

Pre-election

Selection of AEC staff

- 2.1 The Australian Electoral Commission (AEC) requires a significant number of staff to conduct a federal election. Prior to the 1998 federal election the AEC employed 60,000 temporary staff for that purpose. After an election is called, each Divisional Returning Officer (DRO) is responsible for the employment of the required number of staff in their Division.¹
- 2.2 Clearly, it is in the interests of not only the AEC, but the general public, to have impartial staff to conduct the election. Accordingly, over the last few elections, the AEC has developed a training scheme for the large number of required temporary staff.² The AEC has a set of procedures in employing temporary staff that are intended to eliminate those with bias. All temporary staff employed by the AEC to conduct the election are first required to submit an official application which contains the standard AEC statement about political affiliations. Potential staff are then interviewed to assess their skills and qualifications, which may include familiarity with the Division and an ability to speak a second language common in the Division. Finally, they must sign an Acceptance of Offer and Undertaking, which includes statements requiring that they not engage in political activity or electoral affairs while employed by the AEC,

1 Australian Electoral Commission. 1999. *Behind The Scenes: The Australian Electoral Commissions' 1998 Federal Election Report*. Canberra, Paragon Printing, p 18.

2 Australian Electoral Commission. 1999. *Behind The Scenes: The Australian Electoral Commissions' 1998 Federal Election Report*. Canberra, Paragon Printing, p 18.

and statements concerning the disclosure of official information, and behaviour in the polling place.³

2.3 During the conduct of the inquiry the Committee received two submissions complaining about the potential bias of some temporary staff.

2.4 The Northern Territory Country Liberal Party (NTCLP) alleges that temporary staff employed by the AEC at some polling booths, particularly at the Tangentyere Council and some Central Australian mobile booths, were biased. The NTCLP is concerned that the AEC, while not employing members of political parties, does employ persons belonging to an “active Aboriginal organisation.”⁴ The NTCLP asserts that:

...These persons cannot be seen as unbiased and they made no attempt to hide their distaste for the CLP policies, candidates and volunteers.⁵

2.5 Mike Bowden, Community Development Officer for the Tangentyere Council does not believe that recruiting persons who are employees of an Aboriginal organisation should be a cause for concern:

...Aboriginal organisations are political, but they should not be excluded from the process because they do have political views.⁶

2.6 The Council believes that being employed in such an organisation does not necessarily imply bias on the part of AEC temporary staff. In many instances, staff of Aboriginal organisations do not have a decision making role in the organisation and may not actually hold the same views as those running the organisation.⁷

2.7 The AEC supports this view, arguing that:

...the suggestion that persons employed by the Tangentyere Council should not have been employed by the AEC as polling officials, because the Council may have disagreed with the Northern Territory Government on some issues, is similar to saying, for example, that the AEC should not have employed teachers as polling officials because they were members of the Australian Education Union (NT Branch), which had been in dispute with the Northern Territory Government...⁸

3 Submissions p S1158 (AEC)

4 Submissions p S548 (NTCLP)

5 Submissions p S549 (NTCLP)

6 Transcript p 276 (Tangentyere Council)

7 Transcript p 277 (Tangentyere Council)

8 Submissions p S1158 (AEC)

- 2.8 On the whole, the AEC has understandable reasons for employing staff of Aboriginal organisations. These staff bring an understanding of the culture and language of the Aboriginal community, and the AEC believes this has a positive impact on the participation rate.⁹ These benefits need to be taken into consideration when dealing with potential bias.
- 2.9 On a related issue, the Liberal Party of Australia expresses some concern about members of unions affiliated with political parties being employed as temporary staff by the AEC. The Liberal Party recommends that, in order to ensure that AEC temporary staff are completely impartial, the AEC should be compelled not to employ people who are members of industrial organisations that are affiliated with political parties.¹⁰
- 2.10 In response to this Liberal Party recommendation, the AEC states that preventing members of unions being employed as temporary staff:
- ... would severely undermine the operational capacity of the AEC, particularly on polling day, and in the absence of any evidence that the political neutrality of the AEC has been compromised by unionised staff, would appear to be an unnecessary and burdensome restriction...¹¹
- 2.11 The Committee affirms its support for AEC staff to perform their duties without bias.

Recommendation 1

- 2.12 **That the AEC assess the effectiveness of its staff selection procedures to ensure that it continues as an independent, professional and ethical organisation that is respected by the people who use its services.**

9 Submissions p S1158 (AEC)

10 Submissions p S778 and Transcript pp 171-172 (Liberal Party)

11 Submissions p S1188 (AEC)

Other elections on polling day

- 2.13 The 1996 federal election coincided with ATSIC by-elections and a state election in Tasmania, and the next federal election may coincide with the ACT election due in October 2001. The Australian Labor Party (ALP) wishes to ensure that, when federal elections coincide with elections at other levels of government, polling is not compromised either by the AEC's obligations to conduct other elections or by confusion on the part of State or Territory electoral officials as to the application of federal electoral laws.¹² In response, the AEC indicates that it successfully conducted the coinciding elections in 1996.¹³ The Committee believes that the AEC should ensure that its prime functions are not impeded by other activities and other elections.

Recommendation 2

- 2.14 **That the AEC devise a procedure for ensuring that polling for federal elections is not compromised in any way by the AEC's obligations to conduct other elections, and that the AEC ensure that there is appropriate liaison between it and State and Territory electoral offices concerning the conduct of overlapping elections, including ensuring that State and Territory officials receive appropriate training and information on the requirements of federal electoral legislation.**

Public awareness of the election

- 2.15 During the 1998 federal election the AEC undertook an extensive public awareness campaign. The major components of the campaign were a national advertising and public relations campaign, a national telephone inquiry service, and a major public information program including printed materials and an enhanced AEC web site. The total cost of the public awareness campaign is estimated to be \$11.6 million.¹⁴
- 2.16 A significant aspect of the 1998 election was that it was held on a long weekend with school holidays in most States and Territories. This meant that there were a lot of cultural and sporting events on at the time
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12 Submissions pp S788-S789 (ALP)

13 Submissions p S1199 (AEC)

14 Submissions p S337 (AEC)

requiring special arrangements and facilities. In the majority of cases these special arrangements involved encouraging voters to vote before going to the event.¹⁵ Concerns raised about special polling arrangements are dealt with at paragraphs 3.15-3.16.

- 2.17 A telephone inquiry service was first introduced by the AEC during the 1996 federal election. This service was reintroduced and heavily promoted during the 1998 federal election. The inquiry service operated seven days a week for the period of the campaign. The service responded to 533,451 calls during the election period compared to 317,799 calls at the 1996 election. While the AEC was able to answer more calls, it reports that the level of demand also increased resulting in 610,171 unanswered calls in 1998. Telstra has advised the AEC that a significant number of the unanswered calls were probably successful on a second or third attempt.¹⁶ Telstra also advised that more than 7,000 call operators would have been required to handle the unanswered calls during peak periods. The logistics of establishing such a service are likely to prove prohibitive, so the AEC is investigating alternative ways of promoting the service at future elections.¹⁷
- 2.18 The AEC internet site was comprehensively reviewed and enhanced prior to the election. One of the additions was an on-line results facility called the 'Virtual Tally Room,' which provided access to polling results on election night and beyond. On election night approximately 85,000 people visited the Virtual Tally Room, increasing to two million in the week after polling day. This is considered a very high level of usage for a government web site.¹⁸ The Committee is particularly supportive of this service, which it considers was very informative.
- 2.19 A small number of difficulties were experienced by the AEC in advertising particular polling places.¹⁹ The concerns of Mr Barry Wakelin MP, Member for Grey, in relation to the Risdon Park South polling place are a good example.²⁰ There was a mistake in the advertised address of the polling place which the AEC states it made every attempt to rectify. As soon as the mistake was identified, the AEC placed advertisements with the local ABC radio station. However, the local television station had a short copy deadline and would not take the corrected advertisement. A

15 Submissions p S337 (AEC)

16 Transcript p 440 (AEC)

17 Submissions pp S342-S343 (AEC)

18 Submissions p S343 (AEC)

19 Submissions p S1176 (AEC)

20 Submissions p S725 (B.Wakelin MP, Member for Grey)

sign directing people to the new polling place was placed at the advertised premises on polling day.²¹

- 2.20 Despite the aforementioned public awareness campaign it has become obvious to the Committee during this inquiry that there is a high level of misunderstanding about some areas of the electoral process. The Committee has recommended later in this report that particular areas be targeted by the AEC in future public education campaigns. (See Recommendations 37 and 58)

Enrolment

- 2.21 The rolls for the 1998 federal election closed on Monday 7 September 1998. Between the issue of the writs and the close of rolls, the AEC received a total of 351,913 enrolment forms. Processing of these forms was completed by 9 September 1998.²² In processing these forms the AEC admits that:

There was checking done within the system that it is a legitimate address, but in that close of Roll period there is no field checking done.²³

- 2.22 The forms included new enrolments, re-enrolments and transfers of enrolments. 7,714 electors were deleted from the Commonwealth Electoral Roll (the Roll) during this period due to death, duplicate records or objection action.²⁴
- 2.23 The greatest catalyst for enrolment is an electoral event. Between 1996 and 1998 there were three national electoral events: the 1996 and 1998 federal elections, and the constitutional convention election, with associated publicity campaigns. This resulted in a lower level of enrolment transaction during the 1998 federal election (351,913)²⁵ compared with 431,694 for the 1996 federal election.²⁶
- 2.24 The Committee is concerned about the potential inaccuracies in the Roll caused by the large number of late enrolments received between the issue

21 Submissions p S1177 (AEC)

22 Submissions p S345 (AEC)

23 Transcript p 440 (AEC)

24 Submissions p S345 (AEC)

25 Transcript p 44 (AEC)

26 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 1.

of the writs and the close of rolls which are not able to be fully checked by the AEC. As part of the 1996 federal election inquiry report, the Committee recommended that the rolls for an election close to new electors on the date of the issue of the writs, and for existing electors three days after the issue of the writs.²⁷ In response, the government proposed an amendment to the *Commonwealth Electoral Act 1918* (Electoral Act) in the *Electoral and Referendum Amendment Act 1998* to make the close of the Roll three working days after the issue of the writ. This amendment was rejected during the Act's passage through the Senate. Differences of opinion within the Committee remain.

- 2.25 To preserve the integrity of the Roll, the majority of the Committee reiterates the recommendation of the 1996 federal election inquiry report.

Recommendation 3

- 2.26 **That section 155 of the *Commonwealth Electoral Act 1918* be amended to provide that for new enrolments, the rolls for an election close on the day the writ is issued, and for existing electors updating address details, the rolls for an election close at 6.00pm on the third day after the issue of the writ.**
- 2.27 At the close of rolls there were 12,056,625 electors enrolled to vote, an increase of 401,435 electors, or 3.4%, on the 1996 federal election.²⁸ The following table breaks down these enrolment figures by state and territory.

Table 2.1 Electors enrolled by State/Territory as at 7 September 1998

State/Territory	number of electors
NSW	4,031,749
VIC	3,056,887
QLD	2,177,556
WA	1,140,845
SA	1,006,398
TAS	329,751
ACT	208,684
NT	104,755
National Total	12,056,625

Source AEC submission, p S345

27 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 14.

28 Submissions p S345 (AEC)

- 2.28 The AEC recommends a minor technical change to the enrolment provisions for overseas voters to correct a current anomaly. Under s94A of the Electoral Act, an elector who enrolls overseas is eligible to do so for up to two years after they have left Australia. However, under s94 of the Electoral Act, if an elector is enrolled when they leave Australia, they have only a year to apply as an overseas elector. The AEC recommends that the period in which an overseas elector is entitled to enrol be standardised to two years.²⁹ The Committee accepts this recommendation.

Recommendation 4

- 2.29 **That the time period for enrolling as an overseas elector be a uniform two years from the date of departure from Australia, regardless of whether the elector was previously enrolled in Australia.**
- 2.30 On a related issue, an overseas elector, Ms Ann Fiske, made a submission to the inquiry indicating the difficulty experienced by Australian citizens overseas wishing to cast a postal vote.³⁰ The difficulty is mainly in relation to obtaining an authorised witness for the purposes of completing the declaration certificate. The number of people able to witness the declaration certificate in another country is necessarily limited. Thus, Australian citizens who wish to cast a postal vote, particularly in a non-commonwealth country or away from a capital city, can be disenfranchised. The AEC has evidence from the 1998 federal election of a number of overseas electors who were unable to find anyone qualified to be a witness and therefore were unable to vote in the election.³¹
- 2.31 To overcome this problem, the AEC recommends an amendment that enables overseas voters to both enrol and make a postal vote from outside Australia by attaching a photocopy of their passport to confirm their personal details to the relevant form as an alternative to obtaining a witness' signature.³² The Committee agrees with the solution proposed by the AEC on the basis that the declaration certificate remain the method of first choice. In order to increase the security of the proposed process, the Committee recommends that the photocopy of the passport be signed by the applicant.

