

Election day

5.1 In this chapter, the Committee examines issues which can be conveniently grouped as relating mainly to the conduct of the election on polling day itself. The topics considered are:

- **Administration issues**
 - ⇒ training of polling officials
 - ⇒ compensation of polling officials
 - ⇒ staffing of polling booths
- **Polling booths**
 - ⇒ location of booths
 - ⇒ joint polling booths
 - ⇒ size and position of signs/advertisements around polling booths
- **How-to-vote cards**
 - ⇒ the need for HTV
 - ⇒ alternatives to HTV cards
 - ⇒ misleading HTV
- **Voting**
 - ⇒ absent voting
 - ⇒ provisional voting
 - ⇒ prisoner voting
 - ⇒ homeless voting
 - ⇒ mobile polling
 - ⇒ assisted voting

- fraudulent voting
 - ⇒ precinct/sub-divisional/local voting
 - ⇒ proof-of-identity requirements
 - ⇒ barcoding
 - ⇒ networked checking of the Electoral Roll
- **Senate**
 - ⇒ Group Voting Tickets

Administration issues

Training of polling officials

- 5.2 The AEC reported that it spent nearly \$80,000 on the training of polling staff, and that approximately 67,000 temporary staff assisted in the conduct of the election.¹ Officers in charge of polling places received payment for three hours of home study and three hours to attend a training session. Polling officials issuing declaration votes receive payment for one hour of home study and one hour to attend a training session. Polling officials issuing ordinary votes would also be expected to spend an hour reading the manual and completing homework exercises.² The AEC noted that many election staff have worked at a number of elections, building up extensive experience.³
- 5.3 A number of submissions considered that the training provided was inadequate,⁴ citing examples of:
- errors in the training material;⁵
 - training being curtailed because of the wrong starting time being advised;⁶

1 Submission No. 182 (AEC), Table 2 identifies \$79,474.86. Training for call centre operators was additional to this sum. AEC, *Behind the Scenes 2004 Election Report*, 2005, p. 16.

2 AEC, quoted in Submission No. 8, (Mr P. Hickey), Attachment B.

3 AEC, *Behind the Scenes 2004 Election Report*, 2005, p. 16.

4 Submission Nos 8, 9, 49, 50, 68, 100, 134 & 176.

5 Submission No. 134 (Mr I Freys).

6 Submission No. 176, (Mr S Luntz).

- the estimate of time required to study the manual and undertake the homework exercises was "totally unrealistic";⁷
 - some staff not understanding the role of scrutineers.⁸
 - inconsistent interpretations of the Act from booth to booth;⁹
 - a polling official apparently unfamiliar with the arrangements permitting a provisional vote;¹⁰ and
 - unfamiliarity with the Group Voting Ticket booklet required to be available at each polling place.¹¹
- 5.4 The Committee was particularly concerned by reports that polling place staff were unfamiliar with the legislated requirements in relation to provisional voting and Group Voting Tickets. The Committee noted that the AEC had undertaken to include in polling official training sessions a segment on the reasons behind providing Group Voting Ticket booklets to voters.

The Committee's view

- 5.5 The Committee concluded that the variety of issues raised did not indicate a systemic problem with the AEC training for polling place personnel.
- 5.6 The Committee did, however, note, and share, concerns that the ageing of the population will bring the retirement of polling officials with long experience, with the consequent need for the AEC to ensure that training programs are designed to replace this expertise.¹²
- 5.7 In this regard, the Committee was concerned at the apparently low expenditure of 0.06% of the election budget on the specific training of polling staff.¹³

7 Submission No. 8, (Mr P Hickey).

8 Submission No. 49, (Senator R. Webber).

9 Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005, p. 22.

10 Submission No. 176, (Mr S Luntz).

11 Submission No. 100, (Electoral Reform Society of South Australia), Attachment 5.

12 Submission No. 176, (Mr S Luntz).

13 Submission No. 182, (AEC), Table 2. \$79,474.86 of a total expenditure of \$117,914,086.92. Training for call centre operators was additional to this sum.

Recommendation 22

- 5.8 **The Committee recommends that the AEC review the proportion of its election budget allocated to training polling booth staff.**

Compensation of polling officials

- 5.9 Polling officials issuing ordinary votes or working as ballot box guards or queue controllers were paid \$279, a 5% increase on the rate for similar polling officials at the 2001 Federal Election. The rate was based on 14 hours and included a component for home study.¹⁴
- 5.10 One submission claimed that the amount of home study required to understand the responsibilities of polling officials was inadequate.¹⁵

The Committee's view

- 5.11 The question of the adequacy of payment in relation to the amount of home study was an issue which the AEC should consider in its examination of training.

Staffing of polling booths

- 5.12 Evidence to the Committee drew attention to the queues at polling booths and queried whether the AEC was allocating sufficient staff to polling places.¹⁶ One solution proposed was that additional staff be allocated for the expected busy periods.¹⁷
- 5.13 Another related issue was the hours staff were required to work. The AEC indicated that the remuneration paid to polling officials was based on 14 hours (including a component for home study), and that, in most booths staff would complete their work by 10.00pm.¹⁸ However, one submission noted the physical demands on polling officers during the long hours involved at some polling places.¹⁹

14 AEC quoted in Submission No. 8, (Mr P Hickey), Attachment B.

15 Submission No. 8, (Mr P Hickey).

16 Submission Nos 9, 42, 94, 176 and see Mr T Mathers, *Evidence*, Wednesday, 6 July 2005, p. 18.

17 Submission No. 92, (The Hon. Arch Bevis MP), p. 2.

18 AEC, quoted in Submission No. 8, (Mr P. Hickey), Attachment B.

19 Submission No. 176, (Mr S Luntz).

The Committee's view

- 5.14 The Committee noted that the effectiveness of officials would be affected by demanding days of such duration and considered that additional staff should be allocated to booths which have experienced problems before, or have predictably high voter turn out, and during busy periods.

Recommendation 23

- 5.15 **The Committee recommends that the AEC ensure that it has sufficient staff to meet peak demands at known busy polling places, if need be through the use of casual staffing at peak times.**

Polling booths

- 5.16 The operation of polling booths attracted comments during the Committee's review of the 2004 election. In addition to comments on the operation of polling booths, the Committee was advised to consider a few specific issues.

Dual (joint) polling booths

- 5.17 The AEC established dual polling places in most divisions for the 2004 election. The AEC stated:

dual polling places are established when a polling place in one division is regularly used by a large number of voters from another division, who are only able to complete a more inconvenient absent vote.²⁰

This assessment is made for each division by the Divisional Returning Officer.²¹

- 5.18 According to the AEC, if the polling place is issuing sufficient absent votes for a second division to require three declaration vote issuing officers for voters for that division, then there is sufficient justification for establishing a dual polling place.²²

20 Submission No. 165, (AEC), p. 29.

21 Submission No. 182, (AEC), p. 13.

22 Submission No. 165, (AEC), p. 29.

5.19 Mr Mark Powell, citing the experience in the Queensland electorates of McPherson and Moncrieff, urged the curtailment of the use of dual booths because voters:

would have been barraged by 2 sets of campaign material from each candidate in the electorates, then confronted with the two booths when they actually made it inside... this process must leave many voters confused.²³

5.20 The submission also claimed that joint booths are wasteful of AEC resources and they disadvantage minor party and independent candidates.²⁴

The Committee's view

5.21 The Committee noted that the two electorates concerned had hosted the largest number of dual booths of all divisions – 17 between them.²⁵

5.22 The Committee notes there are some benefits that flow from dual polling booths, namely:

- it takes less time to cast an ordinary vote than it takes to cast an absent one, potentially resulting in shorter queues; and
- it speeds up the process of counting the votes because ordinary votes are counted in the polling places at the end of polling, whilst declaration votes need to go through the preliminary scrutiny process.²⁶

5.23 Notwithstanding these benefits, there are obvious difficulties which also arise at dual polling booths. The practice of political candidates having volunteers man booths, often leads to dual polling booths having large numbers of volunteers from adjoining seats touting electors and potentially giving rise to confusion as to the candidates and the seat.

