

Election day

Polling booths

- 3.1 The distribution of polling booths is reviewed after each election and after a redistribution of electoral boundaries. The benchmark for appointing a polling place in metropolitan areas is 1,000-1,200 votes and for rural areas is 200 votes. When any polling place is abolished, the benchmark is 100 votes, but the Australian Electoral Commission (AEC) also considers other factors such as alternative facilities and commonality with the location of state polling booths.¹ As a result of this process, 7,775 polling places were gazetted for the 1998 federal election.²
- 3.2 The AEC determines the location of polling booths by taking into account a mixture of historical factors, demographics, electoral boundaries, analysis of recent election voter trends and special circumstances that might apply at a particular election.³
- 3.3 Polling places are usually appointed and gazetted only once during an electoral cycle: in the immediate lead up to an election so as to allow for changes to the demographics of the voter catchment and any late developments in the availability of booth sites. Under s80(2) of the Electoral Act, a polling place cannot be abolished after the issue of writs for an election.⁴ The Committee believes there should be some scope for appealing the decisions on the location of polling booths.

1 Submissions p S1166 (AEC)

2 Australian Electoral Commission. 1999. *Behind the Scenes: The AEC's 1998 Federal Election Report*, Canberra, Paragon Printing, p 22.

3 Submissions p S1246 (AEC)

4 Submissions p S2504 (AEC)

Recommendation 32

- 3.4 **That the *Commonwealth Electoral Act 1918* be amended to allow registered political parties to appeal AEC decisions on the location of polling places.**
- 3.5 To ensure that each polling place is properly equipped, Divisional office staff use the computerised Polling Place Staffing Estimates System, which provides an estimated number of electors by Census Collection Districts (CCD). The system compares voter turnout and enrolment at the last election with the CCD data to produce an estimated number of votes. All polling places receive votes for a number of CCDs which make up their catchment area.⁵
- 3.6 The system retains ordinary and declaration vote statistics for the previous three federal elections. Using the system estimates, the Divisional Returning Officer (DRO) is able to ensure that each polling booth is properly equipped, including making decisions about adjustments to staffing levels.⁶
- 3.7 The AEC has a set procedure for all administrative matters relating to the conduct of the polling booth:
- The AEC provides all Divisional Returning Officers with a comprehensive up to date manual for the conduct of elections, the *Divisional Office Procedures Elections Manual*, which is grounded in the Electoral Act, as well as practical experience and knowledge gained over the years. The manual contains detailed procedures to be followed in all administrative matters relating to elections....Polling officials attend a comprehensive training program and are provided with an Instructions Manual which outlines the various election tasks and their responsibilities during the hours of polling. Election casuals also receive training in their tasks from Divisional office staff.⁷
- 3.8 During the inquiry, the Committee received complaints about the distribution of polling booths from the Australian Labor Party (ALP)

5 Submissions p S1137 (AEC)

6 Submissions p S1137 (AEC)

7 Submissions p S1137 (AEC)

Charters Towers Branch; Mr Barry Wakelin MP, Member for Grey; and the Liberal Party.⁸

- 3.9 In relation to the ALP Charters Towers Branch's concerns, the AEC indicates it will monitor enrolment changes in the area and will allocate a new polling booth accordingly.⁹ In relation to Mr Wakelin, the AEC states that the location of three polling booths in Port Pirie had to be changed because the previous locations were either unavailable or unsuitable.¹⁰ Both the Liberal Party and Mr Wakelin's complaints about the placement of a Division of Grey polling booth at Salisbury outside the Division of Grey are accepted by the AEC.¹¹

Polling booth concerns

- 3.10 The Committee also received a complaint about the staffing levels at polling booths from Mr Syd Stirling MLA, Member for Nhulumbuy in the Northern Territory.¹² In relation to Mr Stirling's concerns, the AEC reports that staffing at the Nhulumbuy polling booth was increased on the basis of the Northern Territory Statehood Referendum.¹³
- 3.11 With regard to the resourcing of polling booths at the 1998 federal election, the AEC indicates that in some areas the enhanced allocations of materials were insufficient, and the electoral forecasting system for the resourcing of polling places is now under active review so that school holidays and sporting events can be better accommodated.¹⁴
- 3.12 Issues relating to the staffing of polling booths are considered in Chapter 2.
- 3.13 In addition to difficulties with the AEC's management of polling booths a number of submissions deal with the behaviour of party workers at polling booths, including:
- Mr D Ogle, who is concerned about a party canvassing for postal votes outside a polling booth and potentially misleading voters into believing they were from the AEC;¹⁵

8 Submissions pp S635 (ALP Charters Towers Branch), S723-S724 (B.Wakelin MP, Member for Grey), S777 (Liberal Party), and Transcript pp 2-3 (B.Wakelin MP, Member for Grey)

9 Submissions p S1166 (AEC)

10 Submissions p S1177 (AEC)

11 Submissions p S1179 (AEC)

12 Submissions p S6 (S.Stirling MLA, Member for Nhulumbuy)

13 Submissions p S1133 (AEC)

14 Submissions p S1192 (AEC)

15 Submissions p S192 (D.Ogle)

- Ms Mishka Buhler, who complains about the placement of signs at the polling booth next to her home at 4.30am on election day;¹⁶
 - Mr James Dwyer, who points out that a thirteen year old boy had been left unsupervised to hand out How To Vote cards at a polling place in the Division of Blair;¹⁷ and
 - Mr Ken Briggs and Mr John King, who complained about the treatment of people accepting One Nation How To Vote cards at the hands of other party workers.¹⁸
- 3.14 It is not unexpected, given the large number of polling booths, that a certain number of voters will be disgruntled. The Committee trusts the AEC will bear in mind the concerns of those listed above in its future planning for the distribution and administration of polling booths.
- 3.15 As indicated at paragraph 2.16, there were a lot of cultural and sporting events being held at the time of the 1998 federal election, requiring special polling arrangements and facilities. The ALP, in its submission, expresses a concern that inconsistent polling arrangements were made in relation to sporting and cultural events, and little effort was made to inform people attending sporting and cultural events of polling arrangements. While the ALP recognises the need for AEC discretion in how it deals with such events, the ALP believes that some formal guidelines should be adopted to ensure consistency in decision making.¹⁹
- 3.16 In response, the AEC points out that there are significant reasons why it took the course of action it did in relation to these special events. Specifically, these reasons relate to the practical and legal complications of charging for admission and the sale of alcohol.²⁰ While the Committee supports the AEC's reasons for its decisions regarding polling places in particular instances, the Committee feels that formal guidelines would be helpful in this area.

16 Submissions p S637 (M.Buhler)

17 Submissions pp S642-S643 (J.Dwyer)

18 Submissions pp S670 (K.Briggs) and S698 (J.King)

19 Submissions p S787 (ALP)

20 Submissions p S337 (AEC)

Recommendation 33

- 3.17 **That the AEC develop guidelines in relation to the provision of special polling facilities, and that these guidelines be a disallowable instrument.**

Ballot paper shortages

- 3.18 The timing of the election resulted in a large number of voters being away from their normal polling booths on election day. The AEC reports that the random relocation of voters throughout the country meant that estimates made by the AEC of the requirement for ballot papers were in some instances inadequate. In a number of cases, polling booths ran out of ballot papers. Where these shortages occurred ballot papers were photocopied and declaration envelopes hand prepared until more materials were available.²¹
- 3.19 The Northern Territory Country Liberal Party (NTCLP) brought to the attention of the Committee the fact that some ballot papers were being admitted to the count that were photocopied and had not been signed by the issuing officer.²² This is a matter of concern to the Committee. The AEC indicate that, while s209(3) of the *Commonwealth Electoral Act 1918* (Electoral Act) requires ballot papers to be of a certain colour and s215 of the Electoral Act requires that a ballot paper be signed by the issuing officer, s268(2) of the Electoral Act provides that the DRO can admit ballot papers that are in question to the count.²³
- 3.20 Mr Kerry Heisner, ex Australian Electoral Officer for the Northern Territory, indicates that in his experience, photocopied and unsigned ballot papers have been admitted to the count provided the DRO is satisfied as to the circumstances in which the ballot paper is received.²⁴
- 3.21 The concerns of the Committee on this issue are best expressed by Mr Forrest, at the hearing at which Mr Heisner appeared.