29 Submissions p S353 (AEC)

30 Submissions p S1536 (A.Fiske)

31 Submissions p S1671 (AEC)

32 Submissions p S1672 (AEC)

Recommendation 5

- 2.32 **That the relevant sections of the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to allow overseas electors to use a photocopy of their passport certified by the elector to confirm their personal details in circumstances where it is not possible to obtain an authorised witness' signature when either enrolling as an overseas elector or making a postal vote from overseas.**

Accuracy of the Commonwealth Electoral Roll

- 2.33 The accuracy of the Commonwealth Electoral Roll is paramount to the integrity of the electoral process:

It is essential that the Roll is always accurate and that the integrity of the Roll is maintained at the highest possible standards... to ensure that all elections and by-elections are conducted on rolls that are of the highest quality...³³

- 2.34 Two parliamentarians made submissions dealing with the accuracy of the Commonwealth Electoral Roll.³⁴ The AEC also discusses the accuracy of the Roll at some length, pointing out the advances made since the 1996 federal election inquiry in ensuring the accuracy of the Roll.³⁵
- 2.35 Recommendations for changing the procedures by which a person enrolls were made in the 1996 federal election inquiry report.³⁶ Although not proclaimed yet, they have been given effect by the *Electoral and Referendum Amendment Act (No. 1) 1999*, which proposes to amend the procedure for enrolment by determining that an enrolment form must be witnessed by a prescribed class of electors determined by regulation, and that the identity of the person enrolling must be verified by the production of some form of identification.³⁷

33 Submissions p S1288 (G.Smith)

34 Submissions pp S685 (J.Lloyd MP, Member for Robertson) and S84 (Senator the Hon M.Reid)

35 Submissions pp S346-S349 (AEC)

36 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, pp 7-9.

37 *Electoral and Referendum Amendment Act (No.1) 1999*. Schedule 1, ss11 and 12

Recommendation 6

2.36 **That the AEC investigate and report on the potential impact of the proposed changes to the witnessing and enrolment provisions effected by *Electoral and Referendum Act (No. 1) 1999*. This report should include information on:**

- **The potential financial impact of these changes on new enrollees;**
- **The potential impact on enrolment numbers; and**
- **The potential cost to the AEC of setting up and administering these new systems.**

Where the changes have been implemented, the AEC should provide details of studies it has done on the potential impacts and the actual impacts.

2.37 One method used by parliamentarians to gauge the accuracy of the Commonwealth Electoral Roll has been return to sender mail. As part of the 1996 federal election inquiry, the AEC emphasised how important it was for parliamentarians to use the most up to date version of the Roll to minimise inaccuracies.³⁸

2.38 The Roll changes continuously right up until the close of rolls for an election. A habitation check is conducted in the months before the election, but this does not produce a final static document.³⁹ Even after the close of rolls, the AEC continues to receive notifications of change of address. In the ACT for example, the 1997 / 98 average for changes of enrolments was 900 a week, which meant that even the most up to date rolls would result in some returned mail.⁴⁰

2.39 Senator the Hon. Margaret Reid, Senator for the ACT, expresses concern about the accuracy of the Roll. Following a mail out to the ACT electorate just days after the close of the Roll, a large number of return to sender letters were delivered to her office.⁴¹

2.40 Clearly, in the case of Senator Reid's mail out, the volume of return mail would depend on the accuracy of the Roll used. The AEC claims that 5,000 enrolment transfers were processed in the ACT during the close of

38 Submissions p S1134 (AEC)

39 Submissions p S1179 (AEC)

40 Submissions p S1135 (AEC)

41 Submissions p S84 (Senator the Hon M.Reid)

Roll period.⁴² The AEC speculates that if Senator Reid's letters were sent a couple of days after the close of the Roll, then it is possible that the list Senator Reid used did not reflect those changes.

- 2.41 Enhancing the accuracy of the Roll is an ongoing process. Since 1984 the AEC has done this through the development of RMANS, the AEC's Roll management system.⁴³ Over the time since its implementation, RMANS has undergone a number of modifications to expand its capabilities. Currently, the AEC is progressing this task by the introduction of an Address Register and a continuous Roll update to the existing address-based system.
- 2.42 The Address Register has enhanced RMANS by allowing individual addresses to be stored separately on the enrolment system whether or not the address is occupied by an elector. The Register lists a range of attributes for each address including a land use code, occupancy status, an enrolment limit, the last review date and whether the address is habitable and valid for enrolment. As the information stored on the Register becomes more complete this will become an increasingly powerful tool for the AEC to detect fraudulent or inaccurate enrolment by identifying addresses incorrectly described or duplicated on the Register, those that have a high number of enrolments or re-enrolments, and those that have two or more groups of electors resident with different family names.⁴⁴
- 2.43 Continuous Roll update was introduced as part of the *Electoral and Referendum Amendment Act 1995* as an improvement on the previous two yearly national doorknocks. Continuous Roll update is a method of updating the Roll using information sources that deal with changes of address, such as Australia Post, in order to pro-actively target with re-enrolment information voters who have moved.
- 2.44 A trial of continuous Roll updating was carried out in Queensland during 1996 and 1997 using change of address data provided by Australia Post. Following the success of this trial, the AEC committed to fully implementing the continuous Roll update through agreements with Australia Post, other government agencies such as motor vehicle licensing registries, and electricity corporations.⁴⁵

42 Submissions p S1134 (AEC)

43 Joint Standing Committee on Electoral Matters. 1992. *The Conduct of Elections: New Boundaries for Cooperation*, Canberra, AGPS, pp 107-109.

44 Submissions p S347 (AEC)

45 Submissions p S348 (AEC)

2.45 By the time of the AEC's first appearance before the Committee on 1 April 1999, the Australian Electoral Commissioner was able to say that continuous roll updating would:

...be starting...nationally this month across Australia with mail outs from our own system. This should be a procedure that will help us to ensure that, when people do move, we get that information more readily, more accurately and in a more timely fashion from those electors. So the number of provisional voters should drop if the continuous Roll updating procedures we implement are successful.⁴⁶

2.46 To continue this transition, the AEC recommends that electors are enrolled on the basis of address rather than Division. Currently, s99 of the Electoral Act specifies that enrolment must be on the basis of a Subdivision. Since the abolition of Subdivisions (except for the Divisions of the Northern Territory and Kalgoorlie in Western Australia), this has been interpreted as enrolment on the basis of a Division. Enrolment on the basis of address would allow the AEC to undertake objection action when the AEC is advised through the continuous Roll update process that an elector has moved from their enrolled address, and they have not re-enrolled for another address. Address based enrolment will also generate efficiencies in terms of Roll management for federal, state and local elections.⁴⁷

2.47 During the JSCEM inquiries into the 1993 and 1996 federal elections the AEC raised the issue of basing enrolment on address. The proposal was not supported by the Committee because of the danger that electors who fail to keep their enrolment address up to date but still reside within a Division could be disenfranchised. Accordingly, on this occasion the AEC has suggested that if the Committee is still concerned about the potential disenfranchisement that the following option be adopted:

(1) That if an elector moves within their Division, does not re-enrol, and is removed by objection, their provisional vote for their Division will be counted, provided their last enrolment was within that Division and was since the last redistribution or general election; and

(2) That if an elector moves outside their enrolled Division, but remains within the State/ Territory, and claims a vote within their

46 Transcript p 46 (AEC)

47 Submissions p S720 (AEC)

old or new Division, their vote in the Senate will count but the House of Representatives vote will not count.⁴⁸

Recommendation 7

- 2.48 **That the *Commonwealth Electoral Act 1918* be amended to make the basis of enrolment the elector's address, and that the objection provisions be amended such that an elector can be removed from the Roll when it can be shown the elector no longer lives at their enrolled address.**

If an elector moves within their Division, does not re-enrol, and is removed by objection, their provisional vote for their Division will be counted, provided their last enrolment was within that Division and was since the last redistribution or general election; and

If an elector moves outside their enrolled Division, but remains within the State/ Territory, and claims a vote within their old or new Division, their vote in the Senate will count but the House of Representatives vote will not count.

Offensive names

- 2.49 Candidates who were allowed to enrol using political slogans as names has occurred in recent federal elections.⁴⁹ Two submissions, one from Ms Marilyn Wilkin and another from Dr Marion Sawyer, point out that these names are offensive and designed to bring the electoral system into disrepute. They claim that the political slogans under which some candidates enrolled were not names in any accepted sense, rather they were grammatical strings.⁵⁰
- 2.50 The AEC points out that DROs are not necessarily able to reject these names.⁵¹ If the individual is able to show that their name has been generally accepted by a government instrumentality, including the Registrar of Births Deaths and Marriages, then the DRO has no alternative but to accept the new name.

48 Submissions p S720 (AEC)

49 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 76.

50 Submissions pp S17 (M.Wilkin) and S51 (M.Sawyer)

51 Submissions p S355 (AEC)

As a consequence, names of dubious origin, structure and meaning are increasingly appearing on the Roll for the sole purpose of nomination and the eventual appearance on the ballot paper for election purposes...⁵²

- 2.51 At the 1998 federal election, for example, the following individuals stood for election. Each of these individuals were able to meet the legal requirements for enrolment:⁵³
- Mr Prime Minister Piss the Family Court-Legal Aid;
 - Mr Justice Abolish Child Support and Family Court; and
 - Mr Bruce The Family Court Refuses My Daughter's Right to Know Her Father.
- 2.52 In Victoria, the Registrar of Births, Deaths and Marriages refused the name Prime Minister John Piss the Family Court and Legal Aid on the basis that this was either not a name, or was an offensive name. The individual concerned already had been enrolled under the new name, but the Registrar corrected the enrolment, leading the individual to take the case to the Victorian courts. The result of the case was a ruling in favour of the Registrar on the basis that the name could not be a grammatical string and that it could not be divided into a first and surname.⁵⁴
- 2.53 The AEC points out that this decision could be used as a basis for a recommendation by the Committee aimed at preventing the use of such names in future elections. One possibility might be to amend the Electoral Act to expressly exclude any name that appears inappropriate under legal criteria to be drafted by the AEC in consultation with the Office of Parliamentary Council.⁵⁵
- 2.54 The Committee believes that, in addition to this course of action, there is a need for the Registrars of Births, Deaths and Marriages in respective states and territories to tighten their criteria in relation to the registration of legal names. The Committee recommends that the federal Attorney General appeal to his or her respective state and territory counterparts that this course of action be taken.

52 Submissions p S355 (AEC)

53 Submissions p S355 (AEC)

54 Submissions pp S356-S357 (AEC)

55 Submissions p S358 (AEC)

Recommendation 8

- 2.55 **That the *Commonwealth Electoral Act 1918* be amended to allow the Divisional Returning Officer to exclude from enrolment any name that is invalid, and that the criteria for determining an invalid name be developed by the AEC in consultation with the Office of Parliamentary Counsel.**

Recommendation 9

- 2.56 **That the federal Attorney General appeal to his or her respective state and territory counterparts through the Standing Committee of Attorneys' General that there is a need for each state or territory Registrar of Births, Deaths and Marriages to tighten their criteria in relation to the registration of legal names.**
- 2.57 In a related matter, under s105(1)(b) of the Electoral Act, the DRO for a Division has the right to refuse a name change to the Electoral Roll. The AEC advises that the Attorney General's Department said that, unlike the majority of decisions by a DRO, this decision is not appealable. The AEC recommends that Part X of the Electoral Act be amended to make decisions under s105(1)(b) of the Electoral Act appealable to the Australian Electoral Officer and the Administrative Appeals Tribunal.⁵⁶ The Committee accepts this recommendation.

