



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Conduct of the 2007 federal election and matters related thereto

TUESDAY, 2 DECEMBER 2008

CANBERRA

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JOINT STANDING
COMMITTEE ON ELECTORAL MATTERS

Tuesday, 2 December 2008

Members: Mr Melham (*Chair*), Mr Morrison (*Deputy Chair*), Senators Birmingham, Bob Brown, Carol Brown, Hutchins and Ronaldson and Mr Danby, Mr Bruce Scott and Mr Sullivan

Members in attendance: Senators Birmingham, Bob Brown, Carol Brown, Hutchins and Ronaldson and Mr Melham, Mr Morrison, Mr Scott and Mr Sullivan

Terms of reference for the inquiry:

To inquire into and report on:

The conduct of the 2007 federal election and matters related thereto, including the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008, with particular reference to:

- a. the level of donations, income and expenditure received by political parties, associated entities and third parties at recent local, state and federal elections;
- b. the extent to which political fundraising and expenditure by third parties is conducted in concert with registered political parties;
- c. the take up, by whom and by what groups, of current provisions for tax deductibility for political donations as well as other groups with tax deductibility that involve themselves in the political process without disclosing that tax deductible funds are being used;
- d. the provisions of the Act that relate to disclosure and the activities of associated entities, and third parties not covered by the disclosure provisions;
- e. the appropriateness of current levels of public funding provided for political parties and candidates contesting federal elections;
- f. the availability and efficacy of 'free time' provided to political parties in relation to federal elections in print and electronic media at local, state and national levels;
- g. the public funding of candidates whose eligibility is questionable before, during and after an election with the view to ensuring public confidence in the public funding system;
- h. the relationship between public funding and campaign expenditure; and
- i. the harmonisation of state and federal laws that relate to political donations, gifts and expenditure.

WITNESSES

LOUGHNANE, Mr Brian, Federal Director, Liberal Party of Australia..... 1

Committee met at 12.30 pm**LOUGHNANE, Mr Brian, Federal Director, Liberal Party of Australia**

CHAIR (Mr Melham)—I declare open this public hearing of the Joint Standing Committee on Electoral Matters for the inquiry into the conduct of the 2007 election. At today's hearing we will hear from the Federal Director of the Liberal Party of Australia. Political parties are key stakeholders in the electoral system, and it is important to get their feedback on the conduct of the 2007 election and proposals for electoral reform. The committee has invited all major political parties to public hearings to expand on their submissions and respond to some of the suggestions that others have made about how the electoral system can be improved.

The submission by the Liberal Party of Australia noted that the election was well managed by the Australian Electoral Commission, and the committee will be keen to examine some of the improvements suggested by the Liberal Party of Australia, including the counting of pre-poll votes and ways to further reduce informal voting. I would like to thank today's witness for appearing, and I now welcome Mr Brian Loughnane, from the Liberal Party of Australia, to today's hearing.

Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. As I have said, we have received a submission from the Liberal Party of Australia covering a range of matters. If you wish to present any additional submissions, please feel free to do so, or feel free to make an opening statement to the committee.

Mr Loughnane—I would like to make a few opening comments, if that is convenient to the committee, and then I would be happy to take questions.

CHAIR—Thank you. Go right ahead.

Mr Loughnane—Mr Chairman and members, thank you for the opportunity to appear before the committee today on behalf of the Liberal Party of Australia. The Liberal Party is again pleased to take part in the regular review conducted by this committee after each general election. We believe the work of this committee in each parliament reviewing the previous federal election is an important and valuable contribution to improving electoral law and administration in Australia. Every election is an expression of Australia's democracy, and the integrity and the conduct of elections are an essential part of maintaining and strengthening freedom in this country. Australia at all times needs an open and accountable electoral system, conducted fairly and efficiently. This is crucial for the confidence of the Australian people in our electoral system, as well as being important to particular stakeholders, such as political parties. We are fortunate as a country in the basic integrity of our electoral system, and the regular JSCEM inquiry after each election is an important contribution to maintaining that integrity. These hearings also give an important opportunity for interested parties to raise other issues of concern surrounding the Commonwealth Electoral Act.

I would like to make some brief remarks addressing a number of specific issues, and then I would be happy to take questions from members of the committee. Firstly, I would like to begin

by commending, on behalf of the Liberal Party, the AEC on its administration of the 2007 election. While we have a number of comments and suggestions to make, it is our view that the overall operation of the election was well managed. It clearly built on the experience of and feedback from previous campaigns. We are particularly pleased with the increased liaison that has occurred between the AEC and key stakeholders since the 2004 election, including in particular the political parties. It is clear that this process of consultation provided feedback which led directly to improvements in the administration of the election, and we commend the commission for its approach and willingness to engage with the parties. We believe that this has been a very valuable process and urge the commission to continue its liaison with the parties and other interested community groups in the years ahead. I look forward to further discussion with senior officials of the AEC in advance of the next election.

As members of this committee are well aware, the government has indicated it may propose further changes to Australia's electoral laws. Let me be very clear that the Liberal Party is open to discussion with the government on the nature and framework of our future electoral systems, including the arrangements surrounding funding and disclosure. However, we disagree with the approach taken by the Labor government so far to this important issue. The approach is not conducive to building a bipartisan and factually based consensus in support of change. The government's decision to introduce electoral bills without waiting for this committee to conduct its inquiry or for public consideration of its proposed green paper is inviting piecemeal and knee-jerk consideration of potentially important changes. It means that the parliament, when considering the bills currently before it, is doing so without a clear indication of the government's further proposals. It makes comprehensive consideration of electoral changes impossible and, regrettably, it makes the current task of this committee almost irrelevant.

