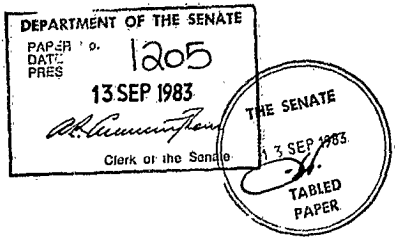

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOINT SELECT COMMITTEE ON ELECTORAL REFORM

FIRST REPORT

SEPTEMBER 1983

CONTENTS

Members of the Committee:

Dr R.E. Klugman, MP (Chairman)
Mr R.S. Hall, MP (Deputy Chairman)
Senator the Hon. Sir J. Carrick, KCMG
Senator M.J. Macklin
Senator R.F. Ray
Senator G.F. Richardson
Mr A.G. Griffiths, MP
The Hon. R.J.D. Hunt, MP
Mr J.L. Scott, MP

PREFACE

On behalf of the Joint Select Committee on Electoral Reform, I thank all those who have assisted by presenting oral and/or written submissions and would particularly like to express our appreciation to Mr Keith Pearson, Mr Andrejs Cirulis, Mr Michael Maley and Mrs Jan Woodward, all from the Australian Electoral Office, who provided the Committee with valuable information and suggestions, the Attorney-General's Department for providing prompt legal advice and the committee secretariat for its great effort and co-operation. It was a new committee given a large and important task to be completed in a short time with a speedily assembled staff.

A large number of the subjects examined by the Committee were comprehensive in nature, requiring and receiving detailed attention and deliberation. Given the time constraint upon the preparation of the Committee's report, it has not been possible on all occasions to provide comprehensive explanations as to the reasoning which led to the Committee's recommendations, all of which were made after close examination and deliberation.

As Chairman of the Committee, I would particularly like to thank the Committee members for their excellent cooperation. The committee sat repeatedly all day and into the (sometimes late) evening and yet there was almost continuously 100% attendance. Considering the many other duties of Members of Parliament I regard this as an outstanding effort.

In view of the highly political questions involved, where every party would be expected to look to its own advantages, the Committee's deliberations were examples of rational discussion. I especially thank the Opposition members for cooperating in helping to design reasonable methods for introducing public funding of elections and in reaching a voting system designed to reduce the large number of unintended informal votes for Senate elections, two questions which might have been expected to produce extreme polarisation of viewpoints.

R.E. KLUGMAN
Chairman

Terms of reference and conduct of inquiry

On 4 May 1983, the House of Representatives resolved to appoint a Joint Select Committee on Electoral Reform. The Senate concurred on 11 May 1983. The Committee's terms of reference were as follows:

> To inquire into and report upon all aspects of the conduct of elections for the Parliament of the Commonwealth and matters related thereto, including -
>
> (a) public funding and disclosure of funds;
> (b) franchise and registration of voters;
> (c) voting systems;
> (d) polling procedures;
> (e) legislation governing, and the operation of, the Australian Electoral Office;
> (f) ballot paper format, and
> (g) electoral distribution, procedures and systems.

The Committee was required to report by 31 August 1983. Towards the end of the Committee's inquiry, it became apparent that, with both Houses rising on 25 August and not resuming until 6 September 1983, a short extension of time would be necessary. Both Houses agreed to extend the time for the presentation of the Committee's report until 15 September 1983.

The Committee met for the first time on 17 May 1983 and elected Dr R.E. Klugman, MP, Chairman, and Mr R.S. Hall, MP, Deputy Chairman. The Committee decided to advertise extensively for submissions, to be forwarded within a short time, given the Committee's early reporting date. The resolutions of both Houses had empowered the Committee to have access to the report of a Joint Select Committee on Electoral Matters agreed to by the Senate on 26 November 1981. In all, a total 212 submissions were received by the Committee from a wide range of Ministers, Premiers, State and Federal Members of Parliament, associations, political parties, interest groups, and individuals.

The Committee met on 16 occasions. Meetings were held in Canberra except for one occasion when the Committee met in Sydney.

As well as the specific areas of inquiry undertaken by the Committee, it was decided to include a summary of the Committee's recommendations and a brief history of electoral reform in Australia. The latter is contained in Chapter 1. The Committee received a series of suggested amendments to the Commonwealth Electoral Act of a machinery nature, such as 'substitute "Crown" for "King", "Christian or given name" for "Christian name"', and to delete antiquated references such as the one to horse and carriage hire. The Committee does not intend to make specific recommendations concerning amendments of this kind. They should be dealt with in the normal re-drafting process.

Among the Committee's recommendations are requests that it be empowered to pursue several specific matters currently within its terms of reference at greater length:

- the broadcasting and television provisions concerning elections;
- indirect public funding by means of the provision of 'free' radio and television time;
- standards governing political advertising;
- provisions of the Commonwealth Electoral Act concerning defamation of candidates;
- the industrial elections functions of the Australian Electoral Office, and
- tax deductibility of political donations.

The Committee also recommends that both Houses of Parliament may wish to consider the appointment of a parliamentary committee to receive references dealing with problems which may arise when the proposed Electoral Commission is set up, and to monitor the public funding and disclosure provisions it has recommended.

CHAPTER 1

ELECTORAL REFORM IN AUSTRALIA - A BRIEF HISTORY

1.1 Australians have a long history of experimentation with aspects of their electoral systems. The trend began almost immediately after the British Parliament took the first tentative steps towards some popular participation in the administration of the Colony of New South Wales in the late 1820's. It recurs as a theme in colonial and national history in which the differing interest groups, factions and parties, for widely differing and not infrequently politically self-serving reasons, advanced successive measures allegedly aimed at achieving and maintaining a stable and democratic electoral structure. That this has not always been the sole aim does not detract from the net effect, which has been generally marked by a willingness for bold vision in achieving equitable political representation.

1.2 Parliamentary elections were first held in an Australian colony in 1843, for the reformed Legislative Council of New South Wales. The elections were based on a qualified franchise. Pressure for manhood suffrage, however, mounted steadily; by 1859 it had been implemented in New South Wales, Victoria, Queensland and South Australia. In 1856 the Colony of Victoria conducted the world's first secret ballot for elections to Parliament. Four other Australian colonies had followed this lead by 1859 with Western Australia completing the Australia-wide introduction of the secret ballot in 1877. The

Australian electoral pioneering is still recognised more than a century later; in parts of the United States of America, the provisions of secrecy in voting, and the confidentiality of votes, are still termed the 'Australian Ballot'. The Australian colonies' implementation of the secret ballot was followed within the next 20 years by New Zealand, Canada, the United Kingdom and Belgium, and has been subsequently introduced widely in the democratic world.

1.3 Female suffrage was first introduced in Australia by South Australia in 1894, following its first introduction in the British Empire in New Zealand in 1893. Western Australia introduced restricted female suffrage in 1899. Women were enfranchised from the first elections under federal law for the new national Parliament (September 1903), and had achieved this right in all States with its introduction in Victoria in 1909.

1.4 In other areas, Australian Parliaments have been to the forefront in introducing what were viewed as progressive electoral provisions. In New South Wales, plural voting was eliminated in 1894, removing voting rights attaching to property as well as to residence. By the turn of the century, all colonial legislatures had approved the payment of Members. Compulsory voting was introduced in Queensland in 1914, following the federal introduction of compulsory registration (but not voting) in 1911. Compulsory voting legislation was introduced nationally for referendums in 1915 and for voting in 1924. A table summarising innovations in colonial and federal electoral machinery, and a comparison with United Kingdom arrangements, is at Appendix 1.

1.5 This brief survey of selected electoral provisions, pre-federation and in the early years of the Federation, highlights the fact that as the colonies merged, there was already substantial agreement about fundamental democratic principles governing elections for lower Houses. These included:

the principles of one person one vote; triennial elections and the secret ballot. These principles remain fundamental to current legislation, but it is instructive to trace an outline history of successful and unsuccessful attempts to give effect to these principles by amending federal electoral legislation.

1.6 *The Constitution* provided that the first elections for the national Parliament were to be held under State legislation. The first Parliament, so elected, met in Melbourne on 9 May 1901, and, after enacting provisions for customs tariffs and machinery provisions for the new federation, addressed the issues of an Electoral Bill and a Franchise Bill. The latter (Franchise Act 1902) confirmed universal adult franchise, the age of majority being set at 21 years. Speaking to the issue of the franchise, Senator O'Connor, the Vice-President of the Executive Council, left no doubt as to his view of the virtues of this Australian franchise in his second reading speech:

> '.... the franchise proposed recognizes one ground and one ground only, as giving a right to vote, and that is residence in the Commonwealth for six months or over by any person of adult age. That franchise is the broadest possible one. There is no class of the community left out ... it will be ... the most representative Parliament, according to the truest principles of democracy, which exists in the world.'[1]

1.7 Later in the same year, the Commonwealth Electoral Act 1902 was passed. It provided, inter alia, for a first-past-the-post voting system, and a division of electorates for the House of Representatives with a maximum variation of 20% from the average. This was to enable 'due weight' to:

. community or diversity of interest;
. means of communication;
. physical features, and
. existing boundaries.

1.8 The basic machinery for the conduct of federal elections was also set out in the 1902 Act. Voting was voluntary, voters being required to mark their Senate ballot papers with crosses against as many names as there were vacancies, and to mark one name only for the House of Representatives. Postal voting and absentee voting within the State of residence were covered, but inadequately so. There were also provisions restricting expenditure incurred by candidates, to £250 in the case of Senate candidates, and £100 for potential Members of the House of Representatives. The High Court, when established, was designated as the Court of Disputed Returns.

1.9 The first detailed changes to the electoral machinery followed the first elections under the 1902 Act, for the Second Parliament. As a result of alleged voting irregularities, the House of Representatives in May 1904 appointed a select committee whose task was:

> 'to inquire into the unsatisfactory manner in which the last general elections were held throughout the Commonwealth, and the administration of the Electoral Act, and to report the results of such investigations'.[2]

1.10 The select committee sat on 20 occasions before reporting to the House in October 1904. It investigated in detail numerous specific complaints of irregularities and considered, inter alia, the introduction of voting machines, which, it reported, 'may be of great value in populous polling places in securing economy, expedition in the making up of

results, and avoidance of informalities'[3]. Although this aspect was not further addressed, the Government accepted many of the Committee's machinery recommendations. Among these, implemented in the Commonwealth Electoral Act 1905, were:

- *new provisions for joint Commonwealth-State* electoral rolls;
- a broadening of the provisions governing postal voting, and
- the creation of several new electoral offences, including bribery or the exercise of undue influence by candidates, and the canvassing of votes at entrances to polling booths.

1.11 The 1905 Act did not address any wider or more philosophical questions pertaining to the electoral system. The question of compulsory voting was raised when the Bill was under consideration in the Senate, but was considered to be outside the scope of the new Act, which was simply to 'provide for the greatest possible facilities to be given to electors to record their votes, the simplification of the administrative machinery of the Act, and the guarding against any abuse or infringement of the law'.[4]

1.12 Further machinery amendments were passed into law in the Commonwealth Electoral Act 1907. These were principally concerned with the mechanics of maintaining the electoral rolls and of voting by post. Again, there were no substantive considerations; 'everyone of us, irrespective of party, has the keenest interest in seeing that, as far as possible, the electoral system is kept above suspicion'.[5]

1.13 The Third Parliament (1906-1909), despite the lack of electoral legislation, saw the introduction of many motions with electoral connotations. Evidence of a willingness to continue experimentation with aspects of the electoral system was reflected in motions, inter alia, to elect Cabinet by exhaustive ballot within Parliament, to further investigate the use of voting machines and to divide States into electorates for Senate elections.

1.14 Major changes to the Electoral Act were effected during the Fourth Parliament. After vigorous and partisan debate in both Houses, the Commonwealth Electoral Act 1911 was passed. Referred to by the Opposition as 'the Liberal Disfranchisement Bill', it was attacked as 'unworthy of any political party, and especially of that party which professes to be the last word in Democracy'[6]. Against a back-drop of allegations that it was acting to promote its own electoral prospects, the Labor[7] Government of Mr Fisher removed provisions for postal voting (but retained absent voting), established the compulsory registration of electors (but not compulsory voting) and introduced the requirements for newspapers to declare political expenses incurred, to identify clearly paid political advertising and to identify the authors of political comment. The Act also stipulated that federal elections should be always held on Saturdays, a requirement which attracted some adverse comment in the House on the grounds of alleged disfranchisement of Jews, Seventh Day Adventists and other religious groups.

1.15 It is instructive to examine briefly the reasons advanced for the introduction of compulsory registration, which, with compulsory voting implemented little more than a decade later, remains one of the distinguishing characteristics of the Australian electoral system.

1.16 The initiative for compulsion, in registration at least, had come from the Chief Electoral Officer, whose responsibilities under the original Act required him to prepare lists of all persons qualified and entitled to enrol for voting. This was done by means of a centralised card system, supplemented by a system of habitation checks. Such a system was found to result in inaccurate rolls unless compulsion was introduced; the Chief Electoral Officer accordingly recommended its introduction in October 1911.

1.17 Classic divisions were apparent when the measure came before the Parliament. The Liberals[8], to the extent that they reflected their philosophical objections to compulsion, rather than their pragmatic opposition to Labor's postal voting, Saturday polling and Press proposals, stressed the repugnance, 'in this seagirt island of Australia, with its boasted liberty, [of] this objectionable word [compulsion]'[9]. However, Labor's arguments that not only would the measure improve the efficiency of the electoral machinery, but also that compulsory enrolment was no less a citizen's obligation in a democracy than compulsion in other areas (education, arbitration, etc.) won the day. Without serious discussion at the second reading stage, and after a scant fifteen minutes in Committee, the compulsory registration of voters was passed by the House.

1.18 During the 1913 campaign for the Fifth Parliament, Joseph Cook pledged that an incoming Liberal Government would, inter alia, repeal the morally offensive restrictions on the freedom of the Press introduced in the 1911 Act, and to re-implement provisions for postal voting. Cook's narrow majority in the Fifth Parliament, however, resulted in frequent deadlock, with many measures lapsing at the second reading or at the committee stage. Among these was the Commonwealth Electoral Bill 1913, proposing mechanical amendments, and also removing the legislative requirement for Saturday elections. The

Government introduced a separate bill for the restoration of postal voting in September 1913. After extensive delays imposed by the Opposition, the Government finally abandoned the measure.

