

**AUSTRALIAN ELECTORAL COMMISSION**

**SECOND SUBMISSION TO THE JOINT  
STANDING COMMITTEE ON ELECTORAL  
MATTERS' INQUIRY INTO THE 2004 FEDERAL  
ELECTION AND MATTERS RELATED THERETO**

**30 JUNE 2005**

# SECOND SUBMISSION TO 2004 FEDERAL ELECTION INQUIRY

## Introduction

This is the second submission by the Australian Electoral Commission (AEC) to the Joint Standing Committee on Electoral Matters' (JSCEM's) inquiry into the conduct of the 2004 federal election.

This submission provides a basic statistical overview of the 2004 federal election. The AEC can provide further, more in depth submissions on request about any particular aspect of the election discussed in the submission.

The submission is presented in chronological order, and addresses the following aspects of the election:

- The election timetable (page 2);
- Statistics for the following phases of the election:
  - enrolment (page 4);
  - nominations (page 13);
  - declaration voting (page 16);
  - polling places (page 24);
  - overseas polling (page 31);
  - voter turnout (page 32);
  - election complaints (page 34); and
- Public awareness and media (covering the whole election period) (page 36).

## Election timetable

Table 1 below details the election timetable for the 2004 federal election, including the legislative<sup>1</sup> or other mechanism for each event.

Two distinguishing features are worth noting about the 2004 federal election timetable.

Firstly, unlike most recent federal elections, the timetable for the 2004 federal election was longer than the minimum 33 days required.

---

<sup>1</sup> The legislative provisions listed in this figure are all contained in the *Commonwealth Electoral Act 1918*.

Secondly, following amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act) by the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004*, the date before which petitions to the Court of Disputed Returns have to be lodged is now 40 days from the date of the return of the last writ for an election. This means that the last date for the lodgement of petitions to the Court of Disputed Returns is consistent across Australia.

**Table 1: Election timetable – 2004 federal election**

<b>Event</b>	<b>Date</b>	<b>Mechanism</b>
Election announcement by Prime Minister	Sunday 29 August 2004, 1.00pm	Media conference
<b>Issue of writs</b>	<b>Tuesday 31 August 2004</b>	<b>Constitution ss. 12 and 32</b>
<b>Close of roll</b>	<b>8.00pm Tuesday 7 September 2004</b>	<b>CEA ss.102(4) and 155</b>
Close of bulk House of Representatives nominations	12noon Tuesday 14 September 2004	CEA s.170(2)(ii)
<b>Close of nominations</b>	<b>12 noon Thursday 16 September 2004</b>	<b>CEA ss.156 and 175</b>
Declaration of nominations	12 noon Friday 17 September 2004	CEA s.175
Lodgement of Group Voting Tickets	12 noon Saturday 18 September 2004	CEA s.211
Preliminary scrutiny commences	Monday 4 October 2004	CEA s.266(1)
Last day for posting postal vote packages out	Thursday 7 October 2004	CEA s.188(2)
<b>Polling day</b>	<b>Saturday 9 October 2004</b>	<b>Election writ; CEA s. 157</b>
Last receipt of postal votes (13th day)	Friday 22 October 2004	CEA s.266(1)(b)
<b>Return of the writs (In chronological order)</b>		<b>Writs signed by State Governors and the Governor General</b>
· Senate writ for Queensland	1 November 2004	
· Senate writ for South Australia	2 November 2004	
· Senate writ for NSW	3 November 2004	
· Senate writ for Tasmania	3 November 2004	
· Senate writ for Victoria	5 November 2004	
· Senate writ for WA	5 November 2004	
· Senate writ for the ACT	11 November 2004	
· Senate writ for the NT	11 November 2004	
· House of Representatives writs for all States and Territories	11 November 2004	
<b>Closing date for the lodgement of petitions to the Court of Disputed Returns</b>	<b>21 December 2004</b>	<b>CEA s355</b>

## Enrolment

All Australian citizens over the age of 18 and British subjects who were enrolled as at 25 January 1984 are entitled and required to be enrolled unless they are of unsound mind, are serving a prison sentence of three years or longer, or have been convicted of treason or treachery and have not been pardoned.<sup>2</sup>

Enrolment is voluntary for Australians residing overseas, Norfolk Islanders, itinerant electors and people aged between 17 and 18. Unless an elector is resident overseas, is a Norfolk Island elector, or an itinerant elector, the elector should be enrolled for an address at which they have lived for one month or longer that is their real place of living. The concept of 'real place of living' allows electors, such as students, who spend some time away from their real place of living to remain enrolled for the address of their real place of living.

### Enrolment figures

There are two dates at which enrolment for federal elections is measured. The first is at the close of rolls. Enrolment at close of rolls is set out in Table 2 below.<sup>3</sup> The second is on polling day, which is set out in Table 3 below.

Enrolment at close of rolls is used to prepare the certified lists (the copy of the electoral roll used in polling places on polling day).

Between close of rolls and polling day, a number of changes may occur to enrolments. These include:

- Additions to the roll (primarily as a result of processing of enrolment forms that were received prior to close of rolls but not processed due to time constraints), totalling 1,004 in 2004;
- Deletions from the roll (some as a result of the processing of enrolment forms, but primarily the removal of deceased electors), totalling 11,291 in 2004; and
- After polling day, the addition of electors who were not enrolled but were nevertheless eligible to have their votes counted and who were thus reinstated to the roll.<sup>4</sup> Reinstatements totalled 87,518 for the 2004 federal election.

The polling day enrolment figures in Table 3 reflect these changes.

---

<sup>2</sup> See section 93 of the Electoral Act.

<sup>3</sup> Persons who are seventeen and who, if they were eighteen, would be entitled to enrolment, are entitled to have their name placed on the electoral roll under section 100 of the Electoral Act. However, until they turn eighteen they are not entitled to vote and so these provisional electors are not included in these enrolment statistics.

<sup>4</sup> See section 105 and Schedule 3 'Rules for the conduct of a preliminary scrutiny of declaration votes' of the Electoral Act.

**Table 2: Enrolled electors entitled to vote – Close of Rolls figures 2004 Federal Election**

Division	Electors	Males	Females
CANBERRA	108,369	52,185	56,184
FRASER	116,527	56,494	60,033
<b>ACT</b>	<b>224,896</b>	<b>108,679</b>	<b>116,217</b>
BANKS	82,952	39,602	43,350
BARTON	83,909	40,156	43,753
BENNELONG	85,862	40,607	45,255
BEROWRA	86,698	41,835	44,863
BLAXLAND	81,954	39,789	42,165
BRADFIELD	89,699	42,360	47,339
CALARE	87,358	42,251	45,107
CHARLTON	85,150	40,912	44,238
CHIFLEY	83,926	40,116	43,810
COOK	82,099	39,532	42,567
COWPER	84,235	40,436	43,799
CUNNINGHAM	81,640	39,436	42,204
DOBELL	85,096	39,932	45,164
EDEN-MONARO	92,203	45,028	47,175
FARRER	85,199	41,570	43,629
FOWLER	82,456	40,203	42,253
GILMORE	86,964	41,908	45,056
GRAYNDLER	85,083	40,302	44,781
GREENWAY	89,823	43,716	46,107
GWYDIR	82,099	40,668	41,431
HUGHES	86,989	42,796	44,193
HUME	89,144	43,355	45,789
HUNTER	88,669	43,204	45,465
KINGSFORD SMITH	85,077	40,048	45,029
LINDSAY	82,366	39,722	42,644
LOWE	86,200	40,635	45,565
LYNE	91,580	43,499	48,081
MACARTHUR	83,717	40,178	43,539
MACKELLAR	86,717	41,486	45,231
MACQUARIE	87,152	41,656	45,496
MITCHELL	95,065	46,108	48,957
NEW ENGLAND	86,166	41,277	44,889
NEWCASTLE	89,845	42,769	47,076
NORTH SYDNEY	88,392	40,603	47,789
PAGE	84,292	40,424	43,868
PARKES	81,365	39,381	41,984
PARRAMATTA	86,570	41,484	45,086
PATERSON	87,637	42,819	44,818
PROSPECT	87,048	42,729	44,319
REID	78,039	38,007	40,032
RICHMOND	85,666	40,400	45,266
RIVERINA	87,330	42,207	45,123
ROBERTSON	84,859	39,645	45,214
SHORTLAND	87,602	41,869	45,733

Division	Electors	Males	Females
SYDNEY	93,861	48,131	45,730
THROSBY	86,893	42,293	44,600
WARRINGAH	84,944	39,881	45,063
WATSON	81,288	39,298	41,990
WENTWORTH	84,016	38,953	45,063
WERRIWA	89,228	42,987	46,241
<b>NSW</b>	<b>4,302,122</b>	<b>2,068,203</b>	<b>2,233,919</b>
LINGIARI	57,776	28,860	28,916
SOLOMON	53,873	27,351	26,522
<b>NT</b>	<b>111,649</b>	<b>56,211</b>	<b>55,438</b>
BLAIR	91,146	44,886	46,260
BONNER	86,731	40,794	45,937
BOWMAN	85,892	41,345	44,547
BRISBANE	89,379	42,637	46,742
CAPRICORNIA	90,425	44,717	45,708
DAWSON	90,955	45,323	45,632
DICKSON	83,971	40,873	43,098
FADDEN	81,526	38,610	42,916
FAIRFAX	83,882	40,052	43,830
FISHER	85,431	39,989	45,442
FORDE	85,840	41,623	44,217
GRIFFITH	90,427	42,788	47,639
GROOM	89,363	42,338	47,025
HERBERT	87,417	43,015	44,402
HINKLER	93,416	46,171	47,245
KENNEDY	91,450	46,108	45,342
LEICHHARDT	89,712	44,357	45,355
LILLEY	92,036	42,787	49,249
LONGMAN	86,800	41,882	44,918
MARANOA	87,371	43,629	43,742
MCPHERSON	82,571	38,711	43,860
MONCRIEFF	83,941	40,000	43,941
MORETON	87,964	42,041	45,923
OXLEY	90,172	43,203	46,969
PETRIE	87,416	40,983	46,433
RANKIN	90,532	43,861	46,671
RYAN	87,201	41,892	45,309
WIDE BAY	90,435	44,010	46,425
<b>QLD</b>	<b>2,463,402</b>	<b>1,188,625</b>	<b>1,274,777</b>
ADELAIDE	94,896	44,881	50,015
BARKER	100,691	49,865	50,826
BOOTHBY	95,259	44,549	50,710
GREY	97,166	48,606	48,560
HINDMARSH	98,437	46,119	52,318
KINGSTON	93,849	45,401	48,448
MAKIN	93,747	45,356	48,391
MAYO	91,381	44,558	46,823

Division	Electors	Males	Females
PORT ADELAIDE	97,491	47,028	50,463
STURT	96,641	44,906	51,735
WAKEFIELD	90,256	43,923	46,333
<b>SA</b>	<b>1,049,814</b>	<b>505,192</b>	<b>544,622</b>
BASS	67,265	32,062	35,203
BRADDON	69,212	33,363	35,849
DENISON	68,486	32,226	36,260
FRANKLIN	69,134	32,847	36,287
LYONS	65,492	32,794	32,698
<b>TAS</b>	<b>339,589</b>	<b>163,292</b>	<b>176,297</b>
ASTON	88,336	42,911	45,425
BALLARAT	89,763	42,786	46,977
BATMAN	85,380	40,148	45,232
BENDIGO	93,687	44,772	48,915
BRUCE	86,670	42,183	44,487
CALWELL	87,272	42,564	44,708
CASEY	86,371	41,675	44,696
CHISHOLM	84,662	40,109	44,553
CORANGAMITE	90,396	43,339	47,057
CORIO	87,601	41,512	46,089
DEAKIN	87,105	40,772	46,333
DUNKLEY	90,191	42,482	47,709
FLINDERS	90,455	43,547	46,908
GELLIBRAND	90,428	43,415	47,013
GIPPSLAND	92,557	45,053	47,504
GOLDSTEIN	89,302	41,599	47,703
GORTON	91,678	44,875	46,803
HIGGINS	87,174	40,748	46,426
HOLT	89,156	43,311	45,845
HOTHAM	87,569	41,925	45,644
INDI	88,968	43,041	45,927
ISAACS	92,258	44,095	48,163
JAGAJAGA	92,959	44,266	48,693

Division	Electors	Males	Females
KOOYONG	86,931	40,238	46,693
LA TROBE	84,399	40,811	43,588
LALOR	89,684	43,483	46,201
MALLEE	90,254	43,997	46,257
MARIBYRNONG	86,859	41,658	45,201
MCEWEN	94,897	46,729	48,168
MCMILLAN	81,769	39,398	42,371
MELBOURNE	91,795	44,113	47,682
MELBOURNE PORTS	92,382	43,639	48,743
MENZIES	87,939	42,492	45,447
MURRAY	87,049	42,581	44,468
SCULLIN	85,596	42,016	43,580
WANNON	89,969	43,801	46,168
WILLS	92,948	43,771	49,177
<b>VIC</b>	<b>3,292,409</b>	<b>1,579,855</b>	<b>1,712,554</b>
BRAND	83,057	40,113	42,944
CANNING	83,632	41,205	42,427
COWAN	84,824	41,200	43,624
CURTIN	83,624	39,454	44,170
FORREST	85,977	42,173	43,804
FREMANTLE	82,832	39,739	43,093
HASLUCK	79,951	38,911	41,040
KALGOORLIE	81,267	42,374	38,893
MOORE	75,368	36,830	38,538
O'CONNOR	81,820	40,806	41,014
PEARCE	83,951	41,137	42,814
PERTH	83,428	40,563	42,865
STIRLING	86,354	40,983	45,371
SWAN	78,693	37,244	41,449
TANGNEY	82,571	39,340	43,231
<b>WA</b>	<b>1,237,349</b>	<b>602,072</b>	<b>635,277</b>
<b>AUSTRALIA</b>	<b>13,021,230</b>	<b>6,272,129</b>	<b>6,749,101</b>

**Table 3 – Enrolment figures – Federal Election 2004 Polling Day**

Division	Electors
CANBERRA	109,476
FRASER	118,065
<b>ACT</b>	<b>227,541</b>
BANKS	83,292
BARTON	84,595
BENNELONG	86,220
BEROWRA	87,078
BLAXLAND	82,445
BRADFIELD	90,021
CALARE	88,134
CHARLTON	85,547
CHIFLEY	84,431
COOK	82,675
COWPER	85,043
CUNNINGHAM	81,844
DOBELL	85,659
EDEN-MONARO	92,532
FARRER	85,712
FOWLER	82,885
GILMORE	87,620
GRAYNDLER	85,864
GREENWAY	90,300
GWYDIR	82,626
HUGHES	87,281
HUME	89,580
HUNTER	88,996
KINGSFORD SMITH	85,877
LINDSAY	82,793
LOWE	86,700
LYNE	92,182
MACARTHUR	84,285
MACKELLAR	87,191
MACQUARIE	87,517
MITCHELL	95,480
NEW ENGLAND	86,717
NEWCASTLE	90,360
NORTH SYDNEY	89,083
PAGE	85,019
PARKES	81,972
PARRAMATTA	87,117
PATERSON	88,057
PROSPECT	87,537
REID	78,410
RICHMOND	86,361
RIVERINA	88,281
ROBERTSON	85,525
SHORTLAND	88,088
SYDNEY	94,948
THROSBY	87,318

Division	Electors
WARRINGAH	85,347
WATSON	81,819
WENTWORTH	84,987
WERRIWA	89,764
<b>NSW</b>	<b>4,329,115</b>
LINGIARI	58,205
SOLOMON	54,725
<b>NT</b>	<b>112,930</b>
BLAIR	91,529
BONNER	87,034
BOWMAN	86,262
BRISBANE	89,629
CAPRICORNIA	91,027
DAWSON	91,615
DICKSON	84,201
FADDEN	82,141
FAIRFAX	84,401
FISHER	85,985
FORDE	86,346
GRIFFITH	90,950
GROOM	89,546
HERBERT	87,987
HINKLER	93,862
KENNEDY	92,089
LEICHHARDT	90,542
LILLEY	92,235
LONGMAN	87,216
MARANOVA	87,874
MCPHERSON	82,887
MONCRIEFF	84,311
MORETON	88,324
OXLEY	90,549
PETRIE	87,617
RANKIN	91,034
RYAN	87,551
WIDE BAY	90,867
<b>QLD</b>	<b>2,475,611</b>
ADELAIDE	95,060
BARKER	100,934
BOOTHBY	95,339
GREY	97,291
HINDMARSH	98,594
KINGSTON	94,131
MAKIN	93,908
MAYO	91,418
PORT ADELAIDE	97,707
STURT	96,785
WAKEFIELD	90,756
<b>SA</b>	<b>1,051,923</b>

Division	Electors
BASS	67,941
BRADDON	69,988
DENISON	69,146
FRANKLIN	69,794
LYONS	65,940
<b>TAS</b>	<b>342,809</b>
ASTON	88,549
BALLARAT	90,409
BATMAN	85,747
BENDIGO	94,295
BRUCE	86,999
CALWELL	87,843
CASEY	86,943
CHISHOLM	84,907
CORANGAMITE	90,877
CORIO	88,186
DEAKIN	87,436
DUNKLEY	90,791
FLINDERS	90,990
GELLIBRAND	91,016
GIPPSLAND	93,062
GOLDSTEIN	89,587
GORTON	92,309
HIGGINS	87,650
HOLT	89,764
HOTHAM	87,846
INDI	89,355
ISAACS	92,938
JAGAJAGA	93,294
KOOYONG	87,107
LA TROBE	84,835
LALOR	90,331
MALLEE	90,678
MARIBYRNONG	87,267
MCEWEN	95,402
MCMILLAN	82,357
MELBOURNE	92,176
MELBOURNE PORTS	92,740
MENZIES	88,306
MURRAY	87,631
SCULLIN	86,008
WANNON	90,801
WILLS	93,368
<b>VIC</b>	<b>3,309,800</b>
BRAND	84,223
CANNING	84,388
COWAN	85,393
CURTIN	84,216

Division	Electors
FORREST	87,145
FREMANTLE	83,698
HASLUCK	80,544
KALGOORLIE	81,987
MOORE	75,923

Division	Electors
O'CONNOR	82,841
PEARCE	84,574
PERTH	84,178
STIRLING	86,965
SWAN	79,549

Division	Electors
TANGNEY	83,108
<b>WA</b>	<b>1,248,732</b>
<b>AUSTRALIA</b>	<b>13,098,461</b>

### **Enrolment transactions during the close of rolls period**

Rolls close for an election at 8.00pm seven days after the issue of the writ for the election.

When an election is called, electors are prompted to update their enrolment, and the AEC processed a large number of enrolment transactions during this period.

Table 4 below lists the number of enrolment transactions undertaken by divisions during the close of rolls period (from the announcement of the election to the close of rolls) for the 2001 and 2004 federal elections.<sup>5</sup>

A more detailed analysis of close of rolls enrolment transactions will take place in the AEC's third submission to the inquiry.

---

<sup>5</sup> This total includes applications for state-only, federal-only and provisional enrolment.

**Table 4: Close of rolls enrolment transactions by division – 2001 and 2004 federal elections**

Division	2001 <sup>6</sup>	2004
<b>ACT</b>	<b>4,101</b>	<b>10,359</b>
CANBERRA	1,610	4,329
FRASER	2,491	6,030
<b>NSW</b>	<b>135,729</b>	<b>120,446</b>
BANKS	2,104	1,581
BARTON	2,280	2,067
BENNELONG	2,777	2,454
BEROWRA	3,116	2,125
BLAXLAND	1,783	1,469
BRADFIELD	3,232	2,307
CALARE	2,388	2,454
CHARLTON	2,596	2,107
CHIFLEY	2,370	1,862
COOK	3,036	1,966
COWPER	2,071	2,489
CUNNINGHAM	2,307	1,912
DOBELL	2,916	2,338
EDEN-MONARO	2,430	2,647
FARRER	2,618	2,560
FOWLER	1,771	1,558
GILMORE	2,152	2,366
GRAYNDLER	3,680	3,552
GREENWAY	3,169	2,471
GWYDIR	2,004	1,901
HUGHES	3,275	2,099
HUME	2,327	2,206
HUNTER	2,695	2,458
KINGSFORD SMITH	2,812	2,643
LINDSAY	3,352	2,278
LOWE	2,650	2,415
LYNE	2,233	2,466
MACARTHUR	2,595	1,841
MACKELLAR	2,980	2,545
MACQUARIE	3,126	2,427
MITCHELL	3,564	2,761
NEW ENGLAND	3,486	2,615
NEWCASTLE	2,457	3,005
NORTH SYDNEY	4,209	3,734
PAGE	2,638	2,798
PARKES	2,025	2,122
PARRAMATTA	3,126	2,610
PATERSON	2,324	2,513

Division	2001 <sup>6</sup>	2004
PROSPECT	2,043	1,531
REID	1,775	1,945
RICHMOND	3,075	3,005
RIVERINA	2,341	2,264
ROBERTSON	2,892	2,208
SHORTLAND	2,417	1,794
SYDNEY	4,944	5,703
THROSBY	2,044	1,813
WARRINGAH	3,410	2,948
WATSON	1,945	1,713
WENTWORTH	3,736	3,896
WERRIWA	2,433	1,904
<b>NT</b>	<b>3,763</b>	<b>5,728</b>
LINGIARI	1,817	2,457
SOLOMON	1,946	3,271
<b>QLD</b>	<b>67,026</b>	<b>76,786</b>
BLAIR	1,678	2,347
BONNER*		2,045
BOWMAN	2,642	2,363
BRISBANE	4,114	3,556
CAPRICORNIA	2,019	2,522
DAWSON	1,888	2,935
DICKSON	2,604	2,234
FADDEN	2,671	3,119
FAIRFAX	2,308	2,805
FISHER	2,793	2,799
FORDE	2,274	2,575
GRIFFITH	2,803	3,421
GROOM	2,486	2,705
HERBERT	2,835	3,232
HINKLER	2,032	3,112
KENNEDY	1,778	2,707
LEICHHARDT	2,637	3,005
LILLEY	2,688	2,764
LONGMAN	2,612	2,649
MARANOVA	3,208	2,167
MCPHERSON	1,788	2,816
MONCRIEFF	3,160	3,002
MORETON	2,529	2,241
OXLEY	1,998	2,401
PETRIE	2,567	2,527
RANKIN	2,376	2,553
RYAN	2,743	2,525
WIDE BAY	1,795	3,659
<b>SA</b>	<b>31,552</b>	<b>37,331</b>

<sup>6</sup> Source: AEC, *Submission 190 to the inquiry into the conduct of the 2001 federal election*, March 2003, Attachment B.,

Division	2001 <sup>6</sup>	2004
ADELAIDE	3,489	4,247
BARKER	2,300	3,150
BONYTHON*	2,384	
BOOTHBY	3,000	3,467
GREY	1,905	2,686
HINDMARSH	2,582	3,546
KINGSTON	2,547	3,498
MAKIN	2,649	3,108
MAYO	2,797	3,746
PORT ADELAIDE	2,164	3,324
STURT	3,098	3,162
WAKEFIELD	2,637	3,397
<b>TAS</b>		
	<b>9,688</b>	<b>11,099</b>
BASS	2,211	2,313
BRADDON	1,657	2,062
DENISON	2,555	2,639
FRANKLIN	1,800	2,151
LYONS	1,465	1,934
<b>VIC</b>		
	<b>85,556</b>	<b>98,650</b>
ASTON	1,895	1,788
BALLARAT	2,718	2,909
BATMAN	2,039	2,439
BENDIGO	3,287	3,675
BRUCE	1,919	1,925
BURKE*	2,726	
CALWELL	2,108	2,234
CASEY	1,973	2,094
CHISHOLM	2,182	2,104
CORANGAMITE	2,270	2,518
CORIO	1,877	2,590
DEAKIN	1,994	2,180
DUNKLEY	2,614	2,777
FLINDERS	2,479	2,785
GELLIBRAND	2,161	2,546
GIPPSLAND	1,983	2,881
GOLDSTEIN	2,346	2,440
GORTON*		2,362

Division	2001 <sup>6</sup>	2004
HIGGINS	3,087	3,441
HOLT	2,129	2,886
HOTHAM	1,944	1,998
INDI	2,122	3,557
ISAACS	2,419	1,866
JAGAJAGA	2,103	2,104
KOOYONG	2,546	2,621
LA TROBE	2,193	2,490
LALOR	2,662	2,819
MALLEE	2,701	2,497
MARIBYRNONG	2,043	2,009
MCEWEN	2,101	3,171
MCMILLAN	1,400	2,184
MELBOURNE	4,316	6,445
MELBOURNE PORTS	3,399	5,490
MENZIES	1,773	1,671
MURRAY	2,210	2,457
SCULLIN	1,687	1,578
WANNON	2,074	2,398
WILLS	2,076	2,721
<b>WA</b>		
	<b>36,379</b>	<b>63,594</b>
BRAND	2,807	4,911
CANNING	2,340	4,543
COWAN	2,036	3,929
CURTIN	2,973	4,685
FORREST	2,192	4,336
FREMANTLE	2,329	3,948
HASLUCK	2,225	3,681
KALGOORLIE	2,556	4,523
MOORE	2,248	4,022
O'CONNOR	2,014	3,108
PEARCE	2,354	4,358
PERTH	2,524	4,407
STIRLING	2,633	4,588
SWAN	2,930	4,709
TANGNEY	2,218	3,846
<b>AUSTRALIA</b>		
	<b>373,794</b>	<b>423,993</b>

\* These Divisions were subject to redistribution between the 2001 and 2004 federal elections.

Table 5 below lists the number of enrolment transactions by type of transaction for each State and Territory at the 2004 federal election. For the most part, enrolment transactions during this period are for new enrolments and changes of address, with much smaller numbers of other types of change.

