every situation. The instruction is simple; the wording is clear. A person who has acquired citizenship and voting rights ought to be able to write the word ‘yes’ or the word ‘no’. If a person is in the situation where they are unable to understand the instruction and are unable to write the word ‘yes’ or the word ‘no’ after two years residence then my view is that they do not have the right to participate in a ballot which will change this country’s Constitution. The instruction is simple and I do not believe that there should be any discretion other than that given in the legislation to enable an official to determine whether the voter intended to write the word ‘yes’ or the word ‘no’. I do not believe that symbols have a place. I do not believe that foreign languages have a place. The vote should be quite unequivocal and the legislation should make that clear.

**Senator BRANDIS**—You cannot say ‘foreign languages’, Sir David; it is not politically correct. They are ‘languages other than English’!

**Sir David Smith**—At my age, it is hard to change.

**Ms PANOPOULOS**—The problem remains that the legislation may be clear but the commission can go on, in the publications that they distribute, making it more ambiguous. Would you support an amendment to the legislation directing the sort of information with regard to the formality of a vote—a ‘yes’ or ‘no’?

**Sir David Smith**—I do not want to sit here and draft legislation off the top of my head, but I simply put it to you that parliament ought to make it perfectly clear how it expects the legislation to be applied. If the legislation is unclear and unambiguous then no doubt this committee will find a way of making it more explicit. If the legislation as it stands is sufficient then I think parliament should make it clear to the Australian Electoral Commission that it applies the legislation as written and that it does not apply its own interpretations.

**CHAIR**—To wrap up, this committee in its current inquiry—which it does after every election—looks at all of these issues and the submissions. Given that we have your submission, which you have put to us today very eloquently, I can assure you that we will be examining it as we go about our deliberations.

**Sir David Smith**—Thank you.

**Proceedings suspended from 10.41 am to 10.51 am**

**LOUGHNANE, Mr Brian, Federal Director, Liberal Party of Australia, Federal Secretariat**

**CHAIR**—I would like to welcome Mr Loughnane to today's hearing. The committee has received your submission on behalf of the Liberal Party, which has been numbered submission 95. It has been authorised for publication. Is there anything that you wish to correct or amend in your submission?

**Mr Loughnane**—There are a few introductory remarks that I would like to make, if that is convenient to the committee.

**CHAIR**—Yes, please go ahead and make an opening statement that summarises some of the key issues. Then we can move to some questions.

**Mr Loughnane**—Thank you, Mr Chair and members. I appreciate the opportunity to appear before you today on behalf of the Liberal Party of Australia. The inquiry by the Joint Standing Committee after each election, reviewing the conduct of the election, is a longstanding and, we believe, important practice. An election is, of course, the manifestation of Australian democratic practice. The conduct of the election is therefore central to maintaining the strength and health of Australia's democracy. The integrity of the conduct of the election is critical, as is the integrity of the processes of the election. Therefore, we believe the regular inquiry by this committee after each election to be an important service to the Australian community. The Liberal Party strongly supports the need for an open and accountable electoral system that is conducted in a fair and objective way. We are therefore pleased to assist the committee in its inquiry, and we believe that it is in fact our role to do so.

Before turning to discuss a number of points made in our submission, there are a number of general comments I would like to make. The Liberal Party fully appreciates the dimensions of the task facing the Electoral Commission in conducting the general election. In fact, the major political parties are possibly the only other organisations in Australia which have experience in undertaking similar logistical challenges to the Electoral Commission. As a general point, we believe that elections in Australia are conducted in a fair and professional manner. There is room for improvement, as a review of the submissions made to this inquiry and its predecessors would suggest, but I believe that Australia is fortunate in the overall integrity of its electoral system and the conduct of its elections. Our submission should therefore be seen as contributing to strengthening and improving an already good system, rather than as seeking a dramatic change in the way in which elections in Australia are administered.

I do believe the administration of our elections would benefit from closer and more frequent contacts between the Electoral Commission and the major political parties. Political parties are an integral part of Australia's democracy and have a unique history of experience with Australia's electoral process. I noted with interest the comments made by the new Electoral Commissioner in his appearance before this committee on Friday. In a moment, I will discuss the postal voting issue during the election, but first I would like to say that I welcome the frankness with which the commission on Friday addressed the difficulties with postal votes last year. More frequent contact between the Electoral Commission and the major parties in no way

compromises the administration of elections. It could assist in identifying particular problems earlier and help ease the increasing burden of administration that the current system imposes on both the commission and political parties.

As committee members would be aware, the Liberal Party's submission to the joint standing committee canvassed a number of specific concerns which we feel warrant the committee's attention. I would now like to mention a few of these briefly.

The first issue I will deal with is postal voting. The problems experienced by a significant number of electors who applied for postal votes and either experienced unacceptable delays in receiving their ballot papers or did not receive their ballot papers at all are a major concern. This committee has heard at length from some of those directly affected by this problem, and I do not want to dwell on the matter today. However, it goes without saying that public confidence in our electoral system and its processes is of paramount importance. The problems experienced with postal voting during the 2004 election raise serious doubts about the AEC's ability to manage its contractual arrangements. I welcome the frankness of the commission during its appearance last Friday in discussing the reasons for the problem. It will not be simple to avoid a repetition of the problem in the future. I commend the committee for the attention it is paying to this very important matter and for the attention that the matter has received during these hearings.

The next issue I want to look at is disclosure of donations. The Liberal Party welcomes the government's efforts in 2004 to raise the disclosure threshold for donations to \$3,000. It was disappointing that the Labor Party and others refused to pass this quite reasonable reform in the Senate. It is over a decade since the thresholds were last altered, and it is ridiculous to suggest that they cannot be adjusted upwards to reflect contemporary economic reality. The Liberal Party is of the view that it would be reasonable to lift the disclosure requirements to \$10,000. In the 2005 economy it is unreasonable to suggest that donations below this level would give rise to undue influence. Likewise, the Liberal Party submits that the present limit of \$100 for tax deductibility for political donations is quite inadequate. We urge the committee to recommend that a significant increase be made to that limit.

The third issue I want to raise is prisoner voting. We welcome the government's legislation in 2004 that sought to deny the vote to prisoners. While the Senate approved some tightening of these provisions, it did not fully agree to the government's objective. We believe the matter should again be brought before the parliament.

The fourth issue I want to raise is the issue of the so-called 'liberals for forests'. The Liberal Party is greatly concerned about the activities of 'liberals for forests' during the 2004 election. In particular, we are concerned that the name of this party is confusing and can mislead voters into thinking it has some connection with the Liberal Party or directs its preferences to the Liberal Party. Further, we are concerned by the conduct of some of those people who were working on behalf of 'liberals for forests' on election day in 2004. We received complaints from a number of seats, most particularly Parramatta, indicating that personnel from the 'liberals for forests' acted in a way that sought to mislead voters into thinking that their how-to-vote material could be followed by those wishing to vote for the Liberal Party, when this was not the case.

The fifth issue I wish to raise is provisional voting. While the AEC will be best placed to provide the committee with a view as to the effectiveness of the changes to provisional voting

made during the last parliament, the Liberal Party's view is that some further tightening of the legislation may be required. The sixth issue I wish to address is pre-poll voting. The Liberal Party received reports from some electorates indicating confusion about the opening of pre-poll centres. Some campaigns said they received inadequate advice from their local AEC offices about arrangements for pre-poll voting. It is vital that local AEC officers keep candidates informed about pre-poll activities.

The close of roll. The Liberal Party support the government's efforts to legislate for the closing of the electoral roll for new enrolments on the day that writs are issued for an election. We are of the view that a flood of new enrolments in the days following the issue of writs, when they cannot be properly checked, calls into question the integrity of the electoral roll.

There are a couple of other minor matters that I would also like to refer to. There is the issue of silent enrolment. We have had reports of differences of interpretation and of very stringent interpretation in the discretion by DROs in considering applications for silent enrolment. In this day and age, when there are legitimate security issues facing public officials and people in the public eye, we believe that a reasonably flexible interpretation of the discretion that DROs have for applying silent enrolment is necessary, and a further consideration of this by the commission, I believe, is warranted.

We have persistent reports on polling day of differing interpretations by polling booth officials and by DROs across the country. I understand the complexity of conducting an election and of the large number of people who are employed simply for the process of conducting the election on election day, but I believe that the issue of inconsistencies in interpretations that are given by officials at polling places and by DROs ultimately reflects on the level of training that they are given. It is, perhaps, an issue that can be considered by the AEC that additional training be given to ensure that interpretations given by election officials on election day are as uniform as possible.

We again emphasise the submissions that were previously made by the Liberal Party to the inquiry after the 1998 and 2001 elections by my predecessor Lynton Crosby about the absolutely critical need for a public information campaign on the operation of preferential voting and about the importance of this campaign, particularly in those states where optional preferential voting is conducted for state elections and for local government elections. We continue to have reports from our volunteers working on polling booths on election day about confusion of voters, not just in those states which have optional preferential voting but across Australia in the operation of postal voting. I commend the Electoral Commission for the diligence with which they have undertaken efforts to improve public awareness of preferential voting in the last couple of elections, but we do believe that there is some scope for further education as it goes to the very basis of the integrity of the voting system.

The issue of co-location of electorate offices is a matter that has come before this committee again. I would simply like to reiterate the concern that the Liberal Party has about the possibility of co-location of electorate offices without adequate attention being paid to legitimate community concern and to the concern of the individual members of parliament and political parties affected by the co-location. We believe that there is some scope for further work to be done by the commission, and ways in which the count can be expedited both on election night and in the days immediately after the election may be a matter that this committee would like to

look at. We have been fortunate in this country that we have not had a situation where the outcome of a general election has not been known days after an election, but that has been more by good fortune, I think, than anything else. It is quite possible, if we had a very tight election, that the outcome of the election may not be known for anything up to weeks after that election. In this day and age, there must be ways that the commission can be assisted to have the count expedited, both on election night and in the days subsequent to the general election.

I would like to reiterate again the point I made in my introductory remarks about the importance we attach to a closer working relationship between the political parties and the AEC. I commend the commission on beginning the process of greater consultation with political parties during the life of the last parliament, but we believe that the major political parties—not just the Liberal Party, but the major political parties—do have a unique set of experiences that we can bring to assist the commission in the administration and performance of its task on election day and also, hopefully, in between elections, easing the administrative burden on political parties and the commission in those periods. So I again commend the committee on its inquiry and I would be pleased to expand on any of the points I have made or to answer any questions that members of the committee may have.

**CHAIR**—Thank you for that opening statement. Members and senators will have a number of questions, but I will remind them that we are going to run according to our schedule as outlined at the start so, if it is not possible for everybody to get a question, I will keep a list and they can certainly get them with the coming witnesses.

I would like to start by asking some general questions. We have your submission and we have submissions from all the political parties, which lay out points of view and suggestions in detail. We have now had six submissions, I think, from the Electoral Commission on various aspects of this. You touched on postal voting—and, rightly, on the evidence last Friday from the Electoral Commission—which stands out as one of the big problems of the last election. What I suppose the committee is interested in is, given your experience with the federal campaign—and I will ask this question of Mr Gartrell as well—in the week or two after the election, as you reflected on the campaign, what did you think the AEC could do much better next time in various areas that we should be looking at, in terms of the efficiency of their operations and also in terms of making life easier for voters on election day and in the lead-up to election day?

**Mr Loughnane**—I was at pains in my introductory remarks to say that I believe that taken at the macro level the conduct of the election was good and that the overall integrity of the electoral system in Australia is good. I made that point because I do believe that there are a number of individual specific points that give concern and they need to be addressed very frankly. Doing so will improve the system's integrity and address any concerns people have about the administration of our system. I make that general point at the start.

Quite obviously the issue of the administration of the postal votes at this election was a matter of very great concern to the Liberal Party. It was very well known to, I think, everyone in this room and everyone in Australia that the government was getting toward the end of its three-year term so the likelihood of an election being sometime in an approaching time frame was known to everyone, including the Electoral Commission. The fact that the election was ultimately held during school holidays and that was one of the contributing factors that led to a fairly significant increase in the number of postal votes could on any reasonable scenario planning have been

expected, and I do believe that it is a matter of concern that there were these issues with the administration of postal voting.

Unless the committee wishes me to, I will not go into specific detail on the postal vote issue today. I believe it has been rehearsed at length before this committee and as I indicated in my comments I noted with great interest the appearance before the committee on Friday by the Electoral Commission. I commend the new Electoral Commissioner for the frankness with which the commission sought to address this issue. They are approaching it on the basis of being realistic about the fact that there were problems and that they need to be identified and addressed so that next time they do not occur.

On a couple of other matters, it was pretty clear to us in the period leading up to the election that the commission was pretty tight from a resource point of view. We had a number of queries that came up in the period leading up to the election and the commission was, we thought, short staffed. We thought there was an issue of resources. My own view is that it is probably an issue about the proper allocation of resources rather than an issue of the need for additional resources. I think every member around this committee would be familiar with the electoral atlas that comes out normally before most elections but in the lead-up to the most recent election the commission did not have the resources to publish that in the lead-up to the election. For practitioners, those of us involved in the actual election campaigns, that is a very useful tool. I know that in the great scheme of things it is only a relatively minor responsibility of the commission but if they are short resourced to do things like that I think it is indicative of just how stretched the commission was. That tightness of resources ultimately manifested itself I think in much more significant problems such as the problem of postal votes on election day. So one of the things I would commend to the committee and to the new Electoral Commissioner is that the spotlight be placed just on the allocation of resources within the commission. I think the first responsibility of the commission is the conduct of the election and that must have priority.

**CHAIR**—You mentioned the interaction of optional preferential voting at the state level—you are obviously referring to New South Wales and Queensland—with full preferential at the federal level and the associated increase in the informal vote that arises. Obviously in an ideal world you would have a consistent situation between the state and federal governments to remove that confusion. But, given that that does not exist and it is a known factor, the AEC obviously has a special communication task in those two states. Is it fair to say, now the votes are in and the informal figures we have seen in places like Greenway were very high, the field evidence you have got from the ground is that quite obviously, whatever their effort was in those states—I did not see it, coming from Victoria—it was not enough?

**Mr Loughnane**—I would not want to say that the difference between preferential voting and optional preferential voting in New South Wales and Queensland is the only factor that led to an increase in informal votes but it would have to be one of the major factors. As I indicated, it is a matter of great concern to the Liberal Party. I believe it emphasises the need for some detailed research perhaps by the Electoral Commission as a precursor to the advertising campaign and public information education program that it conducts in the lead-up to the next election. It is a matter of great concern. I do not think obviously at this election it went to the issue of whether or not the government of Australia would have changed, but if there was a close election at some point an issue such as that may distort the actual will of the people.

**CHAIR**—I have one final question on that. You might like to take this on notice if you are not aware of some of the facts. Obviously, the AEC had a nationwide advertising campaign on the voting system. We all saw it on our televisions in between other ads from major political parties saying you needed to number each square. Are you aware whether they had anything additional and specific in New South Wales and Queensland? As I said, you might want to take it on notice.

**Mr Loughnane**—I am not 100 per cent sure. I believe that they did do some additional work in New South Wales and Queensland. You would have to get the precise—

**CHAIR**—In print advertising—

**Mr Loughnane**—details from the commission.

**CHAIR**—We can ask them.

**Mr Loughnane**—Clearly, I think there is a need for particular additional work preceded by additional research in those states in particular.

**Mr DANBY**—Let us start off in a totally bipartisan spirit or non-partisan spirit. I think a lot of members of the opposition would agree with you about co-location of offices and advertising of pre-poll centres. I think they are constructive suggestions. I want to go to the issue of disclosure of donations and the suggestion that the threshold should go to \$3,000 in the previous parliament. You would like to extend it to \$10,000. Why?

**Mr Loughnane**—It has been over 20 years since the threshold for disclosure of political donations was first introduced at \$1,000. It is 13 years since this was lifted to \$1,500. Obviously, the current \$1,500 has been eroded by inflation, and in our view that was way too low anyway. I understand that it is a claim by the Labor Party that 65 per cent of donations are under \$10,000. If you are counting numbers of donations as opposed to the monetary value of donations, that is the case. An analysis of the public disclosure figures shows that 88 per cent of all moneys disclosed as donations by the ALP and the Liberal Party last financial year were amounts of \$10,000 or more.

Notably, the disclosure limit in the United Kingdom, which I note has a Labour government, is about \$12,000—that is £5,000. In New Zealand, which I note also has a Labour government—at least, at the moment—the threshold is \$NZ10,000 or about \$A9,350. Donations do not buy policy outcomes as asserted by some. Rather, political donations are a way for individuals or organisations to support their party of choice. A higher donation threshold will protect individuals' or organisations' legitimate right to privacy and reduce the administrative burden on political parties and the taxpayer funded AEC while still providing a strong level of transparency.

**Mr DANBY**—I am very pleased you are so well prepared. You obviously expected me to ask this question, but why change from \$3,000 to—

**CHAIR**—Preparation is the key to all success, Deputy Chair.

**Mr DANBY**—Why was the government supporting \$3,000 in 2004 and suddenly a necessity for disclosure has gone to \$10,000?

**Mr Loughnane**—This is in the submission by the Liberal Party, and I think the reasons for that were partly set out by me a moment ago. Firstly, if the threshold level was raised to \$10,000 based on last year, 88 per cent of donations would still be publicly declared. If you look at comparable democracies, New Zealand and the United Kingdom, we are a long way below what the standard is there. Thirdly, as I think all the major political parties and the commission would indicate, the process of indicating or complying with the threshold levels below that does impose a very considerable administrative burden on the political parties and on the AEC for what we believe is minimum public gain. At a point where 88 per cent of all donations are disclosed, we believe there is still a very transparent funding system in Australia.

**Mr DANBY**—All right, I will leave to Senator Forshaw a question about whether these are linked to your proposals on tax deductibility. My last questions to you are about your proposal on the so-called integrity of the roll—the proposal to close the electoral roll on the day the election is announced. Mr Loughnane, you are obviously well informed about the very comprehensive evidence provided by the Electoral Commission to this committee at last Friday's hearings and at previous hearings. Are you aware that some 400,000 Australians used the opportunity they had after the election was declared to enrol at their correct address? While it is regrettable that they did not do it prior to the election being announced, immediately they had shifted address, don't you think that in a compulsory voting system we have a responsibility to see that the democratic franchise is as wide as possible?

**Mr Loughnane**—I certainly agree with that last point—that there is a responsibility to ensure that the franchise is as wide as possible. We, as professionals within the Australian political system, have a responsibility to make sure that happens; the Australian Electoral Commission has a responsibility to make sure that happens; and, ultimately, each voter in Australia has a responsibility to make sure that happens. We believe that the issue is best addressed by an enhanced education program from the Australian Electoral Commission. To go to my previous point about the appropriate allocation of resources by the commission, this is perhaps an area where the commission should look at doing additional research and advertising additional public information. It is a critical area. We do not believe that avoiding the need to close the rolls when the writs are issued is the answer to this. We believe that it is more appropriately addressed by public information campaigns and a heightened recognition of the responsibility that rests with all parties—including individual voters—because ultimately that is the way the system will work.

**Mr DANBY**—Does the Liberal Party have any evidence that we would be able to get 400,000 voters on the electoral roll before the election by changing the system to the system that you advocate? I am not just questioning you, Mr Loughnane—I must say that I was very surprised at what I regard as a change in the attitude of the Electoral Commission, when they said that they believed they could do that. In a democratic system where we have nearly half a million people enrolling and making sure that they are at the correct address so that they can participate in our greatest national democratic event, it is important to keep them on the roll. Do you have any evidence that that is possible, because I am astonished that the Electoral Commission believes that we can get 400,000 people on the roll before an election?



**Mr Loughnane**—At the end of the day, I would have to be guided by the Electoral Commission on this matter. The Electoral Commission does believe that there is scope for improvement and that that objective could be attained. I would be persuaded by that evidence from the Electoral Commission.

**Mr DANBY**—The Liberal Party does not have any independent evidence though?

**Mr Loughnane**—You would understand, Mr Danby, that the challenge of winning Melbourne Ports is a more prominent challenge for the Liberal Party's administrative resources than conducting research into matters such as that.

**Mr DANBY**—Fair enough.

**CHAIR**—On that, it will not come as a shock to you, Mr Loughnane, that I have a difference of opinion with my friend the deputy chair on this matter. One thing that the commission did say on Friday was that, were the government minded to change—to close the rolls early—its concern would arise only if that change occurred very close to an election. I think the new commissioner said that, if the law changed a day or so before the election was called, they would not have the capacity to inform people. He confirmed, after some questioning that, as a corollary of that, if the government were to change the system, the sooner that change took place the more time they would have, obviously, to inform people. Would you agree that, if the government were minded to do that, the sooner it took place the better?

**Mr Loughnane**—I commend the committee for the diligence with which it is undertaking its task and I would recommend that the committee see, if it is at all possible, whether its report into this most recent election could be brought down around the time of the 12-month anniversary of the conduct of the election. That would give the government adequate time to consider the report of this committee, to take into account any other matters it wishes to take into account and to bring forward any changes to the legislation as early as possible. I certainly believe that it is in the interests of the community that the government does bring it forward as quickly as possible. I commend to this committee the possibility that it brings down its report certainly this calendar year, and earlier if possible.

**CHAIR**—It has been our aim all along to complete it within the 12-month period, for precisely those reasons. We have a little bit of time left. I am going to move to Mr Ciobo.

