

DISSENTING COMMENTS BY THE AUSTRALIAN GREENS

1.1 The Australian Greens believe that this Bill is a significant departure from the long established Australian rules of evidence, yet the Bill does not present sufficient safeguards to justify the displacement of the general principles of admissibility.

1.2 The Australian Greens have particular concerns about the following aspects of the Bill:

- the retrospective application;
- the admissibility of foreign evidence which merely appears to consist of a business record;
- the reversal of the burden of proof on matters of admissibility;
- the departure from s 69 of the Uniform Evidence Acts with regard to an assessment of the quality of knowledge of the person who makes a representation in the business record; and
- the departure from the rules of admissibility for foreign material being adduced as oral evidence.

1.3 The Australian Greens recognise the need to ensure that Australian rules of evidence are relevant and useful in modern times in light of increasing international crimes such as fraud and money laundering and the importance of being able to collect evidence to use in these cases. However, we strongly believe that convenience can not out weigh the necessity of maintaining fair and just rules of evidence.

1.4 The Australian Greens recommend that the issue of adducing foreign material should be referred to the Australian Law Reform Commission for further investigation and report. The ALRC has previously undertaken an extensive review into the Evidence Act 1995 and is suitably experienced and knowledgeable to undertake such a review.

Senator Scott Ludlam