Recommendation 10

- 2.58 **That Part X of the *Commonwealth Electoral Act 1918* be amended to make decisions by a Divisional Returning Officer in relation to the enrolment of names appealable to the Australian Electoral Officer and the Administrative Appeals Tribunal.**

56 Submissions p S354 (AEC)

Access to Roll

- 2.59 The AEC is currently required to provide access to the Commonwealth Electoral Roll through AEC offices. A hard copy is produced at least once every two years after the commencement of the first session of parliament and is able to be viewed or purchased for \$25 a Division at AEC offices. However, because of population mobility and computer updating, these rolls become inaccurate the moment they are printed.⁵⁷ Microfiche versions of the Roll are also produced for sale twice a year, and can be purchased for \$10 a Division or \$890 for the whole Roll.⁵⁸
- 2.60 As part of the 1996 federal election inquiry report, the Committee recommended the distribution of the printed versions of the Roll to public libraries and post offices on the basis that the Roll was an important public document.⁵⁹ The Government rejected this recommendation on the basis of cost. Notwithstanding this:
- The Commission is concerned about the present unsatisfactory level of access to the Commonwealth Electoral Roll that is afforded to citizens who wish to check for themselves that enrolment fraud is under control...⁶⁰
- 2.61 The AEC argues that because the printed electoral rolls are becoming an increasingly inefficient and inaccurate method of publishing the Roll, the Roll should be made available through the AEC's internet site, allowing the public access to the Roll from home or from public libraries.⁶¹
- 2.62 The AEC argues that such an innovation would allow electors, wherever electronic communications are available, to check their enrolment details, and to check the correctness of the enrolment details of others for objection purposes. The inquirer will be able to search the internet Roll by individual name or address in a way similar to the currently available internet telephone directories. The search mechanisms will only provide access to the enrolment details of the individual whose name and address has been entered in the search mechanism. In other words, the internet Roll will not allow access to any of the complete rolls. In instances where public libraries do not have access to the internet, the AEC will provide public libraries with the Roll on CD-Rom with the same search facility.⁶²
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57 Submissions p S351 (AEC)

58 AEC web page, www.aec.gov.au/enrol/maintain.htm

59 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 17.

60 Transcript p 39 (AEC)

61 Submissions p S351 (AEC)

62 Submissions p S350 (AEC)

The AEC reported that the New Zealand Electoral Commission already has an internet roll in operation, but requires the inquirer to provide birth date in addition to name and address. The AEC believes that this limits public access to 'own' enrolment information. Accordingly, the AEC suggests that in the Australian context the internet Roll should be more accessible to allow the enrolment of other electors to be checked for objection and petition purposes. This means the public can check the accuracy of the Roll for themselves.

- 2.63 The AEC referred the proposal to the Privacy Commissioner, who found that the provision of the Roll in electronic form should be regularly updated to ensure those who apply for a silent enrolment are removed from the public rolls promptly. In the light of those comments the AEC concludes that making the Roll available on the internet and providing CD-Roms to libraries would address this concern. The AEC recommends the Roll be updated every month.⁶³
- 2.64 The Government response to the JSCem report on the 1996 federal election asked the AEC to investigate the cost and feasibility of placing the electoral rolls on the internet. The AEC estimates the cost of developing the internet Roll will be \$120,000, annual running costs will be \$40,000, and maintenance costs will be \$42,000.⁶⁴ More recently, the AEC advised that it is preparing a paper on placing the electoral Roll on the internet.⁶⁵ The Committee has requested that the paper address safeguards for preventing the downloading of segments or the whole of the Roll.

Recommendation 11

- 2.65 **Subject to the JSCem acceptance of matters raised in the AEC's internet issue paper, that the publicly available Commonwealth Electoral Roll be provided on the AEC internet site for name and address/locality search purposes, and that the Roll be provided in CD-Rom format with the same search facility to public libraries without internet access. Both the internet and CD-Rom Roll should be updated monthly subject to search capacity being limited to individual names and addresses on the Roll.**
- 2.66 Replacing the hard copy versions of the Roll with electronic versions for the purposes of public access may address the public's concerns about the

63 Submissions p S352 (AEC)

64 Submissions p S352 (AEC)

65 Submissions p S2429 (AEC)

commercial use of the Rolls. This concern is best expressed by Mrs Margaret Woolnough:

My name and address, unless I authorise it, is not for sale or to be misused.⁶⁶

- 2.67 In the opinion of the AEC, it is impossible to police the misuse of the names and addresses contained on the public versions of the Commonwealth Electoral Roll, in much the same way that it is impossible to police the use of the telephone directory.⁶⁷ The AEC have advised that:

The sale of enrolment information is an increasingly contentious issue that will be explored further in the AEC review of sections 89 to 92 of the Act... In the meantime, in response to concerns about the sale of enrolment information that can be easily scanned and used for commercial purposes, and in anticipation of placing the roll on the Internet, the AEC Management Board decided at its March 2000 meeting to cease production of microfiche rolls for the purposes of sale. The microfiche rolls will remain available for public inspection, and the printed rolls will remain available for public inspection and sale.⁶⁸

- 2.68 In addition, the AEC has advised that the version of the Roll printed as a result of s89 of the Electoral Act following the 1998 federal election was produced with an experimental water mark to inhibit the reproduction of the Roll by scanning. However, the AEC indicates that, in order to effectively prevent scanning, the AEC logo had to be printed so densely it became difficult to read the small print name and address data. The AEC states that it will continue to investigate methods to prevent scanning of the printed rolls.⁶⁹ The Committee supports this work.
- 2.69 On a related matter, Mrs B James states that she received a letter from Queensland Health targeting women of her age, stating that her details were obtained from the Roll. Mrs James submits that the use of the Roll in this manner should be unlawful and was an invasion of privacy.⁷⁰
- 2.70 In relation to Mrs James' complaint, the AEC points out that it does collect statutory information such as sex and age. This information is provided to state electoral commissions under ss91(9B) and 91A(2B) of the Electoral

66 Submissions p S1556 (M.Woolnough)

67 Submissions pp S1683-S1684 (AEC)

68 Submissions pS2429 (AEC)

69 Submissions pS2514 (AEC)

70 Submissions p S177 (B.James)

Act. The AEC explains that the information used in the mail out to Mrs James was obtained from the Queensland Electoral Commission.⁷¹

- 2.71 At present the marked roll of electors who lodge a postal vote is provided for physical observation 40 days after an election to candidates. The ALP suggests that in recognition of advances in technology that the AEC should provide candidates upon request with an electronic version of the marked roll. It also suggests that such a version of the roll should be provided to political parties Federally and in each of the States who respond to calls from electors for electoral advice and assistance.⁷²

Recommendation 12

- 2.72 **That the *Commonwealth Electoral Act 1918* be amended to allow access to an electronic version of the marked Roll and that this right of access should be extended to both candidates and party political organisations.**

Nomination

- 2.73 Anyone who is an Australian citizen, is over the age of 18, and is eligible to vote can nominate as a candidate for the election, exclusive of those disqualified under s44 of the Constitution. Nominations can be lodged after the issue of the writs and before the close of nominations. Nominations for the 1998 federal election closed at 12 noon on Thursday 10 September 1998.⁷³
- 2.74 Those nominating are required to pay a deposit and to obtain 50 signatures in order to be eligible. Major parties are allowed to lodge nominations in bulk for each state. Nominations can be withdrawn or amended at any time up to the close of nominations.⁷⁴
- 2.75 As part of the *Electoral and Referendum Amendment Act 1998*, the deposit for nomination to the House of Representatives was increased from \$250 to \$350 and for nomination to the Senate from \$500 to \$700. The number of signatures required for candidates who are not bulk nominated by a

71 Submissions p S1143 (AEC)

72 Submissions p S795 (ALP)

73 Australian Electoral Commission. 1999. *Behind The Scenes: The Australian Electoral Commission's 1998 Federal Election Report*. Canberra, Paragon Printing, p 13.

74 Australian Electoral Commission. 1999. *Behind The Scenes: The Australian Electoral Commissions' 1998 Federal Election Report*. Canberra, Paragon Printing, p 14.

political party was also increased to 50 for both the House of Representatives and the Senate.⁷⁵

- 2.76 However, this does not seem to have stemmed the increase in nominations. At the close of nominations a total of 1,438 candidates had nominated for the 1998 federal election, 1,109 for the House of Representatives and 329 for the Senate.⁷⁶ This is a considerable increase over the number nominating for the 1996 federal election when there were 908 nominees for the House of Representatives and 255 for the Senate.⁷⁷

Senate nomination issues

- 2.77 The steady increase in the number of nominations is causing problems for the design of the Senate ballot paper. The AEC's discretion in designing the Senate ballot paper is limited by schedule 1 of the Electoral Act. Some Senate ballot papers are getting so large they scarcely fit in the voting compartments and are increasingly difficult to fold properly. In addition, the AEC is concerned that the increased number of candidates for the Senate is proving detrimental to the production costs and efficiencies of the Senate ballot paper.
- 2.78 The AEC has concluded that the Senate ballot paper has reached its functional limits in terms of size and the only viable option is to increase the depth of the ballot paper to allow for the vertical layering of candidate names.⁷⁸ To facilitate this solution, the AEC recommends that the Australian Electoral Commissioner be given the discretion to design a ballot paper that accommodates the number of candidates standing.⁷⁹
- 2.79 Mr Graham Smith proposes another solution to the ever-increasing size of the Senate ballot, recommending the introduction of a Group Voting Ticket only ballot paper, which would meet the requirements of the vast majority of voters who use the convenience of above the line voting.⁸⁰
- 2.80 The Committee agrees that the increasing number of nominations for the Senate threatens the integrity of the Senate ballot paper and is keen to avoid the situation that occurred in the 1998 New South Wales election, which produced an enormous upper house ballot paper. The Committee considers the increasing number of registered political parties to be a

75 Submissions p S360 (AEC)

76 Submissions p S359 (AEC) These figures include the Newcastle supplementary election.

77 Australian Electoral Commission. 1998. *Electoral Newsfile, No 79*. Canberra, AEC, p 1.

78 Submissions p S380 and Transcript p 39 (AEC)

79 Submissions p S380 and Transcript p 51 (AEC)

80 Submissions pp S1300-S1301 (G.Smith)

major contributor to this problem. The Committee has made a number of recommendations in Chapter 5 to strengthen the party registration process in order to deter the fraudulent registration of political parties and prevent the considerable mushrooming of numbers of political parties that has taken place at the state level. The implementation of these recommendations should contain the growth of the Senate ballot paper and allow the Senate ballot paper to remain in its current form.

- 2.81 The Committee believes that providing the Australian Electoral Commissioner with the discretion to design the layout of the Senate ballot paper is worthwhile, but such discretion will require safeguards in order to be applied appropriately. The AEC has suggested that an alternate design of the Senate ballot paper could be included as a schedule in the Electoral Act. Such an approach has been included under the New South Wales legislation for the New South Wales Legislative Council ballot paper.⁸¹

Recommendation 13

- 2.82 **That the *Commonwealth Electoral Act 1918* be amended to include a schedule setting out an alternate layout for the Senate ballot paper and that the AEC consult with the Joint Standing Committee on Electoral Matters on the alternate design.**
- 2.83 The AEC recommends a technical amendment to the Electoral Act to make explicit the rules governing the lodgement of Group Voting Tickets⁸² as the rules are only implied at the moment.⁸³ The Committee sees this as a logical clarification.

81 Submissions pp S480-S483 and S2429 (AEC)

82 Group Voting Tickets are provided to the AEC by political parties or grouped independent candidates for the purposes of determining the flow of preferences for voters who vote above the line on the Senate ballot paper.

83 Submissions p S362 (AEC)

Recommendation 14

- 2.84 **That s211 of the *Commonwealth Electoral Act 1918* be amended to allow for the amendment or withdrawal of Group Voting Ticket statements up to the closing time for the lodgement of such statements; that such amendment or withdrawal may only be made by the person who lodged the original statement; that a further statement may be lodged prior to the closing time following the withdrawal of the original statement by any persons eligible to do so under s211(6); and that should a Group Voting Ticket statement be withdrawn, and a new statement not be lodged for the group prior to the closing time for lodgement, the group will not have a Group Voting Ticket square printed on the ballot paper.**
- 2.85 Another technical amendment has been proposed by the AEC. Currently, the return of nomination deposits for the House of Representatives is paid to the person who paid the nomination deposit. In the case of political parties, this is usually one person. The AEC recommends such a system be adopted for the Senate.⁸⁴ The Committee supports this recommendation.

Recommendation 15

- 2.86 **That the *Commonwealth Electoral Act 1918* be amended to ensure that the return of deposit for Senate candidates is made to the person who paid the deposit.**

Death of a candidate

- 2.87 On 2 October 1998, the day before polling day, Ms Kaye Westbury, the nominated Australian Democrats candidate for the Division of Newcastle, passed away. Under s180 of the Electoral Act, Ms Westbury's death resulted in a technical failure of the Newcastle House of Representatives election. This resulted in the need for a supplementary election, held on 21 November 1998.⁸⁵
- 2.88 The situation of the death of Ms Westbury caused a great deal of confusion amongst the electors of Newcastle and Mr Allan Morris MP, Member for Newcastle, asks the Committee to consider whether Australia might adopt a system in which the ballot proceeds and a supplementary

84 Submissions p S363 (AEC)

85 Submissions p S363 (AEC)

election is only held if the deceased candidate wins, or alternatively to consider giving the Australian Electoral Commissioner the option of either calling a technical failure or continuing with the election.⁸⁶ The Committee is conscious of the difficulties faced both by candidates and voters in this situation, but considers that continuing the election in these circumstances would be detrimental to the democratic process.