We believe the sensible approach is for the government to withdraw the current bills and wait until the green paper has been considered, so that the community and interested parties can contribute to potential changes in a comprehensive way. Should this occur, the Liberal Party is open to considering practical suggestions that improve the quality of Australian democracy and treat all political parties fairly. But, as indicated, it is our view that this can only be done in a comprehensive way following extensive debate in consideration of the green paper. In considering the need for further changes to our electoral system, the Liberal Party points to the fact that no problems have been identified with the changes legislated in the last parliament. Our current electoral system is working well, and the case for change has not been demonstrated. We caution against reversing reforms that have, in our view, improved the operation and effectiveness of the act. Nevertheless, we remain open to discussion with the government on proposals to further strengthen our electoral system.

Turning specifically to the 2007 general election, there are a number of specific comments that I would like to make. Firstly, I would like to discuss a major and unprecedented feature of the 2007 election and that is the massive amount of spending by the trade union movement in the campaign. Not only was there a substantial flow of funding and resources from unions to the Labor Party for its campaign, but there was also an exceptionally high level of direct union spending on its own campaign against the coalition. The ACTU spent over \$14 million on television advertising in the 12 months before election day. This was more than either of the two major parties spent on television advertising in the campaign. There has never been an occasion before in the democratic history of this country where an outside force has intervened and campaigned with resources greater than those of either of the two major parties. This

development has profound significance for Australian democracy and deserves full investigation by this committee.

Let me be clear, the Liberal Party does not object to unions taking part in the political process, but it is a matter of serious concern for Australians when organisations which are not political parties can intervene in the electoral process on such a massive scale. The potential for distortion of our democratic process is large, and we do not believe any review of the 2007 election can ignore this problem. An important part of the work of this committee in reviewing the last election should, therefore, concentrate on investigating this development and, in particular, the unprecedented resources devoted by the trade union movement to the campaign and the period leading to it.

I note that the trade union movement has not taken the opportunity to make a detailed submission to this inquiry. To ensure that it comprehensively reviews all the issues surrounding the last election, the committee may wish to consider inviting representatives of the union movement to appear before it and to set out the details of the unions' campaign last year.

I would like to now turn to provisional voting. A requirement for proof of identity for provisional voting was introduced into the act in the last parliament. In previous submissions, we have expressed concerns about abuse of the provisional voting system. The changes in the number of provisional votes admitted to the count in 2007 reinforce us in the view that there had been previously been problems and that the proof of identity requirement has helped to address those problems. The change, as made by the last parliament, was clearly a desirable reform which has enhanced the integrity of our electoral system. No evidence has been produced to support the need for further change or reversion to the previous standard. In fact, the operation of the new standard in 2007 clearly showed the importance of the new standard.

Another important reform made in the last parliament was the introduction of a proof of identity requirement for enrolment. Correct enrolment is at the heart of the integrity of our electoral system. Appropriate proof of identity for enrolment is an elementary standard to maintain confidence in the electoral system. The change made in the last parliament corrected an anomaly and has worked smoothly. It is important for public confidence in our electoral system that this reform continue and not be ended or watered down.

The improvements made to the close-of-roll arrangements by legislation in the last parliament were an important change to assist in enhancing the integrity of the electoral roll. We believe that these changes worked well in 2007 and that there is no reason to change the timings of the close of roll. We reject the rhetoric from the Labor Party alleging that the new procedures are unfair. In fact, the evidence is to the contrary.

I would like to just make some reference to the postal vote application procedure. The Liberal Party is concerned at the growing complexity of the postal vote application form. It is desirable that the information it carries be as simple and as clear as possible. We do not consider this to be the case at present, and we urge the AEC to give attention to reducing the level of detail it currently requires to be part of the official PVA. To the extent that this information is required by law, we urge the committee to recommend a simplification. It is also important for the form of the PVA for a given election to be gazetted well ahead of that election. We recommend that the gazettal of the PVA should occur at least six months ahead of the likely date of an election.

The number of informal votes at the 2007 election appears to have fallen significantly. This is a welcome development, and the Liberal Party commends the AEC for the consultative approach it took after the 2004 election to ensure that its advertising and information campaigns were effective. We believe that it is important that the AEC continue to produce advertising and information campaigns that target informality. Again, we encourage the AEC to work in consultation with the parties in doing so to ensure that the most simple and effective campaigns are developed.

I would like to conclude my remarks by taking the opportunity to mention two other reforms which we believe would strengthen the administration of our electoral system. The first relates to the counting of pre-poll votes. A longstanding anomaly of our current electoral system is the delay in the counting of pre-poll votes. The Liberal Party would support any review of the current arrangements and, in particular, any proposal that would change the arrangements for pre-poll votes so that these votes are counted on the evening of election day, when ordinary votes are counted, and are not left until following days. This is a simple and straightforward change which would assist in getting speedier outcomes in seats with close results.

Section 155 of the Commonwealth Electoral Act requires that the date for the close of rolls be fixed as three working days after the date of the writ. However, a public holiday in any state or territory is not to be counted as a working day for this purpose. While this may make sense for a general election, it is an anomaly when it applies to a by-election. In the case of the Gippsland by-election earlier this year, the date for the close of rolls had to be fixed taking into account three days that were holidays in different parts of Queensland and that were not observed as holidays in Gippsland or in any part of Victoria. We believe that section 155 should be amended so that at by-elections the working days are calculated only with regard to public holidays that occur in part or all of the state concerned.