**Table 5: Close of rolls enrolment transactions by type – States and Territories – 2004 federal election**

State	New Enrolment (a)	Reenrolment (b)	Reinstatement (c)	Transfer In Intrastate (d)	Transfer In Interstate (d)	Intra-Area Transfer (d)	No Change Enrolment (e)	Address Renumber (f)	Total Enrolment Transactions (g)	Transfer Out Intrastate (h)	Transfer Out Interstate (h)	Objection (i)	Death Deletion (j)	Duplicate Deletion (k)
ACT	2,279	2,038	54	636	1,690	2,572	1,084	6	10,359	636	2,075	2,656	105	1
NSW	23,706	24,645	483	29,464	7,244	26,486	8,242	176	120,446	29,464	9,084	51,294	2,359	58
NT	835	1,160	31	315	1,439	1,250	698	0	5,728	315	1,280	507	54	10
QLD	10,098	13,066	359	18,116	8,443	20,736	5,799	169	76,786	18,116	5,766	102	1,072	94
SA	9,163	5,337	29	8,630	1,984	8,773	3,363	52	37,331	8,630	2,927	89	890	26
TAS	2,136	1,890	6	1,376	1,288	3,128	1,274	1	11,099	1,376	1,209	5	130	4
VIC	15,863	19,456	310	23,101	5,902	22,530	11,326	162	98,650	23,101	5,624	34,617	1,375	63
WA	14,736	10,903	93	14,408	2,763	13,040	7,637	14	63,594	14,408	2,788	259	271	52
<b>Australia</b>	<b>78,816</b>	<b>78,495</b>	<b>1,365</b>	<b>96,046</b>	<b>30,753</b>	<b>98,515</b>	<b>39,423</b>	<b>580</b>	<b>423,993</b>	<b>96,046</b>	<b>30,753</b>	<b>89,529</b>	<b>6,256</b>	<b>308</b>

(a) Inclusion of an elector's name on the roll based on the receipt of a claim, where no previous enrolment record exists.

(b) Inclusion of an elector's name on the roll based on the receipt of a claim, where a non-current record exists.

(c) Re-instating an elector's name to the roll from a non-current enrolment record where the removal of the elector was in error.

(d) Alteration of an elector's enrolment details based on the receipt of an enrolment claim form, or in some circumstances written notice, from an elector. A 'transfer in intrastate' means the elector's enrolled address moved from one division in a state to another division in the same state. A 'transfer in interstate' means the elector moved from their previous enrolled address to an address in a division in another state or territory. An 'inter-area transfer' is an alteration to an elector's enrolled address within one division.

(e) The elector submitted an enrolment form that was identical to the elector's current enrolment details and no change was required.

(f) Alteration of a currently enrolled elector's address details after the receipt of information from the appropriate authority that the address details have been amended.

(g) Total enrolment transactions that added, amended or confirmed an elector's enrolled address.

(h) These transfers **out** are the incidental transfers of the electors who were transferred into a new division (see above note (h)).

(i) Removals from the roll as a result of the objection process under Part IX of the Electoral Act.

(j) Removals from the roll as a result of the elector's death under section 110 of the Electoral Act.

(k) Removals from the roll as a result of an elector having duplicate records.

Table 6 below provides new enrolment numbers by age on a State and Territory basis. New enrolments during the close of rolls period show a strong representation of young people. The age spread of those applying for changes to enrolment is more even, peaking in the 25-29 year old age group. The age spread is, however, still weighted towards younger electors.

Table 7 below provides numbers of all other enrolment transaction types (that is, the total transactions minus the new enrolments) by age on a State and Territory basis.

**Table 6: Close of roll new enrolments by age – States and Territories – 2004 federal election**

Age at Polling Day	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Australia
17	131	690	41	400	566	146	1253	1534	<b>4,761</b>
18	846	13,176	268	5,538	3,465	1,084	7,522	5,108	<b>37,007</b>
19	561	3,410	142	1,098	2,159	468	2,866	3,428	<b>14,132</b>
20-24	588	3,039	215	1,443	2,108	280	1,863	3,522	<b>13,058</b>
25-29	52	843	49	326	207	38	650	288	<b>2,453</b>
30-34	30	644	30	292	154	25	473	204	<b>1,852</b>
35-39	16	504	25	227	138	17	362	182	<b>1,471</b>
40-44	23	424	21	225	122	18	301	149	<b>1,283</b>
45-49	12	281	20	175	94	19	198	114	<b>913</b>
50-54	14	272	13	130	69	18	146	85	<b>747</b>
55-59	3	157	6	102	29	11	85	65	<b>458</b>
60-64	2	117	4	64	19	7	56	28	<b>297</b>
64-69	0	56	1	38	13	4	47	10	<b>169</b>
70-74	0	40	0	23	8	1	20	10	<b>102</b>
75-79	1	36	0	8	8	0	10	7	<b>70</b>
80+	0	17	0	9	4	0	11	2	<b>43</b>
<b>Total</b>	<b>2,279</b>	<b>23,706</b>	<b>835</b>	<b>10,098</b>	<b>9,163</b>	<b>2,136</b>	<b>15,863</b>	<b>14,736</b>	<b>78,816</b>

**Table 7: Close of roll other transactions by age – States and Territories – 2004 federal election**

Age at Polling Day	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Australia
17	6	35	5	31	28	8	90	70	<b>273</b>
18	113	1,188	41	975	406	242	1,320	894	<b>5,179</b>
19	179	1,590	84	1,400	684	296	1,949	1,273	<b>7,455</b>
20-24	1,710	13,746	743	10,261	4,906	1,407	12,672	8,131	<b>53,576</b>
25-29	1,812	17,390	862	9,944	4,860	1,328	15,749	8,072	<b>60,017</b>
30-34	1,410	16,383	763	9,209	3,953	1,164	13,622	6,951	<b>53,455</b>
35-39	865	10,825	590	7,001	2,828	838	9,121	4,972	<b>37,040</b>
40-44	636	9,019	512	6,165	2,571	839	7,214	4,567	<b>31,523</b>
45-49	460	7,080	411	5,331	2,117	670	5,779	3,802	<b>25,650</b>
50-54	308	5,739	377	4,731	1,741	615	4,444	3,224	<b>21,179</b>
55-59	221	4,701	260	4,039	1,289	517	3,530	2,477	<b>17,034</b>
60-64	133	2,894	130	2,624	776	298	2,219	1,505	<b>10,579</b>
64-69	70	1,877	52	1,772	520	216	1,431	1,007	<b>6,945</b>
70-74	52	1,367	28	1,152	440	176	1,128	651	<b>4,994</b>
75-79	35	1,128	20	942	391	132	975	550	<b>4,173</b>
80+	70	1,778	15	1,111	658	217	1,544	712	<b>6,105</b>
<b>Total</b>	<b>8,080</b>	<b>96,740</b>	<b>4,893</b>	<b>66,688</b>	<b>28,168</b>	<b>8,963</b>	<b>82,787</b>	<b>48,858</b>	<b>345,177</b>

## Nominations

The qualifications for nomination are that the person wishing to nominate: is an Australian citizen; is over the age of 18; and is either enrolled or entitled to be enrolled. Members of State or Territory parliaments are not permitted to nominate for federal elections, and people wishing to nominate cannot make multiple nominations.

A person is disqualified from nominating if they: owe an allegiance to a foreign power; have been convicted and are under sentence of an offence punishable by imprisonment for one year or longer; are an undischarged bankrupt; hold an office of profit under the Crown; have any direct or indirect pecuniary interest in an agreement with the Public Service of the Commonwealth (apart from specified exceptions); or are a sitting member of a State or Territory Parliament.<sup>7</sup>

There are three mechanisms for nomination. A candidate may be nominated by 50 persons entitled to vote in the election for which the candidate is nominating, or by the registered officer of a registered political party that has endorsed the candidate.<sup>8</sup> A sitting independent candidate may nominate using a single signature from a person entitled to vote in the election for which the candidate is nominating.<sup>9</sup>

<sup>7</sup> See the Australian Constitution section 44, Electoral Act section 164.

<sup>8</sup> See section 166 of the Electoral Act.

<sup>9</sup> This nomination mechanism can only be used in circumstances where the candidate is nominating for the same division they previously represented or in the event of redistribution, a division that shares some territory with the division they previously represented (if they were a member of the House of Representatives), or the same State they previously represented (if they were a Senator). Independents

The relevant AEC officer must receive nominations<sup>10</sup> before the hour of nomination, which is 12.00 noon on the date fixed for nomination, which must be between 10 and 27 days after the issue of the writ.<sup>11</sup> There is an exception to this rule in the case of nomination of candidates by registered officers of registered political parties.

Registered officers of registered political parties are able to nominate all of a party's House of Representatives candidates for a State or Territory at the same time. This process is called bulk nomination. Bulk nominations must be made no later than 48 hours before the hour of nomination.<sup>12</sup>

Nominations are declared 24 hours after the hour of nomination.

Nominations often close on a Thursday to fit the minimum election timetable specified in the Electoral Act.<sup>13</sup> The declaration of nominations is at 12 noon the following day. The 2004 election was not run on a minimum timetable (that is, there were an extra 6 days above the minimum timetable between issue of writs and polling day) but the nominations close date was nevertheless a Thursday (16 September). A Thursday nominations close date is administratively convenient for the AEC, as it allows the AEC to begin printing ballot papers over the weekend so that pre-poll and postal voting can start on the Monday after the close of nominations.

Table 8 lists the number of candidates for the House of Representatives in each State and Territory for the 2001 and 2004 federal elections.

---

nominating for the Senate under this provision must have previously been elected to the Senate as an Independent candidate.

<sup>10</sup> A valid nomination must include a completed nomination form and the payment of a nomination deposit under section 170 of the Electoral Act.

<sup>11</sup> See section 156 of the Electoral Act.

<sup>12</sup> See subparagraph 170(2)(a)(i) of the Electoral Act.

<sup>13</sup> A 'minimum election timetable' is an election timetable that is established using the minimum legislative periods allowed for in the Electoral Act for the necessary electoral events. Section 156 of the Electoral Act specifies that the date fixed for nomination shall not be less than ten nor more than 27 days after the issue of the writ. A minimum election timetable would set the date for close of nominations to be ten days after the issue of the writ. The hour of nomination is 12 noon – see subsection 175(1) of the Electoral Act

**Table 8: Number of Candidates for the House of Representatives – States and Territories – 2001 and 2004 Federal Elections**

State/ Territory	2001 federal election				2004 federal election				
	Number of vacancies	Female candidates	Male candidates	Total candidates	Number of vacancies	Female candidates	Male candidates	Undeclared candidates	Total candidates
ACT	2	5	8	13	2	4	6		10
NSW	50	103	292	395	50	106	276		382
NT	2	3	10	13	2	2	10		12
QLD	27	50	129	179	28	56	149		205
SA	12	24	47	71	11	18	57	1	76
TAS	5	10	17	27	5	8	17		25
VIC	37	60	165	225	37	68	189		257
WA	15	33	83	116	15	37	87		124
<b>Total</b>	<b>150</b>	<b>288</b>	<b>751</b>	<b>1039</b>	<b>150</b>	<b>299</b>	<b>791</b>	<b>1</b>	<b>1091</b>

Table 9 lists the number of candidates for the Senate in each State and Territory for the 2001 and 2004 federal elections

**Table 9: Number of Candidates for the Senate – States and Territories – 2001 and 2004 Federal Elections**

State/ Territory	2001 federal election				2004 federal election			
	Number of vacancies	Female candidates	Male candidates	Total candidates	Number of vacancies	Female candidates	Male candidates	Total candidates
ACT	2	4	10	14	2	5	8	13
NSW	6	23	42	65	6	21	57	78
NT	2	5	8	13	2	6	5	11
QLD	6	11	29	40	6	15	35	50
SA	6	10	16	26	6	21	26	47
TAS	6	8	21	29	6	8	18	26
VIC	6	17	35	52	6	19	46	65
WA	6	15	31	46	6	12	28	40
<b>Total</b>	<b>48</b>	<b>93</b>	<b>192</b>	<b>285</b>	<b>48</b>	<b>107</b>	<b>223</b>	<b>330</b>

## Polling

The primary method of voting in an election is 'ordinary' voting, where electors attend at a polling booth in the division for which they are enrolled, have their name marked off the certified list of eligible voters, and cast their vote.

In some cases, there are other methods by which electors can vote without needing to attend a polling booth in the division in which they are enrolled. This allows for persons who are unable to access a polling place for reasons such as illness, travel, or silent elector status to cast a vote. The alternative methods of voting are collectively called 'declaration' voting, because, when using one of these alternatives, the elector must complete a declaration that they are entitled to vote, in place of having their name marked off a certified list.

The declaration is later compared against the person's enrolment record<sup>14</sup> to determine the admissibility of an elector's vote by checking the information contained in the declaration. This is called the preliminary scrutiny.

### Declaration voting

There are a number of forms of declaration voting:

- *pre-poll voting*, where an elector attends a pre-poll voting office on<sup>15</sup> or before polling day to cast a vote;
- *postal voting*, where an elector applies for and is sent a postal vote to be completed on or before polling day;
- *absent voting*, where an elector casts a vote for the division in which they are enrolled at a polling place in another division in the State or Territory in which they are enrolled; and
- *provisional voting*, where an elector's name or address cannot be found on the certified list of voters on polling day, has already been marked off as having voted, or the person cannot satisfy the presiding officer that they are the elector named on the certified list, but they claim they are eligible to vote.

Table 10 lists the total number of declaration votes by division cast at the 2001 and 2004 federal elections, and whether these declaration votes were fully admitted, partially admitted or rejected.

---

<sup>14</sup> Additional checks are also made for postal voters (s.235(1)(c&d) CEA) and provisional voters (s.226(6) CEA).

<sup>15</sup> Pre-poll voting on polling day is used to collect votes from electors who are interstate on polling day, and so would not otherwise be able to cast a vote. These pre-poll voting centres are established to meet the needs of interstate voters in areas that history has demonstrated they frequent. For example, pre-poll voting centres are often located in capital city town halls, transport hubs, and major regional locations. They include all divisional offices.

**Table 10: Total declaration votes by division – 2001 and 2004 Federal Elections**

Division	Federal Election 2001				Federal Election 2004			
	Fully Admitted*	Part Admitted**	Rejected***	Total	Fully Admitted*	Part Admitted**	Rejected***	Total
CANBERRA	21,043	146	963	22,152	23,019	217	1,519	24,755
FRASER	21,798	234	1,296	23,328	24,942	249	1,862	27,053
<b>ACT Total</b>	<b>42,841</b>	<b>380</b>	<b>2,259</b>	<b>45,480</b>	<b>47,961</b>	<b>466</b>	<b>3,381</b>	<b>51,808</b>
BANKS	11,678	503	1,217	13,398	12,505	260	1,059	13,824
BARTON	11,677	635	1,709	14,021	12,265	385	1,475	14,125
BENNELONG	13,202	521	1,442	15,165	13,612	264	1,342	15,218
BEROWRA	13,322	538	1,209	15,069	14,676	261	1,073	16,010
BLAXLAND	10,387	687	1,661	12,735	10,623	387	1,502	12,512
BRADFIELD	14,436	515	1,551	16,502	16,236	314	1,465	18,015
CALARE	12,860	317	1,001	14,178	16,499	231	947	17,677
CHARLTON	13,112	453	948	14,513	14,703	280	1,261	16,244
CHIFLEY	10,618	677	1,718	13,013	11,812	362	1,454	13,628
COOK	13,053	408	1,199	14,660	13,879	245	1,173	15,297
COWPER	12,033	293	1,050	13,376	13,713	221	1,107	15,041
CUNNINGHAM	11,119	277	874	12,270	14,401	154	692	15,247
DOBELL	13,442	476	1,186	15,104	16,059	338	1,308	17,705
EDEN-MONARO	14,254	207	1,238	15,699	17,441	195	1,288	18,924
FARRER	10,902	142	1,035	12,079	12,755	131	964	13,850
FOWLER	9,089	602	1,578	11,269	9,923	412	1,447	11,782
GILMORE	15,645	348	889	16,882	19,447	203	957	20,607
GRAYNDLER	13,279	894	2,229	16,402	14,194	499	1,886	16,579
GREENWAY	11,472	507	1,492	13,471	13,122	402	1,356	14,880
GWYDIR	13,996	377	1,364	15,737	15,339	343	1,366	17,048
HUGHES	12,827	423	1,123	14,373	13,405	287	1,078	14,770
HUME	13,756	401	1,001	15,158	15,755	286	1,169	17,210
HUNTER	12,496	352	898	13,746	14,412	221	837	15,470
KINGSFORD SMITH	12,951	567	1,887	15,405	14,519	357	1,712	16,588
LINDSAY	11,269	457	1,343	13,069	12,392	218	1,064	13,674
LOWE	11,847	655	1,645	14,147	13,331	431	1,524	15,286
LYNE	13,375	314	938	14,627	14,607	192	738	15,537
MACARTHUR	10,800	533	1,265	12,598	12,702	396	1,186	14,284
MACKELLAR	12,509	385	1,123	14,017	14,310	330	1,009	15,649
MACQUARIE	13,009	419	1,108	14,536	15,489	191	1,056	16,736
MITCHELL	12,972	593	1,124	14,689	15,416	370	1,171	16,957
NEW ENGLAND	14,026	253	1,303	15,582	16,018	232	1,060	17,310
NEWCASTLE	12,743	456	1,148	14,347	14,332	321	1,288	15,941
NORTH SYDNEY	15,822	837	1,917	18,576	17,167	370	1,886	19,423
PAGE	12,216	363	988	13,567	14,084	349	1,069	15,502
PARKES	13,242	328	1,134	14,704	15,078	193	1,032	16,303
PARRAMATTA	14,528	961	2,031	17,520	15,735	643	1,821	18,199
PATERSON	13,366	395	954	14,715	15,986	285	1,053	17,324
PROSPECT	9,285	601	1,294	11,180	10,529	454	1,206	12,189
REID	9,443	452	1,219	11,114	11,138	114	1,272	12,524
RICHMOND	13,722	211	1,037	14,970	17,919	152	1,212	19,283
RIVERINA	12,387	196	897	13,480	14,467	186	1,069	15,722

Division	Federal Election 2001				Federal Election 2004			
	Fully Admitted*	Part Admitted**	Rejected***	Total	Fully Admitted*	Part Admitted**	Rejected***	Total
ROBERTSON	14,297	405	1,152	15,854	16,202	309	1,282	17,793
SHORTLAND	13,483	459	1,093	15,035	15,517	244	1,185	16,946
SYDNEY	16,616	1,156	3,078	20,850	19,647	660	2,835	23,142
THROSBY	10,232	252	834	11,318	13,033	121	653	13,807
WARRINGAH	14,195	536	1,399	16,130	15,070	334	1,272	16,676
WATSON	10,675	723	1,919	13,317	11,488	413	1,801	13,702
WENTWORTH	17,842	798	2,322	20,962	18,806	389	2,032	21,227
WERRIWA	10,667	597	1,409	12,673	13,093	491	1,753	15,337
<b>NSW Total</b>	<b>636,174</b>	<b>24,455</b>	<b>67,173</b>	<b>727,802</b>	<b>724,851</b>	<b>15,426</b>	<b>64,447</b>	<b>804,724</b>
LINGIARI	6,655	80	1,162	7,897	7,711	91	1,258	9,060
SOLOMON	7,363	108	1,001	8,472	8,760	72	1,169	10,001
<b>NT Total</b>	<b>14,018</b>	<b>188</b>	<b>2,163</b>	<b>16,369</b>	<b>16,471</b>	<b>163</b>	<b>2,427</b>	<b>19,061</b>
BLAIR	10,971	303	775	12,049	13,624	349	1,124	15,097
BONNER****	-	-	-	-	13,808	467	1,093	15,368
BOWMAN	11,955	228	776	12,959	12,937	195	1,059	14,191
BRISBANE	18,032	674	1,858	20,564	17,132	569	1,431	19,132
CAPRICORNIA	14,188	242	867	15,297	15,004	221	1,180	16,405
DAWSON	12,432	231	991	13,654	13,375	225	1,317	14,917
DICKSON	12,147	360	975	13,482	12,632	319	942	13,893
FADDEN	13,718	462	1,070	15,250	14,260	450	1,468	16,178
FAIRFAX	13,078	315	989	14,382	14,219	327	1,127	15,673
FISHER	14,722	304	1,066	16,092	15,103	250	1,249	16,602
FORDE	12,362	477	1,248	14,087	13,304	364	1,443	15,111
GRIFFITH	14,771	461	1,270	16,502	16,010	483	1,734	18,227
GROOM	13,065	208	795	14,068	14,241	191	975	15,407
HERBERT	12,914	283	1,222	14,419	12,355	245	1,411	14,011
HINKLER	13,163	198	754	14,115	16,847	167	1,033	18,047
KENNEDY	11,952	358	1,423	13,733	13,422	296	1,613	15,331
LEICHHARDT	11,088	426	1,468	12,982	11,770	235	1,580	13,585
LILLEY	14,525	486	1,300	16,311	15,659	468	1,412	17,539
LONGMAN	11,540	256	928	12,724	12,831	277	1,144	14,252
MARANOVA	17,825	266	1,209	19,300	19,217	234	1,319	20,770
MCPHERSON	16,506	290	1,353	18,149	14,879	355	1,204	16,438
MONCRIEFF	15,464	426	1,455	17,345	15,100	405	1,464	16,969
MORETON	15,125	588	1,585	17,298	13,981	403	1,496	15,880
OXLEY	10,944	298	865	12,107	12,519	310	1,296	14,125
PETRIE	14,438	378	1,109	15,925	14,038	326	1,248	15,612
RANKIN	12,218	503	1,312	14,033	13,379	437	1,647	15,463
RYAN	13,650	359	1,051	15,060	14,927	366	1,177	16,470
WIDE BAY	14,363	203	768	15,334	15,794	208	1,119	17,121
<b>QLD Total</b>	<b>367,156</b>	<b>9,583</b>	<b>30,482</b>	<b>407,221</b>	<b>402,367</b>	<b>9,142</b>	<b>36,305</b>	<b>447,814</b>
ADELAIDE	13,190	767	1,750	15,707	15,457	748	2,542	18,747
BARKER	10,931	238	949	12,118	13,883	348	1,929	16,160
BONYTHON****	9,597	411	1,010	11,018	-	-	-	-
BOOTHBY	11,959	544	1,015	13,518	15,305	513	1,580	17,398
GREY	11,281	282	1,079	12,642	13,766	330	1,713	15,809
HINDMARSH	12,300	561	1,506	14,367	15,286	678	2,046	18,010

Division	Federal Election 2001				Federal Election 2004			
	Fully Admitted*	Part Admitted**	Rejected***	Total	Fully Admitted*	Part Admitted**	Rejected***	Total
KINGSTON	11,259	341	972	12,572	13,341	382	2,000	15,723
MAKIN	11,063	492	1,130	12,685	12,619	513	1,754	14,886
MAYO	11,192	488	999	12,679	13,354	477	1,625	15,456
PORT ADELAIDE	11,035	448	1,185	12,668	13,231	633	2,457	16,321
STURT	12,479	568	1,378	14,425	14,674	526	1,996	17,196
WAKEFIELD	9,833	334	763	10,930	11,666	576	2,125	14,367
<b>SA Total</b>	<b>136,119</b>	<b>5,474</b>	<b>13,736</b>	<b>155,329</b>	<b>152,582</b>	<b>5,724</b>	<b>21,767</b>	<b>180,073</b>
BASS	8,589	141	645	9,375	10,062	129	811	11,002
BRADDON	7,522	99	581	8,202	8,551	96	572	9,219
DENISON	9,780	162	797	10,739	10,626	167	869	11,662
FRANKLIN	8,906	162	723	9,791	10,009	152	869	11,030
LYONS	8,448	215	846	9,509	9,526	193	1,172	10,891
<b>TAS Total</b>	<b>43,245</b>	<b>779</b>	<b>3,592</b>	<b>47,616</b>	<b>48,774</b>	<b>737</b>	<b>4,293</b>	<b>53,804</b>
ASTON	12,488	380	1,051	13,919	13,467	363	1,018	14,848
BALLARAT	13,750	336	821	14,907	16,276	325	1,217	17,818
BATMAN	11,991	692	1,544	14,227	13,348	558	2,187	16,093
BENDIGO	12,408	266	853	13,527	15,096	295	1,297	16,688
BRUCE	12,599	563	1,296	14,458	13,300	549	1,829	15,678
BURKE****	12,239	466	1,158	13,863	-	-	-	-
CALWELL	11,722	795	1,404	13,921	13,424	329	1,182	14,935
CASEY	12,476	417	927	13,820	14,466	401	1,242	16,109
CHISHOLM	14,039	597	1,109	15,745	14,794	512	1,438	16,744
CORANGAMITE	14,133	389	973	15,495	16,518	400	1,308	18,226
CORIO	11,926	352	1,012	13,290	13,018	240	1,405	14,663
DEAKIN	13,407	463	960	14,830	16,209	491	1,420	18,120
DUNKLEY	12,662	385	1,180	14,227	14,546	406	1,795	16,747
FLINDERS	16,483	459	1,212	18,154	17,763	390	1,571	19,724
GELLIBRAND	11,487	731	1,548	13,766	13,502	546	2,157	16,205
GIPPSLAND	10,549	299	729	11,577	17,069	296	1,343	18,708
GOLDSTEIN	13,869	632	1,406	15,907	15,566	529	1,365	17,460
GORTON****	-	-	-	-	14,385	696	2,146	17,227
HIGGINS	15,767	816	1,579	18,162	18,047	628	1,935	20,610
HOLT	12,006	758	1,649	14,413	14,111	644	2,203	16,958
HOTHAM	13,221	769	1,353	15,343	14,153	638	1,706	16,497
INDI	13,778	206	954	14,938	18,272	223	1,283	19,778
ISAACS	11,376	561	1,385	13,322	14,307	483	2,001	16,791
JAGAJAGA	13,130	406	935	14,471	15,765	372	1,153	17,290
KOOYONG	14,245	592	1,132	15,969	15,727	410	1,371	17,508
LA TROBE	13,210	578	1,199	14,987	15,327	475	1,520	17,322
LALOR	11,736	509	1,025	13,270	15,006	454	1,532	16,992
MALLEE	11,619	176	744	12,539	15,923	185	1,229	17,337
MARIBYRNONG	11,001	704	1,159	12,864	15,662	1,016	1,901	18,579
MCEWEN	13,656	558	1,322	15,536	17,783	499	1,707	19,989
MCMILLAN	13,190	308	802	14,300	14,450	316	1,260	16,026
MELBOURNE	17,534	1,192	2,532	21,258	19,017	879	2,449	22,345
MELBOURNE PORTS	18,643	871	2,025	21,539	22,201	716	2,506	25,423
MENZIES	12,210	461	979	13,650	14,521	340	1,239	16,100

Division	Federal Election 2001				Federal Election 2004			
	Fully Admitted*	Part Admitted**	Rejected***	Total	Fully Admitted*	Part Admitted**	Rejected***	Total
MURRAY	10,925	277	1,029	12,231	13,670	301	1,364	15,335
SCULLIN	9,979	470	976	11,425	10,663	443	1,350	12,456
WANNON	13,570	251	706	14,527	16,930	285	1,137	18,352
WILLS	12,703	851	1,412	14,966	14,660	583	2,092	17,335
<b>VIC Total</b>	<b>481,727</b>	<b>19,536</b>	<b>44,080</b>	<b>545,343</b>	<b>568,942</b>	<b>17,216</b>	<b>58,858</b>	<b>645,016</b>
BRAND	12,111	453	1,082	13,646	14,290	622	1,770	16,682
CANNING	11,101	475	1,003	12,579	13,894	683	1,698	16,275
COWAN	10,609	442	869	11,920	12,612	705	1,819	15,136
CURTIN	12,683	471	1,326	14,480	15,422	598	1,623	17,643
FORREST	10,574	241	721	11,536	14,404	402	1,217	16,023
FREMANTLE	10,695	365	909	11,969	12,712	562	1,619	14,893
HASLUCK	11,130	577	1,116	12,823	12,811	687	1,723	15,221
KALGOORLIE	11,874	336	1,207	13,417	15,326	599	1,805	17,730
MOORE	10,534	316	853	11,703	12,523	602	1,340	14,465
O'CONNOR	12,438	398	844	13,680	15,922	643	1,372	17,937
PEARCE	12,095	550	947	13,592	15,545	791	1,619	17,955
PERTH	12,514	556	1,335	14,405	13,769	742	1,955	16,466
STIRLING	13,707	641	1,347	15,695	14,904	892	2,038	17,834
SWAN	12,283	566	1,362	14,211	13,891	804	2,060	16,755
TANGNEY	11,674	375	922	12,971	13,342	557	1,534	15,433
<b>WA Total</b>	<b>176,022</b>	<b>6,762</b>	<b>15,843</b>	<b>198,627</b>	<b>211,367</b>	<b>9,889</b>	<b>25,192</b>	<b>246,448</b>
<b>Australia Total</b>	<b>1,897,302</b>	<b>67,157</b>	<b>179,328</b>	<b>2,143,787</b>	<b>2,173,315</b>	<b>58,763</b>	<b>216,670</b>	<b>2,448,748</b>

\* 'Fully Admitted' means that the elector was entitled to vote for the division for which they cast a declaration vote. Both their House of Representatives and their Senate ballot paper were counted.