1.19 The Fifth Parliament, whilst not productive in terms of electoral legislation, witnessed considerable disquiet resulting from the manner in which the 1913 general elections were held. Resulting directly from this disquiet, a Senate select committee was established, and, in January 1914, a Royal Commission into Commonwealth Electoral Law and Administration was appointed. Little of substance was found to be proven, apart from interference 'in a most undignified manner' by the then Minister for Home Affairs, King O'Malley, in the electoral apparatus of the division for which he was a candidate, but both reports attest to a continued willingness to improve the nature of popular representation. Handing down its report in 1915, the Commissioners, in a three-two majority, recommended the following electoral measures, reflecting, in part, the provisions of an unsuccessful private Member's bill which had been prepared in 1901:

- preferential voting: '... there must necessarily be many shades of political opinion, which, in a democratic country, should be given expression to in the freest possible manner. In order that public opinion may be portrayed in distinct broad tones of thought, we strongly urge the adoption of preferential voting for the House of Representatives'.[10]

- proportional voting: 'In view of the large area occupied by Senators, a system of proportional representation should be adopted; applying, of course, to each separate State.'[11]

1.20 The royal commission, also by three to two, recommended, subject to the re-introduction of postal voting (and adequate means to govern it), the introduction of compulsory voting 'as a natural corollary of compulsory enrolment'.

1.21 Joseph Cook, in his unsuccessful bid to retain the Treasury benches for the Liberals following the first double dissolution (June 1914), took up in his campaign some of the royal commissioners' recommendations, in particular their recommendations on different voting systems for each House in the National Parliament. Accordingly, in the first session of the Sixth Parliament, the Liberal Opposition moved that proportional representation, manifested by election by quota and transferable vote, be adopted for Senate elections. In dismissing what he termed 'an academic reform', the new Minister for Home Affairs portrayed the proposal as one which would disintegrate party strengths - 'we should have numerous small groups with various fads'[12].

1.22 Unlike the situation with compulsory enrolment (the initiative for which had come from the Electoral Office on the grounds of administrative efficiency), the basis for compulsory voting at the federal level was laid, it seems, with some partisan advantage in mind by the Labor Pary. Having observed the Queensland Labor Party's 1915 electoral success, after a Liberal Government had introduced compulsory voting the year before, Labor's federal strategists quickly moved for its federal application. There was some division, both within the party's federal conference and in Caucus itself; the eventual product, in August 1915, was a bill to introduce compulsory voting for the Prices Referendum scheduled later in the year. The compulsionists did not yet have the strength to secure the measure for all federal elections and referenda.

1.23 Senator Russell, in his second reading speech, attempted to forestall criticism of the bill on partisan grounds:

> 'I trust that the Bill will be considered on its merits, pure and simple, and not as a party question, for the simple reason that Australia is bigger than both parties put together.'[13]

1.24 He did, however, concede that compulsory enrolment and voting in Queensland, had produced very satisfactory results from his (Labor's, by implication) point of view. His case rested, nevertheless, on the issue of civic responsibility:

> '... just as every man who is physically fit has the responsibility upon him to fight for his country in its hour of danger, so should all the people of the country who are entitled to the privileges of the franchise be required to take an intelligent interest in its government.'[14]

1.25 The Opposition made much of the restricted purpose of the measure. 'If compulsion, in connexion with voting, is a good thing, one naturally asks: Why is it only to apply to referenda questions?'[15] They also queried the appropriateness of a measure like the one before the Parliament, at a time of grave national crisis, 'when so many of our best men are away fighting for the independence of Australia'[16]. More telling criticism followed the argument that compulsory voting, without the facility for postal voting, or extensive broadening of balloting facilities, was to be deplored:

> 'To provide for compulsory voting, and to give all facilities for the exercise of the franchise in our cities, while neglecting to provide any facilities for people living in scattered districts, and those who are sick, to record their votes, is but to intensify the existing disparity as between town and country ... it is unjust to provide for compulsory voting unless, at the same time, we provide facilities for the exercise of the franchise as it should be exercised.'[17]

1.26 Criticism of this kind, from both sides to the question, forced the Government to restrict the application of the compulsory provisions to those electors residing within five miles of a polling place. Cook could then, with some accuracy, label it a 'Compulsory Voting Bill for some voters in some places', but the principle of compulsion in voting was passed into law with relative ease and limited debate.

1.27 The only other significant electoral amendment enacted during World War I was a direct consequence of the war itself, and provided, in the Commonwealth Electoral (War Times) Act 1917, for simplified voting by men serving abroad. It was not until late in 1918 that Hughes' Nationalist Party, in the Seventh Parliament, moved to consolidate the electoral machinery. In so doing, they made major changes to Australia's electoral system.

1.28 The Minister for Home and Territories, in introducing the Electoral Bill to the House on 4 October 1918:

> 'Australia, the land of hope, and, in the light of recent events, of glory, has led the way in many matters of electoral reform ... Australia, in its institutions and laws, as well as in outlook and temper, has done something to make Democracy a reality as well as a name.'[18]

1.29 With these words, the Hughes Government introduced legislation for preferential voting for House of Representatives elections, leaving the Senate block-vote system intact. There was much conjecture during debates on the bill as to preferential voting for both Houses, and proportional representation for Senate elections, but there seemed genuine uncertainty on all sides about the likely effects of either measure, and they were not carried further in this bill. The Government quickly pressed the bill through Parliament, with a divided Labor Opposition providing little in the way of constructive counter-points. In the following year, 1919, the Senate followed the House in the introduction of a system of preferential voting for Senate elections.

1.30 Significant changes to the electoral machinery did not occur until midway through the Ninth Parliament in 1924, under the Bruce-Page Ministry. Introduced in the Senate by a Nationalist back bencher, Senator Payne, and passed with surprising speed, the bill provided for compulsory voting - the 'natural corollary' of the 1915 royal commission. The 1922 federal election had seen participation by only 57.95% of eligible electors, with State percentages varying from 45.63% in Tasmania to 82.66% in Queensland, where voting in State elections had been compulsory since 1915. To Senator Payne, this national apathy and indolence was disgraceful; his measure would ensure 'a wonderful improvement in the political knowledge of the people'[19].

1.31 The measure was supported by the Labor Opposition, as an element of party policy, albeit with some diffidence. In the House of Representatives, the bill was debated in its second reading for less than an hour, and the measure was passed with an ease that could almost be termed indifference. As one commentator has since noted: 'No major departure in the federal political system had ever been made in so casual a fashion.'[20]

1.32 In 1926, a Joint Select Committee on Commonwealth Electoral Law and Procedure[21] was appointed by both Houses, to examine in detail the mechanics of the electoral system, and to recommend measures to prevent impersonation and duplicate voting. Many of its detailed recommendations were incorporated in the Commonwealth Electoral Act 1928, including the repeal of identification provisions for writers of leading articles and of factual reports of political meetings. Although debated in both Houses along partisan lines, the measures of the Act were largely of a mechanical nature: 'This is a machinery measure, inasmuch as it provides for simplifying the work of the Electoral Department, and does not embody any important electoral reforms.'[22]

1.33 In the succeeding decade, as Governments and the people struggled through the years of depression, economic crisis and social turbulence, little impetus existed for alteration to the electoral system. The Act was administered by the Ministries lead by Bruce and Page, Scullin and Lyons without major changes. Electoral reform held little priority, and to the extent that amendments were made to the principal Act, they tended to reflect house-keeping and machinery alterations.

1.34 The first Menzies Government, in late 1939, introduced a range of electoral measures which were to become the Commonwealth Electoral Act 1940. Among the more important of these were:

- changes to the form of the ballot paper in Senate elections;
- changes to the method of deciding the order on the ballot paper of groups of candidates for Senate elections;
- simplification of voting instructions on ballot papers;

. extension of facilities for, and conditions applying to, postal voting, and

. improvements in electoral administration.

1.35 The Act provided for a horizontally extending Senate ballot paper, instead of the former system where groups of candidates were listed vertically. This was designed, in part, to reduce the level of voting informality, and also to reduce alleged advantage accruing to candidates at the top of the old vertical ballot paper.

1.36 The ordering by random draw of candidates on the Senate ballot papers followed allegations that Labor in New South Wales at the previous Senate election had deliberately chosen Messrs Amour, Armstrong, Arthur and Ashley as candidates - the notorious 'Four A's' as they became in the subsequent debate. Other changes proposed by the bill, as originally introduced, included the showing of party affiliations on ballot papers and a random draw (rather than alphabetical listing) for candidates in House of Representatives elections. These aspects were the subject of vigorous debate and amendment in both Houses.

1.37 The display of party affiliations caused some disquiet on both sides; who, for example should decide on the distinction, if any, between Mr Curtin's Australian Labor Party and Mr Beasley's Australian Labor Party - Non-Communist, or between the United Country Party and the Victorian Country Party? As an Opposition Member said during committee debate: 'I can see no justification whatsoever for giving to the Commonwealth Electoral Officer any discretion in this matter. The Government is, in fact, putting its electoral officers in an invidious position.'[23] Support for this view came from the Government side as well, as indicated in Mr Anthony's view: 'I

believe that the Assistant Minister must go the whole of the way and delete all references to party designations ... An electoral officer might be forced otherwise to accept some fanciful or objectionable designation which would make the ballot-paper appear ridiculous.'[24]

1.38 During the passage of the 1940 Act, frequent reference was made to the inappropriateness of electoral change in the midst of war and its attendant national crisis. In part, this may have been an element of Labor's attempts to divert the measures to a parliamentary inquiry, but the absence of significant electoral measures during the years of the war highlights national pre-occupation with defence and the war effort. The Government of John Curtin did attempt in 1943, in the Commonwealth Electoral (Wartime) Act, to extend the franchise to all members of the Defence Forces, for the first time permitting a vote at the age of 18, albeit under restricted circumstances. Senate opposition, however, forced amendments to enable extension of the franchise only to those servicemen and women, under 21, who had served, or were serving, abroad, whether still in service or not.

1.39 Of interest in the context of electoral reform is the fact that, even with a measure of great simplicity such as this, there were allegations of political partisanship. In considering amendments made by the Senate, several Government Members condemned what they saw as offensive partisanship in the consideration of electoral change (a recurring theme in the history of Australian electoral reform). As Mr Calwell put his view to the House:

> 'It is quite clear that they [Opposition Senators] intended to deal with it after the manner of party politics, but their courage oozed out when they thought that the denial of a vote to all soldiers between eighteen and 21 years of age would place their party or parties or series of parties in an unfavorable light in the eyes of the general public.'25

1.40 Accusations of political self-service abounded when the Representation Act 1948 and the Commonwealth Electoral Act 1948 were before the Parliament. Taken together, the Acts sought to introduce the most significant physical changes to, if not philosophical re-orientation of, the national electoral machinery since Federation. They incorporated an enlargement of the House of Representatives from 74 to 121 Members with full voting rights, and an increase in the Senate from 36 to 60, with the introduction of proportional representation as the basis of Senate elections. Summarising the changes proposed for the Senate, Mr Arthur Calwell justified them on the grounds that: '... the Senate is not fully representative of the people. The only way in which to give effective representation to all political parties and all shades of political opinion is by the adoption of the Tasmanian system of equitable proportional representation.'26

1.41 The Opposition had advocated investigation of an increase in the size of the Parliament at the 1946 elections, but now opposed many of the consequences of that enlargement. The inevitable criticism, and the counter charges of political opportunism emerged:

> '... the Opposition forces which charge the Government with trying to snatch a temporary party advantage hope to advantage themselves by postponing this reform until after the next elections.'27

1.42 The Opposition calculated, correctly as it eventuated, that the proposed transitional system would ensure Labor control of the Senate in the Parliament to be elected in 1949. It was, therefore, seriously suggested that the Government should engineer a double dissolution, and at the subsequent elections, elect the new Senate completely according to the new electoral system. The Government stood firm, however, and the two bills were passed into law, thus effecting a fundamental and far-reaching change within the Australian Parliament, the effects of which remain evident.

1.43 The 1949 elections for the enlarged Parliament, as predicted by the Menzies Opposition, resulted in the return of the Liberal/Country Party coalition in the House of Representatives, but the retention of a Senate majority by the ALP. Comparative figures for the Nineteenth and Twentieth Parliaments were:

	ALP	L/CP	Independent
Nineteenth Parliament:			
* House of Representatives (75)	43	29	3
* Senate (36)	33	3	
Twentieth Parliament:			
* House of Representatives (123)	48	74	1
* Senate (60)	34	26	

1.44 War-time electoral measures were revoked in 1950 by the Statute Law Revision Act; a number of defence personnel serving overseas had consequently been deprived of the opportunity to enrol and vote. The Commonwealth Electoral Act 1953 rectified this situation, and provided also for voting facilities for members of welfare agencies or amenities units accompanying Defence Forces overseas. It did not, however, provide for

Dependants of Defence force members. In an earlier machinery measure, the Commonwealth Electoral Act 1952 had implemented measures for postal voting overseas.

1.45 In May, 1956, Prime Minister Menzies, in a motion supported by the Leader of the Opposition, moved for the appointment of a Joint Parliamentary Committee on Constitutional Review, 'to review such aspects of the Constitution as the Committee considers it can most profitably consider, and to make recommendations for such amendments of the Constitution as the Committee thinks necessary in the light of experience'.[28]

1.46 Menzies went on to explain that the committee was not clothed with the investigatory powers of a royal commission, with much evidence-gathering. It was to be, rather, a committee of parliamentarians examining the various difficulties with constitutional issues which had emerged with time and experience. Dr Evatt's support was unequivocal: 'we now have an opportunity for co-operative work in a field which should be non-partisan'.[29]

1.47 The committee presented its first report to Parliament on 1 October 1958, in summary form. Its conclusions, to the extent that they related to electoral legislation, were quite clear:

> 'The Committee considers that some constitutional changes are now necessary to facilitate the maintenance of continuous sound democratic government in the light of changed conditions since Federation. It is, for example, clearly required that the House of Representatives should

be of sufficient size to provide adequate representation for the ever increasing number of electors and that, in the spirit of democracy, as a general rule equal weight should be accorded to the votes of electors.'[30]

1.48 The 1958 report proceeded to recommend, among other things:

- the breaking of the nexus between House of Representatives' numbers and the number of Senators;
- 10% maximum variation from quota, in terms of electors, between electoral divisions;
- filling of casual Senate vacancies on a party basis;
- repeal of section 127 of the Constitution, which had excluded aboriginals from population calculations for electoral purposes, and
- constitutional amendment by a majority of electors nationally and by a majority in half the States, not a majority of States.

