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The Parliament of the Commonwealth of Australia

# The 2013 Federal Election

**Report on the conduct of the 2013 election and matters related thereto**

Joint Standing Committee on Electoral Matters

April 2015  
Canberra

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# Foreword

The 2013 federal election will long be remembered for the loss of 1 370 Senate votes in Western Australia.

It was the greatest failure in the history of the Australian Electoral Commission, leading to the resignation of both the then Electoral Commissioner, Mr Ed Killesteyn PSM, and the state manager for Western Australia.

It was caused by multiple failures at multiple levels within the Australian Electoral Commission (AEC) at both a state level in Western Australia as well as nationally.

The consequences included the necessity for a re-run of the Senate election in Western Australia at a cost of over \$21 million and unprecedented damage to the reputation of, and confidence in, the AEC.

This Report outlines the failings that contributed to the loss of votes.

It assesses in detail the reforms that have already been, or are in the process of being implemented within the AEC to rectify the failings; and, critically, it makes a number of unanimous recommendations for further reforms aimed at delivering a more competent, accountable AEC in which Australians can have a high degree of confidence.

That 1 370 votes could be lost is concerning enough; that the possibilities of how and where they were lost are so numerous highlights the multiplicity of logistical, procedural, cultural and competency failings that were a disastrous feature of the AEC in 2013.

The AEC stipulates that votes cannot be transported in an open truck – yet some were during the transport to the WA Senate recount centre. Further, at the centre some votes were stored next to rubbish (shown in an image in this report), and on occasion the centre was not secure. The possibility that votes (literally) fell off the back of a truck, or were disposed of with rubbish, or removed from the recount centre simply cannot be ruled out.

As former AFP Commissioner Mick Keelty, who conducted the investigation into the lost votes, told the Committee, it is impossible to determine whether the missing ballots were:

- Physically removed during the many transport and storage processes;
- Lost during transport or transfer;
- Misplaced through repacking into incorrect boxes; or
- Accidentally mixed with recycling material and disposed of as refuse.

The Committee has closely monitored and analysed the actions of the AEC in response to the Keelty report. This, together with an important body of audit work undertaken by the Australian National Audit Office, and a range of issues raised in submissions, at public hearings, site visits and private briefings, has been the Committee's focus since it commenced its inquiry in December 2013.

The Committee acknowledges the work already undertaken by the AEC in respect of its reform agenda.

Nevertheless, we have identified a number of areas where we believe further changes are necessary, including the accountability of state manager positions, the development of full key performance indicators for senior service delivery staff, and the commencement of a corporate culture, leadership and performance measurement reform programme by the AEC.

The recommendations for these important additional reforms are unanimous.

If these recommendations, together with the other critical reforms that comprise new Electoral Commissioner Mr Tom Rogers' plan are fully implemented, and the AEC as an organisation comprehends and supports, rather than resists, the necessary changes, there is a high probability that in the years ahead the disastrous events of 2013 will be seen as a turning point.

This must be the AEC's positive ambition – to embrace reform, and to undertake it in order to create the best electoral administration possible and regain the confidence of the Australian people. If this is achieved, in the future the 2013 Federal election will be seen as the catalyst that shattered carelessness and complacency and put professionalism and accountability front and centre within the AEC.

Mr Rogers has never contested the points made by Mr Keelty during what has been a period of intense scrutiny and criticism.

As Deputy Electoral Commissioner, it was Mr Rogers who was tasked with travelling to Western Australia following notification that ballots were missing. It was Mr Rogers who took the photographs in the Keelty Report graphically showing the incompetence in the recount centre.

As Acting Electoral Commissioner, following Mr Killesteyn's resignation, and as Electoral Commissioner since his appointment, Mr Rogers has consistently and

candidly acknowledged the failures (and the reasons for them) in his numerous appearances before the Committee.

He has commenced a major renovation of practices and procedures within the AEC. These include implementing all of the Keelty Recommendations, as well as a number of other reforms.

Many, but not all, of these have been tested at the Griffith by-election and the West Australian Senate re-run election.