**Senator FORSHAW**—Excuse me, are we all going to get a chance to ask questions? You have just had two goes. I have a couple of questions.

**CHAIR**—I have you on the list.

**Senator FORSHAW**—Thank you. I was just concerned that—

**CHAIR**—You are obviously trying to tempt me to take you off the list, but you are next on the list. It is Mr Ciobo, Senator Murray and then you.

**Mr CIOBO**—I noticed your concerns about the aspirations of liberals for forests. When this committee was in Tweed Heads, we heard evidence that concerned some of us significantly. In

particular, just to summarise it for you, in the seat of Richmond there were 301 votes difference. Liberals for forests secured 1,626 votes—2.06 per cent of the primary vote. I believe Senator Brandis remarked that it would take fewer than one voter in 10 in Richmond to have been misled or deceived into thinking that this how-to-vote card—liberals for forests—was in fact a Liberal Party how-to-vote card.

**Senator MASON**—One in 10 voters for liberals for forests voted for forests.

**Mr CIOBO**—Correct—one in 10 who voted liberals for forests.

**Mr Loughnane**—Slightly less, I think.

**Mr CIOBO**—Fewer, correct. Would you mind expanding a little on the comments that you made about some of the particular concerns you had about the activities of liberals for forests. Also, when I questioned Dr Keith Woollard, who is the national president and effectively the federal director of liberals for forests in Perth, last week, Dr Woollard made reference to the fact that he had not seen this how-to-vote card, yet I notice that he in fact authorised it. I would also be interested in your comments with regard to comments that he made that he was aware that liberals for forests booth workers may have been paid by third parties, though he was uncertain as to whether or not that had been disclosed to the AEC. I would be interested in any anecdotal or other comments that you might have knowledge of with regard to all those issues.

**Mr Loughnane**—The activities of liberals for forests are a matter of very great concern to the Liberal Party, and I commend the committee for its investigation into this matter. The integrity of the Australian electoral system depends fundamentally on transparency, on frankness and on reliability that what you see is what you get. In the case of liberals for forests, there are two aspects that give us great concern. Firstly, there is the name of the party itself. ‘Liberals for forests’ is in no way connected with the Liberal Party. In fact, liberals for forests actively works against the interests of the Liberal Party in most cases. It is possible for voters approaching a polling booth or voters in the lead-up to an election to believe, with a name such as liberals for forests, that the group may have some connection with the Liberal Party.

If people have a legitimate interest in environmental matters, they may think, ‘Well, this is a component part of the Liberal Party and I can safely vote for liberals for forests but ensure the coalition government is returned.’ Nothing could be further from the truth. Our first concern is the issue of confusion relating to its name. My own view is that that confusion is now of such concern as to merit the deregistration of the party.

Second, we have had, as you indicated, concerns reported to us about the conduct of people working on behalf of liberals for forests during the election campaign. We received information indicating that workers for liberals for forests acted in ways that sought to mislead voters into believing that their how-to-vote material was in fact material that could be followed by those wishing to vote for the Liberal Party. There is a resemblance between the how-to-vote card you raised and the Liberal Party how-to-vote card. There is a similarity between colours used. That is a matter of very great concern. If booth workers for liberals—

**Senator BRANDIS**—It is more than just colours, isn’t it?

**Mr Loughnane**—It is the whole identification, yes. It is the whole layout of the how-to-vote card. In addition, if booth workers were paid by third parties to give out how-to-vote cards, we believe that is a matter that should be specifically investigated further by this committee. We believe that liberals for forests should declare to this committee what exactly happened on polling day with its booth workers. Apart from anything else, as you alluded to, Mr Ciobo, it would constitute a potential breach of the disclosure requirements. But if booth workers for liberals for forests were paid by third parties that potentially goes to the conduct of the election. It potentially goes to an issue of the integrity of the electoral process. We believe it merits very close investigation by this committee.

**CHAIR**—On that, because we have got to move through fairly quickly, the committee has—the deputy chair and I—written, through the committee secretariat, to liberals for forests candidates and not had any response to date. That is something we will pursue in our own time. Mr Ciobo, do you have any questions?

**Mr CIOBO**—In the interests of time I will defer.

**Mr Loughnane**—I will commend the committee to follow that up as a matter of some importance.

**Senator MURRAY**—I will appreciate it if you have not given a lot of thought to what I am going to ask you. Perhaps you have considered a supplementary submission or taking the questions on notice. My first question relates to the disclosure level for political donations. My view is that it is effectively \$12,000 at present, because one donor could write eight cheques for the six state and two territory divisions of a party, each of them at, say, \$1,499. That would get under the disclosure radar screen. If you follow that line of argument, it could be \$80,000 if it were to be a \$10,000 donations level. Do think, if there is a lift in the level at which disclosure must be made of the order that you are recommending, that simultaneously this committee should consider recommending to government the prohibition of multiple cheques in the manner I have outlined?

**Mr Loughnane**—We believe that, with the exception of the actual disclosure threshold limit itself, the current provisions work well and do allow for adequate public disclosure of significant donations to political parties. We believe that it meets the requirement of transparency, and we do believe that it meets the requirement of public disclosure.

**Senator MURRAY**—But you can see the danger, can't you, that somebody might write eight cheques of \$9,999, for instance? I do not want to put words in your mouth, but I do not think that you would regard it as acceptable that \$80,000 effectively would get by without disclosure.

**Mr Loughnane**—The position of the Liberal Party is that the current provisions work adequately, with the exception of the threshold limit itself. We would commend that change, but we think the other provisions work well and do meet the objectives of disclosure and transparency.

**Senator MURRAY**—If I were to move an amendment to make it clear that multiple donations could not be done on the basis you outlined, just to make accountability absolutely explicit, would you caution against the parliament accepting such an amendment?

**Mr Loughnane**—It would obviously be a matter for the parliament, but my own view would be that the current other provisions relating to disclosure work adequately.

**Senator MURRAY**—The second question—and it is one you might want to think about a bit more—relates primarily to two submissions which interest me. One is from Mr Antony Green—whom I think we all universally respect as a commentator on political matters; he is pretty well informed—and the other is from Senator Brown. Both of them have highlighted a general concern and relate to a problem that people understand; that is that lodged tickets providing a preference flow are not really providing for an informed vote when somebody votes 1 above the line. Very few voters, particularly in the large states, could ever remember how the preferences are going to flow. One of the alternatives put is that we move away from a lodged ticket basis, voting just 1 above the line, to voting horizontally for parties above the line on a preference basis—as well as the option of voting below the line. Has the Liberal Party given any thought to that, and do you have any views as a result?

**Mr Loughnane**—The position of the Liberal Party is that the current arrangements for lodged tickets for Senate elections works well. We seek no change to that. We believe that, particularly given the previous discussion about the concern about informal voting, simplicity with regard to the Senate ticket is important. The current system has been in place for a number of elections, and we believe it has worked well. We see insufficient evidence at the moment to give us concern to argue for a change.

**Senator MURRAY**—You do appreciate, given the nature of your previous discussion with Mr Ciobo on liberals for forests matter, that the present system does allow for what is known as ‘preference harvesting’—in other words the careful manipulation—by minor parties rather than major parties—of the system to maximise their vote. I think that is a political skill and maybe should not be condemned as such, but that is a consequence. Do you recognise that?

**Mr Loughnane**—I obviously recognise it, but I think that the reality is that, so long as we have a form of preferential voting, it will continue to be the case anyway, because parties will issue how-to-vote cards. My own view is that the change that you referred to with regard to the Senate voting system will not of itself totally address the concern that you raised. I do not consider it a major concern. I think it is a reality of political life, and it is not a matter that we believe is of sufficient concern as to merit a change in the voting system for the Senate at this stage.

**Senator MURRAY**—The third area is the question of closing the rolls early. Does the Liberal Party make a distinction between what I would call technical adjustments after the election has been called, often within the same division—for instance, an address change: the person is legitimately on the roll, they are still within the same division but they have moved address? Do you make a distinction between that category of people and, for instance, new enrollees where the basis for proof should be far higher?

**Mr Loughnane**—My understanding is that at one stage the government did attempt to get changes to allow a window for the minor changes that you refer to. Broadly speaking, we are sympathetic to the point that you make.

**Senator MURRAY**—Mr Danby may correct me on the figures, but I think new enrollees—

**CHAIR**—Senator, this will have to be the last question, because I am conscious of the fact that Senator Forshaw and Senator Carr have questions.

**Senator MURRAY**—It will be my last question. I think 80,000 are new enrollees and the remaining 400,000 are address changes, most of which I understand are within the same division. My view would be that, if you are going to change it, you should leave the latter part alone.

**Mr Loughnane**—Perhaps I can take that matter on notice, give it some further consideration and refer it to the committee if there is something further to add.

**Senator MURRAY**—I would appreciate that.

**CHAIR**—Yes, you could make a supplementary submission. We need to wrap this up in a few minutes in order to give Mr Gartrell equal time. In the spirit of bipartisanship, I do not want to detract from his time, but we do have some questions from Senator Forshaw and Senator Carr and maybe one from Senator Brandis if we have time. I will wrap this up by 10 to 11 at the very latest and then we will move on to Mr Gartrell.

**Senator FORSHAW**—Firstly, as Mr Danby raised the issue, do you have any calculations on the impact on tax revenue that would occur as a result of your proposals on disclosure and also on the raising of the tax deductibility level from \$100? Can you also be a bit more precise on that last one about what you mean by a significant increase?

**Mr Loughnane**—I do not think the issue of the deductibility threshold would impact on tax revenue. For the tax deductibility figure itself, I do not have any precise figures on the impact on revenue. In the great scheme of Commonwealth tax revenue, I cannot imagine it would be an enormous cost or burden. But I think it is an important change to assist with an important civic responsibility by Australian citizens. The support and contribution of political parties is critical to the health of Australian democracy, and I believe it merits some recognition at a significantly greater level than the current level of the tax deductibility. As to what the appropriate figure is, I think it is more appropriate for it to be well into four figures than three figures.

**Senator FORSHAW**—Four figures?

**Mr Loughnane**—Yes, thousands rather than hundreds.

**Senator FORSHAW**—I suppose I get a bit concerned about people who get hit with the increases in co-payments for PBS and the reductions in the disability allowance by this government.

**Mr Loughnane**—I think we all share that concern. But, of itself, that does not merit the restriction on this change.

**CHAIR**—Senator Forshaw, we are running out of time.

**Senator FORSHAW**—If you would stop interrupting and giving us a dissertation—

**CHAIR**—You have obviously forgotten that you voted for the co-payment increase yourself, Senator Forshaw.

**Mr DANBY**—Keep focused.

**Senator FORSHAW**—All right. You said here that you support the government's proposals to legislate to exclude scrutineers from assisting voters who seek extra assistance. Why do you support that? I particularly note your earlier comments that you are concerned about the level of confusion amongst voters on polling day. What is your reason for wanting to exclude scrutineers from giving extra assistance? In the end, it is always overseen by the returning officer or the polling officer when it comes to casting a ballot anyway.

**Mr Loughnane**—Obviously scrutineers have a direct, partisan interest in what is going on. We have had a number of individual concerns raised with us by our candidates and campaign workers. I would be happy to come back to the committee with a supplementary submission expanding on that point, if it would assist. It goes to the whole issue of the smooth administration of the electoral system, avoiding opportunities for distortion or difficulty.

**Senator FORSHAW**—If you could give us some more-specific reasons, particularly as to how it would affect elderly people, people with poor English skills, people with disabilities, people in nursing homes and so on, that would be good.

On the issue of informal voting, I have more a comment than a question. You talked about the difference between the state system in New South Wales, with optional preferential voting, and the federal system. I put this to you: wouldn't the fact that there is optional preferential or above-the-line voting in the Senate but there is full preferential voting in the House have more impact? That leads to confusion on the day.

Secondly, have you looked at the figures on an electorate by electorate basis and the impact of ethnicity in particular electorates? You find much higher levels of informal voting in New South Wales and in those electorates that have a large number of candidates, such as Greenway.

**Mr Loughnane**—I am familiar with the research that you allude to, Senator. I believe that these are precisely the sorts of matters that merit further research and investigation by the Australian Electoral Commission to inform its public information campaign in the lead-up to the elections. I think that the voting system for the Senate and the voting system for the House of Representatives are matters obviously for the parliament, but once they are set by the parliament then it is important that the Electoral Commission takes them as given, conducts extensive research into the sorts of matters that were referred to by you and develops, say, a public information strategy built around that information.

**Senator FORSHAW**—I support that. I am just concerned that you were suggesting that it is somehow the impact of the New South Wales state election system. That may have an impact, but it was 18 months earlier.

**Mr Loughnane**—I think it is a legitimate area for the commission to have a look at in its research: that there are different voting systems on the day and that people may be confused.

**Senator CARR**—I was interested in your comments concerning the disclosure of donations and lifting the threshold figure. You are suggesting that there is a conflict, if you like, between the principle of transparency and that of privacy, and you are suggesting that the issue of privacy should be given greater weight. Can you explain to me why it is that privacy should be given greater weight against the principles of transparency? What protections would there be under such a proposal against the dangers of political corruption stemming from financial donations?

**Mr Loughnane**—Firstly, I will reiterate the comment that I made: if the threshold had been lifted to \$10,000, 88 per cent of the donations made to the major political parties last financial year would have been disclosed. The first and fundamental point is: is there a sufficient level of public disclosure of major donations to political parties? I would assert very strongly that there is.

Secondly, all of us in this room realistically know that a donation of \$1,500 to a political party does not translate into significant or indeed any influence on the policy direction of a political party. I would assert very strongly that a donation of \$10,000, or any donation for that matter, does not have that impact. There is a huge administrative burden on parties to comply with the \$1,500 threshold requirement, and I do not believe there is any public interest whatsoever gained by the public disclosure of individuals who donate at that level.

As everyone in this room would know, and as I am sure my colleague Mr Gartrell, who follows me, knows, quite a lot of those disclosed amounts of \$1,500 are simply for attendance at functions as opposed to donations. The fact that somebody attends a political function of itself I do not believe requires public disclosure. I think that people are entitled to participate in the activities of political parties but have an element of privacy. I do believe it is appropriate that a level above \$10,000 is disclosed, and we would support that, but we believe the current system imposes unnecessarily restrictive requirements on the political parties and on the Electoral Commission. We believe it imposes a huge administrative burden on both political parties and the commission, and we believe there is no public interest gained by the current level.

**Senator CARR**—To follow that up: the bulk of the donations come from corporations; they are not from individuals.

**Mr Loughnane**—That is not entirely true. I will just expand on that. Seven of the top 10 highest contributions from all income sources in the last financial year were exclusive to the Labor Party. Of those, Labor had four income sources greater than \$1 million, including a staggering \$5 million contributed by Labor Resources, a Queensland investment vehicle, as well as \$1.5 million from the Centenary House rort. In contrast, the Liberal Party did not have a single donation over \$1 million.

**Senator CARR**—What is the right of privacy for a corporation in terms of its political donations to a political party?

**Mr Loughnane**—A corporation has the same rights as an individual in that regard, I would have thought. I think the question is whether or not the public would believe that, by making a significant donation, either an individual or a corporation would be seeking to influence the process. It is our contention that that level of disclosure should be set at \$10,000 and meet the public information test that I think is behind the proposition or question that you put.

**CHAIR**—There are no more questions. Thank you very much. I am sorry we went a little bit over time, but thank you for appearing and for your submission. I will just reiterate the invitation to make a supplementary submission on some of the points Senator Murray raised and, for that matter, on any other issue. Once again, thank you for appearing.



[11.53 am]

**GARTRELL, Mr Tim, National Secretary, Australian Labor Party**

**CHAIR**—Welcome. Do you have any comments on the capacity in which you appear?

**Mr Gartrell**—I am also the national campaign director for the Australian Labor Party.

**CHAIR**—The committee has received your submission, which has been labelled No. 136. It has been authorised for publication. Is there anything about it that you would like to correct or amend in any way?

**Mr Gartrell**—I would like to make some opening statements, if that is possible.

**CHAIR**—Yes. I invite you to make a brief opening statement and then we will proceed to some questions.

**Mr Gartrell**—Thank you for the opportunity to address you today in support of our written submission. I agree with what the Liberal Party director said about the importance of this inquiry. In the past, often the findings of this inquiry have been very helpful. I endorse all the points made in our submission. I would also like to endorse submission No. 155 in relation to the coalition tactics employed in the seat of Melbourne Ports and signal that we will probably make a late submission on that matter, if that is permissible.

**CHAIR**—We have offered everyone the opportunity to make a supplementary submission on any matter they see fit. So we will take submissions on that or any other issue that comes to light through today's hearings.

**Mr Gartrell**—Thank you. I would like to deal in more detail with a few of the points covered in our submission. We stand firmly for improved scrutiny of the electoral process, greater transparency in funding disclosure and maximised participation by all eligible voters in Australia. We do not believe that all of these objectives are shared by the current federal government. We hope this inquiry will take our submission into account and produce a balanced report which provides real guidance on areas needing reform.

I would firstly like to raise our concerns with the Liberal Party's proposals to lift the disclosure limits for donations to political parties. The ALP is particularly concerned with the campaign to raise the threshold for disclosure of political donations that is currently being conducted by the Special Minister of State, Eric Abetz, and senior Liberal Party figures. This campaign targets the integrity of the current disclosure regime and aims to institute the sort of soft-money regime that the US is currently trying to re-regulate with a degree of bipartisan support. The ALP remains concerned that these moves will widen loopholes which currently allow secret money to flow into Liberal Party coffers. This did not form part of the election policies proposed by the coalition at the last election. In other words, the voters have given no mandate for this change. It is only recently that proponents of this change have gone on the record with their views.

As you know, the Liberal Party director argued in his submission to this inquiry for a rise of somewhere between \$3,000 and \$10,000. It is now clear the Liberal Party aims to use its Senate majority to raise the disclosure threshold to \$10,000—more than six times the current limit of \$1,500. Raising the threshold to this level would mean 65 per cent of donations currently disclosed would become secret; this is as opposed to 88 per cent of the money total, as Mr Loughnane has stated. This was also revealed as having the support of the Liberal Party machinery at the last Liberal Party convention. The Liberal Party director has stated in his submission to this inquiry that ‘it is not realistic in 2005 to think that donations below this level could raise any question of undue influence’. We categorically reject this view and believe that any raising of the threshold will have the potential to corrupt our political institutions. We do not approach this matter lightly. We believe the issue of funding disclosure is fundamental to the health of our democracy and the protection of the representative system of government.

Funding disclosure laws and reasonable limits are in place to ensure that elected representatives serve their electorate and not serve the interests that funded their campaign. We also note that the AEC in its more vocal days did not support raising the disclosure threshold. We believe the AEC should take this view and be adequately resourced to police the funding disclosure laws, and also that the government must take responsibility for ensuring that the laws reflect public sentiment about the role of big money in Australian politics.

I note the Liberal Party director claimed that there are higher limits overseas. We are not particularly concerned about that. Just because other countries have higher limits does not mean that we should have lower limits. In fact there is hot debate in a number of countries overseas, and some of those mentioned, about the influence of big money in politics. So I do not particularly agree with that point. We think the Liberal Party is scratching around for an argument to cover a proposal that is nakedly in its partisan financial interests and is not good public policy.

We would also like to register our concerns with comments made by the Special Minister of State calling for the tax-deductible limit for donations to be raised from \$100 to possibly \$5,000. This would deliver thousands of taxpayers’ dollars into party coffers, with a considerable bias towards wealthy individual donors who can afford to carry the cost of the donation until their tax return arrives.

I would now like to turn to the proposal for early closure of the roll. The Liberal Party, in their submission to this inquiry, claimed the roll needs to be closed early because:

... a flood of new enrolments in the days after writs are issued, at a time when they cannot be properly checked, are to the detriment of the integrity of the roll.

We agree that a flood of enrolments does occur after an election is announced. That is because many normal Australians, as opposed to political junkies like us, hear about the election and decide to sort out their enrolment. The Liberals claim that this phenomenon is to the detriment of the roll. That is not only a weird twist of logic; it is also not backed up by our history. No election has ever been found to be affected by inaccuracies or fraud relating to enrolments occurring at this time. As the AEC’s *Electoral backgrounder* has stated from the last election:

It has been concluded by every parliamentary and judicial inquiry into the conduct of federal elections, since the AEC was established as an independent statutory authority in 1984, that there has been no widespread and organised attempt to defraud the federal electoral system ... and that the level of fraudulent enrolment and voting is not sufficient to have overturned the result in any Division in Australia. That is, there is no evidence to suggest that the overall outcomes of the 1984, 1987, 1990, 1993, 1996 and 1998 federal elections were affected by fraudulent enrolment and voting.

Not only is the roll sound: there is also the Court of Disputed Returns, a final and vital check in our electoral system. Indeed, the early closure of the rolls not only has the potential to disenfranchise over 80,000 Australians, most of whom are under 21, but also will force around 300,000 Australians to vote using the wrong address.

The AEC's public evidence in three tables shows that 76,000 new enrollees, 255,000 people changing their address and 78,000 re-enrollees would, if the 2004 election pattern was repeated, be disenfranchised. This is what it is: a blatant attempt to alter the electoral laws to advantage the Liberal Party. The committee should reject it and the AEC ought to continue its tradition of independence from government and oppose it as it always has.