5.24 The Committee is of the view that widespread use of dual polling booths between adjoining seats is likely to give rise to the view that electors are able to vote in any booth, regardless of the seat in which they are enrolled.

23 Submission No. 2, (Mr M. Powell).

24 Submission No. 2, (Mr M. Powell).

25 Submission No. 165, (AEC), p. 30.

26 Submission No. 182, (AEC), p. 13.

- 5.25 In order to minimise elector confusion and to maximise the advantages of dual polling booths, the Committee found a higher threshold than the current ought to apply to establish a dual polling place.

Recommendation 24

- 5.26 **The Committee recommends that the AEC increase the thresholds for joint polling booths to a level to be determined through consultation with the JSCEM.**

Size and position of signs/advertisements around polling booths

- 5.27 Section 340 of the CEA prohibits exhibiting any notice or sign (other than an official notice relating to an election) within six metres of the entrance to a polling booth, but does not give the AEC power to regulate activities outside of these limits.²⁷
- 5.28 Most of the issues brought to the Committee's attention in relation to signs at polling booths were summarised in the submission from the Australian Greens:

election placards being attached to booth fences...is useful and helpful. The large size of some... and the undesirably early placement of such advertising is causing problems.²⁸

As there is no size limit on banners or placards, some parties or candidates... cover the whole of the fencing... so that no other candidate can display a placard. It is inherently unfair that one candidate should be able to monopolise all of the [location].

...we had a ridiculous situation of one candidate attaching their placards to polling booth perimeters the evening before the election and hiring security guards to see that they are left intact overnight.²⁹

27 Submission No. 182, (AEC), p. 9.

28 On size, location and timing of advertising see also, Submission No. 10, (The Hon. Dick Adams MP).

29 Submission No. 107, (Australian Greens), pp. 2-3.

- 5.29 Submissions suggested that there should be a size limit on advertising that can be displayed at polling booths, a limitation on the number of such signs one party may display, and a prohibition on advertising material being displayed on a polling booth fence or perimeter prior to 6 am on election day.³⁰

The Committee's view

- 5.30 In the Committee's view, the practices complained of affected smaller parties more than the larger ones, which had the resources for more and larger signs, and often more personnel to deploy to reserve desirable locations outside booths.
- 5.31 The Committee noted that in New South Wales there is a limit to the size of advertising posters which can be displayed.³¹ There is, however, apparently no limit to the number, so the monopolisation of space near polling booths complained of in submissions would still be possible.
- 5.32 The Committee does not, however, believe that there should be any change to the existing arrangements.

How-to-vote cards

- 5.33 Section 340 of the CEA prohibits the handing out of how-to-vote cards (HTVs) and other canvassing within six metres of the entrance to a polling booth on polling day. The CEA does not give the AEC power to regulate activities outside of these limits.³² HTVs are a common, but not universal, element of polling days in Australia.
- 5.34 The Committee received submissions about HTVs complaining that some were misleading, proposing alternatives to their use, and questioning the need for them.
- 5.35 A number of instances where it was alleged that HTVs had misled voters were drawn to the Committees attention.³³

30 Submission Nos 42, (Mr B McRae), Attachment A, 107, (Australian Greens), p. 3.

31 The prescribed size is an area which is not more than 8,000 square centimetres. See NSW *Parliamentary Electorates and Elections Act 1912 No 41*, section 151B(6).
www.seo.nsw.gov.au/publications__resources/electoral_legislation/index.html

32 Submission No. 182, (AEC), p. 9.

33 Submission Nos 92, (The Nationals) & 155, (Ms A Hicks).

Richmond Electorate: *Liberals for Forests HTV*

- 5.36 At the 2004 Federal Election the Liberals for Forests Party fielded candidates in seven House of Representatives seats in New South Wales and, across Australia, ten Senate candidates.³⁴
- 5.37 On election day, the AEC received complaints about the Liberals for Forests HTVs in the electorates of Greenway, Page, Parramatta, and Richmond.³⁵ The substance of the complaints was that the card breached section 329 of the CEA which provides that:
- a person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.³⁶
- 5.38 The AEC response on election day was that the HTVs were not in breach of section 329 of the CEA. In reaching this conclusion, the AEC later advised the Committee that although the section covers “misleading or deceiving electors”, in the wake of court decisions:
- section 329 only applies to a publication that is likely to mislead or deceive a voter *in relation to the recording of a vote as distinct from forming a judgment* as to the person for whom to vote.³⁷
- 5.39 The Liberal Party argued that, notwithstanding the interpretation of the CEA, the Liberals for Forests HTV was misleading and confusing to voters because:
- in the Richmond electorate there was no Liberal candidate;
 - the HTV typographic emphasis on the word “Liberals” in capitals overshadowed “for forests”;
 - its layout replicated the HTVs used by Liberal candidates previously; and
 - the colours were those normally associates with Liberal HTVs.³⁸

34 Electorates of Cunningham, Dobell, Greenway, Lowe, Page, Parramatta, Richmond, and two Senate candidates in each of NSW, Qld, SA, Vic, WA.

35 Submission No. 172, (AEC), pp. 7-8.

36 CEA, section 329(1).

37 Submission No. 182, (AEC), p. 8 [Committee’s italics].

38 “There is a resemblance between the how-to-vote card...and the Liberal Party how-to-vote card. There is a similarity between colours used...It is the whole layout of the

- 5.40 The significance of these potentially misleading HTVs was that the narrow margin deciding the seat of Richmond – just 301 votes on a two party preferred basis.
- 5.41 The Nationals claimed that it was:
- entirely possible that the historical association of the party name, coupled with the fact that it was a Nationals candidate representing the Coalition in Richmond, and not a Liberal was the deciding factor in the loss of this seat for the Coalition...A number of voters in NSW have either written or phoned in following the Richmond campaign to say they had been misled...
- on polling day there is no recourse of action by the offended party. If these materials are authorised in the correct manner, there is nothing the AEC is able to do about the circulation of these materials. The process for their removal becomes a legal process and one which can take some time to address. Thus meaning that in marginal seats, the intended damage is already done.³⁹
- 5.42 Seeking to pursue this issue further, the Committee held one of its public hearings in the Richmond electorate at Tweed Heads. It invited the Liberals for Forests candidate, Ms Fiona Tyler, to appear at the hearing, but she did not respond. There was also no response to the Committee's later invitation to attend a public hearing in Sydney, which was where she lived at the time of the election.
- 5.43 The Committee asked the Federal Labor Member for Richmond, Ms Justine Elliot MP, to appear before the hearing in Tweed Heads (within her electorate), given that she was a candidate and benefited from Liberals for Forests preferences.
- 5.44 Ms Elliot declined to appear and was invited to send a representative in her absence, but also declined this offer.
- 5.45 The Greens candidate, Mrs Susanna Flower and representatives of The Nationals both appeared and gave evidence.
- 5.46 Following the hearing the Chair wrote to Ms Elliot and asked her to appear at a hearing of the Committee in Canberra during

how-to-vote card"; Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005 p. 29.