...I am a little concerned by the admission by the Electoral Commission that they have admitted photocopied and unsigned ballot papers. I can accept that, if there is a shortage, you need to photocopy extra ballot papers and they might not be green or red

21 Submissions p S379 (AEC)

22 Submissions pp S553 and S1548 (NTCLP)

23 Submissions p S1164 (AEC)

24 Transcript pp 212-213 (K.Heisner)

or whatever, but to have them counted when there is no initial on them is a real bother...²⁵

- 3.22 The Committee is of the opinion that photocopied ballot papers should be initialled in order to be considered formal. Photocopied ballot papers should also be subject to the same reconciliation checks as normal ballot papers during the count.

Recommendation 34

- 3.23 **That the *Commonwealth Electoral Act 1918* be amended to ensure that, where a photocopied ballot paper is issued, the issuing officer must initial the ballot paper in order for it to be considered formal.**

Railway Side polling booth – Alice Springs

- 3.24 The administration of the Railway Side polling booth in Alice Springs was the focus of considerable attention during the inquiry. Three matters are at the basis of this attention: firstly, the process used by the AEC to determine the location of the polling booth; secondly, the adequacy of the physical location of the booth; and finally, the administration of the booth. The Committee inspected this polling booth on 16 August 1999.
- 3.25 Over 1,200 Aboriginal people live in Town Camps around Alice Springs,²⁶ of which 700 are enrolled to vote.²⁷ There is very little quantitative evidence as to the participation rate of these voters at previous electoral events, but the anecdotal evidence suggests the turnout was very low.²⁸ During the 1998 federal election, it is estimated that 350 town camp residents voted. The gazettal of the Railway Side polling booth was part of the AEC's response to the low participation rate.
- 3.26 Community services to Town Camp residents are provided by the Tangentyere Council. In this capacity the Council has regularly assisted the AEC to target Town Camp residents. Despite these efforts, the Council claims there has been no obvious improvement in the participation rate of Town Camp residents over time.²⁹

25 Transcript p 199 (J.Forrest MP, Member for Mallee)

26 Submissions p S1629 (Tangentyere Council)

27 Transcript p 275 (Tangentyere Council)

28 Submissions p S1624 (Tangentyere Council)

29 Submissions pp 1624-S1625 (Tangentyere Council)

- 3.27 To explain the difficulties with participation, the Council uses the concept of cultural remoteness. Cultural remoteness means that geographical proximity to a service does not mean that service can be easily accessed. The Council claims the discomfort of being in the different cultural environment in which services are located inhibits the access of Town Camp residents to those services.³⁰ Apart from Yirara College, most polling places are in locations that Aboriginal people rarely frequent and may be uncomfortable with.³¹
- 3.28 To resolve the accessibility problems discussed above, the AEC proposed to conduct mobile polling in the Town Camps.
- For the 1998 federal election...the Australian Electoral Officer for the Northern Territory decided mobile polling should be introduced for the town camps in Alice Springs,mobile polling would be an effective way of ensuring those people with language and literacy problems were able to discharge their duty to vote with appropriate assistance.³²
- 3.29 In addition, the AEC had concerns about providing adequate assistance to Aboriginal electors in a situation where there were three ballot papers, including the Northern Territory Statehood Referendum ballot paper.³³
- 3.30 The AEC approached the Council to provide assistance in ensuring the mobile polls were effective.³⁴ The Council had some reservations about the proposal devised by the AEC, largely based on the fact that the camps often contain people from separate language groups who would be required to mix in the Town Camps under the proposal.³⁵
- 3.31 Following a complaint by the NTCLP, the AEC obtained legal advice that the definition of remote mobile polling might not be determined by a court to include an urban location such as Alice Springs.³⁶ As a result, mobile polling for Town Camps was cancelled.
- 3.32 According to the Tangentyere Council, the Council's Executive Director devised the idea that it might be possible to replace the proposed mobile polls with a static booth at the Tangentyere Council's resource centre in Elder Street, Alice Springs on the basis that the resource centre is a focal

30 Submissions pp S1626-S1629 (Tangentyere Council)

31 Submissions p S1629 (Tangentyere Council)

32 Submissions p S386 (AEC)

33 Transcript p 216 (K.Heisner)

34 Transcript p 216 (K.Heisner)

35 Transcript p 273 (Tangentyere Council)

36 Submissions p S386 (AEC)

point for the Town Camp community.³⁷ The AEC accepted this suggestion and this site became known as the Railway Side polling booth.

- 3.33 The physical state of the Railway Side polling booth was not of the standard expected of AEC polling booths.³⁸ The polling booth was located in a small class room close to the Fogarty Street entrance of the Tangentyere Council resource centre. Mr Joe Beath, Assistant DRO for Alice Springs for the 1998 federal election, indicates that:

In hindsight, I think the polling place was a bit on the small side. When I inspected it last year in the lead-up to the election, I was advised that the room would be empty – that there would be no furniture left in it. Instead, however, they pushed some furniture back and put a couple of white boards in front of it, so restricting our space somewhat...³⁹

- 3.34 In that space, the AEC provided two ordinary issuing points, one declaration issuing point and 10 or 12 voting screens. In addition to AEC staff a number of authorised scrutineers were in the polling booth, putting space at a premium. As electors were being bussed into the polling booth from various locations, there were occasions when people were forced to queue for some time. Voters were brought through one door and exited via another after they had voted. Election day was quite warm, and the air conditioning was not working because the doors were opened.⁴⁰
- 3.35 The overall impression gathered by the Committee is one of an inappropriate location for a polling booth.
- 3.36 The Council recognises that the polling booth was poorly located, and indicate that, should a polling place be gazetted at the Council again, a more expansive area with easier access should be considered for the polling booth.⁴¹
- 3.37 In terms of the conduct of polling at the Railway Side polling booth, accounts vary between participants. The Council indicates that polling was conducted in a general environment of cooperation and harmony.⁴² Notwithstanding this, the Council had some concerns about the events of the day. The first concern was the presence of a number of Members of the Legislative Assembly of the Northern Territory as scrutineers for the

37 Transcript p 273 (Tangentyere Council)

38 Submissions p S547 (NTCLP)

39 Transcript p 245 (J.Beath) this view is also supported by K.Heisner (Transcript p217)

40 Transcript p 246 (J.Beath)

41 Transcript pp 250 (J.Beath) and 269 (Tangentyere Council)

42 Transcript p 286 (Tangentyere Council)

NTCLP, described by a representative of the Council as “the heavy artillery.” The Council argues that a presence of this sort might have the effect of heightening tensions at the booth.⁴³