Mr Rogers has also publicly acknowledged that the AEC has a major cultural deficiency that must change.

The Committee has found Mr Rogers to be open, committed to major reform and determined to lead the required transformation within the AEC.

All of this is to Mr Rogers' credit.

The Government Majority strongly believes that further measures are necessary to ensure the integrity of and public confidence in our electoral system.

Australian voters deserve to know that the electoral roll is as accurate as it can be, and that those entitled to vote, only vote once.

At present, there is, in the view of Government Members, an unacceptable vulnerability in the system of automatic electoral roll updates conducted by the AEC. There is also an unacceptable vulnerability in the electoral system that enables some voters to vote multiple times within an electoral division.

At present, the AEC corresponds with individuals at the point when it is going to enrol eligible voters not on the roll, or update their enrolment details if not current. Based on data it has obtained about the individual's eligibility and residential address, its correspondence advises that it has enrolled the voter at a particular address, and requests the new enrolee to advise if the AEC is in error.

That is why the Majority recommends that the automatic enrolment provisions be amended to require confirmation by the individual that the information is accurate before they can be added to the roll, or their details updated.

The Majority also recommends that voter identification requirements be introduced for the next election to help reduce multiple voting.

At present our system of voting is essentially a trust-based system.

When we attend a polling place, before we are provided with ballot papers, we are asked our full name and address, and to confirm that we have not voted before in the election.

If a voter is prepared to be dishonest, there is nothing to stop them voting at other polling locations within an electoral division on the day, either in their own name, or in another elector's name.

With voter identification, it is obviously much harder to vote in someone else's name. For those who would seek to vote multiple times in their own name at different locations, voter identification is a major disincentive and an additional hurdle for voters to seek to vote more than once. The identification is provided, and the traditional defence that a second or subsequent vote must have been cast by another person is diluted.

Over the course of 2014, the Committee also released two interim reports on prominent and important issues in relation to the conduct of the 2013 federal election: Senate voting practices and electronic voting.

The first report, released in May 2014, focused on the important issues of Senate voting systems and made six strong recommendations aimed at reforming the manipulation and distortion of the Senate voting system. If implemented, these recommendations will hand control of Senate preferences back to the people, and ensure that federal parliament was reflective of the Australian public's vote.

The second report, released in November 2014, examined electronic voting options and electronic support for voting. The Committee analysed the benefits and risks associated with electronic electoral processes both in Australia and internationally. We concluded that to introduce large-scale electronic voting in the near future would dangerously compromise federal electoral integrity. Subsequent events at the 2015 New South Wales state election with the iVote system suggest that the Committee's cautious approach was warranted. At the same time, recognising the benefits of technological advancement, the Committee made targeted recommendations to safely make better use of technology in the electoral process.

The Committee has been careful to consult as widely as possible during its inquiry. We received 216 submissions and held 21 public hearings in Canberra, Sydney, Melbourne, Hobart, Adelaide, Brisbane, and Mount Isa, as well as site inspections in most states. The Committee met for many days to consider the issues raised during the inquiry.

I want to place on record my thanks to those who have been permanent members of the Committee over the course of the inquiry – Senator Matthew Canavan, Senator the Hon John Faulkner, Ian Goodenough MP, the Hon Gary Gray MP, Alex Hawke MP, Senator Chris Ketter, Senator Helen Kroger, Senator James McGrath, Tony Pasin MP, Senator Lee Rhiannon, Senator Anne Ruston, and Senator Mehmet Tillem.

I particularly want to thank the Deputy Chair, the Hon Alan Griffin MP, for his cooperation and hard work on a range of difficult and complex issues.

I would also like to thank the staff of the Secretariat for their valuable work over the course of the Committee's inquiry. Committee Secretaries Nicholas Horne and Glenn Worthington, together with Siobhán Leyne, Rebecca Gordon, Jeff Norris, James Bunce, Sacha Edema, Katrina Gillogly, Morana Kavgic and Jessica Ristevska

have all provided a high level of support to the Committee, and their work is greatly appreciated.