³⁹ Submission No. 92, (The Nationals).

parliamentary sittings at a time of her convenience. Ms Elliot did not reply to the correspondence.

- 5.47 The Committee did, however, hear from Dr Keith Woollard, President and Secretary of Liberals for Forests, when it held public hearings in the party's home State of Western Australia. Dr Woollard indicated that the HTV was designed in New South Wales and that he had not seen it, although he was aware of the content.⁴⁰ The Committee noted that, nevertheless, his name was on the HTV as having authorised it. Dr Woollard later confirmed in writing that he had in fact authorised the HTV without sighting it.⁴¹

The Committee's view

- 5.48 The result in the Richmond Electorate was one of the closest of the 2004 Federal Election. One indicator of this was the fact that the first seats of the 2004 Federal Election were declared on 20 October,⁴² but Richmond was not declared until 28 October 2004. The winning margin was only 301 votes after the distribution of preferences.⁴³
- 5.49 Therefore only 151 people needed to be misled to affect the result and, as the Committee heard from witnesses, this had happened. Ms B Smith stated:
- I feel very strongly that I was deceived, misled and let down by the process... On polling day, liberals for forests clearly looked like a group affiliated with the standing member.⁴⁴
- 5.50 Similarly, Mrs S Flower commented:
- I do believe that liberals for forests misled voters.⁴⁵
- 5.51 The Liberals for Forests candidate received 1,417 primary votes. Their HTVs directed preferences to the Greens, then the Australian Democrats, then to the Labor candidate ahead of The Nationals, as was their right.⁴⁶

40 Dr K Woollard, *Evidence*, Wednesday, 3 August 2005, pp. 19, 33; Submission No. 206 (Dr K Woollard).

41 Submission No. 206, (Dr K Woollard).

42 AEC, *Behind the Scenes*, p. 34.

43 AEC, *Electoral Pocketbook*, 2005, p. 150.

44 Ms B Smith, *Evidence*, Thursday, 7 July 2005, p. 24.

45 Mrs S Flower, *Evidence*, Thursday, 7 July 2005, p. 31.

46 Order of Liberals for Forests HTV preferences: Green, Democrat, Labor, Nationals, Family First, Nuclear Disarmament, Veterans. Actual preference distribution from Liberals for Forests: Greens = 589; Nationals = 514; FFP = 326; ALP = 144. Final two-party

5.52 The Committee heard evidence from four persons directly involved in the campaign in Richmond: Mr Andrew Sochacki, the local Chairman of the National Party; Mrs Susanna Flower, the Australian Greens candidate; Mr Thomas Tabart, Mrs Flower's campaign manager; and Ms Bronwyn Smith, who was not a member of a political party. All witnesses expressed concern at the behaviour and strategies of the Liberals for Forests candidate, in particular the how-to-vote card. The view of those witnesses was captured by Mrs Flower's characterisation of the party's candidacy:

Mrs Flower – It was a bogus party, set up to steer votes away from the National Party.

CHAIR – To deceive people.

Mrs Flower – To deceive them.⁴⁷

5.53 Those witnesses agreed that the number of people whom it would be necessary to deceive, by deceptively drawing and ultimate preference away from Mr Anthony so as to alter the result, was 151. On the basis of direct and anecdotal evidence, Mrs Flower, with whom Mr Tabart agreed, was of the view that a substantial number of people would have been so misled (or "tricked"), possibly more than 151.⁴⁸

5.54 Mr Sochacki reported "confusion" which was "reasonably widespread"⁴⁹, and was of the view, on the basis of direct evidence of complaints and anecdotal evidence received from National Party booth workers, that the number of people intending ultimately to vote for Mr Anthony who were misled by the how-vote-card was "in excess of one in 10 people who followed it"⁵⁰, i.e. in excess of 151.

5.55 Mrs Smith, not a member of a political party, took the trouble to write to the AEC to complain, in a letter of 21 February 2005, in which she asserted that:

there were thousands of people deliberately and fraudulently misled by this party and voted for them understanding that they were casting a Liberal vote.⁵¹

preferred vote: Labor =39,560; Nationals= 39,259. Full Distribution of Preferences shown at Appendix H. Submission No. 172, (AEC), Attachment A.

47 Mrs S Flower & Mr A. Smith MP, *Evidence*, Thursday, 7 July 2005, p. 38.

48 Mrs S Flower, *Evidence*, Thursday, 7 July 2005, p. 38.

49 Mr A Sochacki, *Evidence*, Thursday, 7 July 2005, p. 14.

50 Mr A Sochacki, *Evidence*, Thursday, 7 July 2005, p. 15-16.

51 Letter from Ms B. Smith to the AEC re Liberals for Forests, quoted by Senator George Brandis, *Transcript of evidence*, Thursday, 7 July 2005, p. 28.

- 5.56 However, their HTV clearly caused confusion in the eyes of many voters – who thought they were voting Liberal:
- a number of voters in NSW have either written or phoned in following the Richmond campaign to say they had been misled.⁵²
- 5.57 She agreed with the following proposition:⁵³
- you are aware, are you, from your own knowledge and from your conversations you have had with local people that there are a substantial number of people who followed the Liberal for Forests how-to-vote card thinking that ultimately they were going to be voting for Larry Anthony?⁵⁴
- 5.58 Like the other witnesses, Ms Smith characterised the number of people who were misled as “substantial”.⁵⁵
- 5.59 In view of the above uncontradicted evidence the Committee believes that, on the balance of probabilities, the misleading of voters by the Liberals for Forests how-to-vote card caused the defeat of Mr Anthony.
- 5.60 Therefore, the Committee believes that, given the closeness of the election, it was the decisive factor which resulted in Ms Elliot and the ALP winning the seat. That is: had the Liberals for Forests not engaged in misleading and deceptive conduct to present themselves as the Liberal Party of Australia and direct more than enough of those votes via preferences to the Australian Labor Party, the National’s Mr Anthony would have retained the seat.
- 5.61 As a consequence, the Committee holds that Ms Elliot was elected as a result of preferences on the basis of deceptions by Liberals for Forests.
- 5.62 The Committee would have liked to have reached a definitive conclusion as to whether Ms Elliot and the local Australian Labor Party officials were aware of or involved in any way with the planned deception by Liberals for Forests.
- 5.63 Ms Elliot’s refusal to appear or answer correspondence requesting her to appear means that no involvement can either be proved or disproved.

52 Submission No. 92, (The Nationals).

53 Ms B Smith, *Evidence*, Thursday 7 July 2005, p. 29.

54 Senator G Brandis, *Transcript of evidence*, Thursday, 7 July 2005, p. 28.

55 Ms B Smith, *Evidence*, Thursday, 7 July 2005, p. 29.

Other complaints about HTVs

- 5.64 The AEC received complaints that HTVs for one candidate in Melbourne Ports resembled those of the Australian Greens candidate in that they were in the same vertical format and the same colour as the Australian Greens' HTV.⁵⁶ Some submissions claimed that this confused voters.⁵⁷
- 5.65 The AEC dismissed the complaint, reiterating the position that:
- section 329 of the act and previous judicial consideration of section 329 and what 'misleading' means... that that particular how-to-vote card... was not in fact misleading.⁵⁸
- 5.66 The Liberal Party pointed out to the Committee that the relevant HTV:
- included the word "Liberal" 5 times, including in the authorisation line, which clearly stated that the Card was authorised by "Julian Sheezel (Liberal Party of Australia)". The Card also recommended voters place a number 1 in the "Liberal/The Nationals" box for the Senate.⁵⁹
- 5.67 During the Committee's hearings in Canberra, the Deputy Chair of the Committee Mr Michael Danby MP raised this issue with the AEC.
- 5.68 The Deputy Electoral Commissioner, Mr Paul Dacey, who had attended to the original complaint advised that he:
- could form no other view, on the basis of the particular evidence in front of me, that it was not in fact misleading. It is quite clear that it is a Liberal Party how-to-vote card... which says, 'Mark "1" for the Liberal candidate, David Southwick.' It mentions 'Liberal Party' in several places. It talks about Liberals-Nationals for the Senate, it talks about some of the environmental achievements of the Liberals. So, in applying section 329 of the act, I had no choice but to determine that, in the AEC's view, and in my view... it was not misleading.⁶⁰