1.49 The Committee presented its final report to Parliament in November 1959, in which it provided substantial amplification of its 1958 recommendation. The 1959 Report stressed the desirability of entrenching the main principles of the Electoral Act in the Constitution, and it specifically cited compulsory voting in this respect:

> 'Compulsory voting makes it possible for a government which the electors have returned to claim quite validly that it represents the majority opinion; it also makes all the adult members of the community participants in the affairs of government and acts as a stimulus to the democratic way of life.'[31]

1.50 The reports of the committee were not acted on by the Government. In fact, the Government did not bring the proposed measures before the Parliament for debate.

1.51 In balancing the picture, however, it should be noted that the Government did accept the substance of the recommendations of a Select Committee on Voting Rights of Aboriginals, established by resolution of the House of Representatives in April 1961[32]. The committee recommended unanimously that Aboriginals be entitled to enrol and vote at federal elections, and that compulsory provisions for doing so (which already existed in some States) be retained. In the Commonwealth Electoral Act 1962, the Government provided for voluntary enrolment of Aboriginals, and for compulsory voting following enrolment. The effect of this provision was widely welcomed, although there was criticism that the absence of full compulsory enrolment and voting requirements was discriminatory. As an Opposition Member stated in the second reading debate:

> 'Aboriginal witnesses before the Committee ... were overwhelming in their insistence that they should be treated as equals. The testimony of many who came before the Committee made it clear that equality, even with all its penalties, was to be the cardinal principle in respect of voting.'[33]

1.52 The passage of the 1962 Act was one of the few instances of bi-partisan support for legislation amending the electoral machinery. In introducing its Commonwealth Electoral Bill in May 1965, however, the Government raised issues which went to the core of the political differences between Government and Opposition on the philosophy of electoral representation. The bill sought to give effect to the Government's view that electorates could be at variance to each other, in re-distribution, by up to 20% of electors, with additional criteria to be considered. Included in the 1965 proposals, for the first time, were the requirements for Distribution commissioners to take into account the density or sparseness of population and the area of proposed divisions, 'with special reference to disabilities arising out of remoteness and distance'.[34]

1.53 The Opposition saw the Bill as directing the commissioners to apply the 20% variation below the quota to unfairly represent rural electors. The Leader of the Opposition (Mr Calwell) vigorously opposed the measure:

> 'Unless we have the principle of one man, one vote, and unless we recognize the right of everybody to an equal say in the Government of his country, then we are negating democracy. The Commonwealth should never, by its action, encourage the abondonment of one vote one value ... No party or combination of parties should have to win 52% or 53% of the votes in order to exercise the right to govern. If that should ever happen, it would be a bad day for democracy.'[35]

1.54 Mr F.M. Daly characterised the measure as 'A Bill for an Act to amend the Commonwealth Electoral Act 1918-1962 to *provide for the gerrymandering of electorates on instructions* from the Australian Country Party'[36]. The Leader of the Country Party joined the debate later the same day: 'There is in this measure a provision which, I say unashamedly, I hope will operate to bring about more tolerance towards the permitting of a smaller number of electors in the gigantic, remote and difficult electorates.'[37]

1.55 The passage of the 1965 Act was bitterly contested by the Opposition, which raised, inter alia, the issue of extending the franchise to servicemen under 21 who now faced the possibility of active service in South Vietnam. The Government took no action initially in this respect, but, confronted by mounting public concern following its increasing Vietnam commitment of conscripted 20 year olds, amended the Act in 1966. In a measure more restrictive than earlier war-time electoral provisions, the 1966 Act enfranchised those servicemen under 21 who were, or had been, on 'special service' (i.e. active service, or service with the strategic reserve in South East Asia). It provided for neither compulsory enrolment nor compulsory voting by eligible servicemen. It also excluded from the franchise those national serviceman under 21 who had not served, or were yet to serve, in Vietnam, a point of criticism much debated by the Opposition and within the community.

1.56 Following the incorporation of this measure into the Electoral Act, no substantive changes were made to electoral legislation until the advent of the Whitlam Government in December 1972. Various measures were proposed, including the Gorton Government's Electoral Bill 1969 and the proposals of the McMahon Government in 1971, both of which were allowed to lapse at second reading stage. The Liberal/Country Party coalition, to the end of its record term in 1972, gave low priority to major electoral changes. The ALP Opposition, sensing divisions among

the Government's ranks on electoral issues, pressed in 1968, 1971 and 1972 for amendments to the Electoral Act, based *principally on a reduction in the voting age to 18 years. The* Government's reluctance to allow this measure to proceed rested on its desire for a detailed and thorough examination of the wider ramifications of lowering the age of legal adulthood to 18 years. It also saw the ALP's advancement of the measure as an attempt to secure to itself some political advantage. As the responsible Minister told the House:

> 'It is obvious that the sole reason for introducing this [private Member's] Bill at this time is for the purpose of gaining some political advantage in the belief that this age group - the young people - would in any case favour the Australian Labor Party or that the Party would enhance its image with the youth of Australia.'[38]

1.57 The relative inactivity of the 1960s in Government-sponsored changes to the electoral structure was in contrast to the situation which prevailed in the years of the Whitlam Government, 1972-75. With the Senate remaining under the control of the anti-Labor parties, the first ALP Government in 23 years faced difficulties in effecting many of its proposals for change and reform, not least in the area of electoral legislation. No less than 16 electoral law bills were twice negatived in the Senate or lapsed at the second reading stage in the period 1972-75. Five electoral redistribution bills were twice negatived in the Senate in 1975 alone.

1.58 Early in its first year of office, the Government successfully steered legislation through the Parliament extending the franchise to 18 year olds. Little more than three months after assuming office, in March 1973 the Government introduced the Commonwealth Electoral Bill (No.2) 1973. It sought to:

- reduce maximum quota variation to 10%, from 20%;
- remove the requirement for distribution commissioners to consider disabilities of remoteness and distance, population and area in determining electoral divisions, and
- authorised redistributions when 25% of a State's electoral divisions differed by 10%, rather than 20%, from the quota.

1.59 Passed by the House of Representatives, the bill was rejected by the Senate. Re-committing it to the House in August 1973, the responsible Minister, echoed the familiar sentiments: '... in rejecting the Bill, the Senate did not advance any new arguments, their opposition being a blatant political move designed to maintain loaded electorates and destroy the principle of one vote one value'.39

1.60 In a different tactical manoeuvre designed to bring, among other things, electoral measures directly before the people, 5 referendum proposals for constitutional change were introduced by the Government in late 1973 and early 1974. The Bills proposing these changes were:

- Constitution Alteration (Simultaneous Elections) Bill 1974;
- Constitution Alteration (Democratic Elections) Bill 1974;
- Constitution Alteration (Local Government Bodies) Bill 1974;
- Constitution Alteration (Mode of Altering the Constitution) Bill 1974,and
- Constitution Alteration (Interchange of Powers) Bill 1974.

1.61 Some of the proposed measures had been included in the 1973 electoral bill. The Government now sought to put them in *referendum format, because, as Prime Minister Whitlam told the* House, in re-introducing the bills in March 1974:

> '... the Senate cannot prevent the people from voting on a referendum. The Senate can obstruct *and it can delay but it cannot abort or prevent* the people from voting on a referendum.'[40]

1.62 Included in the proposed changes were the following electoral measures:

- constitutional change by a national majority, and a majority in half the States (as recommended by the Joint committee in 1958 and 1959);
- provision for simultaneous elections for both Houses, Senators being elected for 2 terms of the House of Representatives, instead of 6 years;
- equality of electorates in terms of population, not electors, and
- referendum voting rights for citizens of Australian territories.

1.63 Bitterly contested through both Houses, four of the referendum proposals were eventually put to the voters conjointly with the May 1974 general election, following the double dissolution of Parliament. All four proposals were lost; national percentages in favour varied from 46.85% to 48.3%, with a majority of electors in favour only in New South Wales, for all four proposals.

1.64 Undeterred by the referendum results, the Government submitted its 1973 electoral bill to the joint sitting of both Houses of Parliament which followed the 1974 election. Its main provisions, duly passed into law, included an amendment to redistribution criteria, and a reduction in the quota variation to 10%.

1.65 Ultimately this was, with voting rights for 18 year olds, the extent of the Labor Government's reform of the electoral system in the period 1972-1975. On the Government's electoral agenda in 1974 and 1975 were measures proposing optional preferential voting for both Houses, the printing of political affiliations on ballot papers, random draw for order on House of Representatives ballot papers, limitations of campaign expenditure and disclosure of funding sources by political parties. The bill incorporating these measures was strongly contested by the Opposition, and it was defeated in the Senate.

1.66 Under the incoming Fraser Government the Act was amended in 1977 to incorporate changes to the conduct of re-distributions, to provide for elections at large under certain circumstances (see Chapter 4) and to ensure that, within a State, no Division greater than 5000 square kilometres in area would have more electors than small divisions, defined as being less than 5000 square kilometres in area. The 10% variation from quota was retained, despite pressure from the National Country Party to restore the former 20% variation.

1.67 Proposals for electoral amendments, however, came from sources beyond the Government. The Constitutional Convention, which had been formed during the Whitlam Government in 1973,

continued under the new Government. Taking a series of decisions made by the Convention's Hobart sessions in 1976, against the backdrop of widespread public debate on constitutional issues following the events of 1975, the Government put four referendum proposals to the people in May 1977. Three of these had electoral implications, namely:

- provision for simultaneous elections for the Senate and the House of Representatives;
- provision that Senate casual vacancies be filled by members of departing Senators' political parties, and
- provision for residents in Territories to vote at referendums which seek constitutional change.

1.68 The bills were all passed by the required absolute majorities in both Houses, without a dissentient voice. Although supported by all parties, and approved by 62% of the electors nationally, the simultaneous elections proposal was not approved in a majority of States, and therefore failed to carry. The other proposals were carried comfortably, in all States.

1.69 In May 1980, the Fraser Government introduced the Commonwealth Electoral Amendment Bill 1980, the main provisions of which were:

- the repeal of those sections of the Act which limited campaign expenditure which had been set in 1946 at $1000 for Senate candidates and $500 for House of Representatives candidates, and
- the removal of the requirement under the Act for returns of electoral expenditure by candidates and organisations.

1.70 These measures were designed to overcome potential problems created by substantial non-compliance by candidates and organisations with the existing requirements. Recent events in Tasmania, where the validity of the election of some successful State candidates had been challenged, had highlighted the potential for national challenges. As the Minister put it, in introducing the measure:

> 'In the case of Tasmania, questions were raised whether the challenges would completely paralyse the State Parliament. Clearly this possibility must be avoided in the national parliament.'[41]

1.71 The Minister went on to re-affirm the Government's view that there should be, notwithstanding these latest amendments to the Act, some form of public disclosure of electoral expenditure. To that end, the Government announced the commissioning of an independent inquiry into the range of issues involved, the terms of reference for which were subsequently forwarded to Sir Clarrie Harders, OBE in December 1980. The inquiry was completed, and the 'Harders Report' delivered to the Government, in May 1981. The report was made available to Senators and Members in July 1983. Its principal recommendations are discussed at Chapter 10 of this report.

1.72 When the 1980 bill was under consideration, the Opposition sought unsuccessfully to widen the scope of the proposed inquiry, to include voting systems, early poll closing, the method of ordering of candidates on ballot papers etc.. There were appeals for a less partisan approach to electoral matters: 'I appeal to the Government to look at this issue as an important one on which to get bipartisan political agreement.'[42] There were also accusations that a Government was again retreating from the progressive electoral measures which had been significant features of the infancy of Australian democracy: 'we must be the only Parliament of any democracy that

has taken such a major step backwards in relation to electoral reform' [43]. But there was little substantive debate on any wider issues, and the Bill passed through the second and third readings, with debate then gagged, in less than ninety minutes.

1.73 From this brief survey of electoral developments at the Commonwealth level in Australia, it appears that while the *electoral process has not atrophied, it has not always* progressed at a rate in line with expectation. There seems to be a national caution with regard to electoral matters. However, in order to reflect appropriately the political expectations of the people it serves, electoral systems must *remain flexible and capable of change. The Committee is aware* that adoption of many of the recommendations of its report will constitute treading new ground in Australian electoral matters. However, this is in keeping with Australia's constantly altering social and political features.

ENDNOTES

1. S.Deb. (30.1.02) 9530. Senator O'Connor's 'broadest possible' franchise did not, however, include either Aboriginal Australians or non- British residents of Australia.

2. VP. 1904, p.319.

3. ibid, p.323

4. S.Deb. (14.9.05) 2284

5. ibid, 8 September 1907, p.3114

6. H.R. Deb. (5.12.11) 3721

7. Unofficial spelling changed from 'Labour' to 'Labor' from c.1912; now recognised as 'Labor' which has been adopted throughout this report.

8. This earlier Liberal Party formed part of the Nationalist Party in 1917.

9. H.R. Deb. (5.12.11) 3725.

10. Parliamentary Papers 1914-15-16-17, Vol II, p.441

11. ibid

12 H.R. Deb. (12.11.14) 598

13 S. Deb. (13.8.15) 5753

14 ibid, p.5754

15. ibid 25 August 1915, p.6048

16. ibid p.6062

17. H.R. Deb. (9.9.15) 6837-6838

18. ibid 4 October 1918, p.6670

19. S. Deb. (17.7.24) 2180

20. Geoffrey Sawer, Australian Federal Politics and Law 1901-1929, p.237

21. The Report was tabled on 3 March 1927 (Senate Journals, p.195, VP 86 p.293).

22. H.R. Deb. (2.11.27) 904

23. ibid, 16 May 1940, p.961

24. ibid

25 ibid, 30 June 1943, p.605

26. ibid, 21 April 1948, p.1006

27. ibid, p.1008

28. ibid, 24 May 1956, p.2453

29. ibid

30. Report from the Joint Committee on Constitutional Review 1959, presented by command, 26 November 1959, p.193

31. ibid, p.46

32. Report from the Select Committee on Voting Rights for Aborigines, brought up and ordered to be printed 19 October 1961

33. H.R. Deb. (1.5.62) 1763

34. ibid, 12 May 1965. p.1430

35. ibid, 24 May 1965, pp1965-1966

36. ibid, p.1999

37. ibid, p.2032

38. ibid, 11 May 1972, p.2414

39. ibid, 22 August 1973, p.222

40. ibid, 6 March 1974, p.97

41. ibid, 15 May 1980, p.2849

42. ibid, 21 May 1980, p.3016

43. ibid, p.3017

CHAPTER 2

LEGISLATION GOVERNING, AND THE OPERATIONS OF THE AUSTRALIAN ELECTORAL OFFICE

History of the Australian Electoral Office

2.1 Australia has had an Electoral Office since 1902 when it was initially a branch of the Department of Home Affairs. The Office functioned for the next 70 years as a branch of various Commonwealth departments. From 1916 it was incorporated within the Department of Home Affairs and Territories; from 1932, the Department of the Interior; and from 1972 the Department of Services and Property.