**Hon Tony Smith MP**  
**Chair**

# Membership of the Committee

**Chair** Hon Tony Smith MP

**Deputy Chair** Hon Alan Griffin MP

**Members** Ian Goodenough MP

Hon Gary Gray AO MP

Alex Hawke MP (to 14 July 2014)

Tony Pasin MP (from 14 July 2014)

Senator Matthew Canavan  
(from 1 July 2014)

Senator the Hon John Faulkner  
(to 6 February 2015)

Senator Chris Ketter (from 1 July 2014)

Senator Helen Kroger (to 30 June 2014)

Senator James McGrath  
(from 1 July 2014)

Senator Lee Rhiannon

Senator Anne Ruston (to 30 June 2014)

Senator Mehmet Tillem (to 30 June 2014)

## Participating members for the purposes of the inquiry into the 2013 federal election

Senator Chris Back

Senator Cory Bernardi

Senator Catriona Bilyk

Senator Carol Brown

Senator Joe Bullock

Senator David Bushby

Senator the Hon Doug Cameron

Senator the Hon Kim Carr

Senator the Hon Jacinta Collins  
Senator the Hon Stephen Conroy  
Senator Sam Dastyari  
Senator Sean Edwards  
Senator David Fawcett  
Senator Alex Gallacher  
Senator Katy Gallagher  
Senator the Hon Bill Heffernan  
Senator David Leyonhjelm  
Senator Sue Lines  
Senator the Hon Joe Ludwig  
Senator the Hon Kate Lundy  
Senator the Hon Ian Macdonald  
Senator John Madigan  
Senator Gavin Marshall  
Senator Anne McEwen  
Senator Bridget McKenzie  
Senator the Hon Jan McLucas  
Senator Claire Moore  
Senator Ricky Muir  
Senator Deborah O'Neill  
Senator Barry O'Sullivan  
Senator Nova Peris  
Senator Helen Polley  
Senator Linda Reynolds  
Senator Anne Ruston  
Senator Zed Seselja  
Senator Lisa Singh  
Senator Dean Smith  
Senator Glenn Sterle  
Senator Anne Urquhart  
Senator John Williams  
Senator the Hon Penny Wong  
Senator Nick Xenophon

## Committee Secretariat

<b>Secretary</b>	Dr Nicholas Horne (from 7 August 2014)
	Dr Glenn Worthington (to 3 July 2014)
<b>Inquiry Secretary</b>	Rebecca Gordon (from 2 March 2015)
	Siobhán Leyne (to 6 February 2015)
<b>Research Officer</b>	James Bunce
<b>Technical advisor</b>	Jeff Norris
<b>Graduate</b>	Sacha Edema
<b>Administrative Officers</b>	Katrina Gillogly
	Jessica Ristevska
	Morana Kavgic



## Terms of reference

On 5 December 2013, the Special Minister of State, Senator the Hon Michael Ronaldson, requested the Committee to conduct an inquiry with the following terms of reference:

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 2013 federal election and matters related thereto.

## List of abbreviations

2IC	Second-in-Charge
AANA	Australian Association of National Advertisers
ACMA	Australian Communications and Media Authority
AEC	Australian Electoral Commission
AEO	Australian Electoral Officer
AFP	Australian Federal Police
ANAO	Australian National Audit Office
APS	Australian Public Service
APSC	Australian Public Service Commission
BSA	<i>Broadcasting Services Act 1992</i>
CDPP	Commonwealth Director of Public Prosecutions
CPI	Consumer Price Index
DOM	Divisional Office Manager
DRO	Divisional Returning Officer
ECANZ	Electoral Council of Australia and New Zealand
ECL	Electronic Certified List
EPM	Election Procedures Manual

FDEU	Federal Direct Enrolment and Update
FEC	Federal Electoral Commission
ICAC	Independent Commission Against Corruption
IEPP	Indigenous Electoral Participation Program
JSCEM	Joint Standing Committee on Electoral Matters
KPI	Key Performance Indicator
LWU	Larger Work Unit
OIC	Officer-in-Charge
PAC	Political Action Committee
PPLO	Polling Place Liaison Officer
PPVC	Pre-Poll Voting Centre
RAAF	Royal Australian Air Force
SES	Senior Executive Service
TCP	Two Candidate Preferred
VIO	Voter Information Officer

# List of recommendations

## 2 Management of ballot papers

### Recommendation 1 (paragraph 2.95)

The Committee recommends that for future elections, the Australian Electoral Commission publish information on its website about ballot paper counting and handling issues on a regular and transparent basis during the count process.