- 2.89 Ms Westbury's death prompted some consideration by the AEC of the administrative process for dealing with the death or withdrawal of a candidate before the declaration of nominations. At present, if the candidate in question was not part of a bulk nomination, s177 of the Electoral Act allows the relevant party to make another nomination, and s156(2) allows for the extension of the close of nomination by 24 hours to accommodate this new nomination. The AEC recommends that this courtesy be extended to parties that bulk nominate candidates.⁸⁷ The Committee agrees with this proposal.

Recommendation 16

- 2.90 **That ss177 and 180 of the *Commonwealth Electoral Act 1918* be amended to allow, up until the close of nominations, for the substitution of another candidate for a Division in a bulk nomination, where a candidate for that Division in a bulk nomination dies or withdraws their consent to act.**
- 2.91 The existing provision for dealing with the death of a candidate before the close of nominations for a Division is s156(2) of the Electoral Act, and for the death of a candidate after the declaration of nominations, s180 of the Electoral Act, but there is no remedy for the death of a candidate between the close of nominations and the declaration of nominations. Prior to 1998 this problem did not exist because the declaration occurred immediately following the close of nominations. However, with the passage of the *Electoral and Referendum Amendment Act 1998*, the declaration now takes place 24 hours after the close of nominations. The AEC recommends that the Electoral Act be amended to allow for a new nomination during this time by extending the time for a replacement nomination from the close of nominations to the time of declaration, and providing for an extension of 48 hours in the declaration time, that is 24 hours for a new close of nominations, and 24 hours after the close of nominations until the

86 Submissions p S714 and Transcript p 229 (A.Morris MP, Member for Newcastle)

87 Submissions p S364 (AEC)

declaration time.⁸⁸ The Committee does not support this recommendation.

Independent candidate nomination issues

- 2.92 As discussed in relation to the increased number of nominations above, the requirements for nomination to stand as a candidate changed prior to the 1998 federal election. The AEC publicised the changes to the nomination requirements as widely as possible in the period available before the election, including in the Candidates' Handbook⁸⁹ and a media release on 7 September 1998. With a small number of exceptions,⁹⁰ independent candidates appeared able to accommodate the new requirement for 50 signatures. Two nominees were rejected because they could not obtain the 50 signatures.⁹¹
- 2.93 On a related issue, Mr Peter Andren MP, Member for Calare, argued that it was unfair for a sitting independent member to have to go through the process of obtaining 50 signatures in order to nominate as a candidate, especially as they have been endorsed by the majority of voters at the previous election.⁹² The Committee is not convinced of this argument. The Committee considers that a candidate who is not able to obtain the required 50 signatures is unlikely to be re-elected.

Political campaigns

- 2.94 Political campaigns and the rules governing them are an issue of contention in most federal election inquiries. This election has been no exception, with debate on authorisation; caretaker conventions; How To Vote cards; truth in political advertising; and dear neighbour letters.
- 2.95 The AEC recommends a technical amendment to the Electoral Act to correct an inaccuracy passed into law as part of the *Electoral and Referendum Amendment Act 1998*. Section 331 of the Electoral Act was amended to the effect that any article or paragraph containing electoral material in a journal (defined as a newspaper, magazine or other periodical) be labelled as an advertisement. The intent of this amendment

88 Submissions pp S364-S365 (AEC)

89 Australian Electoral Commission. 1998. *Candidates' Handbook for Federal Elections*. Canberra, AEC, 41p.

90 Submissions pp S81 (D.LePoidevin), S625 (E.Lockett) and S1121 (Australian Family Party)

91 Submissions p S360 (AEC)

92 Submissions p S83 (P.Andren MP, Member for Calare)

was to extend the ‘advertisement’ requirement to cover printed matter other than newspapers. However, as this amendment reads, it now implies that all political commentary in any journal must be labelled as an advertisement. The AEC recommends a change to the Electoral Act to reflect that only advertisements containing electoral material should be labelled ‘advertisement.’⁹³ The Committee agrees with this recommendation.

Recommendation 17

2.96 **That s331 of the *Commonwealth Electoral Act 1918* and s124 of the *Referendum (Machinery Provisions) Act 1984* be amended to reflect that only electoral advertising in journals needs to be labelled as advertising.**

2.97 The AEC has consistently advised that the Director of Public Prosecutions (DPP) considers activities such as meet the candidate functions at which food and drink are provided do not involve conferring a benefit on electors.⁹⁴ Regardless of this advice, the ALP remains concerned that many candidates are unaware of the limits of s326 of the Electoral Act, and calls on the Committee to recommend that the limits of this section be made explicit.⁹⁵ The AEC reinforces its advice with reference to the following evidence that the Committee accepts.

- JSCEM. Inquiry into the 1993 federal election and matters related thereto. AEC Submission No. 153, dated 23 August 1994, Part E, 3p;
- JSCEM. November 1994. *The 1993 federal election* report. pp 148-149 (paras 10.3 and Recommendation 72);
- Government response to *The 1993 federal election* report. 21 September 1995. (response to Recommendation 72);
- JSCEM. *Inquiry into the 1996 federal election and matters related thereto: Submissions*. pp S1490-S1492 (AEC Submission No. 90, paras 3.27.21-3.27.25);
- JSCEM. June 1997. *The 1996 federal election* report. p 95. (paras 7.70-7.74); and

93 Submissions p S371 (AEC)

94 Submissions p S1196 (AEC)

95 Submissions p S794 (ALP)

- AEC. 17 July 1998. *Electoral Backgrounder No. 6: Influencing votes.* (pp 1-2).⁹⁶

- 2.98 An issue relating to campaign mail accounts has also been raised. Mr Phil Baressi MP, Member for Deakin, was informed by the Department of Finance and Administration after the election that he owed an amount of money to Australia Post. It was only after persistent checking by his staff that it became clear that he had been billed in error.
- 2.99 After raising his concerns in parliament, representatives from Australia Post contacted Mr Baressi to inform him that the error in billing was a mistake on their part, and that he had been billed for those accounts not only related to Mr Baressi but also to his ALP opponent. This had occurred because Australia Post had mistakenly allocated the same account number to both candidates. In addition, Australia Post had failed to notify Mr Barresi of the error at the time it was detected in January 1999. The error amounted to six mail outs totalling \$14,610.19.⁹⁷

Authorisation of electoral advertising

- 2.100 Section 328 of the Electoral Act deals specifically with issues relating to the authorisation of electoral advertisements. In general terms, all electoral advertisements, excluding items such as pens, t-shirts and badges, must contain the name and street address of the person authorising the advertisement. The intent of this section is to prevent anonymity from being a protective shield for irresponsible and defamatory statements.⁹⁸ During the inquiry the Committee received submissions advocating both a greater level of authorisation,⁹⁹ and a lesser level.¹⁰⁰
- 2.101 The AEC reports that during the election it fielded queries concerning what specifically an authorisation address should contain. Queries related to whether an electorate office could be an authorisation address, and whether a street name and suburb were sufficient. The AEC took the view that an electorate office was an adequate address, but that the address used must be complete, including street number. The AEC recommends that this be clarified in legislation.¹⁰¹ The Committee accepts the thrust of the recommendation.

96 Submissions p S2430 (AEC)

97 Submissions pp S1550-S1551 (P.Barresi MP, Member for Deakin)

98 Australian Electoral Commission. 1998. *Electoral Backgrounder, No 5.* Canberra, AEC, p 1.

99 Submissions p S4 (E.Wensing)

100 Submissions p S180 (Hon L.Lieberman MP, Member for Indi)

101 Submissions p S369 (AEC)

Recommendation 18

- 2.102 **That the *Commonwealth Electoral Act 1918* be amended so the full address clearly identifying a physical location is given for authorisation purposes.**
- 2.103 The internet was used extensively during the 1998 federal election, but it is not entirely clear to what extent the authorisation provisions of the Electoral Act cover the distribution of electoral material on the internet. As a guide, the DPP advised the AEC during the 1996 federal election that:
- ...section 328 of the Electoral Act probably does not apply to electoral advertising on the internet, because the section makes no express reference to electronic advertising, and appears thereby to be confined to print advertising...¹⁰²
- Notwithstanding this the AEC stated that it advised all those who inquired about internet advertising during the 1998 federal election that although the law does not explicitly require it, such advertising should contain proper authorisation in order to prevent mischief that arises from anonymous advertising.¹⁰³
- 2.104 The ALP suggests that the best method for dealing with electoral advertising on the internet might be to amend s328 to make that section media neutral. The ALP also sought further investigation of this matter.¹⁰⁴ In response, the AEC points out that it investigated this matter in its submission to the JSCEM's 1996 federal election inquiry and on 17 July 1998 published an *Electoral Backgrounder No. 5: Electoral advertising* which was distributed to all candidates and political parties. It does not have the resources to actively monitor electoral content on the internet, it is only able to respond to complaints about electoral material on the internet. The AEC also points out that regulation would be difficult, as internet sites hosted overseas could break Australian electoral law with impunity. It suggests caution at this stage in legislating to regulate electoral matters on the Internet.¹⁰⁵
- 2.105 Use of the internet for electoral advertising is in its early stages, and therefore the Committee will continue to monitor this practice and review it at a later stage.

102 Submissions p S368A (AEC)

103 Submissions p S369 (AEC)

104 Submissions p S791 (ALP)

105 Submissions pp S368A and S1195 (AEC)

Caretaker conventions

- 2.106 The potential abuse of the caretaker conventions was an issue during the 1996 federal election¹⁰⁶ and continued to be an issue in 1998.¹⁰⁷ Mr Brian Cox, ex Australian Electoral Commissioner, is concerned at the potential abuse of the caretaker conventions by the incumbent government, particularly the use of \$10 million to \$15 million in taxpayer funds to advertise government policies prior to an election being called. Although not making any judgements as to whether advertising before the election was a breach of the caretaker conventions, he considers that this may be perceived as a breach. Mr Cox recommends that the caretaker conventions be made law, making their breach less easy and providing government agencies with the capacity to refuse to break the law when requested to do so by caretaker governments.¹⁰⁸
- 2.107 The ALP also expressed some concerns at the level of government spending on advertising prior to the election being called:
- ...The spending of that public money had a marked effect on the outcome of the election and a marked effect on the positioning of major public policy issues for debate during that campaign. We believe this Committee should turn its attention to that form of spending, which we believe to be wrong and improper. It should not happen.¹⁰⁹
- 2.108 In an effort to progress ALP concerns, Senator John Faulkner filed a complaint with the AEC on 20 August 1998 relating to government funded taxation reform advertising. In the complaint he claimed that, in the lead up to the 1998 federal election, such advertising breached ss 328 and 329 of the Electoral Act on the basis that they contained misleading and deceptive advertising. In other words, it did not contain government policy but a policy on taxation the government would introduce if they were re-elected.¹¹⁰ The AEC took the view that the advertisements were an electoral matter and referred them to the DPP for examination. The DPP advised that the advertisements did not appear to breach the Electoral Act as they contained the correct authorisation details, and did not contain misleading matter in relation to the casting of a vote.¹¹¹

106 Submissions p S368 (AEC)

107 Submissions pp S102 (B.Cox), S236 (D.McNaughton), S538 (L.DeFrederick), S539 (J.DeFrederick) and S786 (ALP)

108 Submissions p S102 and Transcript p 97 (B.Cox)

109 Transcript pp 21-22 (ALP)

110 Submissions p S368 (AEC)

111 Submissions p S368 (AEC)

- 2.109 The Committee welcomes the inclusion of authorisation details in all government advertising. In cases where concerns are raised about misleading government advertising, prompt action and early advice are required from the AEC.

How To Vote cards

- 2.110 It is fairly clear to the Committee from the significant number of submissions received on the issue, that the distribution of How To Vote cards continues to offend a large number of people.¹¹² However, as these cards have become a central part of the political process, the Committee will not seek to prevent their use in the future. There is also an argument that How To Vote cards provide the public with useful information about the candidates.