2.2 In 1973 the Labor Government established the office as a statutory authority responsible to the Minister for Services and Property under the Australian Electoral Office Act 1973.

2.3 Between 1975 and March 1983 the Office was responsible to the Minister for Administrative Services. Following the change of government in March 1983 responsibility was transferred to the Special Minister of State.

The Australian Electoral Office: Operation

2.4 The Australian Electoral Office performs its functions most efficiently and capably, particularly in the light of the number of items processed by the Office. Currently the Office has a full-time staff complement of approximately 740.

2.5 During 1982 the Electoral Office added 1 250 3826 electors to the Commonwealth electoral rolls; 1 012 336 names were also removed. In all the total number of transactions carried out in the year (i.e. names added, removed and alterations) was 2 813 157. At the end of the year the total Commonwealth net elector enrolment was 9 371 306.

2.6 The Australian Electoral Office Act 1973 provides for the establishment of the Australian Electoral Office as a statutory authority. The Act provides for 8 statutory officers, viz: the Chief Australian Electoral Officer, the Deputy Chief Australian Electoral Officer and an Australian Electoral Officer for each of the 6 states. Section 6 of the Act states that officers are appointed to these positions by the Governor-General. In practice, therefore, appointments to these positions are determined by Cabinet. The appointments are for a specified period of time but are subject to the maximum 65 years retiring provisions. Officers may have their appointment renewed.

2.7 The Chief Australian Electoral Officer is responsible to the Minister for the administrative control of the Office. The Act provides that he has the status and powers of a Permanent Head under the Public Service Act 1922 in relation to the staff of the Office, all of whom are employed under that Act.

Structure of the Electoral Office[1]

2.8 The Commonwealth Electoral Act 1918 provides for a Chief Electoral Officer, a Commonwealth Electoral Officer for each State and a Divisional Returning Officer for each Division. This Act together with the Australian Electoral Office Act provides the Electoral Office with a three-tiered structure for the administration of Commonwealth electoral legislation.

Chief Australian Electoral Officer

2.9 The Central Office of the Australian Electoral Office is located in Canberra. The Chief Australian Electoral Officer, under the Minister, controls the Australian Electoral Office. He is assisted by the Deputy Chief Australian Electoral Officer.

2.10 In addition to supervising and coordinating the performance of all the Office's enrolment and election activities, the Chief Electoral Officer advises the Minister, as required, on matters relevant to electoral policy, legislation, and procedure; supervises the nationwide dissemination of electoral information oversees electoral education programs and controls the conduct of research as is necessary to support the Office's activities.

Australian Electoral Officers

2.11 The Electoral Office has a head office in each State capital city.

2.12 The Australian Electoral Officer for each State directs all of the Office's activities within the State, including the conduct of Senate and House of Representatives elections.

2.13 The Australian Electoral Officer for each of the four joint-roll States (New South Wales, Victoria, Tasmania and South Australia) is responsible for the daily operation of the Commonwealth-State arrangement for the joint preparation, alteration and revision of electoral rolls in force in that State.

Divisional Returning Officers

2.14 Each State is divided into a number of Electoral Divisions, corresponding to the number of Members of the House of Representatives. A Divisional Returning Officer is appointed for each division.

2.15 The Australian Capital Territory is divided into two electoral divisions; the Northern Territory is one division. A Returning Officer is appointed for each of these divisions. In

the Northern Territory and in Western Australia, Assistant Returning Officers, located at Alice Springs and Karratha, are also appointed.

2.16 Divisional Returning Officers and Returning Officers arrange for and conduct elections for the Senate and the House of Representatives.

2.17 Electoral divisions in each State are divided into subdivisions. Subdivisions in the Northern Territory are called 'Districts'. The two divisions in the Australian Capital Territory are not subdivided.

2.18 The Commonwealth Electoral Act also provides for the appointment of Electoral Registrars (section 10). The section appears to contemplate a separate appointment in respect of each Subdivision. The section, however, goes on to provide that the Divisional Returning Officer for the division shall act as the Registrar for any subdivision for which a registrar has not been appointed. With the exception of the appointments at Karratha in respect of the Division of Kalgoorlie, it has been the long standing practice of the electoral administration not to appoint Registrars. The Electoral Office proposed that the separate position of Electoral Registrar be abolished and the powers, duties and other functions of the Registrar formally become the powers, duties and functions of the Divisional Returning Officer with the appointment of Assistant Divisional Returning Officers to provide the full range of electoral services in or for particular subdivisions, e.g. as at Karratha and Alice Springs. (This would also require a revision of those parts of the Act which confer separate duties etc., on Electoral Registrars and Divisional Returning Officers).

2.19 The Committee notes the argument of Ms H. Berrill. She maintains that in exercising enrolment and roll maintenance functions, including objection and appeal procedures, a Divisional Returning Officer in assessing an appeal from an elector, where removal from the roll was based on an objection by the Divisional Returning Officer in his capacity as Registrar, was sitting as Caesar on an appeal against a decision of Caesar.[2]

2.20 The Committee recommends the abolition of the separate position of Electoral Registrar and the consequential revision of relevant sections of the Commonwealth Electoral Act.

2.21 The Committee also recommends that special provision be made for the determination of appeals against objections with respect to the removal of an elector from the electoral roll by the Divisional Returning Officer. Responsibility for the determination of appeals should be vested with the Australian Electoral Officer for the particular State in which the electoral division, administered by the relevant Divisional Returning Officer, is located.

2.22 At present in the Australian Capital Territory the Returning Officers are the Electoral Registrars for their Divisions. However, in the Northern Territory the Returning Officer is the Electoral Registrar for 14 Districts and the Assistant Returning Officer is appointed Registrar for the remaining 5 districts. Further, in the Division of Kalgoorlie, the Returning Officer is the Registrar for 7 subdivisions and the Assistant Returning Officer is Registrar for the remaining 3 subdivisions.

2.23 Divisional Returning Officers also conduct 'habitation reviews'. Staff employed on a casual basis for this task, as review officers, systematically visit households throughout all urban areas in order to check the enrolment details of electors recorded as living at those habitations.

2.24 In more remote areas, an Electoral Agency system is used to check enrolments. Electoral Agents regularly review lists of the electors enrolled for a particular locality. These agents, usually police or postal officials, are chosen because of their familiarity with the movement of electors within such localities.

2.25 Divisional Returning Officers are the most immediate contact point for electors. They are also concerned with the dissemination of electoral information and educational material.

Proposals for reform of the Australian Electoral Office

2.26 Several submissions received by the Committee suggest the Australian Electoral Office be replaced by an independent electoral commission. In particular the submissions on behalf of the Australian Labor Party (ALP) and the Liberal Party of Australia both support the establishment of an independent Australian Electoral Commission.[3]

2.27 The ALP and the South Australian Branch of the ALP, in their submissions, both suggest that the new independent electoral commission should consist of 3 commissioners; one of whom, the Chief Australian Electoral Officer, would be full-time and the other 2 part-time.[4]

2.28 The South Australian Branch of the ALP makes specific proposals as to the composition of the Commission. It suggests, with respect to the other 2 commissioners, that one should be a senior judge of the Federal Court of Australia, of at least 3 years standing, and the other an independent person such as the Australian Ombudsman.[5]

2.29 Further, the submission argues that the Chief Australian Electoral Officer should be appointed by the Commonwealth Government in the first instance, acting on the

recommendations of an independent selection committee. Subsequently Chief Australian Electoral Officers would be appointed by the Commission. The other commissioners should be appointed by the Government of the day. The term of appointment would be 5 years with reappointment possible.

2.30 The Committee sees great merit in the existence of an Australian Electoral Commission with a statutory basis and which is seen to operate independent of political influence. Accordingly, the Committee recommends the establishment of an Australian Electoral Commission as an independent statutory authority. Commissioners to be appointed by decision of the Governor-General-in-Council with fixed periods of tenure and reappointment provisions.

2.31 The three commissioners would be the Chief Australian Electoral Officer, who would be the full-time executive officer of the Commission; a senior Judge of the Federal Court of Australia (nominated by the Chief Judge), and a public servant of the status of a Permanent Head (e.g. the Auditor-General). The two commissioners last-mentioned should be appointed on a part-time basis.

The Australian Electoral Commission

2.32 The Committee recommends that the Commission be responsible for

- the current functions of the Australian Electoral Office;
- the conduct of educational programs for voters;
- the implementation and administration of the legislation governing the public funding of political parties;

. periodic redistributions of electoral boundaries, and

. the implementation of the Commonwealth Electoral Act as amended, or any legislation that incorporates and supersedes this Act.

Current functions of the Australian Electoral Office

2.33 The Committee proposes that the new Commission should incorporate all of the functions currently carried out by the Electoral Office.

2.34 In particular, express provision should be provided, in the enabling legislation, for the Commission to engage in research, information and education programs and for it to conduct habitation reviews on an annual basis.

Conduct of educational programs

2.35 Numerous submissions recommend that the present *Australian Electoral Office and/or* the proposed Electoral Commission should play an active educational role in the community, informing citizens as to their rights, responsiblities and entitlements as voters.

2.36 The ALP argues in its submission that in fulfilment of its educational role the proposed Commission should 'link in with schools to educate Australians about the political process in this country...' Also the Commission should operate 'in an active fashion in the electorate through mobile (as well as permanent) information offices'.[6] The Australian Democrat submission also suggests an increased educational role for the Office:

'Much more needs to be done towards developing a politically literate and aware electorate. Each Electoral Office (i.e. each State office) should have an education officer to manage and provide voting education programmes on a continuing basis. Adequate funds must be provided for this purpose.'[7]

2.37 The Committee notes that in 1982 the Electoral Office published three multi-lingual pamphlets entitled 'Voting Information', 'Marking Your Ballot Paper(s)', and 'Your Electoral Rights and Responsibilities'.[8] The Committee believes the production of such pamphlets is important in informing those Australian citizens whose primary language is not English as to their rights and responsibilities. The production of such multi-lingual pamphlets should be continued by the proposed Commission.

2.38 The Committee recommends that

- the proposed Electoral Commission should play an active educational role in the community, particularly in schools, informing citizens as to their rights, responsibilities and entitlements as electors. To this end adequate resources should be provided to the Commission to permit mobile information offices to travel around the electorate.

Implementation and administration of the legislation governing the funding of political parties for election campaigns

2.39 Both the ALP and the Liberal Party of Australia advocate that the proposed independent electoral commission should be responsible for the implementation and administration of the legislation governing the funding of political

parties.[9] The New South Wales National Party however argues that the body to administer the public funds should be headed by a judge.[10]

2.40 Chapters 9 and 10 of this report recommend the introduction of public funding and disclosure of expenditure and donations for the political parties and candidates for the purposes of election campaigns. The Committee recommends that responsibility for the implementation and administration of this legislation should be vested in the proposed Australian Electoral Commission.

Periodic redistributions of electoral boundaries

(This matter is examined in greater detail in Chapter 4 of the Committee's report. This section prescribes those individuals who may be appointed Redistribution Commissioners.)

2.41 *The ALP in its submission suggests that when* redistribution matters are being considered for a particular State, the State Electoral Officer and the State Surveyor-General should be coopted to the membership of the proposed Electoral Commission.[11]

2.42 This suggestion differs from that of the South Australian Branch of the ALP which proposes that, for an electoral redistribution in any one State, the Electoral Commission be augmented by the Australian Electoral Officer for that State and the State Surveyor-General or some other suitable person.[12]

2.43 The Liberal Party of Australia maintains that there should be three redistribution commissioners: the Chief Electoral Officer or his Deputy in each State, the State Surveyor-General or his Deputy and a judge of the State Supreme Court or the Federal Court of Australia.[13]

2.44 The Committee recommends that with respect to electoral redistributions for a particular State, the redistribution in that State should be conducted by 4 commissioners:-

(a) the Chief Australian Electoral Officer, who will be a redistribution commissioner for every State;

(b) the Australian Electoral Officer for the particular State;

(c) the State Surveyor-General or, in his unavailability, his deputy;

(d) the State Auditor-General or, in his unavailability, his deputy.

2.45 If the last two mentioned State officials are unavailable, the Government of the day may appoint an officer of similar status from the Australian Public Service.

Staffing proposals for new procedures - permanent staff

2.46 As noted at the beginning of this chapter the Australian Electoral Office Act currently provides for 8 statutory officers to be appointed by the Executive Council and for the staff of the Office to be employed under the provisions of the Public Service Act 1922.

2.47 The Chief Australian Electoral Officer has the status of a *Permanent Head*. The positions of Australian Electoral Officer for each of the States are currently classified at various levels in the second division of the Australian Public Service, depending upon the State (except with respect to the position of Australian Electoral Officer for Tasmania which is currently equivalent to a *clerk class 11 of the third division*

of the Public Service). (Sections of the Public Service Act abolishing the divisional structure of the public service are still awaiting proclamation at the time of this report). The Divisional Returning Officers, located within the electorates are usually at the Clerk Class 6 level of the Third Division.

2.48 It appears that there is no well defined career path within the Electoral Office as it currently exists. While currently it would not normally be expected that an Electoral Officer for a State be recruited from the Divisional Returning Officer level, the Committee believes that a clearly defined career structure should be developed within the Electoral Commission encompassing Divisional Returning Officers.

2.49 As stated earlier, the Committee recommends that the appointment of a person to the position of Australian Electoral Officer for a State should continue to be a Cabinet decision.

2.50 A desirable element for promotion to a position of Australian Electoral Officer for a State should be service at a senior managerial level, possibly at a State Head Office or the Central Office, and possibly as a Divisional Returning Officer. However, the proposed commission should also have access to the resources of the wider public service, and talented officers may on occasions be drawn from areas outside the Commission's offices.