- 3.38 A second issue is the taking of photographs by the NTCLP scrutineers. The Council point out that photographs are viewed with extreme cultural sensitivity by Aboriginal people, and that taking photographs of the polling booth had the potential to dramatically increase tension.⁴⁴ Yet as the Committee Chairman pointed out during the hearing in Alice Springs, this is not an unusual activity for party scrutineers.⁴⁵ The Officer in Charge (OIC) of the polling booth also indicated that this was a legitimate activity, but expressed some concern that permission was not obtained before photography took place.⁴⁶
- 3.39 One event about which both the NTCLP and the Tangentyere Council share a concern was the activity of a drunk elector at the polling booth. The drunk elector entered the polling place on a number of occasions, and during one of these visits, allegedly assaulted an NTCLP scrutineer.⁴⁷ On his last visit, the elector was arrested by the police. The presence of the police in turn caused a concern for the Council.⁴⁸ The AEC has attempted to absolve its responsibility for the alleged assault by stating that it took place outside the 6 metre limit of the polling booth, and therefore was not the responsibility of the AEC.⁴⁹
- 3.40 The Committee is of the view that an inebriated elector should not have been allowed anywhere near a polling booth. The difficulties created by this elector might easily have been prevented by either the Tangentyere Council preventing his transport to the polling booth until he was sober, or the OIC of the polling booth making use of s348 of the Electoral Act to control his behaviour.
- 3.41 The arrangements for the setting up of the polling booth is another issue of contention for the NTCLP. Scrutineers for the NTCLP at the booth indicate they came to an arrangement with the Council about access to the polling place at 7am on election day in order to set up before polling began at 8am. The NTCLP scrutineers indicate that they were not allowed

43 Transcript p 287 (Tangentyere Council)

44 Transcript pp 287-288 (Tangentyere Council)

45 Transcript p 288 (G.Nairn MP, Member for Eden-Monaro)

46 Transcript p 296 (E.Williams)

47 Transcript pp 142-143 (NTCLP)

48 Transcript p 286 (Tangentyere Council)

49 Submissions p S1159 (AEC)

access at the agreed time and that the ALP scrutineers had been allowed access earlier.⁵⁰

- 3.42 Access to the polling booth from the Fogarty Street entrance is provided via a heavy security gate that would be impassible if locked. Mr Mike Bowden, Manager of Community Development at the Council, set up the ALP promotional material at the Railway Side polling booth early on election day. He indicates that:

I do not recall locking the gates...If the gates were closed they may have been closed by somebody after I left – somebody picking up a bus or something – because I left them open...⁵¹

- 3.43 A further issue for the NTCLP is the overall control of the booth by the OIC, and specifically, a number of clashes between the OIC and the NTCLP over the number of scrutineers in the polling booth. The NTCLP allege that the OIC allowed only two of its scrutineers into the polling booth.⁵² The OIC for the polling booth indicates that she was prepared to allow six scrutineers into the polling booth at any time: two from each party and one each for the 'yes' and 'no' cases for the referendum.⁵³ Mr Beath, the AEC Assistant DRO for Alice Springs during the election, indicates that this was a sound decision⁵⁴ and given the size of the booth, the Committee concurs with Mr Beath. The OIC reports that on one occasion the NTCLP had up to six scrutineers in the booth.⁵⁵ If this claim is correct, it was not unreasonable for the OIC to request some of the scrutineers to leave. However, the NTCLP denies this was the case.⁵⁶

- 3.44 As an informed observer a step removed from the events the views of Mr Beath are instructive. Mr Beath's description of the physical limitations of the polling booth have been noted above. With regard to the conduct of the polling booth on the day, Mr Beath visited the booth on eight occasions, more times than he visited any other booth in Alice Springs.⁵⁷ Mr Beath reports that, despite the possibility of tension:

...Every time I got there, things seemed to be working smoothly...⁵⁸

50 Submissions p S1442 (NTCLP)

51 Transcript p 267 (Tangentyere Council)

52 Submissions p S1447 (NTCLP)

53 Transcript p 290 (E.Williams)

54 Transcript p 247 (J.Beath)

55 Transcript p 290 (E.Williams)

56 Submissions p S2064 (NTCLP)

57 Transcript p 246 (J.Beath)

58 Transcript p 249 (J.Beath)

- 3.45 The Committee concludes that over the entire day the conduct of the booth was probably not as disordered as the NTCLP believe. However, the AEC erred when it agreed to gazette a polling booth in the room provided by the Council, which was entirely unsuitable.
- 3.46 Passions about this polling booth run deep in both the NTCLP and the Tangentyere Council. In the opinion of the NTCLP, the polling booth was not an impartial venue but was directly linked to Aboriginal political activism where a large number of ordinary voters would prefer not to go.⁵⁹ To the Council, the booth represents an extension of the service it provides to the Town Camp community even though the Council does not have a role in selecting polling places.⁶⁰
- 3.47 The real key to the success or failure of the Railway Side booth lies in whether it achieved the goal of increasing the participation rate of the Town Camp community. The booth took 356 ordinary and 67 declaration votes,⁶¹ about a 60% turnout rate based on 700 enrolled electors. Representatives of the Council were satisfied with this number, claiming that Saturday is a bad day for voting for Aboriginal people, who tend to travel on that day.⁶² Nevertheless, the Council is not able to indicate that this is an increase over the participation rate at previous electoral events.⁶³ Decisions by the AEC for additional polling places should be based on the criteria currently used and any new locations should only be accepted after diligent consideration of all alternatives.
- 3.48 The AEC has informally notified the Committee that the Railway Side polling booth was used for the Republic Referendum in November 1999, although on this occasion a different room on the Council premises was used. For the Republic Referendum, 175 votes were taken at the polling booth.⁶⁴
- 3.49 The Committee accepts the principle of having a polling place to enhance the participation rate of a particular group, but this should be done appropriately. Due care should be taken to ensure appropriate separation between the AEC and the host of the polling place. In addition, polling booths should be located in adequate facilities. The AEC should also continue to monitor the participation rate to ensure that the allocation of the polling booth is having the desired result.

59 Submissions p S547 (NTCLP) and Transcript p 199 (Senator the Hon. G.Tambling)

60 Transcript p 275 (Tangentyere Council)

61 Submissions p S387 (AEC) and Transcript p 282 (Tangentyere Council)

62 Transcript p 282 (Tangentyere Council)

63 Transcript p 268 (Tangentyere Council)

64 AEC web page, www.aec.gov.au/tallyroom/Northern_Territory_q1.htm.

Voting on election day

- 3.50 At the 1998 federal election 95.34% of the 12,056,065 enrolled electors voted. This is slightly less than the 96.20% of enrolled electors who voted in 1996, but is in keeping with the broad trend of a turnout rate higher than 90% nationally since compulsory voting was first introduced for federal elections in 1924.⁶⁵
- 3.51 The AEC points out that penalty notices for failing to vote are currently sent to the last known address of the voter. If there is no response, a second notice is sent. The current legislation indicates that this second notice must be sent to the address known at the time the first notice is sent out. Effectively, the second notice has to be sent to the same address as the first notice even if the DRO receives advice that the voter no longer resides at that address. The AEC is also limited to the use of Australia Post for the delivery of this second notice. The AEC recommends a technical amendment to the Electoral Act so that the penalty notice can be sent to the latest known address of the voter at the time of the dispatch of the penalty notice by whatever means possible. The AEC also recommends this be extended to enrolment objection and determination notices.⁶⁶ The Committee accepts this recommendation.

Recommendation 35

- 3.52 **That the *Commonwealth Electoral Act 1918* be amended to allow the AEC to send penalty, enrolment objection and determination notices to the latest known address of the voter at the time of the dispatch of the notice.**

Assisted voting

- 3.53 Any physically impaired, vision impaired or illiterate voter is permitted to have an assisted vote. An assisted vote can be made either by a friend appointed by the person requiring assistance, or by the Presiding Officer at the polling booth in the presence of any scrutineers who wish to observe the vote.⁶⁷ Under s234 of the Electoral Act the voter must satisfy the Presiding Officer of the impairment before an assisted vote is granted. This requirement to satisfy the Presiding Officer is vitally important to the

65 Submissions p S379 (AEC)

66 Submissions p S390 (AEC)

67 Submissions p S381 (AEC)

debate that ensued during the inquiry about the level of assistance provided to Aboriginal voters.