### Recommendation 2 (paragraph 2.118)

The Committee recommends that the Australian Electoral Commission report to the Joint Standing Committee on Electoral Matters every six months on the implementation of recommendations made by the Keelty Report and by the Australian National Audit Office reports in response to the events of the 2013 federal election.

## 3 Workforce management, accountability and corporate structure

### Recommendation 3 (paragraph 3.54)

The Committee recommends that the Australian Government consider and assess the formal separation of the roles of state manager and Australian Electoral Officer involving:

- the appointment of Australian Electoral Officers independent of the Australian Electoral Commission; and
- the assigning of any non-election duties of Australian Electoral Officers to the Electoral Commissioner or other appropriate officer.

### Recommendation 4 (paragraph 3.64)

The Committee recommends that the Australian Electoral Commission formalise all state manager positions to report on all election and roll management programme deliverables directly to the First Assistant

Commissioners responsible for election and roll management programme business in order to ensure consistency and accountability.

The Committee also recommends that all existing state managers be assessed for continued suitability in their positions, with new contracts to be drawn up with clear performance expectations and disciplinary and termination triggers stipulated as terms of employment.

**Recommendation 5 (paragraph 3.140)**

The Committee recommends that the Australian Electoral Commission develop a set of formal qualifications/certification for polling officials.

**Recommendation 6 (paragraph 3.142)**

The Committee recommends that the Australian Electoral Commission prioritise development of appropriate changes to existing systems, or new systems, to allow for the compulsory recording and capture of data related to Division-level face-to-face training for polling officials.

**Recommendation 7 (paragraph 3.144)**

The Committee recommends that the Australian Electoral Commission ensure that Officers-in-Charge of polling places be given a list of training completion for all staff reporting to them.

**Recommendation 8 (paragraph 3.160)**

The Committee recommends that the Australian Electoral Commission develop a full set of relevant key performance indicators for all senior service delivery staff, to be measured and reported to the Parliament as part of federal election inquiry reporting.

**Recommendation 9 (paragraph 3.194)**

The Committee recommends that the Australian Electoral Commission commence a corporate culture, leadership and performance measurement reform programme.

This programme should be formulated in consultation with the Australian Public Service Commission and a suitably qualified organisational culture and management consultant, gained through an open market tender.

This programme should then be overseen by a committee comprising:

- the Electoral Commissioner;
- the Auditor-General;
- the Australian Public Service Commissioner; and
- an appropriately qualified private industry or academic subject matter expert on organisational culture and performance management.

## 4 Election preparation and the pre-poll period

### Recommendation 10 (paragraph 4.28)

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to require a confirmation to be sought and received from a person prior to their enrolment being added or updated on the electoral roll due to any Federal Direct Enrolment or Update activity.

### Recommendation 11 (paragraph 4.72)

The Committee recommends that at the next meeting of the Electoral Council of Australia and New Zealand, the Electoral Commissioner continue to engage with the state electoral commissions regarding normalisation and harmonisation of electoral roll use and purpose.

### Recommendation 12 (paragraph 4.120)

The Committee recommends that section 200BA of the *Commonwealth Electoral Act 1918* and section 73AA of the *Referendum (Machinery Provisions) Act 1984* be amended to provide that notification of pre-poll locations, or potential locations, be made directly to candidates if publication is to be later than two days before the first pre-poll voting day.

### Recommendation 13 (paragraph 4.145)

The Committee recommends that the Australian Government examine the future viability of the broadcast media blackout.

## 5 Election day and the count

### Recommendation 14 (paragraph 5.12)

The Committee recommends that section 206 of the *Commonwealth Electoral Act 1918* and section 20 of the *Referendum (Machinery Provisions) Act 1984* be amended so as to allow the Australian Electoral Commission to provide a suitable pen for use by electors.