- 2.111 A vast number of How To Vote cards are produced at each election. This has prompted the WA Minister for the Environment, Mrs Cheryl Edwardes MLA to:

...request that the Joint Standing Committee on Electoral Matters investigate the introduction of an Australia Wide program for HTV [How To Vote] cards to:

- be able to be reused at polling booths;
- approach all political parties with a view to reaching an agreement for all HTV cards to carry a message such as 'please return for re-use';
- approach all political parties with a view to reaching an agreement for all HTV cards to be printed on material that could make it readily recycled into packaging products; and
- implement a suitable program for the collection and recycling of HTV cards into packaging products.¹¹³

- 2.112 The Committee notes that it has become standard practice at polling booths for political parties to reuse How To Vote cards and that the AEC

112 Submissions pp S2 (A.Benney), S10 (B.Usher), S22 (A.Usher), S29 (M.Fallis), S44 (M.Damjanovic), S53-S54 (D.Haselgrove), S83 (P.Andren MP, Member for Calare), S95 (Australian Democrats Gold Coast Branch), S223 (G.Wadsworth), S229 (R.Kowald), S269 (B.Lord), S276, 278, 292 (VALUE), S288 (A.Hine), S308 (J.McEwen), S568 (S.Jackson), S571 (C.Gibson), S607 (Pauline Hanson's One Nation Victor Harbour Branch), S616 (W.MacMillan), S638 (L.Bauer), S667 (M.Goldstiver), S679 (Pauline Hanson's One Nation Nambour and District Branch), S691 (Office of the Leader of the One Nation Party Qld Parliament), S709 (R.Provan), S1339 (C.Turner), S1475 (Australian Democrats ACT Division) and S1825 (Office of the Leader of Pauline Hanson's One Nation Party)

113 Submissions p S683 (Hon. C.Edwardes MLA, WA Minister for the Environment)

already has procedures in place for recycling waste paper materials that remain at a polling booth after the close of polls.¹¹⁴

- 2.113 Erroneous How To Vote cards are a concern for the Australian Democrats ACT Division. Because the election was held on a long weekend the number of pre-poll and absentee votes increased. The use of pre-poll and absentee voting was crucial in determining who would represent the ACT in the Senate. During the week before polling day, the ACT Liberals distributed a How To Vote card that indicated Mr Rick Farley, the Australian Democrats candidate for the Senate, was an ALP candidate. According to the Democrats, the withdrawal of the erroneous card did not take place until the evening prior to polling day.¹¹⁵
- 2.114 Second preference How To Vote cards are a related but equally vexed issue. Basically, second preference How To Vote cards are:
- those authorised by one political party... seeking the second preferences of the supporters of minor political parties... in House of Representatives elections.¹¹⁶
- 2.115 Mr D Little said these can be viewed as misleading and deceptive because they can be mistaken as How To Vote cards for the first placed candidate.¹¹⁷
- 2.116 The Committee continues to receive requests for better regulation of these How To Vote cards,¹¹⁸ such as that received from Mr and Mrs Reynolds, who argue that second preference How To Vote cards should be submitted to the AEC one week before polling to ensure they comply with the provisions of the Electoral Act.¹¹⁹
- 2.117 The AEC's *Electoral Backgrounder* on 'Unofficial' How To Vote cards pointed out the precedent case law relating to second preference How To Vote cards. That is, a How To Vote card which at first appearance appears to be from one political party, but is actually from another seeking the second preference of a voter, is legal in certain circumstances.¹²⁰

114 Submissions p S1169 (AEC)

115 Submissions p S1474 (Australian Democrats ACT Division)

116 Submissions p S371 (AEC)

117 Submissions p S650 (D.Little)

118 Submissions pp S688 (V.Stewart), S690 (Office of the Leader of Pauline Hanson's One Nation Party QLD Parliament), S796 (ALP) and S1475 (Australian Democrats ACT Division)

119 Submissions p S195 (Mr&Mrs Reynolds)

120 Submissions p S367 (AEC) See also Australian Electoral Commission. 1998. *Electoral Backgrounder, No 3*. Canberra, AEC, pp 1-4.

- 2.118 Two sections of the Electoral Act are relevant to this issue. The first is s329(1), which makes it an offence to print during an election period anything that is likely to deceive an elector in relation to the casting of a vote. The second is s351(1)(b)(ii) of the Electoral Act, which:
- ...makes it an offence for any person , who, on behalf of an association, league, organisation, and without the written authority of a House of Representatives candidate, to announce or publish anything that expressly or impliedly advocates or suggests that that candidate should receive a first preference vote.¹²¹
- 2.119 The AEC advised that the history of this issue goes back to the 1993 federal election, when an unsuccessful candidate for the Division of Macquarie appealed the victory of Ms Maggie Deahm to the Court of Disputed Returns on a number of grounds, including the use of a second preference How To Vote card. Justice Gaudron, presiding over the Court of Disputed Returns, decided the second preference How To Vote card did not breach s 329(1) of the Electoral Act because the card contained the proper authorisation details.¹²²
- 2.120 A Queensland Court of Disputed Returns decision on 15 September 1998 gave further direction to what constituted a legal second preference How To Vote card. Advice provided to the AEC by the DPP prior to the 1998 federal election indicated that this decision meant many of the second preference How To Vote cards used in the 1996 federal election may have breached s329(1) of the Electoral Act. The AEC wrote to the major political parties to that effect prior to the 1998 federal election.¹²³
- 2.121 A number of complaints relating to second preference How To Vote cards were received by the AEC during the 1998 federal election. In each case the DPP advised the AEC that on the basis of the case law cited prosecution was unlikely to succeed.¹²⁴
- 2.122 Part of the Queensland decision argued that an inexpensive measure that would not limit the solicitation of second preferences would be to require the cards to contain on their face, or both faces, the name of the party on whose behalf the cards are being distributed.¹²⁵ In theory, this would prevent any confusion as to the origin of the card.

121 Submissions p S372 (AEC)

122 Submissions p S372 (AEC)

123 Submissions p S373 (AEC)

124 Submissions p S374 (AEC)

125 Submissions p S375 (AEC)

- 2.123 The Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly undertook an inquiry into the implications of the Queensland Court of Disputed Returns decision, and delivered its report in September 1999. That Committee supported the Court of Disputed returns' suggestion concerning authorisation on the basis that more stringent authorisation requirements for How To Vote cards would enhance the voter's ability to make an informed decision on the contents of the card.¹²⁶
- 2.124 The Queensland Committee felt that in applying the Court's suggestion:
- the more stringent authorisation requirements should apply only to How To Vote cards;
 - that the authorisation requirements should apply to all How To Vote cards and should not be restricted to second preference How To Vote cards;
 - that a How To Vote card be broadly defined to include those How To Vote cards that are narrative in nature;
 - that the authorisation must contain the name or abbreviation of the party of origin or the name of the independent candidate as well as the other authorisation details; and
 - that the text of the authorisation appear on every printed face of the document and that the font size of the authorisation range from 10 point for an A6 size card to 20 point for an A3 size card.¹²⁷
- 2.125 The AEC suggests a slightly different amendment to s328 of the Electoral Act to require all electoral advertising advocating a second or later preference on behalf of the candidate placed second or later on the How To Vote card contain at the top of the advertisement the name and address of the person authorising the advertisement, and the name of the political party of origin in no less than 12 point font.¹²⁸ The AEC states it is making

126 Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly. 1999. *Issues of Electoral Reform Raised In the Mansfield Decision: Regulating How To Vote Cards and Providing For Appeals From the Court of Disputed Returns*. Brisbane, Queensland Legislative Assembly, p 21.

127 Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly. 1999. *Issues of Electoral Reform Raised In the Mansfield Decision: Regulating How To Vote Cards and Providing For Appeals From the Court of Disputed Returns*. Brisbane, Queensland Legislative Assembly, pp 22-24.

128 Submissions p S375 (AEC)

this recommendation in the interests of transparency.¹²⁹ Mr Ed Wensing also supports a minimum 12 point font for authorisation details.¹³⁰

- 2.126 The AEC claims that the recommendation needs to specifically address second preference How To Vote cards on the basis that case law on matters of deceptive information tends towards a narrow reading of the legislation, making generalised approaches ineffective.¹³¹
- 2.127 The Committee is reluctant to recommend an authorisation regime specific to second preference How To Vote cards. The Committee notes that in evidence the AEC has indicated the advantages to be gained from similar state and federal regulation on issues such as these.¹³²
- 2.128 The Committee believes that it would be more appropriate to apply an extended authorisation regime to all How To Vote cards in a manner similar to that decided by the Queensland Committee. The Committee therefore recommends that the AEC develop an authorisation regime for all How To Vote cards guided by the findings of the Queensland Legislative Assembly Legal, Constitutional and Administrative Review Committee.

Recommendation 19

2.129 **That the AEC develop an expanded authorisation regime for How To Vote cards which will:**

- **define How To Vote cards broadly so as to include How To Vote cards that are narrative in nature;**
- **ensure the authorisation details include the name of the political party of origin or the name of the independent candidate as well as the other authorisation details; and**
- **include a requirement for the authorisation details to be printed prominently (in 12 point) on each printed side of the How To Vote card.**

The authorisation regime should ultimately be included in the *Commonwealth Electoral Act 1918*.

129 Transcript p 427 (AEC)

130 Submissions p S4 (E.Wensing)

131 Transcript p 437 (AEC)

132 Transcript p 423 (AEC)

- 2.130 The AEC also recommends that the other relevant section of the Electoral Act, s351(1) (see paragraph 2.118), should be repealed on the basis that it is redundant.¹³³
- 2.131 The Committee is of the opinion that this section should remain on the basis that it is potentially still very relevant.

Truth in political advertising

- 2.132 Truth in political advertising is currently dealt with in s329 of the Electoral Act. Section 329(1) of the Act makes it an offence during the election period to print, publish or distribute any matter or thing that is likely to deceive an elector in relation to the casting of a vote. However, this section is not intended to regulate the content of political messages directed at influencing the choice of preferred candidates by voters.¹³⁴
- 2.133 This effectively means that only published or broadcast material which gives misleading or deceptive information about obtaining and marking a ballot paper and depositing a vote in a ballot box would be in breach of s329 of the Electoral Act.¹³⁵
- 2.134 Not surprisingly, a number of participants in this inquiry have some concerns about the limits of s329 of the Electoral Act.¹³⁶ One of these is Mr Robert McClelland MP, Member for Barton. Mr McClelland's concern was prompted by the amount of electoral material that is being distributed immediately prior to the poll which prevents a candidate objecting to its content.

If that material contains misleading statements of fact, it is extremely difficult for a candidate to rebut that before election day.¹³⁷

- 2.135 Mr McClelland suggests that the Committee reinstate its 1996 federal election inquiry report recommendation that the Electoral Act and the relevant broadcasting legislation be amended to prevent misleading statements of fact in electoral advertisements during election periods.¹³⁸

133 Submissions p S375 (AEC)

134 Submissions p S376 (AEC)

135 Submissions p S376 (AEC)

136 Submissions pp S63 (R.Shaw); p S82 and Transcript p 14 (R.McClelland MP, Member for Barton); Submissions p S614 (K.McSweeney) and Transcript p324 (Office of Pauline Hanson's One Nation Party Qld Parliament)

137 Transcript p 14 (R.McClelland MP, Member for Barton)

138 Transcript p 14 (R.McClelland MP, Member for Barton)

- 2.136 In evidence Mr McClelland suggests that any amendment should apply to statements of fact rather than opinion, on the basis that misleading statements do raise difficult issues of interpretation, while a false statement of fact is easily identifiable.¹³⁹
- 2.137 Another advocate of truth in political advertising regulation is the Australian Democrats, which proposes the South Australian model of truth in political advertising legislation:
- Experience teaches us that when the competitive interests of political parties are at stake, only force of law will ensure that reasonable standards of truthfulness are upheld.¹⁴⁰
- 2.138 The parliament was considering legislation based on the South Australian model of truth in political advertising legislation prior to the 1996 federal election. These provisions would have made it illegal during an election campaign to distribute any electoral advertising containing a statement that was misleading or deceptive. However, this was not pursued following the 1996 federal election.¹⁴¹
- 2.139 The government response to the 1996 federal election inquiry report¹⁴² rejected the recommendation relating to truth in political advertising on the basis that such legislation would be difficult to enforce.
- 2.140 The AEC points out that:
- Over the past decade, the AEC has consistently advised the JSCEM that any regulation of the ‘truth’ of political debate would be unwise and unworkable...¹⁴³

139 Transcript p 16 (R.McClelland MP, Member for Barton)

140 Submissions p S1617 (Australian Democrats)

141 Submissions p S1617 (Australian Democrats)

142 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, pp 81-85.