56 Submission No. 201, (ALP).

57 Submission No. 155, (Ms A Hicks).

58 Mr P Dacey, Deputy Electoral Commissioner, AEC, *Evidence*, 5 August 2005, p. 79.

59 Submission No. 197, (Liberal Party).

60 Mr P Dacey, Deputy Electoral Commissioner, AEC, *Evidence*, 5 August 2005, p. 79.

5.69 The AEC also received complaints that a further source of potential confusion was that the HTVs were:

distributed by teams of young people wearing green tee-shirts and green baseball caps... saying to voters as they approached... "the Green alternative".⁶¹

5.70 That this occurred was disputed.⁶²

The Committee's view

5.71 The Committee finds that the Liberal party HTV distributed in the electorate of Melbourne Ports was not a misleading HTV. Concerns about misleading conduct in the circulation of HTV cards are considered in Chapter 12, *Campaigning in the new millennium*.

5.72 More generally, the Committee considered that the issue of misleading HTVs is one which might be collectively examined by the relevant ministers at the Council of Australian Governments (COAG).

Alternatives to HTVs

5.73 The main origins of proposals made to the Committee for alternative means of notifying voters of party preferences were concerns that electors were being harassed on their way into the polling booths,⁶³ and that the production of HTVs was environmentally unsound.⁶⁴

5.74 Solutions proposed to address these objections were:

- to ban the handing out of election material to voters within a broad radius from the entrances to a polling place;⁶⁵
- to display HTVs for all candidates in each booth;⁶⁶ or
- if HTVs were retained, recycling bins be provided at the polling booths⁶⁷

61 Submission No. 201, (ALP).

62 Submission No. 197, (Liberal Party).

63 Submission Nos 11, (Mr G. Ryall), p. 14; 166, (Liberals for Forests), p. 2.

64 Submission No. 42, (Mr B McRae).

65 Submission No. 11, (Mr G. Ryall), p. 14, proposed 100 metres; Submission No. 166, (Liberals for Forests), p. 2, proposed 200-300 metres.

66 Submission No. 66, (Mr L Wilson).

67 Submission No. 42, (Mr B McRae).

The Committee's view

- 5.75 The Committee noted that a 100 metre exclusion zone⁶⁸ had substantially reduced the use of HTVs at polling booths in the Australian Capital Territory Legislative Assembly elections, and that in South Australia HTVs are fixed to the wall of each polling booth.⁶⁹ The Committee understands that the AEC already provides re-cycling bins for HTVs at the polling places.

The need for HTVs

- 5.76 The most radical submissions questioned the need for HTVs. Mr G Ryall argued that HTVs encourage:

voters to give away their freedom of choice of the candidates on offer⁷⁰

- 5.77 Mr E Laurila commented:

we, the voters, are not always thinking [the] same way as the Party leaders, whom we give the second, third etc. preferences but like [to] do it with our own choosing.⁷¹

The Committee's view

- 5.78 The Committee agreed that HTVs serve a variety of functions. At the broadest level they are a way to influence voters who are undecided on how they will vote even as they arrive at the polling location.
- 5.79 Among those who have decided for whom they wish to vote, the HTVs provide guidance on how their preferred candidate or party recommends they distribute their preferences.
- 5.80 In addition to their use in influencing electors' voting decisions, HTVs serve another political function. They offer partisan supporters the opportunity to do something practical and public to assist their chosen party in a way which has the potential to decide an election.
- 5.81 At another level, the often day-long activity associated with handing out HTVs can be a catalyst for other community activities in the vicinity of the polling places.

68 ACT *Electoral Act 1992*, section 303.

69 JSCEM, *The 2001 Federal Election*, June 2003, p. 134.

70 Submission No. 127, (Mr G Ryall, p. 14).

71 Submission No. 11, (Mr E Laurila).

5.82 As it concluded in its report on the 2001 Federal Election, the Committee thinks that the distribution of HTVs on election day mobilises democratic participation and keeps political parties in touch with their membership base.⁷²

Voting

5.83 A total of 13,098,461 voters were enrolled to vote on the polling day and 12,644,207 cast their votes.⁷³ Four in every five of these were “ordinary” votes, i.e. those cast by voters in the division in which they were enrolled. This proportion (80.6%) was lower than in 2001 (82.2%).

5.84 The proportion casting “declaration” votes increased, particularly the pre-poll and postal votes which have been reviewed in Chapter 3, *Voting in the pre-election period*, which deals with voting prior to the polling day. This section addresses the balance of the 2,448,748 “declaration” votes – the absent and provisional votes.

Table 4.1 Votes, numbers and % of total: 2001 and 2004

	Ordinary	Absent	Pre-poll	Postal	Provisional	Total votes cast
2001	9,910,877	852,054	610,122	516,434	165,177	12,054,664
<i>%total</i>	<i>82.2</i>	<i>7.1</i>	<i>5.1</i>	<i>4.3</i>	<i>1.4</i>	<i>100</i>
2004	10,195,459	853,505	754,054	660,324	180,865	12,644,207
<i>%total</i>	<i>80.6</i>	<i>6.8</i>	<i>6.0</i>	<i>5.2</i>	<i>1.4</i>	<i>100</i>

Source AEC Submission Nos 165, p. 32; 205, pp.14, 20; AEC Electoral Pocketbook, 2005, p.117

Absent voting

5.85 Absent voting takes place when an elector casts a vote for the division in which they are enrolled but at a polling place in another division in the State or Territory in which they are enrolled.⁷⁴ At the 2004 Federal Election the proportion of absent votes cast was lower than in 2001 (6.8% vs 7.1%).

72 JSCEM, *The 2001 Federal Election*, June 2003, p. 134.

73 AEC Submission Nos 165, p. 8 & 205, p. 14.

74 Submission No. 165, (AEC), p. 16.

Provisional voting

- 5.86 The proportion of provisional votes cast in the 2004 Federal Election was the same as in 2001. Provisional voting occurs when:
- an elector has already been marked off as having voted; or
 - an elector's name or address cannot be found on the certified list of voters on polling day; or
 - the elector cannot satisfy the presiding officer that they are the elector named on the certified list, but they claim they are eligible to vote.⁷⁵

Marked off as having voted

- 5.87 Electors might be marked off on the roll at the polling station because of:
- a clerical error; or
 - they had in fact voted; or
 - they have been impersonated.

- 5.88 Provisional votes are checked during the AEC preliminary scrutiny. If the elector is eligible, their vote is admitted to the count.

The Committee's view

- 5.89 In the Committee's view this situation could be avoided by requiring those wishing to cast provisional votes to provide identification and proof of address at the polling booth.