\*\* 'Partially Admitted' means that the elector was entitled to vote for the State or Territory for which they cast a declaration vote, but not the division for which they cast a declaration vote (in other words, they were resident in the State and Territory, but not in the division for which they cast a vote) Only their Senate ballot paper was counted.

\*\*\* 'Rejected' means that the elector was not entitled to vote for either the division or the State or Territory for which they cast a declaration vote. None of their votes were counted.

\*\*\*\* These divisions were subject to creation/abolition at redistributions between the 2001 and 2004 federal elections.

Table 10 above shows that the number of declaration votes cast at the 2004 federal election has increased by 14% from the number cast in 2001. Table 11, which lists declaration votes by division and type for the 2001 and 2004 federal election, shows that an increase in pre-poll and postal voting is primarily responsible for this increase, compared to almost no change in absent voting. It should be noted that the postal vote information in this table refers to the number of postal votes that were returned for scrutiny (ie the votes cast) rather than the number of postal vote applications (PVAs) that were initially received.

**Table 11: Declaration votes by type by division – 2001 and 2004 Federal Elections**

Division	Federal Election 2001				Federal Election 2004			
	absent	postal	pre-poll	provisional	absent	postal	pre-poll	provisional
CANBERRA	2,905	15,289	2,956	1,002	3,879	16,669	2,409	1,798
FRASER	3,602	15,867	2,633	1,226	4,238	17,842	2,456	2,517
<b>ACT Total</b>	<b>6,507</b>	<b>31,156</b>	<b>5,589</b>	<b>2,228</b>	<b>8,117</b>	<b>34,511</b>	<b>4,865</b>	<b>4,315</b>
BANKS	3,123	3,221	6,120	934	4,330	3,555	5,221	718
BARTON	2,713	3,613	6,101	1,594	4,014	3,846	4,981	1,284
BENNELONG	3,990	4,013	6,302	860	4,843	4,356	5,279	740
BEROWRA	3,246	4,812	6,220	791	4,140	5,309	5,908	653
BLAXLAND	2,732	2,654	5,708	1,641	3,542	2,744	4,995	1,231
BRADFIELD	4,197	5,374	6,114	817	5,128	6,150	5,965	772
CALARE	2,647	5,275	5,072	1,184	3,295	8,419	4,858	1,105
CHARLTON	3,166	4,430	5,919	998	4,701	4,917	5,743	883
CHIFLEY	1,945	3,017	6,258	1,793	2,815	4,074	5,638	1,101
COOK	3,339	4,644	5,513	1,164	4,020	5,045	5,319	913
COWPER	3,041	4,418	4,768	1,149	3,345	5,572	4,973	1,151
CUNNINGHAM	3,326	3,628	4,667	649	5,152	6,143	3,714	238
DOBELL	3,073	4,400	6,568	1,063	4,401	5,717	6,637	950
EDEN-MONARO	3,834	7,409	3,426	1,030	4,983	9,168	3,862	911
FARRER	4,059	4,722	2,350	948	4,659	5,925	2,454	812
FOWLER	2,021	2,148	5,723	1,377	2,747	2,267	5,899	869
GILMORE	3,273	7,481	4,985	1,143	4,032	10,633	5,074	868
GRAYNDLER	2,210	4,009	8,248	1,935	3,551	4,537	6,933	1,558
GREENWAY	2,452	3,291	6,700	1,028	3,829	4,000	6,008	1,043
GWYDIR	3,687	3,730	7,148	1,172	3,937	5,206	6,844	1,061
HUGHES	2,941	4,095	6,537	800	3,348	4,494	6,221	707
HUME	3,373	4,562	6,341	882	4,102	5,809	6,415	884
HUNTER	2,116	5,660	4,829	1,141	3,543	6,187	5,131	609
KINGSFORD SMITH	3,016	4,573	6,309	1,507	3,872	5,825	5,504	1,387
LINDSAY	2,224	3,069	6,122	1,654	3,299	4,180	5,512	683
LOWE	3,262	3,641	6,050	1,194	4,704	4,337	5,168	1,077
LYNE	2,694	5,260	5,422	1,251	3,276	6,205	5,343	713
MACARTHUR	2,384	3,370	5,763	1,081	2,794	4,477	5,954	1,059
MACKELLAR	2,498	4,501	6,204	814	3,919	5,172	5,697	861
MACQUARIE	3,090	3,999	6,585	862	4,073	5,869	6,198	596
MITCHELL	3,038	4,087	6,668	896	4,219	5,092	6,766	880
NEW ENGLAND	3,324	5,978	4,908	1,372	4,258	7,052	4,910	1,090
NEWCASTLE	4,030	3,301	6,338	678	5,031	3,653	6,222	1,035
NORTH SYDNEY	3,877	5,642	7,800	1,257	5,010	6,258	7,045	1,110
PAGE	3,459	4,790	4,166	1,152	4,490	5,452	4,414	1,146
PARKES	3,429	4,641	5,382	1,252	3,652	6,036	5,528	1,087
PARRAMATTA	4,427	3,664	7,808	1,621	5,240	4,734	6,897	1,328
PATERSON	3,642	5,356	4,796	921	4,719	6,698	5,182	725
PROSPECT	1,907	2,048	6,264	961	2,737	2,576	5,878	998
REID	2,541	2,320	5,493	760	3,335	3,555	4,835	799
RICHMOND	3,660	7,113	3,134	1,063	5,835	9,062	3,201	1,185
RIVERINA	2,492	5,584	4,185	1,219	3,034	7,278	4,100	1,310
ROBERTSON	3,925	4,844	5,887	1,198	4,679	6,409	5,670	1,035
SHORTLAND	3,695	4,305	5,915	1,120	5,021	4,808	6,162	955
SYDNEY	2,670	5,876	9,752	2,552	4,396	6,884	9,551	2,311
THROSBY	2,736	2,954	4,607	1,021	4,034	4,722	4,253	798
WARRINGAH	3,200	5,533	6,281	1,116	3,996	5,871	5,992	817
WATSON	2,362	2,753	6,460	1,742	3,480	3,178	5,517	1,527
WENTWORTH	4,704	7,368	7,146	1,744	5,474	8,295	5,880	1,578
WERRIWA	1,782	2,418	7,165	1,308	3,264	3,119	7,539	1,415
<b>NSW Total</b>	<b>154,572</b>	<b>219,594</b>	<b>294,227</b>	<b>59,409</b>	<b>204,298</b>	<b>270,870</b>	<b>278,990</b>	<b>50,566</b>

Division	Federal Election 2001				Federal Election 2004			
	absent	postal	pre-poll	provisional	absent	postal	pre-poll	provisional
LINGIARI	1,407	4,038	1,286	1,166	1,798	4,746	1,360	1,156
SOLOMON	1,293	5,531	997	651	1,992	5,990	992	1,027
<b>NT Total</b>	<b>2,700</b>	<b>9,569</b>	<b>2,283</b>	<b>1,817</b>	<b>3,790</b>	<b>10,736</b>	<b>2,352</b>	<b>2,183</b>
BLAIR	3,833	2,022	5,506	688	5,585	2,714	5,918	880
BONNER*	-	-	-	-	5,542	3,272	5,729	825
BOWMAN	4,369	3,619	4,158	813	4,652	4,787	3,895	857
BRISBANE	4,942	5,127	8,987	1,508	5,489	4,575	8,132	936
CAPRICORNIA	6,112	2,832	5,499	854	6,665	3,141	5,503	1,096
DAWSON	3,730	4,162	4,694	1,068	4,523	4,675	4,432	1,287
DICKSON	3,890	3,136	5,688	768	4,174	3,436	5,554	729
FADDEN	4,208	3,944	6,070	1,028	3,888	6,584	4,308	1,398
FAIRFAX	4,068	4,204	5,067	1,043	3,853	5,992	4,730	1,098
FISHER	4,411	5,777	4,722	1,182	4,587	5,950	4,894	1,171
FORDE	3,879	2,897	6,058	1,253	4,882	3,426	5,707	1,096
GRIFFITH	5,417	3,191	6,876	1,018	5,798	4,113	6,953	1,363
GROOM	4,482	3,567	5,128	891	5,224	4,305	5,117	761
HERBERT	3,849	4,899	4,154	1,517	4,088	4,766	3,981	1,176
HINKLER	4,128	4,947	4,215	825	6,667	6,116	4,386	878
KENNEDY	4,471	2,055	5,690	1,517	5,619	2,500	5,643	1,569
LEICHHARDT	2,992	3,953	4,079	1,958	3,640	4,512	3,706	1,727
LILLEY	5,346	3,367	6,481	1,117	6,384	3,869	6,322	964
LONGMAN	3,938	2,946	4,848	992	4,740	3,714	4,759	1,039
MARANOVA	9,368	2,036	6,850	1,046	10,643	2,398	6,743	986
MCPHERSON	4,058	8,571	4,061	1,459	4,262	7,864	3,553	759
MONCRIEFF	4,198	6,757	4,945	1,445	4,320	7,687	4,112	850
MORETON	5,589	3,409	7,195	1,105	5,541	3,436	5,874	1,029
OXLEY	3,433	2,382	5,510	782	4,832	2,214	5,930	1,149
PETRIE	5,490	3,248	6,410	777	5,626	3,062	6,181	743
RANKIN	3,747	3,081	6,032	1,173	5,231	3,546	5,284	1,402
RYAN	3,995	4,271	6,084	710	4,742	4,602	6,427	699
WIDE BAY	5,944	3,506	5,184	700	5,838	5,667	4,667	949
<b>QLD Total</b>	<b>123,887</b>	<b>103,906</b>	<b>150,191</b>	<b>29,237</b>	<b>147,035</b>	<b>122,923</b>	<b>148,440</b>	<b>29,416</b>
ADELAIDE	4,214	3,445	6,727	1,321	5,107	4,427	7,536	1,677
BARKER	3,353	2,974	4,593	1,198	4,048	4,943	5,478	1,691
BONYTHON*	2,168	2,159	5,628	1,063	-	-	-	-
BOOTHBY	3,286	3,653	5,752	827	4,483	4,698	7,198	1,019
GREY	3,412	3,166	4,949	1,115	4,547	4,064	5,819	1,379
HINDMARSH	4,059	3,038	6,235	1,035	4,978	4,020	7,731	1,281
KINGSTON	2,896	3,200	5,402	1,074	4,359	3,988	5,754	1,622
MAKIN	3,142	2,580	5,906	1,057	3,876	3,357	6,455	1,198
MAYO	2,885	2,666	6,277	851	4,273	4,079	6,000	1,104
PORT ADELAIDE	3,456	2,606	5,377	1,229	4,115	3,147	7,158	1,901
STURT	3,746	3,434	6,274	971	4,635	4,046	7,157	1,358
WAKEFIELD	2,532	1,979	5,517	902	3,753	2,604	6,085	1,925
<b>SA Total</b>	<b>39,149</b>	<b>34,900</b>	<b>68,637</b>	<b>12,643</b>	<b>48,174</b>	<b>43,373</b>	<b>72,371</b>	<b>16,155</b>
BASS	2,938	2,695	2,628	1,114	3,714	3,424	2,895	969
BRADDON	2,336	2,696	2,309	861	2,974	3,071	2,123	1,051
DENISON	3,246	3,127	3,421	945	3,691	3,632	3,265	1,074
FRANKLIN	2,824	2,254	3,915	798	3,304	2,774	3,849	1,103
LYONS	2,941	1,673	4,194	701	3,308	2,282	4,390	911
<b>TAS Total</b>	<b>14,285</b>	<b>12,445</b>	<b>16,467</b>	<b>4,419</b>	<b>16,991</b>	<b>15,183</b>	<b>16,522</b>	<b>5,108</b>
ASTON	5,359	3,133	4,940	487	5,278	3,595	5,292	683
BALLARAT	4,256	4,605	4,749	1,297	5,357	6,674	4,449	1,338
BATMAN	3,042	3,353	6,495	1,337	5,335	3,425	5,995	1,338
BENDIGO	4,339	3,670	4,609	909	5,140	5,577	4,651	1,320
BRUCE	4,376	3,231	5,929	922	5,093	3,765	5,625	1,195

Division	Federal Election 2001				Federal Election 2004			
	absent	postal	pre-poll	provisional	absent	postal	pre-poll	provisional
BURKE*	3,099	3,517	6,209	1,038	-	-	-	-
CALWELL	2,284	3,705	6,245	1,687	3,354	4,294	5,429	1,858
CASEY	3,504	3,600	5,812	904	5,153	4,049	5,836	1,071
CHISHOLM	5,023	3,479	6,611	632	5,924	3,823	6,163	834
CORANGAMITE	4,390	4,646	5,528	931	5,715	5,662	5,698	1,151
CORIO	3,981	4,053	4,033	1,223	4,723	4,489	4,044	1,407
DEAKIN	4,758	3,422	5,987	663	7,104	3,955	6,186	875
DUNKLEY	3,953	4,415	4,746	1,113	5,474	4,873	4,960	1,440
FLINDERS	4,498	6,910	5,547	1,199	5,450	7,194	5,815	1,265
GELLIBRAND	3,004	3,547	5,641	1,574	4,108	4,555	5,550	1,992
GIPPSLAND	2,754	3,516	4,613	694	5,239	8,445	3,766	1,258
GOLDSTEIN	4,416	4,249	6,244	998	5,449	5,052	5,881	1,078
GORTON*	-	-	-	-	3,565	5,976	5,433	2,253
HIGGINS	4,361	4,749	7,935	1,117	5,950	5,898	7,529	1,233
HOLT	2,823	3,270	6,282	2,038	4,390	3,778	6,768	2,022
HOTHAM	4,134	3,436	6,553	1,220	4,990	3,285	6,811	1,411
INDI	3,199	6,992	4,063	684	4,816	10,288	3,754	920
ISAACS	3,744	2,810	5,377	1,391	5,279	3,519	6,539	1,454
JAGAJAGA	4,557	3,641	5,635	638	5,878	5,221	5,455	736
KOOYONG	4,074	4,054	6,971	870	5,148	5,031	6,575	754
LA TROBE	4,277	3,146	6,565	999	5,970	3,660	6,545	1,147
LALOR	2,236	5,058	4,855	1,121	3,230	7,221	4,950	1,591
MALLEE	2,880	5,128	3,895	636	4,492	8,177	3,751	917
MARIBYRNONG	2,155	3,688	5,828	1,193	4,230	6,733	6,027	1,589
MCEWEN	4,560	2,796	6,842	1,338	7,398	3,824	7,500	1,267
MCMILLAN	3,063	6,175	4,196	866	4,985	5,694	4,292	1,055
MELBOURNE	3,081	5,560	10,293	2,324	3,693	7,071	9,574	2,007
MELBOURNE PORTS	5,914	6,209	7,738	1,678	8,170	7,466	8,108	1,679
MENZIES	3,483	3,917	5,508	742	4,917	5,121	5,242	820
MURRAY	3,094	3,423	4,374	1,340	3,583	6,188	4,292	1,272
SCULLIN	2,527	2,204	5,692	1,002	3,951	2,231	5,048	1,226
WANNON	4,626	4,628	4,459	814	5,450	7,065	4,569	1,268
WILLS	3,122	3,835	6,649	1,360	4,995	4,070	6,707	1,563
<b>VIC Total</b>	<b>138,946</b>	<b>151,770</b>	<b>213,648</b>	<b>40,979</b>	<b>188,976</b>	<b>196,944</b>	<b>210,809</b>	<b>48,287</b>
BRAND	2,139	4,738	5,448	1,321	2,899	5,211	6,433	2,139
CANNING	2,153	2,383	7,023	1,020	2,856	3,406	8,234	1,779
COWAN	1,913	2,524	6,683	800	2,615	3,202	7,702	1,617
CURTIN	3,305	4,138	6,022	1,015	3,551	5,380	7,247	1,465
FORREST	2,269	3,175	5,115	977	2,264	4,303	7,589	1,867
FREMANTLE	2,134	2,985	6,007	843	2,694	3,692	6,912	1,595
HASLUCK	2,340	2,701	6,730	1,052	2,738	3,121	7,908	1,454
KALGOORLIE	2,679	3,831	6,046	861	2,467	5,090	8,343	1,830
MOORE	2,185	2,921	5,957	640	2,428	4,168	6,743	1,126
O'CONNOR	1,979	2,208	8,519	974	2,664	2,879	10,732	1,662
PEARCE	2,348	2,453	7,915	876	3,006	3,666	9,633	1,650
PERTH	2,674	2,750	7,888	1,093	3,232	3,180	8,402	1,652
STIRLING	3,145	3,212	8,188	1,150	3,353	4,061	8,521	1,899
SWAN	2,779	3,178	7,124	1,130	3,323	3,800	7,712	1,920
TANGNEY	2,346	3,585	6,347	693	2,853	4,355	7,045	1,180
<b>WA Total</b>	<b>36,388</b>	<b>46,782</b>	<b>101,012</b>	<b>14,445</b>	<b>42,943</b>	<b>59,514</b>	<b>119,156</b>	<b>24,835</b>
<b>Australia Total</b>	<b>516,434</b>	<b>610,122</b>	<b>852,054</b>	<b>165,177</b>	<b>660,324</b>	<b>754,054</b>	<b>853,505</b>	<b>180,865</b>

\* These divisions were subject to creation/abolition at redistributions between the 2001 and 2004 federal elections.

## Polling places

The Electoral Act permits the AEC to establish a number of different types of polling places to collect votes: pre-poll voting centres; mobile polling; and static (more commonly known as 'ordinary') polling places. Table 12 below lists the number and type of polling places by division for the 2001 and 2004 federal elections.

Ordinary polling places are those established under section 80 of the Electoral Act for the purposes of collecting votes on polling day. Pre-poll votes in Australia are cast at either pre-poll voting centres established under paragraph 200D(2)(a) of the Electoral Act or at divisional offices. For the purposes of Table 12, pre-poll voting offices and divisional offices have been combined under the heading 'pre-poll voting centres'.

In particular circumstances, the AEC can establish a mobile polling booth that visits electors to collect votes. Mobile polling takes place in the following circumstances:

- *Remote mobile polling.* Remote mobile polling operates in remote parts of Australia<sup>16</sup>. Remote mobile teams travel along set routes, usually over a number of days, to a series of remote communities and stations to collect votes. All votes collected along a particular route are considered to have been cast at a single poll. Remote mobile polling may take place up to 12 days before polling day.
- *Special hospital mobile polling.* In order to collect the votes of patients in hospitals, the AEC generally sets up an ordinary, or 'static' polling place at hospitals on polling day. There is provision in section 224 of the Electoral Act for polling officials on polling day to collect the votes of patients in hospital who are unable to get to the static polling booth. Notwithstanding this, there are a number of hospitals that do not have an ordinary polling place on polling day. In general these are smaller or specialist hospitals and nursing homes. For these hospitals, the AEC undertakes special hospital mobile polling, which may take place up to five days before polling day as well as on polling day itself.
- *Prison mobile polling.* Prison mobile polling occurs when an arrangement has been made with the relevant prison authorities in a State or Territory to visit a prison to collect the votes of prisoners eligible to vote in an election. Prison mobile polling takes place at a time and date arranged with the prison.

Table 12 lists the number of each of these types of polling places for each division for the 2001 and 2004 federal election.

---

<sup>16</sup> Remote divisions are determined by Electoral Commissioner declaration and notified in the Gazette, under subsection 227(3) of the Electoral Act.