- 3.54 Mr Middleton, who suffers a vision impairment, made a submission to the inquiry about the inability of someone in his position to make a vote without assistance and the impact such assistance was having on his access to a secret vote.⁶⁸ The Committee sympathises with Mr Middleton and will continue to investigate methods to provide greater privacy to those who currently require an assisted vote.
- 3.55 Senator the Hon. Grant Tambling, Senator for the Northern Territory and Mr Barry Wakelin MP, Member for Grey and the NTCLP all express concerns about the process of providing assisted votes in remote communities.⁶⁹ Assisted voting appears to be the norm in remote communities, with up to 90% of votes cast being assisted.⁷⁰ The AEC indicates this level of assistance is routine, and would be expected for federal elections with two voting systems and large numbers of candidates.⁷¹
- 3.56 The problems that have been raised in relation to assisted voting in remote areas are that: a small number of people appear to be providing assistance to a large number of people;⁷² scrutineers are providing assisted votes as friends;⁷³ and people who are not eligible for assistance are being assisted.⁷⁴
- 3.57 During the inquiry the Committee conducted inspections of voting facilities in Maningrida, Bathurst Island and Alice Springs to investigate the difficulties inherent in conducting polling in regional and remote communities. At Maningrida and Bathurst Island, assisted voting was discussed at length during these inspections and the local communities expressed their strong support for the assisted voting process.
- 3.58 The NTCLP points out that in instances where large numbers of people were being assisted, only a handful of people were providing the

68 Submissions p S24 (J.Middleton)

69 Submissions p S544 and Transcript pp 140, 154 and 158-160 (NTCLP); Submissions p S2073 and Transcript p 6 (B.Wakelin MP, Member for Grey); and Transcript p 188 (Senator the Hon G.Tambling)

70 Submissions pp S544 (NTCLP), S711 (Senator the Hon. G.Tambling) and Transcript p 303 (E.Williams)

71 Submissions p S1154 (AEC)

72 Submissions p S546 and Transcript p 154 (NTCLP)

73 Submissions pp S544 and S1453 (NTCLP), S1369 (J.Polke) and S1164 (AEC)

74 Submissions p S1447 (NTCLP)

assistance.⁷⁵ In other words, one individual might be called on to assist a large number of those requesting assistance:

...At some polling booths in remote areas it appears to be standard procedure for assisted voters to receive assistance. This assistance is provided by the same person repeatedly...⁷⁶

- 3.59 The AEC has stated that the same person may assist many voters in remote communities because there may be only a handful of people with the language and literacy skills who are capable of providing assistance, and these people are expected by the community to provide that assistance to as many other members of the community as are in need.⁷⁷
- 3.60 As part of the 1996 federal election inquiry report, the Committee recommended that the relevant section of the Electoral Act be amended so that only a Presiding Officer or a polling official could provide an assisted vote on the basis that assistance provided by someone nominated by the voter could result in the vote being influenced.⁷⁸ This recommendation resulted in a proposed amendment as part of the *Electoral and Referendum Amendment Act 1998*, but was removed during the passage of the Act through the Senate.
- 3.61 The AEC opposes such a recommendation as it would result in scrutineers being able to observe every assisted vote. The AEC fears this situation might result in a decrease in participation and an increase in informal voting as those requiring assistance attempt to avoid being observed by scrutineers.⁷⁹
- 3.62 In addition to a small number of people providing assistance to a large number, the NTCLP point out that the AEC is interpreting the Electoral Act to allow scrutineers to provide assisted votes as a friend of the voter.⁸⁰ The AEC readily concedes that it has been interpreting the Electoral Act in this way.⁸¹
- 3.63 Currently, s218(1) of the Electoral Act prohibits a scrutineer from interfering with or attempting to influence a voter within a polling booth or communicating with any person within a polling booth except to

75 Submissions p S546 and Transcript p 154 (NTCLP)

76 Submissions p S711 (Sen the Hon G.Tambling)

77 Submissions p S1155 (AEC)

78 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 46.

79 Submissions p S383 (AEC)

80 Submissions pp S544 and S1453 (NTCLP) and S1369 (J.Polke)

81 Submissions p S1164 (AEC)

discharge their duties. The AEC suggests that it might be possible to extend this prohibition to prevent scrutineers from providing an assisted vote.⁸² The majority of the Committee agrees with this suggestion.

Recommendation 36

3.64 **That the *Commonwealth Electoral Act 1918* be amended to explicitly prevent scrutineers from providing assisted votes.**

3.65 As indicated above, the Electoral Act states that a person must request an assisted vote if they require it, and the Presiding Officer or their appointee must be satisfied that the person requesting assistance is eligible for such assistance. The process for providing assistance is specified in the training provided to AEC staff:

Our training manuals make it quite clear that the presiding officer or polling official should not assume the person requires assistance. It requires them to be satisfied. The issue then is the means by which people become satisfied that someone requires an assisted vote. Those matters are considered in the training manuals. At the end of the day it comes down to judgement.⁸³

3.66 In practice:

It is not entirely up to the voter to say that they must be assisted... it is a combination of factors which lead to a judgement being made by the presiding officer. It may be by trying to converse with someone and not making communication clear. The presiding officer then knows he or she will require some assistance in order to make the communication and to facilitate the casting of the vote...⁸⁴

3.67 This evidence is backed up by evidence from the OIC of Remote Mobile Polling Team 16, who stated in relation to assessing whether someone needed assistance:

...If they look at the AEC person with a dumbfounded look then they are asked whether they want someone to assist them...⁸⁵

82 Submissions p S1164 (AEC)

83 Transcript p 67 (AEC)

84 Transcript p 67 (AEC)

85 Transcript p 302 (E.Williams)

- 3.68 Overall, the NTCLP feels that the combination of the large numbers accessing an assisted vote, the small numbers providing assistance, and the permissive reading of the relevant section of the legislation by the AEC is creating a situation in which large numbers of voters could be having their votes influenced.⁸⁶ The NTCLP is even able to cite an example of a situation in which a voter who received assistance then assisted others.⁸⁷
- 3.69 The AEC's response to this concern is that:
- ...It is undeniable that many Aboriginal voters in remote areas of the Northern Territory appear to cast their votes for one particular political party, and that the same political party is able to deploy scrutineers and party workers at many remote polling places, but this need not be taken as indicating undue influence or electoral fraud.⁸⁸
- 3.70 The Committee has received evidence from some witnesses that in practice the method for assessing whether an individual requires assistance has become too permissive. The Committee recognises that some individuals will be very reticent to ask for assistance given the stigma attached to illiteracy, however, the Committee is of the view that those issuing assisted votes need to make greater efforts to assure themselves that the voter genuinely requires assistance.
- 3.71 Instances of higher than average assisted voting does occur in certain communities such as remote Aboriginal communities, communities of high ethnic and Non English Speaking background and communities with low levels of literacy. The Committee believes some method needs to be found to reduce the number of assisted votes without the risk of disenfranchising those genuinely in need.
- 3.72 A proposal to include photographs of the candidates on House of Representatives ballot paper received a favourable response during the Committee's inspection of remote communities, and was supported by all sides of politics during the hearings in Alice Springs⁸⁹ and Darwin.⁹⁰
- 3.73 The Committee notes the AEC indicates that the inclusion of photographs of candidates on ballot papers is possible, but:

86 Submissions p S544 and Transcript p 154 (NTCLP); and Transcript pp 187-188 (Senator the Hon G.Tambling)

87 Submissions p S1447 (NTCLP)

88 Submissions p S1172 (AEC)

89 Transcript p 284 (Tangentyere Council)

90 Transcript pp 134-135 (The Hon. W.Snowdon MP, Member for the Northern Territory), 146-147 (NTCLP) and 188 (Senator the Hon. G.Tambling)