2.51 The Public Service Board policy with respect to vacancies for second division positions is that all such positions should be advertised in, inter alia, the Gazette. The Committee is of the opinion that this practice should be followed particularly with respect to the statutory officer positions. This procedure should also be adopted in relation to vacancies at the Divisional Returning Officer level.

2.52 Further, a senior second division officer from the Department of the Special Minister of State and a senior officer from the Public Service Board should be made available to participate in interview selection panels, in relation to the appointment of an officer to a second division position with the proposed Commission.

2.53 Provision could be made for an internal system of appeals against promotions within the Commission for the statutory office positions. Officers of the Commission should have the opportunity to question the original decision for promotion before the recommendation is forwarded to the Chief Australian Electoral Officer and/or the Minister. Such a system is operated successfully within the Department of the House of Representatives. The mechanism could operate along the following lines. Before a recommendation for promotion was forwarded by the Chief Australian Electoral Officer, he would announce that he had identified a particular person for promotion to all his officers by means of an internal bulletin. It would be open to any officer to request a review of the original decision. The appeal would be heard by a group independent from those who made the original decision.

2.54 As is the normal practice with respect to the appointment of a Permanent Head, the one exception to the appeal system would be in relation to the position of Chief Australian Electoral Officer.

2.55 The Committee notes that the enabling legislation for staffing the office of the Commonwealth Ombudsman and the Administrative Appeals Tribunal prescribes that the staff of these statutory authorities be employed under the Public Service Act 1922 [4]. The employment of the staff of the Auditor-General is provided for under sub-section 25(4) of the Public Service Act 1922. The Committee observes that such provision for the staff of these authorities to be public

servants has not, in any way, fettered the independence of these statutory authorities. In addition, the Committee believes that the officers of the proposed Electoral Commission should have a right of free movement from and to a wider career service. Accordingly, the Committee recommends that the staff (i.e., all except the statutory officers) of the proposed Commission should be employed under the terms and conditions of the Public Service Act 1922.

Casual staff employed for elections

2.56 With a country of such large geographic size and periodic elections, the Committee recommends the practice of retaining experienced polling staff on a casual basis, for the conduct of elections, should be continued.

2.57 The Committee is aware of the complaints about morale of the staff employed on a casual basis for elections. It recommends the proposed Commission should actively encourage the retention of such casual staff. The Committee notes that a register of such individuals is maintained and kept up to date at the Divisional Office, it recommends this practice should be continued.

2.58 Training sessions should be introduced for all registered casual polling staff and carried out as a matter of priority. Such casual staff could be provided with an allowance for attendance at such sessions. The current rates of pay for casual staff employed on polling day and the payment of retainers should be reviewed.

2.59 These suggestions could assist in the retention and development of experienced knowledgeable casual polling staff.

2.60 All polling officials at a booth should be provided with identification badges.

Industrial Elections

2.61 The Australian Electoral Office also undertakes industrial elections under the provisions of section 170 of the Conciliation and Arbitration Act 1904. In 1981-82 the Industrial Registrar referred 417 such elections, under section 170, to the Electoral Office. (See Appendix 2). At present the Australian Electoral Office engages 40 staff for the conduct of industrial elections.

2.62 The Committee recommends that it be empowered to examine in greater depth the conduct of industrial elections by the Australian Electoral Office and the proposed Electoral Commission.

Legislation

2.63 The Committee recommends that the following legislation be consolidated, as far as is consistent with the other proposals and recommendations of this Committee, within the Commonwealth Electoral Act:

Representation Act 1905
Commonwealth Electoral Act 1918
Northern Territory Representation Act 1922
Representation Act 1948
Senate (Representation of Territories) Act 1973
Australian Electoral Office Act 1973
Australian Capital Territory Representation (House of Representatives) Act 1973
Australian Capital Territory Representation (House of Representatives) Act 1974

ENDNOTES

1. Australian Electoral Office, Annual Report 1981-82, AGPS Canberra, 1982, pp 2-3
2. Transcript of Evidence, pp.1101-1239
3. Transcript of Evidence, pp.1443,1534
4. Transcript of Evidence, pp.1443,1942
5. Transcript of Evidence, p.1942
6. Transcript of Evidence, p.1442
7. Transcript of Evidence, p.1281
8. Australian Electoral Office, Annual Report 1981-82, p. 14
9. Transcript of Evidence, pp.1443,1607
10. Transcript of Evidence, p.1708
11. Transcript of Evidence, p.1444
12. Transcript of Evidence, p.1943
13. Transcript of Evidence, pp.1536, 1607-8
14. Section 57, Administrative Appeals Tribunal Act 1975
    Section 31, Ombudsman Act 1976

CHAPTER 3

VOTING SYSTEMS

3.1 There are two separate and distinct processes for all electoral systems, the voting and the scrutiny (i.e., the counting), the first performed by the voters, the second by officials. Both processes are embodied in Australian electoral law.

3.2 Since Federation there have been various experiments with aspects of the voting systems for Federal elections. The elections to the first federal Parliament held on 29 and 30 March 1901 were conducted under the laws applying to State elections. The Commonwealth Electoral Act 1902 provided for simple majority voting. For the Senate, the electors put crosses opposite the names of as many candidates as there were vacancies; for the House of Representatives opposite one name only. Although the Commonwealth Electoral Act was substantially amended in 1905 and 1911 the voting system remained unaltered until the enactment of the Commonwealth Electoral Act 1918. On Senate ballot papers the elector was still required to put crosses opposite the names of the appropriate number of candidates. However, the Act introduced, for the House of Representatives, the preferential system of voting which is the system currently in use for the House of Representatives. In 1919 the preferential system of voting was extended to the Senate combined with a method of scrutiny deliberately designed to give a substantial advantage to the party which succeeded, through all its candidates, in obtaining more first preference votes than any of its rivals. The practical result, for nearly 30 years, was that in the absence of any substantial degree of cross voting, the party whose candidates got more first preferences than any other, frequently won a major proportion of the seats.

3.3 These voting arrangements generally applied until the enactment of the Representation Act 1948 and the Commonwealth Electoral Act 1948. The effect of this legislation was to enlarge the size of the House of Representatives and the Senate.

3.4 The Chifley Government moved to increase the number of Senators to be returned by each State from 6 to 10. Increasing the size of the Senate led to the consequent requirement to enlarge the House of Representatives. The result for the House in comparison with the situation preceding it is indicated in the table below:

(The figures in parentheses indicate the percentage of seats allotted to each State:)

TABLE 1

	1901	1947	1948
New South Wales	26 (34.7)	28 (37.8)	47 (38.8)
Victoria	23 (30.7)	20 (27.0)	33 (27.3)
Queensland	9 (12.0)	10 (13.4)	18 (14.9)
South Australia	7 (9.4)	6 (9.4)	10 (8.3)
Western Australia	5 (6.6)	5 (6.7)	8 (6.6)
Tasmania	5 (6.6)	5 (6.7)	5 (4.1)
Northern Territory	-	1	1
Australian Capital Territory	-	-	1
	75	75	123 100

Associated with these changes was a new system of voting for the Senate.

3.5 The second part of the Chifley plan appeared in the Commonwealth Electoral Act 1948 in relation to Senate elections. The duty of the elector to indicate his preferences in numerical order was left unchanged; the method of filling the vacancies was altered to give effect to the principle of "proportional representation" which had been recommended in 1929 by the Royal Commission on the Constitution.

3.6 The effect of the former system is shown by the following table of Senate election results from 1918 to 1946.

TABLE 2:

PARTY AFFILIATIONS IN THE SENATE

In all cases the figures reflect the composition of the Senate after newly-elected Senators took their seats.

Year of Election	Labor	Democratic Labor	Free-traders	Protectionists	Tariff Reformers	Independent	Fusion	Liberal	Nationalists	Country Party	United Australia Party
1901	8	..	17	11	..	..	..	..	..	..	..
1903	14	..	12	8	1	1	..	..	..	..	..
1906	15	..	12	6	1	2	..	..	..	..	..
1910	23	..	..	..	..	..	13	..	..	..	..
1913	29	..	..	..	..	..	..	7	..	..	..
1914(a)	31	..	..	..	..	..	..	5	..		
1917	12	..	..	..	..	..	..	..	24	..	..
1919	1	..	..	..	..	..	..	..	35	..	..
1922	12	..	..	..	..	..	..	..	24	..	..
1925	8	..	..	..	..	..	..	..	25	3	..
1928	7	..	..	..	..	..	..	..	24	5	..
1931	10	..	..	..	..	..	..	..	..	5	21
1934	3	..	..	..	..	..	..	..	..	7	26
1937	16	..	..	..	..	..	..	..	..	4	16
1940	17	..	..	..	..	..	..		..	3	16
1943	22	..	..	..	..	..	..	..	..	2	12
1946	33	..	..	..	..	..	..	2	..	1	..

(a) The election of 1914, followed a double dissolution.

Source: Odgers Australian Senate Practice (5th ed.), p.659.

3.7 Since the adoption of the system of proportional representation for the Senate, the results have been much more evenly balanced, as indicated in the following table, which shows the composition of the Senate after newly-elected Senators took their seats:

TABLE 3:

PARTY AFFILIATIONS IN THE SENATE
1949-1983

Year of election	Labor	Democratic Labor	Independent	Liberal Movement	Liberal	Country/ National Party (e)	Australian Democrats
1949 (a)	34	..	..		20	6	..
1951 (b)	28	..	..		26	6	
1953 (c)	29	..	..		26	5	..
1955	28	2	..		24	6	..
1958	26	2	..		25	7	..
1961	28	1	1		24	6	..
1964 (c)	27	2	1		23	7	..
1967 (c)	27	4	1		21	7	..
1970 (c)	26	5	3		21	5	..
1974 (b)	29	..	1	1	23	6	..
1975 (d)	27	..	1	1	27	8	..
1977	26	..	1	..	29	6	2
1980	27	..	1	..	28	3	5
1983 (b)	30	..	1	..	24	4	5

PARTY AFFILIATIONS _ 1949-1983

(a) At the 1949 election the Senate was increased from 36 to 60 Senators.

(b) The elections of 1951, 1974, 1975 and 1983 followed double dissolutions.

(c) Senate election held separately from the House of Representatives.

(d) At the 1975 election the Senate was increased from 60 to 64 Senators following the election of territory Senators – 2 each from the Australian Capital Territory and the Northern Territory.

(e) The party name was changed to National Country Party of Australia in May 1975 and to National Party of Australia in October 1982.

Source: Odgers, Australian Senate Practice (5th edition) p.659

As the table indicating post-1949 results shows, the numbers of the major political forces in Australia (those commanding sufficient support to form government, the Labor Party and the Liberal/National Party coalition) have usually been balanced, with independent or third party Senators holding the balance of power for lengthy periods in the last two decades.

3.8 As the table indicating post-1949 results shows, the numbers of the major political forces in Australia (those commanding sufficient support to form government, the Labor Party and the Liberal/National Party coalition) have usually been balanced, with independent or third party Senators holding the balance of power for lengthy periods in the last two decades.

Operation of the voting systems for the Senate

3.9 The Commonwealth Electoral Act sets out in detail the method of count to apply in elections for the Senate.

3.10 The 1948 Act did not alter the format of the Senate ballot paper or the provision that candidates may be grouped with their names in such order within the group as they desired. Nor did the Act alter the requirement that voters must indicate the order of their preferences for all the candidates (section 104, 105A and the prescribed form in Schedule E). The count is conducted according to the method prescribed in section 135 of the Act and the steps required are:

- counting of the first preference votes (FPV) given for each candidate on all unrejected ballot papers (i.e. all formal votes), counting of the total number of FPV for each candidate and the total of all such FPV, determining a quota (known as the 'Droop quota') by dividing the total FPV by the number of vacancies plus one and increasing the quotient so obtained (disregarding any remainder) by one, and declaring elected those candidates whose FPV exceed or equal the quota.

- Surplus votes of elected candidates are then transferred.

3.11 Under current provisions (ignoring those arising from the fact that the count is conducted in Divisional Offices) votes polled by a candidate in excess of the quota are transferred to continuing candidates as follows:

- In the case of a candidate elected on the first count, all of his votes are sorted according to the next available preference shown on them and parcelled separately. In the case of a candidate elected on a later count, only the votes he has received from candidates elected or excluded in the last preceding count are so sorted and parcelled.

- A transfer value is calculated by dividing the number of votes polled by the candidate in excess of the quota by the total number of his votes which have been so parcelled.

- The number of votes in each of the candidate's parcels is multiplied by the transfer value. The resulting figures, adjusted to produce whole numbers, give the number of ballot papers to be transferred from each parcel to continuing candidates.

- The appropriate number of ballot papers are taken 'at random' from each parcel and distributed to continuing candidates.

- In the case of the the last vacancy to be filled, the candidate receiving a majority of the votes is declared elected notwithstanding that a quota may not have been attained.

(A memorandum prepared by the Chief Australian Electoral Officer, giving a complete account of the scrutiny and counting of votes, is contained in Ogders' Australian Senate Practice, 5th edition, pp.95-98).

. Major defects in the procedure are: (a) that an unrepresentative sample of the surplus may be taken - a vital consideration in a close result and (b) that in the case of candidates elected after the distribution of preferences, their primary votes are not included in the 'random' sample for transfer.

Operation of voting systems for the House of Representatives

3.12 Until 1918 the 'first-past-the-post' voting system was used for the House of Representatives. This form of voting requires the voter to indicate a vote for only one candidate and the candidate with the greater or greatest number of votes, that is, a relative majority, is elected. While this system has the advantage of simplicity, a major potential problem in its use is that a candidate may be elected in a three-way (or more) contest who is the choice of an overall minority of voters. Many submissions to the Committee cited the recent General Election in the United Kingdom as an example of the disadvantage in the re-adoption of a first-past-the-post system.

3.13 The voting system in use since 1918 has been the 'preferential voting' or 'alternative vote' or 'contingent vote' system. This is an absolute majority system where a candidate must obtain more than 50% of the votes in the count to be elected. In order to cast a valid vote, the voter marks his

ballot paper by placing the number (1) against the name of the candidate of his first choice, and gives contingent votes for all the remaining candidates in order of his preference by the consecutive numbers 2, 3, 4, etc., until he lists the same number as the number of candidates.