Not able to be found on the roll

- 5.90 A person's name may not be found on the roll because:
- they have not enrolled; or
 - they have provided a fictitious name; or

⁷⁵ Submission No. 165, (AEC), p. 16. If a person does not answer the questions correctly, refuses to answer the questions or answers the questions successfully but the issuing officer is still unsure about their identity, the issuing officer can refuse to issue an ordinary vote. In these cases the person would be offered a provisional vote. See AEC *Election Bulletin*, 6 October 2004, in Submission No. 168, Attachment A.

- their name is there but cannot be located at that moment (for example through confusion over spelling or the correct order of their names); or
 - they were enrolled but have been removed from the roll as a result of not responding to AEC inquiries.
- 5.91 At the AEC preliminary scrutiny of provisional votes, those whose names had not been able to be found at the time of the vote, but, were subsequently found to be on the roll would be admitted to the count. The provisional votes of those who were not enrolled (and who were not entitled to be enrolled at the time of the poll) and those who provided a fictitious name would be eliminated from the count.
- 5.92 Those whose names were absent because they had been removed from the roll through lack of response to AEC inquiries would also be admitted to the count if the AEC records established that they had been enrolled and were not enrolled elsewhere on polling day.
- 5.93 The Committee was alerted to the possibility that this fact could be exploited to influence the result of the poll in marginal electorates. A number of people could enrol in the electorate without living there by getting compliant witnesses to sign their enrolment form. If they had subsequently been removed from the roll through failing to respond to AEC correspondence they could still claim a right to vote (unless they subsequently enrolled in another division).
- 5.94 The Nationals claimed in evidence to the Committee that, in marginal electorates, it could be possible to influence the result of the poll by deceptively enrolling sufficient voters to do so.⁷⁶
- 5.95 As a remedy, it was recommended to the Committee that provisional voting should no longer be permitted and, instead, voters be required to keep their details up to date.⁷⁷

The Committee's view

- 5.96 The Committee's view was that the recommendation to remove the opportunity for provisional voting altogether did not take account of the number of situations outlined above where an elector's right to

76 Submission No. 92, (The Nationals); Mr A Sochacki, Chairman, Richmond Electorate, The Nationals, *Evidence*, Thursday, 7 July 2005, p. 4.

77 Submission No. 92, (The Nationals), Recommendation 3.

vote was being questioned because of circumstances outside their control – such as inadvertent removal or marking off.

5.97 The Committee considered that requiring provisional voters to identify themselves would remove the possibility of provisional votes being cast by persons with assumed identities.

5.98 In examining this, the Committee referred to the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* which provides that, to enrol, a person must provide a drivers licence number or have two electors vouch for their identity.⁷⁸ As it argued in Chapter 2, *Enrolment*, the Committee considered that these provisions were insufficiently comprehensive, and preferred the identification requirement set out in the proposed Regulations of 2001:

- Australian birth certificate, or an extract of an Australian birth certificate, that is at least 5 years old
- Australian Defence Force discharge document
- Australian marriage certificate
- Certificate of Australian citizenship
- Current Australian driver's licence or learner driver's licence
- Current Australian passport
- Current Australian photographic student identification card
- Current concession card issued by the Department of Veterans' Affairs
- Current identity card showing the signature and photograph of the card holder, issued by his or her employer
- Current pension concession card issued by the Department of Family and Community Services
- Current proof of age card issued by a State or Territory authority

78 Where the applicant does not possess a driver's licence, the application must be countersigned by two persons on the electoral roll who can confirm the applicant's identity and current residential address. The counter-signatories must have known the applicant for at least one month or have sighted identification showing the applicant's name and address. *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004*, section 98AA Regulations. *FCS Online* noted that there were difficulties with ensuring that driver's licences were authentic, Submission No. 191, (*FCS Online*).

- Decree nisi or a certificate of a decree absolute made or granted by the Family Court of Australia
 - Document of appointment as an Australian Justice of the Peace.⁷⁹
- 5.99 However, the need to enable electors to cast their ballots as quickly as possible meant that a more readily checked form of identification was required for polling day.
- 5.100 The Committee believed that a driver's licence would provide a means of speedy identification to AEC officials for those wanting to cast a provisional vote. As a significant majority of voters hold a driver's licence, and are likely to have it with them on polling day, this would be first form of identification sought by the AEC from those wanting to cast a provisional vote.

Recommendation 25

- 5.101 **The Committee recommends that, at the next Federal Election, those wishing to cast a provisional vote should produce photographic identification.**

Voters unable to do so at the polling booth on election day would be permitted to vote, but their ballots would not be included in the count unless they provide the necessary documentation to the DRO by close of business on the Friday following election day. Where it was impracticable for an elector to attend a DRO's office, a photocopy of the identification, either faxed or mailed to the DRO, would be acceptable.

Those who do not possess photographic identification should present one of the other forms of identification acceptable to the AEC for enrolment.

- 5.102 The Committee recognised that this measure alone would not solve the potential problem of deceptively enrolling people in the electorate. However, in combination with the recommendations in Chapter 2 *Enrolment* about proof of identification and address for enrolment, the measures should not only improve the integrity of the

⁷⁹ *Electoral and Referendum Amendment Regulations 2001 (No 1)*, Schedule 5, <http://scaleplus.law.gov.au/html/numrul/18/9184/pdf/2001No248.pdf>

roll and the count, but also provide barriers to the fraudulent enrolment complained of in submissions.

Prisoner voting

- 5.103 Since 2004 persons who are otherwise entitled to vote but are serving a prison sentence of three years or more have been precluded from voting. Other prisoners entitled to vote may enrol as a GPV or apply for a Postal Vote, or vote a prison mobile poll.⁸⁰ The AEC provided 17 prison mobile polls for the 2004 Federal Election.⁸¹
- 5.104 The submission from the Liberal Party welcomed:
- 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.⁸²
- 5.105 The Public Interest Advocacy Centre argued against prisoner disenfranchisement because Australia, as a party to the International Covenant on Civil and Political Rights, is required to legislate to ensure equal and universal suffrage.⁸³
- 5.106 Further, the PIAC submitted that section 41 of the Constitution prevents the Commonwealth from excluding a person from voting in a Federal Election if that person has a right to vote in state elections. The end result is inconsistency across the national electorate in that prisoners in:
- South Australia and Tasmania are entitled to vote in Federal Elections no matter how long their sentence;
 - Victoria are entitled to vote in Federal Elections if their sentence is for less than five years;
 - Queensland, the Northern Territory, the ACT and NSW are entitled to vote in Federal Elections if their sentence is for less than three years;

80 AEC, *Information on Enrolling as a Prisoner*, www.aec.gov.au/_content/what/enrolment/forms/ER016Pw_0804.pdf

81 Submission No. 165, (AEC), pp. 24-28.

82 Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005, p. 21.

83 Submission No. 144, (Public Interest Advocacy Group), p. 10. Submission No. 106, (Prof. B Costar) claimed that denial of the vote to prisoners was highly discriminatory because the prison population was not a mirror of society: most prisoners are male (94%) and aged between 25 and 35 (56%). The imprisonment rate of Indigenous Australians is 15 times that of the non-Indigenous.