...We have to see how that might impact on the administration and the way in which we proceed with close of nominations, candidates getting photographs and getting them on ballot papers. It is a pretty major logistical exercise that we do engage in and one that does stretch the envelope in terms of timing.⁹¹

- 3.74 Ballot papers containing photographs are used in the Northern Territory Legislative Assembly elections. The procedure for the use of photographs in the Northern Territory may provide a model for their use in federal elections. The photographs are provided by the candidate with the nomination form. The photographs must be black and white head and shoulders portraits of a designated size. The photographs must be no more than six months old.⁹²
- 3.75 In a submission the AEC provides examples of a Northern Territory ballot paper and a mock up of a potential House of Representatives ballot paper containing candidate photographs.⁹³ Both of these examples indicate that the concept of candidate photographs on House of Representatives ballot papers is workable.
- 3.76 Investigations revealed that about 30 countries have photographs on ballot papers but it is unclear whether this is for all candidates or just for presidential candidates. Countries in the list include Greece, New Guinea, Portugal, South Africa and Peru.
- 3.77 The Committee believes that such a proposal may be considered in the future.
- 3.78 The AEC does not collect any information on voter participation rates or assisted voting in any particular racial group or cultural community. However, as part of the public awareness campaign in the lead up to the 1998 federal election, the AEC translated its press advertising into 19 languages, its radio advertising into 23 languages and its television advertising into 7 languages. A 15 language telephone interpreting service was also provided. In addition, radio advertisements were translated into 15 indigenous languages. Similar arrangements were made during the public awareness campaign for the 1999 referendum. In the Division of Fowler, which has a high population of Non English Speaking Background voters and high informality rates at past electoral events, the AEC trialed a video campaign in selected polling places during

91 Transcript p 441 (AEC)

92 Regulation 32, *Northern Territory Electoral Regulations 1996*

93 Submissions pp S2388-S2391 (AEC)

the 1998 federal election, running videos in several languages on how to cast a formal vote.⁹⁴

- 3.79 Although recommended by the Hon. Warren Snowdon MP, Member for the Northern Territory, the Tangentyere Council, Mr Kerry Heisner (former Australian Electoral Officer for the Northern Territory), and the AEC,⁹⁵ the Committee does not believe that the Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS), a national program abolished in 1996 which aimed at encouraging the participation of Aboriginal and Torres Strait Islander people in the electoral process,⁹⁶ should be reinstated. Because no statistics on the assisted voting or voter turnout of particular racial groups or cultural communities are collected, the AEC says it is not possible to measure in numerical terms the impact of the abolition of ATSIEIS.⁹⁷ Information on the success of ATSIEIS is therefore based on informal accounts, such as those provided by Mr Heisner.⁹⁸ The Committee feels there is room for a more focussed and short term program to reduce the level of assistance required.

Recommendation 37

- 3.80 **That the AEC report to the Committee on options for an effective integrated educational and enrolment service for Aboriginal and Torres Strait Islanders before the next federal election.**

Provisional voting

- 3.81 The purpose of provisional voting is to ensure that those electors whose names may have been removed from the Commonwealth Electoral Roll in error during the objection process⁹⁹ by the AEC are not disenfranchised when they present to vote at the polling booth to find their names not on the certified list. The declaration votes provided by provisional voters are checked against the Roll before being entered into the count. In certain circumstances, for example when the voter claims to have moved to

94 Submissions pp S2506-S2507 (AEC)

95 Transcript pp 133 (Hon. W.Snowdon MP, Member for the Northern Territory), 283 (Tangentyere Council), 207 (K.Heisner) and Submissions p S1712 (AEC)

96 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 44.

97 Submissions p S2506 (AEC)

98 Transcript pp 205-207 (AEC)

99 Objections are the method by which voters are removed from the Commonwealth Electoral Roll. They are contained in Part IX of the Electoral Act.

another address within the Division, the enrolments of such voters are reinstated.¹⁰⁰

3.82 There were 182,573 provisional votes issued and received, and 116,158 provisional votes counted by the AEC.¹⁰¹ In comparison, 174,422 provisional votes were issued and 105,091 counted in the 1996 federal election.¹⁰² Of the total provisional votes issued and received in 1998 by the AEC, 66,415, or 36.38% were not counted because they failed to pass the preliminary scrutiny (see Chapter 4 for discussion on the preliminary scrutiny process).¹⁰³ In the 1996 federal election 69,331, or 39.75%, of provisional votes were not counted. The AEC stated that in relation to the 1998 federal election:

...The statistics demonstrate that there does not appear to be any unusual activity occurring in relation to provisional voting.¹⁰⁴

The AEC argues that the most important factor in the rate of rejection of provisional votes is the interaction between the removal of electors from the Roll through objection action in the months prior to the election and changes in voter participation from one election to another.¹⁰⁵

3.83 A number of submissions and other evidence raising concerns about provisional voting have been received during the inquiry, including from:

- the Liberal Party, which argues that voters who fail to re-enrol after moving should not have access to a provisional vote;
- Ms Fran Bailey MP, Member for McEwen who calls for a comparison of the numbers of provisional votes cast in marginal seats at the 1996 and 1998 federal election;
- Mr Jim Lloyd MP, Member for Robertson, pointing out that, considering a recent habitation check in his Division, an unacceptably high number of provisional votes had been cast and were accepted during the 1998 federal election;
- Dr Amy McGrath, who argues that provisional voters amount to a new class of voters who can enrol without identity checks; and
- Mr Gary Nairn MP, Member for Eden-Monaro, who highlights the 85% increase in provisional votes cast and the 163% increase in provisional

100 Submissions p S404 (AEC)

101 Submissions p S404 (AEC)

102 Submissions pp S510 and S513 (AEC)

103 Submissions p S404 (AEC)

104 Submissions p S404 (AEC)

105 Submissions p S2508 (AEC)

votes counted in the Division of Eden-Monaro at the 1998 federal election.¹⁰⁶

- 3.84 The largest increase in provisional votes during the 1998 federal election was in New South Wales, with an increase from 53,687 provisional votes in the 1996 federal election to 73,416 in 1998. In some Divisions, such as Eden-Monaro and Dobell, the number of provisional votes almost doubled.¹⁰⁷
- 3.85 The AEC explains the large number of provisional votes in New South Wales by indicating that before the last federal election there was a major roll review in New South Wales with a significant amount of objection action. Consequently, a number of people were taken off the Roll. The AEC claims that because a large number of those removed from the Electoral Roll by objection action have only moved within their Division, they are entitled to a provisional vote, increasing the number of provisional votes.¹⁰⁸
- 3.86 Provisional voting numbers in the Northern Territory also increased significantly. During the 1996 federal election, electors in the Northern Territory were subject to different provisional voting rules to those that applied in the rest of Australia. Provisional voters who moved between subdivisions in the Northern Territory could not be reinstated on the Electoral Roll. The Northern Territory rules for reinstatement of provisional voters were brought into line with those of the rest of Australia in the *Electoral and Referendum Amendment Act 1998*. Voters who move between subdivisions in the Division of the Northern Territory are now reinstated if they lodge a provisional vote.¹⁰⁹
- 3.87 The effect of the amendment on saving provisional votes in the Northern Territory was significant. In the 1996 federal election there were 3,516 rejected declaration votes, including 2,529 provisional votes. In the 1998 federal election there were 1,895 rejected declaration votes, of which 980 were provisional votes.¹¹⁰ This change to practice in the Northern Territory caused some difficulty with the NTCLP, which was concerned