143 Submissions p S376 (AEC)

Dear neighbour letters

- 2.141 The AEC received a number of complaints concerning dear neighbour letters promoting a particular candidate that are distributed by volunteer workers to whole or part suburbs by letter box drop. The AEC argues that these complaints are based on a misunderstanding of the relevant legislation, in that they do not need to be addressed to a specific individual; do not need to be identified as originating from a particular political party or candidate; and need not contain the address of the place of business of the printer. They do, however, need to contain the name and full address of the sender.¹⁴⁴
- 2.142 A large number of complaints were received by the AEC in relation to dear neighbour letters distributed in the ACT on behalf of Senator Margaret Reid. These letters did not contain the full address of the signatories, leading many to believe that the signatories were fictitious. The AEC referred the matter to the Australian Federal Police, which concluded that the signatories were real. The ACT Division of the Liberal Party was warned in relation to not providing the full address of the signatory, and the matter was left there.¹⁴⁵
- 2.143 A related aspect of campaigning that has come to the attention of the Committee is the practice of using unauthorised endorsements. The AEC investigated a complaint against Ms Fran Bailey MP, Member for McEwen, on the basis that an endorsement of Ms Bailey had been distributed to the electorate without the consent of the author. The Committee received a submission from Mrs Margaret Woodgate in relation to this letter.
- Just prior to the October 1998 Federal election residents of my local area (Broadford, Victoria) were sent a letter purporting to be from a local resident endorsing a local candidate. It came to light however, after the election, that in fact the letter had not been sent by the resident but that the candidate had modified a previous endorsement letter sent to her, readdressed it and put the resident's signature on it, all without her permission...¹⁴⁶
- 2.144 As the author made no formal complaint in relation to the letter, and Ms Bailey apologised to the author for its use, the AEC left the matter there.¹⁴⁷
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144 Submissions p S369 (AEC)

145 Submissions pp S369-S370 (AEC) and S1475 (Australian Democrats ACT Division)

146 Submissions p S65 (M.Woodgate)

147 Submissions p S370 (AEC)

- 2.145 Another alleged unauthorised endorsement brought to the attention of the Committee featured in the campaign literature of Mr Phil Baressi MP, Member for Deakin. The pamphlet featured the quote “you showed yourself to be the right man for the job.” Mr Tony Robinson MP, Member for Mitcham in the Victorian parliament, understands that the statement was actually part of a letter sent by the local Communities Council on Ethnic Issues, and related to Mr Baressi’s contribution to a multicultural forum conducted by the organisation some time prior to the election.¹⁴⁸ According to the submitter:

The practice of unauthorised endorsements is, in my opinion, reprehensible. At its worst, as in this case, it represents a fundamental betrayal of the trust placed in an elected member of Parliament by their constituency...¹⁴⁹

- 2.146 The Committee notes that it is a common and accepted practice to use quotes from constituents in political campaigns. The Committee does not see a need to take action on unauthorised endorsements at this stage, but would remind members of parliament and candidates of the necessity to have authorisation to use any such quotes when using this campaign tool in future.

Declaration voting

- 2.147 It is essential that all Australian voters be provided with access to voting facilities for a federal election. A number of alternative ways of casting a vote are therefore provided to voters who are unable to cast an ordinary vote at a polling booth on election day. These alternative forms of voting are known as declaration voting.
- 2.148 Methods of declaration voting include:
- pre-poll voting – a form of declaration voting for electors who will not be in their home state or territory or are unable to attend a polling booth on polling day. A voter can attend an AEC office or one of the special pre-poll voting centres set up before polling day to cast their vote. Some of these special centres stay open on polling day to take the votes of those electors travelling interstate;
 - postal voting – a voter who will not be in his or her home state or territory or is unable to attend a polling booth on election day may cast

148 Submissions pp S608-S609 (T.Robinson MP, Member for Mitcham)

149 Submissions p S609 (T.Robinson MP, Member for Mitcham)

a postal vote before polling day by making a written application to the DRO. The DRO posts out the ballot papers and declaration envelope to the voter to return. A voter can register as a general postal voter and have the ballot papers and declaration envelope despatched to them automatically on the announcement of an election;

- absent voting – a voter who will not be able to attend a polling booth in his or her home Division may cast an absent vote in any other Division in the same state or territory. Interstate voters must cast a pre-poll vote on polling day at a pre-poll voting centre; and
- provisional voting – a voter who does not appear on the Electoral Roll for their Division, or whose name has already been marked off the Roll may cast a provisional vote by declaration. Such votes undergo careful checking of enrolment details before being counted.¹⁵⁰ Provisional voting is dealt with in Chapter 3 of this report.

2.149 To make a declaration vote, a voter must fill out his or her details and make a declaration as to their eligibility to cast such a vote on a declaration envelope. The vote is then completed and placed in the declaration envelope. After polling day all sealed declaration envelopes must pass through a preliminary scrutiny process before they are opened and admitted to the count. This process involves the voter's eligibility details being checked against the Commonwealth Electoral Roll.¹⁵¹

2.150 If, during the preliminary scrutiny process, information on a declaration envelope is insufficient to determine its admissibility to the count, further investigation is undertaken. In some cases personal contact is made with the electors concerned to clarify information. Signature comparisons can also be made with copies of the original electoral enrolment forms.¹⁵² The AEC indicates that it:

... spends as much time as is necessary to verify the inclusion / exclusion of any particular declaration envelope.¹⁵³

2.151 The AEC suggests a technical amendment to the Electoral Act in relation to the counting of declaration votes. The AEC points out that it is currently possible to accept an absent, pre-poll or provisional vote if the declaration envelope is not witnessed, provided a voter's name appears on the record made under s232(2) or s200G, or if the DRO is satisfied the

150 Submissions pp S391-S392 (AEC)

151 Submissions pp S391-S392 (AEC)

152 Submissions p S1163 (AEC)

153 Submissions p S1173 (AEC)

ballot paper is properly issued.¹⁵⁴ For the DRO to be satisfied, it is current practice for the DRO to forward the declaration certificate to the issuing Division to check this against the issuing stub. In conducting this procedure a declaration vote has never been rejected. The AEC reported:

...This is primarily because declaration votes are accounted for from issue in the polling place, on return to the Divisional office, through the declaration vote exchange, and on the check-count at the home Division. Consequently, there is no opportunity for the input of bogus declaration votes...¹⁵⁵

- 2.152 The AEC suggests that it no longer be necessary to check that the voter's name appears on the records of the originating Division for declaration votes, rather that if there is no witness, the DRO need only be satisfied that the ballot paper was properly issued.¹⁵⁶ The Committee does not agree with this suggestion as the procedures currently in place run smoothly.
- 2.153 Mr Alan Hampton suggests that as the electorate expects the election results quickly, and in many marginal electorates, the final result can be dependent on declaration and pre-poll voting, it might be possible to process all pre-poll and declaration votes up to the point of counting of the ballot before election day.¹⁵⁷ The Committee understands Mr Hampton's concerns, but in a Division in which the result is close the declaration of the ballot cannot take place until the final date for the receipt of postal votes, which is 13 days after election day.

Increase in declaration voting

- 2.154 Of the 11,587,353 formal votes cast at the 1998 federal election, 2,074,065, or 17.9% were declaration votes.¹⁵⁸ The following table shows that declaration voting is increasing.

154 Submissions p S413 (AEC)

155 Submissions p S413 (AEC)

156 Submissions p S414 (AEC)

157 Submissions p S147 (A.Hampton)

158 Submissions p S392 (AEC)

Table 2.2 Declaration vote statistics

	1993	1996	1998
	federal election	federal election	federal election
Declaration Votes:			
Absent votes	642,857 (6.02%)	657,539 (5.82%)	776,859 (6.70%)
Provisional votes	58,750 (0.55%)	105,091 (0.93%)	116,158 (1.00%)
Pre-poll votes	352,217 (3.30%)	434,841 (3.85%)	692,377 (5.98%)
Postal votes	306,496 (2.87%)	359,604 (3.18%)	488,671 (4.22%)
Total Declaration Votes	1,360,320 (12.74%)	1,557,075 (13.78%)	2,074,065 (17.90%)
Ordinary votes	9,314,485 (87.26%)	9,737,404 (86.22%)	9,513,288 (82.10%)
Total Votes	10,674,805 (100%)	11,294,479 (100%)	11,587,353 (100%)

Source AEC submission, p S392

- 2.155 Whilst Table 2.2 shows an increase in declaration voting in the last three federal elections, the Committee understands that the timing of the federal election, on a long weekend and during school holidays in some states and territories, resulted in a higher level of declaration voting than would normally have been the case. While it may be true that many voters are viewing declaration voting as a more convenient form of voting than appearing at the polling booths on election day, the Committee would like to determine whether that is actually the case.

Recommendation 20

- 2.156 **The AEC conduct an investigation to determine the reasons for the changes in the pattern of declaration voting.**

Pre-poll voting

- 2.157 The Committee notes that the AEC suggests changes to the postal vote application form so that the applicant must tick off the reason why the applicant requires a postal vote from a list of permitted reasons in the legislation (see paragraph 2.197 below).¹⁵⁹ Qualification for a postal vote applicant are already listed on the application form but an applicant is not required to indicate their reasons for seeking this vote. The Committee supports this course of action and calls on the AEC to implement a similar arrangement with pre-poll voting forms.

159 Submissions p S399 (AEC)

Recommendation 21

- 2.158 **That the AEC modify its pre-poll voting form so that voters are requested to tick off the reason why they require a pre-poll vote from a list of permitted reasons in the legislation.**
- 2.159 This recommendation is not intended to disenfranchise those voters who fail to indicate the reason they require a pre-poll vote. Failure to indicate a reason for requiring a pre-poll vote should not result in the disqualification of the vote.

Pre-poll voting in home Divisions

- 2.160 The AEC has consistently argued since 1993 that pre-poll votes cast in the elector's own Division be considered an ordinary vote rather than a declaration vote. The AEC argues that:

The provision of an ordinary pre-poll vote in the home Division would represent no more than an administrative simplification, with attendant time and cost efficiencies...¹⁶⁰

- 2.161 The AEC argues that the admission of pre-poll votes as ordinary votes would not necessarily encourage the use of this as an alternative to voting on polling day as such voters would still have to provide a legitimate reason for casting a pre-poll vote.¹⁶¹
- 2.162 The Committee considers that allowing such a change would be contradictory to its overall strategy of discouraging the increasing use of declaration voting.

Pre-poll schedules

- 2.163 The Committee has received complaints in relation to incorrect advice being given by the AEC for pre-poll schedules and arrangements. In the Division of Hindmarsh the Liberal Party indicate that they believe the level of notification in relation to the schedule was less than desirable, claiming that two pre-poll voting centres were opened earlier than the scheduled date without notifying candidates.¹⁶² The Australian Democrats complain that their South Australian central office did not receive all information regarding polling booths from the Divisional offices.¹⁶³

¹⁶⁰ Submissions p S393 (AEC)

¹⁶¹ Submissions p S393 (AEC)

¹⁶² Submissions p S779 (Liberal Party)

¹⁶³ Submissions p S227 (Australian Democrats South Australian Division)

- 2.164 The AEC disputes these complaints, stating that pre-poll voting centres did not open earlier than the scheduled time.¹⁶⁴
- 2.165 The Committee realises that incorrect information can be critical to candidates running for election. The Committee recommends the AEC review its current practices to ensure that the information communicated to both the candidates and the public in relation to pre-polling facilities is clear and correct.

Recommendation 22

- 2.166 **That the AEC review its current practices to ensure that the information communicated to the candidates and the public in relation to pre-polling facilities is clear and correct.**

Pre-poll centres

- 2.167 A couple of submitters expressed their concern about the location of pre-poll voting centres. The Hon. Lou Lieberman MP, Member for Indi, indicates there were insufficient pre-polling facilities in his electorate, with cities such as Benalla unsuccessfully seeking pre-poll voting centres, and the ALP Charters Towers Branch point out that there were no pre-poll facilities in Charters Towers.¹⁶⁵ The AEC does not address these issues as part of the inquiry. The Committee suggests the AEC take these concerns into account at future electoral events.
- 2.168 Mr Barry Wakelin MP, Member for Grey, has undertaken an extended campaign to obtain pre-poll voting centres at Roxby Downs, where working conditions prevent some electors voting on election day.¹⁶⁶
- 2.169 The AEC states that the polling arrangements at Roxby Downs for the 1998 federal election were similar to those for the 1996 election because, following the 1996 election, there were no complaints or suggestions from either the miners or the employer organisations regarding polling facilities.¹⁶⁷
- 2.170 According to the AEC, the shift workers at Roxby Downs are aware of their shifts up to six months in advance, and postal voting was deemed appropriate under these circumstances. On the basis of previous
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164 Submissions p S1183 (AEC)

165 Submissions pp S180 (Hon L.Lieberman MP, Member for Indi) and S636 (ALP Charters Towers Branch)

166 Submissions p S722 and Transcript p 2 (B.Wakelin MP, Member for Grey)

167 Submissions p S1180 (AEC)

experience and direct contact between the DRO and the coordinator of private contracts at Roxby Downs after the announcement of the election, 2,500 postal vote applications were forwarded to Roxby Downs.¹⁶⁸

Party workers at pre-poll centres

- 2.171 The AEC is making increasing use of non-government buildings for pre-poll voting centres, including airports, shopping malls and other private properties. Both the ALP and the Liberal Party indicate that party workers experienced difficulties distributing electoral material at some pre-poll voting centres. Both parties stress the importance to the political process of the effective communication of electoral material, and with that in mind, recommend that the AEC, when securing pre-poll voting facilities, ensure that party workers can have access to the site.¹⁶⁹
- 2.172 The Committee appreciates the importance political parties place on ensuring party workers have access to pre-poll voting centres. The AEC agrees that party workers should not be prevented from handing out How To Vote material to electors and points out that it is standard practice for DROs to seek the co-operation of private or public owners of premises wherever polling is conducted.¹⁷⁰

Recommendation 23

- 2.173 **That the AEC seek agreement, where appropriate, from the owners of the premises on which a pre-poll is located to ensure that no unreasonable restriction is placed on the right of persons to distribute the customary election material or for voters to receive that material at or in the vicinity of the pre-poll.**

168 Submissions p S1180 (AEC)

169 Submissions pp S777-S778 (Liberal Party), S789 (ALP) and Transcript p 36 (ALP)

170 Submissions pp S1188 and S1194 (AEC)

Antarctic voters

- 2.174 Currently, Antarctic votes are processed as postal votes. As voters in the Antarctic vote at a designated polling place this definition is inaccurate. The AEC recommends that the Electoral Act be amended to process votes cast by Antarctic electors as pre-poll votes.¹⁷¹ The Committee accepts this recommendation.