I am disturbed to hear that the new Electoral Commissioner thinks the disenfranchisement of thousands of voters by the early closure of the roll can easily be countered by an education campaign. This fails to understand the behaviour of many voters who are motivated to correct their enrolment only when the intense media coverage around the calling of an election alerts them to do so, and it assumes that a meagre advertising campaign can make up the difference. This is plainly wrong.

I would now like to deal with a precedent set at the last election that deserves consideration by the inquiry. It is a concern that Pauline Hanson received a personal windfall from the last election. Ms Hanson received \$200,000 in public funding after garnering just over four per cent of the Senate primary vote in the state of Queensland. Having spent only \$35,000 on her election campaign, it appears that Ms Hanson pocketed the balance, more than \$164,000. Not bad for a handful of media appearances during the campaign. It is of deep concern that an individual should derive such personal benefit from the electoral process. Public funding is provided to candidates to allow for the free exchange of political ideas during an election campaign and provide some guarantee that those with a genuine following can make their case for election. Labor always spends more than it receives in public funding and, despite our best efforts, often emerges from campaigns in debt. I am sure that is the common experience of other parties represented in the Australian parliament. Even if we did manage to finish a campaign in surplus, Labor has never and would never distribute surplus election funding to any individual. Public funding should not be used to gain private profit in this way. I urge the committee to explore options for AEC investigation and even repayment if an individual received such a direct personal financial benefit as an unintended consequence of election funding.

The next issue I would like to address today again concerns transparency, this time in relation to false and misleading third-party endorsements during the 2004 election. Central to the Liberal Party's interest rates fear campaign were a series of lies and innuendo concerning interest rate rises. In a number of marginal seats the Liberal Party distributed leaflets containing errors and exaggerated claims regarding their promise to keep interest rates low. To cover for the lack of evidence and the simple fact that it is the RBA and not the government that sets official interest rates, the Liberal Party issued misleading flyers which had the effect of deceiving voters into

thinking that the Reserve Bank and even the Australian Bureau of Statistics supported their claims. This included the statement:

Over 30 years interest rates have risen to over 10% under every Labor government. Source: Reserve Bank of Australia.

No report, media release or public comment from the Reserve Bank is cited for this purely political statement. This is because none exists. Similarly another flyer stated—

*Committee member interjecting—*

**CHAIR**—Mr Gartrell, do not be baited or interrupted. You can finish your opening statement. There will be plenty of time for questions.

**Mr Gartrell**—Similarly, another flyer stated:

Over 30 years interest rates have risen to 10% under every Labor government! Source: Australian Bureau of Statistics.

That was also distributed. This statement differs from the previous one only by the inclusion of the exclamation mark. Again, the Liberal Party failed to quote any real source of this claim, because no real source exists.

The ALP believes this information was distributed widely in the Northern Territory in the seat of Solomon; in New South Wales in the seats of Dobell, Parramatta, Paterson, Richmond, Eden-Monaro, Cunningham, Greenway, Page, Lindsay, Banks and Lowe; in Victoria in the seats of Deakin, McEwen, Gippsland, La Trobe, Chisholm, Ballarat and Bendigo; in Queensland in the seats of Hinkler, Dickson, Herbert, Longman, Moreton, Petrie, Bowman, Brisbane and Bonner; in South Australia in the seats of Adelaide, Hindmarsh, Makin, Wakefield and Kingston; in Tasmania in the seats of Braddon and Bass; and in Western Australia in the seats of Canning, Kalgoorlie and Stirling.

After the election, when this became an issue in the media, the public was assured by the Liberal Party that this material was only distributed to the seat of Hughes. However, as this list shows, there was an extensive distribution of these misleading materials—clearly a sign that they were centrally produced. We believe that the AEC must be able to ensure that third party endorsements are accurate and reflect actual comments that are attributable. We believe that penalty should apply to political parties which incorrectly attribute political comment to third parties.

The next issue I would like to cover involves the continuing abuse of taxpayer money to fund partisan political broadcasts which carry government authorisation. This practice was widespread in the lead-up to the 2004 election and is again being used in the post-election period. As can be seen from this table, the Liberal Party has consistently ramped up government advertising in the immediate approach to the election. This is the period from 1990 to 1996—

**CHAIR**—There is no reason to take us through it. If you want to put that forward as an exhibit, you are more than welcome to.

**Mr Gartrell**—I think it is pretty stark anyway.

**CHAIR**—Since it was an attachment to the press release that was put out last week, I think it is hardly a new bit of material. You are simply detracting from your time.

**Mr Gartrell**—Okay. We will circulate it to the members of the committee anyway.

**CHAIR**—You can put it forward as an exhibit. Then people will actually see it, if you would like to do that.

**Mr Gartrell**—Okay; not a problem. We will circulate it. The Howard government has spent in excess of \$1.4 billion on advertising since being elected. We understand the government spent around \$150 million on advertising in the 2004 election year. This included \$20 million spent on the strengthening Medicare campaign, which has produced nothing more than a broken election promise. The government proceeded with a massive advertising campaign designed to use public funds to remove a party political problem and dent ALP promotion of the real issues around the future of public health care. Our research indicates that the Liberal Party blew \$146.5 million on campaign advertising in two years, as evidenced by this graph. I will not take you through it but it is being circulated as well.

**CHAIR**—That is another press release he is wanting to put into evidence.

**Mr Gartrell**—It is actually a graph.

**Mr DANBY**—What is it a graph of though?

**Mr Gartrell**—This is a graph of government spending on advertising from January 2004 to what we predict will be October 2005 with the IR money. This is the spike in April and June in the lead-up to the election.

**CHAIR**—That is one of Mr Danby's questions. Have you got long to go?

**Mr Gartrell**—I have got a couple of pages.

**CHAIR**—Okay.

**Mr Gartrell**—Indications from this term are that the Liberal Party intends to continue its big spending to sell its unpopular policies.

*Committee member interjecting—*

**Mr Gartrell**—There is quite a bit of fact in this, including the tables, but if you like I will cut my presentation. Finally, I would like to address our concerns about increased levels of informal voting. As our submission notes, the level of informal voting increased from 4.8 per cent in 2001 to 5.2 per cent in the 2004 election. I understand the AEC is committed to producing a report into the levels of informal voting during the 2004 election and I hope that the report will look at a number of key issues, including the age of voters, fluency in English, confusion between local, state and federal voting systems, and comparisons with international statistics. We hope the AEC report will come with substantial recommendations to this committee on how the increase in informal voting can be turned around. The federal government ultimately has responsibility for

ensuring that the AEC is resourced to provide adequate voter education. To fail to address this issue would be a serious impediment to the democratic process.

I have today provided some comments directed towards the AEC. I hope they take these as constructive comments and work towards greater accountability. I thank you for the opportunity to speak. I would just like to endorse what the Liberal Party director has said about resourcing of the AEC. I think the AEC are stretched pretty thin and I think they need more resources, particularly around enrolment and voter education. I support what the Liberal Party director said about the AEC accepting their weaknesses on the postal voting at the last election. I think that is an important matter to be fixed up, particularly as the level of postal voting is increasing. I understand the Liberal Party director might have concerns about the liberals for forests and people handing out material. I will not go into it for the sake of time but I again point you to submission 155 and some of the attachments, including semi-green how-to-vote cards being distributed on the day in Melbourne Ports.

**CHAIR**—Thank you very much for your opening statement. I want to start with some general questions along the same lines as those I asked Mr Loughnane. In the broad, considering the last election, we have covered the postal vote issue. Is there anything in particular you think the AEC could do better next time, particularly in anticipating the ongoing challenges of federal elections? As a major party director, do you think your communication with the AEC through the campaign was adequate—do you think they were responsive?

**Mr Gartrell**—I agree the AEC is stretched. Our relationship with the AEC has always been good. They have always been pretty responsive, in my view. Sometimes it varies from division to division, and I think that is where the resources are being stretched; I think most people here would agree with that. I would like to see them putting more effort into enrolment. Early on we used to have enrolment drives, and I think those sorts of things are pretty important. In our submission we say we would like them to put more resources into data checking and crosschecking of enrolment and to look at some new systems there. Like I said, in terms of pre-poll and postal voting, they have to move their resources and understand that a lot of the Australian electorate are voting early, through postal or pre-poll voting, so we would support more pre-poll places as well. That is the thrust of our concerns.

**CHAIR**—On the pre-poll issue, would you suggest a couple per electorate or more than a couple in, obviously, the very big electorates?

**Mr Gartrell**—It would depend on the previous pre-polling. The previous election would give you a good guide. There may be some circumstances that you could discount, but I would go with that. I think that is pretty important, particularly when there are school holidays on in electorates with lots of families who are going to be away.

**Mr DANBY**—It has to be matched with proper advertising too. People have to know that it is there.

**Mr Gartrell**—That is correct.

**CHAIR**—There is another question I would appreciate your views on, and I asked Mr Loughnane this as well. Obviously one of the factors that drive the informal voting seats in

Queensland and New South Wales is the different optional preferential voting at the state level and full preferential voting at the federal level. Do you think the AEC does enough specific advertising in those markets in New South Wales and Queensland to stress the different voting system in the House? I did not see any, obviously, being from Victoria, but as federal director did you see much evidence of that? Clearly, given the results, there is a prima facie case for them to do more.

**Mr Gartrell**—I think it would be good if the committee asked the AEC for their media buy in those states. I am not aware that they spent more in those areas. I live in Canberra, so I am in the Eden-Monaro footprint. I did not see a particularly high number of ads. I was watching the different ads at that time.

**CHAIR**—We will get the information from the AEC, but obviously, you being someone who would have been watching the campaign as closely as any voter, if it is not memorable on your radar, it is clearly a prima facie case that more needs to be done.

**Mr Gartrell**—I would agree with that. I think in the earlier studies in Queensland in 2001 there was a high level of informal voting. In the state election there had been a big issue about the Labor Party's 'just vote one' campaign, which was quite legitimate, but, if something like that has happened you do need to rectify it with a bigger spend, so I would strongly support that.

**Mr DANBY**—Let us go first to the disclosure of suggestions that the Liberal Party have and that you disagree with. Minister Abetz has suggested that \$5,000 be tax deductible. Did he announce any amounts of money that that would take off the public revenue if all of the donations below \$5,000 were applied as fully tax deductible? Do we have any idea of how much revenue would be lost?

**Mr Gartrell**—No, I don't, but I think that is a good question for the government.

**Mr DANBY**—I also reflect Senator Forshaw's views about priorities with other matters, but that is another issue. Can I take you to government advertising. In your submission you say that the government spent \$170 million up until the point you are able to track on government advertising. Is that government advertising altogether or government advertising that you judge to be beyond what they should be spending on legitimate purposes?

**Mr Gartrell**—The figures we always use do not include government funding for defence recruitment, AEC or non-campaign advertising.

**Mr DANBY**—Okay. So that is \$170 million—

**Mr Gartrell**—Outside of defence and AEC largely, yes.

**Mr DANBY**—How much money do you think will come in on top of that? Do you have any information?

**Mr Gartrell**—From this point, with the IR campaign?

**Mr DANBY**—Not from this point; from the point that you have information to about \$170 million. Is that up until October 2004?

**Mr Gartrell**—Yes.

**Mr DANBY**—On the issue of third party endorsements, did the Reserve Bank or the ABS say anything when they were confronted with this political material being circulated with their names on it?

**Mr Gartrell**—The Reserve Bank did actually provide a written complaint, which is dealt with on page 4 of our submission.

**Mr DANBY**—A written complaint to whom?

**Mr Gartrell**—To the AEC. During the campaign.

**Mr DANBY**—During the campaign they complained to the AEC, and what was the result?

**Mr Gartrell**—As I understand it, the AEC wrote back to them and queried it but we did not know about it until after the election.

**Mr DANBY**—Do you know when the AEC took this up with Liberal Party?

**Mr Gartrell**—It was during the campaign.

**Mr DANBY**—Perhaps that is something we should pursue. I bring you to the integrity of the electoral roll and early closure of the roll issues. You made the very sensible point that the current system we have of enrolling large groups of people in the five working days, seven days, after the election is announced has worked since 1983. Can you remember or give evidence to this committee about what happened in 1983 when the election was announced and the roll was closed on that day?

**Mr Gartrell**—My recollections of 1983 are probably not as good as yours because I had other things on my mind at the time. As I understand it, it did result in a pretty chaotic period for the AEC, a lot of people turning up to vote and not being eligible. So it was a pretty difficult election for the AEC.

**Mr DANBY**—The point is that the Liberal Party has won a number of elections since 1996 on the basis of this system where people have been allowed to enrol in the week after the election was announced. Do you know of any evidence that we would be able to get these 400,000 people on the roll before an election is announced via an education campaign?

**Mr Gartrell**—Like I say, it is my view about why there is a rush. The reason there is a rush is that there is a lot of media attention about an upcoming election now. I would not like to try and replicate that amount of media attention in advertising dollars. We are talking, when an election is called, front page newspaper articles, lead items on the TV news, radio—the whole works. You would be looking at possibly hundreds of millions of dollars to try and even equal that effect, when you can get that by just waiting another seven days.



**Senator MURRAY**—I was pleased to see the Labor Party submission calling for improved operational funding and disclosure and in fact enhancing the provisions in the legislation. I will deal, if I can, with just one aspect of that, and that is the question of overseas donations. As you know, many countries prohibit or limit overseas donations quite strenuously. It is my own view that donations from Australian citizens overseas are unexceptional and should be allowed but that any donation from an entity overseas should be prohibited simply because it is impossible for the AEC to do the necessary checks on that. Do you agree with that simple proposition I have outlined?

**Mr Gartrell**—In our submission we say there are two options. The first is to put a blanket prohibition on receipt of funds from overseas. The second, which is more realistic, is to make the retention of overseas donations contingent on full disclosure, including overseas entity or entities. Then you could have some mechanism whereby the money has to be paid back if there is not disclosure, for example.

**Senator MURRAY**—I am really proposing a variation of your option 1: all donations from overseas, except from Australian citizens living abroad, are prohibited. Would you object to that if that were an approach the committee took?

**Mr Gartrell**—I think the problem with that is that more and more companies are becoming viable companies—

**Senator MURRAY**—I mean citizens not companies.

**Mr Gartrell**—I think that is something we would have to consider when we saw the detail.

**Senator MURRAY**—Could I ask you to think about that and come back to the committee on notice.

**Mr Gartrell**—We would probably like to see a proposal from someone, and I would like to put it back through the Labor Party and not—

**Senator MURRAY**—I have put a proposal in the parliament before and it has been rejected, and yet the principle was accepted on the floor. In other words, people were saying they liked the idea but they were not going to vote for it at that time. That is why I put it formally to you. It was not rejected out of hand by those in the debate. Could you have a look at it again. The proposition is that we consider accepting option 1 of yours but that Australian citizens living abroad would still be able to make donations. Thank you.

The second area of questioning relates to your comments on third-party endorsements, which otherwise you might describe as ‘truth in political advertising’. Are you familiar with the South Australian legislation which effectively requires that political advertising be truthful? It was introduced in 1985 and seems to work quite effectively.

**Mr Gartrell**—I have heard of it but I am not across the fine detail.

**Senator MURRAY**—Given your submission and your interest in this, could you take it on notice to have a look at that and make a recommendation as to whether that legislation—which

seems to work; all parties seem to be happy with it in South Australia—should be extended to the Commonwealth.

**Mr Gartrell**—I am happy to make that part of the supplementary.

**Mr DANBY**—Senator Murray, if you can give me your speech I will make sure that Mr Gartrell gets it too.

**Senator MURRAY**—I will do that. The third and last area I want to ask about is multiple donations. Mr Gartrell, I am not sure if you were in the room when I questioned Mr Loughnane, but, in my opinion, at present the donations level below which disclosure is not required is in fact effectively \$12,000, because it is possible for somebody at present to make eight donations of \$1,499 each to divisions in every state and territory, and they would get under the radar screen on that basis. If the donations level were raised to \$10,000—you see the maths—it would go up to \$80,000. If the donations level were to be raised by parliament—and that is a possibility, given the new numbers in the Senate—would you support prohibiting multiple donations of the kind I just outlined?

**Mr Gartrell**—Yes, I think we would. We are not hung up on low donation thresholds. Subject to decisions by bodies like our national executive, I would be putting a recommendation that that be supported.

**Senator BRANDIS**—Mr Gartrell, let us go back to your criticism of the proposal to lift the disclosure threshold. I found it difficult to follow the logic of your evidence. The status quo in relation to disclosure of donations, since the Hawke government introduced the legislation in its current form over 20 years ago, has basically been this: large donation should be disclosed and small donations need not be disclosed. You can have an argument about the numbers, but that is the basic policy point behind this Hawke government Labor Party legislation, isn't it? Large donations get disclosed, small donations need not be disclosed.

**Mr Gartrell**—There is a lot in the definition—as you say, the argument is in the definition. And I would consider \$10,000 not small.

**Senator BRANDIS**—But do we accept—

**Mr Gartrell**—Or, sorry, \$9,999.

**Senator BRANDIS**—Sure. But do you accept, though, that although one can have an argument about where the tipping point should be between what is disclosable and what is not disclosable, it is good policy that large donations be disclosed but that small donations need not be disclosed?

**Mr Gartrell**—I think it is good policy that donations that come from your average branch member or average citizen do not necessarily need to be disclosed because people make donations of \$100 and \$500. I do not think your average citizen, given today's average income, would see \$9,999 as small.

**Senator BRANDIS**—That is another aspect of the debate.

**Mr Gartrell**—It is a pretty important part of it.

**Senator BRANDIS**—I just want to confine you for the moment to the policy reasons for drawing the distinction that the Hawke government drew. I think we would agree, wouldn't we, that the smaller donation the less risk of it being sought to be used as a basis of influence?

**Mr Gartrell**—That is correct.

**Senator BRANDIS**—And, as well, would you share the view of Mr Loughnane—who generously referred to you as a colleague, I noticed; as a fellow political professional—

**Mr Gartrell**—You will get me in trouble with my colleagues!

**Senator BRANDIS**—that there are also, at the lower level of the scale, essentially housekeeping issues that should relieve the parties of having to create a huge bureaucracy for the sake of relatively small donations. You would agree with that?

**Mr Gartrell**—I would agree with that, but there are some people who probably pay their housekeepers \$9,999, so I cannot see how you can get to \$10,000 under that logic. I understand the logic, but maybe you mix in different circles to me—\$10,000 is a lot of money for an individual.

**Senator BRANDIS**—Before we get into where we draw the line we should work out whether we agree with the underlying policy. It sounds to me as if you do, and this is a question about where a line is draw, not a question as to the wisdom of the policy underlying this Labor Party legislation.

**Mr Gartrell**—I agree with the logic you are putting forward. But, as you have clearly made out, the debate is about the amount of money, and I think you would need to try and factor some science into it if you want to have a serious debate about it, as opposed to just ramming \$10,000 through the Senate. If you want to have a serious debate about it we would be happy to look at the science of it, but I can tell you that, with average weekly earnings, \$10,000 is a lot of money for an individual.

**Senator BRANDIS**—I think you have made that point, Mr Gartrell. If you agree with that, I suppose you would also agree that whatever is the appropriate disclosure point should be adjusted over time to account for the changing value of money, just as the last Labor government lifted the threshold from \$1,000 to \$1,500.

**Mr Gartrell**—If, as I said, we are going to actually have a serious look at this and agree to some science around it, yes. But we would not be agreeing to indexing \$10,000, because it is a lot of money.

**Senator BRANDIS**—I understand the point you are making. You therefore do not agree that all sources of political donations should be disclosed?

**Mr Gartrell**—I am sorry—I do not agree that all sources?

**Senator BRANDIS**—All sources should be disclosed.

**Mr Gartrell**—No, some sources should not be.

**Senator BRANDIS**—You disagree, apparently, with Mr Kelvin Thomson, who, on 15 July, said that. He said in a press release: ‘It is absolutely the wrong way for Australia to go’—that is the legislation you are criticising. He went on to say:

Labor believes all original sources of political donations should be disclosed.

Where you aware that that was Mr Thomson’s view?

**Mr Gartrell**—He is probably referring to larger donations. That is probably the context.

**Senator BRANDIS**—I have just read you his words.

**Mr Gartrell**—I did not have it in front of me. I do not know what the context of it is.

**Senator BRANDIS**—I am just reading you his words—they are not qualified:

Labor believes all original sources of political donations should be disclosed.

You seem to be in dispute with Mr Thomson on whether or not all donations should be disclosed.

**Mr Gartrell**—No. You can engineer a dispute between myself and Mr Thomson. There is not one.

**Senator BRANDIS**—Have a look at the press release.

**Mr Gartrell**—I would like to. I do not have the press release in front of me.

**Senator BRANDIS**—Don’t take my word for it, Mr Gartrell, just have a look at Mr Thomson’s press release.

**Mr Gartrell**—I might also go back through every single press release of Eric Abetz and try and find inconsistencies between him and yourself.

**Senator BRANDIS**—Just answer the questions you are being asked, Mr Gartrell. The chairman was very indulgent towards you in allowing you to make a very rhetorical and long opening statement. You have made those points. Now please do us the courtesy of directing your mind to the questions. Can I direct your attention to the first full paragraph on the second page starting with the words:

And we won’t know it’s happening ...

down to

... disclose ... the source of their income.

Have you seen that?

**Mr Gartrell**—Yes, it is in front of me.

**Senator BRANDIS**—Plainly, that is an unqualified statement—there are no qualifying words whatsoever—that all donations should be disclosed. I am just pointing out to you that that is what he says. You obviously disagree with him.