Finally, the Liberal Party is also concerned at the growing administrative burden on all political parties from increasingly complex compliance issues surrounding the Electoral Act, including the issue involved in the public funding of political parties. The burden is further accentuated by the growing complexity involved in complying with different state and federal disclosure requirements. I wish to be very clear that the Liberal Party is completely committed to meeting the disclosure requirements and the guidelines designed to ensure that both the spirit and the intent of relevant legislation is met and that public funds are properly accounted for. However, all the major political parties have limited resources—in fact, all the political parties have limited resources—and recent trends to increase the administrative burden on the parties without any improvement in transparency and in the absence of indications of systematic failures by the parties to meet disclosure and compliance standards are significantly adding to the cost pressures and administrative burdens on the parties. Political parties do not have the resources of the Public Service, are essentially volunteer organisations and have only small staffs. I believe that the parties in Australia, with these limited resources, do have a track record of doing the right thing, and I urge those responsible for setting compliance and audit requirements to discuss these requirements with the parties in order to simplify the burden involved in meeting them while still providing reasonable compliance information.

I would like to again thank the committee for this opportunity to discuss issues surrounding the administration of the last election and the operation of the Commonwealth Electoral Act. I again commend the AEC for its conduct of the last election and reiterate the importance of the

process of ongoing discussion between the AEC and the political parties. I trust that the committee finds the issues I have raised today of value in its important work, and I would be pleased to expand on any of the points I have made or to answer any other questions that members of the committee may have.

CHAIR—Thanks, Mr Loughnane. I will take you up on that offer shortly, but I will defer at this stage to Senator Bob Brown, because there is another issue that the committee is considering, and that is to do with above-the-line voting—an amendment bill. So I think that, while Senator Brown is here, we will get your views on that.

Senator BOB BROWN—I want to ask about that proposal for above-the-line preferential voting. It is essentially the New South Wales system—it is very similar to the New South Wales upper house—whereby it is left to voters to order their preferences for political parties rather than to the hectic dealing that we all, by law, have to be involved in because the parties have to present preferences in each state. I wonder if you have looked at that system and if you have any comment on it.

Mr Loughnane—Thank you. We have begun the task of looking at it; I have had a look at it and we have had a look at it. I do not want to present on behalf of the Liberal Party a concluded view on the matter one way or the other today.

Senator BOB BROWN—Okay.

Mr Loughnane—As you probably gathered from my remarks, the whole discussion of the future shape of the electoral system and the Electoral Act is in an unusual position because we are awaiting the green paper from the government. I know that is a separate issue to what you are talking about. We are open to genuine discussion about options that further enhance the operation of the Electoral Act and Australia's electoral system. We believe that the current electoral system, broadly taken, works well, so any change that is proposed needs to be worked through and its potential implications properly thought through. That is something that we are having a look at at the moment in relation to the proposal that you have brought forward, so I do not want to give a final or considered position. I am not saying that we are against it; I am saying that we just wish to work through the full implications of it.

One point I would like to make is that the current Senate voting system has now been in place for quite some time. I think it is fair to say the evidence shows it took the members of the committee quite some time to get used to the processes involved but that seems—certainly for the last few elections—to have worked well. I note that a very high percentage—over 90 per cent—voted above the line in the most recent election. If there is going to be a change to that we would like to make sure that it is not just going to be another thing that adds to further confusion but a thing that works well. So we are open to looking at it and we are in the process of doing that at the moment.

Senator BOB BROWN—Good. I am sure the committee will not mind if I say I would be happy—because it is a bill that is also before the Senate—to supply any information or otherwise. If you come to a conclusion about it, it would be good to hear during the course of this committee's deliberations.

CHAIR—I am also interested. The current bill says that you have to number at least four preferences above the line in a half Senate election, or at least seven preferences above the line in a full Senate election. I am interested in your views as to whether an optional preferential system might be better so that you are able to number more than the one but not have a minimum. It would be good if you could look at all those options.

Mr Loughnane—This goes exactly to the point I was making about the need to work through the implications of it. I think the simpler the better, as a general proposition. I remain to be convinced of the virtues of optional preferential voting. I know that is not necessarily the view of all members of this committee. A change to that system federally would really need to be worked through very carefully.

Senator BOB BROWN—Does the Liberal Party of Australia have a view on proportional representation for the House of Representatives?

Mr Loughnane—The view of the Liberal Party of Australia is that the current voting system for the House of Representatives works well and we do not believe there is a case being made for change.

Senator BOB BROWN—There has been a proposal from Senator Fielding to limit the spending of the major parties—but I guess this refers to all parties—to \$10 million. Have you considered that proposal? It ties in with something you were saying earlier.

Mr Loughnane—The government has foreshadowed that it wishes to consider further changes in this area and I gather there is a green paper forthcoming. Whatever remarks I make should be taken in the context that we want to consider things as part of a total package. We are very concerned to make sure that whatever system is put in place is fundamentally fair to all parties, because it is not as though we are one of those countries that change the electoral system in great detail after every election. Changes tend to last for quite some time and have implications across the life of a number of governments.

It is fundamentally very important, I think, that political parties are able to make their case to the Australian people in any election campaign. That is a fundamental principle against which we will be discussing any proposed changes to the electoral system. I accept that that does not just involve—probably these days increasingly—advertising or paid communication. I am concerned that any proposed cap is properly thought through. There is evidence in some other countries that one of the consequences of a cap is that it merely deflects funding and resources to other groups outside the political parties.