Recommendation 24

- 2.175 **That the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to process votes cast in the Antarctic as pre-poll votes.**

Postal voting

Separate postal ballot papers

- 2.176 Under the Electoral Act, the AEC is required to produce a separate postal ballot paper with distinct markings. This means the AEC has to estimate the requirement for such ballot papers in advance and produce two types of ballot papers.
- 2.177 The AEC points out that the strict procedures in place for the accounting of all postal ballot papers during production, issue and receipt make such a distinction redundant. The AEC therefore recommends that ordinary ballot papers be used for postal voting in the future allowing for administrative and cost efficiencies in the production of ballot papers.¹⁷² The Committee agrees that this will improve the efficiency of the conduct of elections.

Recommendation 25

- 2.178 **That section 209(5) of the *Commonwealth Electoral Act 1918* and section 25(4) of the *Referendum (Machinery Provisions) Act 1984*, requiring the production of separate postal ballot papers, be deleted so as to allow the same ballot paper to be used for all forms of voting.**
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¹⁷¹ Submissions p S403 (AEC)

¹⁷² Submissions p S395 (AEC)

Double enveloping

- 2.179 Double enveloping of postal ballot papers was introduced during the 1998 federal election for the first time. During the election 5.22% of Senate postal votes and 2% of House of Representatives postal votes were returned with the ballot papers outside the declaration envelope, but inside the business reply paid envelope and thus were counted as informal.¹⁷³
- 2.180 The AEC recommends that the Electoral Act be amended to allow for the inclusion in the count of those ballot papers that are posted outside the declaration envelope but inside the business reply paid envelope provided that the declaration certificate is accepted.¹⁷⁴ However, the AEC states that early indications in the 1999 Referendum are that the percentage of informal votes caused by failing to put the ballot inside the declaration envelope is significantly lower than that recorded in the 1998 federal election.¹⁷⁵
- 2.181 The Committee believes that the high level of confusion at the 1998 federal election was transitional due to the introduction of a new system and is unlikely to be repeated to the same extent in future elections. The AEC indicates it will reassess the art work for postal ballot certificates in order to make the instructions relating to double enveloping more prominent.¹⁷⁶

Spoilt postal ballot papers

- 2.182 Section 328 of the Electoral Act is intended for the reissue of ballot papers where a polling official is satisfied that a ballot paper has been spoilt. This clause is intended for polling places and pre-poll voting centres but has been interpreted for use with postal votes. The AEC recommends that the Electoral Act be amended to allow for the replacement of spoilt, lost or undelivered postal ballot papers on written application from the elector.¹⁷⁷
- 2.183 The Committee agrees with this recommendation. However, if the AEC receives two or more postal ballot papers from an individual elector as a result of a request for replacement ballot papers, the AEC should discard any second or subsequent set of ballot papers received.

173 Submissions p S394 (AEC)

174 Submissions p S395 (AEC)

175 Transcript p 434 (AEC)

176 Submissions p S394 (AEC)

177 Submissions p S402 (AEC)

Recommendation 26

- 2.184 **That the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to specifically allow for the replacement of spoilt, lost or undelivered postal ballot papers on written application from the elector. If the AEC receives two or more sets of ballot papers from an individual elector as a result of a request for replacement ballot papers, the AEC should discard any second or subsequent set of ballot papers received and keep a record of such occurrences to determine whether there is an intention to multiple vote.**

Postmarking of postal ballot papers

- 2.185 Currently, an envelope purporting to contain a postal ballot cannot be considered as part of the count if it is postmarked after election day. As a number of postal voters assume that they cannot vote until election day, this means their ballots are discarded. The AEC recommends that the date of the witness' signature be taken as the day determining the validity of a postal vote.¹⁷⁸
- 2.186 In its submission to the 1993 federal election inquiry the AEC stated that a survey of postal vote envelopes in the Division of Chifley indicated that 42% had no postmark and a further 5% had an illegible postmark. When the Division of Chifley was again examined for the 1996 election, the AEC advised that the percentage of postal votes not postmarked was 59% and a further 20% had an illegible postmark. The AEC noted that a substantial number of the 59% would have been 'Business Reply Paid' envelopes which are not normally postmarked by Australia Post.
- 2.187 In addition, the AEC has advised that another factor rendering the postmarking irrelevant is Australia Post's application of Delivery Point Identifiers (DPIDs) to approximately 90% of postal addresses in Australia and the adoption of this technology by the AEC. This means that in the dispatch of postal vote materials to applicants, the AEC uses a barcoded DPID and in the return processing of postal vote envelopes through most mail exchanges a postmark is no longer applied.
- 2.188 The AEC concludes that:
- ...it is increasingly rare for postal vote envelopes returned to the AEC to carry postmarks and it is increasingly the case that the AEC is unable to determine whether a late postal vote was posted

within time, based on the postmark. The only useful indicator remains the date of the witness signature.¹⁷⁹

- 2.189 Such a change would resolve the issue raised by Mr Tony Lawler MP, Member for Parkes, concerning electors on the nine once a week mail runs that operate out of Broken Hill. Given the timeframes involved in federal elections, there is the potential for voters on these mail runs to be disenfranchised because they are unable to post their completed ballot papers before election day. Given that there are at least 10-15 deliveries per run, with 2-3 voters per delivery, up to 250 votes could be disenfranchised.¹⁸⁰
- 2.190 As part of the 1996 federal election inquiry report, the Committee recommended that the relevant parts of the Electoral Act be amended to allow the witness' signature to be used to determine the admissibility of postal votes.¹⁸¹ The government supported this recommendation in its response to that report, however this support has not resulted in a proposed amendment to the Electoral Act.

Recommendation 27

- 2.191 **That paragraph 7 of Schedule 3 of the *Commonwealth Electoral Act 1918* and paragraph 7 of Schedule 4 of the *Referendum (Machinery Provisions) Act 1984* concerning the postmarking of postal vote envelopes be amended, so that the date of the witness's signature is instead used to determine if a postal vote was cast before the close of polling if there is no post mark or if the post mark is illegible. The witnessing portion of the postal vote envelope should specify all the elector's details being attested to, and should make clear that it is an offence for a witness to make a false declaration.**
- 2.192 The Liberal Party recommends that:
- ..in recognition of the increasing and legitimate role of electronic communications, the party believes provisions should be made to clearly indicate that postal vote applications are acceptable in electronic form, for example, by fax or by some other electronic form.¹⁸²

179 Submissions p S2431 (AEC)

180 Submissions p S1097 (T.Lawler MP, Member for Parkes)

181 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, pp 57-58.

182 Submissions p S777 (Liberal Party)

- 2.193 In response, the AEC points out that postal vote application forms can be received by fax, but also notes that faxing a large number of postal vote applications to a Divisional office in the short time frame of an election will present some difficulties.¹⁸³ The Committee believes that the AEC should remain in step with the adoption of technology such as faxes by the general public, and should take into account the possibility of increased fax usage in election planning.

Distribution of postal vote application forms

- 2.194 Prior to a federal election there is a wide distribution of postal vote application forms by political parties across Divisions.
- 2.195 The AEC is concerned that:
- ...instead of being a fall back facility for those electors who might experience difficulty in attending a polling booth on polling day, postal voting may be evolving into the method of voting of first choice because of the undoubted convenience...¹⁸⁴
- 2.196 Postal voting statistics show an increase in postal voting from 2.87% of votes at the 1993 federal election to 4.22% at the 1998 federal election (see Table 2.2).
- 2.197 The AEC is concerned that the forms distributed by political parties do not include the relevant information relating to who is eligible for a postal vote as this information is not contained in the approved AEC form. This means that many electors who receive postal vote application forms from political parties may not appreciate the qualifications for postal voting, and therefore may apply for a postal vote while still being able to attend a polling booth on election day.¹⁸⁵
- 2.198 To prevent ineligible postal voting in future, the AEC will be gazetting a new postal vote application form that includes the relevant advisory information on postal vote qualifications, ensuring political parties reproduce not only the postal vote application but also the relevant qualifications for postal voting.¹⁸⁶
- 2.199 The AEC states it will also consider making the 'approved' postal vote application form similar to the postal vote application Form 13 approved by the New South Wales Electoral Commissioner for the purpose of New South Wales State elections. This involves the applicant ticking off the
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183 Submissions pp S1187-S1188 (AEC)

184 Submissions p S396 (AEC)

185 Submissions p S398 (AEC)

186 Submissions p S399 (AEC)

reason why the applicant requires a postal vote from a list of the permitted reasons in the legislation.¹⁸⁷

Recommendation 28

2.200 That the AEC modify its postal voting form so that voters are requested to tick off the reason why they require a postal vote from a list of permitted reasons in the legislation.

2.201 This recommendation is not intended to disenfranchise those voters who fail to indicate the reason they require a postal vote. Failure to indicate a reason for requiring a postal vote should not result in the disqualification of the vote.

2.202 The Committee recognises that the wide distribution of postal vote application forms may encourage ineligible voters to use the option of postal voting. The Committee will monitor the effect the AEC's proposal has on the levels of postal voting in future elections and recommend further action as necessary.

Potential multiple voting by postal voters

2.203 The wide distribution of postal vote application forms has resulted in the AEC receiving a number of multiple postal vote applications from the same applicant.¹⁸⁸

...This results in a significant increase in administrative workload for Divisional staff to ensure that they issue only one set of ballot papers and a declaration envelope to each postal vote applicant.¹⁸⁹

2.204 If more than one postal vote application is received from one elector, the Electoral Act does not explicitly allow Divisional staff to decide not to issue another set of ballot papers. The AEC recognised this problem early in the election period and issued administrative instructions to contact all those who applied for more than one postal vote and advised them of the penalties for multiple voting.¹⁹⁰ The AEC recommends that the Electoral Act be amended to require Divisional staff to consult with multiple postal

187 Submissions p S399 (AEC)

188 Submissions p S399 (AEC)

189 Submissions p S396 (AEC)

190 Submissions p S399 (AEC)

vote applicants in order to avoid issuing multiple sets of postal voting material.¹⁹¹

- 2.205 The AEC suggests that another possible remedy to multiple voting of this kind would be to amend the Electoral Act to disallow, at the preliminary scrutiny stage, any second or more declaration votes received from one elector. Such a remedy might have the additional benefit of ensuring that the political parties return forms forwarded to them much more quickly, to ensure that their form is the one recognised.¹⁹²
- 2.206 The Committee believes a better solution would be for the AEC to issue one set of postal ballot papers and discard any second or subsequent application form request. Replacement of spoilt, lost or undelivered postal ballot papers is dealt with at Recommendation 26 above.