**Mr Gartrell**—Maybe Mr Thomson has made a small error in this, maybe you are taking it out of context—

**Senator BRANDIS**—I am giving you the context so I cannot be accused of taking out of context.

**Mr Gartrell**—It is giving you a good chance to demonstrate your skills as a former barrister, but I do not think it is actually adding anything much to the debate here. What is your point?

**Senator BRANDIS**—In any event, you were unaware that Mr Thomson had made this sort of off-message statement, were you?

**Mr Gartrell**—I am not going to let you define what I think—I am sorry.

**Senator BRANDIS**—Were you unaware of Mr Thomson's observations?

**Mr Gartrell**—I am generally aware of the contents of media releases that come out of the shadow ministry—

**Senator BRANDIS**—But you were not aware of that one?

**Mr Gartrell**—but to the extent that I had combed through and seen that, no.

**Senator BRANDIS**—Mr Gartrell, you authorised it. Look at the second page.

**Mr Gartrell**—I authorise every page on the Australian Labor Party's web site.

**Senator BRANDIS**—I see. So you authorised this statement that you were unaware of and disagree with and tell us does not represent Labor Party policy. That strikes me as a very strange way of going about your business, Mr Gartrell.

**Mr Gartrell**—I did not say that it did not represent Labor Party policy. Anyway, this has all been a bit of fun!

**Senator BRANDIS**—You made some observations about corporate donations and your claim, as I understood it, was that large corporate donations posed the risk of undue influence on the government that receives them. Is that a fair description?

**Mr Gartrell**—It poses the risk, yes—undisclosed, yes.

**Senator BRANDIS**—So large corporate donations, if undisclosed, pose a risk to the integrity of the Howard government—is that your claim?

**Mr Gartrell**—Yes.

**Senator BRANDIS**—The large corporate donations that the Beattie government receives in Queensland—do they pose a risk to the integrity of that government?

**Mr Gartrell**—If they are undisclosed, to any government, Labor or Liberal, they pose a risk.

**Senator BRANDIS**—Do large trade union donations pose a risk to the integrity of the recipient party?

**Mr Gartrell**—If they were undisclosed, yes. Can I just say that any large undisclosed donation—and you can go through a list of the various types—poses a risk to government and our political system.

**Senator BRANDIS**—Indeed, Mr Gartrell, and the adoption by both sides of politics of a disclosure model whereby small donations need not be disclosed but large donations must be reflects I think a bipartisan view. So that is not in controversy. You also used the expression ‘undue influence’. Do you think that disclosed donations, not just undisclosed donations, create the risk of undue influence?

**Mr Gartrell**—I think that disclosing donations nearly entirely removes that risk.

**Senator BRANDIS**—Would you agree that if a sector—let us say the corporate sector—spreads its money around the board, as it were, and it donates and discloses its donations to both sides of politics, that has the effect of minimising any risk of undue influence, because there is a degree of even-handedness about the beneficiaries of those donations?

**Mr Gartrell**—I would always encourage corporations to provide donations in an even-handed manner, yes.

**Senator BRANDIS**—And they do, don't they?

**Mr Gartrell**—That is correct.

**Senator BRANDIS**—Because they do, would you agree with me that the risk of undue influence on one side of politics is substantially eliminated?

**Mr Gartrell**—Yes, because they are organisations that do not have political objectives.

**Senator BRANDIS**—Whereas I am not aware, Mr Gartrell, that trade unions are significant donors to the non-Labor side of politics. The massive amounts that trade unions donate to political parties seem largely to be donations of which your party and to a much lesser extent the Australian Greens are the beneficiaries. Would you agree?

**Mr Gartrell**—I am not aware that Australian businesses have delegates on the floor of Liberal Party conferences. Australian trade unions are political organisations as well as industrial organisations.

**Senator BRANDIS**—On your own logic—

**Mr Gartrell**—It is pretty obvious to everyone in Australian politics that the Australian Labor Party has a very strong connection to the trade union movement—

**Senator BRANDIS**—We know that.

**Mr Gartrell**—and the trade union movement, through Labor Party conferences, has influence on policy, on the floor of democratically convened Labor Party conferences.

**Senator BRANDIS**—Do you think that makes—

**Mr Gartrell**—I know you have built up this fantastic prelude here.

**Senator BRANDIS**—Mr Gartrell, just wait for the question. One of the reasons—

**Mr Gartrell**—It misses the point.

**Senator BRANDIS**—you told me a moment ago that even-handed corporate donations do not pose a significant risk of undue influence is that they are even-handed. They are given to both sides of politics. So isn't the risk of the vast sums—the \$7 million in aggregate—donated to the Australian Labor Party a much more critical, concerning case of undue influence than corporate donations could ever be?

**Mr Gartrell**—The figure of \$7 million—I do not know where you get that from but that is not a donation to the—

**Senator BRANDIS**—I get it from adding up the \$1.7 million the National Union of Workers donated to the Australian Labor Party, the \$820,000 that the CFMEU donated to the Australian Labor Party, the \$430,000 that the Transport Workers Union donated to the Australian Labor Party—

**Mr Gartrell**—You get to that total.

**Senator BRANDIS**—the \$405,000 that the CEPU donated to the Australian Labor Party—

**CHAIR**—Can we get a copy of this?

**Senator BRANDIS**—Yes—and various other amounts, Mr Gartrell. That is where we get it from.

**Mr Gartrell**—What you have done is you have aggregated it all and said, 'That is a donation to the national campaign of the Australian Labor Party.'

**Senator BRANDIS**—I did not use the expression ‘national campaign’.

**Mr Gartrell**—No, but that is what you are insinuating. That is incorrect because you always aggregate—

**Senator BRANDIS**—I said the Australian Labor Party, through the benefits of the trade union contribution—

**Mr Gartrell**—things like union affiliations and donations at the state level—

**Senator BRANDIS**—Mr Gartrell—

**CHAIR**—Let Mr Gartrell answer the question, Senator Brandis, and then you can ask the next one. We are making it very difficult for the Hansard reporters.

**Mr Gartrell**—I do not know where the question is in all that rhetoric.

**Senator BRANDIS**—The point I was putting to you, Mr Gartrell, was that the Australian Labor Party—I did not say the ‘national campaign’—is the beneficiary of trade union contributions in the sums that I have given you, which when you add all the smaller contributions amounts to some \$7 million and is donated to only one side of politics, hence a much more concerning case of undue influence.

**Mr Gartrell**—I go back to my original answer and say it is clear to everyone who understands Australian history and the history of the labour movement that the union movement and the Labor Party are very strongly linked and that the unions have provided resources to the Australian Labor Party for political and parliamentary objectives. If that is a surprise to you, that is your problem.

**Senator BRANDIS**—In a way that they have not done to the Liberal Party.

**Mr Gartrell**—No, because they have a political alignment with the Labor Party.

**Senator BRANDIS**—Whereas companies donate to both sides of politics, as we have agreed.

**Mr Gartrell**—Whereas many companies do not have a problem with Labor administrations. They did not have a problem with the Hawke-Keating administration, which led to economic growth et cetera.

**Senator BRANDIS**—Thank you. One last thing: you would be aware, would you not, that both the Reserve Bank of Australia and the Australian Bureau of Statistics publish periodically statistics about interest rates, including, among others, the standard variable home mortgage rate? You are aware of that, aren't you?

**Mr Gartrell**—Yes.



**Senator BRANDIS**—It is a matter of notorious fact that the Australian Labor Party was in power between 1972 and 1975 and again in power between 1983 and 1996. You are aware of that, are you, Mr Gartrell?

**Senator MASON**—Very notorious.

**Mr Gartrell**—Yes.

**Senator BRANDIS**—That is a notorious fact that the Reserve Bank of Australia and the Australian Bureau of Statistics published collections of the interest rate statistics during those years—

**Mr Gartrell**—And when the current Prime Minister was Treasurer; yes, I am aware of that.

**Senator BRANDIS**—You are aware of that, during those years?

**Mr Gartrell**—When interest rates were high, yes.

**Senator BRANDIS**—And you are aware, aren't you, Mr Gartrell, that those statistics reveal that during the Hawke and Keating period of government, between 1983 and 1996, the standard variable home mortgage rate rose to 17 per cent and at the time Mr Keating left office, according to those statistics published by the RBA and the ABS, the standard variable home mortgage rate had not fallen below 10 per cent? Those are matters of public record, as revealed by the statistics published by the RBA and the ABS, are they not?

**Mr Gartrell**—They would be those published statistics, yes.

**Senator BRANDIS**—We could say that the RBA and the ABS are the sources of those statistics and of the information conveyed by those statistics, could we not?

**Mr Gartrell**—The RBA has never put out a statement saying, 'Over 30 years, interest rates have risen to over 10 per cent under every Labor government.' They are—

**Senator BRANDIS**—No, but we know that the RBA and the ABS have recorded what the interest rates were, and I think the periods when Australia has had a Labor government are a matter of notorious fact, and it does not require the expert evidence of the Reserve Bank of Australia or the Australian Bureau of Statistics, does it, Mr Gartrell?

**Mr Gartrell**—In the words of the Reserve Bank, it says that the pamphlet contains the asterisk and the words 'Source: Reserve Bank of Australia'. They say that it is without any indication as to what in the text the asterisk refers to. In fact, there is no other affiliation indicated on this card—

**Senator BRANDIS**—Because it does not refer to a text, Mr Gartrell; it refers to a statistic.

**Mr DANBY**—Why does the Reserve Bank object to it?

**Senator BRANDIS**—It does not refer to a text, it refers to a statistic, and that statistic is historically accurate. It is a statistic of which the RBA was, in fact, the source.

**Senator CARR**—I would like to return to this question of big corporate money. Your submission, Mr Gartrell, calls for political parties' annual returns to be accompanied by a report of an accredited audit. Why do you think it is necessary, given the existing arrangements, to make that change?

**Mr Gartrell**—That is a recommendation the committee should consider. There are concerns about some of the sources of funding. In our submission, we have raised the Greenfields Foundation and the Citizens Electoral Council, which are of particular concern. Auditing can assist that process.

**Senator CARR**—Are you concerned that the current arrangements are not adequate to disclose the sources of funding?

**Mr Gartrell**—I do not think there have been too many instances of poor disclosure, but it is a potential weakness in the system.

**Senator CARR**—You specifically say that where an entity provides \$25,000 to a political party, there should be a compliance audit. Why do you think that is necessary?

**Mr Gartrell**—It basically strengthens the disclosure regime. It is a worthwhile recommendation.

**Senator CARR**—I asked some questions earlier of the Liberal Party director about the balance between transparency and privacy. Where do you see that balance lying?

**Mr Gartrell**—I think it weighs 99 per cent transparency and one per cent privacy. I do not understand what the consequences are if someone does donate one way and discloses it, what that person might believe the consequences to be. I have had no experience of that being a problem for someone. I do not understand that argument. You will have to direct questions to the Liberal Party as to the logic behind that; I do not understand it. Those privacy issues, particularly for large donations, are not there—particularly for a donation of, say, \$9,000.

**Senator CARR**—I want to turn to the question of the franchise, the electoral roll changes that are being proposed. Your submission points to a range of groups that you believe may well be disadvantaged by changes—the homeless, Indigenous people, young people. How important do you regard those changes to be in terms of the effect that might be had on the integrity of the electoral roll?

**Mr Gartrell**—I think they are quite dangerous for those groups of people. Even if we do go down the AEC's and the government's model of an education campaign, a lot of homeless people will not see that campaign, Indigenous people might not see it and younger people, who are notoriously hard to get through to in advertising campaigns, might not see it.

**Senator CARR**—It has been put to me that the persons in these sorts of arrangements restrict the franchise. The persons who are most directly and first affected are the people who need government the most.

**Mr Gartrell**—Yes, I would agree with that.

**Senator CARR**—Do we have any experience that you are aware of, other than in your submission, of how that actually occurs—where people are actually withdrawn from the political system as a result of changes such as this?

**Mr Gartrell**—I think it is dangerous in our civil society for people to be basically disenfranchised. It means that they are not part of our culture or part of society. I think we need to be more inclusive, particularly in these times.

**Senator CARR**—Do you think that the proposition to have fixed term parliaments would assist to make the electoral roll more accurate?

**Mr Gartrell**—Yes, I do. I think it would allow the AEC to plan its education campaigns more. It would eliminate the concerns of the current debate that we are having about the seven days, because everyone would know when the election was on. I am a supporter of four-year terms.

**CHAIR**—Ms Panopoulos, we have just a couple of minutes.

**Ms PANOPOULOS**—Mr Gartrell, you are aware that the Victorian government ceded its industrial relations power to the Commonwealth government several years ago?

**Mr Gartrell**—Yes.

**Ms PANOPOULOS**—You were very passionate in your submission, particularly on the first point about government advertising. You referred to the use of advertising for particular issues as a ‘free kick for the political party in power’. You also quote Professor Tony Harris, who talks about using public money for advertising that advances non-government purposes.

**Mr Gartrell**—Correct.

**Ms PANOPOULOS**—You are very critical of the federal coalition government. I am not sure whether you are aware of advertisements that appeared today. This one happens to be in the *Border Mail*, in my electorate, so you may not be aware of it.

**CHAIR**—I think it would be fair to say that he would not be aware.

**Ms PANOPOULOS**—There is an advertisement here by the Victorian government, which advertises certain issues that one would expect a trade union to have advertised, but it criticises what they believe will be the federal government’s reforms to industrial relations. You have said that governments should not use public money to advance non-government purposes. You have admitted that industrial relations matters, as covered by the proposed legislation, are not matters over which the Victorian government has any authority, yet they have used advertising in—

**Mr DANBY**—Chair, could I suggest that Ms Panopoulos give Mr Gartrell a copy?

**Ms PANOPOULOS**—Sure. My question, Mr Gartrell, is this: surely if you have such passionate criticism about a government using funds for non-political purposes—and it can be debatable at times whether or not a matter that is being advertised is core to a government's purpose—that clearly is not. It is paid for by the Victorian government and is an issue over which it has no authority.

**Mr DANBY**—None of us has seen it, so it is not clear at all.

**Ms PANOPOULOS**—Would you not criticise the Victorian Labor government more for using funds on an issue over which they have ceded the jurisdiction?

**Mr Gartrell**—Firstly, I would say that one ad in the *Border Mail* does not add up to the \$100 million that will possibly be spent by the government on this debate—unless I have some really skewed understanding of the cost of putting an ad in the *Border Mail*, a paper which has created some very good journalists and even a former national secretary to the Labor Party.

**Ms PANOPOULOS**—I take your point; you have answered the question.

**Mr Gartrell**—You took a while to get to the point yourself.

**Ms PANOPOULOS**—I have to say that you are very consistent with other senior members of the Labor Party in ridiculing country newspapers and in ridiculing people that live in non-metropolitan areas. You may not think—

**Mr Gartrell**—I just said that the *Border Mail* produces incredible journalists. What are you talking about?

**Senator BRANDIS**—That is because the Labor Party does not like country people.

**Ms PANOPOULOS**—You may not think an advertisement in the *Border Mail* is significant.

**Mr Gartrell**—I just said one of the best journalists in Australia had come out of the *Border Mail*, so I do not know how that is an insult. I actually grew up in country Australia. I do not know how you fit into that, Sophie.

**Ms PANOPOULOS**—Seeing you are so passionate about government advertising, have you no criticism at all about the Victorian Labor government's spending even one cent on advertising that seems to be doing the bidding of the trade union movement in an area over which the state has ceded the jurisdiction? The amount of money is not the point. It is the principle. You were very passionate in your submission, but you cannot even bring yourself to be consistent and criticise the Victorian Labor government. Why is that?

**Mr Gartrell**—All I would say is that the federal government sets the tone of these things. As I said, one ad in the *Border Mail*, which is a good paper, does not equal \$100 million.

**CHAIR**—One last question.

**Ms PANOPOULOS**—You said earlier that the Labor Party has very strong connections with the trade union movement. Wouldn't you see this as a payback for the undue influence that the Labor Party has on the trade union movement and the donations that they make are payback of a taxpayer funded ad that is properly an ad from the trade union movement?

**Mr Gartrell**—No, I would not.

**CHAIR**—I have one last question, which I meant to ask you at the outset. It is not related to any of the questions you have just been answering. One of the issues we looked at in detail in Melbourne and Adelaide was the provision of electronic voting for sight-impaired and blind people. We have had a number of submissions along those lines. You would be aware that blind people have, for a long period of time, been arguing for the provision of electronic voting, because, by definition, they must vote with assistance and they cannot have a secret ballot. Under the legislation, they must vote with the assistance of a carer or an AEC official. The ACT has had the provision of electronic voting, and one of the things the committee has been looking at in a bipartisan way is the possible provision of that at every prepoll station so that those with that disability would have the capacity to vote on every day of the prepoll period. From the Labor Party's point of view, would you have a problem with that sort of recommendation?

**Mr Gartrell**—We would support a limited trial of these things. We have to be very careful with electronic voting, so we would support a trial of some sort with a report maybe back to this body and direct discussions with the parties.

**CHAIR**—And some sort of liaison with the AEC well ahead of election time.

**Mr Gartrell**—Yes.

**Senator MASON**—I would like to make a comment which will not take much time.

**CHAIR**—You can make a comment, but Mr Gartrell is entitled to answer it.

**Senator MASON**—Mr Gartrell, I had a few questions, but I note as a matter of interest your idea of four-year terms for the Senate and for the House of Representatives, but for the Senate in particular. I am mindful of the fact that that would mean 12 senators elected each four years from each state and the quota would drop from 14.3 down to 7.7 and that would exacerbate the election of minor parties. I am a bit surprised the Labor Party has come out with this policy. That is all. It is not a partisan point.

**Mr Gartrell**—It was our policy at the last election.

**Senator MASON**—It is just that it will mean quite a different Senate. Senator Carr and I think eight-year terms for senators are a much better idea.

**CHAIR**—That is perhaps a matter for the senators to discuss at a future time. Mr Gartrell, I thank you for appearing and for your submission. As I said at the outset, we are happy to receive any supplementary submissions on any topic. Since you have gone to so much trouble—I know it is very difficult—to put together these graphs, we might as well take them into evidence officially.

**Mr Gartrell**—I think they have been handed over to the committee.

**CHAIR**—Yes, but unless we take them into evidence no-one will get to see them. In the interests of fairness, we take everything into evidence. I move that all of the exhibits and graphs, and the press advertisements that Ms Panopoulos provided and the press release that was provided by Mr Thomson and your associated graphs be taken into evidence and included as exhibits. There being no objection, it is so resolved. Thank you very much.

**HALL, Mr Andrew, Federal Director, The Nationals**

**CHAIR**—Welcome. The committee has received your submission, which has been numbered No. 92. It has been authorised for publication. Is there anything you wish to correct or amend about it in any way?

**Mr Hall**—No.

**CHAIR**—I invite you to make just a brief opening statement of a few minutes and then we will move to some questions on the pertinent issues in your submission.

**Mr Hall**—I thank the committee for this opportunity to appear before you. You have received the submission from our party's federal campaign committee under my name and I am happy to answer any questions from that today. I understand you have also received submissions from several of our local campaign people across the country on various matters. Some of those we covered in our submission. Broadly, our submission tries to focus on achieving sound electoral processes as well as improving and protecting the integrity of the electoral roll. Specifically our committee submission covered seven areas: closure of the rolls, voter enrolment and registration, provisional voting, postal voting, party registration, tighter control on party activities and differing voting systems.

We have sought to put forward some commonsense proposals to the committee for consideration. We believe that after 100 years of conducting federal elections in this country the Australian Electoral Commission needs to have a thorough look at its processes and preparations. At the 2004 election, untested new systems for postal votes resulted in unprecedented confusion and delays in distributing ballot papers. Layered on top of this was the impression that the AEC had failed to correctly anticipate the demands for postal voting.

We believe it is an interesting contrast that someone who has been correctly enrolled for decades, is perhaps living in Western Queensland and has been registered for many years as a postal voter can be nearly denied a vote while someone who has consistently failed to meet their obligations under the Commonwealth Electoral Act, fails to confirm their address and lives on perhaps a coastal seat can vote with very limited scrutiny of their eligibility to be on the roll in that electorate. We fully support the report undertaken by Minter Ellison of the AEC and we hope that the incoming commissioner can ensure that these problems do not occur again.

Our submission also covers our concerns about party registration rules and the ability for voter confusion to be engineered on election day in marginal seats. Our submission raises the question about federal requirements for party registration. It is the case now that it is easier to register a political party for a federal election than it is to register a political party for certain state elections. We believe that the Electoral Act must ensure that political parties are properly constituted organisations and do not act in a manner which is deceptive to voters.

We have also raised our concerns about the differing voting systems across the states and territories and within the federal system. While we have no exact research, our anecdotal evidence from our scrutineers highlights that in states such as New South Wales, where optional

preferential voting occurs at a state level, there is a higher number of informal votes, usually where a voter has followed the state system rather than the full preferential system. While the AEC does its best with its resources to educate voters—and I would fully support any increase in that—before a federal election about preferential voting, it would be more commonsensical to introduce a uniformed national system across all jurisdictions. I am happy to take any questions about our submission.

**CHAIR**—Thank you very much. You would be aware that the postal vote issues have been at the forefront of our consideration, in regional Australia particularly. The committee has travelled to Dalby, Ingham, Longreach and Tweed Heads. I think it is fair to say that we have probably covered those in some depth and do not need to go over it again. Your points are well made. You may not be aware that representatives from the Electoral Commission were here on Friday. They gave some very candid evidence about the mistakes they thought were made and how they could be rectified in the future. I wanted to ask you a few general questions, particularly about party registration, some of the thresholds and how that operates. Would you suggest that the membership requirement be raised to something much higher?