106 Submissions pp S58 (F.Bailey MP, Member for McEwen), S684 (J.Lloyd MP, Member for Robertson), S755 (A.McGrath), S781 (Liberal Party) and Transcript p 42 (G.Nairn MP, Member for Eden-Monaro)

107 Submissions p S508 (AEC)

108 Transcript p 42 (AEC)

109 Submissions p S385 (AEC)

110 Submissions p S1162 (AEC)

about the time taken to verify the authenticity of some declaration certificates and the much larger number of accepted provisional votes.¹¹¹

- 3.88 The AEC points out that although European names are easy to track on the RMANS system for provisional vote purposes, some names, addresses and dates of birth, most commonly those of Aboriginal electors, may not be so easy to locate. Many Aborigines live in communities that do not have street addresses, many have more than one name, and many do not know their exact date of birth or even the year. Because of this it takes a little more time to carry out the standard checks to determine the admissibility of the provisional vote.¹¹²
- 3.89 The AEC provided the Committee with a demonstration of the preliminary scrutiny of provisional votes in Darwin on 21 May 1999. A description of the preliminary scrutiny of all declaration votes is contained in Chapter 4.
- 3.90 The process for providing a provisional vote is contained at Schedule 3 of the Electoral Act. The process has been amended over time and has grown cumbersome and complex. The AEC expresses a concern about this.¹¹³
- 3.91 If an elector is removed under objection action from the Roll, and they then make a provisional vote claiming that they still reside within the Division, the DRO is required to reinstate the elector at their enrolled address and admit the vote. A notice of determination of the admissibility of a vote is then sent to the elector. Clearly, many of the reinstated electors are not living at the addresses they are enrolled for and in many cases the determination is returned either unclaimed or with an indication that the person no longer resides at that address. The DRO then instigates objection action, and the process begins again.¹¹⁴
- 3.92 The simplest solution to this problem is to break the nexus between reinstatement on the Roll and provisional voting. This proposal does not affect the franchise, but does improve the accuracy of the Roll. The AEC recommends the nexus between provisional voting and reinstatement on the Roll be broken by repealing s105(4) and s105(5) of the Electoral Act.¹¹⁵ Although this proposal will not necessarily reduce the number of provisional votes cast, the suggestion is a significant improvement over

111 Submissions pp S552-S553 (NTCLP) and Transcript p 191 (Senator the Hon. G Tambling)

112 Submissions p S1161 (AEC)

113 Submissions p S414 (AEC)

114 Submissions p S414 (AEC)

115 Submissions p S415 (AEC)

the current practice. The majority of the Committee supports this recommendation.

Recommendation 38

- 3.93 **That the nexus between provisional voting and reinstatement be broken by deleting ss 105(4) and 105(5) of the *Commonwealth Electoral Act 1918*.**
- 3.94 If the nexus is broken the AEC recommends two possible options to further update the process. The first option is for the AEC to take action to re-enrol an elector at their new address if the elector is at an address within the Division other than the one they were previously enrolled at.¹¹⁶ This is the option favoured by the AEC.
- 3.95 The second option is to repeal paragraphs 10(b), 11(b), 11A, 12, 13, and 14 of Schedule 3 of the Electoral Act. This would result in a similar situation to that which occurs in state elections, which is that if your name is not on the Roll, you cannot vote. While this may have the effect of removing the rights of those electors whose names had been removed from the Roll by official error such consequences would be minimal.¹¹⁷ This option is favoured by the Liberal Party, Mr Graham Smith (DRO for Forde) and Mr Arthur Tuck¹¹⁸ on the basis that the current process rewards voters for breaking the law by granting them a vote.

Recommendation 39

- 3.96 **That the *Commonwealth Electoral Act 1918* be amended so that:**
- **if an elector has moved within the Division they are enrolled for since the last redistribution or federal election and has not re-enrolled, then the AEC will take action to re-enrol the elector at their current residential address and their provisional vote for the Division and the Senate will be counted;**
 - **if an elector has moved outside the Division they are enrolled for but within the same State or Territory since the last redistribution or federal election and has not re-enrolled, then**

116 Submissions p S719 (AEC)

117 Submissions p S719 (AEC)

118 Submissions pp S781 and Transcript p 169 (Liberal Party); Submissions p S1292 (G.Smith) and Transcript p 335 (A.Tuck)

the AEC will take action to re-enrol the elector at their current residential address and their provisional vote for the Senate will be counted; and

- **if an elector has moved outside the State or Territory they are enrolled for since the last redistribution or federal election and has not re-enrolled, then the AEC will take action to re-enrol the elector at their current residential address and their provisional vote will not be counted.**

Voting by prisoners

- 3.97 The Electoral Act provides that any person serving a prison sentence of five years or longer is not entitled to enrol or vote at Federal elections. The *Electoral and Referendum Amendment Act [No 1] 1999* originally contained a proposal to abolish the franchise for all prisoners, but this was defeated in the Senate.
- 3.98 Active advocates of prisoners rights include Justice Action and the Australian Democrats. They argue that it is important to understand that whilst prisoners are deprived of their liberty in detention, they are not deprived of their citizenry of the nation. As part of their citizenship, all convicted prisoners in detention should be entitled to vote.¹¹⁹ The Democrats argue that to deny prisoners the vote is to impose an additional penalty on top of that judged appropriate by the court.¹²⁰
- 3.99 Justice Action also points out that a very low percentage of prisoners, between 2% and 33% at the 1996 federal election depending on the institution, actually vote. Given the low participation rate, Justice Action recommends the AEC pursue a campaign aimed at increasing prisoner participation, including enrolling prisoners at the time of imprisonment and targeting a publicity campaign to prisons.¹²¹
- 3.100 The AEC indicates that posters encouraging prisoners to vote were distributed to prisons prior to the 1998 federal election, and expect an improvement in this service in future. The AEC also rejects the proposition that prisoners be enrolled at the time of imprisonment on the basis that prisoners should remain enrolled at their home addresses.¹²²

119 Submissions pp S1313 (Justice Action) and S1618 (Australian Democrats)

120 Submissions p S1618 (Australian Democrats)

121 Submissions p S1312 (Justice Action)

122 Submissions pp S1656-S1657 (AEC)

3.101 The Committee notes that this issue has been raised a number of times in the past as part of previous inquiries and any move to change the legislation has met with fierce opposition. Following the 1993 election the recommendation¹²³ to extend the franchise to all prisoners was initially included in amending legislation, but was withdrawn, and, as mentioned above, the proposal to abolish the franchise for all prisoners has recently been defeated. Although the majority of this Committee concurs with the previous Committee's recommendation, it believes that the current legislation should stand until there is sufficient and widespread public support for a change.

Fraudulent enrolment and voting

3.102 The AEC states that before the 1998 federal election there were some minor cases of enrolment fraud, especially in North Queensland, which were detected by the AEC, investigated by the Australian Federal Police (AFP) and prosecuted.¹²⁴

3.103 The Committee has received a number of submissions dealing with the potential for electoral fraud to occur. These can be divided into five categories:

- the accuracy of the Commonwealth Electoral Roll;¹²⁵
- the security of ballot papers;
- fraud in particular divisions;
- dual and multiple voting; and
- voting in the name of a deceased person.

Accuracy of the Commonwealth Electoral Roll

3.104 Matters relating to the accuracy of the Commonwealth Electoral Roll are discussed in Chapter 2.

123 Joint Standing Committee on Electoral Matters. 1994. *The Federal Election: Report of the Inquiry into the conduct of the 1993 Federal Election and matters related thereto*. Canberra, AGPS, pp 143-144.