- Western Australia are entitled to vote in Federal Elections so long as the provisions of section 18 of the *Electoral Act 1907* (WA) do not apply to them.⁸⁴

5.107 Professor Brian Costar argued that:

in liberal societies such as Australia, offenders are incarcerated as punishment, not for punishment. Since almost all those currently imprisoned will be released, it is poor rehabilitative policy to further alienate them from society by stripping them of the franchise.⁸⁵

5.108 However, the Hon. Senator Eric Abetz, Special Minister of State responsible for the AEC, has a different view:

to ensure that people realise the importance of the democratic system and the role it plays within our societal structures...it is appropriate, because of criminal conviction, that you be disqualified from holding office within this parliament, it is equally appropriate that you be unable to vote until such time as you have served your sentence or your penalty.⁸⁶

The Committee's view

5.109 The Committee believes that persons sentenced to a period of full-time imprisonment should not be allowed to a vote during that time and urge the Government to pursue this through legislative change as soon as possible.⁸⁷

Homeless voting

5.110 In its review of the 2001 Federal Election, the Committee recommended that:

in relation to homeless electors:

- that the itinerant elector provisions outlined in section 96 of the *Commonwealth Electoral Act 1918* be amended so as to make clear their applicability to homeless persons;

84 Submission No. 144, (Public Interest Advocacy Group), pp. 9-10; Submission No. 119, (ACT Government), p. 2 endorsed this, commenting that the ACT's Human Rights Act 2004 enshrined... the right to enjoy human rights without any discrimination of any kind (section 8), and the right to vote at periodic elections (section 17).

85 Submission No. 106, (Professor B Costar).

86 Senator Abetz, Senate Hansard, 20 September 95, p. 1073.

87 Special Minister of State, Senator the Hon. Eric Abetz, quoted in "Coalition Set to Change the Way We Vote", *The Age*, 11 June 2005; ABC News online, 23 January 2005, www.abc.net.au/news/newsitems/200501/s1287044.htm

- that the AEC continue its efforts to simplify the itinerant elector application form and ensure that its applicability to homeless persons is made more apparent; and
 - that the AEC target homeless persons in its next public awareness campaign, informing them about itinerant elector enrolment.⁸⁸
- 5.111 According to the joint submission by the Public Interest Law Clearing House (PILCH), Homeless Persons' Legal Clinic and the Council to Homeless Persons many of the AEC strategies being considered and developed to improve homeless voter education, enrolment and participation, including simplification of the Itinerant Elector Application Form, were not implemented in time for the 2004 Federal Election.⁸⁹
- 5.112 The Committee was told that, at the time of the 2004 Federal Election, between 54% and 76% of the 64,000 homeless people who were eligible to vote did not do so.⁹⁰ One in five voted as ordinary electors, and one in 25 as itinerant electors.⁹¹
- 5.113 The Committee was advised that, although their political orientation had not been specifically investigated the homeless population was very diverse, as were its political preferences.⁹²
- 5.114 The AEC, in conjunction with the Swinburne Institute for Social Research, conducted research on the homeless in Melbourne in 2004. One of its findings was that 64% of the participants expressed a desire to vote, indicating that they did not do so because they did not know how to engage with the system and therefore found it easier to stay off the electoral roll.⁹³
- 5.115 The report published by Swinburne concluded, as did another study by the University of Queensland in Brisbane, that the main factors which discouraged homeless people from voting were:
- exclusion from social life;
 - disillusionment with the Government; and
-

88 JSCEM, June 2003, *The 2001 Federal Election*, p. 92.

89 Nor had the Commonwealth Government amended, nor announced an intention to amend, section 96 of the CEA to ensure that it effectively applied to and enfranchised homeless people. Submission No. 131, (PILCH), pp. 17-18.

90 Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 6; and Submission No. 131, (PILCH), pp. 7, 38 respectively.

91 Submission No. 131, (PILCH), p. 7.

92 Professor B Costar, *Evidence*, Monday, 25 July 2005, p. 3.

93 *Electurally Engaging the Homeless*, AEC Research Report Number 6, February 2005, p. 9, www.aec.gov.au/_content/How/research/papers/paper6/research_paper6.pdf

- a lack of resources for anything but basic needs.⁹⁴
- 5.116 The detailed PILCH submission reported that the reasons advanced by the three in four of the homeless interviewed in Melbourne who did not vote were that they were:
- uninterested in participating (37%);
 - concerned that voting is futile and will not make any difference (35%);⁹⁵
 - apprehensive that, at the voting station, they would be fined for failing to enrol and vote at previous elections (27%);⁹⁶
 - thought that a person required a fixed residential address in order to vote (24%);
 - finding difficulty with the process (18%);
 - unaware or did not understand how to vote (16%);
 - unaware of where to cast their vote (14%);⁹⁷ and
 - finding that voting stations were either inaccessible or were not conveniently located (13%).⁹⁸
- 5.117 In addition, the Swinburne report also identified that other impediments to homeless people voting were that they lacked and understanding of itinerant voting provisions, they did not have transport to polling stations, and they were unaware of the possibility that third parties could assist in the process of voting.⁹⁹

The Committee's view

- 5.118 The Committee noted the extensive collaboration in research between the AEC and Swinburne which had already taken place and the AEC's engagement with stakeholder representatives including the Victorian Electoral Commission in 2004 and 2005. This, the Committee believed, should be pursued with the aim of making necessary changes prior to the next Federal Election

94 Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 10.

95 Also reported in Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 6.

96 Also reported in Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 6.

97 Also reported in Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 6.

98 Submission No. 131, (PILCH), pp. 8, 39-40.

99 Submission No. 105, (Professor B Costar & Mr D Mackenzie), p. 6.

Recommendation 26

- 5.119 **The Committee recommends that the AEC continue its consultations with relevant parties and prior to the next Federal Election, as part of improving access to the franchise by those experiencing homelessness, as a minimum:**
- **target homeless persons in its public awareness campaigns, informing them about itinerant elector and other voting enrolment and options; and**
 - **ensure that its training programs alert AEC staff to the needs of the homeless and other marginalised citizens.**

Mobile polling

- 5.120 In particular circumstances the CEA permits the AEC to establish mobile polling booths that visit electors to collect votes. The Committee was advised that mobile polling arrangements were not intended as a personal service to electors in their homes.¹⁰⁰
- 5.121 In addition to prison mobile polling mentioned above, for the 2004 Federal Election the AEC established 445 special hospital mobile polling places and 48 remote mobile polling teams.¹⁰¹ The latter are considered in Chapter 10, *Geographical challenges in the modern age*.
- 5.122 At some hospitals the AEC sets up ordinary, or 'static', polling places on polling day. Section 224 of the CEA provides that polling officials may visit patients in those hospitals who are unable to get to the static polling booth, in order to allow them to cast their votes.
- 5.123 However, there are a number of hospitals that do not have an ordinary polling place on polling day. In general these are smaller or specialist hospitals and nursing homes. For these hospitals, the AEC undertakes special hospital mobile polling. At the 445 special hospital mobile polling places, voting in Federal Elections may take place up to five days before polling day as well as on polling day itself.¹⁰²

100 Submission No. 74, (AEC), Attachment C.

101 Submission No. 165, (AEC), pp. 24-28.

102 Submission No. 165, (AEC), pp. 24-28.

- 5.124 A number of submissions urged that the AEC provide universal mobile polling for all aged care facilities.¹⁰³
- 5.125 In a similar vein, the submission from PILCH on homeless voters recommended that the CEA:
- should be amended to provide for the deployment of mobile polling booths on-site at homelessness assistance services.¹⁰⁴

The Committee's view

- 5.126 The Committee considered that the resource demands on the AEC in the week prior to polling day precluded more widespread use of mobile polling. It also acknowledged that there may be an increasing need for such arrangements to maintain the franchise for growing numbers of the elderly. However, it considered that this requirement was not yet of such a scale as to demand the automatic provision of mobile polling.