**Table 12: Polling place by division – 2001 and 2004 federal elections**

Division	2001 FEDERAL ELECTION						2004 FEDERAL ELECTION					
	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total
CANBERRA	4			2	37	43	4			2	37	43
FRASER	3	1		2	43	49	4	1		2	45	52
<b>ACT</b>	<b>7</b>	<b>1</b>		<b>4</b>	<b>80</b>	<b>92</b>	<b>8</b>	<b>1</b>		<b>4</b>	<b>82</b>	<b>95</b>
BANKS	2			1	34	37	2			1	33	36
BARTON	2			2	45	49	2			3	44	49
BENNELONG	2			2	43	47	2			2	44	48
BEROWRA	2			4	45	51	2			3	45	50
BLAXLAND	2			2	31	35	2			2	30	34
BRADFIELD	3			6	41	50	2			6	41	49
CALARE	5	1		6	86	98	5	1		6	86	98
CHARLTON	3			2	53	58	3			2	55	60
CHIFLEY	2			1	36	39	2			1	36	39
COOK	3			2	36	41	2			1	36	39
COWPER	4			3	73	80	4			3	70	77
CUNNINGHAM	2			2	47	51	2			2	47	51
DOBELL	3			2	49	54	3			3	49	55
EDEN-MONARO	8			4	72	84	8			4	72	84
FARRER	3			6	92	101	3			6	89	98
FOWLER	2				35	37	2				35	37
GILMORE	4			3	59	66	4			3	60	67
GRAYNDLER	3			3	43	49	3			2	43	48
GREENWAY	2			1	41	44	2			1	43	46
GWYDIR	5			9	117	131	5			9	117	131
HUGHES	2			1	40	43	2			1	41	44
HUME	4			4	82	90	5			4	83	92
HUNTER	6	1		3	74	84	6	1		3	71	81
KINGSFORD SMITH	5			2	44	51	5			2	42	49
LINDSAY	2			1	38	41	2			1	37	40
LOWE	2			2	45	49	2			2	44	48
LYNE	4			4	80	88	4			4	80	88
MACARTHUR	3			1	44	48	3			1	46	50
MACKELLAR	2			2	36	40	2			2	36	40
MACQUARIE	4			2	57	63	4				57	61
MITCHELL	2			1	37	40	2			1	38	41
NEW ENGLAND	4			3	85	92	5			3	87	95
NEWCASTLE	2			3	55	60	2			3	53	58
NORTH SYDNEY	2			4	42	48	3			4	43	50
PAGE	5			5	83	93	5			4	82	91
PARKES	6			12	85	103	6			12	84	102
PARRAMATTA	2	1		3	43	49	2	1		3	43	49

Division	2001 FEDERAL ELECTION						2004 FEDERAL ELECTION					
	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total
PATERSON	4			3	76	83	4			3	73	80
PROSPECT	2			1	33	36	2			1	33	36
REID	2	1		2	33	38	2	1		2	34	39
RICHMOND	4			3	57	64	4			3	58	65
RIVERINA	6			5	88	99	7			5	87	99
ROBERTSON	3			3	48	54	3			3	48	54
SHORTLAND	3			1	43	47	3			1	43	47
SYDNEY	2			3	49	54	3			3	49	55
THROSBY	1			1	38	40	2			1	37	40
WARRINGAH	3			3	37	43	4			3	37	44
WATSON	2			1	39	42	2			1	39	42
WENTWORTH	3			3	36	42	2			3	36	41
WERRIWA	2			1	37	40	2			1	41	44
<b>NSWTotal</b>	<b>156</b>	<b>4</b>		<b>144</b>	<b>2662</b>	<b>2966</b>	<b>160</b>	<b>4</b>		<b>140</b>	<b>2657</b>	<b>2961</b>
LINGIARI** $\phi$	19	1	25	4	24	73	63	1	20	4	24	112
SOLOMON	7	1		2	23	33	7	1		2	24	34
<b>NT Total</b>	<b>26</b>	<b>2</b>	<b>25</b>	<b>6</b>	<b>47</b>	<b>106</b>	<b>70</b>	<b>2</b>	<b>20</b>	<b>6</b>	<b>48</b>	<b>146</b>
BLAIR	1			4	71	76	1			6	78	85
BONNER*							3			1	40	44
BOWMAN	1			2	36	39	1			2	32	35
BRISBANE	2			4	48	54	2			2	40	44
CAPRICORNIA	4			4	61	69	3			5	72	80
DAWSON	10			3	78	91	10			3	79	92
DICKSON	1			1	32	34	1			1	28	30
FADDEN	1			2	35	38	2			3	33	38
FAIRFAX	6			3	51	60	6			3	40	49
FISHER	3			2	38	43	2			2	40	44
FORDE	2			3	49	54	2			3	51	56
GRIFFITH	1			1	37	39	3			2	46	51
GROOM	2			2	56	60	2			3	56	61
HERBERT	2			2	46	50	2			2	44	48
HINKLER	2			5	61	68	2			4	70	76
KENNEDY	4			9	111	124	4			11	101	116
LEICHHARDT	5		3	2	52	62	5		3	2	52	62
LILLEY	2			3	42	47	2			2	45	49
LONGMAN	3			2	35	40	3			2	33	38
MARANO	4			4	125	133	5			4	127	136
MCPHERSON	3			2	35	40	2			2	33	37
MONCRIEFF	4			4	34	42	4			3	36	43
MORETON	2			3	43	48	2			3	35	40
OXLEY	1			2	43	46	1			3	44	48
PETRIE	3			1	39	43	2			1	36	39
RANKIN	2			3	24	29	2			2	29	33

Division	2001 FEDERAL ELECTION						2004 FEDERAL ELECTION					
	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total
RYAN	2			2	32	36	3			2	29	34
WIDE BAY	5			2	70	77	6			3	66	75
<b>QLD Total</b>	<b>78</b>		<b>3</b>	<b>77</b>	<b>1384</b>	<b>1542</b>	<b>83</b>		<b>3</b>	<b>82</b>	<b>1415</b>	<b>1583</b>
ADELAIDE	2			8	51	61	2			6	58	66
BARKER	7			9	101	117	9		1	9	106	125
BONYTHON*	1			2	36	39						
BOOTHBY	2			5	42	49	2			5	44	51
GREY <sup>o</sup>	12		5	8	91	116	24		5	8	107	144
HINDMARSH	2			3	41	46	2			3	46	51
KINGSTON	2			3	33	38	2			3	37	42
MAKIN	1			2	32	35	2			2	35	39
MAYO	1			2	58	61	3			4	78	85
PORT ADELAIDE	1			5	42	48	1			6	47	54
STURT	2			2	41	45	2			3	43	48
WAKEFIELD	8		1	5	83	97	2			3	57	62
<b>SA Total</b>	<b>41</b>		<b>6</b>	<b>54</b>	<b>651</b>	<b>752</b>	<b>51</b>		<b>6</b>	<b>52</b>	<b>658</b>	<b>767</b>
BASS	2			4	54	60	2			4	50	56
BRADDON	3			4	75	82	3			4	74	81
DENISON	2			4	50	56	2			4	49	55
FRANKLIN	3			2	49	54	2			2	49	53
LYONS	3			3	94	100	3			3	93	99
<b>TAS Total</b>	<b>13</b>			<b>17</b>	<b>322</b>	<b>352</b>	<b>12</b>			<b>17</b>	<b>315</b>	<b>344</b>
ASTON	1			3	33	37	2			2	31	35
BALLARAT	3			4	69	76	2			4	57	63
BATMAN	2			2	40	44	2			1	41	44
BENDIGO	2			4	69	75	2			4	68	74
BRUCE	1			1	31	33	3			1	33	37
BURKE*	1			1	39	41						
CALWELL	3				29	32	2				28	30
CASEY	2			2	35	39	2			2	36	40
CHISHOLM	3			4	34	41	3			4	35	42
CORANGAMITE	3			2	63	68	3			3	63	69
CORIO	2			2	35	39	2			2	36	40
DEAKIN	2			2	38	42	2			2	37	41
DUNKLEY	1			3	34	38	2			3	35	40
FLINDERS	3			2	59	64	3			2	57	62
GELLIBRAND	2			1	39	42	2			1	40	43
GIPPSLAND	5			3	100	108	6			4	86	96
GOLDSTEIN	2			2	38	42	2			2	38	42
GORTON*							2			1	26	29
HIGGINS	2			2	39	43	2			2	38	42
HOLT	2			2	27	31	2			1	23	26
HOTHAM	2			2	34	38	2			2	34	38

Division	2001 FEDERAL ELECTION						2004 FEDERAL ELECTION					
	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total	pre-poll voting centres	prison mobile polls	remote mobile polls	special hospital polls	static polling place	total
INDI	6			1	86	93	5			1	85	91
ISAACS	1			2	31	34	2			3	35	40
JAGAJAGA	1			1	36	38	2			1	35	38
KOOYONG	1			3	33	37	2			3	33	38
LA TROBE	2			2	42	46	2			2	41	45
LALOR	2			1	31	34	3			1	32	36
MALLEE	3			4	95	102	4			4	103	111
MARIBYRNONG	1			1	28	30	3			1	33	37
MCEWEN	2			2	80	84	3			2	75	80
MCMILLAN	5			4	68	77	3			4	83	90
MELBOURNE	3	1		7	38	49	4	1		7	36	48
MELBOURNE												
PORTS	2			2	31	35	2			2	32	36
MENZIES	2			3	32	37	2			3	35	40
MURRAY	2			5	90	97	4			5	89	98
SCULLIN	2			2	30	34	2			2	29	33
WANNON	7			3	88	98	8			3	95	106
WILLS	2			1	38	41	2			1	41	44
<b>VIC Total</b>	<b>88</b>	<b>1</b>		<b>88</b>	<b>1762</b>	<b>1939</b>	<b>101</b>	<b>1</b>		<b>88</b>	<b>1754</b>	<b>1944</b>
BRAND	4	1		2	32	39	4	1		2	35	42
CANNING	3	1		2	43	49	2	1		2	46	51
COWAN	1			1	33	35	1			1	35	37
CURTIN	1			7	47	55	1			7	47	55
FORREST	6			7	74	87	9			7	75	91
FREMANTLE	1			7	38	46	1			7	38	46
HASLUCK	1			3	35	39	1			3	35	39
KALGOORLIE**	16	3	14	7	97	137	18	3	14	7	99	141
MOORE	1			1	28	30	1			1	28	30
O'CONNOR	5	2		5	152	164	5	2		5	144	156
PEARCE	1	1		4	63	69	1	1		4	64	70
PERTH	2			3	43	48	3			3	43	49
STIRLING	1			1	39	41	1			2	40	43
SWAN	5	1		3	38	47	5	1		3	38	47
TANGNEY	1			2	33	36	1			2	33	36
<b>WA Total</b>	<b>49</b>	<b>9</b>	<b>14</b>	<b>55</b>	<b>795</b>	<b>922</b>	<b>54</b>	<b>9</b>	<b>14</b>	<b>56</b>	<b>800</b>	<b>933</b>
<b>Australia Total</b>	<b>458</b>	<b>17</b>	<b>48</b>	<b>445</b>	<b>7703</b>	<b>8671</b>	<b>539</b>	<b>17</b>	<b>43</b>	<b>445</b>	<b>7729</b>	<b>8773</b>

\* These divisions were subject to redistribution between the 2001 and 2004 federal elections.

\*\* These divisions include an Assistant Divisional Office in the figure for 'pre-poll voting centres'. Assistant Divisional Offices are used in these divisions in conjunction with the Divisional Offices due to the requirements of divisions of this size.

◊ The significant increase in pre-poll voting centres in the divisions of Grey and Lingiari was an experiment in gazetting pre-poll voting centres for the times mobile teams were scheduled to visit remote communities (especially near state borders). The intention was to enable Indigenous voters across a border to cast a pre-poll vote for their interstate division. A greater number of interstate tourists in remote areas were also assisted.

In particular circumstances, the AEC will establish dual polling places. A dual polling place is a polling place that collects ordinary votes for two or more divisions. Dual polling places are established when a polling place in one division is regularly used by a large number of voters from another division, who are only able to complete a more inconvenient absent vote. In general, if the polling place is issuing sufficient absent votes for a second division to require three declaration vote issuing officers for voters for that division, then there is sufficient justification for establishing a dual polling place to provide ordinary voting facilities for the voters from the second division. This will frequently occur in cases where a metropolitan polling place is situated on a divisional border.

Table 13 lists the divisions that operated dual polling places at the 2004 federal election. Not all of the States and Territories operated dual polling places in the 2004 election. There were no dual polling places in the ACT or NT, and so the divisions in ACT and NT are not included in Figure 12. Although rare, it is possible for dual polling places to have facilities for taking ordinary votes for more than two divisions. For example, all of the States apart from Tasmania had a 'super booth' in the capital city of the state that could issue ordinary votes for all of the divisions in that state.

It should be noted that the second column of this table refers to the number of dual polling places and not the number of sites. Each dual polling place listed in the table was located at the same site as at least one other dual polling place listed in the table, which may not have been in the division that the dual polling booth could issue votes for. In the cases where Table 13 indicates that there was one dual polling place in a division, the dual polling place referred to is the super booth in the capital city of the state.

The number of dual polling place sites hosted in each division is listed in column three.

**Table 13 – Dual polling places by division – 2004 federal election**

Division	Dual polling places	Dual polling places hosted	Division	Dual polling places	Dual polling places hosted	Division	Dual polling places	Dual polling places hosted
BANKS	3	0	GWYDIR	1	0	PROSPECT	4	2
BARTON	2	1	HUGHES	2	1	REID	3	2
BENNELONG	6	3	HUME	5	1	RICHMOND	1	0
BEROWRA	7	3	HUNTER	1	0	RIVERINA	1	0
BLAXLAND	2	1	KINGSFORD SMITH	4	1	ROBERTSON	5	1
BRADFIELD	7	3	LINDSAY	2	1	SHORTLAND	2	0
CALARE	1	0	LOWE	3	1	SYDNEY*	4	4
CHARLTON	4	2	LYNE	2	0	THROSBY	2	1
CHIFLEY	5	1	MACARTHUR	8	2	WARRINGAH	7	2
COOK	2	0	MACKELLAR	5	3	WATSON	3	1
COWPER	5	3	MACQUARIE	5	1	WENTWORTH	5	2
CUNNINGHAM	2	0	MITCHELL	6	3	WERRIWA	9	0
DOBELL	5	3	NEW ENGLAND	1	0	BLAIR	3	2
EDEN-MONARO	2	1	NEWCASTLE	3	1	BONNER*	17	7
FARRER	1	0	NORTH SYDNEY	11	5	BOWMAN	3	1
FOWLER	7	0	PAGE	4	1	BRISBANE*	11	7
GILMORE	1	0	PARKES	1	0	CAPRICORNIA	1	0
GRAYNDLER	5	1	PARRAMATTA	4	0	DAWSON	1	0
GREENWAY	6	4	PATERSON	1	0	DICKSON	5	1

Division	Dual polling places	Dual polling places hosted
FADDEN	11	5
FAIRFAX	6	4
FISHER	6	1
FORDE	11	2
GRIFFITH	15	7
GROOM	1	0
HERBERT	2	1
HINKLER	1	0
KENNEDY	3	1
LEICHHARDT	2	0
LILLEY	6	3
LONGMAN	2	0
MARANOVA	1	0
MCPHERSON	13	8
MONCRIEFF*	19	9
MORETON*	12	5
OXLEY	8	1
PETRIE	10	4
RANKIN*	10	4
RYAN	6	4
WIDE BAY	1	0
ADELAIDE*	9	4
BOOTHBY	4	2
HINDMARSH	5	0
KINGSTON	2	1
MAKIN	2	0
MAYO	6	1
PORT ADELAIDE	12	5

Division	Dual polling places	Dual polling places hosted
STURT	6	4
WAKEFIELD	7	5
BASS	1	1
LYONS	1	0
ASTON	1	0
BALLARAT	1	0
BATMAN	5	2
BENDIGO	1	0
BRUCE	4	0
CALWELL	1	0
CASEY	4	0
CHISHOLM*	6	4
CORANGAMITE	2	0
CORIO	2	1
DEAKIN	4	2
DUNKLEY	5	1
FLINDERS	5	2
GELLIBRAND	6	0
GIPPSLAND	1	0
GOLDSTEIN	4	1
GORTON	3	0
HIGGINS	2	0
HOLT	1	0
HOTHAM	4	2
INDI	1	0
ISAACS	5	2
JAGAJAGA	3	0
KOOYONG	1	0

Division	Dual polling places	Dual polling places hosted
LA TROBE	5	4
LALOR	4	0
MALLEE	1	0
MARIBYRNONG	5	3
MCEWEN	2	1
MCMILLAN	2	0
MELBOURNE*	3	2
MELBOURNE PORTS	1	0
MENZIES	4	2
MURRAY	1	0
SCULLIN	2	0
WANNON	1	0
WILLS	3	1
BRAND	2	0
CANNING	7	1
COWAN*	3	1
CURTIN	6	1
FORREST	2	0
FREMANTLE*	4	1
HASLUCK	11	7
KALGOORLIE	3	0
MOORE	4	1
O'CONNOR	3	1
PEARCE	6	1
PERTH*	4	1
STIRLING	8	3
SWAN	2	0
TANGNEY	4	2

\* Divisions with an asterisk hosted dual polling places that issued votes for three or more divisions. The divisions of Brisbane, Rankin and Moncrieff had two such dual polling places within the division.

## Overseas polling places

To assist Australian electors overseas to vote, the AEC, with the cooperation and assistance of the Department of Foreign Affairs and Trade, opens a number of pre-poll voting centres in overseas missions. These missions also offer postal voting services to electors overseas who are not able to vote in person. Table 14 lists the overseas missions that operated as pre-poll voting centres, or provided postal voting, for the 2004 federal election.

**Table 14: Overseas missions providing pre-poll and/or postal voting – 2004 federal election**

Abu Dhabi, United Arab Emirates	Abuja, Nigeria
Accra, Ghana	Amman, Jordan
Ankara, Turkey	Apia, Samoa
Athens, Greece	Atlanta, USA
Auckland, New Zealand	Bali, Indonesia
Bandar Seri Begawan, Brunei	Bangkok, Thailand
Beijing, China	Beirut, Lebanon
Belgrade, Serbia and Montenegro	Berlin, Germany
Brasilia, Brazil	Brussels, Belgium
Bucharest, Romania	Budapest, Hungary
Buenos Aires, Argentina	Cairo, Egypt
Chicago, USA	Colombo, Sri Lanka
Copenhagen, Denmark	Dhaka, Bangladesh
Dili, East Timor	Dubai, United Arab Emirates
Dublin, Ireland	Frankfurt, Germany
Fukuoka City, Japan	Geneva, Switzerland
Guangzhou, China	Hanoi, Vietnam
Harare, Zimbabwe	Ho Chi Minh City, Vietnam
Hong Kong, China	Honiara, Solomon Islands
Honolulu, USA	Islamabad, Pakistan
Istanbul, Turkey	Jakarta, Indonesia
Kathmandu, Nepal	Kuala Lumpur, Malaysia
Lima, Peru	Lisbon, Portugal
London, UK	Los Angeles, USA
Madrid, Spain	Malta
Manila, The Philippines	Mexico City, Mexico
Milan, Italy	Moscow, Russia
Mumbai, India	Nagoya, Japan
Nairobi, Kenya	Nauru
New Delhi, India	New York, USA
Nicosia, Cyprus	Noumea, New Caledonia
Nuku'alofa, Tonga	Osaka, Japan
Ottawa, Canada	Paris, France
Phnom Penh, Cambodia	Pohnpei, Micronesia
Port Louis, Mauritius	Port Moresby, Papua New Guinea
Port Vila, Vanuatu	Port of Spain, Trinidad and Tobago
Pretoria, South Africa	Rangoon, Burma
Riyadh, Saudi Arabia	Rome, Italy
San Francisco, USA	Santiago, Chile
Sao Paulo, Brazil	Sapporo, Japan
Sendai, Japan	Seoul, South Korea
Shanghai, China	Singapore
Stockholm, Sweden	Suva, Fiji
Taipei, Taiwan	Tarawa, Kiribati
Tehran, Iran	Tel Aviv, Israel
The Hague, The Netherlands	Tokyo, Japan
Toronto, Canada	Vancouver, Canada
Vienna, Austria	Vientiane, Laos
Warsaw, Poland	Washington, USA
Wellington, New Zealand	Zagreb, Croatia

## Voter turnout

The level of election participation can be measured in a number of ways. The phrase 'voter turnout' is generally used to refer to the percentage of enrolled electors who vote at an election, calculated by dividing the number of votes cast by the number of eligible electors. This figure includes the voters whose ballot papers were ruled informal, but does not include the voters whose declaration votes were rejected at the preliminary scrutiny (often because the voter was not entitled to vote at the election).

Because voting is compulsory in Australia, turnout is regularly in the vicinity of 95%. Voter turnout for the 2001 federal election was 94.85%<sup>17</sup>. Turnout for the 2004 federal election decreased marginally to 94.82% (see Table 15 below).

Table 15 lists the voter turnout by State and Territory for the 2004 federal election. It should be noted that the enrolment figures in this table are numbers of electors eligible to vote at the 2004 federal election. The table therefore does not include people who were enrolled but not eligible to vote, such as provisionally enrolled 17 year olds, but does include adjustments due to outstanding enrolment transactions as at the roll close, death/duplicate deletions and unenrolled voters whose declaration votes were admissible to the further scrutiny under Schedule 3 of the Act.

**Table 15: voter turnout by State and Territory – 2004 federal elections**

State/ Territory	Votes cast*	Enrolment	Turnout
ACT	216,631	227,541	95.21%
NSW	4,117,586	4,329,115	95.11%
NT	95,323	112,930	84.41%
QLD	2,330,311	2,475,611	94.13%
SA	1,003,162	1,051,923	95.36%
TAS	328,758	342,809	95.90%
VIC	3,158,641	3,309,800	95.43%
WA	1,169,607	1,248,732	93.66%
<b>Australia Total</b>	<b>12,420,019</b>	<b>13,098,461</b>	<b>94.82%</b>

\* Not including declaration votes rejected at preliminary scrutiny.

## Multiple voters and non-voters

As discussed above, when an elector votes, his or her name is marked off a certified list. Certified lists are also maintained within divisional offices for marking off declaration voters.

After the election, the certified lists are scanned. Where an elector's name has been marked off more than one certified list, that elector is identified as an apparent multiple

---

<sup>17</sup> 2002, Australian Electoral Commission, *Electoral Pocketbook*, p40.

voter. Where an elector's name has not been marked off any certified list, that elector is identified as an apparent non-voter. Letters are forwarded to those electors requesting confirmation of the scanned information. A decision is then made about fining or attempting to prosecute apparent multiple voters and non-voters.

The process of finalising the number of multiple voters and non-voters can take some time. For this reason, useful statistics on multiple voters and non-voters at the 2004 federal election are not yet available. These statistics will be produced for the JSCEM when the process is complete.

### **Informal voting**

Informal ballot papers are ballot papers that cannot be included in the count because they have not been completed in accordance with the requirements of the Electoral Act for a valid vote. Generally, a ballot paper will be informal if:

- it is not completed correctly (for example, if an elector simply ticks one of the boxes on a House of Representatives ballot paper rather than numbering all of the boxes);
- it has not been completed at all (that is, the ballot paper is blank);
- it does not have an official mark or an initial from the issuing presiding officer, and the Divisional Returning Officer responsible for considering the formality of the ballot paper is not satisfied that it is an authentic ballot paper; and
- it contains some mark that may identify the voter who marked it.

The most common type of informality is ballot papers that do not have all preferences marked or are incorrectly numbered.

Research found that in 2004 a total of 639,851 House of Representatives ballot papers were identified as informal representing 5.18% and an increase of 0.36% from 2001.

The AEC is conducting research into informality at the 2004 House of Representatives election and analysing the slight increase in informal voting from 2001.

Previous research had identified a number of reasons for the level of informality. These were State and Federal differences, compulsory voting and non-English speaking background electors. The initial analysis on the increase in informality in the House of Representatives elections from 2001 to 2004 reveals that:

- Informality increases when there is an increase in the number of candidates on the ballot, and explains approximately 46 percent of the overall increase in formality.
- The increase in the percentage of informal ballots with marks and slogans may represent an increased level of political abstention, apathy or protest among Australian electors.
- Ballots informal due to “number ‘1’ only” continue to represent the highest percent of informality across all States and Territories, even though the national percentage dropped slightly in 2004.

- The difference in voting systems and how informal votes are determined across the States and Territories continues to have an impact on informality at the Federal level.

The AEC intends to consult with stakeholders and members of the public in addressing the issue of informality with a view to piloting and implementing possible solutions at the next election.

The results of this research will be published in a research paper, copies of which will be provided to the JSCEM when it is published. The AEC anticipates this will occur shortly.

The AEC has conducted research into informality and the factors that influence informal voting at previous elections. The AEC's research paper into informality at the 2001 federal election is attached at 'A' and is available from the AEC website:

[http://www.aec.gov.au/\\_content/What/publications/research\\_papers/paper1/index.htm](http://www.aec.gov.au/_content/What/publications/research_papers/paper1/index.htm).

## **Election complaints**

The Electoral Act contains a number of offence provisions. Potential breaches of the offence provisions are usually brought to the AEC's attention through a complaint from a member of the public, a political party, a candidate, or a Member of Parliament.

During elections, the number of complaints managed by the AEC increases substantially. To manage the flow of complaints, the AEC adopts a formalised approach to complaints handling. This protocol is published in the AEC's Electoral Backgrounder 15, at Attachment B.

All complaints must be in writing, and must contain some evidence of the alleged breach, such as a copy of the offending advertisement, for example.

The AEC makes an initial decision as to whether an offence has occurred. If there is some doubt as to whether an offence has occurred, the AEC will refer the alleged offence to the Commonwealth Director of Public Prosecutions (DPP) for an initial assessment. This independent assessment of the alleged offence adds an assurance that the AEC's decision making is, and is seen to be, impartial.

If no offence has been revealed, the complainant is advised and no further action is taken.

If a potential offence is revealed, there is a range of options available to the AEC depending on the seriousness of the potential breach: the AEC may bring the potential offence to the attention of the person responsible and request that they desist; the AEC may refer the potential offence to the Australian Federal Police for investigation; the AEC may refer the potential offence to the DPP for prosecution; or the AEC may seek an injunction to prevent the potential offence from occurring or continuing to occur.

By and large, potential offences are resolved without recourse to the police, the DPP or the courts. Of the 278 complaints received, the AEC sought DPP advice in relation to 13 complaints and Senior Counsel's advice in relation to one complaint.

During the election, the AEC generally resolves complaints within one or two days. The exception to this rule is the category of complaints that require an initial assessment from the DPP. These complaints may require more time to resolve. In the days leading up to



polling day and on polling day itself, the AEC endeavours to resolve complaints on the same day.

While there is a range of offence provisions, complaints tend to focus on particular offences, including:

- offences related to the authorisation of electoral advertisements in section 328 of the Electoral Act;
- offences relating to misleading or deceptive publications under section 329 of the Electoral Act; and
- offences relating to interferences with political liberty under section 327 of the Electoral Act.

The AEC produces Electoral Backgrounders that discuss the legislation and case law as they relate to these offences. Backgrounders 15 and 16, which relate to electoral advertising and influencing votes respectively, are at Attachment B.

Table 16 contains a breakdown of the complaints received at the AEC Central Office between the announcement of the 2004 federal election and the return of the writ. The breakdown lists the source of the complaints and the type of complaint. The figures in this table are not inclusive of election complaints that were handled at short notice by other areas of the AEC on election day (for example, AEOs tend to handle a number of ad hoc complaints on polling day).

**Table 16: Breakdown of complaints\* received – 2004 federal election.**

Complainant	Section 328			Section 329		Altered P/VAs	Section 326/327	Other Complaints***
	Breaches	Technical** Breach	No Breach	Breach	No Breach		No breach	
Political party	16	13	15	14	24	2	3/4	28
Citizen	12	6	27	1	62	9	3/5	68
Sub Total	28	19	42	15	86	11	6/9	96
<b>Total (312)#</b>	<b>89</b>			<b>101</b>		<b>11</b>	<b>15</b>	<b>96</b>

\* Every complaint (including separate complaints relating to the same material) is counted individually in this table.

\*\* In some instances some of the technical requirements of the provision are omitted without undermining the purpose of the provision. The purpose of section 328 is to prevent the publication of material under the cover of anonymity. An advertisement that omits the printer's details but otherwise identifies the person(s) responsible and their contact address would be a technical breach of the section but is not anonymous. Such cases are technical rather than substantive breaches of the law.

\*\*\* These included: use of parliamentary entitlements, defamation of candidates (s 350), compulsory voting (s 245), candidate qualifications (s 44 Constitution).

# Note: Although the AEC received correspondence from 278 complainants some complainants alleged more than one breach. This table records each alleged breach.

## Public awareness campaign

### Public Awareness Costs

The overall cost for the election advertising and public relations campaigns totalled \$10.2 million as at the end of April 2005. These costs comprised three main areas:

- 1) Campaign advertising: \$8.4m. There are three phases to campaign advertising: the enrolment phase, leading up to the close of rolls; the voter services phase, with information about how and where to vote; and the formality phase, about how to cast a formal vote. Table 17 below shows the breakdown of costs according to the type of advertising and the phase of the election period.
- 2) Head Office advertising in all States and Territories (including newspaper ads related to the writs issue, close of nominations, and pre-poll and polling places): \$1.3 million.
- 3) Public relations campaign, including public relations, services for people with disabilities and services for people with non English speaking backgrounds: \$0.5 million.