**Mr Hall**—At the moment, the federal requirement is for 500 members, remembering that that is across the country. To register a party in a state like New South Wales, you need 750 members just within that state. We think that there is a valid point now that the federal system should at least match the higher standards set by one of the states and we should in fact take that a step further and make it around about 1,000 members.

**CHAIR**—That is an important point. I want to come to the liberals for forests issue, but in a name sense. We have seen how-to-vote cards and we have had discussions about all of that. It is particularly the name issue that I want to draw you to. There is a capacity where someone or some group with a minimum of effort and with a low membership requirement could set up a party that, for all intents and purposes, can mislead and deceive voters into thinking they are voting for an established political party—passing off as one, if you like. Equally, you could have a party called ‘labor for forests’ where voters would think they were voting for the Labor Party, particularly if ‘labor’ is the prominent thing and the ‘for forests’ is in the smallest possible print. Obviously that is something that parliament has sought to address in the past and has been able to address to a certain extent, I understand, for future registrations. But the open question is the one you raise in your submission, which is about the threshold issue, particularly as it correlates with public funding. Whether that ought to be 1,000 or something higher is something we are considering. Is there anything else on top of that you think we should be considering, such as regular audits by the Electoral Commission over and above what they do?

**Mr Hall**—I have recently received correspondence, and I understand a number of my political counterparts have too, from the AEC asking me to identify which member of parliament The Nationals rely upon to remain a political party and we will, of course, comply with that. But it will be interesting to see how a number of these other smaller political parties respond to that auditing. We welcome that occurring.

The issue of liberals for forests troubles us enormously. It troubles us because we have actual evidence of their brand confusing coalition voters in the seats of Richmond and Page where they fielded candidates. I do not believe that liberals for forests actively constitutes what the Australian community would expect to be a political party. They had no on-the-ground



coordinators or workers that we could find in Richmond or Page. The only people they had handing out how-to-vote cards were backpackers, who they were, it seems, paying \$100 a day to be there. We also had reports from some booth workers saying that backpackers had their airfares from Sydney to Byron Bay paid for. Clearly that was an imported party of a front designed to confuse coalition voters. That confusion has been confirmed. We received a number of letters from people after the election realising the mistakes they had made. I have one here from a Pam and Alan Moss, who, when they fronted at the polling booth, thought that they were being presented by a Liberal workers.

**CHAIR**—Yes, I heard about that.

**Mr Hall**—We have their how-to-vote card.

**CHAIR**—We have seen all of that and we had some specific witnesses from Tweed Heads on the issue. We have had quite a bit of evidence on that. I was particularly drawing you to the threshold for party membership. You make a good point about New South Wales being 750 just for the state. The point I am putting to you is: do you agree that particularly in an age of public funding the requirements on party registration ought to be heightened and ought to reflect that? In fact, in order to clear that hurdle to get public funding, you should have to have much tougher requirements in terms of the number of bona fide members.

**Mr Hall**—Yes, we do. As a party which has a large number of members and which meets fully our obligations under the Electoral Act, we believe the activities of certain parties could possibly bring into ill repute other political parties, and we wish the AEC would pursue those more vigorously.

**Mr DANBY**—Thank you very much for coming in, Mr Hall. Do you support the Liberal Party's submission to extend from \$3,000 to \$10,000 the amount not to be disclosed?

**Mr Hall**—Our federal campaign committee has not yet considered amounts. I am not in a position to put forward an amount on behalf of our party that we have looked at. We do, however, support the Liberal Party's proposition in general that the amount should be increased. It has been a long time since that amount was increased. We support that on the basis of a party that has traditionally sourced its revenue from small business. There has been an increasing compliance burden upon small businesses that wish to contribute probably what would be a fairly modest amount for a small business to a political cause because they have also been required to go through the compliance issue of disclosure to the AEC. You would hardly classify many of these small businesses as having an agenda other than that of wanting to support their party of choice.

**CHAIR**—Do you agree that these amounts should be tax deductible?

**Mr Hall**—We agree in the principle of tax deductibility for political donations. I cannot give you a decision on an amount of money that has been set out in the Liberal proposition because it has not yet been considered by our campaign committee. I expect it is something that we will do ahead of our federal council, which is in a few weeks time.

**Mr DANBY**—Has the National Party considered the issue of increasing tax deductibility or will that be considered at the federal council?

**Mr Hall**—The entire issue of donations will be considered but we support the principle that there should at least be an increase, because there has not been an increase for some 15 years. At this point we think it is probably out of date and does need to be increased.

**Mr DANBY**—Do you have any idea of how much public revenue would be lost if the tax deductibility were increased to the level that you are thinking about?

**Mr Hall**—We have not yet made a decision on the numbers, so obviously it is a matter for our committee to look at in terms of how they balance it.

**Mr DANBY**—I think that is probably one of the things that should inform people's decision about how much revenue is forgone. After our extensive visits to regional Australia, I do find it particularly puzzling to try to understand why the National Party would support the Liberal Party's proposal to close the electoral roll on the day the election is announced. In my view, from meeting people in regional Australia and seeing the difficulty that they have in voting, the idea of making it more difficult than it currently is for them to enrol, particularly in regional and country Australia, seemed to me to be a very strange idea. Can you explain the National Party's reasons for supporting the Liberal Party on this?

**Mr Hall**—The Nationals believe in maintaining the integrity of the electoral roll. At the moment, in the federal system we have a situation where we have nearly the most generous provisions in terms of changing your address after the election has been called. In states like—

**Mr DANBY**—For one week.

**Mr Hall**—In states like New South Wales and Victoria, the roles close virtually on issue of the writs. New South Wales is a fairly large state. People seem to be able to manage their affairs in time to be able to get onto the roll or update the roll. In our submission, we would prefer that the rolls are closed as soon as possible, but maybe up to 72 hours after the issue of writs would be a buffer that would allow the AEC to manage the people who have genuine changes to their addresses which they realise are out of date. The party adheres strongly to the principle that, under the Electoral Act, it is incumbent upon an individual to maintain their correct details with the Electoral Commission at all times. It is incumbent upon an individual living in regional Australia to maintain their correct address for their drivers licence or any government service that they have.

**Mr DANBY**—The National Party has a different policy from the Liberal party. It is thinking about up to 72 hours as a time line for giving people the opportunity to enrol at their correct address.

**Mr Hall**—We are, yes.

**Mr DANBY**—I am saying that your proposal is for 72 hours. It is not the Liberal Party's proposal to close it on the day.

**Mr Hall**—We said that our preference would be to close it, but we would take the advice of the Electoral Commission, which I understand you received on Friday, and if there were a demonstrated need to perhaps leave the rolls open for two or three days—but not a week—then that is something that we would be happy to support.

**Mr DANBY**—Are you aware that approximately 400,000 people use that one-week period to get themselves at the correct address in order to enrol? This is deduced from tables publicly presented by the Electoral Commission, which we can make sure you have access to.

**Mr Hall**—I am also aware, though, that the AEC, if they are provided with more resources, has the capacity to better educate about the responsibilities that individuals have in terms of keeping their electoral details up to date. Our concern relates back to the guiding principle that the electoral roll's integrity must be protected at all costs. Under the current generous provisions we believe, although we have no evidence of it, that there is opportunity to be able to undermine that integrity.

**Mr DANBY**—Isn't an equal and more important guideline of democratic principles that, in a compulsory voting system, we try to have as many people as possible enfranchised and not disenfranchised?

**Mr Hall**—Yes.

**Mr DANBY**—One of those categories of 400,000 people is 76,000 new enrollees, mainly 17-, 18-, 19- and 20-year-olds. Most new enrollees get on the roll by the age of 25. Don't you think that the education campaigns and advertising campaigns run by the Electoral Commission, particularly in your seats—the seats the National Party runs for—would be much more remote than those using the urban media in the cities et cetera? Wouldn't your voters be more likely to be disenfranchised if we abandoned the current system, which we have used for more than 20 years, and took this leap of faith that the Electoral Commission will suddenly be able to get these 400,000 people on the rolls by some advertising campaign which will hopefully go into every nook and cranny—places such as Longreach and Tweed Heads, which we visited?

**Mr Hall**—I think you are generalising without basis of fact. The reality is that, in those large rural seats, I find that people are far more aware of their obligations, and their affairs are usually better organised, particularly if they only visit town once or twice a month. They are also less likely to have moved to that location lightly, even if it is into a town environment. We find that we have the largest number of changes in addresses in our coastal seats. In fact, I put in my submission that it is a concern of ours that the AEC is probably not as up to date as it should be in terms of the sometimes large population shifts that occur in those coastal areas. I think that a lot more work could be done by the AEC in conjunction with local utility providers and local councils to identify areas of high growth and try to ensure those people are enfranchised a long time before the election is called.

I pointed out that, at the state elections in New South Wales and Victoria, they close their rolls pretty much on the issue of the writs, yet the anticipation for a federal election is far greater than for a lot of state elections. People seem to be more well-informed these days about federal elections coming in terms of the media speculation. I do not believe that closing the rolls earlier is going to lead to some huge amount of disenfranchising.

**Mr DANBY**—I absolutely disagree with you, but there is no point pursuing it.

**CHAIR**—You agree to disagree.

**Senator BRANDIS**—Mr Hall, I want to go back to the liberals for forests issue and their despicable campaign in Richmond—and I think Senator Mason has some questions about this too. We were very impressed—or, at least, I was—by the National Party’s witness in Tweed Heads, Dr Sochacki. He was an extremely impressive witness. I remind you that one of the things that he told us was that he was of the view—on the basis perhaps of the same anecdotal evidence to which you have made reference—that a substantial number of people intending to vote for the re-election of the sitting member Mr Anthony were diverted from doing so by following the liberals for forests’ how-to-vote card.

I remind you that, in the end, Mr Anthony lost by 301 votes, so the magic number is 151. If 151 people who meant to vote for him in fact had their vote diverted through a deceptive device to preferencing the Labor candidate then that election was stolen from Mr Anthony. I remind you that 1,417 people voted for Fiona Tyler, the liberals for forests candidate, so it would only take about 12 per cent or so of the liberals for forests votes to be votes which were cast in error by people thinking they were voting for the Howard government to produce the conclusion that Mr Anthony’s seat was stolen from him by a rort. Pardon the preface, but I ask you to give us a bit more information about the anecdotal evidence that you are aware of of mistaken voting for liberals for forests. Can you tell us whether or not you believe it would be that, of the 1,417 people, at least 151 would have made that mistake on the basis of your anecdotal evidence?

**Mr Hall**—We were firmly of the belief that the liberals for forests campaign directed a preference flow away from Mr Anthony, which resulted in the loss of the seat, especially in and around the area of Tweed Heads, where we received the most amount of responses from people who came to us after the election realising the mistake they had made when they had voted. I will take a step back. On election day, we tried to do everything we could to correct the issue as it was on the ground.

**Senator BRANDIS**—I am going to ask another question about that in a minute, but concentrate on the anecdotal evidence for me, would you?

**Mr Hall**—We had a lot of responses from people who said that they were perhaps traditional Liberal voters who had moved to the area or had in their mind that John Howard was a Liberal and that they were voting for the Liberal-National coalition. They said they were confused that the how-to-vote card reflected the Liberal advertising they have seen on the TV, and particularly it was the case at the northern end of that electorate because the TV they receive comes from the Gold Coast, where there was a combination of Liberal and National Party advertising. When they arrived at the polling booth they were presented with young people who were wearing yellow T-shirts, which were the same colour as Larry Anthony’s T-shirts. I think the worst part of the deception was that these young people were saying to voters, ‘Vote for the Liberals.’ People were taking that card and entering the polling booth. That is where we think the deception occurred the most and where we were unable to stop that from happening. The AEC reviewed the how-to-vote card and said it did not breach any of the Electoral Act, but any of the complaints we lodged about what was being said by the booth workers the AEC could not act on.

**Senator BRANDIS**—Extrapolating from the anecdotal evidence, in your professional judgment as a professional political executive do you believe that the number of people misled by this how-to-vote card was likely to have been more than the materially significant number of 151?

**Mr Hall**—Yes, I do, and not only in Richmond; I believe the result would have been a different outcome in the neighbouring seat of Page.

**Senator BRANDIS**—One last question: you mentioned that a complaint was made by the National Party to the AEC and that complaint was dismissed. I do not know if you have had the opportunity of reading the *Hansard* of our Tweed Heads hearing, but if you have you would be aware that the local returning officer gave evidence that the manner in which that complaint was handled by the central authority of the AEC was that the adjudication was made on the basis of a faxed and therefore a black-and-white copy of the offending how-to-vote card.

**Mr Hall**—Yes.

**Senator BRANDIS**—Given that the livery and colour configuration of the how-to-vote card is a very important aspect of its appearance and the way it strikes the eye of an elector, what do you have to say about the appropriateness of making a determination like that on the basis of a black-and-white copy only?

**Mr Hall**—I think it is commonsense that the how-to-vote card was designed to confuse voters and was a direct rip-off of Liberal Party branding. I think, though, that the AEC, when we read their interpretation and we followed up with letters afterwards, followed the words on the page; they did not follow the livery or the branding.

**Senator BRANDIS**—What do you say about that approach? Do you think it is a satisfactory approach?

**Mr Hall**—I think it clear and deceptive conduct for voters who were intending to vote for the coalition government. We have the same belief about the New Country Party as well, who had booth workers in their areas handing out how-to-vote cards saying, ‘Vote for the Country Party,’ targeting older people.

**Senator MASON**—Who did the New Country Party preference?

**Mr Hall**—It was all over the place. I could not answer that, I would have to take it on notice.

**Mr DANBY**—You are being consistent. You would also presumably be opposed to people using the Curtin Labor Party name to try and garner votes from West Australia in the seats of Stirling and Perth and places like that.

**Mr Hall**—Absolutely. I would be opposed to anyone registering a name called Labor for Workers or Labor for anything. If someone is going to rip off your brand that you have invested a lot of money and time in, I do not think that is the right thing to do.

**Senator MASON**—Just one question, Mr Hall. You argue in your submission that The Nationals believe the AEC should be given greater powers to deal with those sorts of matters on polling day that Senator Brandis outlined. What sorts of powers should the AEC be given to deal with issues such as the liberals for forests fiasco?

**Mr Hall**—While the Electoral Act covers words on a piece of paper that can be authorised, clearly there is now a whole new element in terms of being able to deceive voters at the polling booth and I think that the returning officer in each division should be able to decide what is acceptable behaviour.

**Mr DANBY**—So it should be behaviour and conduct as well as the card? What an excellent idea.

**Senator MURRAY**—Your remarks on the close of rolls: I wonder if you could take this on notice—and I will ask the secretary to do the same as we have done for the Liberal Party. Would you mind having a look at table 5, ‘Close of rolls and enrolment transactions’ by type, provided to us by the AEC? It seems to me that in your general response you might wish to vary your views, because some of the ways in which enrolment is conducted now might be best retained. I would describe at least two categories which are worthy of differentiation. One is what I would call a technical change, such as changing your address within a division; it makes no real difference to any outcome, but it is a technical change. The other is integrity issues, such as making sure that people who are dead do not vote. You may wish to vary your views on that when you look at the individual breakdowns. So I will refer that to you on notice.

The second issue I would like to refer to you on notice is to do with the submissions of Antony Green and Senator Brown with respect to the idea of the lodged ticket in a Senate vote being misleading, not leading to an informed vote from a voter and the possibility therefore of looking at an alternative system of preferencing above the line, horizontally. So, there are five parties above the line that you preference from 1 to 5, as well as retaining the below-the-line preferencing but doing away with a lodged ticket. I would like the National Party’s views on that, if there are any.

The third issue I will put on notice is your recommendation 7. It has long been my view that the COAG process does not work effectively with respect to electoral matters, although it works very effectively in other portfolios, and that we should seek as much commonality as we can, particularly on the mechanical side of the electoral system—how-to-vote cards, material around polling booths and referendum provisions, as well as those you have outlined. I wonder if you could have a deeper look at the possibility of getting commonality in numbers of issues, where there are variances between state, territory and federal elections which result in voter or political party confusion or difficulty in dealing with matters, and come back to us with a suggestion as to topics that could profitably be considered in the COAG process.

**Mr Hall**—On your second point, we support the current system. We think that the voter can be adequately informed through the lodgment of preference flows and, if they choose to preference their own way in the Senate, they can go below the line. That is already our view there. I do not necessarily agree with Antony Green’s submission on that.

**Senator MURRAY**—Will you deal with the first and third issues on notice then?

**Mr Hall**—Yes.

**Senator MURRAY**—Thank you.

**CHAIR**—Thank you again for your submission. As I have said to earlier witnesses, if there is a supplementary submission you would like to make on any topic, please do so in the next few days. Thank you once again for coming.

**Proceedings suspended from 1.34 pm to 2.39 pm**

**BROWN, Senator Bob, Senator for Tasmania****OQUIST, Mr Ben, Adviser to Senator Bob Brown, Australian Greens**

**CHAIR**—Welcome. The committee has received your submission, which has been numbered No. 39. It has been authorised for publication. One of the components of that submission, your private member's bill, has been mentioned in a number of other submissions. I just point that out. Is there anything with respect to your submission that you wish to correct or amend or add to in any way?

**Senator Brown**—No.

**CHAIR**—I invite you to make a brief opening statement outlining some of the main issues in your submission before we move to some questions.

**Senator Brown**—I thank the committee for considering the submission. I have three matters outlined in the submission. The first is the most important, and that is the option of an above-the-line voting system in which voters would be able to number boxes next to each of the parties and indeed the Independent groupings above the line in order of their preference, rather than leaving that ordering, as at present, to the party in which they put the number 1 when they mark the above-the-line box of preference. There is the option of voting below the line and that should be retained for those who want to select candidates in order below the line, and there is a forgiveness under the electoral law for people who make up to three mistakes.

The proposal, which has been considered before but not followed through, is to remove the ability of any party, be it the Greens or any other party, to determine on behalf of voters where their preferences should go in order of other parties. I must say, although I have always held that this would be a better option, I am motivated to appear before the committee because of the experience of the last election, where in Victoria the Greens grouping got 8.8 per cent of the Senate primary vote and the Family First grouping got 1.9 per cent of the vote. There is a seven per cent difference there and an order of magnitude of 300 to 400 per cent but, largely because Labor directed preferences to the smaller of those two groupings, to Family First, first, the Family First senator was elected. I can only give you anecdotal evidence about that, but I had a good number of Labor voters who were very angry contact me after the election and stop me in the street in Melbourne and at functions I was at to say that, had they known that Labor had organised its preference flow to Family First before the Greens, they would not have put '1' in the box above the line; they would have voted below the line. They felt they had been cheated of their vote going in the direction they wanted it to go.

You can say, 'Caveat emptor: beware if you are going to buy this party's voting system; put up with how they direct your vote,' but clearly the best thing with democracy is to reflect, as best as possible, the true intention of each voter, on the basis of one vote, one value. It would be much better if the voters were able to determine the order of the preference of parties by a simple above-the-line ordering of the parties according to preference.



The second and third matters are to do with the difficulty that comes with there being no watchdogs on electoral content in the run-up to an election. I raise the Press Council's finding against the *Herald Sun* that readers, and therefore voters, were seriously misled during the election campaign by articles appearing in that newspaper about the Greens' policies. The Press Council noted that the potential damage to the Greens, and to voters, in voters being misled was considerable. That runs into the third matter, which is the removal of truthful testing for TV advertising. Until before the last election, it had been the job of the Federation of Australian Commercial TV Stations, FACTS, to run through an ad and test you as to whether it was truthful or not. I know this because I have been involved in ads being returned at the last minute to the Greens in Tasmania on contentious issues. We had to change the wording, even though we were very happy the way it was originally worded.

We had big trouble in the jostling of an election, but I think a check needs to be kept there. We all know that parties vie to get the best presentation they can, but it is essential that voters are not misled on the way to the ballot box. There needs to be some check there. I believe that the Electoral Commission ought to be empowered to insist on truth in advertising. It is more difficult to insist on truth in what appears in news columns but there should be some form of check at least enabled there too. It is very difficult because it trespasses on the freedom of the press, but is that a freedom to mislead people on the way to the ballot box? I think not. I believe that the Electoral Commission should be given the powers at least that FACTS used to hold. It maintains that it was seriously worried about a High Court challenge to its powers to vet advertising. I believe we should legislate to ensure that an independent office in the Electoral Commission has that power to challenge people, to test the veracity at least of advertising and of election material generally before it is put into the public arena. We need to defend the right of voters to be properly informed and not misled on the way to the ballot box, particularly in a system which has compulsory voting.

**CHAIR**—Thank you very much for appearing and for your submission, which you have just spoken to this afternoon. Point 2 of your submission is the substance of your complaint against the *Herald Sun*, and indeed the ruling from the Australian Press Council. I will take you through some of the policy issues involved as a starting point before I open it up to questions from other members and senators so that we have a reasonable basis on which to work. You obviously had a number of things to say during and after the election. In a press release you said that the *Herald Sun* had misinformed readers in a way that indicated the Murdoch press had gone 'beyond critic to concoct false policy in its anti-Green bias'. Do you recall that?