3.14 This method is used to determine the representative for each of the 125 single-Member electoral divisions into which the House of Representatives is currently divided. (As has been discussed elsewhere in this report, the actual number of House of Representatives electoral divisions to which a State is entitled may vary, on the basis of population changes. However, because of the nexus provision of the Constitution - section 24 - the total membership of the House must be as nearly as practicable twice the membership of the Senate with no account taken in this context of the Senators from the (mainland) territories, i.e., as near as practicable to 120.) There is no constitutional prohibition on the adoption of a method of proportional representation (PR) for selection of candidates of the House of Representatives. However, the PR system has not been used for determination of Members of the House of Representatives under Commonwealth legislation.

3.15 The vote is counted as follows. If a candidate's first preference valid votes constitute an absolute majority (half plus one) of formal votes, he is elected. If no candidate achieves an absolute majority on the first count, the candidate with the smallest number of valid first preference votes is excluded and his ballot papers are distributed according to the elector's second expressed preference. The process is continued until one candidate achieves an absolute majority.

3.16 The Committee received many submissions from groups and individuals advocating the adoption of PR in many forms. Dr George Howatt recommended the adoption of the Hare-Clark system (currently in use for State elections in Tasmania) on a trial basis for the House of Representatives in Tasmania, where the system is known and understood. Tasmanian representation in the House of Representatives was cited by many PR advocates as an example of the disadvantage of preferential voting, in that over recent elections one party has gained total representation despite support for different candidates by a substantial proportion of the population.

3.17 Mr J.F.H. Wright (President of the Proportional Representation Society of Australia), Mr E.W. Haber, and the submission by the Australian Democrats all advocated the adoption of PR for selection of Members of the House of Representatives. All pointed to the results of recent federal elections and indicated that, on the basis of the two-party preferred vote (i.e. the notional vote obtained by the major parties when the normally undistributed preferences of minor party candidates are fully distributed), the party forming the Opposition usually received just less than 50% of the primary vote, whereas the party receiving just over 50% of the primary vote could win in the vicinity of 60% of the seats and form the Government. It was argued that should PR be adopted on a State-wide basis, each State voting as one electorate to return the number of Members to which it was entitled, the composition of each State, and, consequently, the composition of the House of Representatives Australia-wide, would closely resemble the expressed preferences of the people as a whole.

3.18 The Committee gave close consideration to the adoption of a method of PR for selection of Members of the House of Representatives. The majority concluded that while PR may result in the party composition of the House reflecting more closely the pattern of party support in the State, it would not assist

the stability of government. (A minority report in favour of the adoption of proportional representation in the House of Representatives, submitted by Senator Macklin, is attached to the report). There seems little doubt that when voters exercise their obligation on polling day, despite the candidates in whose names their votes are actually cast, they also believe that they are participating in the selection process of a government (crystallised often in a vote for one leader or another). Overseas experience with PR has been that it is not conducive to the stability of government, and the results of adoption of PR for the Australian Senate would tend to reinforce this. Moreover, on 3 occasions only in Australia's federal history has a single party attracted an absolute majority of the primary vote.

3.19 Much of the argument of supporters of PR was based on the proposition that in many electorates between 40% and 50% of the electors were not 'represented'.

3.20 However, the Committee agreed that a successful candidate is no less a representative of an elector in the House simply because the elector did not direct a vote to that candidate. Members perform a vast bulk of their duties on behalf of constituents without regard to or care of political sympathy. Where a matter affected by partisan affiliation is involved, a constituent may seek access to a Senate representative. There is also a theoretical possibility or even likelihood that in a State-wide, or even in a multi-Member electorate, with the parties ensured of the return of a certain number of candidates, responsiveness to elector opinion would in fact be much less.

3.21 The consideration of by-elections raises other questions. Section 33 of the Constitution indicates:

> Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

The method of filling casual vacancies in the Tasmanian House of Assembly is to revert to ballot papers for the preceding general election and declare the next qualifying candidate elected. There is a doubt as to whether this method would satisfy the requirements of section 33. If a new Member were to be elected on a State-wide basis, there is little doubt that the result could be of a different complexion than a result under the single-Member constituency system.

Voting systems for the 2 Houses

3.22 The Committee concluded that the interests of balancing responsible government and democratic representation in Australia are best served by continuing to have the Senate elected on the basis of State-wide proportional representation and the House on the basis of single-Member constituencies returning representatives elected on a preferential system of voting. However, the Committee recommends modifications to procedures currently operating in the voting systems for both Houses.

3.23 The aim of the Committee was to ensure that electors who wished to cast a valid vote were assisted in having that vote considered valid. In this context analyses of the 1977 and 1983 invalid Senate votes were supplied to the Committee. The full results of the surveys are at Appendix 3. In summary, the surveys indicate over 75% of informal votes were invalidated due to an unintentional error, even though expressed voter intention was clearly evident (for example, a square left unnumbered or a number repeated).

3.24 The Committee also decided, in considering nominations for election, that subject to basic considerations of deposits, as many eligible persons as wanted to should be able to nominate for election.

3.25 The submission of the Australian Labor Party to the Committee recommended the introduction of optional preferential voting for both Houses. Under the full preferential system currently in force, a voter must mark a preference for each candidate. A repeated preference or leaving squares for a preference unmarked renders the vote invalid. It has been stated that the full preferential system leads to an increased informal vote, and may force voters to cast a preference in favour of candidates to whom they feel antipathy, or feel no sympathy, or about whom they do not care. With optional preferential voting, the elector exercises an option as to allocating preferences. The Labor Party recommended that a voter need only express one preference for House of Representatives vacancies and for Senate vacancies a voter need express preferences equal to the number of vacancies. The Liberal Party and National Party submissions were opposed to optional preferential voting, which they described as being tantamount to first-past-the-post voting and, as such, subject to the disadvantages of that system.

3.26 The Australian Electoral Office included in its submission to the Committee a proposal for the introduction of a voting system for Senate vacancies whereby an elector could indicate his vote by ticking a box indicating a registered 'list' of party preferences. A vote for a party's registered list would be treated in the same way as a vote filled out completely. The submission of the Liberal Party indicated that it would support a 'list' system only where the list vote represented a full distribution of preferences and preferred it to an optional preferential system.

3.27 The Committee decided against the adoption of a 'list' system alone for the Senate. The Committee recommends for the Senate the introduction of a 'list' system as proposed by the Australian Electoral Office and the Liberal Party (as a preference to the optional preferential system) together with the retention of the existing system as an option open to those who wish to exercise their allocation of preferences, provided that a vote is not considered invalid if a mistake in sequence is made, but the voter intention is clear, i.e., a Senate vote shall be considered formal as far as its intention is ascertainable provided that numbers are placed in at least 90% of squares.

3.28 The 'list' voting' system recommended for adoption at Senate elections is designed to simplify the voting process for those electors who are content to record on their ballot papers the preference ordering recommended by a particular party or candidate.

3.29 Voters would have the option of recording preferences for all candidates in the normal way, or of placing a tick or cross in a special square on the ballot paper to indicate adoption of a particular registered party or group list. In the latter case, the vote would be treated as if the elector had numbered every square in accordance with that list.

3.30 The adoption of the 'list' voting proposal will not require a different system of scrutiny, (and thus should not be confused with list systems of proportional representation).

3.31 A sample ballot paper indicating the 'list' and full preferential alternatives, is attached at Appendix 4.

3.32 It will be necessary, with the implementation of this recommendation, for parties or groups to register preferential lists with the proposed Electoral Commission.

3.33 For vacancies (both general elections and by-elections) in the House of Representatives, the Committee recommends that the existing system be retained with the modification that a vote be considered formal as far as its intention is ascertainable provided that all except one of the squares are numbered.

Distribution of preferences

3.34 In relation to the counting of the Senate vote, the Committee recommends that the distribution of preferences be carried out according to the 'Gregory' system or fractional transfer method for transferring surplus votes, as occurs in Tasmanian State elections. The recommended method involves the transfer of every ballot paper at a reduced value. For example, if at the first count 20% of a successful candidate's votes are in excess of the quota, each of his ballot papers is weighted 0.2 and transferred to continuing candidates. (As indicated earlier in this chapter, the present method involves transferring ballot papers selected 'at random' from all those with the same next available preference, possibly resulting in an unrepresentative sample being drawn). It also recommends that when transferring excess votes, all the votes for a candidate be counted, including his number ONE votes, not only those transferred to him.

3.35 The Committee also recommends that the practice operating in South Australia since 1976 be adopted, whereby preferences are fully distributed for each House of Representatives electoral division, so that a two-party preferred vote may be determined in every division as well as nationally.

Rotation of Senators

3.36 The Committee considered the system by which terms of Senators are determined. Whilst section 13 of the Constitution provides that following a dissolution of the Senate, the Senate shall divide Senators into two classes, the place of one class to become vacant after three years and of the other class to become vacant after six years, it fails to prescribe a method for determining long and short term Senators following a double dissolution.

3.37 The Committee noted that, following the double dissolution of 1983, Senators were divided into classes (long term and short term) in the same way as occurred following the earlier double dissolutions, in 1914, 1951, 1974 and 1975. The resolution agreed to on 21 April 1983 was:

> That, in pursuance of section 13 of the Constitution of the Commonwealth, the Senators chosen for each State shall be divided into two classes, as follows:
>
> (1) The name of the Senator first elected shall be placed first on the Senators' Roll for each State and the name of the Senator next elected shall be placed next, and so on in rotation.
>
> (2) The Senators whose names are placed first, second, third, fourth and fifth on the Roll shall be Senators of the second class, that is, the long-term Senators, and Senators whose names are placed sixth, seventh, eighth, ninth and tenth on the Roll shall be Senators of the first class, that is, the short-term Senators.

3.38 Past practice and precedent suggest that this convention is now well established. But the Committee, noting that the Joint Committee on Constitutional Review in 1959 considered that, in this case, constitutional effect should be given to past practice, also believes that the Constitution should be appropriately amended.

3.39 Accordingly, the Committee recommends that:

- following a double dissolution election, the Australian Electoral Commission conduct a second count of Senate votes, using the half Senate quota, in order to establish the order of election to the Senate, and therefore the terms of election; and

- the practice of ranking Senators in accordance with their relative success at the election be submitted to electors at a referendum for incorporation in the Constitution, by way of amendment, so that the issue is placed beyond doubt and removed from the political arena.

Format of the ballot papers

3.40 The Committee received several submissions concerning elimination of the 'donkey' vote (i.e. the practice of allocating preferences from top to bottom, and, where appropriate, from left to right. Some recommended the production of a circular ballot paper. Several submissions suggested the adoption of the Tasmanian system whereby the order of the names on the ballot paper is varied from ballot paper to ballot paper. The Committee decided not to recommend the adoption of these schemes. However, the Committee recommends that allocation of positions on the House of Representatives ballot paper be determined by lot, rather than, as is currently the case, be listed alphabetically.

3.41 The listing of Senate candidates or groups of candidates is currently determined by lot. The Committee received as evidence submissions by Mrs A. Harcourt and Dr M. Clark, and took evidence from Mrs Harcourt, suggesting that the method currently used in allocation of positions on the Senate ballot paper was done by imperfect techniques. It was suggested that:

- envelopes are poor mixers. If there are only a small number of groups, then shaking a ballot box may mix them but a good mix would not be expected to occur if there are more than five or six envelopes. It is more likely that what is essentially a 'last in first out' situation would prevail;

- a ballot box is an awkward and unwieldy object to shake, and;

- if there were a large number of groups, and hence a large number of envelopes, vigorous shaking would generate static electricity which would tend to cause the envelopes to stick together, thus hindering the process of mixing.

3.42 Mrs Harcourt and Dr Clark suggested that future draws for positions on the Senate ballot paper be made using a method of double randomisation. The first randomisation would place the groups in random order and the second would allocate their places on the ballot paper. (There are several possibilities for obtaining the source of the random numbers, for example, a lottery-draw mechanism could be employed.). The Committee recommends that the process of double randomisation be employed for the allocation of places on both the Senate and the House of Representatives ballot paper.

3.43 The Committee also received many submissions, including submissions from the Labor Party, the Liberal Party and the Australian Democrats, calling for the printing of party affiliations on ballot papers. The Committee believes that the introduction of this procedure will assist voters in casting their vote in accordance with their intentions. The recommendation concerning the 'list' system for Senate ballot papers presupposes the inclusion of political party on the Senate ballot paper at least. This recommendation (amongst others) if adopted will require the adoption of a system for the registration of political parties. This is treated more fully at Chapter 12.

Application of computer technology

3.44 The Committee received as evidence submiss ons from Mr R.R. Miller and Mr R.B. Thomas, and from Mr J.A.H. Burns on the application of computer technology to the process of casting and counting votes. The Miller/Thomas proposal was that, as the TAB systems in the various States represent the most extensive spread of information retrieval facilities, they should be utilised in the electoral process, producing an efficient, cost effective procedure for achieving a nearly instantaneous election result. The Committee sought assistance from the United States Information Service on computerisation of the election process, and concluded that, while the voting process was not identical in the U.S.A. (where the system was first-past-the-post), and while the retention of the preferential system of voting would involve a more involved ballot paper than in that country, computer voting would be possible in Australia. However, the application of computer technology in Australia is not recommended at this stage. The Committee believes that the level of computer education among electors would need to be high to overcome the complications of a computer ballot paper. Also, extensive as the TAB network may

be, there are vast areas of Australia without ready access to the facility. The accepted pattern of Australian elections is that they be held on Saturdays (as provided in the Commonwealth Electoral Act) when the TAB is in peak use, and the system does on occasions break down. The present system has in its favour a close degree of supervision which might not be possible with computerisation. However, with developing computer-consumer education and the spread of technology, the Committee recommends that the proposal should be kept in mind.

CHAPTER 4

ELECTORAL DISTRIBUTIONS

Allocation of seats to the States

4.1 The process whereby representation in the House of Representatives is achieved is prescribed in sections 24 and 29 of the Constitution. Section 24 declares that:

- the House of Representatives be composed of Members directly chosen by the people of the Commonwealth;
- the number of Members be as nearly as practicable twice the number of Senators;
- the number of Members chosen in the States be 'in proportion to the number of their people' according to a quota prescribed in section 24;
- five members at least shall be chosen in each original State.