**Table 17: Campaign Advertising costs by election phase – 2004 federal election**

	Enrolment (\$m)	Voter Services (\$m)	Formality (\$m)	Total (\$m)
Television	2.339	*0.016	2.267	4.622
Press	0.163	0.913	0.953	2.029
Radio	0.435	0.121	0.067	0.623
Internet	0.028	0.028	0.028	0.084
Phase Totals	2.965	1.078	3.315	7.358
Production				0.980
Despatch				0.103
			Campaign Advertising Total =	8.441

*\* Low spend because Voter Services television was SBS language commercials only (mainstream television deleted and press boosted for budgetary reasons)*

### Services for special target groups

The AEC's public information campaign included a number of activities to meet the needs of specific elector groups. Targeted activities were aimed at minimising any impediments these electors had in receiving and understanding information and to assist them in participating in the election.

### ***Electors from non-English speaking backgrounds***

In addition to the placement of election advertising in ethnic media, the AEC provided a national telephone interpreting service in 15 languages and key election information was sent to ethnic media and community organisations throughout the election period. Election and voting information was translated into 18 community languages and available from the AEC website or by calling the AEC's national enquiry service. Selected polling places located in divisions with large numbers of electors from non-English speaking backgrounds and past high informal voting rates also displayed translated how to vote messages in key community languages and in English, and translated how to vote posters were available for issuing to electors on election day. In the lead up to the federal election, the AEC in conjunction with Migrant Resource Centres conducted election information sessions in NSW electorates which had a high level of informal voting at the previous election. The sessions were designed to provide enrolment and 'how to vote' information and educate key ethnic community leaders who could assist their communities to fully participate in the election process in a meaningful and correct way.

### ***Aboriginal and Torres Strait Islanders***

In the lead up to the 2004 federal election the AEC undertook a pre-election Remote Area Information Program in the remote areas of all states except Tasmania. The program employed mainly indigenous people for a period of six to eight weeks to visit remote indigenous communities to explain our electoral system and how to fully participate. A video featuring Cathy Freeman and actor David Ngoombujarra plus a brochure reinforcing the messages from the video were used to support the program. Posters and stickers featuring Indigenous personalities were also produced and distributed. The posters were inserted in four editions of the *Koori Mail*. Television and radio advertising were also broadcast on indigenous media during the 2004 election.

### ***Electors with a disability***

The AEC provided information on the election in a range of print alternative formats to meet the needs of electors with a print disability. In consultation with the National Information Library Service, the AEC distributed audio cassettes, Braille and large print versions of the householder elector leaflet to individuals, disability organisations and libraries. This information was also made available on the AEC website in audio format, large print and in text for screen reader capability. The availability of these products was promoted through the Radio for the Print Handicapped network and other disability media.

### ***Young electors***

The AEC conducted a number of campaigns to encourage young people to enrol and vote in the 2004 election. Rock Enrol, a national youth enrolment promotion, was conducted in early 2004 as a joint initiative with Triple J, the national youth radio network. The promotion centred around the Big Day Out concerts held across Australia during January and February 2004 and was effective in encouraging young people to enrol for the first time. Print and broadcast media coverage in metropolitan and regional areas also helped raise awareness of the promotion and the dedicated Rock Enrol website was successful in generating new enrolments. The promotion generated over 4,500 enrolments with first time electors enrolling via the Rock Enrol website, at one of the Big Day Out concerts or through subsequent school and youth community events. A youth television advertisement designed to encourage young people to enrol was placed during youth programming in the close of rolls week. Four youth radio commercials were also broadcast throughout the election period. As part of the public relations campaign, targeted media releases and youth specific case studies were issued to media and the AEC website was heavily

promoted as an access point for election information. The AEC also worked with Vibewire.net, an online youth community, to develop enrolment banner advertising and editorial for their electiontracker.net website for promotion during the enrolment phase of the election campaign.

### **Call centre**

The AEC/Centrelink partnership call centre operated between 30 August and 22 October 2004. During this period the call centre received a total of 630,000 calls. The total number of calls answered by an operator was 485,000 and the remaining 145,000 were answered by the IVR (interactive voice response) system.

The call centre service targets agreements included achieving a rate of 80% or higher of calls being answered within 30 seconds. This target was achieved, with 88% of the total calls being answered within 30 seconds.

The total cost to the AEC of training the 450 operators and providing the call centre service was \$2.9million (excluding GST).

### **Website**

The AEC website was a focal point of information for Australian electors, registering a total of 843,106 unique visitors over the 9 week election period 30 August – 30 October. The website usage was at its highest during the week that including polling day (registering 259,930 visitors) but also had high usage levels during the first two weeks of the election period (129,151 and 100,428 visitors respectively) and the week after polling day (103,962 visitors). The remaining weeks registered between 46,000 and 86,000 visitors per week.

The online virtual enrolment verification facility was very popular during the last week in August and the first two weeks of September. The number of searches conducted on the facility reached its peak on 7 September, the date of close of rolls for the election, with 67,053 searches carried out. The next busiest days for the facility were 6 September (47,424 searches) and the 30 and 31 August (26,827 and 26,676 searches each day).

### **Virtual Tally Room**

On election night, the Virtual Tally Room (VTR) received over 13.5 million hits from over 42,000 unique visitors. In the weeks following election night, the VTR continued to receive a high number of visitors. During the four week period between 4 October and 30 October, the VTR received a total of 39,715,346 hits from 153,476 visitors.

These numbers show a strong increase from the 2001 election period. The 2001 VTR (which provided a more limited range of results and information from that provided on the 2004 VTR) had a total of more than 5.6 million hits.

The cost of providing the VTR totalled approximately \$1.6m (excluding GST).

**Research Report Number 1  
2003**

**Informal Vote Survey  
House of Representatives  
2001 Election**



## **Acknowledgments**

In the course of preparing this research paper, a number of individuals assisted the AEC by answering a continuous flow of questions. We would like to acknowledge Dr Zlatko Jovanoski, School of Mathematics, University of New South Wales, Australian Defence Force Academy and Dr Simon Jackman, Political Science, Stanford University. Thanks also to Professor Zachary Elkins, University of California at Berkeley, Dept of Political Science for allowing us permission to use his PHD thesis.

A special thanks to Mr Antony Green at the Australian Broadcasting Commission, Election Unit for assisting us with questions on historical electoral events in Australia.

## **Enquires**

Information of Research publications are available on the AEC website; [www.aec.gov.au](http://www.aec.gov.au). Other enquiries can be made by e-mail to the Research Section of the AEC; [research@aec.gov.au](mailto:research@aec.gov.au)

## **Contents**

Langer Style Voting .....	2
Methodology .....	3
Divisional Tables.....	4
International Informality .....	5
Compulsory Voting .....	7
Optional Preferential Voting.....	10
Sociological Factors .....	11
Not Fluent in English .....	14
Age.....	16
Number of Candidates.....	16
Senate .....	17
Conclusion.....	17
Attachment A (Sections of the CEA).....	19
Attachment B (Section of the Scrutineers Handbook 2001).....	24
Divisional Tables	

## **Abstract**

Every election has some degree of informal votes cast. The amount of informality is influenced by a large number of factors. In the Australian context these factors include compulsory voting, differences in the voting systems between the States and the Commonwealth and sociological factors.

This research paper examines previous studies of informality and tests the hypothesis that sociological and institutional factors influence informal voting. The paper uses a multiple regression model to correlate the informal vote against a number of variables.

Finally, the paper attempts to explain the results of the regression and concludes that there is no single factor that influences informality but a range of issues; some are highly significant while others remain difficult to test.

## **Introduction**

This research paper seeks to provide an overview of the informal voting at federal elections. The paper focuses on the variations of informal voting and examines research conducted on previous informal voting in Australia and international literature. The last informal vote survey for the House of Representatives was conducted by the AEC in 1996.

At the November 10 federal election, 2001, a total of 580,590 informal votes for the House of Representatives were recorded out of 12,054,664<sup>1</sup> votes, representing 4.82% of the total votes. The 2001 informal vote was the fourth largest since federation<sup>2</sup>.

## **The Electoral Act and Informality**

The law regarding informality in the House of Representatives are found in Section 240, 268, 270 and 274 of *The Commonwealth Electoral Act 1918* (CEA). A copy of these sections is found in Appendix A.

## **Other Sources of Information Regarding Informality**

In addition to the CEA 1918, an additional source of information in connection to informal voting is the “Scrutineers Handbook” which is published by the AEC for information in assisting scrutineers at elections.<sup>3</sup> The book contains a chapter in connection with formality of votes. The relevant information relating to the scrutineers book is found in Appendix B.

## **Langer Style Voting**

Any study of informality in Australia must take into account the effects of Langer style voting. Prior to the 1998 election, ballot papers that were assumed accidentally marked non-consecutively for the House of Representatives (1,2,3,3,...) were counted as formal votes. The vote was accepted as formal and preferences distributed up to the point where the mistake of numbering began. These ballot papers then became ‘exhausted’<sup>4</sup>.

---

<sup>1</sup> A total of 12,708,837 voters were registered to vote, and a 94.85% turnout was recorded.

<sup>2</sup> The other three were 1928 (4.94%), 1987 (4.98%) and 1984 (6.34%). In 1928 a referendum was concurrently conducted with the House of Representatives and Senate elections. In 1987 there was double dissolution. In 1984 a referendum was also conducted, Group ticket voting was introduced for the Senate, enrolment and voting for Aboriginal people became compulsory.

<sup>3</sup> A new version of the book is published for each election. The version cited here is “Scrutineers Handbook – Election 2001, Australian Electoral Commission, ISBN 0-642-73208-6

<sup>4</sup> In 1996 where Langer style votes were last admitted as formal and classified as ‘exhausted’, a total of 48,979 such votes were cast out of 10,883,852 formal votes (0.45%). The exhausted votes were of a similar magnitude for each of the States, NSW (0.46%), Vic (0.49%), QLD (0.26%), WA (0.62%), SA (0.51%), TAS (0.21%), ACT (0.49%), NT (0.48%).

This part of the CEA was specifically introduced to assist voters in casting their vote “below the line” in Senate elections. The Senate ballot paper in Australia can be extremely large and the chances of making a mistake in numbering it are great.

The parliament decided that the part of the CEA, which allowed for ballot papers to be counted in the Senate where preferences were marked non-consecutively in the Senate should also be applied in the House of Representatives. This effectively allowed for a system of optional preferential voting, which was rejected in 1981 by the Parliamentary Joint Select Committee on Electoral Matters ( JSCEM). In order not to encourage electors to take advantage of the provision to allow ballot papers accidentally marked non-consequentially, a section of the CEA 1918 was enacted to make it an offence to print, publish and distribute electoral advertising such as how-to-vote cards, that might induce electors to vote otherwise than in accordance with the instructions on the ballot paper.

At the 1987 and 1990 federal elections Mr Albert Langer conducted campaigns encouraging voter’s *inter alia* to use a type of optional preferential vote. In 1990 the CEA 1918 was again strengthened to protect full preferential voting and made it an offence to encourage voting otherwise than full preferential voting.

At the 1996 elections Mr Langer indicated that he intended to encourage electors to use a form of optional preferential voting. As a result of an advertisement published by Mr Langer encouraging the above style of preferential voting, the AEC obtained an injunction, preventing him from continuing the campaign. Mr Langer<sup>5</sup> defied the injunction and was sentenced to jail for contempt of court. The term Langer Styler voting arose from Mr Langer’s high profile campaigns of encouraging electors to vote in a form 1,2,3,4,4,4 or similar. In 1998 the CEA was again amended so that it was no longer an offence to encourage voters to vote other than in accordance with full preferential voting. However Langer-style votes would no longer be counted as formal.

In the 1998 and 2001 elections Langer-Style votes were counted as informal. Prior to 1998 these votes would have been counted up to the point that the numbering became non-consecutive at which time they would have been classified as ‘exhausted’. Consequently this type of voting has contributed to the rise in informality at the 1998 and 2001 elections.

## **Methodology**

The AEC currently maintains the ballot papers from each election by Polling Place. The papers for each Polling Place were sorted by informality and categorised into one of the following nine categories. These categories were chosen as a result of previous studies and information received from Divisional Offices. It should be noted that in some cases the category of ‘Other’ is larger than would be expected. This is particularly true in Queensland and New South Wales where optional preferential systems are employed for State Government elections. In the case where a voter

---

<sup>5</sup> For a detailed description of Langer style voting see Electoral Backgrounder Number 7, *Langer Style Voting*, Australian Electoral Commission, 17 July 1998, ISSN No 1440-8007. The notes are available on the AEC website; [www.aec.gov.au/\\_content/how/backgrounders07/index.htm](http://www.aec.gov.au/_content/how/backgrounders07/index.htm)

marked more than one preference but less than the total number of candidates, the papers are found in the 'Other' category. The categories are as follows:

- Blank. This category contains all those ballot papers that are completely blank, that is no writing whatsoever.
- Number 1 only. This category contains ballot papers where the elector expressed only a first preference by placing a single figure 1 against one candidate.
- Langer Style Voting. This category contains ballot papers with repeating numbers such as 1,2,3,3,3.... A description of Langer style voting is found in the above text.
- Non-Sequential. This category contains those ballot papers where the numbering is non-sequential such as 1,2,300,324,490....
- Voter Identified. This category contains ballot papers bearing writing identifying the elector.
- Marks. This category contains those ballot papers where there is no preference, or partial preference but slogans, written comments, marks etc are contained on the ballot paper.
- Slogans making numbering illegible . This category contains all those ballot papers where slogans, writing or comments have been made and the words or marks interfere with the preferences in such a way that the numbering cannot be deciphered.
- Other. The other category contains ballot papers that cannot be categorised into any of the above. Typically this category consists of ballot papers that have insufficient preferences expressed.

The results were entered into a database at Polling Place level and aggregated to Divisional and State levels. The results are found on the AEC website ([http://www.aec.gov.au/\\_content/what/voting/survey/index.htm](http://www.aec.gov.au/_content/what/voting/survey/index.htm)). A limited number of independent variables were regressed against the informal votes based on research conducted on informality and in context with the Australian electoral environment. Certain conclusions and recommendations have been made throughout this document based on the results of the regression analysis. It should be noted that the census data used is 1996 as the 2001 census results were not available at the time of writing this report.

### **The Divisional Informal Tables**

Informal votes have been categorised by Division in separate tables located on the AEC web site ([http://www.aec.gov.au/\\_content/what/voting/survey/index.htm](http://www.aec.gov.au/_content/what/voting/survey/index.htm)). The tables contain the following information.

- Demographic Rating. This is one of the following four socio-demographic categories assigned to each of the Divisions.

- Inner Metropolitan: Divisions situated in capital cities and consisting of well-established built-up suburbs.
- Outer Metropolitan: Divisions situated in capital cities and containing areas of more recent suburban expansion.
- Provincial: Divisions with a majority of population in major provincial cities.
- Rural: Divisions located outside capital cities and without a majority of population in major provincial cities.

The total number of enrolled electors for the Division, along with the total number who voted (Turnout) expressed both numerically and as a percentage of the enrolment.

The total number of Static Polling Booths, Special Hospital Team and Pre Poll voting centres. Each Divisional Office is used as a pre-poll centre during elections, therefore the minimum number of Pre-Polls is 1 for a Division.

The Two Candidate Preferred Votes (TCP) are expressed both as the total number of votes and a percentage of the total formal votes cast. The TCP is the names of the two parties who were first and second after all the preferences were distributed.

The informal vote is the total number of informal votes received as a percentage of the turnout. The informal votes are broken down by category. Each category is expressed as a percentage of the total informal vote.

The Polling Place containing the highest and lowest percentage of informal votes has been included along with the total number of votes, informal votes and percentage of informal votes for Absent, Pre Poll and Provisional votes.

### **The State Informal Tables**

The State informal tables are an amalgamation of the States Divisional tables. The last informal survey conducted by the AEC was in 1996, the relevant percentages of the informal votes by category have been included at the State level. It should be noted that the 1996 survey did not categorise ballots in the same categories as this report. The State informal tables also include a graph of the national informal vote compared to the individual state informal vote from 1901. It should be noted that the dates on the bottom of the graphs are arbitrary due to software constraints.

### **International Overseas Informal Vote**

The informal vote in Australia is relatively high by international standards. McAllister<sup>6</sup> argues that “Australia has one of the highest levels of spoiled or informal ballots among established democracies”.

---

<sup>6</sup> See McAllister, Ian, and Toni Makkai and Chris Patterson 1992. “Informal Voting in the 1987 and 1990 Australian Federal Elections”. Canberra: Commonwealth Government Printer

When comparing different countries and informal votes it is important to understand there are many factors that exert an influence on the informal vote. The type of electoral system, the rules governing formality, political and electoral knowledge and literacy levels are some of the factors to take into account. Another factor that must be considered when comparing informal votes is the frequency of the elections. Comparing the latest electoral results carries with it some danger, as there may be unique political, social, economic and electoral factors to consider in a single electoral event. Therefore, it is important to look at the informal vote over a period of time.

A total of 146 countries were analysed<sup>7</sup> and the average informal vote over the last 4 elections was calculated. In some countries the data for the last 4 elections is not available and consequently averages have been taken over 3, 2 and in some cases 1 event. The countries have been ranked from the highest informal percentage (1) to the lowest (146). Australia ranks 46. That is Australia has the 46th highest rate of informal voting out of 146 countries.

Table 1 identifies the 10 highest informal voting countries along with other relevant data. The table also identifies those countries that have compulsory voting and the type of voting system<sup>8</sup> within each country.

---

<sup>7</sup> The data for this table has been taken from 'Voter Turnout Since 1945', International Institute for Democracy and Electoral Assistance, Stockholm, Sweden, 2001 ISBN 01-89098-61-7

<sup>8</sup> A detailed description of voting systems is found in 'The International IDEA Handbook of Electoral System Design', The International Institute for Democracy and Electoral Assistance, Stockholm, Sweden, 1997 ISBN 01-89098-005

Table 1

Country	Informal %	Type of Electoral System <sup>9</sup>	Min Voting Age	Compulsory Voting	Rank
Brazil	23.7	L	18	Y	1
Peru	22.6	L	18	Y	2
Ecuador	19.3	P	18	Y	3
Burma	12.3	F	18	N	4
Somalia	11.1	P	18	N	5
Mozambique	10.7	L	18	N	6
Angola	10.4	L	18	N	7
Bolivia	10.0	M	18	Y	8
Morocco	10.0	F	18	N	9
El Salvador	9.5	L	18	N	10
Australia	3.7	A	18	Y	46
United Kingdom	0.2	F	18	N	146

### Compulsory Voting

Compulsory voting was first introduced at Commonwealth elections in 1924. With the exception of Queensland, the various States introduced compulsory voting after the Commonwealth.<sup>10</sup> Is compulsory voting an influence on informal voting? While compulsory voting avoids a high degree of abstention, there is no guarantee that everyone will comply with the electoral laws and vote formally.

Lavaareda<sup>11</sup>, argues that compulsory voting is one of many factors in informal votes. He argues that blank ballots cast in systems employing compulsory voting are “the functional equivalent of abstention”. The link between compulsory voting and informal voting is also strongly supported by Mackerras and McAllister<sup>12</sup> who note that Australia has one of the highest rates of informal votes in established democracies and state “The most significant consequence of compulsory voting is a large proportion of invalid and spoiled votes at elections”. The Mackerras and McAllistair view that informality and compulsory voting is inextricably linked is

<sup>9</sup> Alternative Vote (A), First Past The Post (F), List Proportional Representation (L), Parallel System (P)

<sup>10</sup> Queensland (1912), Victoria (1924), New South Wales (1927), Tasmania (1928), Western Australia (1936), South Australia (1941).

<sup>11</sup> Lavareda, José Antôáio (1991), *A democracia nas urnas: o processo partidario eleitoral brasileiro*, Ri de Janerio. Lavareda’s work in connection with informal voting is discussed in Timothy Power and J Timmons Roberts, ‘Compulsory Voting, Invalid Ballots, and Abstention in Brazil’ in *Political Research Quartley* 48 (3), December 1995 pp 795 –826

<sup>12</sup> M Mackerras and I McAllister: ‘Compulsory voting, party stability and electoral advantage in Australia’, *Electoral Studies – An International Journal*, Volume 18, Number 2 June 1999, Harold Clarke, Geoffrey Evans and Elinor Scarborough (editors)

supported by Major<sup>13</sup> who notes that ‘the informality rate increases under compulsory voting because voluntary abstention is no longer an option’.

The link between compulsory voting and informal voting is difficult to prove. Authors supporting such a hypothesis conclude that there are those voters who vote informal, but under a non compulsory-voting system would simply not vote at all. Who are these voters and how can such ballots be identified? If there is an answer it is not an easy one. The following table identifies by State the different categories of informal votes.

**Table 2**

	NSW	QLD	VIC	WA	SA	TAS	ACT	NT	NAT
Blanks	20.38	15.67	24.9 5	23.3 6	24.5 2	27.86	30.8 4	20.7 4	21.43
Number 1	32.47	46.42	26.0 5	29.8 7	36.6 3	23.60	28.7 6	27.9 5	33.58
Ticks and Crosses	12.57	11.46	12.9 7	9.93	14.9 5	15.84	8.99	10.6 2	12.42
Langer Style	2.37	2.00	3.22	4.18	1.05	6.88	0.83	14.5 6	2.68
Non Sequential	22.52	10.49	14.1 5	21.7 5	13.4 0	13.17	7.66	15.0 6	17.18
Voter Identified	0.04	0.03	0.07	0.11	0.03	0.02	0.04	0.00	0.04
Marks	5.49	4.91	8.23	7.78	5.97	12.11	4.20	2.98	6.31
Slogans making numbering illegible	0.28	0.30	0.42	0.18	0.57	0.01	0.05	0.00	0.31
Other	3.87	8.72	3.98	2.83	2.87	0.51	18.6 3	8.09	6.00
Total	5.42	4.83	3.98	4.92	5.54	3.40	3.52	4.64	4.82

It would be easy to dismiss those ballots that were returned totally blank as deliberate informal due to political protest. There may be other reasons such as simply forgetting after completing the Senate ballot paper, not understanding the electoral system and instead of making a mistake and voting for the wrong party, an individual may elect to return a blank ballot paper. Consequently, blank ballot papers alone cannot be guaranteed to represent protest votes.

Those ballot papers categorised under the heading ‘marks’ are perhaps more indicative of political protest. These ballot papers consist of slogans, words of protest against the political and electoral system. They are deliberately informal, in many cases no party has been selected, rather simply words of protest have been written on the ballot paper. In other words it is clear that the voters intent was to cast an informal ballot. It is not unreasonable to suggest that if a non-compulsory system of voting was introduced then these voters would be abstainers. At the 2001 election a total of 36,689 electors voted in such a manner. Had these electors abstained from voting then the turnout would have declined from 12,054,664 to 12,017,976 or from

<sup>13</sup> Shaun Major ‘To Vote or Not to Vote?, Compulsory Voting in Australia, Western Australian Electoral Commission, December 1995.

94.85% to 94.56%. Removing the ballots categorised as “Marks” would have seen the informal vote drop to 4.52%.

It is impossible to say with assurance whether other types of informal voting are a deliberate act of electoral disobedience or a misunderstanding of the electoral laws. However it appears from all the evidence and literature that compulsory voting does bring with it an element of deliberate informal voting. While the magnitude of this protest vote may not be large, the fact is it does exist and it is difficult to measure. In his paper on compulsory voting Smith<sup>14</sup> notes “In Australia, compulsory voting caused voters turnout to rise from a turnout at a Commonwealth level that had been as low as 46.9% and never risen above 77.7% to increase to over 90%, usually above 95%. Nevertheless, despite this large increase of voters, there has been at best a very small increase of informal vote due to compulsory voting, never greater than 1%”. Assuming Smith’s calculations are correct and the maximum increase in the informal vote is 1% then this would have translated into a total of 120,546 electors at the 2001 election.

Given that those who deliberately vote informal would not vote at all in an environment of non-compulsory voting, one would expect to see a decline in both the turnout and the informal vote. The Tasmanian Local Government elections offer such an opportunity. The Local Government elections are non-attendance elections that are the ballots are mailed to electors. Voting is non-compulsory and electors are required to number at least the number from 1 to n( where n = the number of vacancies). The following table<sup>15</sup> identifies results from Local Government elections in the Federal division of Braddon in 1999. The Local Government elections employ the Hare-Clarke system.

**Table 3**

LGA Name	Candidates	Required Numbering	Turnout	Informal Vote
Central Coast	16	1 – 8	59.58	1.87
Devonport City	14	1 – 7	59.48	1.93
Burnie City	14	1 – 7	61.63	2.01
King Island	9	1 - 4	75.65	0.62
Circular-Head	7	1 – 5	62.50	0.57
Waratah-Wynyard	8	1- 5	59.95	0.63

At the 1998 House of Assembly in the division of Braddon where compulsory voting is used along with the Hare-Clarke system, the informal vote was 4.19% and the turnout was 96.11. The federal election resulted in Braddon yielded an informal vote of 3.33% with a turnout of 96.45%.

As can be seen in Table 3, the Informal vote is extremely low in all elections with non-compulsory voting compared to electoral events in Australia where compulsory voting is used. However it should be noted that the turnout figure is also lower

<sup>14</sup> See “Compulsory Voting – A comparative Approach”, Lindsay Smith, Mitchell College of Advanced Education, Administrative and Political Sciences ( ISBN 0 909665 30 3)

<sup>15</sup> Source: “Local Government Election Report 1999”, Tasmanian Electoral Office.

compared with compulsory voting in the Australian context. There can be a number of reasons for this; firstly there is only one ballot paper and electors have more time to vote than they otherwise would at an attendance ballot. Secondly, it is not compulsory. While it is difficult to quantify, there does appear to be compelling evidence supporting Elkins<sup>16</sup> view that compulsory voting brings with it some degree of informal voting. However, there are many other factors, which contribute to the informal vote.