124 Submissions p S416 (AEC)

125 Submissions pp S557 (A.Beckett) and S1334 (A.Viney)

Security of ballot papers

- 3.105 Three submissions to the inquiry contain concerns about the transport of ballot papers. Mr Peter Cork's submissions presents hearsay evidence,¹²⁶ but the other two, from Mr Nicholas and Pauline Hanson's One Nation Party Gilgandra Branch concern delays in the transport of ballot papers from polling booths to the Divisional Office.¹²⁷
- 3.106 The AEC points out that there could be any number of justifiable reasons why the delivery of ballot material to the Divisional office took longer than might be expected, such as an arrangement not to have the ballot materials delivered to the Divisional office until after counting of ballots at the main polling booth had been completed, or the requirement of the courier to pick up a number of ballot boxes from smaller booths.¹²⁸ Generally, electoral material is properly sealed before leaving the polling booth and a courier is used for transporting the ballot box to the Divisional office, with a driver and an offsider employed so that at least one person could remain with the lockable van at all times.¹²⁹
- 3.107 A number of submissions raised a concern about the use of pencils to mark the ballot paper.¹³⁰ In relation to these concerns, the AEC responds that pencils are used on the basis that they are more reliable than pens.¹³¹ The issue of the use of pencils was dealt with as part of the 1993 federal election report. In that report the Committee found that there would be no real improvement in security as a result of the use of pens to mark the ballot paper.¹³²
- 3.108 Mr K Lawson objects to the presence of party scrutineers during the count on the basis that their presence might threaten the security of the ballot.¹³³ With regard to scrutineers, the Committee is of the opinion that party scrutineers are an excellent guarantee of transparency and accountability in overseeing the election process.

126 Submissions p S1091 (P.Cork)

127 Submissions pp S182 (J.Nicholas) and S561 (Pauline Hanson's One Nation Party Gilgandra Branch)

128 Submissions p S1165 (AEC)

129 Submissions p S1143 (AEC)

130 Submissions pp S558 (A.Beckett), S595 (J.Thamm), S695 (Pauline Hanson's One Nation Oakley Branch), S1091 (P.Cork), S1324 (R.Hore) and S1344 (K.Lawson)

131 Submissions p S1645 (AEC)

132 Joint Standing Committee on Electoral Matters. 1994. *The Federal Election: Report of the Inquiry into the conduct of the 1993 Federal Election and matters related thereto*. Canberra, AGPS, p45.

133 Submissions p S1347 (K.Lawson)

3.109 Dr Amy McGrath is particularly concerned about the potential for corrupt and illegal practice in the Australian electoral process. She is especially alarmed by the decision to outsource the Commonwealth Electoral Roll to a private firm and does not believe this is an adequate protection against security threats such as computer hackers.¹³⁴ The Committee is aware that other parliamentary committees are conducting inquiries into the adequacy of outsourcing arrangements. Outsourcing of the Commonwealth Electoral Roll will be a matter for regular review by the Committee. The AEC should advise the Committee of any future changes to the outsourcing arrangements.

Fraud in particular Divisions

3.110 Allegations of electoral fraud at any given election tend to focus on those Divisions about which there is some controversy. During the 1998 federal election, the Division most cited as an example of electoral fraud is the Division of Dickson. Allegations received by the Committee in relation to the Division of Dickson are:

- Mr E. H. Vaughan, who claims that there were 6,816 illegal votes cast in the Division;¹³⁵
- Mr David Mudgee, who claims that invalid votes were counted in the Division;¹³⁶ and
- Mr Graeme Lee, who alleges that over 100 extra votes were found at the Albany Creek South polling booth in the Division.¹³⁷

3.111 Mr Vaughan and Mr Mudgee are probably alluding to the fact that a number of ballot papers were re-admitted to the count after being incorrectly classified as informal. The AEC advised that:

...in the Division of Dickson, many ballot papers with the last square blank were incorrectly assessed at the polling booth on election night as informal, and did not enter the count. At the fresh scrutiny following election night, these ballot papers were correctly reclassified as formal under section 268(1)(c) of the Electoral Act and entered into the count, thus changing the progressive results.¹³⁸

134 Submissions p S742 (Dr A.McGrath)

135 Submissions p S260 (E.Vaughan)

136 Submissions p S162 (D.Mudgee)

137 Submissions p S275 (G.Lee)

138 Submissions p S408 (AEC)

- 3.112 In the interests of clearing up the question of the illegal votes, the AEC conducted an investigation of multiple voting in the Division and was able to determine that in fact only two votes may have been the result of multiple voting.¹³⁹
- 3.113 In relation to the Albany Creek South polling booth, the results of the count on election night revealed a difference of 7 ballots in the reconciliation. Because of the discrepancy in the reconciliation the fresh scrutiny after election night at the polling booth was observed by 20 scrutineers and a number of media. Those who observed the fresh scrutiny were satisfied with the results.¹⁴⁰
- 3.114 Overall the AEC reported that:
- The counting of ballot papers in the Division of Dickson was subject to intense scrutiny, and AEC staff were congratulated by the scrutineers at the conclusion of the count, despite the closeness of the result...¹⁴¹
- 3.115 The other Division about which a concern has been expressed is the Division of Blair. Mr Charles Turner claims that when the count had eliminated all but three candidates, the candidate with the second highest number of votes was illegally eliminated from the count.¹⁴² The AEC point out that the process described by Mr Turner only actually applies after the initial count of first preferences, and that it is therefore likely that Mr Turner has misunderstood the provisions of the Electoral Act relating to the scrutiny of House of Representatives votes.¹⁴³

Dual and multiple voting

- 3.116 A number of submissions to the inquiry dealt with multiple voting, advocating both greater security and arguing that multiple voting is becoming endemic.¹⁴⁴ The views of Mr Arthur Tuck best summarise the concerns of this group:

139 Submissions p S1148 (AEC)

140 Submissions p S1149 (AEC)

141 Submissions p S1148 (AEC)

142 Submissions p S1338 (C.Turner)

143 Submissions p S1661 (AEC)

144 Submissions pp S60 (A.Emms), S162 (D.Mudgee), S206 (D.Carrington-Smith), S207 (N.Kendall), S264 (C.Hewson), S275 (G.Lee), S314, S1854 (A.Tuck), S508 (S.Jackson), S558 (J.Beckett), S596 (B.Hudsen), S606 (C.Bevan), S638 (L.Bauer), S667 (M.Goldstiver), S689 (V.Stewart), S690, S1824 (Office of the Leader of Pauline Hanson's One Nation Party), S1091 (P.Cork), S1100 (E.Farear), S1103 (Patriotic Movement of Australia), S1344 (K.Lawson) and S2359 (B.Ward)

I wish to object most strongly at the complete lack of any security in the voting procedure. There is absolutely nothing to stop me or anyone else voting in my own name or somebody else's name in every polling booth I can get to...¹⁴⁵

3.117 Detecting dual and multiple voting is relatively easy. Each polling booth within a Division is provided with an identical copy of the Roll for that Division. As a voter is given a ballot paper, their name is crossed off the Roll. If the voter then votes again at another polling booth, their name is struck off the Roll at that booth as well. In effect, there is a record of their dual or multiple vote.¹⁴⁶

3.118 After election day, the rolls are scanned and the names of those who have apparently voted multiple times are recorded. These multiple votes are then investigated:

..a substantial number of [apparent dual and multiple votes] are the result of scanning errors or official errors, and are resolved after investigation by matching with apparent non-voters...¹⁴⁷

3.119 The AEC reports that, once official errors were removed, the number of dual votes increased from 239 at the 1996 federal election to 966 at the 1998 federal election. The AEC explained that:

Following the 1996 federal election, not all State Head Office reports included all cases of dual voting detected, only those that had some prospect of being accepted by the AFP for investigation. By contrast, for the 1998 federal election, this oversight has been corrected, and State Head Offices have reported all cases of suspect dual voting...¹⁴⁸