4.2 The Constitution requires that a quota be determined by dividing the latest population figures for the Commonwealth by twice the number of Senators. It should be noted that for this purpose the 'number of people of the Commonwealth', that is 'raw population statistics', are employed less the residents of the

Australian Capital Territory and the Northern Territory. (An important decision of the High Court in AG for New South Wales (ex rel McKellar) v Commonwealth 1977 139 CLR 527 held, inter alia, that the populations of the 2 territories were not to be counted in determining the quota to establish the proportion of seats to be held by each State under section 24).

4.3 The Committee noted that section 122 of the Constitution provides

> 'The Parliament ... may allow the representation of [a] territory in either House of the Parliament to the extent and on the terms which it thinks fit.'.

4.4 Quick and Garran, Annotated Constitution of the Australian Commonwealth (1901), page 973, in commenting on section 122, stated:

> 'The number of representatives which a territory may be allowed is of course absolutely in the discretion of the Parliament'.

While the opinions of justices of the High Court have been expressed that section 122 cannot be read in isolation - regard must also be made to the Constitution as a whole - The High Court has twice upheld the power of the Commonwealth to provide for Senate representation of the Australian Capital Territory and the Northern Territory.

4.5 The matter was included on the agenda for the 1983 Constitutional Convention. Debate has been adjourned.

4.6 The Committee recognised the potential peril, however remote the implementation may be, of a government commanding a majority in both Houses legislating to increase territory representation in either House to advance its own political ends. The Committee recommends that the attention of the Parliament be directed to this specific potential problem, with a view to making explicit constitutional provision that future territory representation cannot be exploited so as to increase without constraint either House.

(See also the consideration of 'de jure' and 'de facto' statistics later in this chapter).

4.7 The quota thus obtained is then divided into the population statistics for each State. A State is entitled to one more Member if the remainder left after the calculation is greater than one half of the quota.

4.8 The operation of this procedure is illustrated thus:

TABLE 4

Calculation of entitlements of States

States	Population	Exact entitlement	Number of Members
New South Wales	5 221 600	43.23	43
Victoria	3 932 100	32.56	33
Queensland	2 311 900	19.14	19
South Australia	1 308 100	10.83	11
Western Australia	1 292 300	10.70	11
Tasmania	426 900	3.54	5+
	14 492 900	120.00	122#

(Source: Commonwealth of Australia Gazette No.S232, 4 November 1981)

Numbers in event of no increase

In the event of no increase in the size of Parliament the calculation of entitlements is likely to be as set out in the following Table.

Projected calculation of entitlements of States with no increase

States	Population	Exact Entitlement	Number of Members
New South Wales	5 327 000	42.86	43
Victoria	4 013 000	32.29	32(ie, -1)
Queensland	2 457 000	19.77	20(ie, +1)
South Australia	1 337 000	10.76	11
Western Australia	1 350 000	10.86	11
Tasmania	431 000	3.46	5#
	14,915 000	120.00	122##

Source: Based on projections of population as at 30 March 1983.

\# Original State entitlement
\## (ACT - 2 and N.T. - 1 bring the total up to 125)

4.9 The Committee received a submission from Mr P.A. Paterson suggesting that only statistics tabulated predominantly on a de facto statistical conceptual basis, i.e. counting people at their actual place of location, as distinct from statistics tabulated predominantly on a de jure statistical conceptual basis, i.e. counting people at their place of usual residence, may be utilised in calculations in respect of the number of Members of the House of Representatives to be chosen in the *several States for the purposes of the second paragraph of* section 24 of the Constitution, sub-paragraphs (i) and (ii) of the second paragraph of section 24 of the Constitution and section 10 of the Representation Act 1905. Mr Paterson further suggested that the Representation Act 1948 was on its purported enactment invalid and ultra vires the legislative powers of the Parliament of the Commonwealth of Australia so that the subsequent repeal and replacement of section 4 thereof by the Statute Law Revision Act 1973, section 3 and Schedule 1, was of no effect and that there should be 6 Senators for each State with, of course, consequential effect because of the nexus provision on the size of the House of Representatives.

4.10 The Committee sought the advice of Mr P. Brazil, Secretary, Attorney-General's Department, on this matter. In Mr Brazil's opinion, there was no substance in the claims:

> 'The expression "the latest statistics of the Commonwealth" in s.24 is not defined by the Constitution. However, s.24 was the subject of comment by the High Court in Attorney-General (Cth) (Ex rel. McKinlay) v. Commonwealth (1975) 135 CLR 1 and Attorney-General (NSW) (Ex rel. McKellar) v. Commonwealth (1977) 139 CLR 527. In McKinlay's Case, Barwick CJ examined the provisions of the Census and Statistics Act as it then stood and concluded (at p.21) that the

population statistics collected "at least annually" by the Statistician pursuant to s.16 of the Act would qualify as the latest statistics for the purposes of s.24 of the Constitution. Gibbs J. considered the then existing scheme under the Representation Act, which provided for determinations to be made every 5 years of the numbers of members of the House of Representatives to be accorded to each State based on the population figures disclosed by the latest census. His Honour (with whose judgment on this aspect Stephen and Mason JJ agreed) commented (at p.52) that "the census would not always provide the latest reliable statistics from which to ascertain the numbers of the people of the States", and that "(t)he constitutional requirement must be given effect, notwithstanding that on some occasions statistics other than those provided by the census may have to be used in ascertaining the numbers.".

'In McKellar's Case, Gibbs J. (at p.537) referred to the words "the latest statistics of the Commonwealth" appearing in s.24 of the Constitution and commented that the section did not say from what sources those statistics were to be obtained but that the Representation Act, as in force at that time, was designed to remedy that deficiency. In the light of these views, it is clear that the practice followed in 1901, to which Mr Paterson has referred, cannot control current practice.

'The Representation Act was amended in 1977 to deal with defects in the legislation brought to light by the McKinlay and McKellar decisions. The new s.3 inserted in the Act refers to "the latest statistics of the Commonwealth" without defining that expression and the new s.4 requires the Statistician to supply the Chief Australian Electoral Officer with all such statistical information as he requires for the purposes of the Act. A cognate measure enacted by the Commonwealth Parliament in 1977 was the Census and Statistics Amendment Act 1977. It provided for the Census to be taken in the year 1981 and in every fifth year thereafter and at such other times as were prescribed. It also provided for the Australian Statistician to collect such statistics as were necessary for the purposes of the compilation of statistics of the number of the people of each State as on the last day of March, June, September and December in each year. The Census and Statistics Act was amended in 1981. The amendments, which came into force on 1 March 1983, supplemented the provisions in respect of the taking of the Census, by requiring the Australian Statistician to collect statistical information in relation to matters prescribed for the purpose. (No matters have yet been prescribed.) The amendments also required the Australian Statistician to collect such "statistical information" (cf. "statistics" under the 1977 amendments) as is necessary for the purposes of the compilation and analysis of statistics of the number of the people of each State as on the last day of March, June, September and December in each year.

> '... The Representation Act contemplates use to be made of the latest statistical information collected and statistics compiled by the Australian Statistician pursuant to the Census and Statistics Act, whichever be the basis then currently adopted by the Statistician consistently with that Act. It is clear the Census and Statistics Act leaves to the Statistician a certain amount of discretion as to the basis to be chosen for collecting statistical information and I think that, for the purpose of carrying out his responsibilities, the Statistician may validly employ the statistical conceptual basis of usual residence.'.

4.11 With regard to the validity of the Representation Act 1948, prior to 1948 there were 6 Senators for each State. When enacted in 1948, section 4 of the Representation Act 1948 provided as follows:

> '4. From and including the day of the first meeting of the Parliament after the first dissolution of the House of Representatives occurring after the commencement of this Act, the number of the senators for each State shall be ten.'.

4.12 Section 4 was repealed by the Statute Law Revision Act 1973 and the following provision was inserted in its stead:

> '4. The number of Senators for each State shall be ten.'.

4.13 Section 7 of the Constitution, so far as it is relevant for present purposes, provides as follows:

'7. ...Until the (Commonwealth) Parliament otherwise provides there shall be six senators for each Original State. The (Commonwealth) Parliament may make laws increasing or diminishing the number of senators for each State ....'.

In Mr Brazil's opinion, it was

'unnecessary for present purposes to deal with Mr Paterson's proposition that the Representation Act 1948 was invalid when enacted in 1948. Even if it be assumed (which is not conceded) that his proposition is correct as to the invalidity of section 4, the provisions of section 4 of the Act as inserted in 1973 are an unambiguous and unconditional expression of Parliament's will in relation to the matter and are clearly authorized by section 7 of the Constitution.'.

4.14 Where the number of Members determined by the Chief Australian Electoral Officer in accordance with the provisions of the *Representation Act results in a change in the numbers in* any State, section 25 of the Commonwealth Electoral Act 1918 requires that a redistribution be proclaimed by the Governor-General. Section 25 also provides that the Governor-General is empowered, but not obliged, to proclaim a redistribution if there is an electoral imbalance within a State of more than 10 per cent of the quota of electors in the State in more than 25 per cent of the electorates in the State, or at such other times as he thinks fit.

4.15 The mechanics of a redistribution are set out in Part III of the Commonwealth Electoral Act 1918 and the following is a summary of the provisions of the sections contained in that part.

4.16 Where a redistribution is proclaimed the Governor-General must appoint 3 distribution commissioners, one of whom should be the Chief Australian Electoral Officer or a similarly qualified person and one of whom should be the State Surveyor-General or a similarly qualified person.

4.17 As soon as practicable after their appointment, the commissioners must invite suggestions about the redistribution by advertisement published in the Gazette. These must be lodged within 30 days after the advertisement. The suggestions must be made available for perusal at the Electoral Office in the State and 14 days are allowed for comment in writing on the suggestions to the commissioners.

4.18 The commissioners are obliged to take any suggestions and comments into account when making the distribution. The basis of the distribution is a quota obtained by dividing the total number of electors in the State by the number of seats and the commissioners may take into account community of interests, means of communication and travel, the trend of population changes, physical features and the existing boundaries (of divisions and subdivisions). There is an allowable variation of 10 per cent above or below the quota and no large division of 5,000 kilometres or more may have more electors than a division of less than 5,000 square kilometres containing the smallest number of electors.

4.19 The commissioners are then to make a proposed redistribution, exhibiting copies of maps and descriptions at Post Offices. Copies of suggestions and comments are to be available for perusal at the Electoral Office for the State.

4.20 For 30 days there is a further period during which suggestions about, or objections to, the proposed distribution may be made in writing to the commissioners.

4.21 As soon as practicable after the end of this 30 day period the commissioners are to forward their report to the Minister showing the number of electors in each proposed division, a map showing the boundaries and copies of all suggestions, comments or objections lodged.

4.22 Section 24 of the Act requires that the proposed distribution be approved by resolution of both Houses of the Parliament. Parliament may not amend the proposed distribution but may amend the proposed names for any electoral division for the Governor-General's consideration if the commissioners do propose names. However they are not required to do so. In the event of either House passing a resolution disapproving any proposed distribution, or negativing a motion for the approval of any proposed distribution the Minister may direct the distribution commissioners to propose a fresh distribution of the State into Divisions. This was the case in 1912, 1922, 1934 and 1968. Where this occurs, the Commissioners are not required to apply the provisions relating to public advertisement and invitation for suggestion and comment.

4.23 Where a redistribution has been required by virtue of the provisions of paragraph 25(2)(a) - alteration in the number of Members of the House of Representatives to be chosen for a State - and the proposed distribution has not been approved and proclaimed at the time of the next ordinary general election (i.e. at or towards the end of the period of 3 years from the first meeting of the House - Representation Act 1905, section 15A) then the State in question must vote as one electorate - an election at large. This is discussed in detail later in this chapter. However, where there is no alteration in a State's entitlement, in the case of an uncompleted redistribution for electoral imbalance within a State under paragraph 25(2)(b) or in any event where there is a premature dissolution of the House of Representatives, the distribution previously applying shall be used.

4.24 The Chief Australian Electoral Officer is required by the Representation Act to make a determination of State representation entitlement in the twelfth month of each new Parliament. The Committee looked at the possibility of bringing the determination of State representation entitlement forward to, say, the third, sixth or ninth month.

4.25 The opinion of Mr P. Brazil, Secretary, Attorney-General's Department was sought on this question. His advice was as follows:

> 'It seems to me that any move in that direction - i.e. to lengthen the period between the determination of State representation entitlement and the date of the next ordinary general election - could lessen the constitutional strength of the overall legislative measures designed to give effect to the requirements of s.24 of the Constitution in relation to ordinary general elections. In this connection I refer to the indications by Gibbs J. in McKinlay's Case (at pp.51-2) that a determination should be made within a reasonably short time before the next regular general election to ensure as far as possible that the numbers chosen at that election are in the requisite proportion.'

4.26 In the light of this advice, the Committee recommends that the timing of the determination of State representation in the twelfth month of each Parliament should continue.

4.27 The Committee examined the current provisions concerning the times at which electoral redistributions are to be held. The Committee recommends that sub-paragraph 25(b)(iii) of the Act, as currently framed, which provides the Governor-General (i.e. government of the day) with the discretion to order a redistribution, should be repealed. As a result, redistributions will occur according to agreed criteria and not be subject to political decision.

4.28 The Committee examined the question of the 10% variation from quota tolerance currently provided in sub-paragraph 25(b)(i). Evidence was taken from Dr C. Hughes, a former distribution commissioner, in favour of retention of the 10% tolerance. Dr Hughes argued:

- with a 5% variation a redistribution will be necessary more or less once every 3 years, or an acceptance of a degree of inequality (supposedly removed by the 5% variation) will be required;

- a 5% variation would entail either considerable electoral disadvantage for the faster-growing areas or a frequent disruption of arrangements in a high proportion of divisions;

- any variation is arbitrary - a 10% variation is justifiable on the basis that it is in force (and in practice operated when the figure was 20%), and

- a 10% variation would give the Commissioners scope to recognise the matters to which they are required to give attention. At 5% the tyranny of numbers would constrict their discretion.

The Committee recommends the retention of the 10% variation figure.

4.29 The Committee further recommends that the discretionary element currently provided in paragraph 25(2)(b) be removed, and that electoral distributions be mandatory whenever one-third of the electoral divisions in a State or one-fifth of the divisions Australia-wide differ by more than 10% from their respective State average enrolment. A redistribution should also be held in any State which has not been redistributed for a period of 7 years.