**Senator Brown**—If you have it there in the press release, it has been put out by me.

**CHAIR**—You called it a 'disgrace to journalism' and said it was no accident or mistake.

**Senator Brown**—I actually said that to the journalist in a press conference.

**CHAIR**—I think I remember seeing it on television. You said his article had perverted democracy, undermined democracy. I want to take you to your precise problems with the substance of the original article. It was sourced from the Greens web site.

**Senator Brown**—Chair, what is your basis for making that claim?

**CHAIR**—I have a printout from the Greens web site. I would like to take you through it.

**Mr DANBY**—Do you dispute that? Is it a current policy, old policy? I am not sure what document we are talking about.

**CHAIR**—I will come to that. Two issues will become apparent. I first of all go to the web site and the material on the web site that existed at the time the *Herald Sun* printed that article.

**Senator Brown**—At the time it was published, yes.

**CHAIR**—Your section on drugs and addiction says in the first four lines:

The regulation of currently illegal drugs should be moved outside the criminal framework. In a democratic society in which diversity is accepted, each person has the opportunity to achieve personal fulfilment. It is understood that the means and aims of fulfilment may vary between people at different stages of their lives and may for some people at particular times involve the use of drugs.

That was on your web site at the time the *Herald Sun* published their article quoting that section. That is correct, isn't it?

**Senator Brown**—We can get into a political debate about this, because your party—

**CHAIR**—I would like you to answer the question. I would like you to confirm that that is on your web site.

**Senator Brown**—Let me just finish my answer, if I may.

**CHAIR**—Sure.

**Senator Brown**—Thank you. Your party was involved in the derivation of the *Herald Sun* claims. We have had a thorough investigation of the whole matter by the Australian Press Council. The Press Council has made the finding that readers of the *Herald Sun* were seriously misled. We have half an hour—

**CHAIR**—We have all day, actually.

**Senator Brown**—You may have, but I have other committees to attend, so we do not.

**CHAIR**—You do not—we do. I said 'we' do.

**Senator Brown**—That is right, you did. If your priority is now to get into a political debate about policy, let that be your priority. What I am saying here is that we need to look at amending the electoral process for the benefit of voters. You can get back into a debate about what was on the Greens web site and what was not, and I hope you will move rapidly onto the taxation levels—

**CHAIR**—I will go through each aspect when you have finished your answer.

**Senator Brown**—Then let me finish my answer. The independent arbiter here, the Press Council, made its finding against the *Herald Sun*. We can repeat that debate, and we will get to no conclusion. But what it will point to is the need for an independent arbiter. That is what I am asking for.

**CHAIR**—You can ask for that. Most parties that publish policies are happy to confirm the mere existence of a sentence in their policy. What I am going to is whether in fact this was on your web site. You have not answered yes or no. Were those four lines on your web site? Yes or no?

**Senator Brown**—I do not have that web site before me.

**CHAIR**—You must know, given that it was the basis of your complaint to the Press Council—

**Senator Brown**—Yes, and I had it before me when I went to the Press Council. If you had had the courtesy to tell me that you were going into a political questionnaire about this matter, I would have brought the web site material with me.

**CHAIR**—I am going to point 2 of your submission. Let me take you to the section on farming. The web site also said:

The ... Greens ... consider it environmentally and ethically essential to decrease all production of animal food and other animal products.

It said that, didn't it?

**Senator Brown**—No, but if—

**CHAIR**—It did not say that on your web site?

**Senator Brown**—Not in my look at the web site at the time. If you had wanted this to be an intelligent, informed debate, and had asked me to bring that web site material with me, I would have done so. Trying to ambush me with information you have there, derived from concocted sources by the Victorian Liberal Party—

**Ms PANOPOULOS**—It is not concocted. This is your web site.

**CHAIR**—This is your web site.

**Senator Brown**—No, no—

**Ms PANOPOULOS**—One would have thought, as such an illustrious—or, some would say, notorious—member of a minor party going to the last election, you would have been very familiar with all the policies that you were selling to the Australian people. To feign ignorance about what was part of your policy as printed on the web site is truly remarkable. You are not above scrutiny on these matters. You have made a complaint, and you have made a complaint against a particular article and a particular journalist. We are trying to ascertain how accurate

your comments are. You have made certain recommendations based on your assertion that that article was incorrect. We are trying to verify the statements in that article and what actually existed on the web site as you understood it. If you as leader cannot recall what was on your own party's web site, that is a statement that goes to something else.

**Senator Brown**—I have not made that complaint at all. You have not read the submission, and I would have expected you would have. What I am putting before this committee, in the interests of advancing electoral probity for voters at the next election, is a finding by the Australian Press Council.

**Ms PANOPOULOS**—But you also made comments today about the newspaper. I am not referring to the Press Council. I am referring to the assertion by the Greens about—

**Mr DANBY**—Perhaps I can help. I just want to confirm a couple more points. Senator Brown raised the issue of tax. Senator Brown says that this is not policy from his web site. What is the point in pursuing this when the provenance of this document is not known?

**CHAIR**—It is known. If you do not remember—

**Ms PANOPOULOS**—He does not know what he is saying.

**CHAIR**—That is a separate issue.

**Senator Brown**—I could ask Ms Panopoulos what is the Liberal Party policy on the web site at the moment. Can you tell me that? And if Mr Smith can, please do. Of course, you cannot.

**CHAIR**—Senator Brown made a complaint to the Press Council based on what was on the web site. I am not going to engage in his filibuster, but I will say this. Is it the case—you spoke particularly about tax—that in May your corporate tax policy proposed increasing the corporate tax rate to at least 49c in the dollar but by August that was not there—that was an error in the *Herald Sun* article. By August it had been amended to 33c. I would assume you would agree with that, because it goes to the submission you made to the Press Council.

**Senator Brown**—The policy of the Liberal Party, like that of the Labor Party and like that of the Greens, in the past has been for higher corporate tax rates—up to 49c before the Greens came here. Under Labor and—

**Senator BRANDIS**—Are you saying that, because of the Greens, corporate tax rates were reduced?

**Senator Brown**—Could well be. You might look that up. What I am saying is that we went to an election with a policy of a corporate tax rate of 33c but the *Herald Sun* ran an old policy—it did not do it with any other party—

**Senator BRANDIS**—Off your web site.

**Senator Brown**—What is more, the *Telegraph* in Sydney, which had been given the same material, had the decency to apologise and retract, but the *Herald Sun* did not. Again, you are

getting into matters upon which the Australian Press Council has adjudicated. It is an independent arbiter and it has adjudicated and found against the *Herald Sun*.

**Mr DANBY**—Was the drugs policy similarly out of date? Did you change it between May and August?

**Senator Brown**—What we are having put to us is that political parties do not change policy. It is trite and unbecoming. Anyway, there we go. I am sure that if I ask members of this panel about drugs policy—and I just did, and Ms Panopoulos was not able to answer.

**CHAIR**—I can guarantee you this: those four lines are not on our web site; they are not on the Labor Party's web site.

**Ms PANOPOULOS**—Perhaps you have not noticed that none of us is the leader of our political party. As leader, we would expect you would be fully familiar with your policy.

**CHAIR**—It is clear that you do not want to be taken through your policies line by line. That is something others can reflect on. I put it to you that every claim in this *Herald Sun* article in the box where it quoted from your web site was either on your web site at that time, in the vast majority of cases, or, in the case of the tax issue, had been on your web site just a matter of months before and had been on that web site for a considerable period of time.

**Senator Brown**—The article introduced, quite spuriously and falsely, the word 'force' in a lot of matters—force farmers off the land, force people onto bicycles, force people to do things. That was never, ever on the Greens web site. That was concocted by the journalist and misled the voters on the way to the ballot box. That again is what the adjudicator found, and that is why we need an independent arbiter—not to protect politicians or journalists who break their code of ethics, as this one did on that occasion, but to protect the voter.

**CHAIR**—That is a different answer to what you gave before. What I said was that the *Herald Sun* quoted in a text box material from your web site, and in every respect the material they quoted had been put on the web site by the Greens—nobody else—and was quoted accurately. To the extent that there was one error there, it was on your web site just a matter of months earlier.

**Senator Brown**—In terms of the time preceding, it did not quote the Labor Party as wanting to nationalise the banks, a past policy. It did not quote the Liberal Party as wanting to ban other political parties, a past policy. It has an obligation to quote the policies on which a party is going to an election, Mr Smith. If you have trouble with that then we disagree.

**CHAIR**—What I have said is that certainly the drugs policy was on your web site and quoted accurately. So you were running to the election on this policy.

**Senator Brown**—No, it was not quoted accurately. We can get into a long debate about that. I again say that the paper was found against by the Australian Press Council.

**CHAIR**—You have said that.

**Senator Brown**—There ought to be a similar independent body—the Electoral Office ought to be empowered to establish such a body—to keep a watch on misleading information in newspapers or anywhere else in advertising leading on to an election.

**CHAIR**—You have made your point. I want to put an alternative proposition to you as my last question. That is that you had a long-standing policy position on a range of fronts, quite comprehensive, that was on your web site for a long period of time. But in the lead-up to the election you experienced something unique to the Greens: you began to be held accountable, as every other major party is, and people started to question your policies. When that happened, they began to disappear off the web site. Is that a fair proposition?

**Senator Brown**—No, that is wrong, but that is your pattern today—you get things wrong.

**CHAIR**—They did not disappear off the web site?

**Senator Brown**—If they did, then give us chapter and verse.

**CHAIR**—You have already said that your tax policy changed.

**Senator Brown**—I did not say it disappeared off the web site. I said it changed.

**CHAIR**—You invited me to give you chapter and verse. I will. I will go to capital gains tax on the family home. This will be my final question. It says: ‘Proposes capital gains tax on luxury homes. Luxury homes defined as top 5 per cent of homes sold in a particular region’ et cetera. By August that section had been removed entirely from the web site.

**Senator Brown**—Because the policy had been changed at a national conference of the Greens. The same thing happens with the Liberals. The same thing happens with the Labor Party.

**CHAIR**—But with respect to the drugs issue, which was the headline in this article, I invite you for the last time to confirm that what was quoted in the *Herald Sun* article was sourced from your web site and put there by the Greens and nobody else.

**Senator Brown**—It was embellished by a journalist who took licence to comment on it in a way which appeared to make it factual. In so doing he trespassed on the obligation of journalists to tell things how they are—not how they think they are or would like to see them presented to readers. Mr McManus ought to have known better than that. He did not. He failed in his obligation to uphold journalistic ethics in not telling the facts but embellishing them in the way in which he did.

**CHAIR**—When he says ‘decriminalised personal use of all current illegal drugs’—and that is on your web site—he was right, wasn’t he? He has quoted directly without deletion or alteration in any way, shape or form.

**Senator Brown**—What he did not do is say that that is effectively what has happened in Western Australia using Commonwealth money, that people are not sent to jail but sent to re-education and given health—

**CHAIR**—So he did not invent this.

**Senator Brown**—Let me finish.

**CHAIR**—He did not invent the sentence and words.

**Senator Brown**—So in effect what the Greens were proposing in terms of not filling the jails with people who get addicted but trying to get them out of their habit for the benefit of the community is also practised by the Liberals. It is just that they do not have the gumption to say so.

**CHAIR**—Let us just finish off with a proposition. Let us perhaps assume for a second that you do not agree with your party's policy. Do you agree with the statement from your web site that the regulation of currently illegal drugs should be moved outside the criminal framework?

**Senator Brown**—I think it should be put into a framework of delivering people out of the criminal system back into gainful mainstream society.

**CHAIR**—It should be decriminalised.

**Senator Brown**—What we say is that—

**CHAIR**—Outside the criminal remit.

**Senator Brown**—there should be harm minimisation—

**CHAIR**—Decriminalised.

**Senator Brown**—through the process. Harm minimisation, we say.

**CHAIR**—Moved outside the criminal framework would mean decriminalised.

**Senator Brown**—If you go the next step—

**CHAIR**—Sort of criminal, totally criminal, not criminal at all?

**Senator Brown**—I am sorry?

**CHAIR**—Should it be criminal or should it not be criminal?

**Senator Brown**—People who sell drugs, who make money out of drugs, should go to jail.

**CHAIR**—Should currently illegal drugs be moved outside the criminal framework?

**Senator Brown**—I think the process your party is involved in of trying to prevent people being sent as criminals to jail and instead getting them off their addiction and back into gainful work is a good one.

**Mr DANBY**—You are making a distinction between users and drug dealers?

**Senator Brown**—A clear one, yes.

**Mr DANBY**—People who are addicted.

**Senator Brown**—Yes, the victims, and that includes society.

**Senator BRANDIS**—Before I start my area of questions I do not want to let your attack on Mr Gerard McManus go unremarked. Mr McManus is a journalist who is respected in his profession, and around this place enjoys the highest reputation. May I say I think your attack on him under parliamentary privilege is disgraceful.

**Senator Brown**—Let me just respond to that, Senator Brandis. I have said nothing about him I did not say directly to him in a press conference. You may have your opinion about it—

**Senator BRANDIS**—I do indeed.

**Senator Brown**—but the Press Council, the arbiter of his own profession—

**Senator BRANDIS**—I do not agree with all of Mr McManus's opinions, but it is one thing to disagree with a journalist's opinion—

**Senator Brown**—Let me finish.

**Senator BRANDIS**—and another thing to attack their character which is unimpeachable.

**Senator Brown**—found that he seriously misled voters who were readers of this newspaper. That is a very serious charge for any professional journalist to have against their name, and it was a charge that the Press Council found proven.

**Senator BRANDIS**—You have spoken here today about the importance of honesty in political advertising. I take it that you would also advocate honesty in compliance with disclosure obligations under the Commonwealth Electoral Act.

**Senator Brown**—I think there should be good laws for that.

**Senator BRANDIS**—As you know, under the Commonwealth Electoral Act, there is an obligation to make an honest and accurate disclosure of donations. In fact, it is a criminal offence under the act if that obligation is breached. You are aware of that, aren't you?

**Senator Brown**—That is the law, as you stated.

**Senator BRANDIS**—That is the law—section 315 of the act. Leaving aside the legalities, you would say, would you not, that all political parties, including your own, have an obligation to be honest in their dealings?



**Senator Brown**—You are leading to a statement of claim here, Senator Brandis, so let us have it.

**Senator BRANDIS**—Why are you avoiding the question? Don't you believe that the Greens have an obligation to be honest in their dealings?

**Senator Brown**—I believe you do and so does everybody else.

**Senator BRANDIS**—Do you?

**Senator Brown**—And that is trite. We can get past that to come up with whatever it is you have got there, Senator Brandis, that you want to make a claim.

**Senator BRANDIS**—Senator Brown, do you think the Greens have an obligation to be honest in their dealings?

**Senator Brown**—I think you do and I think everybody does.

**Ms PANOPOULOS**—Are you above the law, Senator Brown?

**Senator Brown**—Are you, Miss Panopoulos, above the law?

**Ms PANOPOULOS**—Answer the question.

**Senator BRANDIS**—Senator Brown, I will put the question once more and you can either give an evasive response or you can give a direct response. Do you accept, as the national leader of the Greens, that the green party, like all other political parties, has an obligation to be honest in its dealings?

**Senator Brown**—All political parties should be honest in their dealings, Senator Brandis, including your Liberal Party.

**Senator BRANDIS**—And including your green party, Senator Brown?

**Senator Brown**—I have answered the question.

**Senator BRANDIS**—I find it hard to understand why you feel uncomfortable giving a direct response.

**Senator Brown**—I am not the least bit uncomfortable, Senator Brandis, but I am not going to have you put words in my mouth.

**Senator BRANDIS**—I am just asking you whether you think the Greens should be honest in their dealings, Senator Brown, and four times you have avoided responding assertively.

**Senator Brown**—I have been around long enough with you in the chamber, Senator Brandis, to know when you have got some form of revelation you want to make, so let us have it.

**Senator BRANDIS**—I do not want to particularly make a revelation. You know Mr Drew Hutton, don't you? He has been the leader of your party in Queensland for many years now.

**Senator Brown**—A Senate candidate at the last election and—

**Senator BRANDIS**—He almost won a Senate seat, in fact.

**Senator Brown**—outpolled a good many Liberals.

**Senator BRANDIS**—Yes, indeed he did. And you are very familiar with Mr Hutton, I dare say.

**Senator Brown**—As I say, I know him as a Senate candidate.

**Senator BRANDIS**—I do not want to trick you or anything so let me give you the document I am going to ask you about. I have a copy for you too, Chair.

*Mr Danby interjecting—*

**Senator BRANDIS**—I am about to identify it, Mr Danby. Be steady; all will be revealed. Senator Brown, this document appears on its face to be, as it is entitled, the 'Minutes of the QLD Greens management committee meeting Thursday 8 August 2002 Queensland Greens Office, Grass Roots Centre, West End'. Do you see that, Senator Brown? Have a look.

**Senator Brown**—No. I am not going to be directed to go through a document that you hand to—

**Senator BRANDIS**—I am going to take you to some things in the document then ask you some questions about it.

**Senator Brown**—Then read it out and ask me the questions.

**Senator BRANDIS**—You declined to answer Mr Smith's questions responsibly—

**Senator Brown**—No, I answered all Mr Smith's questions.

**Senator BRANDIS**—because Mr Smith had not put a copy of the web site in front of you. I am putting in front of you the selfsame document that I have so you can verify that I am quoting from it accurately.

**Senator Brown**—You have raised this matter before—

**Senator BRANDIS**—I have.

**Senator Brown**—and it has been looked at by the Australian Electoral Commission, and you have been found wanting on it, haven't you?

**Senator BRANDIS**—I want to hear what you have to say.

*Mr Danby interjecting—*

**Senator Brown**—Thanks, Mr Danby. Senator Brandis is raising a matter he has raised previously before a committee. It has been looked at by the Australian Electoral Commission and he has been found wanting in the charges he makes about it.

**Senator BRANDIS**—No, that is not the truth, Senator Brown.

**CHAIR**—This committee has not looked at it, and we are inquiring into the conduct of the election and matters related thereto. So we will look at it now.

**Senator Brown**—Just let me tell you this, Chair: it was the same with you and the web site earlier. If the committee wanted to have a productive debate on political matters to improve electoral outcomes for 20 million Australians—

**Senator BRANDIS**—We think that honesty and political conduct are pretty important, Senator Brown.

**Senator Brown**—then the courtesy is in any situation like this—and Senator Brandis as a lawyer knows it—is to furnish the documents first so that you can then have an informed debate. We can proceed—

**Senator BRANDIS**—Senator Brown, you told us before that you were familiar with this issue because, as you rightly say, I have raised this before in estimates. So you cannot say you have been taken by surprise.

**Mr DANBY**—Senator Brandis, have you provided Senator Brown with the document previously?

**Senator BRANDIS**—Previous to this? No. That is why I am giving him a copy now.

**Mr DANBY**—Do you expect him to read a 20-page document?

**Senator BRANDIS**—No. There are not many sections of the document that are relevant to the questions I want to ask.

**CHAIR**—With respect, Deputy Chair, we are wasting time and he has not asked a single question on it. Perhaps if Senator Brandis could go to his questions, that would be—

**Senator BRANDIS**—I will. Senator Brown, the minutes of the Queensland Greens meeting on 8 August 2002 record, if you care to satisfy yourself, that one of those present was Mr Drew Hutton. We know who Mr Hutton is. If you look at the first page of those minutes, halfway down the page there is a minute of what appears to be Mr Hutton's report to the meeting. Let me read it to you:

Drew could only stay a short time—

**Senator Brown**—Just a moment—

**Senator BRANDIS**—I am just going to read something to you, Senator Brown—you have got it in front of you—and then I am going to ask you a question. You are not here to make political speeches. You are here to answer questions.

**Senator Brown**—You said ‘appears to be’. Is this a hypothetical?

**Senator BRANDIS**—I am saying what the minutes appear to be on their face. If you say they are a forgery or a fraud, you make that point, but the minutes appear to be, in a regular fashion, the minutes of the Queensland Greens management committee meeting.

**Senator Brown**—We are dealing with appearances, not substance, then.

**Senator BRANDIS**—Let me read what is recorded from Mr Hutton’s report:

Drew could only stay a short time, so matters that we had to deal with him were discussed at this point.

Item 1 is not relevant to what I wanted to ask about. Item 2 is not relevant either. Item 3, the last item on the first page, says:

The NSW Greens are having a ‘We don’t take money from developers’ campaign and have asked us to abide by this. We have been asked to ask ecologically sensitive developers who wish to donate to donate to the Rainforest Information Centre’s account which they have agreed to pass on to us. Drew moved that *‘we approve that donations be made to the Rainforest Information Centre who will reroute the money to the Queensland Greens’* John—

that appears to be a Mr John McKeon—

seconded. Approved by consensus.

Senator Brown, isn’t that a fairly patent attempt to conceal the source of donations from ecologically sensitive developers?

**Senator Brown**—Can you authenticate the minutes and reveal your source of them, Senator Brandis?

**Senator BRANDIS**—I will not reveal my source. These minutes came to me. But I can tell you this, Senator Brown: I raised this in a Senate estimates committee last year and nobody—not you, nor any officer of the Queensland Greens, nor anybody else—has suggested in all the time that has passed that these minutes are not authentic. And I note that you are not saying that here today.

**Senator Brown**—I am questioning your source of them and you are not giving it.

**Senator BRANDIS**—No, I am not giving you the source of it.

**Senator Brown**—My second question is: have you taken action outside the parliament on this matter, Senator Brandis?

**Senator BRANDIS**—No. I am a member of parliament. I take action inside parliament, which is what I am doing right now, Senator Brown.