### Optional Preferential Voting

Voting for the House of Representatives requires every square to be numbered in order for it to be formal. The instructions on the ballot paper are clear “Number the boxes from 1 to n<sup>17</sup> in the order of your choice”. However not all elections in Australia have full preferential. The table<sup>18</sup> below sets out the details of the name of the legislature to be elected and the rules governing formality for optional preferential systems.

**Table 4 – Optional Preferential**

State	Legislature	Instructions on the ballot paper
NSW	Legislative Assembly	Place the number ‘1’ in the square opposite the name of the candidate for whom you desire to give your first preference vote.  You may, if you wish, vote for additional candidates by placing consecutive numbers beginning with “2” in the squares opposite the names of those additional candidates in the order of your preference for them.
QLD	Legislative Assembly	Place the number (“1”) in the square opposite the candidate of your choice.  You may if you wish indicate your preference for additional candidates by numbering the other squares in your preferred order.

It is therefore not surprising that the two States with the highest proportion of ‘number 1 only’ informal are NSW and QLD who practice optional preferential at a

<sup>16</sup> See Zachary S Elkins ‘ Institutionalising Equality: The Compulsory Vote in Brazil, University of Texas, thesis. Refer to [www.tcnj.edu/~psm/abstracts/000054a.htm](http://www.tcnj.edu/~psm/abstracts/000054a.htm)

<sup>17</sup> n is the number of candidates on the ballot paper. The instructions on the voting screen read “Please read the instructions on your ballot paper”

<sup>18</sup> source ‘Electoral Systems of Australia’s Parliaments and Local Government’, Electoral Council of Australia, Melbourne. [www.eca.gov.au](http://www.eca.gov.au)

State level. What influence does States practicing optional preferential voting have on the Commonwealth elections?

The federal division of Reid in NSW is a landlocked division surrounded by Parramatta, Benelong, Lowe, Blaxland, Fowler and Prospect. The State electorate of Auburn contains approximately 60% of Reid and the remainder is within the division of Blaxland.

In September 2001 a State by-election was conducted in Auburn (2 months prior to the Federal election) where optional preferential was employed. The table below sets out the Polling Places in the federal division of Reid. The table identifies if the Polling Place is in the State Divisions of Auburn, the change of informal vote from the 1998 election (swing) and where appropriate the informal vote for the State electorate of Auburn.

**Table 5 – Division of Reid**

Polling Place	Auburn	% informal	Swing	Auburn Informal %
Auburn	Yes	11.38	+5.19	3.58
Auburn Hospital	Yes	15.80	+8.53	4.91
Auburn North	Yes	13.98	+6.82	3.23
Auburn West	Yes	17.19	+10.80	4.28
Berala	Yes	13.28	+7.10	3.64
Blaxcell	No	9.75	+2.90	
Cardinal Gilroy Village	No	6.00	-2.56	
Fowler Road	No	11.18	+1.55	
Granville	No	12.46	+3.83	
Granville North (Reid)	Yes	8.97	+2.76	
Granville South	No	10.81	+3.25	
Guildford	No	8.93	+2.06	
Guildford East	No	11.59	+2.98	
Guildford West	No	10.63		
Hilltop Road	No	10.70	+1.22	
Hyde Park	Yes	12.13	+5.64	
Lidcombe	Yes	11.27	+5.04	2.94
Lidcombe South	Yes	12.24	+4.67	2.92
Merrylands	No	11.21	+2.92	
Merrylands East	No	11.79	+3.58	
Merrylands North	No	9.22	+1.73	
Merrylands West	No	5.10	-0.12	
Monterey Street	No	4.15	-1.14	
Old Guildford	No	11.87		
Rawson	No	7.87	-2.53	
Regents Park	Yes	9.29	+3.69	3.65
Sherwood Grange	No	10.03	+2.84	
Silverwater	Yes	7.57	+0.07	2.06
Trinity Auburn	Yes	14.96		
Wentworthville South	No	10.58	+2.45	
Yennora (Reid)				

The table illustrates that the informal swing for polling places within the State electorate of Auburn was consistently higher than those that were not contained in the Auburn electorate but were within the Division of Reid. In fact, the average swing for Auburn Polling Places in Reid was +5.48 compared with +1.56 for non-Auburn Polling Places. A similar effect is also found in the Division of Blaxland.

What does this show us? There was a campaign at the time of the Auburn by-election to Vote 1. Under the optional preferential system of voting, by casting a first preference vote, the vote is counted. However this is not the case at a federal election where preferences for all candidates need to be allocated by the voter. It appears that

a number of voters in the Reid Division that were covered by the State electorate of Auburn continued to cast a first preference vote only at the federal election<sup>19</sup>, thus making the ballot informal.

### **Sociological Factors**

Existing literature<sup>20</sup> suggests that there is a correlation between informal voting and sets of economical-sociological independent variables. The variables used in this report are named socio-demographic by Milbrath and Goel<sup>21</sup> McAllister, Makkai and Patterson used a method of factor analysis to identify a range of variable that were closely correlated and use the results to use as variables in the regression model.

After examining the literature available and in light of anecdotal evidence from Divisional Returning Officers, a number of independent variables were used to regress against the informal vote at divisional levels. The analysis uses the ordinary least squares regression technique. A number of variables have been omitted due to the fact that after analysis they were not statistically significant. In addition some variables were removed because of the high degree of multicollinearity.<sup>22</sup>

The following variables were included; The number of candidates for each Division at the 2001 election, the percentage of persons not fluent in English, the percentage of those persons aged 80 years and over, these with low education.<sup>23</sup> The results of the regression are found in Table 6.

---

<sup>19</sup> A total of 7,964 informal votes were cast at the 2001 federal election in Reid (11.08% of the total votes). A total of 2,640 informal ballots had a first preference (1 only) on them which represents 33.15% of the total informal ballot papers for Reid.

<sup>20</sup> A discussion of the sociological variables is found in 'Electoral Absenteeism and Potential Absenteeism in Belgium', J Ackaert and Lieven De Winter, a paper delivered at the 1996 Annual meeting of the American political Science Association in San Francisco.

<sup>21</sup> Milbrath,LW and Goel M (1977) Political Participation. *How and Why Do People Get Involved in Politics*, Chicago, Rand McNally College Publishing Company

<sup>22</sup> Multicollinearity occurs when two variables contain much of the same shared information. For a precise discussion on the subject see Johnson.J (1984), *Econometric Methods, 3<sup>rd</sup> edition*. Singapore, McGraw-Hill

<sup>23</sup> Low education was defined at those persons who either never attended school or left school at the age of 15 and under.

Multiple R 0.797005  
 R Square 0.635219  
 Adjusted R 0.625154

**Table 6**

	Coefficient	SE	t- stat	p-Value	Lower 95%	Upper 95%
Intercept	0.194877	0.515513	0.378025	0.705965	-0.824014	1.213767
Number of Candidates	0.30419	0.045104	6.744253	3.4E-10	0.215045	0.393335
Not Fluent in English	0.357105	0.028136	12.69189	2.71E-25	0.301494	0.412715
Age 80+	-0.109769	0.054991	-1.996143	0.047791	-0.218457	-0.001082
Low Education	0.102349	0.016578	6.173724	6.35E-09	0.069583	0.135115

### **Not Fluent in English**

As illustrated in Table 7 the “Not Fluent In English” variable is the major predictor and highly statistically significant. As McAllister, Makkai and Patterson observe ‘English language proficiency is therefore a major factor in determining informal voting<sup>24</sup>’. McAllister found that informal voting was significantly higher in areas where there were large concentrations of non-English speaking groups.

There are two plausible explanations for informal voting and electors not proficient with the English language. Firstly, once the voter enters the polling booth voting is a test of their English proficiency. The ballot paper and instructions are in English. Regardless of the amount of education and political campaigning, the voter must have more than a basic understanding of the English language to vote effectively.

Secondly many of the voters who are not proficient in the English language arrive from countries where the voting system is far different. It must be remembered few countries practice the alternative vote system. Many use a system where a one or a tick or a cross is all that is necessary to cast a formal vote. There may also be a number of voters who do not comprehend the system, and are afraid of making a mistake and simply return a blank ballot paper.

The AEC provides telephone assistance and produces a large number of advertisements and other materials in various languages other than English. The languages used during the last election are listed below.

**Table 7 – Languages used in Advertising**

Language	Radio	Television	Press	Interpreting Service
Arabic	✓	✓	✓	✓
Bosnian	✓			
Cantonese	✓	✓		✓
Chinese			✓	
Croatian	✓		✓	✓
German	✓		✓	

<sup>24</sup> McAllister, Makkai, Patterson (1992), pp 24-25

Greek	✓	✓	✓	✓
Hungarian	✓		✓	
Indonesian	✓			
Italian	✓	✓		✓
Japanese	✓		✓	
Khmer	✓			✓
Korean	✓		✓	
Lao	✓			
Macedonian	✓	✓	✓	✓
Maltese	✓		✓	
Mandarin	✓	✓		✓
Persian	✓		✓	
Polish	✓		✓	✓
Portuguese	✓		✓	✓
Russian	✓		✓	✓
Serbian	✓		✓	✓
Spanish	✓	✓	✓	✓
Thai	✓			
Turkish	✓		✓	✓
Vietnamese	✓	✓	✓	✓
Tagalog	✓			

In addition the AEC provided radio advertisements for 14 indigenous languages and Telephone Typewriter Phone Numbers (TTY) in each State and Territory.

By international standards, there can be no doubt that the Australian system of voting is complicated. A point emphasised by Dean Jaensch<sup>25</sup> who writes “The Australian elector, in any three-year period, will be asked to vote for the Australian Senate with one electoral system, for the House of Representatives with a different system, for his two state houses with the possibility of different systems for each, and for his local government with yet another system. As well, he may be asked to decide on federal or state referenda questions again with a different system of voting. He may be asked on one occasion to mark his ballot paper with sequential numbers and fill all available boxes (or available boxes except one), on another occasion to put a cross in any one square, and on referred to write ‘yes’ or ‘no’.” Finally, the system is complicated by the use of two ballot papers for the Senate and House of Representatives. Not only are the ballots papers different in appearance but also have different rules in connection with formality. A tick can be used above the line in the Senate, there are no ticks allowed at all in the House of Representatives ballot paper. Even more importantly is the use of a single 1 above the line in the Senate. As previously discussed a ‘1’ only in the House of Representatives is informal.

### **Low Education Attainment**

Low education attainment in the context of this report is defined as those persons whom have had no formal schooling or left school at the age of 15 or below.

---

<sup>25</sup> Jaensch, Dean ‘Electoral Systems’ in Richard Lucy (ed), *The Pieces of Politics* (Melbourne, 1975); MacMillian.

Wolfinger and Rosenstone<sup>26</sup> discovered a high correlation between less educated voters and informal voting.

As discussed above, the Australian voting system is not simple, sometimes contradictory and difficult to understand. There are differences in State systems, the Senate and the House of Representatives voting is different. In his work Elkins uses a regression model and discovers that education levels are the strongest variable related to turnout. He argues that those who have not attained a certain level of education are less likely to engage in political participation. Elkins also notes that in order to vote a certain level of literacy is required. The correlation of informal voting and persons attaining a low education is consistent with other research. Consequently, low education attainment is a valuable predictor in estimating informal voting.

## **Age**

The age cohort used in the regression was those citizens aged 80 years and older. Australia's population continues to age and according to the Australian Bureau of Statistics<sup>27</sup> the medium age has risen from 27.5 years in 1971 to 34.3 years in 1997 and projections for 2031 are around 42.5 years. Therefore ensuring the elderly understand the voting system and have access to facilities suitable for the aged on polling day is critical.

The regression model indicates that the variable for those aged 80 and over is not a significant indicator of informality. In other words the elderly do not appear to have an impact on the informal vote. Why would the elderly be a healthy predictor? Other reasons may be that they usually have deep-rooted ties to the local environment. They are less mobile and as Elkins<sup>28</sup> explains they have developed some degree of knowledge and opinion of issues, candidates and parties. The elderly also usually have strong relationships with the local community and a sense of civic responsibility. They are more patient and are likely to spend more time checking their ballot paper for mistakes and usually have a more considered opinions on how to mark their preferences. This and the fact that the elderly will have voted many times before make them reliable formal voters.

However the elderly are still vulnerable to informal voting. Many polling stations have poor lighting, the font is relatively small and with diminishing eyesight it may be a problem to see correctly. A ballot paper with a large number of candidates can be a daunting and often a confusing task. The risk of repeating numbers and non-consecutive numbers is greatly enhanced with the elderly.

## **Number of Candidates**

The number of candidates on the ballot paper is influential in informal voting. Given the above discussion this is not surprising. This report has already discussed a number of variables, which may influence informal voting, and requires the citizen to have a reasonable degree of literacy, good comprehension of the voting system, basic numerical skills, and a proficiency in the English language.

---

<sup>26</sup> Wolfinger, R and Rosenstone (1980), *Who Votes* (New Haven: Yale University Press)

<sup>27</sup> Australian Bureau of Statistics, *Australian Social Trends 1999*, AusStats, [www.abs.gov.au](http://www.abs.gov.au)

<sup>28</sup> Elkins pp 24-25

When a large number of candidates are placed on the ballot paper, there is a possibility that this will challenge some of these skills identified above. If the voter lacks some of these skills, say literacy, then after marking a certain number of preferences they may become confused, resulting in numbering becoming non-sequential. The regression model indicates that the number of candidates is a major factor in informal voting. Perhaps a good example of the impact of the number of candidates on informality can be found in the Division of Fowler. In 1998 Fowler had 5 candidates and an informal vote of 5.78%. The 2001 election saw 10 candidates and an informal vote of 12.75%.

## **The Senate**

The voting system for the Senate and House of Representatives are very different and there has been a great deal of discussion by scholars on the influence of the Senate voting system on informal voting in the House of Representatives.

The argument is simple: since the voting system is different and voters are required to complete a paper for the House of Representatives and the Senate there is confusion between the two systems and voters accidentally mark the House of Representatives paper in a manner that would be formal for the Senate but make the House of Representatives paper informal.

In 1984 a system was introduced named the Group Voting Ticket that allowed the voter to place a single '1' against the Group (a type of list system) of their choice and thus avoid numbering 1 to n boxes. The effect on the Senate was immediate, the 1984 election saw a decline in the Senate informal vote from 9.9% in 1983 to 4.3%. The Senate informal vote continued to decline after the introduction of the Group Voting Ticket. However the inverse was true for the House of Representatives. In 1984 the informal vote jumped from 2.1% in 1983 to 6.3%. The reason was many voters were confused and while using a single '1' in the Senate accidentally believed by doing the same in the House of Representatives their vote would be formal.

McAllister argues that 'a specific cause of informal voting in the 1984, 1987 and 1990 House elections was a change to the form of the Senate paper'. The argument is that there remains a residual effect of the 1984 change, some voters continue to be confused between using a '1' only in the Senate and the House of Representatives.

## **Conclusion**

Under the current system electors can cast a deliberate informal vote. There is little anyone can do to prevent political protests. However not all informal votes are deliberate, and it may be that those which present a prima facie case of deliberate informal voting are in fact a result of frustration and inability to understand a complex voting system.

This report has demonstrated there is not one single factor that can explain informal voting, rather there are a number of variables. The first set of variables are environmental factors, which contribute to informal voting in Australia. They can be defined as:

- Compulsory Voting

- The differences between State, Local government and Federal electoral systems.
- The number of candidates competing at a Divisional level
- The difference between the Senate voting system and the House of Representatives.

This report has also demonstrated those sociological factors such as age, education and English proficiency have a significant influence on informal voting. This conclusion is consistent with similar research conducted, which shows that there is a strong relationship between informal voting and low English proficiency and low socio-economic status. The variables used in the regression model and being highly statistical significant are:

- The proficiency with the English language of the voter
- The educational attainment level of the voter
- The age of the voter.

This report has not attempted to reconstruct individual behaviour from aggregate data, such analysis is complicated and often dangerous as demonstrated by King. However the report has found variables that are strong predictors in informal voting.

The information contained in this report allows the AEC to review its voter education campaigns and develop strategies that will aim to reduce informal voting at future elections.

## **Attachment A – Sections of the Commonwealth Electoral Act 1918**

240. In a House of Representatives election a person shall mark his or her vote on the ballot-paper by:

- (a) writing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference; and
  - (b) writing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the person's preference for them.
- (2) The numbers referred to in paragraph (1)(b) are to be consecutive numbers without the repetition of any number.

268 (1) A ballot-paper shall (except as otherwise provided by section 239, and by the regulations relating to voting by post) be informal if:

- (a) subject to subsection (2), it is not authenticated by the initials of the presiding officer or by the presence of the official mark;
- (b) subject to section 269 and subsection 270 (1), in a Senate election, it has no vote indicated on it, or it does not indicate the voter's first preference for 1 candidate and the order of his or her preference for all the remaining candidates,
- (c) in a House of Representatives election, it has no vote indicated on it, or it does not indicate the voter's first preference for 1 candidate and an order of preference for all the remaining candidates:

Provided that, where the voter has indicated a first preference for 1 candidate and an order of preference for all the remaining candidates except 1 and the square opposite the name of that candidate has been left blank, it shall be deemed that the voter's preference for that candidate is the voter's last and that accordingly the voter has indicated an order of preference for all the candidates:

Provided further that, where there are 2 candidates only and the voter has indicated his or her vote by placing the figure 1 in the square opposite the name of 1 candidate and has left the other square blank or placed a figure other than 2 in it, the voter shall be deemed to have indicated an order of preference for all the candidates;

- (d) it has upon it any mark or writing (not authorised by this Act or the regulations to be put upon it) by which, in the opinion of the Divisional Returning Officer, the voter can be identified:

Provided that paragraph (d) shall not apply to any mark or writing placed upon the ballot-paper by an officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Act; or

- (e) in the case of an absent voter - the ballot-paper is not contained in an envelope bearing a declaration made by the elector under subsection 222 (1).

(2) A ballot-paper to which paragraph (1) (a) applies shall not be informal by virtue of that paragraph if the Divisional Returning Officer responsible for considering the question of the formality of the ballot-paper is satisfied that it is an authentic ballot-paper on which a voter has marked a vote.

(3) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as that intention is clear.

274. (1) In a House of Representatives election the scrutiny shall, subject to section 266, be conducted in the manner set out in this section.

(2) Each Assistant Returning Officer shall, in the presence of a polling official, and of such authorised scrutineers as may attend:

(a) exhibit for the inspection of the scrutineers each ballot-box received from a presiding officer, electoral visitor, or mobile polling team leader;

(aa) record the condition of the ballot-box when it was received;

(ab) check the accuracy of the statement of the presiding officer, electoral visitor or mobile polling team leader by:

(i) removing the ballot-papers from the box;

(ii) counting, but not inspecting, them; and

(iii) recording the number of ballot-papers removed from the box;

(b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;

(c) count the first preference votes given for each candidate on all unrejected ballot-papers;

(d) make out and sign a statement (which may be countersigned by a polling official, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers;

(e) place in a separate parcel all the ballot-papers which have been rejected as informal;

(f) transmit the following information, by telegram or in some - other expeditious manner, to the Divisional Returning Officer:

(i) the number of first preference votes given for each candidate; and

(ii) the total number of ballot-papers rejected as informal;

(g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and

(h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d).

(2A) If, in a House of Representatives election, there are more than 2 candidates for a Division, the Australian Electoral Officer for the State or Territory that includes the Division must, in writing, direct each Assistant Returning Officers for the Division, and the Divisional Returning Officer for the Division, to conduct a count of preference votes (other than first preference votes) on the ballot papers that, in the opinion of the Australian Electoral Officer, will best provide an indication of the candidate most likely to be elected for the Division.

(2B) An Assistant Returning Officer to whom a direction is given under subsection (2A)

must:

(a) count the preference votes in accordance with the direction; and

(b) transmit to the Divisional Returning Officer any information required by the direction; in the manner specified in the direction.

(2C) A Divisional Returning Officer to whom a direction is given under subsection (2A) must count the preference votes in accordance with the direction:

(a) at the time of the fresh scrutiny under subsection (7); and

(b) at the time at which the Divisional Returning Officer examines and counts ballot-papers recording declaration votes other than ballot-papers recording declaration votes that were examined and counted at the time of the fresh scrutiny.

(3) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.

(4) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for casting declaration votes.

(7) The Divisional Returning Officer:

(a) shall open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division;

(b) shall make a fresh scrutiny of the ballot-papers contained in the parcels; and, for the purpose of that scrutiny, shall have the same powers as if it were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny;

(c) from the result of the scrutiny of the votes counted under the provisions of subsections (3) and (4), and the fresh scrutiny conducted under the provisions of this subsection, shall ascertain the total number of first preference votes given for each candidate and the number of informal ballot-papers; and

(ca) must then proceed with the scrutiny and the counting of the votes as follows:

(i) if, after ascertaining the first preference votes given for each candidate, no candidate has

an absolute majority of votes, the Divisional Returning Officer must apply subsection (7AA);

(ii) if, after ascertaining the first preference votes given for each candidate, a candidate has an absolute majority of votes, that candidate is elected; and

(d) if, after applying subsection (7AA), subparagraph (7AA)(b)(i) applies, shall proceed with the scrutiny and the counting of the votes as follows:

(i) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to the candidate shall be counted to the candidate next in the order of the voter's preference;

(ii) the process of excluding the candidate who has the fewest votes, and counting each of his or her ballot-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until only 2 candidates remain in the count; and

(iii) if, following the exclusion of candidates under this paragraph, a candidate has an absolute majority of votes, that candidate shall be elected.

(7AA) If, after ascertaining the total number of first preference votes for each candidate under paragraph (7)(ca), no candidate has an absolute majority of votes, the Divisional Returning Officer must take the following steps:

(a) rank the candidates consecutively in order of their standing in the poll as set out in subsection (7AB);

(b) then:

(i) if the total number of first preference votes for all the candidates, other than the first and second ranked candidates, is equal to or more than the number of first preference votes for the second ranked candidate - proceed with the scrutiny as set out in paragraph (7)(d); or

(ii) if the total number of first preference votes for all the candidates, other than the first and second ranked candidate, is less than the number of first preference votes for

the second ranked candidate - exclude all the candidates other than the first and second ranked candidates;

(c) if subparagraph (b)(ii) applies - count each ballot-paper of an excluded candidate to whichever of the first or second ranked candidates is earlier in the order of preference expressed on the ballot-paper.

(7AB) The ranking of candidates under paragraph (7AA)(a) is to be done as follows:

(a) the candidate with the highest number of first preference votes is to be the first ranked candidate, the candidate with the second-highest number of votes is to be the second ranked candidate, and so on;

(b) if 2 or more candidates have an equal number of first preference votes, the ranking as between those candidates is to be decided, by lot, by the Divisional Returning Officer.

(7AC) If, following the exclusion of candidates under subparagraph (7AA) (b)(ii) and the count of ballot-papers under paragraph (7AA)(c), a candidate has an absolute majority of votes, that candidate is elected.

(7A) The fresh scrutiny referred to in paragraph (7) (b) shall, if the Australian Electoral Officer for the State or Territory that includes the relevant Division so directs in writing, include a scrutiny of such preferences (other than first preferences), on such of the ballot-papers, as are required by the direction, and shall be conducted in the manner specified in the direction.

(9) If, on any count other than the final count:

(a) 2 or more candidates (lowest ranking candidates) have an equal number of votes; and Scrutiny of votes in House of Representatives elections

(b) one of them has to be excluded; the candidate to be excluded is the candidate with less votes than any of the other lowest ranking candidates at the last count at which one of those candidates had less votes than any of the others, but, if there has been no such count, the Divisional Returning Officer must decide by lot which of them is to be excluded.

(9A) If, in the final count, 2 or more candidates have an equal number of votes, the Divisional Returning Officer shall make a fresh scrutiny of the votes scrutinised under subsection (7) and a fresh scrutiny of all declaration ballot-papers rejected at the preliminary scrutiny.

(9B) If, after the fresh scrutinies referred to in subsection (9A), a candidate has received an absolute majority of votes, that candidate shall be elected.

(9C) If, after the fresh scrutinies referred to in subsection (9A), 2 or more candidates have an equal number of votes, the Divisional Returning Officer shall give to the Electoral Commissioner written notice that the election cannot be decided.

(10) Subject to subsection (11), in this section an absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers.

(12) The Divisional Returning Officer shall:

- (a) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (b) place in a separate parcel all the unrejected ballot-papers; and
- (c) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

## **Appendix B Section of The Scrutineers Handbook – 2001**

“ A voter at the House of Representatives election is obliged to :

- Place the number 1 in the square on the ballot paper opposite the name of the candidate for whom they gave his/her first preference; and
- Place consecutive numbers 2,3,4 ( and so on, as the case requires), without repetition of any number, in the squares opposite the names of all remaining candidates so as to indicate the order of preference for them.

Following amendments to the Act, a House of Representatives vote marked ‘1,2,3,,3,3....etc will not be formal up to the point where duplication numbers occur. Any vote marked in this way will be rejected as informal.

### **Formality Checks**

Formality checks of ballot papers fall into two categories:

- One comprising tests of whether the ballot paper concerned is an authentic one which does not identify the voter; and
- The other comprising tests of whether the voter has performed their duty in marking the ballot paper sufficiently well for it to be accepted.

### **Authenticity tests**

To be accepted as formal, a ballot paper:

- Must be authenticated by the official mark or by initials of the Presiding officer, or must, in the opinion of the DRO deciding the question , be an authentic ballot paper;
- Must not have any unauthorised writing on it by which the voter can be identified, and
- Must, in the case of a declaration vote, have been contained in a declaration envelope.