3.120 The AEC divides those electors who are suspected of having voted more than once into those who have voted twice (dual voting) and those who have voted more than twice (multiple voting). The AEC uses this distinction because most dual votes are more likely to be the result of confusion as a result of age or language and cultural difficulties rather than an effort to defraud the electoral system.¹⁴⁹ Statistics provided by the AEC indicate that this is the case, with 56% of dual voters coming from a

145 Submissions p S314 (A.Tuck)

146 Australian Electoral Commission. 1998. *Electoral Background, No 5*. 17 July, Canberra, AEC, p 1.

147 Submissions p S416 (AEC)

148 Submissions pp S2273-S2274 (AEC)

149 Submissions p S2272 (AEC)

non English speaking background, and 13% of dual voters being aged over 70.¹⁵⁰ According to the AEC:

...In such cases, it is not in the public interest to prosecute.¹⁵¹

3.121 With regard to multiple voting, the AEC reports that it was able to detect 45 cases of suspected multiple voting. All of these cases have been referred to the AFP for investigation. Of those cases referred, the AFP rejected 33 on the basis that they did not have the resources to pursue these cases. In fact, following the 1998 federal election, the AFP routinely rejected cases of multiple voting that allegedly involved up to 12 votes cast by one individual.¹⁵²

3.122 The AEC claims the reason for this lack of action is:

...that the level of the penalty for the multiple voting offence under the Electoral Act is set at such a relatively low level (6 months imprisonment or a pecuniary penalty averaging \$500 prior to 1998 and a pecuniary penalty of \$1,100 after 1998) that the AFP is unable to give the offence high enough priority for investigation, in a climate of limited resources.¹⁵³

3.123 In the Committee's view, a six month imprisonment is not a low penalty. However, the Committee considers the pecuniary penalty is low relative to the term of imprisonment.

3.124 As part of the 1996 federal election inquiry report, the Committee recommended the AEC conduct a review of penalties under the Electoral Act with the assistance of the Attorney General's Department.¹⁵⁴ According to the AEC, this review has not taken place because of the steady inclusion of the penalty units system in the Electoral Act, and the changes to the Electoral Act that will result from some of those sections of the Electoral Act dealing with punishments for offences being transferred to the *Criminal Code Act 1995*. In addition, the AEC advises that the Attorney General's Department has informally indicated that a review of the levels of penalties in the Electoral Act should take place within policy guidelines concerning desirable and specified penalty levels. The AEC

150 Submissions p S2273 (AEC)

151 Submissions p S416 (AEC)

152 Submissions pp S2353-S2355 (AEC)

153 Submissions p S2282 (AEC)

154 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*, Canberra, AGPS, p 90.

indicates a preference that these policy guidelines be set by the Committee.¹⁵⁵

3.125 All of the 12 remaining multiple voting cases investigated by the AFP resulted in a denial by the suspected multiple voter and no further action by the AFP.¹⁵⁶ The AEC explains the failure to pursue the remaining 12 cases on the basis that, despite the amendment to the Electoral Act as part of the *Electoral and Referendum Amendment Act 1998* to remove the need to prove wilful intent in relation to multiple voting, in effect there is still a requirement to prove intent. In other words, the amendment:

...does not provide any relief from the necessity for the offence to be properly investigated by the AFP, so the relevant admissible evidence, including any explanation obtained from the alleged offender for the conduct under investigation, is provided to the DPP in order to decide if an offence is disclosed and if prosecution is in the public interest.¹⁵⁷

3.126 The result of the AEC's investigations into dual and multiple voting during the 1998 federal election has resulted in the commencement of three prosecutions for dual voting to date.¹⁵⁸

3.127 As a solution to the AFP's inability to pursue cases of multiple voting on grounds of priority, the AEC recommends that the Committee consider increasing the pecuniary penalties for multiple voting in order to make this offence a higher priority for the AFP to investigate.¹⁵⁹ Mr Alan Viney also advocates this point.¹⁶⁰

3.128 The Committee strongly believes that deliberate multiple voting is a serious offence that can have a significant impact on the effective operation of the democratic process. Authorities need to take this matter seriously.

155 Submissions p S2282 (AEC)

156 Submissions p S2276 (AEC)

157 Submissions p S2280 (AEC)

158 Submissions p S2277 (AEC)

159 Submissions p S2283 (AEC)

160 Submissions p S1335 (A.Viney)

Voting in the name of a deceased person

- 3.129 Mr Jim Lloyd MP, Member for Robertson, indicates to the Committee that he believes he had detected an attempt to fraudulently vote at the 1998 federal election on the basis that five apparently deceased voters had voted.¹⁶¹
- 3.130 During parliamentary debate over the *Electoral and Referendum Amendment Act (No 1) 1999* in the House of Representatives in December 1998, Mr Lloyd alleged that, following an investigation of a list of 51 people Mr Lloyd claimed had died between the issue of writs and election day for the 1998 federal election, five had been found to have voted by the AEC.¹⁶²
- 3.131 On November 5, a staff member in Mr Lloyd's office sent the acting DRO for Robertson a list of 51 names of allegedly deceased people who had voted at the election. The AEC confirmed with Mr Lloyd's office that 46 of these allegedly deceased people had not voted, while 5 had. Following Mr Lloyd's comments in Parliament, the AEC was able to confirm that, as a result of recent Roll review activities, the five electors were in fact alive.¹⁶³
- 3.132 The AEC did not inform Mr Lloyd of this until well into April 1999,¹⁶⁴ by which time Mr Lloyd had written a submission to the Committee.
- 3.133 Mr Lloyd indicates that while the AEC claims that only five of the original 51 electors were in fact alive at the 1998 federal election, up to seven of these electors were still on the Electoral Roll by 19 November 1999.¹⁶⁵
- 3.134 The AEC expresses some concern that the issue of the five allegedly deceased might take on the status of fact.¹⁶⁶ The Committee feels this prospect would have been less likely had the AEC removed all the appropriate names from the Roll at the time they were determined to be deceased, and communicated the fact that the five electors were alive to Mr Lloyd at the time this had been determined, rather than some months later. The Committee is of the opinion that this constitutes a clear breakdown in procedures.

161 Submissions p S685 (J.Lloyd MP, Member for Robertson)

162 House of Representatives Hansard, 2 December 1998, p 934

163 Submissions p S419 (AEC)

164 Transcript p 49 (AEC)

165 Submissions pp S2401-S2402 (J.Lloyd MP, Member for Robertson)

166 Submissions p S417 (AEC)

Recommendation 40

- 3.135 That the AEC review its procedures for updating the Commonwealth Electoral Roll following notification of the death of an elector.**

Conclusion

- 3.136 During the 1998 federal election:

...the AEC detected no widespread and organised electoral fraud that could have affected the result in any Division, particularly any marginal Division...¹⁶⁷

- 3.137 Overall, the AEC is concerned about the threat to the integrity of the electoral system posed by false claims of electoral fraud that remain unchallenged and unquestioned:

Since 1984, a parliamentary inquiry has been held into the conduct of every federal election. At each of these inquiries the possibility of fraudulent enrolment and voting has been investigated, and each time it has been concluded that no evidence was available to support allegations that widespread and organised electoral fraud had occurred to such an extent that the result of any of those elections was in doubt.¹⁶⁸

- 3.138 While the Committee understands the AEC's concerns about the integrity of the electoral system being threatened by false claims of fraud, the Committee points out that criticism of the electoral system should be welcomed as one method of ensuring the ongoing integrity of the system.
- 3.139 The Committee has seen no evidence of widespread and organised electoral fraud having occurred at the 1998 federal election. All examples of electoral fraud provided to the Committee as part of this inquiry appear to be either based on hearsay or have a reasonable explanation.

167 Submissions p S416 (AEC)

168 Submissions p S416 (AEC)