There is some argument, for example, that the rise of the packs in the United States—I know it does not go directly to the cap issue—was impacted by some of the changes to the electoral law there. That is why I think it is important that these things are considered in totality, that they are not considered in isolation, that the potential implications of a change are properly thought through and that it is not like a balloon where you squeeze it here and it pops out there and something else that was not intended, and that potentially does distort the integrity of the electoral system, does not occur as a consequence.

Senator BOB BROWN—Thank you.

CHAIR—Mr Sullivan, because we have a number of members here, I propose that you spend five or 10 minutes on your key issues and if there is time left over we can come back to you.

Mr SULLIVAN—Thank you. The issue that I wanted to visit, probably not surprisingly, was your comments in relation to the third-party spending by the trade union movement. I think everybody understands that it occurred to an unprecedented extent in this country. But you have not really given us any idea of what your view on what could be done about that might be or if you suspect that there should be something done about it. I wonder if you have a view about capping or prohibiting people from participating or any of that sort of stuff.

Mr Loughnane—A couple of things flow from that. Firstly, I think that as a major, arguably the major, participant in the election campaign last year the trade union movement should be invited to come before this committee and to set out full details of what occurred so that there is public transparency. Just as my counterpart from the Labor Party came before this committee and just as I am here to answer questions today, I think that it would be appropriate that the trade union movement be invited to come and set out the details. Secondly, as a general principle I believe that the full scope of scrutiny and disclosure that applies to the parties should equally apply to any other group—some parts of the measure do; some do not. We are particular concerned to ensure that any campaigning that was done in kind is appropriately disclosed. Funding of television commercials is relatively public, so that can be discerned. But, if employees were seconded to work on campaigns and if administrative support was given in kind, I believe that should be known publicly. If other resources were somehow made available, that should also be disclosed. I do believe, going to the point that was raised by Senator Brown, that if we are looking at reform of Australia's electoral laws the implications of a major external body campaigning at a level above that of the political parties should be properly worked through and properly considered.

Mr SULLIVAN—What would be your trigger? What level of participation triggers that degree of scrutiny?

Mr Loughnane—I think that is a matter that needs to be considered by this committee. I think, as a minimum, that the full level of disclosure that applies to the political parties should apply to any other group externally and should cover not just direct spending but also other in-kind spending of any nature. I think that, if it persists, it is a matter that really does have to be looked at. If, for example, the government were of a view that there be a cap on spending or that there be a cap on donations, one option that would flow from that is that the only group that would be able to make donations would be individuals, not bodies—that is, incorporated bodies or groups such as trade unions. One of the principles we would take to any discussion about changes to or reform of the electoral system in this country is that, if there were to be limits placed on the capacity of small business, business organisations or other incorporated bodies or associations to take part or donate, that must equally apply to trade unions.

Mr SULLIVAN—You meant to continue and say 'or business organisations'?

Mr Loughnane—That is what I mean by incorporated associations.

Mr SULLIVAN—The thing that is interesting to me is that, as the Labor candidate in whose electorate there was a very strong Your Rights at Work campaign—for, indeed, that is what we

are talking about—I did not know until a day before the election whether my Greens opponent or I was going to occupy No. 1 on their recommendation of how to vote. In that sense, as a beneficiary—

Mr Loughnane—One statement I can definitively make as the Liberal Party campaign director at the last election is that we were not concerned at the prospect of the Greens winning the seat that you now occupy, as much as I respect Senator Brown and his campaigning ability.

Mr SULLIVAN—You did not see the prospect of me winning it, either!

Senator HUTCHINS—I have two quick questions. In our previous hearing, when we had the former secretary, Mr Gartrell, talking about election funding, he gave his personal views when we talked about an arms race in raising money. Is it getting to a stage—I know you mentioned the trade union contribution, and, equally, we could look at various state elections over the years and at what business has given to the non-Labor parties—where something needs to be done in terms of public funding?

Mr Loughnane—As I indicated in my submission, the Liberal Party is open to genuine discussions with the government on this matter, so I do not want to pre-empt that.

Senator HUTCHINS—Do you have a personal view, like Mr Gartrell?

Mr Loughnane—I have a strong personal view, but I would prefer not to state that at the moment other than to say that one of the great strengths of Australia is the integrity of its democratic system. It is critical that we maintain that. There are distortions driven by the need to continually be on the merry-go-round of fundraising, and those are a concern.

Senator HUTCHINS—You may have mentioned this in your submission. Regarding the registration of political parties, does the Liberal Party have a view about the number of people who should be able to be part of the registration of a party and about the name of that party—for example, if we had another ‘Liberals for Forests’, ‘Democratic Liberals’ or something like that? Do you have a view?

Mr Loughnane—This is a matter that I addressed when I appeared before the committee after the 2004 election. We are exceptionally concerned about the prospect that there may be scope for confusion in the minds of electors as a result of laxity in the process for registration of political parties. That has been tightened, but I believe it is absolutely critical that there not be scope for any degree of confusion or for any smart-alec attempt by outside groups to try to imply that they are somehow connected to any of the existing parties when that is not the case. A key part—

Senator HUTCHINS—And ongoing registration as well?

Mr Loughnane—Again, obviously in a free and open society, people should be allowed to assemble and to form a political movement. But to be registered and to become eligible for public funding, I do believe it is necessary that there is an acceptable minimum threshold. That was reviewed in the last parliament and was raised slightly—I think I am correct in saying that. It is absolutely essential that that is continually reviewed. While it is not excessively onerous for

a new political party to be established there needs to be a basic integrity in the registration process.