Assisted voting

- 5.127 The Committee received considerable evidence about the blind, one specific group of voters with a special need for assistance with voting from many sources, including:
- Guide Dogs Victoria
 - Mr Noel Abrahams
 - RPH Adelaide Inc
 - Professor G Williams & Mr B Mercurio
 - People with Disability Australia Incorporated
 - Vision Australia (previously RBS.RVIV.VAF)
 - NSW Disability Discrimination Legal Centre
 - The Royal Society for the Blind
 - Blind Citizens Australia
 - Canberra Blind Society
 - The Royal Society for the Blind of SA Inc.¹⁰⁵
- 5.128 The Committee was told that when blind electors relied on another person to cast their vote, the blind elector lost rights which others automatically held, such as the right to:
- cast their vote secretly in privacy; and
 - independently verify their vote.¹⁰⁶

103 Submission Nos 1; 62, & 74.

104 Submission No. 131, (PILCH), p. 11.

105 Submission Nos 16, 31, 45, 48, 50, 54, 68, 101, 135, 138 and 101 respectively.

106 Submission Nos 16, 50 & 54, p. 1.

- 5.129 A number of submissions focussed on the potential for such voters' intentions to be thwarted or their votes influenced by those assisting them to cast their ballot.¹⁰⁷
- 5.130 One proposed solution was that these voters use only an AEC official to mark their ballot.¹⁰⁸ Another was for the AEC to ensure that its staff received disability awareness and flexible service delivery training.¹⁰⁹
- 5.131 Another proposed remedy to allow special needs voters to cast their vote privately, and independently verify it, was a system described in numerous submissions as *electronically assisted voting (EAV)*.¹¹⁰ This system is described in detail in Chapter 11, *Technology and the electoral system*.

The Committee's view

- 5.132 The Committee agreed that the current provision whereby assistance is provided to electors in casting their votes also provided an opportunity for the vote of the elector requiring the assistance, to be misused by the person providing the assistance.
- 5.133 Under section 234 of the CEA, it is open to individuals to seek the assistance of the presiding officer at the polling place.
- 5.134 The Committee was aware that, in addition to the blind, there were others who would also need assistance to cast their vote. Professor G Williams and Mr B Mercurio stated:
- a substantial, yet indeterminate number of all voters... with impaired vision or limited arm movements as well as illiterate voters and those voters from non-English speaking backgrounds who may not feel comfortable reading or writing in English.¹¹¹
- 5.135 This was, the Committee judged, an incomplete roll call, but indicative of a need which the AEC should address.
- 5.136 In view of the extensive evidence presented to it, and the very specific difficulties faced by the blind in voting, the Committee considered that, at the next Federal Election, the AEC should be able to provide facilities for them to cast a secret, verifiable ballot.

107 Submission Nos 28, 48 & 141.

108 Submission No. 28, (Communication Project Group).

109 Submission No. 50, (People with Disability Australia Inc).

110 Submission Nos 16, 20, 45, 54 & 135, pp. 6-7.

111 Submission No. 48, (Professor G Williams & Mr B Mercurio).

- 5.137 These facilities would be of an experimental nature, so would be available only at one appropriate location in each electorate.
- 5.138 In the Committee's view such an experiment would allow electronic voting technology to assist those currently unable to cast a secret ballot. This should be part of a broader initiative addressing the special needs of people with disabilities at polling stations.
- 5.139 Aspects of electronic assistance to voting are considered again in Chapter 11, *Technology and the electoral system*, which makes recommendations in relation to arrangements for the blind in the section covering electronic voting.
- 5.140 However, the Committee did not see this experiment as a precursor to widespread electronic voting. The Committee does not favour a wider move towards home-based electronic voting because it believes that the Saturday ritual of visiting a polling place to vote is an important component of maintaining Australians' engagement with the democratic process.

Recommendation 27

- 5.141 **The Committee recommends that the AEC consult with appropriate organisations to establish appropriate experimental arrangements to assist the blind and visually impaired to cast a secret ballot at the next Federal Election.**

Recommendation 28

- 5.142 **The Committee recommends that, as a future direction, the AEC consult with relevant organisations representing people with disabilities to develop a disability action plan covering the full spectrum of access issues faced.**

Fraudulent voting

- 5.143 Under the current electoral arrangements it is possible for people to vote more than once, to vote under assumed names, or to impersonate another voter. This potential for voter fraud was raised in submissions and evidence. The Committee was provided with a scenario combining two elements of fraud, in which multiple votes

were made while impersonating another elector. The Festival of Light stated:

John can go to the same polling place as Bill to cast his own vote, and then go to the other 61 polling booths and vote as Bill, thus voting 62 times in the election, in a marginal electorate. If several people did this, the extra votes could have a significant effect on the outcome of the election... Although the number of extra votes could be identified, they could not be removed from the count because there is no way of knowing which candidate gained the invalid votes.¹¹²

5.144 The Committee has examined allegations of electoral fraud in its reports on each of the last six Federal Elections. Whilst to date the Committee has had no evidence to indicate there has been widespread electoral fraud,¹¹³ the Committee believes that rectifying electoral fraud after it has occurred and has compromised the democratic process is not a responsible or sensible proposition. While to date the Committee has not received any evidence of widespread or large-scale electoral fraud, it is considered preferable to take steps to prevent fraud occurring in the first place. The Chair of the Committee, Mr Tony Smith MP, commented that otherwise, it would be:

a bit like the major banks in Australia saying, 'We will leave the safe and the front door open every night, and only when the money is stolen will we begin to lock them'.¹¹⁴

5.145 Currently, should someone or some group seek to engineer fraudulent voting, it would be possible for that to occur and to affect the electoral outcome. The AEC advised that instances of apparent multiple voting can be detected when, after the election, the lists of those who voted are scanned.¹¹⁵

112 Submission No. 125, (Festival of Light Australia), p. 8.

113 Submission Nos 35, 52, 89, p. 6, 185, 125, p. 8 & 186, Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Tuesday, 26 July 2005, p. 17 indicated that there were opportunities for fraudulent voting in the 2004 Federal Election. In 2001 the AEC said that: "It has been concluded by every parliamentary and judicial inquiry into the conduct of Federal Elections, since...1984...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". AEC, *Electoral Backgrounder 14: "Electoral Fraud and Multiple Voting"*, www.aec.gov.au/_content/How/backgrounders/14/index.htm

114 Mr T Smith MP, *Transcript of evidence*, Monday, 25 July 2005, p. 90.

115 Submission No. 165, (AEC), p. 32.

5.146 The Committee examined three proposals which could assist in the prevention of fraud at the polling place. The first was establishing specific voting places for specific electors (“subdivision” or “precinct” voting). Secondly, at polling place level, the Committee considered voter identification requirements and thirdly, bar-coding.

“Subdivision” voting

5.147 In 1983 the Committee's predecessor, the Joint Select Committee on Electoral Reform, recommended that voters be allowed to cast ordinary votes at any polling place within their House of Representatives electorate (division), rather than being confined to a smaller subdivision. Under the then system, electors who arrived at a polling place outside of their enrolled subdivision – even if the subdivision was within their "home" division – had to either make their way to the appropriate subdivision or cast an absent vote.¹¹⁶

5.148 Since this arrangement was abandoned for the 1984 election, it is now possible for unscrupulous persons to travel to every polling place within an electorate, recording votes against the same name.

5.149 In his submission, the Attorney-General, the Hon. Philip Ruddock, MP, said that:

there is strong support for subdivisional voting to minimise any electoral fraud.¹¹⁷

5.150 The advantage of the subdivision voting arrangement is that an elector's name appears on only one roll at one polling place. Any person wishing to use an elector's name to vote many times would only be able to do so by casting an absent vote at booths outside the subdivision.