**Senator Brown**—That is because you know that there is no validity to taking action outside the parliament, don't you?

**Senator BRANDIS**—If you go to the fourth page of the document I have put in front of you—

**Senator Brown**—It is a simple exercise in coward's castle, isn't it?

**Senator BRANDIS**—Just for the sake of completeness, the minutes finish off by saying, 'Minutes kept and compiled by Clare Rudkin'. Do you know Clare Rudkin, Senator Brown?

**Senator Brown**—I quite possibly do but—

**Senator BRANDIS**—You do. Okay.

**Senator Brown**—offhand I am not familiar with the name.

**Senator BRANDIS**—Do you know Clare Rudkin, Mr Oquist?

**Mr Oquist**—I do not believe so.

**Senator BRANDIS**—Fair enough. They are dated 10 August 2002. Senator Brown, if I can take you to the seventh page of the bundle of documents I have put in front of you—and I note that you are declining to look at it but it is there for you if you want to see it—there are a series of emails, the first of which is an email from Clare Rudkin sent on Sunday, 11 August 2002, at 1.49 pm to a series of addressees who are the people who are recorded in the minutes as having been at the management committee meeting. The email reads:

Subject: Man Com minutes 8/8/2002

**Mr DANBY**—Senator Brandis, are these emails part of the minutes?

**Senator BRANDIS**—No, I did not say they were part of the minutes. I said they were part of a bundle of documents. If you wait, Mr Danby, all will be explained to you.

**Mr DANBY**—I will exercise your normal patience.

**Senator BRANDIS**—I have no interest in this being other than manifest.

**Mr DANBY**—I do not normally associate emails with minutes.

**Senator BRANDIS**—They are not part of the minutes and I did not say they were. I said they were part of a bundle of documents. Wait, and all will be revealed. Senator Brown, the first email, the Clare Rudkin email to the various addressees, including Drew Hutton and a man called Richard Nielsen, says:

Hi all, Man Com minutes time again. Could you check that I have not been indiscreet (or conversely could have put more info in such as Peter's mini-budget) before I send it on to branches? Cheers, Clare

A response comes from Mr Richard Nielsen. Do you know Mr Richard Nielsen, Senator Brown?

**Senator Brown**—I have met Mr Nielsen a couple of times.

**Senator BRANDIS**—He is one of those recorded as being present at the meeting of 8 August 2002. What office does Mr Richard Nielsen hold in the Queensland Greens, apart from being a member of the management committee?

**Senator Brown**—None that I am aware of. However, he may do. I do not know.

**Senator BRANDIS**—But he is a member of the management committee, obviously.

**Senator Brown**—I simply do not know.

**Senator BRANDIS**—Do you know, Mr Oquist?

**Mr Oquist**—No.

**Senator BRANDIS**—Mr Oquist, you are quite important in the green party too, aren't you? Aren't you an office holder of some description?

**Mr Oquist**—No.

**Senator BRANDIS**—Have you been?

**Mr Oquist**—Yes.

**Senator BRANDIS**—What is the highest office you have held in the green party?

**Mr Oquist**—I could not say which was highest. I have held a number of roles in the Greens for a long time. Perhaps being founder of the Greens New South Wales newsletter was the most prestigious position—I do not know. It depends what you think is best.

**Senator BRANDIS**—I just want to qualify you, Mr Oquist, as somebody who can speak with authority about the Greens, that is all. Mr Richard Nielsen replies to Clare Rudkin, with copies to other people on the email chain, with these words—and, Senator Brown, you can read them if you like:

Hi to all,

With regard to the minutes Clare circulated. I'm not sure that Drew's idea for re-routing of donated money is good minute material ... I think Peter needs to check over the part about the mini budget ...

Then it goes on to some unrelated matters and it is signed 'Richard'. Senator Brown, be honest—when somebody says, when asked to scrutinise some draft minutes, 'I'm not sure that Drew's idea for rerouting of donated money is good minute material,' can that suggest anything other than the fact that the author of the email is suggesting that it would be embarrassing to include that in the minutes?

**Senator Brown**—What do you think?

**Senator BRANDIS**—I am asking you. You are the witness.

**Senator Brown**—I will leave it to you to make up your own mind on that. We are dealing here with documents that are—

**Senator BRANDIS**—Perhaps your beguiling and embarrassed smile tells us all we need to know.

**Mr DANBY**—What did Senator Brown say? I did not hear it over the shouting.

**Senator Brown**—What I am saying is that he will have to make up his own mind about this and take whatever action he needs to take. When we go through this process he will find that no improper action has been taken, and that no action has been taken by him or the—

**Senator BRANDIS**—You say that, and you have the forum of the Senate to say it in if you choose to, incidentally. You have the best forum in the country. But I think that—

**Senator Brown**—I am just saying, Mr Danby—

**Senator BRANDIS**—these things should be put to you face to face, which is what I am doing.

**Senator Brown**—that otherwise Senator Brandis would be the first to have taken some action, and he might well do to look to the inner workings of his own party.

**Senator BRANDIS**—We are all politicians here. I think we can all tell bluff and bluster when we see it.

**Senator Brown**—I sure can, Senator Brandis. I am looking right at it.

**Senator BRANDIS**—In response, then, to Clare's email, Richard Nielsen says that Drew's idea for rerouting the donated money is not good minute material. Then there is a reply, again, this time from Drew Hutton to the same chain of addressees on the list. It says:

Hi to all,

I agree with Richard about not mentioning the re-routing.

So it is not even equivocal this time. This is Drew Hutton saying that there should be no mention of the rerouting of these funds in the Greens minutes. He goes on to talk about some unrelated matters. He signs the email, 'Cheers, Drew.' Again, Senator Brown, I will give you the opportunity to respond. If you choose to evade, people will make of that what they will. But that looks pretty plainly like Mr Drew Hutton concurring with Mr Nielsen in amending the minutes by falsifying them so as to omit embarrassing material.

**Senator Brown**—Whatever the basis of your document—and it would have been much more productive if you had given it to me before—

**Senator BRANDIS**—I put this document on the public record in 2004 at a committee of which you are a member.

**Senator Brown**—Yes, I know, but I tend not to follow your political writings and output very much—

**Senator BRANDIS**—Senator Brown—

**Senator Brown**—but just let me finish—

**Senator BRANDIS**—from your track record—

**Senator Brown**—Just let me finish—

**Senator BRANDIS**—of appearing at Senate committees—

**Senator Brown**—Don't be rude!

**Senator BRANDIS**—you do not seem to follow Senate committees much either.

**CHAIR**—Senator Brandis, let Senator Brown finish.

**Senator Brown**—Don't be ruder than you have to, Senator Brandis. Let me finish by saying this: this committee is charged with improving the electoral process in Australia. If you think, as I do, that there are shortcomings in accountability in political parties in the way funding is accountable to the public then it is incumbent upon you, as it has been upon me, to move to make that more transparent. In my experience, every time I have put such a motion forward over the last several years you have voted it down. So you ought to look at your own record there.

**Senator BRANDIS**—I think before we start reforming the law there is something even more immediate before us—that is, enforcing the law and exposing occasions when the law, in this case section 315 of the existing act, has been violated. We have the leader of the party that apparently violated it condoning it before this parliamentary committee.



**Senator Brown**—The chair should object to that statement. But, patently, Senator Brandis does not have the guts required to follow up on his words or there would have been action in the public arena.

**Senator BRANDIS**—I have raised this now in two parliamentary committees in two consecutive years.

**Senator Brown**—He is lacking the backbone to follow up his words in here and take action in the public arena, which would follow through from his words. He is found wanting.

**Mr DANBY**—Where should he follow through?

**Senator Brown**—If Senator Brandis has a problem with somebody transgressing the law, he should go to the police. That is the obvious course. He knows that, but he has not done it.

**Mr DANBY**—Do you know what the provenance of these emails is, compared to these minutes?

**Senator Brown**—I have no idea.

**Senator BRANDIS**—Senator Brown, you have not condescended to even look at the document that I have helpfully put before you.

**Ms PANOPOULOS**—No, because he thinks he is above this committee. He thinks he is above the law. If we are talking about backbone, Senator Brown is the one who lacks backbone. The one time that the media and other political parties tried to hold them accountable for their policies, he cried and was the ultimate political wussy boy and said, ‘No, no, they’re not our policies.’

**Mr DANBY**—Chair, please. That is unparliamentary.

**CHAIR**—Ms Panopoulos, that is not a question.

**Ms PANOPOULOS**—He just does not like being held accountable. He thinks he has got a political halo and can be outside the political system.

**Senator BRANDIS**—Senator Brown, you were pretty free in attacking Mr Gerard McManus before—

**Mr DANBY**—Chair, I think you ought to let the senator respond to that.

**Senator BRANDIS**—I do not need to respond. I just want to move through my questions, please.

**Mr DANBY**—No, Senator Brown ought to be allowed to respond to Ms Panopoulos.

**CHAIR**—If Senator Brown wishes to, he can, or he can take the next question.

**Senator Brown**—I do, thank you, Chair. I think that says much more about Ms Panopoulos than it does about me.

**Ms PANOPOULOS**—You said it yourself and the Australian people judged it, because they saw through you.

**Mr DANBY**—Sophie, keep calm.

**CHAIR**—All right, you two. Does Senator Brandis have any further questions?

**Senator BRANDIS**—Absolutely. Senator Brown, I have shown you the original draft minutes with the fraudulent device of rerouting by concealing the source of money from ecologically sensitive developers. I have shown you the email chain in which the members of the management committee conspire fraudulently to alter the minutes. The last document in the set I have given you, which appears on the page after the email chain, is a document on which somebody, I do not know who, has written in handwriting ‘amended minutes’. There is, typed as the formal heading of the document, ‘Minutes of the Queensland Greens management committee meeting, Thursday, 8 August 2002’. It is plainly a set of minutes in relation to the same meeting. You may satisfy yourself if you choose, but I can tell you, having studied it, that it is in all material respects identical to the first—that is, the draft set of minutes—save for the fact that item No. 3 of Mr Drew Hutton’s report—that is, the device to conceal the source of donations in breach of section 315 of the Commonwealth Electoral Act—has been removed, apparently in accordance with, and certainly consistent with, the conspiracy cooked up by the exchange of emails. What do you say about that, Senator Brown?

**Senator Brown**—I say you should have taken action on this if you believe there was an infraction there.

**Senator BRANDIS**—I am taking action now, Senator Brown, in the highest forum in the land.

**Senator Brown**—No. In cowards’ castle you have.

**Senator BRANDIS**—In the Commonwealth parliament I am putting it to you face to face and we all look on in amazement that you have not yet once in the course of these questions sought to explain yourself. Let me show you another document, please.

**Mr DANBY**—Senator Brandis, can you explain to me how these documents are connected and why Senator Brown has to explain himself, in the sense that he is not mentioned here in any of these things. I do not know whether these documents are true and accurate documents or where they were obtained or who has produced them. It is very mysterious, I must say, to have two sets of minutes, one of which is making, admittedly, a shocking claim and a linking set of emails that proves a fraud and then a final, amended set of minutes. It is an extraordinary document if it is all accurate and true.

**CHAIR**—Senator Brandis has furnished those documents to Senator Brown. Senator Brown has, in the middle of the disagreement, confirmed at the start his knowledge of these from an earlier estimates hearing. It is not the job of this committee—

**Senator Brown**—Can I clarify that, Chair?

**CHAIR**—Please do.

**Senator Brown**—And please do not verbal me.

**CHAIR**—So it was you that raised the fact that Senator Brandis had previously raised them.

**Senator Brown**—Yes, on advice from Ben Oquist. I do not follow Senator Brandis's perambulations for other committees, I can assure you.

**Senator BRANDIS**—Mr Danby, through you, Chair, the reason I am directing these questions to Senator Brown is that Senator Brown is the national leader of the Australian Greens. These documents appear to be, on their face, minutes of the meetings of the management committee of the Queensland Greens. Senator Brown and Mr Oquist have indicated that they are aware of at least some of the participants, certainly Mr Drew Hutton, who was the principal offender here. Having been invited on several occasions now by me to suggest that the documents are not accurate minutes, Senator Brown has declined to do so. On top of that, Senator Brown, at least through his staff member Mr Oquist, has known of these allegations since they were first raised by me more than a year ago.

Senator Brown, just to complete my questions: the second set of documents I have given you is three annual returns in each case for 2003-04. For the first, the organisation name is the Queensland Greens; the second, which is at the first little blue flag I have inserted, is for the Greens New South Wales; and the third, which is marked at the second blue flag, is for the Australian Greens. You acknowledge, don't you, that the Queensland Greens and the Greens New South Wales are—however the structure of your party works—in effect the state branches of the Australian Greens, the political party of which you are the federal leader?

**Senator Brown**—I think they are separately registered parties—

**Senator BRANDIS**—They are.

**Senator Brown**—and 'related parties' is the terminology there.

**Senator BRANDIS**—But they are not foreign to you. The Queensland Greens and New South Wales Greens are, to use the vernacular, part of your operation, aren't they? They are under the overall umbrella of the Australian Greens.

**Senator Brown**—No. The vernacular is wrong. They are not my operation. I am a senator elected after endorsement by the Australian Greens in Tasmania. We are part of a national confederacy.

**Senator BRANDIS**—Quite. That puts it well, if I may say so. The Australian Greens, if you like, is the peak group.

**Senator Brown**—It is the national group.

**Senator BRANDIS**—All right. Can I invite you to go through the returns for the 2003-04 financial year to satisfy yourself that, in those returns, there are no donors to the Greens recorded who appear to answer the description of developers or environmentally sensitive developers, which could mean one of two things: one is that you received no donations from such a group; the other could be that the donations were—and I think this is an expression used by many—laundered through the Rainforest Information Centre. Please, feel free to go through the documents.

**Senator Brown**—If you had sent me the documents before this we could have an intelligent debate about this. I have just heard—

**Senator BRANDIS**—You can raise this in the Senate, Senator Brown. You have got them now.

**Senator Brown**—Yes, Senator Brandis, that is the proper place for you to have done it, actually. But you have just—

**Senator BRANDIS**—I could not have put these propositions to you directly under the procedures of the Senate.

**Senator Brown**—Let me just finish.

**CHAIR**—Senator Brandis, we will let Senator Brown answer, but point out to him that this is a joint committee of both houses. I know senators have a particular fondness for the Senate, but there is no difference raising it here or in the Senate chamber.

**Senator Brown**—Thank you for your comment, Chair. Senator Brandis, a moment ago, found guilty of a claim he had made—

**Senator BRANDIS**—No, I am not finding you guilty, Senator Brown. I am putting material before you—

**Senator Brown**—If I can finish—

**Senator BRANDIS**—that seems to suggest something and inviting you to respond, and it amazing to me that you will not.

**CHAIR**—Let us invite Senator Brown to respond.

**Senator Brown**—If I can just get through the pompous peroration I am getting from Senator Brandis, when you have a fellow member of parliament who comes in here with no action outside and makes claims against a person and then pronounces them guilty—

**Senator BRANDIS**—I am not pronouncing anyone guilty, Senator Brown.

**Senator Brown**—as he did just a moment ago—

**Senator BRANDIS**—That is a deliberate misstatement of what I have said.

**Senator Brown**—It is exactly what you—

**Senator BRANDIS**—I am not arriving at any conclusions. I am putting documents before you which speak for themselves which appear, on their face, to be Greens documents.

**Senator Brown**—You described somebody as the offender.

**Senator BRANDIS**—I am inviting you to explain them and you consistently decline to do so.

**Senator Brown**—I just think Senator Brandis ought not apply to join the Greens. He falls outside the qualifications required.

**Senator BRANDIS**—The second bundle of documents I gave you, that is the three annual returns: can I ask you to go to the second last page of the last of them, which is the Australian Greens return. That indicates under the heading Receipts and the subheading Intra-party transfers that the Australian Greens received funds from the New South Wales Greens in the sum of \$78,290 and the Queensland Greens in the sum of \$8,171 in that reporting year. If the minutes and the exchange of emails are accurate and speak for themselves, it appears inescapable, does it not, that the Australian Greens, the party for which you have direct responsibility as its national leader, was a direct beneficiary of this fraud.

**Senator Brown**—‘If’ is the starting word of your sentence and it pulls the rest of it apart.

**Senator BRANDIS**—You are an intelligent man, Senator Brown. You are capable of answering a hypothetical question. If the minutes and the email exchange are indeed accurate, and you have not suggested they are not, then the Australian Greens, for which you have direct responsibility, is the beneficiary or a beneficiary of this fraud.

**Senator Brown**—I am not here for hypotheticals from you or anybody else, Senator Brandis. I have put forward a submission here to improve the accountability—

**Senator BRANDIS**—Why don’t you improve your own accountability, rather than try and conceal violations of the Commonwealth Electoral Act?

**Senator Brown**—For example, I could talk about the Liberal Party trying very hard to deceive people into thinking—

**Senator BRANDIS**—We are onto the Greens now. You are responsible for them. Why don’t you take responsibility for the conduct or the misconduct of your own political party?

**Senator Brown**—Settle down a bit, Senator Brandis. What I am saying is that if you want to go into this miscarriage of the committee process a little further then I will raise the issue, and we can explore the issue, of the Liberal Party handouts with Greens triangles on them given to voters on their way to the ballot box to try to deceive them.

**Senator BRANDIS**—You are at liberty to raise any such matters before this committee. That is what the committee is tasked with.

**Senator Brown**—I have raised the matters I wish to raise in my submission.

**Senator BRANDIS**—I have raised the matter of the Greens with you as the national leader—

**CHAIR**—Senator Brandis, you can ask questions as you have done but if Senator Brown does not want to answer them he does not have to. We will now move on to the deputy chair, who has some questions.

**Mr DANBY**—Thank you, Senator Brown, for appearing. The 2,928,941 formal votes—

**Senator Brown**—Before we go to that, Mr Danby, Mr Ben Oquist has just given me a note. Let me read it out, because it will help the committee.

**CHAIR**—We have sworn him in. Why doesn't he read it out?

**Senator Brown**—Because I will read it out, if I may. It says that no donation was laundered through the Rainforest Information Centre, no donation was received from the Rainforest Information Centre and no donation was sought from the Rainforest Information Centre.

**Senator BRANDIS**—What conclusion does that produce, Senator Brown?

**Senator Brown**—It is evidence from which you can make whatever conclusion you wish to make.

**Senator BRANDIS**—If that were to be taken at face value, and I have no reason to doubt that Mr Oquist is an honest man, perhaps it means that the fraud conspired in by Mr Drew Hutton came to nothing.

**Senator Brown**—There you go, finding people guilty again. It is an abuse of the process.

**CHAIR**—Here is what we are going to do. The deputy chair is going to ask his questions. Mr Oquist has passed you a note. He has been sworn in, and if people want to question Mr Oquist they can.

**Senator Brown**—Let me object, however, to that statement from Senator Brandis acting with parliamentary privilege against a citizen outside. It is absolutely cowardly.

**Mr DANBY**—I notice that the Senate Privileges Committee has had a lot better record than the House Privileges Committee in allowing members of the public to respond to these kinds of things, so perhaps you could even respond to a committee thing if you feel that that person is really outraged.

With reference to your submission, there were nearly three million formal votes cast in the Senate election in Victoria that were ticket votes and some 67,000 non-ticket votes in the election. Doesn't that indicate a degree of preference of voters for the current ticket system of voting?

**Senator Brown**—It does, and that is because it is so much easier. One of the interesting things, at some elections at least, is that where voters are used to voting below the line, if you like—in the Hare-Clark system in the ACT and Tasmania—there is a greater proclivity to vote below the line when you get to federal elections. It is a matter of people being used to it.

**Mr DANBY**—You mean there is a greater proclivity above the line in federal elections as people are used to it.

**Senator Brown**—If people are used to voting in the Hare-Clark system, going 1 to 27 in their state election, they are more likely to vote below the line in a federal election.

**Mr DANBY**—I see. So you say that people who have learnt that system in Tasmania and the ACT are therefore more familiar with voting below the line when it comes to—

**Senator BROWN**—Feel easier with it, yes.

**Mr DANBY**—Why do you prefer full preferential voting above the line instead of optional preferential below the line?

**Senator Brown**—I think there should be preferential voting in both places.

**Mr DANBY**—I understood from your submission that you preferred it above the line.

**Senator Brown**—Yes, but leaving the option for people to vote below the line if they want to.

**Mr DANBY**—I see—so one would not exclude the other. Do the Greens support the current alternative of people putting 1 and that still being a valid vote in the Senate?

**Senator Brown**—What we are saying is people should either vote from—if there are 17 boxes—1 to 17 above the line or, if there are 58 candidates, vote from 1 to 58 below the line and be allowed mistakes without invalidating their vote.

**Mr DANBY**—But you would not allow them to continue with the current system where they could vote 1 according to their party ticket. Say the Greens ticket was ordering those 17 above the line, if they put 1 in the Greens box that would not be a valid vote.

**Senator Brown**—Our real concern there is the problem we have now that people putting 1 above the line at the moment have their preferences taken by the party direction. You would expect people to vote above the line 1 to 17 if there were 17 parties and being able to make three mistakes, but they would be expected to vote 1 to 17 to show their preferences for other parties. In the Senate those preferences become very critical, particularly in a compulsory voting system, as to who ends up getting elected.