CHAIR—Does your party have any views as to where we could tighten it? As a result of the way it has been operating, feel free to submit to us in relation to these matters because deception in terms of smaller parties is something that is strong on all of our minds and misleading voters. If you think there is a deficiency, do not hesitate.

Mr Loughnane—The Liberal Party is exceptionally concerned about the implication that the Liberals for Forests previously was somehow other connected with Liberal Party. The Liberals for Forests have no connection whatsoever with Liberal Party and in fact preferenced against us on every occasion. I have no doubt at all that there were people who would believe that they were somehow or other voting to assist the Liberal Party and so they who voted for the Liberals for Forests believing that ultimately their vote would come back to the Liberal Party.

CHAIR—We used to have the Rex Connor Senior Labor Party in Wollongong and they were doing the same thing. The question in terms of disqualifying their registration obviously is around the name of the Liberal or Labor. It cannot be about how they preference because that only happens after the event. As I said I'm interested in it, I think this is something where there is cross-party support.

Mr Loughnane—I fully support that if somebody the word 'Labor' in their name, most people would assume that that party has some connection with the Labor Party just as they would if it has the name 'Liberal'. I believe that currently registered parties, as with any sort of basic brand or commercial integrity, have a right to safeguard their reputation and name.

Mr SULLIVAN—Has your party done any work to see if there was damage to your party vote by the presence in the last election of a party called the Liberal Democratic Party?

Mr Loughnane—We have had an initial look at it. I cannot give you a concluded view. We are concerned about the possibility of any confusion whatsoever in people's minds by a confluence of names. We believe that in the case of the word 'Liberal' that has for 60 years been identified with a set of values in people's minds and when people go into vote the capacity for confusion is increased unfairly. We very strongly support any proposals to further examine and tighten this area.

CHAIR—There are a few issues I want to take you to now rising out of your submission. I have obtained copies of postal vote applications for the members of the committee and you have one in your hand. In your submission you talk about reducing the level of detail that is currently required to be part of the official PVA, postal vote application. I am just wondering the sorts of things, you might be able to tell us, that should or could be removed in the application. Is it to do with a lot of the peripherals around it that clutters it?

Mr Loughnane—This whole form is what is gazetted.

CHAIR—Yes, I understand that.

Mr Loughnane—I would be amazed if very many electors read the whole form.

CHAIR—Right.

Mr Loughnane—A lot of it is there more for the sake of the record than for genuinely informing possible voters

CHAIR—So that is the party's—

Mr Loughnane—My view is that the level of detail is such that it adds to confusion. We would ask that the Australian Electoral Commission engages in a process of discussion with the political party or political parties as to what is an appropriate way to simplify this so that the intent of what is there is maintained, but that it is simplified.

CHAIR—Okay. There is nothing in the actual filling out part that strikes you as being unnecessary? I think that most of it is pretty essential, isn't it?

Mr Loughnane—Yes, the detail on the actual single panel that people fill in is okay. If anything, it is probably a bit too small for where people sign, and things like that. But the whole of the form, with the exception of the front panel, is what is required to be reproduced. It forms part of the gazetted information.

CHAIR—That is why I brought it up today.

Mr Loughnane—I think that no commercial organisation that communicates with its client base would have this level of detail these days. There is sufficient skill among experts in advertising and public communication such that these things can be simplified.

CHAIR—There is no state or territory form used that catches your imagination?

Mr Loughnane—I would have to take that on notice.

CHAIR—Could you take it on notice? I am just interested in whether there are alternatives.

Senator CAROL BROWN—I want to follow up on the postal vote issue. The Liberal Party, like the Labor Party, would have sent out this document in some form and also attached its own information to it. Has the Liberal Party undertaken an analysis of whether a postal vote campaign is really worth while for the political parties?

Mr Loughnane—I think that is a good question because if you look at the trend, returns from postal votes and pre-poll are increasing. Just as we saw in the recent election in the United States, where the level of pre-poll voting increased significantly, and given that these days Saturdays are not a day of rest for everyone and people have a lot of demands on their time, it is inevitable that the trend of using postal vote applications and pre-poll voting is going to increase. We have an instance in one of the states at the moment, where there is going to be a by-election in the middle of January—which strikes us as a highly unusual, if I could just say that. In that case, a very significant proportion of the constituency of that electorate are probably going to be away so I would anticipate that the level of postal voting there is going to be very high. My view is that postal voting is going to increase, not decrease, and it is more than just a convenience.

Senator CAROL BROWN—I would imagine that the Electoral Commission would probably be very happy if the political parties just let them send out postal vote information. It is a huge task that both parties undertake and I am interested to know whether it is all worth it.

Mr Loughnane—It is in some ways a convenience that is extended by the parties to the AEC. It does relieve them of some of the burden. I believe it is an essential and critical part of the scope of electioneering these days—that political parties continue to be allowed to participate in the postal vote application process. We would strongly reject any proposal or suggestion that that should change.

Senator CAROL BROWN—You mentioned the trend for more and more people to access the pre-poll as a way of voting. Are you suggesting in your submission that pre-polls be cast as ordinary votes where they are cast in their home electorate?

Mr Loughnane—Are you saying with regard to counting them on election night?

Senator CAROL BROWN—Yes.