5.151 In the past the AEC has drawn attention to possible consequences of the reintroduction of subdivision voting, confusion and delay at polling booths, increased queuing, increased declaration voting and probable delays in the provision of election results.¹¹⁸

116 JSCem, *Report of the Inquiry into all Aspects of the Conduct of the 1996 Federal Election and Matters Related Thereto*, June 1997, para 2.45.

www.aph.gov.au/house/committee/em/elec/elec.pdf

117 Submission No. 128, (The Hon. Philip Ruddock, MP).

118 AEC, *Submission to Inquiry into the Integrity of the Electoral Roll*, 27 March 2001, www.aec.gov.au/_content/Why/committee/jscem/electoral_roll/sub81.htm

The Committee's view

- 5.152 At one level, the subdivision vote arrangement would, in the Committee's view, be a useful move to minimise the potential for fraud at the polling place.
- 5.153 The Committee's most recent recommendation concerning subdivisional voting was made in its report on the 1996 Federal Election, urging that the:
- AEC prepare a detailed proposal for the reintroduction of subdivisional voting for future Federal Elections.¹¹⁹
- 5.154 In the Government Response was a counter-recommendation, that:
- the JSCEM should conduct a more detailed investigation into the positive and negative aspects of the reintroduction of subdivisional voting.¹²⁰
- 5.155 The Committee notes that most voters continue to vote close to where they live, as was required under the subdivision arrangements.¹²¹ It therefore still considers that the subdivision voting system has been a useful one, and that it should not have been abolished.
- 5.156 However, on balance, the Committee believes that Australian society has changed in the two decades since subdivision voting was abolished, and in the decade since the Committee urged its reintroduction. The population is more mobile and more of the workforce is now employed all day on Saturday when polling is held. To reintroduce subdivision voting would be disruptive and confusing.
- 5.157 However, the Committee notes that, with the introduction of its recommended changes to enrolment and voting identification, subdivision voting would, in any event, play a lesser role in preventing voting fraud.

Proof of identity

- 5.158 The Committee has already addressed voter identification above, in relation to provisional voting. That recommendation highlighted the
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119 Government Response: *JSCEM The 1996 Federal Election*, www.aph.gov.au/house/committee/em/elec/govtresp.htm

120 Government Response: *JSCEM Report The 1996 Federal Election*, www.aph.gov.au/house/committee/em/elec/govtresp.htm

121 For example, 61.2% of the ordinary voters in Moncrieff voted at the most convenient polling place to where they were enrolled. Submission No. 182, (AEC), p. 14.

broader issues, raised in submissions to the Committee. Ms A Cousland stated:

opening bank accounts, registering at Medicare, and signing up for a mobile telephone all required different combinations of identification to satisfy each organizations identification point system. And yet to vote, one of the privileges we have in a democracy, no identification is required.¹²²

5.159 In this context it was suggested to the Committee that another barrier to potential fraud at the polling booth was to require voters to provide identification prior to being given their ballot paper. The Council for the National Interest Western Australian Commission stated:¹²³

for example a Driver's Licence with photo and address or a combination of documents for example a Medicare Card and a Rates Notice.¹²⁴

The Committee's view

5.160 Presentation of identification would ensure that the person voting was the person named on the electoral roll. Against the concern that such a procedure would slow down the voting process and potentially generate queues, the Committee believed that it could, in fact, expedite the checking process by clarifying to the polling officials the precise spelling of the voter's name. This was an issue which the AEC could address.

Recommendation 29

5.161 The Committee does not support the introduction of proof of identity requirements for general voters on polling day at the next election. Instead, the Committee recommends that the AEC report to the JSCEM on the operation of proof of identity arrangements internationally, and on how such systems might operate on polling day in Australia.

122 Submission No. 30, (Ms A Cousland).

123 Submission Nos 6, 41, 52, 66, 120 & 185 and see Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Tuesday, 26 July 2005, p. 17.

124 Submission No. 185, (Council for the National Interest Western Australian Committee).

- 5.162 At the next Federal Election, the Committee considers that the AEC might seek, but not compel, voters to provide identification to gauge any effect on the speed with which the rolls could be marked off.

Recommendation 30

- 5.163 **The Committee recommends that, at the next Federal Election, the AEC encourage voters to voluntarily present photographic identification in the form of a driver's licence to assist in marking off the electoral roll.**

Barcoding

- 5.164 The H S Chapman Society proposed using bar-coding as a means of addressing the potential for fraudulent voting.¹²⁵ All electors would be sent an alpha-numeric bar-coded voting card by the AEC after the close of the rolls. At the polling booth the voter would hand in the card, it would be read and its surrender recorded centrally through mobile telephone technology. The voter would then receive a ballot paper.¹²⁶

The Committee's view

- 5.165 The Committee is aware that postal delivery of unique identifiers to voters could be intercepted and the cards used for electoral identity theft. Having to produce another form of identification to demonstrate that the barcode is legitimately held would negate one of the suggested advantages, that of quick checking off.
- 5.166 Barcoding is again considered in Chapter 11, *Technology and the electoral system*.

Networked checking of the Electoral Roll

- 5.167 Under this arrangement, as each person had their name marked off on the electoral roll at a polling place, that fact was recorded on a master elector list at the AEC's central server. Any attempt to vote again, or for another person to use that name at any polling booth would be identified by real-time matching with the master roll and potential duplicate voting prevented.

125 Submission No. 41, (H S Chapman Society)

126 Submission No. 187, (H S Chapman Society)

- 5.168 This is considered in more detail in Chapter 11, *Technology and the electoral system*.

Senate

Group Voting Tickets

- 5.169 Group Voting Tickets are lodged by parties to indicate how they wish their preferences to flow when a voter elects to vote above the line, endorsing only one party. Copies of these are required to be prominently displayed at each polling booth so voters can clearly see where their preferences will go when they vote above the line.
- 5.170 The Committee was advised of a number of problems with this system, in addition to the apparent lack of familiarity with it among polling booth staff (mentioned under *Training of polling officials* above).
- 5.171 The majority of voters appeared to be unaware of Group Voting Tickets and so did not access them, or request access to them, before they voted.¹²⁷ The Festival of Light stated:
- the knowledge of the tickets is not readily available. Certainly in the last Federal Election the tickets were not displayed publicly on the walls, as they had been in the previous election, so the voters were kept in the dark as to how the flow of preferences would work in the tickets.¹²⁸
- 5.172 There is also anecdotal evidence of some voters being unable to access Group Voting Tickets at the 2004 election, with some others being misdirected by party staff at polling booths about where their preferences might flow. This resulted in some people wishing to retract their votes once they realised that their preferences would flow in a direction contrary to their wishes.¹²⁹

127 Submission Nos 100, (Electoral Reform Society) & 144, (PIAC), p. 11.

128 Dr David Phillips, National President, Festival of Light Australia, *Evidence*, Tuesday, 26 July 2005, p. 14.

129 Submission No. 90, (Mr D. Risstrom), p. 2.

The Committee's view

- 5.173 In Chapter 9, *Voting systems*, the Committee assesses criticisms about the operation of the compulsory preferential voting system. On evaluation of the evidence, the Committee arrived at the view that above-the-line compulsory preferential voting should be introduced for Senate elections, but with the option of below-the-line voting retained. A consequence of this would be the abolition of the option for lodgement of Group Voting Tickets.
- 5.174 In the event that the recommendation of Chapter 9, *Voting systems*, is not adopted, the Committee considers that any proposed amendment of the Senate voting ballot paper should contain measures to include ungrouped candidates in the preferences above the line.¹³⁰

¹³⁰ Submission No. 182, (Australian Electoral Commission), p. 26.