### **Acceptable numbering – House of Representatives**

A House of Representatives ballot paper is formal if:

- A first preference is shown by the presence of the number 1 in the square opposite the name of one, and only one candidate;
- There are consecutive numbers in all other squares on the ballot paper, indicating an unbroken consecutive sequence of preferences;
- There is no repetition of any number; and
- No more than one square (representing the last preference only) is left blank.

It should be noted that ticks and/or crosses on a House of Representatives ballot paper will render it informal. However, a ballot paper which represents the required numbers either by roman numerals or by ordinal numbers ( eg 1<sup>st</sup>, end, 3<sup>rd</sup>) or letters (eg A B C etc) can be accepted as formal”.

## References

Ackaert, Johan and DE Winter, Lieven. 1996 “Electoral Absenteeism and Potential Absenteeism in Belgium”

Australian Electoral Commission. 2001 “Scrutineers’ Handbook Election 2001”, Canberra: Australian Electoral Commission

Commonwealth Electoral Act 1918, Reprint 9

Elkins, Zachary. 1996 “Institutionalising Equality: The Compulsory Vote in Brazil”, University of California, PHD thesis, University of Texas

International Institute for Democracy and Electoral Assistance. 2002 “Voter Turnout since 1945 – A Global Report”, Stockholm: Bulls. Tryckeri, Halmstad

International Institute for Democracy and Electoral Assistance. 1997 “The International IDEA Handbook of Electoral System Design”, Stockholm: Bröderna Carlssons Boktryckeri AB

Jaensch, Dean. 1975. “Electoral Systems” In Richard Lucy (ed) “The Pieces of Politics”. Melbourne. MacMillian Company

Johnson, J. 1984. “Econometric Methods”. Singapore. McGraw-Hill Book Co

King, Gary. 1997 “A Solution to the Ecological Inference Problem”. New Jersey, Princeton University Press

Lavareda, Jose Antonio. 1991 “A democracia nas urnas: o processo partidário eleitoral brasileiro”. Rio de Janeiro. Rio Fundo Editora.

Mackerras, Malcolm and McAllister, Ian. 1999. “Compulsory Voting, Party Stability and Electoral Advantage in Australia”. Electoral Studies – An International Journal, Volume 18, Number 2 (June)

Major, Shaun. 1995 “To Vote or Not to Vote?, Compulsory Voting in Australia”. Western Australian Electoral Commission.

McAllister, Ian, Makkai and Patterson. 1992 “Informal Voting in the 1987 and 1990 Australian Federal Elections”. Canberra: Australian Government Printer

Milbrath, L and Goel, M. 1977. “Political Participation – How and Why Do people Get Involved in Politics”. Chicago. Rand McNally College Publishing.

Smith, Lindsay “Compulsory Voting – A Comparative Approach”. Mitchell College of Advanced education, Administrative and political Sciences Research papers.

Wolfinger, R and Rosenstone S. 1980 “Who Votes”. New Haven. Yale University Press

# ELECTORAL backgrounder No. 15

## ELECTORAL ADVERTISING

### Introduction

1. Electoral Backgrounders are published by the Australian Electoral Commission (AEC) to provide a basic introduction to electoral law, policy and procedures for the information and guidance of all interested parties.

2. The view of the operation of the law presented here is consistent with advice provided to the AEC by the Office of the Commonwealth Director of Public Prosecutions (DPP), but in the final analysis it is for the courts to decide upon the interpretation of the law in any particular case.

3. This Electoral Backgrounder provides a basic introduction to electoral advertising. This Electoral Backgrounder discusses:

- the intent of the law;
- authorisation of electoral advertising;
- headings to electoral advertisements;
- misleading and deceptive electoral advertisements;
- second preference how-to-vote cards;
- truth in political advertising;
- defamation of candidates;
- electronic media blackout;
- political advertising bans; and
- prosecution of electoral advertising offences.

4. The electoral advertising provisions in the *Commonwealth Electoral Act 1918* (the Electoral Act) are reproduced at the end of this publication for reference purposes, and the full text of the Electoral Act is available on the AEC website at [www.aec.gov.au](http://www.aec.gov.au).

5. Anybody who has a concern about electoral advertisements should read this Electoral Backgrounder first. Anyone who is in doubt about the interpretation of the law in particular circumstances should consult the exact provisions of the Electoral Act and/or seek their own legal advice.

### Intent of the law

6. Federal elections are conducted by the AEC under the provisions of the Electoral Act.

7. The Federal Parliament has determined that the Electoral Act should not regulate the content of political messages contained in electoral advertising, rather, the intent of the Electoral Act is to ensure electors are informed about the source of political advertising, and to ensure that political advertising does not mislead or deceive electors about the way in which a vote must be cast.

8. Accordingly, the AEC has no role or responsibility in deciding whether political messages published or broadcast in relation to a federal election are true or untrue. However, the AEC does have a role in ensuring, to the extent possible, that electoral advertisements are properly authorised so that electors can know who is responsible for the statements contained in them.

### Authorisation of Electoral Advertisements

9. Section 328(1) of the Electoral Act requires electoral advertisements to include the name and address of the

---

*Electoral Backgrounders are published for the general information of AEC staff and people interested in electoral issues. Electoral Backgrounders present and analyse the issues on various topics, but do not promote a particular position or represent legal advice, and should not be relied upon as such. Anyone requiring legal advice should consult their own legal advisers.*

**Please note that this updated publication replaces Electoral Backgrounder no. 12.**

**2004 No.15 published August 2004**

**ISSN No. 1440 - 8007**

person who authorised the advertisement and the name and place of business of the printer at the end. This ensures that anonymity does not become a protective shield for irresponsible or defamatory statements. Electoral advertisements must be authorised at all times, and not just during the election period.

10. Section 328(1A) of the Electoral Act requires that all electoral video recordings contain the name and address of the person authorising the video recording at the end of the recording.

11. An “electoral advertisement” is defined in section 328(5) of the Electoral Act as any advertisement, handbill, pamphlet, poster or notice that contains electoral matter. In section 4(1) of the Electoral Act, “electoral matter” is defined as matter intended or likely to affect voting in an election. Section 4(9) of the Electoral Act further defines “electoral matter” to include any express or implicit reference to, or comment on: the election; the Government; the Opposition; a political party or candidate; or any issue submitted to, or otherwise before, the electors in connection with the election. That is, the term “electoral matter” has a very wide application.

12. The term “address”, in relation to the person who authorises electoral advertisements, is defined in section 328(5) of the Electoral Act as an address, including a full street address and suburb or locality at which the person can usually be contacted during the day. It does not include a post office box. This means that the address of the person who authorised the electoral advertisement must include the street number as well as the street name and suburb or locality. The address does not have to be a residential address.

13. Sections 328(3) and (5) of the Electoral Act provide certain exceptions to the usual authorisation requirements. The following electoral advertisements do not require an authorisation and printer details: electoral advertisements in newspapers announcing the holding of a meeting; electoral advertisements on T-shirts, lapel buttons and badges, pens, pencils, and balloons; and business cards that promote a candidate, or letters and cards that already bear the name and address of the sender (and do not contain a representation of a ballot-paper).

14. This means that, for example, letters to constituents from Members of Parliament or business cards from candidates do not require the person who authorised and printer details if they already contain the name and address of the person responsible. On the other hand, other ephemeral publications such as stickers, fridge magnets, wine bottle labels, and cinema slides, for

example, that contain electoral advertisements, do require the name and address of the person who authorised the electoral advertisement and the name and place of business of the printer to be included.

15. With respect to newspaper advertising, although section 328(1)(a) requires electoral advertisements in newspapers to contain the name and address of the person who authorised the electoral advertisement, section 328(1)(b) makes it clear that the name and place of business of the printer is not required at the end of an advertisement in a newspaper. Sections 328(1AB) and (1AC) make it an offence to print, publish or distribute, or cause, permit or authorise the printing, publication and distribution, of electoral advertisements that take up the whole or part of each of two opposing pages of a newspaper, without including the name and address (not being a post office box number) of the person who authorised the electoral advertisement at the end of both pages, except in specific circumstances relating to the layout of the advertisement.

16. Section 328(2) provides that the maximum penalty for a contravention of section 328(1), (1A) or (1AB) of the Electoral Act is a fine not exceeding \$1,000 for a person, or a fine not exceeding \$5,000 for a body corporate.

17. In those circumstances where material has already been produced without the appropriate authorising information, and it would be expensive to discard the production run, the AEC recommends that additional material, containing the authorising information, be printed and attached to render the advertisement legal.

18. The application of section 328 of the Electoral Act to the electronic publication of electoral advertising on the Internet has not yet been considered by the courts. However, the AEC’s policy is that electoral advertising on the Internet should include the identification of those responsible for the material, in the same terms as prescribed by the Electoral Act.

## **Heading to Electoral Advertisements**

19. Electoral advertisements in journals such as newspapers, magazines and other periodicals, whether published for sale or for distribution without charge, must contain an identifying heading. Section 331 of the Electoral Act requires the proprietor of a journal to cause the word “advertisement” to be printed as a headline to the advertisement, in letters not smaller than 10 point. Other special requirements apply to large advertisements spread across two opposing pages of a journal (see paragraph 15 above).

20. Similarly to section 328 of the Electoral Act, section 331 is in force at all times, and not just during the election period. The maximum penalty for a contravention is five penalty units. (A single penalty unit is equivalent to \$110 under section 4AA of the *Crimes Act 1914*.)

21. There is no requirement for the identification of the authors of “letters to the editor” in newspapers and journals. Similarly, there is no law requiring the identification of talkback radio callers during an election period.

### **Misleading or Deceptive Electoral Advertisements**

22. At elections for the House of Representatives and the Senate, electors generally rely on official AEC publications and broadcasts for information on when and where to vote, and for guidance on how to fill out their ballot papers correctly, so as to cast a formal vote. AEC publications and broadcasts also provide advice on how to cast a full preferential vote, by numbering all the squares on the House of Representatives ballot paper, and “below the line” on the Senate ballot paper, or by casting a group ticket vote “above the line” for the Senate.

23. Political parties and candidates, and other interested individuals and organisations also produce electoral advertising during an election campaign to assist voters in choosing their preferred candidates when casting a vote. The print versions of such electoral advertising will usually take the form of how-to-vote (HTV) cards, which demonstrate how voters should number their preferences against each candidate on the ballot paper so as to ensure the election of the most favoured candidate or group of candidates.

24. Voters are not required to follow HTV cards. The order in which preferences are placed against candidates on the ballot paper is a decision for the voter alone, in the privacy of the voting compartment, in accordance with the principle of the secret ballot.

25. Although the AEC has no role in regulating the political content of electoral advertising, the AEC is responsible for ensuring, as far as possible, that electoral advertising does not mislead or deceive voters about the way in which they must cast their vote. For example, HTV cards should not advocate optional preferential voting, because the Electoral Act clearly requires full preferential voting, and ballot papers marked incompletely are informal and unable to be counted.

26. Section 329(1) of the Electoral Act makes it an offence to print, publish or distribute, or cause, permit or

authorise to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote. Unlike the authorisation requirement in section 328, which only applies to printed matter, section 329 applies not only to printed matter but also to electoral advertisements broadcast on radio or television. Section 329(5) provides that in a prosecution of an offender it is a defence if it is proved that the person did not know, and could not reasonably be expected to have known, that the matter or thing was likely to mislead an elector in relation to the casting of a vote.

27. Section 329(1) is in force only during the formal election campaign, that is the “relevant period” which is defined in section 322 of the Electoral Act as the period commencing on the issue of the writ for the election and expiring at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election. The maximum penalty for a contravention of section 329(1) is a fine not exceeding \$1,000 or imprisonment for a period not exceeding six months, or both, for a person; or a fine not exceeding \$5,000 for a body corporate.

28. The intention of section 329(1) of the Electoral Act is not to regulate the content of political messages directed at influencing the choice of preferred candidates or political parties by voters, but to regulate publications and broadcasts that are directed at influencing the way in which the ballot paper is actually marked. This distinction was upheld by the High Court of Australia in 1981, in the leading case on section 329(1) of the Electoral Act, *Evans v Crichton-Browne (1981) 147 CLR 169*.

29. In this case, the provision in question was section 161 of the Electoral Act, the relevant part of which was re-numbered as section 329(1) in 1984, so that the following conclusion of the court is equally applicable to section 329(1) as it stands today:

*the words in s. 161(e) “in or in relation to the casting of his vote” refer to the act of recording or expressing the elector’s political judgement, e.g in obtaining and marking a ballot paper and depositing it in the ballot box, and not to the formation of that judgement.*

30. This means that the AEC has no role or responsibility in handling complaints about allegedly untrue statements in published or broadcast electoral advertisements that are intended to influence the judgement of voters about who they should vote for.

31. In coming to its conclusion in *Evans v Crichton-*

*Browne*, the High Court indicated that it will be reluctant to find that the offence provisions of the Electoral Act infringe on conduct that is more appropriately covered by the political process:

*But even if the paragraph were thought to apply only to those statements affecting a voter's choice of candidate which appear to be statements of fact, that construction would require an election campaign to be conducted in anticipation of proceedings brought to test the truth or correctness of any statement made in the campaign. Indeed any person who published an electoral advertisement containing an incorrect statement of fact might be exposed to criminal proceedings. In a campaign ranging over a wide variety of matters, many of the issues canvassed are likely to be unsuited to resolution in legal proceedings; and a court should not attribute to Parliament an intention to expose election issues to the potential requirement of legal proof in the absence of clear words.*

32. Complaints that do fall within the scope of section 329(1) of the Electoral Act are those that relate to electoral publications and broadcasts that are likely to mislead or deceive an elector in relation to the actual casting of a vote, such as marking the ballot paper and depositing it in the ballot box.

33. The application of section 329 of the Electoral Act to the electronic publication of electoral advertising on the Internet has not yet been considered by the courts. However, the AEC considers that section 329 of the Electoral Act does apply to electoral advertising on the Internet.

## **Second Preference How-to-Vote Cards**

34. In recent parliamentary elections How-to-vote cards (HTV cards) known as "second preference" HTV cards have been printed, published and distributed. These are HTV cards in which a party (usually a major party) recommends a first preference vote for a candidate of another party (usually a minor party) while recommending its own candidate as the second preference (or at least a preference higher than other major parties). These HTV cards are actually authorised by the originating (usually major) political party, although they sometimes appear, due to their heading, colour and general layout, similar to the "official" HTV card of the party endorsing the candidate recommended as the first preference. A party which puts out a second preference HTV card may also put out its own "official" HTV card recommending a first preference vote for its own endorsed candidate.

35. The political strategy involved in major political parties issuing "second preference" HTV cards is to capture the second or later preferences ahead of other major political parties after the minor political party candidate or independent candidate is eliminated from the count. The concern is that voters might be misled into believing that these "second preference" HTV cards are the official HTV cards for the minor political party or independent candidate shown as the first preference.

36. On the basis of relevant decisions handed down by the courts over the years, second preference HTV cards would probably be held by a court to be in contravention of section 329(1) of the Electoral Act, if they were very similar in appearance to the official HTV card for another political party or independent candidate. This might mislead a voter into thinking it is the official HTV card and thereby mislead the voter in casting a vote. The case law relevant to whether second preference HTV cards contravene the Electoral Act as misleading and deceptive is: *Bray v Walsh (1976) 15 SASR 293*; *Evans v Crichton-Browne (1981) 147 CLR 169*; *Webster v Deahm (1993) 116 ALR 222*, and *Re Carroll v Electoral Commission of Qld [1998] QSC 190* (known as the Mansfield decision).

37. In *Bray v Walsh* Mr Bray was prosecuted in 1976 for an offence similar to the offence that now exists under section 329(1) of the Electoral Act. The Liberal Movement had printed and distributed HTV cards, which gave first preference to the Liberal Movement and second preference to candidate "X". Mr Bray printed and distributed HTV cards that stated "How to vote L M Liberal Movement in Sturt - keep Fraser out" which gave the first preference to the Liberal Movement and the second preference to candidate "Y". Mr Bray's HTV cards looked very similar to the official Liberal Movement HTV cards. Both HTV cards were printed in similar colours and the letters "LM" were in the same distinctive and unusual print. The words "How to vote LM Liberal Movement in Sturt" appeared on both cards.

38. Justice Mitchell of the South Australian Supreme Court concluded that a person who had already seen an official Liberal Movement HTV card might well have been sufficiently influenced by the similarity of the cards to believe that Mr Bray's HTV card was produced by the Liberal Movement. An elector might be misled into voting preferentially along the lines advocated by the Bray HTV card. Accordingly, Mr Bray was convicted under the then s.161(d) of the Electoral Act (now section 329) of printing, publishing and distributing a handbill "having thereon any directions intended or likely to mislead an elector in relation to the casting of his vote".

39. In *Evans v Crichton-Browne* in 1981, the High Court held that the words “in or in relation to the casting of his vote” in the then section 161(e) of the Electoral Act (now section 329) refer to the act of recording or expressing the elector’s political judgment in obtaining and marking a ballot paper and depositing it in the ballot box, and not to the formation of that judgment. An erroneous statement about the operating hours of the polling booth so that an elector missed out on the opportunity to vote would be a misleading statement in or in relation to the casting of an elector’s vote. Misleading political advertising aimed at persuading an elector to form a judgement to vote for a particular candidate or party would not fall within section 161(e) because it did not mislead in relation to the actual casting of a vote.

40. However, the High Court also said that a statement that a person who wished to support a particular party should vote for a particular candidate, when that candidate in fact belonged to a rival party, might mislead or interfere with an elector in the casting of his vote.

41. In *Webster v Deahm* in 1993, Justice Gaudron of the High Court, sitting as the Court of Disputed Returns, heard a petition by the unsuccessful Liberal Party candidate, Mr Webster, disputing the election of Ms Deahm of the ALP to the House of Representatives Division of Macquarie in the March 1993 federal election. The eighth allegation in Mr Webster’s petition was that a document entitled “Thinking of Voting Democrat?...Vote Maggie Deahm” breached section 329(1) of the Electoral Act. Mr Webster alleged that the size and colour of the document was the same as the Democrat’s HTV card and as a result voters were likely to vote for Ms Deahm, thinking they were voting for the Democrat candidate. The HTV card appeared as follows:

***THINKING OF VOTING DEMOCRAT?***

***If you’re casting your No 1 Vote***

***for the Democrat candidate,***

***be sure to give your No 2 Vote***

***to the Labor Candidate.***

***Maggie Deahm***

***Number all squares.***

***Your preferences will count.***

***Maggie Deahm will stop the GST***

42. Justice Gaudron dismissed the eighth allegation that the HTV card was misleading, in the following terms:

*when read as a whole, the document clearly could only influence the formation of a judgment as to the candidate who should receive the elector’s second vote;*

*it was held in Evans v Crichton-Browne that s161(e) of the Act, as it then stood, referred ‘to the act of recording or expressing the political judgment which the elector has made rather than the formation of that judgment’. That decision was based on the ordinary meaning of the words ‘the casting of his vote’ as used in s161(e). Section 329(1) repeats the substance of s161(e) and, more significantly, the words on which the decision in Evans v Crichton-Browne was based;*

*and even if given only a cursory glance, the document in this case could not have been mistaken for a how-to-vote card, whether for the Democrat candidate or anyone else... thus it could not have affected the casting of a vote in any manner amounting to a contravention of s329(1) of the Act.*

43. Justice Gaudron followed the principle laid down in the *Evans v Crichton-Browne* case. It appears, that, on the facts, Justice Gaudron considered that the Deahm document was electoral advertising aimed at persuading an elector to vote for Deahm and did not breach section 329(1) because it did not mislead in relation to the actual casting of the vote, by, for example, suggesting that the Australian Democrats Party recommended that its supporters give Ms Deahm their second preference.

44. In the Mansfield State election decision in 1998, Justice Mackenzie of the Queensland Supreme Court decided that under the terms of the Electoral Act 1992 (Qld), the distribution of second preference ALP HTV cards headed “Thinking of voting One Nation...?” did not of itself mislead or deceive voters. Further, Justice Mackenzie decided that, even though in a number of instances there were deliberate attempts by polling booth workers to represent the ALP second preference HTV cards as the official One Nation HTV card, this still did not contravene the principle laid down by the High Court in *Evans v Crichton-Browne*, because there was no evidence that these HTV cards had actually mislead voters in marking their ballot papers.

45. In summary, particular circumstances will vary, but if a second preference HTV card is “likely to mislead or deceive an elector in relation to the casting of a vote”, the person who printed, published, distributed, caused, permitted or authorised the printing, publishing or distribution might have committed an offence under section 329(1) of the Electoral Act. It should be noted that section 351 of the Electoral Act, which relates to the publication of matter regarding candidates, might also apply to first preference recommendations for one

political party candidate in second preference HTV cards issued by another political party.

### **Truth in Political Advertising**

46. There have been a number of parliamentary inquiries into whether truth in political advertising should be required by law, and the conclusion has consistently been that such legislation would be neither practical nor advisable, particularly in light of the finding by the High Court of an implied doctrine of freedom of political communication, or “free speech”, in the Australian Constitution (see discussion on political advertising bans below).

47. Following the 1983 First Report of the parliamentary Joint Select Committee on Electoral Reform, major reforms to the Electoral Act were enacted by the *Commonwealth Electoral Legislation Amendment Act 1983*. Among the amendments was the insertion of section 329(2), which expressly prohibited “untrue” electoral advertising.

48. In August 1984 the Second Report of the Joint Select Committee on Electoral Reform recommended the repeal of section 329(2), and the repeal was effected by the *Commonwealth Electoral Legislation Amendment Act 1984* before the 1984 federal election. The reasons the Committee gave in 1984 for recommending the repeal of the offence of publishing or broadcasting “untrue” electoral advertising are still instructive:

*While everyone agrees that fair advertising is a desirable objective, the Committee concludes that it is not possible to achieve ‘fairness’ by legislation.*

*Political advertising differs from other forms of advertising in that it promotes intangibles, ideas, policies and images. Moreover, political advertising during an election period may well involve vigorous controversies over the policies of opposing parties.*

*In implementing the recommendations contained in the Committee’s first report, the Government also amended the then s.161 to prohibit untrue advertising. The Committee has noted the concern expressed by broadcasters and publishers on the inhibiting effect this would have on political advertising...*

*... the Committee concludes that even though fair advertising is desirable it is not possible to control political advertising by legislation. As a result, the Committee concludes that s.329(2) should be repealed. In its present broad scope the section is unworkable and any amendments to it would be either ineffective, or would reduce its scope to such an extent that it would not prevent dishonest advertising. The safest course, which*

*the Committee recommends, is to repeal the section effectively leaving the decision as to whether political advertising is true or false to the electors and to the law of defamation.*

49. In 1993, the Joint Standing Committee on Electoral Matters (JSCEM) considered the re-introduction of the offence of “untrue” electoral advertising, but its report entitled “The 1993 Federal Election” reached the following conclusion (with non-government members dissenting):

*While several submissions to the 1993 election Inquiry debated the issue of ‘truth’ in political advertising, none provided an argument to convince a majority of the Committee that legislation would be more workable now than when subsection 329(2) was repealed in 1984.*

*As such, the Committee still believes that legislation cannot sensibly regulate the assertions that are the essence of an election campaign. Voters, using whatever assistance they see fit from the media and other sources, remain the most appropriate arbiters of the worth of political claims.*

*The Committee is also of the view that it would be entirely inappropriate for the AEC to be made responsible for the administration of truth-in-advertising legislation. Any decision the AEC could make in a truth-in-advertising case would inevitably lead to perceptions that its political neutrality had been compromised.*

50. In 1996, the JSCEM again considered the re-introduction of the offence of “untrue” electoral advertising, and in its 1997 report entitled “The 1996 Federal Election”, concluded that a limited prohibition might be possible:

*This Committee agrees with its predecessors that the old section 329(2) is not the proper mechanism for enforcing ‘truth’ in political advertising. Adding to the limitations identified in 1984 by the Joint Select Committee is the subsequent discovery of the implied constitutional freedom of political discussion...*

*While it is not feasible to regulate assertions about the impact of a party’s policies, this does not excuse deliberate misrepresentations of what a candidate’s or party’s stated policies actually are, or other distortions of straightforward matters of fact. If some of the misleading statements made during elections were instead made in private enterprise, the perpetrators would most likely find themselves prosecuted under the Trade Practices Act. There is no valid reason for not applying similar principles to the factual content of*

*election advertising.*

51. The 1997 JSCEM Report then went on to recommend the adoption of section 113 of the *South Australian Electoral Act 1985* which prohibits electoral advertising containing a purported statement of fact which is misleading and inaccurate to a material extent. However, in the Government Response to the 1997 JSCEM report, tabled in Parliament on 8 April 1998, the recommendation was rejected:

*Not supported. The Government firmly believes that political advertising should be truthful in its content. However, any legislation introduced to enforce this principle would be difficult to enforce and could be open to challenge.*

*Previous Committees have found that it was not possible to legislate to control political advertising and that voters, using whatever assistance they see fit from the media and other sources, remain the most appropriate arbiters of the worth of political claims.*

52. JSCEM reports following its inquiries into the conduct of the 1998 and 2001 elections considered the question of truth in advertising but did not recommend the implementation of truth in advertising provisions for the Electoral Act.

53. In summary, there is no requirement under the Electoral Act for the content of electoral advertising to be either true or factually correct, other than in relation to the means by which a vote is actually to be cast, and in accordance with the law of defamation where applicable.

54. Complaints about the truthfulness of electoral advertising that were broadcast on television used to be made to the Federation of Australian Commercial Television Stations (FACTS), which was prepared to investigate and make a ruling on whether the facts alleged in an advertisement were true or false, and recommend whether the advertisement should continue to be broadcast.

55. There is a reference to the change in FACTS's role in the JSCEM Report on its Inquiry into the 2001 federal election (see paragraphs 3.123 - 3.125). The report can be found at [www.aph.gov.au/house/committee](http://www.aph.gov.au/house/committee)

56. Free TV (formerly FACTS) reviews election advertisements prior to broadcast by commercial television stations for the purpose of:

- classifying the advertisement under the

Commercial Television Industry Code of Practice;

- ensuring the advertisement includes the authorisation tag required by the Broadcasting Services Act (Clause 4 of Part 2 of Schedule 2) and complies with other requirements on broadcasters under applicable Electoral Acts (Commonwealth, State or Territory); and
- protecting broadcasters from liability for publishing defamatory material.