Mr Loughnane—Yes. These days you would hope that, over time, processes allow for greater efficiency and greater clarity and whatnot. To believe that these days we cannot have a system where those votes are counted on election night, we find that unusual. We believe it obviously leads to greater clarity as to election results on election night. We are relatively fortunate in this country that we have not had a situation where things have been so close that the result is not really transparent on election night. We have not had one of those situations for many, many years, but there is no reason why at some point we would not, so I think the objective in the ideal world would be that every single vote is able to be counted on election night. We know that that is not possible with postal votes, but we believe that the current system can be improved.

CHAIR—In relation to postal votes, wouldn't it be possible, if you had postal votes prior to election day and where a preliminary scrutiny had been able to be done, for postal votes to be counted?

Mr Loughnane—We would be open to that. I just do not think that this whole area has been looked at for many years. I guess it is probably an issue of resources in part, but we believe that it is something that can and should be looked at.

Senator CAROL BROWN—I have two more points on pre-poll. We have had evidence given about expanding the criteria to access pre-poll voting and also about where pre-poll polling booths are set up around the country. Do you have a view on those two issues?

Mr Loughnane—I think that both of those issues are something that is worth the Electoral Commission looking at further, because I do believe that people are increasingly looking at the necessity to pre-poll. And, as appropriate, it is important that the Electoral Commission is able to meet the increased demand.

Senator CAROL BROWN—Did the Liberal Party, during the last federal election, have any concerns about where some pre-poll stations were set up, particularly regarding access with handing out how-to-vote cards?

Mr Loughnane—There were a number of instances of that. One of the reasons why I emphasised the importance of the continuing process of communication between the AEC and the political parties is to make sure that there is a commonality of interpretation of relevant bylaws and other requirements from polling booth to polling booth on election day, but also from pre-poll centre to pre-poll centre. Whether everyone likes it or not, it is a characteristic of Australian elections that people do have available a how-to-vote card when they go in to vote. Given the nature of our voting system, the preferential nature and how important to the integrity of the electoral system and to avoiding informal votes how-to-vote cards are, I believe it is important that the political parties are able to provide the opportunity for people to have access to a how-to-vote card if they wish to take it, including in pre-poll centres.

Senator CAROL BROWN—Just one more question, Chair? On another matter, I did not see it in the submission here, but does the Liberal Party have a position on overseas donations and are they concerned about foreign nationals having an influence in the democratic processes in Australia through those donations?

Mr Loughnane—Senator, as I indicated in my previous remarks, the fundamental integrity of our system is one of its key characteristics and basically our system works well. We have been very fortunate about that. As I also indicated, I would prefer that I wait for the production of the green paper and the process of discussion around that before setting out any specific view because I think it is important that these things are considered in totality and in a comprehensive way. As I indicated, we are open to genuine discussion with the government, but it would be premature for me to strongly declare a position at the moment other than to say that we have been fortunate the current system has worked relatively well in relation to overseas donations.

CHAIR—I just want to go back to pre-poll and postal votes. I think the committee does accept your view on the nature of voting and people's habits. One of the things that occurred to me is that we should look at relaxing the qualification for pre-poll or postal votes so that if an elector is out of their electorate on polling day, that of itself is sufficient. It means that a number of people who are interstate or whatever can qualify for pre-poll and postal votes. Do you have any objections the relaxing of the current requirement?

Mr Loughnane—Mr Chairman, the nature of Australian society is evolving. Even though we have compulsory voting, the level of the turnout is 'voluntarily' pretty high—exceptionally high by world standards. It is important that as many people vote as possible so that we are never in a situation where the mandate of any government can be questioned. I do believe that part of the process of ongoing discussion between the AEC and political parties is to look at exactly these sorts of issues, to see whether trends indicate the need to make changes in some of these areas. So I do believe that the system, where possible, does need to be able to meet the convenience of the community, but equally maintain the basic integrity of the system.

CHAIR—It seems to me that it will reduce absentee votes to some extent, although most absentee votes, as you know, are done from neighbouring electorates. Okay, I just wanted your view on that, if you have no objection to it. It would go hand in hand with having pre-poll votes as ordinary votes and postal vote applications, so they would be counted on the night in the electoral office.

There are a few other issues I wanted to raise with you. One is in relation to provisional voting. What concerns me is the figures show the rejection rate was a lot higher as a result of proof of identity in terms of provisional votes. For instance, in 2007 the figures I have been given were 167,682 provisional votes were issued, 143,470 were rejected, so 24, 212—which is 14.4 per cent—were accepted to the count, whereas in 2004 there were 180,870 provisional votes issued, 90,366 rejected and 90,512—which is 50.04 per cent—accepted. As you would appreciate, a lot of those provisional votes relate to people moving internally within an electorate, and that the previous rule said that if they were still in the electorate and previously in the electorate, their vote was reinstated. How does that help the process, to knock those people out from a vote?

Mr Loughnane—I guess there are two ways to look at what occurred. We would submit that, on the face of it, the changes that were introduced in the last parliament in fact indicate that there probably was a problem previously and that these changes demonstrate that there was a need for tightening.

CHAIR—So what is the problem? Can you tell me what you say the problem was—that they had not properly enrolled at their new address?

Mr Loughnane—We have this anomalous situation in Australia where it is easier to enrol to vote than to make an application to hire a DVD, so I do believe that the fact that there are particular standards required—firstly, on identification—is very important.

CHAIR—There is no suggestion that these people were multiple voting or fraudulently voting; they are people who were within an electorate and who moved. If they move outside the electorate, as you know, their vote does not count but their Senate vote does.