### Recommendation 15 (paragraph 5.26)

The Committee recommends that the Australian Electoral Commission clearly set out on its website the requirements for satisfying subsection 194(1A) of the *Commonwealth Electoral Act 1918* and subsection 65(1A) of the *Referendum (Machinery Provisions) Act 1984* by overseas electors who are unable to satisfy the 'authorised witness' requirements of those sections.

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**Recommendation 16 (paragraph 5.46)**

The Committee recommends that, in areas with a significant Indigenous population, the Australian Electoral Commission consult with local Indigenous groups to ensure the suitability of polling places and set targets for the employment of Indigenous polling officials.

**Recommendation 17 (paragraph 5.84)**

The Committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to introduce the requirement that:

- voters must present a form of acceptable identification to be issued with an ordinary pre-poll or election day vote. Acceptable identification should be defined as those acceptable at the 2015 Queensland state election (or the closest federal equivalent);
- where voters cannot provide acceptable identification they must be issued with a declaration vote; and
- these declaration votes will be checked at preliminary scrutiny to ensure that the claimed enrolled address matches the electoral roll. If not, then the vote should be rejected.

The Committee also recommends that the Australian Electoral Commission be appropriately resourced to enable this change to be made prior to the next federal election and for a suitable education campaign to be undertaken to inform voters of the new requirements.

**Recommendation 18 (paragraph 5.124)**

The Committee recommends that the conduct of recount provisions at section 279B and elsewhere within Part XVIII of the *Commonwealth Electoral Act 1918* be reviewed, amended and separated in order to provide clearly separated recount provisions and processes for both House of Representatives and Senate recounts.

Additionally, any other relevant references to recounts within the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* should be amended to ensure consistency.

**Recommendation 19 (paragraph 5.136)**

The Committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to ensure that:

- the rules governing the role of scrutineers during both the scrutiny and the re-count of ballot papers during an election or referendum are harmonised;

- all scrutineers for a candidate, party or other appointee may only object to a ballot paper once during the original scrutiny, once during fresh scrutiny, and once during a re-count;
- the role of scrutineers in the investigation of prematurely opened ballot-boxes is clearly codified in section 238B; and
- political party officials or candidates are able to appoint scrutineers on behalf of all their party candidates in order to allow for the oversight of both House of Representatives and Senate counts or recounts with the one appointment.

#### **Recommendation 20 (paragraph 5.164)**

The Committee recommends that the Australian Electoral Commission investigate the early procurement of appropriate premises in each state and territory for central ballot paper scrutiny and election activity with a high level of security and appropriate facilities and infrastructure.

## **6 Electoral cycle issues**

#### **Recommendation 21 (paragraph 6.66)**

The Committee recommends that section 290 of the *Commonwealth Electoral Act 1918* be amended to allow for the deadline for the nomination of candidate agents to be one week after the close of candidate nominations.

#### **Recommendation 22 (paragraph 6.86)**

The Committee recommends that the Australian Electoral Commission hold regular by-invitation forums, at appropriate points in each electoral cycle, with the federal directors and registered officers of political parties in order to achieve improved engagement on relevant legislative, policy and procedural matters.

#### **Recommendation 23 (paragraph 6.116)**

The Committee recommends that the Australian Electoral Commission consider undertaking, in consultation with the Joint Standing Committee on Electoral Matters, a wholesale review of the internal consistency and operational adequacy of the *Commonwealth Electoral Act 1918* in order to ensure that this Act is a cohesive, effective and contemporary piece of legislation that facilitates best practice election delivery.

Such a review would also need to proceed in tandem with progressing the consolidation and harmonisation of the *Referendum (Machinery Provisions) Act 1984* with the *Commonwealth Electoral Act 1918* so as to create one consolidated Act responsible for federal elections and referenda.

**Recommendation 24 (paragraph 6.118)**

The Committee recommends that adequate resourcing be allocated and prioritised to fund and support the implementation of the recommendations contained in this report.