**Mr DANBY**—Exactly. What action did you take, with the AEC or with anyone else, concerning your complaints about the Family First TV ads?

**Senator Brown**—I took it to the Press Council.

**Mr DANBY**—To the Press Council? What was the result there?

**Senator Brown**—I am sorry—the Family First ads?

**Mr DANBY**—Yes, the TV ads.

**Senator Brown**—I took it to the Australian Electoral Commission and to Free TV Australia, and they found there was nothing to be done about it.

**Mr DANBY**—Both of them said that?

**Senator Brown**—Yes. In fact—

**Mr DANBY**—One is the commercial organisation that looks after advertising on TV?

**Senator Brown**—Yes. FACTS, which was the body that used to send back ads to say: ‘Prove that this is true,’ announced in the last interregnum between elections that it was not going to do that anymore, that it felt legally at jeopardy. Therefore there is effectively no-one you can refer to who has the power to determine whether an advertisement is true or not.

**Mr DANBY**—This is a more parochial matter but, nonetheless, the Liberals for Forests and allegations about people being paid to stand at polling booths to represent them have become an issue of this inquiry and one that has had questions asked about it all around Australia. Are you aware that in Melbourne Ports and at other election places during the last federal election people handed out a ticket purporting to voters how to vote green, vote environment, and that the ticket they handed out was very similar to your ticket with a green box at the top and with a how-to-vote card like that? Are you aware of that?

**Senator Brown**—I was told about that.

**Mr DANBY**—Are you aware that there were affidavits from people, like Roberta Littlewood, who were handing out Greens how-to-vote tickets who said that several voters who were offered the Greens card said they already had one and they had clearly been misled by what turned out to be a green Liberal how-to-vote card?

**Senator Brown**—I had complaints about that, as I recollect, at the time of the election.

**Mr DANBY**—I am following the model, by the way, with regard to how-to-vote tickets set up by Senator Brandis, where he compared various how-to-vote tickets.

**CHAIR**—Have you put those into evidence yet?

**Mr DANBY**—These ones?

**CHAIR**—Yes.



**Mr DANBY**—No. I am happy to put these into evidence too. I am asking Senator Brown about the Greens' view of this rather than the Labor Party's view of this. Are you aware that all of the people who were handing out these tickets which were very similar to the Greens tickets but which were in fact Liberal tickets were dressed in green with green hats and were all young women?

**Senator Brown**—I did not know they were all young women but I do remember being told about that at the time of the election.

**Mr DANBY**—Were you aware that many of them were professionally employed and thought they were coming to participate in something else? One of them thought they were coming to dance.

**Senator Brown**—No.

**Senator MASON**—I do not know why you would dance at a polling booth but that is just an allegation.

**Mr DANBY**—Were you aware that all of these young women in the green T-shirts and green hats handing out how-to-vote cards—

**CHAIR**—My information is that the only person dancing on election day was you, Mr Danby.

**Mr DANBY**—The chair is not taking a very neutral stance. Were you aware that they were all hired by an events company that did not declare that this was their contribution to the election campaign?

**Senator Brown**—No, but that again is a serious matter. I am aware, or I am told, that in the seat of Richmond in northern New South Wales people related to the government parties were handing out how-to-votes with green triangles on them. I think voters have got to be aware that they are getting the information they want, because ultimately you cannot proscribe how-to-votes, although in Tasmanian electoral law how-to-votes are not handed out and election material is not handed out.

**CHAIR**—Is that because of the Robson rotation?

**Senator Brown**—It came with the Hare-Clark system. You could quite well have how-to-votes outside. They do away with it and it is a very peaceable Saturday. However, if we are going to permit how-to-votes and people outside polling booths, there have to be rules. If there is an increasing tendency, from wherever it comes—whether it comes from the Greens or the Democrats or the Liberals or Labor—to imitate what the other parties are doing, we need to start putting down some rules.

**Mr DANBY**—It might surprise you to know that just prior to this the National Party representative said that the view of liberals for forests—and I know this was the view of Senator Brandis too—was so bad around the country, particularly in the seat of Richmond, that misleading conduct and deceptive behaviour ought to be considered as well as misleading and deceptive how-to-vote cards. That is certainly my experience from the deceptive and misleading

campaign in my own electorate. It may be unpleasant for some people but we have to draw a line in the sand somewhere. The act only deals with how-to-vote cards.

**Senator Brown**—An independent authority has to be able to do the investigation. We do not have that. The electoral authorities are not empowered to do that in any meaningful way.

**CHAIR**—Let us move on. We have more questions and we are grateful for your time.

**Ms PANOPOULOS**—I will try and be brief. Senator Brown, you had been given a relatively free ride by the media for years, and I can understand your anger when Mr McManus ended your media honeymoon. Why didn't you have the backbone to defend your own policies of an inheritance tax, more voting rights for prisoners and taxpayer funded sex change operations? You cried foul instead. My second question is: can you understand the electorate's disappointment when you could not face the same scrutiny of your policies as other political parties? People thought you were a player and just as accountable as other politicians and other political parties, and they found you were not. Thirdly, can you please direct us to where we can get a comprehensive, unabridged version of current Greens policies at any particular time?

**Senator Brown**—In answer to the first two questions, that is just politics.

**Ms PANOPOULOS**—No, they are fair questions.

**Senator Brown**—I defend, and did throughout the election campaign, the Greens policies, and I will continue to do so. I would hope you would do the same for Liberal Party policies. What you will find, however—

**Ms PANOPOULOS**—It is just that you seem to spend a bit more time crying foul, that is all.

**Senator Brown**—Let me say this: you do not know what your drugs policy is; you are unable to tell me that. But that is fair enough, because the Liberal Party in this country—

**Ms PANOPOULOS**—I am not here to be cross-examined by you, Senator Brown; you are here to give evidence.

**Senator Brown**—had 24 small pages of policy before the last election. The last three were blank and all the rest were blandishments. There were no policies put forward except those that came from the Prime Minister. As far as the party is concerned, there was no policy platform that you could put anything to at all. I find your wish to criticise a party that has the gumption to come forward with very specific and comprehensive policies is a bit wanting.

**Ms PANOPOULOS**—But you tried to hide them.

**Senator Brown**—I did not try hide them—

**Ms PANOPOULOS**—You took them off your web site; you did not want to talk about them.

**Senator Brown**—They were not taken off the web site—

**Ms PANOPOULOS**—You still wanted to pretend you were a soft, tree-hugging party when you were quite extreme on drugs, on foreign policy and on taxation. When one journalist exposed all of that, you could not cop it, could you?

**Senator Brown**—I was very happy to take him on—

**Ms PANOPOULOS**—And you lost.

**Senator Brown**—I took him all the way to the Press Council, where he lost.

**Ms PANOPOULOS**—I think the Australian public voted on who won and who lost on that one.

**Senator Brown**—It doubled the Greens' vote up to 900,000, so you might take a leaf from our book. It would do you some good.

**Ms PANOPOULOS**—Certainly not, and I do not think my constituents would direct me in that direction either.

**Senator MASON**—I have some policy questions that relate to the issue raised by Senator Brandis.

**Senator Brown**—Do you have any questions about my submission?

**Senator MASON**—This will touch it.

**Senator Brown**—Or about voting above the line particularly, because I am very keen on that.

**Senator MASON**—I was going to ask a question about that at the end. Do you want me to ask you it first?

**Senator Brown**—I am glad I have got you to do it, because none of your colleagues has done so yet.

**Senator MASON**—Let me ask you that question first about voting above the line for the Senate. You may have answered this before and I may have missed it, but do you want to make it optional or fully compulsory?

**Senator Brown**—It should be that you have to fill in all the boxes. As with below-the-line voting, there should be provision for making mistakes without having your vote discounted.

**Senator MASON**—Do you still believe there should be the option simply to vote 1 above the line?

**Senator Brown**—If there are 17 boxes above the line, you should vote 1 to 17.

**Senator MASON**—If I am misrepresenting you, let me know; I am sure you will. This question relates to the issue Senator Brandis raised before about other entities—charities and so forth. As you are probably aware, I have raised in the parliament, in things I have written and elsewhere issues relating to charities being used to funnel money. This does not just relate to the Greens; it relates elsewhere. For political parties, there is a \$100 limit on tax deductibility; you would agree on that. It is \$1,500 in relation to the limit on disclosure.

**Senator Brown**—It is about to be changed. Government policy is not for that into the future; it is to raise it.

**Senator MASON**—But you would agree that those are the rules at the moment?

**Senator Brown**—I do not have to; that is the law.

**Senator MASON**—Yes, that is what I mean; you agree that that is the law. I am not trying to trick you. Do you agree that that is the law?

**Senator Brown**—You can state that it is. Let me just say, Chair—

**Senator MASON**—Senator, I was just asking.

**Senator Brown**—if the senators want to make a statement about things as they exist and then ask a question, I am happy to answer. But I do not have to agree with them that the earth is round or that trees grow upwards—

**Senator BRANDIS**—That is the last thing you believe, Senator Brown, judging by some of your policies!

**Senator Brown**—If they want to be primitive about that, then sure, but can we get on with something substantial?

**Senator MASON**—I was not trying to be clever.

**CHAIR**—Just for the record, we all do think the earth is round.

**Senator Brown**—We are in good agreement there.

**Senator MASON**—With respect to charities, Senator Brown, an issue that has been circulating in the press and here in Parliament House is about ‘charitable purposes’. Charities, whether they are educational, environmental or religious, can engage in ‘charitable purposes’, and they have all these tax breaks. Many charities engage in political activities and are not subject to the same strictures as political parties. It cuts across the Left and the Right; it cuts both ways. Do you agree that is an issue? Is it an issue that concerns you?

**Senator Brown**—I think it has to be taken in the light of where the taxpayers’ money is going. In the last study I saw of it, the corporate sector in Australia was getting \$14.5 billion in largesse from state and federal governments. That is taxpayers’ money. That is corporate welfare.

**Senator BRANDIS**—Are you including Telstra in that calculation?

**Senator Brown**—The last time I looked at it, corporations were prodigious donors, directly and indirectly, to political parties, in particular to the coalition. I put it to you that they get far more of the taxpayers' money than any charity in Australia and ought to be under much greater scrutiny. I am in favour and the Greens are in favour of a prohibition on donations coming from other entities to political parties. That is what public funding is for. I have just been in Canada, where, nationally, they put a ban on donations coming from unions, corporations and so on. They have given very good public funding to make up for that, to get rid of all the—

**Senator MASON**—So there would be no undue influence, in effect.

**Senator Brown**—Yes, and I think that is something that the government might look at seriously and certainly the parliament should.

**Senator MASON**—I asked the question, and it is true that I have used the argument, for political purposes. It concerns me that green charities can engage in politics. I do not hold you responsible for the Wilderness Society—

**Senator Brown**—I hope that to some degree you might. As a founding member of the Wilderness Society, I would be very pleased if you did.

**Senator MASON**—I know that. I am not saying it does not cut both ways. For example, there could be a church group, let us say, that is a charity. It might give money to the coalition, or it might serve conservative politics. These issues cut both ways. I ask you this quite genuinely—it is an issue we have not grappled with properly. I am wondering if there are any solutions. It is not a matter of me just attacking the Greens or the Wilderness Society, because it does cut both ways. It worries me that we have not come up with a legislative solution that is acceptable across the board.

**Senator Brown**—That is a very fair point. I think we should look very carefully at the Canadian law which came in about two years ago which dealt with just this problem. I think it is a much better system. Let us make no bones about it: donations to political parties rarely come without some string or some wish attached inherently. It may be just that they want a certain political party to be elected. It would be much better if we got rid of the donations system as they have done in Canada. It would save taxpayers—they would get much better value out of their vote—if we were to have public funding and restrict it to that. We might continue to allow individuals to give \$100, but the large donations need to be history.

**Senator MASON**—But would you agree in principle that, in terms of public policy, it is not good that charities give moneys to political parties?

**Senator Brown**—The biggest charities in Australia are the corporations, and they should—

**Senator MASON**—So you agree with me?

**Senator Brown**—Yes, but let us not pick on—

**Senator MASON**—I have not mentioned any names—

**Senator Brown**—You have.

**Senator MASON**—I am just raising the principle.

**Senator Brown**—And I appreciate that, but I think it needs to be looked at across the board. The biggest donor of government largesse is the corporate sector. Looking just at charities to say, ‘We’ll put prohibitions on them,’ is to miss the bigger game. Legislation to end donations to political parties should be across the board.

**CHAIR**—I thank you for your submission, for appearing today to discuss all of those issues and for staying the additional time that you did.

**Senator Brown**—Thanks, Mr Smith, and thank you, members of the committee.

[4.00 pm]

**FERGUSON, Mr Laurie Donald, Federal Member for Reid**

**CHAIR**—Welcome. The committee has received your submission, which it has numbered 9. It has been authorised for publication. Is there anything you wish to correct or amend in any way?

**Mr Laurie Ferguson**—There are a few grammatical errors, but nothing essential.

**CHAIR**—I am glad you picked them up. We particularly wanted to hear from you. We are aware that you could not make it in Sydney. We have heard evidence in regional Australia, particularly about postal voting, where there were some well-documented problems. Given your experience, and the fact that you put in an early submission—as I said, it is No. 9—we want to hear your reflections on how the AEC might learn a few lessons from the election, whether there is anything in particular they should be looking to do next time and how things operate within your seat of Reid.

**Mr Laurie Ferguson**—Thank you very much. The essential starting point is that the Reid electorate is one of the most non-English-speaking background electorates in the country. Of particular concern in a continuous sense is informal voting. If you look at the five seats with the highest number of informal votes in Sydney, with one exception they have the five highest proportions of non-English-speaking background populations. The exception is Chifley, which is possibly explained by educational accomplishment. I note that in the electorate of Fowler there was a decline in the informal vote there of some significance in this election. I think that might be related to a campaign by the AEC in the Vietnamese community. I would like to see a broadening of that kind of activity through a number of these seats.

They had a few seminars in my electorate, but what concerns me is that perhaps, as I note in the letter, the interested people are the ones who turn up at those kinds of seminars—community leaders et cetera—and we are not really penetrating areas where the problem exists. I want to see more effort from the AEC with regard to election day television displays, which I gather happened in Fowler. It might, on a minimal level, happen in my electorate. So informal voting is of concern; it is quite high. It does not correlate with the number of candidates per electorate; it clearly correlates to a large degree with non-English-speaking background populations.

I do not know whether other members have canvassed the postal vote issue. There are two principal concerns. The distribution was a mess. I have not got the figures in front of me, but I have heard about the experiences of people in my office who have been involved in many elections. The stages in which the postal votes came back—the dribs, the drabs, the delays, the lateness—seem to correlate with the way in which it was contracted out this time. It was taken out of the hands of the local electoral office. I think that relates to other pushes for co-location of electoral offices, which is also of concern, although I have not mentioned it in this letter.

The other issue was the question of postal vote privacy. We constantly hear references to terrorism, to fraud et cetera. When you start heightening possibilities by publicly displaying

people's dates on the backs of envelopes, it is a concern. I guess they are the main matters. I have been around; I have been in state and federal parliament for 20 years. At this election I had a lot more questions asked about the way in which people were put in these polling booths without prior assessment of their abilities. People were holding up huge lines of people because they apparently could not see the papers in front of them, because they needed glasses or something. There were not enough workers in some polling booths because people who were supposed to turn up failed to arrive.

**CHAIR**—On the election day?

**Mr Laurie Ferguson**—Yes, on the day. I do not know whether we look at having a reserve army of people, available on call. But that question of putting people without the requisite skills on polling booths, who have not been examined and who stuff up the whole process during the day needs to be examined.

**CHAIR**—I want to go to your experience as a member from New South Wales. We have had a lot of evidence, and of course there has been press comment, about the interaction of optional preferential at the state level and preferential at the federal level driving up the informal vote in some of those seats because of the obvious confusion. From your perspective, did the AEC have a specific advertising campaign that you saw that related particularly to New South Wales, pointing out the differences in the system? What would you advise they do next time, perhaps in the six months leading up to the election?

**Mr Laurie Ferguson**—I probably do not watch enough television to know the answer to that. Quite frankly it is clearly a local issue New South Wales. I do not think there is any doubt whatsoever that the dichotomy between the two electoral systems is a factor. A lot of people get used to the way they voted recently in one election and that is how they vote again. At the last state election—I cannot comment on the federal effort but I can comment on the state effort—there was a very high-profile media campaign.

**CHAIR**—You had more time to watch television!

**Mr Laurie Ferguson**—There was a very high-profile campaign about how to vote in New South Wales.

**CHAIR**—And about how it all worked.

**Mr Laurie Ferguson**—Yes.

**CHAIR**—So the national adverts that we see from the Electoral Commission about numbering every square, which are generically good for Australia, need to go a bit further in the states of New South Wales and Queensland to point out that it is different to the state system and you must number every square.

**Mr Laurie Ferguson**—Absolutely. There is a clear problem here and the AEC should lift its game on it.



**Mr DANBY**—Perhaps the success of the state advertising system makes the problem at the federal elections even worse because the optional preferential system is so extensively advertised and drummed into people's heads that, particularly for people not familiar with the difference between the two systems, it really reinforces precisely the problem that we are having. How long has optional preferential existed in New South Wales?

**Mr Laurie Ferguson**—I do not know; sorry. All I can say is that I had the impression in the last state election that, in elections since it has been there, there has been a strong accent on it, a strong emphasis on it, a strong campaign to get it into people's heads.

**Mr DANBY**—With non-English-speaking voters, what efforts did the Electoral Commission make to drive the informal vote down at the federal election?

**Mr Laurie Ferguson**—As I said, in my electorate they held, as I understand it, a few seminars. I was given indications earlier that there was going to be a very heightened effort. I am not sure that that occurred at all. I do know that in Fowler, where I stressed earlier that there was a decline in the informal vote of a quite significant statistical level—

**Mr DANBY**—Why was that?

**Mr Laurie Ferguson**—My understanding is that they did a lot of television on the day. In the polling booths they actually had television information.

**Mr DANBY**—And they did not have that in your electorate?

**Mr Laurie Ferguson**—I heard they did it in one or two polling booths, but it was noticeable in Fowler. I think more effort has got to be put into those five or six seats with a very high NESB vote. It is not just NESB electorates; it is NESB new arrival electorates. In some of these electorates that are high NESB, the people have been here 20 years.

**Mr DANBY**—Or 40 years.

**Mr Laurie Ferguson**—Yes. My electorate and Fowler are probably the electorates in Sydney which have the highest proportion of new arrivals.

**Senator MASON**—You say in point 5 of your submission that there appeared to be no improvement in the informal vote, despite claims of an education campaign. Do you have any idea how the AEC could improve?

**Mr Laurie Ferguson**—I remember years ago there was a campaign which put notices in videos going out from popular ethnic video shops—and there is the media et cetera in those areas.

**Senator MASON**—And ethnic newspapers could be used as well.

**Mr Laurie Ferguson**—Yes. But, as I say, I think a large part of the campaign, from what I heard, was about running a few seminars. I think this audience is sometimes a bit self-selecting. If that is all you are going to do, you are going to get the interested, active people half the time.

**Senator MASON**—You are dead right. Senator Forshaw, who is not here, did show me the figures before for places like Fowler and Reid. Ten or 11 per cent informal is way, way too high. There is no question.

**Mr Laurie Ferguson**—On a minor point, which does not really concern this committee but which I put on the record for the local electoral commission and the AEC, I complain about one polling booth which for a decade or more should have been replaced because it is dangerous.

**Senator MASON**—Treves Street.

**Mr Laurie Ferguson**—Yes, it has a line 150 long virtually all day every election. The informal vote at that polling booth does not reflect the local NESB population. It is one of the polling booths with a significantly lower non-English-speaking vote compared to the rest of the electorate and yet it has one of the highest informal votes because of people's frustration.

**CHAIR**—Once they get there they just want to vote and get out. There being no further questions, I thank you very much for appearing and for making your submission. Certainly that will automatically be drawn to the attention of the AEC, and your submission will form part of our deliberations on recommendations for postal votes and operations on the day. Obviously, if there is anything else that comes to mind in the coming days and you want to make a supplementary submission, we would be more than happy to receive it.

**Mr Laurie Ferguson**—Thank you very much.

**CHAIR**—On behalf of the committee, I would like to thank all witnesses who have given evidence today. Before we wrap up we need to accept into evidence exhibits tendered by Senator Brandis—a number of documents, each of which the *Hansard* will record, which were handed to Senator Brown.

**Senator BRANDIS**—Just for clarity, there were two separate bundles, which should be treated as two separate items. Bundle 1 comprised original draft minutes, a one-page set of email exchanges and amended minutes. Bundle 2 comprised the annual returns for the 2003-04 year of, respectively, the Queensland Greens, the New South Wales Greens and the Australian Greens. I move that those be accepted into evidence.

**CHAIR**—There being no objection, it is resolved that those items be included as exhibits for the inquiry. There being no objection, it is also resolved that the submission from the ACT Electoral Commission from 9.30 this morning be accepted as evidence for the committee and authorised for publication.

I have one final point with respect to the evidence from Senator Brown and his submission. He spoke throughout the afternoon about the Press Council's deliberation. The Press Council is not automatically right, in my view. In the interests of candour, I have publicly said that I think the Press Council erred in that decision. This committee, in its deliberations, will consider all the matters raised. We will reach our own conclusions on all of these matters after discussion, and make our report.

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

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

**Committee adjourned at 4.12 pm**