Mr Loughnane—I think that the requirements for electoral enrolment in this country and the obligation to make sure that you are correctly enrolled are very well known. The availability of change-of-enrolment forms and the details are also very well known. We believe that the changes introduced in the last parliament have worked well. We do not believe that any evidence has come forward that would support the need for further change, and we do not believe that the case for change has been made.

CHAIR—What do you say the changes were designed to do?

Mr Loughnane—We believe that the changes that were introduced, as has been demonstrated by the types of figures that you mentioned, indicated that there was a problem and that that problem has been addressed.

CHAIR—I do not want to verbal you or put words in your mouth, but it seems to me that the problem is that people did not re-enrol as they were required to, that there was previously a safety net there for them and that we have taken away the safety net—if it is internal. If I move to next door and I fail to enrol in the new address, under this system I lose a vote.

Mr Loughnane—The fact of the matter is that in that situation you are not correctly enrolled. That is a fundamental requirement.

CHAIR—So it is not fraud that this was designed to overcome. Again, with postal vote applications, for instance, people could fraudulently fill out an application.

Senator RONALDSON—Point of order, Mr Chair.

CHAIR—I am asking legitimate questions; do not worry about—

Senator RONALDSON—I would like to take a point of order, if I may.

CHAIR—What is your point of order?

Senator RONALDSON—Thank you very much. Mr Loughnane is not a legislator, and I do not think it is appropriate for you to be asking him about the intent of this or that. If he wants to answer, fair enough, but he is not a legislator, and so you should be directing that to others, not to a non-legislator.

CHAIR—He is a stakeholder in the system. He is putting forward suggestions for changes to the Electoral Act or maintaining the Electoral Act. I think he is absolutely the right person to be asked these sorts of questions because he and his party have a level of expertise and knowledge that is far superior to that of most of the people who submit to us. It is not a trick question.

Senator RONALDSON—Your question was: what were the motivations behind the change?

CHAIR—Because he is saying it is a good change.

Senator RONALDSON—But Mr Loughnane is not a legislator.

CHAIR—If he does not want to answer it, he does not have to; I will not send him down to the dungeon.

Senator RONALDSON—That is not reasonable either. I have taken a point of order. This man is not a legislator. Are you asking questions that he actually has some knowledge on?

CHAIR—I think your point of order is unfounded, but if he does not want to answer it then he does not have to.

Mr MORRISON—He is a legislator, then?

CHAIR—No, he is submitting to our committee on the best system, as he sees it, to maintain integrity. When you are going to the integrity of the system, I am interested in whether the basis for this change, in the Liberal Party's view, is fraud or slackness on the part of the voters. They are separate things and can be addressed separately.

Mr MORRISON—I ask, Chair, that you rephrase the question, because you are asking him what the intent of the legislation was, and Mr Loughnane was not a member of the executive government or the bureaucracy.

CHAIR—If that is the point, then I am happy to rephrase the question and ask: what do you think of the benefits of the legislation?

Mr Loughnane—The fundamental point is that it is the obligation of every citizen to be correctly enrolled at the place in which they live. That is an obligation that is on all of us. It is a fundamental distortion of the electoral roll and the integrity of the electoral roll if that is not occurring. I guess there is a difference of view between where I sit and where others sit—in that, with the figures you mentioned earlier we actually see that as an indication that there was a problem and that it has been addressed.

CHAIR—We were given some evidence by a former senator from the Democrats in relation to British citizens on the roll. I have some statistics in relation to that. You are aware that any British citizen who was on the roll prior to January 1984 was allowed to stay on the roll. I think the figures now from the commission have about 159,000 people on the roll. Andrew Murray's submission to us was that, after 25 years we should be looking at making these people either take out Australian citizenship to maintain their ability to be on the roll or if, after giving them a number of years further to get on the roll, they do not, changing the act so that they lose their entitlement. Do you have a view on that?

Mr Loughnane—I think that the change that was introduced in 1984 essentially established a sunset provision—if I could use that term without any sense of being demeaning. Over time that number will further reduce.

CHAIR—I think it has come down 5,000, but that figure is artificially high because there would have been a lot of people who took out citizenship who have not been picked up.

Mr Loughnane—I think it would be a very bold move to suddenly say, 'No, you are no longer on the electoral roll,' to people who have been eligible to vote in Australia for at least 25 years, and who live here, have family here, own property here, work here and contribute taxes here. We believe there are no grounds to review that at all.

CHAIR—I ask that because it is an issue that has been raised.

Mr Loughnane—Other than time, I am not aware of any actual substantive argument that has been made to justify the change.

Mr SULLIVAN—I cannot remember who it was, but one of the witnesses to whom we posed a similar question suggested that subsequent to 1984 there has been a more sanguine view taken by countries around the world to dual nationality and that that group of voters would not have to forgo their British citizenship to take out Australian citizenship, that there would seem to be no impediment for them doing so and that staying on the roll will not in fact be an encouragement.

Mr Loughnane—I do not believe any grounds have been made to support a change. I think that, because of the particular history and nature of the evolution of Australian society, it is an issue. We would not support a change.

Senator RONALDSON—Is it Labor Party policy?

CHAIR—That is not Labor Party policy.

Senator RONALDSON—I was just asking the question.

CHAIR—It is a live issue that was put by a former senator and member of this committee who is well respected. You were not at the hearing. Evidence was taken. I actually like to get people's responses to material that has been put before us.

Senator RONALDSON—I was just asking if it was Labor Party policy.

CHAIR—It is not Labor Party policy.

Mr BRUCE SCOTT—We have got your response anyway.