57. The party or candidate authorising the advertisement is expected to ensure that the advertisement complies with all relevant laws including the applicable Electoral Act and the laws of defamation.

### **Defamation of Candidates**

58. Section 350(1) of the Electoral Act makes it an offence to make or publish any false and defamatory statement in relation to the person, character, or conduct of a candidate. It should be noted that Section 350(1A) provides that it is a defence to a prosecution for defamation if the defendant proves that he or she had reasonable ground for believing and did in fact believe the statement to be true. The penalty for the offence is \$1,000 or imprisonment for 6 months or both.

59. Aggrieved candidates have a special right under section 350(2) of the Electoral Act to seek an injunction restraining any person, who makes a false and defamatory statement in relation to the personal conduct of a candidate in contravention of section 350(1), from repeating the statement or any similar false and defamatory statement.

60. Aggrieved candidates are also entitled to seek redress under the common law of defamation.

61. If candidates believe they have been defamed by statements made in electoral advertising, then the AEC recommends that they pursue their own action against those responsible, either under the common law of defamation or under section 350 of the Electoral Act. The AEC does not initiate action on behalf of candidates. Candidates are in a better position to know the truth of statements made against them than the AEC.

### **Electronic Media Blackout**

62. Under Schedule 2 of the *Broadcasting Services Act 1922*, which is administered by the Australian Broadcasting Authority (ABA), there is an election advertising blackout on all electronic media from

midnight on the Wednesday before polling to the end of polling on the Saturday. This three-day blackout effectively provides a “cooling off” period in the lead up to polling day, during which political parties, candidates and others are no longer able to purchase time on television and radio to broadcast political advertising.

63. The electronic media blackout provisions, and other provisions relating to the broadcasting of “political matter” are administered by the Codes and Conditions Section of the Australian Broadcasting Authority on ph: 02 9334 7700.

### **Political advertising bans**

64. Apart from the electronic media blackout prior to polling day, there are a number of existing restrictions on political advertising during federal election periods. These include the common law of defamation and section 350 of the Electoral Act, also various other offences in Part XXI of the Electoral Act, some of which have been discussed above.

65. These statutory limits on the way in which political parties, candidates and other interested organisations and individuals may deliver their political messages have been in existence for a number of years, and generally operate to ensure that voters are not unduly pressured or misinformed when they are deciding their voting preferences at the ballot box, and, to the extent possible, that there is a level playing field for all candidates competing at the election.

66. However, concerns have been expressed over the years about the quantity and quality of political advertising on television and radio during federal election periods. It has been argued that electronic political advertising should be banned because the large expenditure required to mount such advertising campaigns can only be afforded by the major political parties. Minor political parties and independent candidates are therefore excluded from access to these powerful advertising media and cannot get their messages across to the voters as efficiently. This is said to result in a distortion of the democratic process.

67. The major political parties are able to meet the costs of electronic advertising because of the financial support provided by corporate donors, industrial unions, and other significant individual donors. There has been a perception that the provision of such private funding, particularly when it is anonymous, carries expectations of special favours being awarded when and if government is won. Finally, it has been

argued that political advertising on television and radio is generally negative and uninformative, and debases the democratic process, because it relies on commercial advertising techniques that do not provide responsible factual information about the issues before the electorate.

68. On the other hand, it has been argued that however questionable the standards of political advertising on television and radio may be, voters should be trusted to decide whether such advertising is worthy of their attention, or not entirely truthful or responsible, and to pronounce their verdict at the ballot box. It should not be for the Parliament to decide what voters are permitted to see and hear during election campaigns, by attempting to restrict freedom of political discussion. It may be that many voters decide not to give their vote to any party organisation or candidate responsible for distorted or irresponsible advertising.

69. Further, it has been argued that the potentially corrupting effects of large corporate donations to support political advertising are ameliorated by the requirement under the Electoral Act for the public disclosure of the sources of such financial donations, and the ability of the AEC to audit political party records at will. Transparency is further encouraged by the provision of public funding for political campaigns, which to some degree provides a basis from which the minor political parties and independent candidates can fund their campaigning. In other words, political discussion should flow freely, but under the spotlight of full public disclosure of the sources of corporate donations.

70. In June 1989, the JSCEM tabled its Report No 4, entitled “Who pays the piper calls the tune”, on minimising the risks of private funding of political campaigns. The JSCEM examined the rising costs of political advertising and the increasing gap between public funding for elections and the amounts that political parties and candidates needed to find to fund their media advertising, particularly on radio and television. The JSCEM said that: “The ability to buy television and radio advertising should not and must not play a determining part in federal elections”.

71. The JSCEM concluded that the high cost of advertising on television was placing increasing pressures on Australian political parties and candidates to become dependent on corporate funding. This dependence carried the risk of corporate interests bringing undue influence to bear on the federal political agenda. In its examination of the problem, the JSCEM

looked at the possibility of legislating for a complete ban on all political advertising, but rejected such an option in the following terms:

*While some viewers might support a complete ban on political advertising it would have a direct effect on freedom of speech by reducing opportunities for discussion during election periods when voters are determining the candidate or party they wish to support.*

*Most witnesses disagreed with a complete ban on political advertising, claiming that it would have an adverse effect on freedom of speech and in particular would disadvantage citizens and groups who wished to bring issues before the electorate. The beneficiaries of a complete ban would be the existing major parties.*

72. The JSCEM decided instead to recommend a “carrot and stick” approach to the problems raised by corporate donations to political campaigns: the provision of free time by all electronic broadcasters to political parties, and an extension of the requirements for disclosure of political donations.

73. In May 1991, the Government introduced a Bill in Parliament to regulate financial donations to political parties. However, the Bill departed significantly from the recommendations of the 1989 JSCEM Report. While retaining the “stick” of full disclosure of political donations, the Government decided against the “carrot” of free time, and instead opted for another “stick”, a complete ban on political advertising. The Democrats then moved an amendment to the Bill in the Senate so that it also provided for free time on the ABC, SBS and the three commercial channels. On 3 January 1992 the *Political Broadcasts and Political Disclosures Act 1991* came into force. This Act amended the Electoral Act with respect to election funding and disclosure, and amended Part IIID of the *Broadcasting Act 1942* to ban political advertising at all parliamentary elections.

74. The amending Act provided for a “talking head, no frills” approach to free broadcasting for political parties, with television stations being required to provide six minutes a day free time to parties and candidates for federal elections, and four minutes a day for State elections. The block broadcasts were to be run across all television stations and on ABC radio at times set by the Australian Broadcasting Tribunal, thereby effectively preventing parties and candidates from targeting specific audiences. Registered parties were to share the free time under a formula that gave the Government and the Opposition 40 per cent each,

the Democrats 10 per cent, with the rest of the time going to other candidates. The ban also applied to all government advertising for three months before polling day.

75. It was not long before the constitutional and operational problems with the legislation came dramatically into focus with the advent in early 1992 of the New South Wales by-election in the Entrance, the Tasmanian State election, and the Australian Capital Territory Legislative Assembly election. With the Australian Broadcasting Tribunal being obliged under the legislation to order the removal of political advertisements from the airwaves, a gathering number of academic, legal, community and commercial interests began to express their dissatisfaction with the law.

76. Commercial television interests combined to mount a constitutional challenge to the legislation in the High Court of Australia. In August 1992, in the *Political Broadcasts* case, Part IIID of the *Broadcasting Act 1942*, which was inserted by the *Political Broadcasts and Political Disclosures Act 1991*, was struck down by the High Court as unconstitutional. (*Australian Capital Television Pty Ltd v Commonwealth (1992) 177 CLR 106*)

77. Six of the seven Justices of the High Court held that there was a freedom of political communication in relation to political matters inherent in the Constitution. The Constitution is predicated on representative government, and freedom of communication is essential to that system. All of the Justices who recognised an implied freedom also recognised that the freedom was not absolute and could be restricted to the extent that other legitimate public interests required. They held that control of the use of the media for political advertising could be valid in some circumstances. However, five of the Justices found that Part IIID of the *Broadcasting Act 1942* went beyond a justifiable restriction of the freedom.

78. Some of the factors considered significant were as follows: the legislation denied access to the most important media for election campaigning; it allocated free time in a manner that was weighted heavily in favour of incumbents; the operation of the regime depended upon the making of regulations at the discretion of the executive government; persons other than candidates and political parties were completely excluded from use of the electronic media; the periods when the ban could operate were very frequent; and the exception of news and current affairs programs added to the power of those programs and did not provide any right of reply to what was said on those programs.

79. The second “free speech” case decided by the High Court at the same time, the *Nationwide News* case, was based on a provision of the *Industrial Relations Act 1988* that made it an offence to use words calculated to bring a member of the Industrial Relations Commission into disrepute. The High Court held unanimously that this provision was wholly invalid, finding that it effectively prohibited reasonable, justifiable criticism of the Commission and therefore went further than was warranted by the public interest. (*Nationwide News Pty Ltd v Wills (1992) 177 CLR 1*)

80. The constitutional doctrine of “free speech” has since been developed by the High Court in a number of subsequent decisions which relate to the law of defamation, including the *Theophanous* case and the *Stephens* case in 1993, and the *Lange* case and the *Levy* case in 1997. In summary, in proposed legislation to change the law relating to the conduct of elections, the Parliament now exercises caution in ensuring that such amendments are not contrary to the implied right of freedom of political communication in the Constitution.

## Prosecution of Electoral Advertising Offences

81. In some instances where electoral advertising does not comply with the requirements of the Electoral Act, the form or content of the advertisement might nevertheless clearly indicate the identity of those responsible. In such cases, the AEC will draw the requirements of the Electoral Act to the attention of those responsible to ensure compliance with the law. Should there be repeat offences despite warnings from the AEC, the DPP would be asked to consider prosecution.

82. Where any of the electoral advertising provisions of the Electoral Act appear to have been contravened, the AEC may refer the matter to the Australian Federal Police for investigation, and a brief of evidence may be referred to the DPP for advice. The DPP using the Prosecution Policy of the Commonwealth, will then decide whether a prosecution against the alleged offender should be instituted.

83. The AEC has a protocol for the handling of these sorts of complaints during a federal election period and this has been provided to the political parties. A copy of the protocol is provided at the end of this Electoral Backgrounder.

## Conclusion

84. The AEC is able to assist organisations and individuals by informing them of the legislative requirements in relation to electoral advertising at federal elections. The AEC is not authorised to approve electoral advertisements for publication, and cannot

provide legal advice on whether a particular advertisement might be in breach of the Electoral Act.

85. To reiterate, anyone who is in doubt about the interpretation of the law in particular circumstances should consult the exact provisions of the Electoral Act and/or seek their own legal advice. Anyone who believes that the law governing electoral advertising should be changed might consider sending a submission to the Joint Standing Committee on Electoral Matters at Parliament House.

## AEC PUBLICATIONS

The AEC has available a number of publications for people interested in the electoral process including:

- *Electoral Pocketbook*: a concise hand book of electoral facts and statistics
- *2004 Electoral Boundaries Map*: map showing the geographic boundaries of the 150 electoral divisions
- *Nominations pamphlet*: key facts for people considering standing for election
- *Electoral Newsfile* series: editions are produced on various electoral events.
- *Candidates Handbook*: a handbook to assist candidates standing for election to the Senate and House of Representatives.
- *Scrutineer's Handbook*: an information handbook for scrutineers at federal elections and referendums.
- *Election Funding and Financial Disclosure Handbook*: a handbook of funding and disclosure requirements of candidates and political parties.

Copies of these and other publications are available from the AEC website, by phoning 13 23 26 or at your local Divisional Office.

## MEDIA LIAISON

Members of the media are asked to use the Media Liaison contact numbers listed rather than the general enquiry number 13 23 26 which appears on AEC advertising.

Assistant Commissioner,  
Public Awareness, Media and Research  
Brien Hallett (02) 6271 4477

Director  
Media and Communication  
Phil Diak (02) 6271 4415

## ENDNOTES

Parliamentary reports that deal with the subject of electoral advertising may be accessed through any major public library, or the relevant internet site. For JSCEM reports, contact the JSCEM through the Australian Parliament internet site ([www.aph.gov.au](http://www.aph.gov.au)):

- Joint Select Committee on Electoral Reform, “First Report”, Parliament of Australia, 1983.
- Joint Select Committee on Electoral Reform, “Second Report”, Parliament of Australia, 1984.
- Joint Standing Committee on Electoral Matters, “Who pays the piper calls the tune - minimising the risks of funding political campaigns”, Report No 4, Parliament of Australia, August 1989.
- Senate Select Committee on Political Broadcasts and Political Disclosures, “The Political Broadcasts and Political Disclosures Bill 1991”, Parliament of Australia, November 1991.
- Joint Standing Committee on Electoral Matters, “The 1993 Federal Election”, Parliament of Australia, November 1994.
- Queensland Legal, Constitutional and Administrative Review Committee, “Truth in Political Advertising”, Queensland Legislative Assembly, December 1996.
- Joint Standing Committee on Electoral Matters, “The 1996 Federal Election”, Parliament of Australia, June 1997.
- Joint Standing Committee on Electoral Matters, “The 1998 Federal Election”, Parliament of Australia, June 2000.
- Joint Standing Committee on Electoral Matters, “The 2001 Federal Election”, Parliament of Australia, June 2003.

The major AEC submission to the Joint Standing Committee on Electoral Matters dealing with the subject of “truth in political advertising”, No 109 of 14 November 1996, can be accessed on the AEC Internet site ([www.aec.gov.au](http://www.aec.gov.au)).

Court decisions dealing with the subject of electoral advertising and “free speech” may be accessed through any major public library, or the Australasian Legal Information Institute Internet site ([www.austlii.edu.au](http://www.austlii.edu.au)):

- *Bray v Walsh (1976) 15 SASR 293*
- *Evans v Crichton-Browne (1981) 147 CLR 169*
- *Webster v Deahm (1993) 116 ALR 222*

- *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106
- *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1
- *Theophanous v The Herald and Weekly Times* (1994) 182 CLR 104
- *Stephens v West Australian Newspapers Ltd* (1994) 182 CLR 211
- *Lange v Australian Broadcasting Corporation* (1997) 71 ALJR 818
- *Levy v Victoria* (1997) 71 ALJR 837

The *Commonwealth Electoral Act 1918* can be purchased over the counter in major cities, or accessed through any major public library, or the AEC website ([www.aec.gov.au](http://www.aec.gov.au)). For over the counter or mail order sales, check on the Scaleplus website ([scaleplus.law.gov.au](http://scaleplus.law.gov.au)) under “legislation sales”. Alternatively, ring the Attorney-General’s Department (02 6250 6666) for up to date advice on over the counter sales.

## **Relevant provisions of the *Commonwealth Electoral Act 1918* (Cth)**

The following relevant provisions on electoral advertising in the *Commonwealth Electoral Act 1918*, are extracted for the convenience of readers. The extracted law is current at 18 August 2004. In some instances, emphasis has been added to keywords of particular relevance.

### **4 Interpretation**

(1) In this Act unless the contrary intention appears:

...***electoral matter*** means matter which is intended or likely to affect voting in an election

(9) Without limiting the generality of the definition of ***electoral matter*** in subsection (1), matter shall be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

- (a) the election;
- (b) the Government, the Opposition, a previous Government or a previous Opposition;
- (c) the Government or Opposition, or a previous Government or Opposition, of a State or Territory;
- (d) a member or former member of the Parliament of the Commonwealth or a State or of the legislature of a Territory;
- (e) a political party, a branch or division of a political party or a candidate or group of candidates in the election; or
- (f) an issue submitted to, or otherwise before, the electors in connection with the election.

## Part XXI—Electoral offences

### 322 Interpretation

In this Part, *relevant period*, in relation to an election under this Act, means the period commencing on the issue of the writ for the election and expiring at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election.

### 328 Printing and publication of electoral advertisements, notices etc.

- (1) A person shall not print, publish or distribute or cause, permit or authorize to be printed, published or distributed, an electoral advertisement, handbill, pamphlet, poster or notice unless:
- (a) the name and address of the person who authorized the advertisement, handbill, pamphlet, poster or notice appears at the end thereof; and
  - (b) in the case of an electoral advertisement, handbill, pamphlet, poster or notice that is printed otherwise than in a newspaper—the name and place of business of the printer appears at the end thereof.
- (1A) A person must not produce, publish or distribute or cause, permit or authorise to be produced, published or distributed an electoral video recording unless the name and address of the person who authorised the video recording appears at the end of it.
- (1AB) Subject to subsection (1AC), a person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement that takes up the whole or part of each of 2 opposing pages of a newspaper unless, in addition to fulfilling the requirement under paragraph (1)(a) that the name and address of the person who authorised the electoral advertisement appear at the end of it, such name and address also appears on the other page, or the part of the other page, taken up by the electoral advertisement.
- (1AC) Subsection (1AB) does not apply to an advertisement of the kind referred to in that subsection:
- (a) that is contained within:
    - (i) a broken or unbroken border; or
    - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
    - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
  - (b) that is printed so that to read one or more lines of the text of the advertisement it is necessary to read across both pages.
- (2) A person who contravenes subsection (1), (1A) or (1AB) is guilty of an offence punishable on conviction:
- (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
  - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (3) Subsection (1) does not apply in relation to:
- (a) T-shirt, lapel button, lapel badge, pen, pencil or balloon; or

- (b) business or visiting cards that promote the candidacy of any person in an election for the Parliament; or
  - (c) letters and cards:
    - (i) that bear the name and address of the sender; and
    - (ii) that do not contain a representation or purported representation of a ballot paper for use in an election for the Parliament; or
  - (d) an article included in a prescribed class of articles.
- (4) Nothing in paragraph (3)(a), (b) or (c) is taken, by implication, to limit the generality of regulations that may be made by virtue of paragraph (3)(d).
- (5) In this section:

*address* of a person means an address, including a full street address and suburb or locality, at which the person can usually be contacted during the day. It does not include a post office box.

*electoral advertisement, handbill, pamphlet, poster or notice* means an advertisement, handbill, pamphlet, poster or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

*electoral video recording* means a video recording that contains electoral matter.

### **329 Misleading or deceptive publications etc.**

- (1) A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.
- (4) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:
- (a) if the offender is a natural person—by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both; or
  - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (5) In a prosecution of a person for an offence against subsection (4) by virtue of a contravention of subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the matter or thing was likely to mislead an elector in relation to the casting of a vote.

Note: A defendant bears a legal burden in relation to the defence in subsection (5) (see section 13.4 of the *Criminal Code*).

- (6) In this section, *publish* includes publish by radio or television.

### **331 Heading to electoral advertisements**

- (1) Subject to subsection (2), where an advertisement in a journal contains electoral matter (whether or not the advertisement was inserted for consideration) the proprietor of the journal must cause the word “advertisement” (in letters not smaller than 10 point) to be printed as a headline to the advertisement:
- (a) if the advertisement takes up one page or part of one page—on that page; or

- (b) if the advertisement takes up the whole or part of each of 2 opposing pages — on each page.

Penalty: 5 penalty units.

- (2) Where an advertisement of the kind referred to in subsection (1) that takes up the whole or part of each of 2 opposing pages of a journal:
- (a) is contained within:
- (i) a broken or unbroken border; or
  - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
  - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
- (b) is printed so that to read one or more lines of the text of the advertisement it is necessary to read across both pages; the proprietor of the journal must cause the word “advertisement” to be printed as a headline in letters not smaller than 10 point to the advertisement on one of the pages.

Penalty: \$500.

- (3) In this section:

*journal* means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

### **350 Defamation of candidate**

- (1) A person is guilty of an offence if the person makes or publishes any false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

- (1A) Subsection (1) does not apply if the person proves that he or she had a reasonable ground for believing, and did believe, the statement to be true.

Note: A defendant bears a legal burden in relation to the defence in subsection (1A) (see section 13.4 of the *Criminal Code*).

- (2) Any person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

### **351 Publication of matter regarding candidates**

- (1) If, in any matter announced or published by any person, or caused by any person to be announced or published, on behalf of any association, league, organization or other body of persons, it is:
- (a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or
  - (b) expressly or impliedly advocated or suggested:

- (i) in the case of an election of Senators for any State—that a voter should place in the square opposite the name of a candidate on a ballot paper a number not greater than the number of Senators to be elected; or
- (ii) in the case of an election of a Member of the House of Representatives—that that candidate is the candidate for whom the first preference vote should be given; that person shall be guilty of an offence.

Penalty:

- (a) if the offender is a natural person—\$1,000; or
- (b) if the offender is a body corporate—\$5,000.

(1A) Subsection (1) does not apply if the person proves that he or she is authorised in writing by the candidate to announce or publish the thing claimed, suggested or advocated.

Note: A defendant bears a legal burden in relation to the matter in subsection (1A) (see section 13.4 of the *Criminal Code*).

(2) Where any matter, the announcement or publication of which by any person without the written authority of a candidate would be an offence against subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, any association, league, organization or other body of persons, every person who was an officer thereof at the time of that announcement or publication shall be deemed to be guilty of an offence against subsection (1).

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, any association, league, organization or other body of persons, the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf, or with the support, of the association, league, organization or other body of persons.

Note: A defendant bears a legal burden in relation to proof to the contrary under subsection (3) (see section 13.4 of the *Criminal Code*).

(4) Nothing in the foregoing provisions of this section shall apply to or in relation to any announcement or publication made or authorized by any *bona fide* political party or by any *bona fide* branch thereof respecting a candidate who, by public announcement, has declared his or her candidature to be a candidature on behalf of or in the interests of that party.

(5) The person whose name and address appears at the end of any matter as the person who authorised the matter under section 328, in the absence of evidence to the contrary, is taken to have announced or published the matter, or caused it to be announced or published, for the purpose of this section.

Note: A defendant bears an evidential burden in relation to evidence to the contrary under subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

### **385A Evidence of authorship or authorisation of material**

(1) In proceedings for an offence against this Act:

- (a) an electoral advertisement, handbill, pamphlet, notice or video recording that includes a statement that it was authorised by a specified person is admissible as evidence of that fact; and
- (b) a printed electoral advertisement, handbill, pamphlet or notice that includes a

statement that a specified person or firm was the printer is admissible as evidence of that fact; and

- (c) a newspaper, circular, pamphlet or “dodger” containing an article, or part of an article, containing electoral matter that includes a name purporting to be the author’s name is admissible as evidence that the person named is the author of the article.

(2) In this section:

*article* means an article, report, letter or other matter to which section 332 applies.

*electoral advertisement, handbill, pamphlet or notice* and *electoral video recording* have the same meaning as in section 328.

## PROTOCOL FOR THE INVESTIGATION OF COMPLAINTS DURING A FEDERAL ELECTION REGARDING POSSIBLE BREACHES OF THE COMMONWEALTH ELECTORAL ACT 1918

The most common complaints received by the Australian Electoral Commission (AEC) at election time concern possible breaches of ss 328, 329 and 331 of the *Commonwealth Electoral Act 1918* (CEA).

Section 328 deals with the need to identify the person who takes responsibility for an electoral advertisement, section 329 covers the content of such advertisements where they may mislead or deceive the reader and section 331 places responsibilities on publishers to ensure that an advertisement is clearly that - an advertisement.

While this document relates to the process adopted by the AEC during investigations of complaints under these sections, in the course of those enquiries other matters may be disclosed warranting further consideration. In any event the following protocol will be applied.

### **The Protocol**

The AEC will exercise its discretion in the operation of this protocol, commensurate with its obligations under Part XXI of the CEA. (Part XXI deals with electoral offences.)

Information relevant to a complaint, allegation or investigation that is, or could become, subject to Part XXI proceedings, will not be provided to any person not directly involved with the matter.

Complaints must be made in writing addressed to the Electoral Commissioner and be accompanied by **original** examples of the material in question; e.g. a How-To-Vote card or other electoral advertisement. This provides the context for preliminary assessment of the advertisement and also enables it to be tendered in court if proceedings are undertaken at a later date. The complainant should also provide as much additional information as possible to enable assessment of the alleged breach.

If the AEC has any doubt as to whether the material contravenes the CEA, the material will be referred to the Commonwealth Director of Public Prosecutions for advice.

If on the DPP's advice the AEC forms a prima facie view that whilst s 328 may have been contravened, the material is attributable to a person who takes responsibility for its content and/or its printing, and if that person is prepared forthwith to withdraw it from circulation or amend it to comply with the legislation, no further action will be taken by the AEC. There is no public interest to be served by pursuing 'letter of the law compliance' when the 'mischief' the legislation is designed to address, has not occurred.

If a publisher fails to comply with the requirements of s 331 of the CEA, the AEC will treat a complaint under this section in the same manner as above in the event of a technical breach. If it is a technical breach no action will be taken other than to advise the publisher of the need to comply with the legislation and that further breaches may involve prosecution.

Complaints relating to s 329 of the CEA are not likely to involve technical breaches in the above sense. Consequently, all complaints concerning s 329 require immediate action. If after preliminary consideration by the AEC the offending material is not withdrawn or amended immediately, injunction action may be taken by the AEC in accordance with s 383 of the CEA. (*Note: Injunctive action may also be taken by a candidate in the election pursuant to section 383*)

With any complaint, where preliminary advice to the AEC indicates a substantial breach of the legislation, the AEC will refer the matter to the Australian Federal Police (AFP). Following completion of the AFP's enquiries the AEC will determine what, if any, further action is required.

In all cases after a complaint has been laid, the AEC will not provide any further information to the complainant until the investigating authorities advise the AEC that it is appropriate to do so. When appropriate the AEC will write to the complainant advising of its decision and actions.

**AEC WEBSITE**

**[www.aec.gov.au](http://www.aec.gov.au)**

**ENQUIRY SERVICE**

**13 23 26**