Recommendation 29

- 2.207 **That the AEC only issue one set of postal ballot papers and discard any second or subsequent application form request except where the second or subsequent request is to replace spoilt, lost or undelivered ballot papers on written request from the elector as set out in Recommendation 26.**

Return of postal vote application forms to a political party

- 2.208 Electors may be misled into believing that the postal vote application form is returned directly to the AEC, because some political parties do not make it clear on the return address envelope provided with the form that the address is for a political party. The AEC pointed out that any elector who completes the application form and returns it to the party office address is providing the party with personal details, and possibly an indication of political support. Postal vote applicants may do this unknowingly.¹⁹³
- 2.209 Mr Cox also raises the practice of returning postal vote application forms to a political party and recommends that this be prohibited. He argues that:

...This would reduce the time involved in turnaround of postal voting material, reduce the chance of disenfranchisement of voters, reduce the invasion of privacy and associated security

191 Submissions p S400 (AEC)

192 Submissions p S400 (AEC)

193 Submissions p S396 (AEC)

risks, and reduce the prospects of misconception about AEC alignment.¹⁹⁴

- 2.210 The AEC points out it is not privy to the use made of the personal information provided to political parties, but it assumes that political parties record the personal details contained on these forms, which are then added to enrolment databases to refine political campaigning.¹⁹⁵ In order to make it absolutely clear where postal vote application forms will be returned to, the AEC recommends that reply paid envelopes supplied by political parties with postal vote application forms contain the name of the political party on the return address.¹⁹⁶
- 2.211 The Committee supports such a requirement.

Recommendation 30

- 2.212 **That reply paid envelopes supplied by political parties with postal vote application forms that are addressed to return to the political party, the name of the political party be part of the address on the envelope.**

Disenfranchisement of postal vote applicants

- 2.213 Returning the postal vote application forms to a political party office creates the possibility that the voter could be disenfranchised if the party does not forward the form to the AEC with appropriate haste.¹⁹⁷ The AEC is concerned that:
- ...despite the reassurances regularly received from political parties engaged in this practice, there is a real risk that political parties holding large numbers of postal vote applications may lose or misplace some or all of these, or send them to the AEC after the deadline for the receipt of postal vote applications, and thus disenfranchise some voters...¹⁹⁸
- 2.214 The AEC has evidence that 174 postal voters were disenfranchised in the 1998 federal election apparently because their political party postal vote applications were not received in time to be processed.¹⁹⁹ There are also numerous instances where it was necessary for AEC staff to remind

194 Submissions p S101 and Transcript pp 100-102 (B.Cox)

195 Submissions pp S396-S397 (AEC)

196 Submissions p S401 (AEC)

197 Submissions p S160 (P.Hyland)

198 Submissions p S397 (AEC)

199 Transcript p 420 (AEC)

political parties that they needed to supply their postal vote application forms by a particular time in order not to disenfranchise voters.²⁰⁰

- 2.215 On a related concern for the AEC, political parties tend to send bundles of applications through to AEC offices at unpredictable times. Rather than receiving a steady stream of applications, it is the AEC's experience that political parties deliver the forms at unpredictable times in large numbers, generating inefficiencies in the processing of these forms.²⁰¹
- 2.216 In response, the Committee notes that all experienced political parties know the importance of having a good postal vote machine. It is not entirely clear from the evidence that the political parties are wholly responsible for the 174 disenfranchised postal voters. It is possible that some were disenfranchised as a result of administrative errors by the AEC. In the absence of further evidence, the Committee urges both the AEC and the political parties to improve their processing of postal vote application forms.

Mobile polling

- 2.217 Mobile polling involves the transportation of polling booths to locations where voters would normally be unable to access a standard polling booth, including hospitals and prisons, in the 12 days up to and including polling day. It has long been the accepted practice that mobile polling is conducted in remote areas of Australia, and that these mobile polls service mainly Aboriginal voters who have language and literacy difficulties.²⁰²
- 2.218 Remote mobile polling is conducted by AEC Remote Mobile Polling Teams, which are under the supervision of a team leader. The team leader is also the Presiding Officer for the purposes of polling, although they are more often known as Officers in Charge (OICs).²⁰³
- 2.219 Generally speaking, the conduct of remote polling is considered to be of a high order, and is praised even by those participants to the inquiry such as the NTCLP, who find fault with particular Remote Mobile Polling Teams. The NTCLP states that:

200 Submissions p S402 and Transcript p 39 (AEC)

201 Submissions p S397 (AEC)

202 Submissions p S385 (AEC)

203 Submissions p S1154 (AEC)

...most scrutineers have high praise for the efficiency and cooperation received from both the AEC and mobile teams. The difficulty seems to be limited to a few specific people.²⁰⁴

- 2.220 In addition, the AEC states that it received no complaints about the conduct of remote polling from those voters targeted by remote polling.²⁰⁵

Remote mobile polling team 16, Northern Territory

- 2.221 Most of the discussion in relation to remote polling has been focussed on Remote Mobile Polling Team 16 in the Division of the Northern Territory. This Team was tasked with conducting mobile polling in the remote communities to the West of Alice Springs. The inquiry has been a forum for ongoing debate by the participants and parties interested in the conduct of this Team. At issue are the schedule undertaken by this Team; polling statistics collected by the OIC; and the possibility that polling took place while some AEC officials were absent. Issues relating to assisted votes are considered in Chapter 3.

Schedule

- 2.222 Dealing first with the scheduling problems,²⁰⁶ it is clear that given the numerous conflicting descriptions of which locations were visited and when, a precise order of events is impossible to determine. What follows is the Committee's best estimate based on evidence gathered.
- 2.223 By the admission of the OIC, Remote Mobile Polling Team 16 was late in reporting to certain polling places; booths were not set up in some polling places because there were no electors present; and some of those polling places did not stay open the advertised length of time.²⁰⁷ The AEC reports that the itinerary for Mobile 16 included 16 polling places, 14 of which were visited. Of the two polling places not visited, it was known that there were no electors present at one, and there was reliable information that the second was a risk to the physical safety of the team.²⁰⁸
- 2.224 Both the NTCLP and the AEC agree that on Monday 16 September 1998 the team visited Iwupataka (Jay Creek), West Waterhouse and Wallace

204 Submissions p S554 (NTCLP)

205 Submissions p S1153 (AEC)

206 Scheduling problems for remote mobile polling teams were also identified by Mr Barry Wakelin MP, in his Division of Grey, see Transcript p 7.

207 Submissions p S1156 (AEC)

208 Submissions p S1156 (AEC)

Rockhole.²⁰⁹ On Tuesday, the Team was at Hermannsburg all day. On Tuesday night, the OIC indicated that all scrutineers should assemble the next morning to discuss the itinerary for Wednesday.²¹⁰ On Wednesday morning, the OIC set up the polling booth in Hermannsburg and intended to stay until 2.30pm.²¹¹ The AEC claim that the OIC had received information that there were no voters present at the location scheduled for Wednesday morning, New 8 Mile. As a number of people from Hermannsburg had not voted, the OIC determined to remain there for the morning.²¹²

- 2.225 Of the remaining locations scheduled, the NTCLP claim that Intyamangama, Ntakarra and Ilkarilalama were missed altogether, while Red Sandhill, Kaporilya, Lyiltjarra and Gilbert Springs were visited, but mostly at times contrary to the schedule, and no polling place was established.²¹³
- 2.226 On the other hand, the AEC claims that Intyamangama, Kaporilya, Ilkarilalama, Lanjakwarra and Gilbert Springs were visited, but no votes were taken either because no one was present or the voters had cast their votes elsewhere. Ntakarra was not visited because at the time a number of the community were drunk and it was considered dangerous to visit. The AEC claims that polling took place normally at Tjamangkurra, Arkanputa, Red Sandhill, Intjarntnama and Lyitjarra.²¹⁴
- 2.227 The OIC of Mobile Polling Team 16 has admitted that the schedule was significantly deviated from.²¹⁵ Whether these deviations were for legitimate reasons or not is the issue in question. The AEC explained that there are generally good reasons for variations to remote polling schedules, and that changes to the schedule are always made according to established procedure.²¹⁶ The OIC, during the hearing in Alice Springs, indicates that on at least one occasion, the locations scheduled for the day were visited in reverse order for geographical reasons.²¹⁷ The Committee considers that this is not necessarily a good reason for varying the schedule. It is not clear from the evidence whether such changes were approved by the AEC or not.
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209 Submissions p S1156 (AEC)

210 Transcript p 298 (E.Williams)

211 Submissions p S1370 (NTCLP)

212 Submissions p S1156 (AEC)

213 Submissions p S1378 (NTCLP)

214 Submissions p S1157 (AEC)

215 Transcript p 301 (E.Williams)

216 Submissions p S1182 (AEC)

217 Transcript p 301 (E.Williams)

Record keeping

- 2.228 The OIC of each Remote Mobile Polling Team is required to keep figures on relevant details of polling conducted by the Team. On Team 16, votes were not correctly recorded for each community visited resulting in irregularities in the manual record of votes cast at several of the sites visited.²¹⁸
- 2.229 Because of the irregularities in the manual record of votes cast along the route of Remote Mobile Polling Team 16 there was a delay in the production of Territory wide statistics on votes cast at each mobile polling place.²¹⁹ The discrepancy was detected by representatives of the NTCLP after they were able to obtain an early, inaccurate, version of the Northern Territory Remote Mobile Polling Team statistics.²²⁰
- 2.230 While both the AEC and the NTCLP agree that the discrepancy in the figures does not mean that the actual voting process was improper,²²¹ the Committee is still concerned that discrepancies of this sort took place. Situations like this bring into question the professional reputation of the AEC, which the Committee considers should be beyond question.

Palm Valley tour

- 2.231 The final issue of contention relates to the possibility that polling took place while some of the AEC officials were on a tour of a local tourist attraction, Palm Valley. The NTCLP appears to be claiming that the tour took place on the last day of polling while the team was at Hermannsburg. The NTCLP allege that while the two AEC officials were on the tour, the OIC opened the polling booth at Hermannsburg and received an additional 84 votes.²²²
- 2.232 According to the OIC, the tour in fact took place on the penultimate day of polling. The OIC claims that polling took place up to 2.30pm, when polling was closed. All the ballot boxes were sealed and put into the vehicle, but were not signed off. When the staff returned from the tour, they were asked to sign off. The OIC explained that the 84 additional

218 Submissions pp S713 (Senator the Hon. G.Tambling), S1173 (AEC) and Transcript pp 200-201 (Senator the Hon. G.Tambling)

219 Submissions p S1174 (AEC)

220 Transcript p 211 (K.Heisner)

221 Submissions pp S1173 (AEC) and S1391 (NTCLP)

222 Submissions p S1546 (NTCLP)

votes alluded to by the NTCLP were declaration votes collected from all locations the Team visited.²²³

Conclusion

2.233 The overall picture in relation to the conduct of Remote Mobile Polling Team 16 is one of a Team poorly run. The Committee believes a series of errors in the conduct of this Team have generated an impression of mismanagement, however unwarranted. As a matter of balance, the AEC has indicated that the OIC of Team 16 found the NTCLP scrutineers attending Team 16 to be intimidating.²²⁴ While this is entirely possible given that some NTCLP scrutineers have revealed they are unclear about voting practices for federal elections,²²⁵ it is not an explanation for apparent poor management by the AEC.

Recommendation 31

2.234 **That the AEC review its mobile polling arrangements and training to ensure good management of mobile polling teams.**

Problems on other mobile teams

2.235 Scheduling problems with mobile polling teams were also apparent in the Division of Gwydir, where Pauline Hanson's One Nation Party complained that the schedule they received was inaccurate.²²⁶

2.236 The DRO for Gwydir has reported that the mobile polling schedule provided to candidates did contain incorrect information. All candidates received the incorrect schedule and the error was not detected until late in the week of mobile polling, by which time it was too late to contact candidates. On 12 November 1998 the Australian Electoral Officer for New South Wales wrote to the Gilgandra Branch of the Pauline Hanson's One Nation Party and apologised for the error.²²⁷

2.237 In order to uphold the integrity of the electoral process and facilitate the attendance of scrutineers at mobile booths, particularly to observe assisted

223 Transcript pp 299-300 (E.Williams)

224 Submissions p S1157 (AEC)

225 Submissions p S1156 (AEC)

226 Submissions pp S562 (Pauline Hanson's One Nation Party Gilgandra Branch) and S693 (M.Roberts)

227 Submissions pp S1170-S1171 (AEC)

voting, the Liberal Party believes the AEC should make seats available for party scrutineers of registered political parties on aircraft used to travel to the location of the mobile booths.²²⁸ The AEC objects to the provision of free travel for the scrutineers of political parties. The *AEC Remote Mobile Polling Procedures Manual* makes it clear that How To Vote cards provided by candidates must be displayed by AEC mobile polling staff in a prominent position outside the boundary of remote polling places during polling hours, and must be collected up after the close of the poll.²²⁹ The Committee believes that the AEC position is justified on the basis of protecting the independence and integrity of the vote, and the AEC should not be responsible for providing transport for party scrutineers.

228 Submissions p S780 (Liberal Party)

229 Submissions p S1189 (AEC)