CHAIR—I have a particular view, but I am a hardliner. There are a couple of other issues I want to talk to you about, one of which goes to the formality of the votes. You will recall that in 1998 the former government introduced legislation that did away with the safety net in relation to the Langer provisions of the electoral act. The former provisions, as you know, were that, if you numbered the ballot paper 1, 2, 3, 4, 5, 5, that could be counted up until the double numbering.

I am wondering what your view of that is or whether you would support the reinstatement of a safety provision in the Electoral Act, similar to the former provision, for people who make a mistake—in other words, their intention is clear. I put that on the basis that in the Senate, for instance, people can vote No. 1 and get away with it. I am not trying to introduce an optional preferential system for the lower house, but on my count at the last election there were about 80,000 votes that were swept out of the system because that safety net was not in place.

Mr Loughnane—We certainly would not support a change to that at the moment. We do not believe that the grounds have been made. We think the current system in relation to the Langer provisions was introduced to address a particular anomaly. If there is particular evidence that there is an increase in that problem or something, we would be open to considering it, but I do not believe the case has been made for that at all at the moment.

CHAIR—Are you happy with the existing provisions for proof of identity? Do you want to see an extension in relation to anything else? Some people have suggested that you should not be able to vote on the day unless you have proof of identity.

Mr Loughnane—I think that this was a matter that was the subject of very active consideration, debate and discussion in the last parliament, and it is a matter of concern to the Liberal Party. Some would argue that you need more ID to rent a DVD than you need to be able to enrol to vote. We believe that that is a peculiarity that is very anomalous. We believe it is absolutely central to the integrity of the electoral system that correct enrolment occurs and that the scope and capacity for distortion or any fraudulent behaviour is reduced.

CHAIR—One of the things that has been raised—and I must say I was the one who raised it—is that there is a discussion about automatic enrolment in terms of young people and their lack of getting on the roll in the early years when they are entitled to. It seemed to me that one

small thing that could be done is lowering the age of provisional enrolment from 17 to 16 which would enable education campaigns in schools, for people to be in effect addressed by the Electoral Commission at school and to do the provisional enrolment at 16 as against 17. Do you have any views on that?

Mr Loughnane—We do not see any need or justification for that at all. Education campaigns can take place anyway before people are 17 years of age and, with appropriate campaigns, people can then become provisionally enrolled when they are 17. An education campaign can occur separate to the actual age of provisional voting.

CHAIR—We have been looking at the issues arising out of the McEwen by-election and the court case. It has been labelled consensual arbitration, but I do not think that is accurate terminology. There is concern that so many decisions of the returning officer as to the formality of votes were changed by the judge in that case. Have you got a view about whether an alternative situation could be recommended where, when there is a hundred or less in the count, we have a panel of three replacing—not in addition to—the returning officer? Of course, if we can come up with an appropriate model, that would not take away the right to go to the Court of Disputed Returns. Do you think that that is a move forward in terms of confidence on disputed votes? It would not be in every division but if there is less than a hundred votes in it, then a panel of three as against one returning officer.

Mr Loughnane—We do not see that anything is gained by denuding the authority of the returning officer. We believe it is important that there is ongoing discussion between the Electoral Commission and the political parties. This whole area of interpretation and decisions that are made booth by booth by returning officers is a matter that we obviously would like to discuss on an ongoing basis with the Electoral Commission. I think it goes not to the issue of whether you set up panels or not but to issues of internal procedures and training within the AEC. I think that, by and large, the senior staff of the AEC are very experienced in these matters. But it is very important for the operation of the system that there are common interpretations given across Australia, to the extent that that does not occur. It also goes to the issue I was referring to before about things like rulings on who can give out how-to-vote cards, how far outside the polling booth and what not—the sort of jamboree that goes on on election day. The greater the commonality of interpretation there is, the better. As I said, I think that goes to the issues of internal procedures of the AEC and training, and direct liaison and feedback from the political parties. We are not seeking in any way to distort the system. We want to make sure the system has integrity. And I think that because of our front-line experience we can provide a unique perspective.

CHAIR—I take on board your comments on public holidays and close of rolls on by-elections and I think the committee does as well.**Mr Loughnane**—It seems peculiar, one of those things that slipped through the system.

CHAIR—It is one that I think we can take on board. I want to talk about the close of rolls hypothetically and generally in terms of how effective the legislation was as it operated at the last election compared to previous elections. Given that the election was announced on Sunday, 14 October—and, by the way, the 2004 election was also announced on a Sunday—but the writs were not issued until the following Wednesday, 17 October, I am wondering how that did not really distort the so-called beneficial effects of this early close of roll that you say occurred. In

other words, if the rolls had closed on the Monday, not the Wednesday, couldn't that have had a pretty damaging effect on people who were scrambling to get on the roll?

Mr Loughnane—We believe that the way in which the changes that were legislated in the last parliament operated in the last election were good. They worked well. We believe that they were an important change to assist in enhancing the integrity of the electoral roll and they worked well. We see no reason to change the timing of the close of rolls.

CHAIR—As there are no further questions, thank you for your attendance today and the professional way in which you addressed yourself before the committee. The committee is assisted by people like you and the national secretary of the Labor Party because the truth is that your expertise and that of your staff gives us that broader perspective on how the show operates, and I take on board your comments in relation to the Electoral Commission as well. That is why there is such confidence in the result, whatever that result may be.

You will be sent a copy of the transcript of your evidence. If there are any corrections you want to make, feel free to do so.

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

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.44 pm