4.30 The Committee recommends that there be established an Australian Electoral Commission and electoral distributions be one of its responsibilities. The Committee recommends that electoral redistributions for a particular State be conducted by 4 commissioners: The Chief Australian Electoral Officer, who will have an awareness of distributions on an Australia-wide basis, the Australian Electoral Officer for that State, the State Surveyor-General or in his unavailability his deputy, and the State Auditor-General or in his unavailability his deputy.

4.31 The Committee further recommends that the redistribution commission may delegate the initial task of preparing draft recommendations for any one State to 3 of its members. No redistribution, however, is to be approved without the support of a majority of the commission of 4.

4.32 The Committee took evidence from several witnesses who had been formerly involved as distribution commissioners, including Mr L. Abbott, Australian Electoral Officer for Victoria, Dr Colin Hughes (ANU) and Mr J. Lennard, Australian Electoral Officer for Tasmania. The current system whereby suggestions are called for and published was closely examined by the Committee as to whether, in mainly coming from the political parties or people with particular interests, they were of assistance to the commissioners. Dr Colin Hughes, in evidence to the Committee, indicated that on many occasions only the chairman of the commission (i.e. the Australian Electoral

Officer for the State) had substantial electoral experience, and the documentation provided at the suggestion stage was extremely useful to other members of the commission. With the Electoral Commission recommended by the Committee, it appears likely that some of those responsible for redistributions may find the provision of material of this kind helpful in the performance of their functions, and the Committee recommends that the suggestion provisions (section 18A of the Act) should remain.

4.33 The Committee recommends that an additional step be added to the distribution process as currently provided by section 18A of the Act, namely that the Commissioners be required to provide reasons including the publication of the reasons for any minority report for their proposed distribution. There should be a mechanism to provide for interested individuals or groups to lodge an appeal against a proposed distribution, and where appropriate these appeals could be heard in open session. (This recommendation assumes greater importance given the Committee's later recommendation that at the end of the process, the Commissioners' determination be final). Complications with timing could arise in connection with the appeal provisions. The Committee, while recognising the difficulty in providing effective limitations to oral appeal sessions, believes that this stage of the distribution should not be permitted to slow down or hinder unduly the total process, and recommends that appropriate guidelines be developed to ensure that this does not occur.

4.34 Section 19 of the Act details matters to be given due consideration with respect to each proposed division in the distribution of a State into divisions as follows:

(a) community of interests within the Division, including economic, social and regional interests;

(b) means of communication and travel within the Division;

(c) the trend of population changes within the State;

(d) the physical features of the Division, and

(e) existing boundaries of Divisions and Subdivisions,

and subject thereto the quota of electors shall be the basis for the distribution, and the Distribution Commissioners may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-tenth more or one-tenth less.

4.35 The Committee recommends that these matters should continue to receive due consideration in the redistribution process but with this modification:

> the Act should clearly state that the major consideration should be the aim, where practicable, that all electoral divisions approximate equal enrolment at the median or mid point time between redistributions. The Committee recommends the amendment of section 19 accordingly.

4.36 The Committee received many submissions from rural areas stressing the difficulties voters and elected representatives faced in large non-metropolitan divisions in a country of such vast geographic and population spreads as Australia. The Committee believes that the Commissioners should be instructed to take such matters into consideration (subject, of course, to the major consideration of elector trends) and recommends that the concept of 'area' be inserted in paragraph 19(d), so that the Commissioners are to consider 'the physical features and area of the Division'.

4.37 Sub-sections 19(2) and (3) currently contain provisions concerning 'large' and 'small' electoral divisions. The Committee believes that these specific directions to the Commissioners should be removed, and recommends the deletion of sub-sections 19(2) and 19(3).

4.38 Section 22 of the Act currently provides that a person shall not attempt to influence a distribution commissioner except as provided by the Act. The Committee believes that this is an unnecessary constraint upon the activities of the Commissioners, and recommends that section 22 be amended to put beyond doubt the right of the Commissioners to canvass widely views concerning proposed redistributions. The Committee also recommends that a provision be inserted in the Act making it an offence to attempt to exert improper influence on the Commissioners.

4.39 The Committee examined the need for parliamentary approval of proposed distributions. There have been instances where Parliament's lack of action prevented implementation of redistribution proposals. In 1905 and 1931 no motions were moved

to approve proposed redistributions with respect to 4 States and in 1962 reports for all States were tabled and a motion with respect to New South Wales was moved and debated in the House of Representatives but the motion lapsed at dissolution. (Appendix F to *House of Representatives Practice* (1981), *pp.725-6*, indicates electoral distributions for the House of Representatives, including the result of consideration by Parliament.). Events in 1975 provide a major example of the effect of parliamentary involvement in the distribution process. In 1975 a distribution was conducted for all States except Western Australia which had been redistributed in 1974. Motions approving the proposed redistributions were agreed to by the House and rejected by the Senate. The government, considering the redistributions to be of urgent necessity, submitted the proposals in the form of bills with respect to each State each of which twice passed the House and was twice rejected by the Senate. There was strong support within the Committee for provision to be made for the Commissioners' report proposing distributions to be presented to both Houses of Parliament and to be subject to approval of both Houses. If Parliament failed to deal with the proposed distribution within a specified time (expressed not in sitting days) it would be automatically operative. If either House disapproved the proposed distribution, the commission would re-examine its proposals in the light of points raised in debate in both Houses, and any subsequent decision by the commission on the distribution would be final. However, the majority of the Committee believed that, to reinforce to the maximum possible extent the independence of the commission and to ensure as much as possible the removal of its conclusions from the political sphere, the conclusion of the Electoral Commission with respect to redistributions should be final. The Committee therefore recommends that sections 23A and 24 which empower either House to disallow a proposed distribution be repealed, and a provision be substituted that distributions agreed upon by the commission should be final.

4.40 The need to remove parliamentary approval from the electoral process is heightened to a greater extent given the provisions of section 25A, whereby if a State is entitled to a greater or smaller number of electoral divisions for the House of Representatives as determined by the Chief Australian Electoral Officer, and the State has not been redistributed in accordance with its entitlement, the State must vote as a single electorate at an ordinary general election (known as 'an election at large').

4.41 In McKinlay's case in 1975, the High Court held that the provisions of the Constitution do not require that electoral divisions comprise equal or nearly equal numbers of electors or persons. A majority of judges held that section 27 requires that a determination of the numbers of Members to be chosen in the different States should be made and applied in time for an ordinary election of the House (being, by implication, one where the House has run its full term) and that sections 3, 4 and paragraph 12(a) of the Representation Act, which would allow that no redistribution need ever be made, are invalid. A majority of judges further held that the question of whether the electoral provisions of the Constitution are being complied with is justicable before the High Court by the States.

4.42 In 1977 the then Government introduced amendments to the Commonwealth Electoral Act, the Representation Act and the Census and Statistics Act in order to remedy the deficiencies revealed by the Court.

4.43 Among the provisions of the Act amending the Commonwealth Electoral Act was the current section 25A, which provides:

'25A.(1) Where, for the purposes of a general election of Members of the House of Representatives, a State is not distributed irto Divisions equal in number to the number of Members of that House to be chosen for that State in accordance with the relevant determination applicable to that election, that State shall be one electorate for the purposes of that election.

(2) For the purposes of an election to fill a vacancy in a House of Representatives, being an election in a State that was one electorate for the purposes of the election of that House, that State shall be one electorate.

(3) In sub-section (1), 'general election' means an election that is an ordinary general election for the purposes of the Representation Act 1905, and includes any general election to which sub-section (1) of section 9 of the Representation Amendment Act 1977 applies.'.

4.44 Section 9 of the Representation Amendment Act 1977 provides:

9.(1) The Chief Australian Electoral Officer shall, within 30 days after the commencement of this section, ascertain the numbers of the people of the Commonwealth *and of the several States in accordance* with the latest statistics of the Commonwealth, and, notwithstanding sub-section 12(2) of the Principal Act as amended by this Act, at the first general election of Members of the House of Representatives held after the commencement of this section, the number of Members to be chosen in each State shall be accordance with the determination made in relation to that ascertainment of the numbers of the people.

(2) The ascertainment of the numbers of the people in pursuance of sub-section (1) shall, for the purposes of the Principal Act as amended by this Act, be deemed to have been made under and in accordance with section 3 of that Act as so amended.

4.45 The Committee considered the problems raised by section 25A at length.

4.46 The court made clear that there is no option on the question of an election at large. Gibbs J. put the point quite forcefully:

'It appears to me that laws made by the Parliament to provide the manner in which the number of members chosen in the several States shall be determined cannot validly permit of any evasion of the requirement that a determination must be made within a reasonable time before each election. That means that when the House continues for its normal term, a determination must be made during the period of three years or less for which it continues.

However it may not be possible, in the nature of things, to ensure that a new determination is made after one election and before another, if the latter follows upon a dissolution of the House which has been effected suddenly and with little warning. This would be so even if the question of a redistribution of electorates within a State were ignored. A determination under s.24 cannot be made and put into effect overnight. When (as in the case) the Parliament has made laws (under ss.29 and 51(xxxvi)) for determining the divisions in each State for which members of the House of Representatives may be chosen, it will be hardly practicable to give immediate and automatic effect to any determination made under s.24 which alters the number of members to be chosen for a State. No doubt this situation could be met by a law which provided, for example, that when there is a change in the number of members to be elected for any state and a redistribution of electorates within the State had not been made, the members shall be chosen from the State at large.'(Gibbs J. 50:ALJR:297)

4.47 The legal position then appears to be that if an adjustment of the number of electorates in a State has not taken place in time for a general election, an election at large is required. The current legislation does not provide any mechanism for such an election to be carried out. The question of promulgating regulations to effect the necessary mechanisms was raised in debate on the Commonwealth Electoral Amendment Bill 1977 by Senator Walsh. The then Minister, Senator Withers, considered that regulation was not the appropriate or perhaps a legal method of providing the mechanism:

> 'it would be very risky ... for any government to attempt to view an election at large under regulations without putting the matter into a statutory form ... because such an action could put the validity of the election at risk.'. (Sen.D. (23.2.77) 332)

4.48 The then Attorney-General (Mr Ellicott) took the point of view in the second reading speech in the House that in the event of an election at large '... we will have to do what they did in 1900' (H.R. Deb. (23.2.77) 403).

4.49 There would be virtually insurmountable difficulties in adopting the course proposed by Mr Ellicott. Elections at large were held in South Australia and Tasmania only in 1900 and according to the existing State laws. The other States were divided into electorates but the remaining mechanisms (suffrage, voting methods, etc.), operated according to State laws and varied widely. For example, property qualifications still existed for Tasmanian electors. Queensland had optional preferential voting. Tasmania had a proportional system in multi-Member electorates and first past the post in single Member electorates. The remaining States had first-past-the-post for single and multi-member electorates.

4.50 If an election at large were to be required then either legislation is needed to cover the details of the mechanism or the election would be carried out in a legal and conventional vacuum which could be the subject of litigation. The Committee is of the view that provision must be made so that an election at large need never occur and should never occur.

4.51 The Committee considered various options with regard to elections at large.

- One option is to retain the current provisions requiring a State to vote as a single electorate, but to spell out the voting system to be used. There are a number of possible systems, including proportional representation and first-past-the-post voting. Most of these systems would produce results within the State which would differ substantially but in a predictable way from that which would have been produced by single-Member constituencies.

- A second option is to provide that if at the time of an election a State is not divided into the number of divisions to which it is entitled, certain divisions should be altered so as to correct the imbalance.

- A third option, which is a variation of the second, is to provide for a mini-redistribution of several divisions designed to bring about the correct number of divisions. This would need to be done at very short notice, in the period between the giving of notice of the election and the issue of the writ.

. A fourth option is to require the Distribution Commissioners to cover all contingencies by drawing three sets of boundaries - the first dividing the State into the number of divisions to which it is currently entitled, the second dividing it into one more than that number of divisions, and the third dividing it into one less. If an election came about after a determination resulting in a change in representation entitlements but before the necessary redistribution, the contingent boundaries produced at the time of the last redistribution could be used.

4.52 The Committee is of the opinion that the second option, while not providing a perfect answer (as is the case with all options) provides the most workable solution given the fact that variations in State entitlement are not common (one element that makes the otherwise desirable fourth option undesirable on the grounds of usually wasted effort being expended - also the fourth option could only be made to work if the subdivisions in all sets of proposals are identical) and the fact that it is in accordance with the Committee's recommendation that predominance in determining divisions be given to trends in the numbers of electors. The Committee therefore recommends that where a State is entitled to an additional electoral division and has not been distributed accordingly at the time of proclamation of election dates by the Governor-General, the Chief Australian Electoral Officer in conjunction with the Chief Electoral Officer for the State in question, having identified the 2 electoral divisions with contiguous boundaries and the greatest enrolment of electors of all such pairs of divisions at the time of the election proclamation, should determine 3 electoral divisions to be formed within the existing boundaries of those two electoral divisions. The 2 seats should be placed into 3 segments, with

existing subdivisions at 2 geographical extremities providing 2 electoral divisions, one retaining the name of one of the electoral divisions and the second retaining the name of the other existing division. The 'central' segment should become the 3rd electoral division and be given a 'neutral' name. Where a State is entitled to one less electoral division and has not been redistributed at the time of the election proclamation, the Chief Australian Electoral Officer and the Chief Electoral Officer for the State should identify the 2 electoral divisions with contiguous boundaries and the lowest enrolment of electors of all such pairs of divisions at the time of the proclamation and determine that those divisions be combined into one division to bear a name comprising each of the former divisions, hyphenated and alphabetically ordered.

4.53 The Committee also recommends that this determination should operate as a temporary measure for the impending general election (and any subsequent by-election in the seats in question) only. The State should be redistributed according to normal guidelines during the life of the next Parliament.

CHAPTER 5

FRANCHISE AND REGISTRATION OF VOTERS

5.1 A central consideration in any participative government system is the question of the franchise, the determination of *those who are permitted to be involved in the selection of the* government. Australia's commitment to extending the vote universally has been apparent from the commencement of the federation and was confirmed by the introduction of compulsory voting. Hand in hand with this consideration is the matter of *the registration of voters and the determination that a person* seeking to participate in the process is appropriately qualified to vote, is geographically qualified to vote for a particular State's Senate representation or for a particular House of Representatives electoral division, and has not exercised a plural vote. There are also practical considerations which must be taken into account to ensure that persons who would be entitled to register, to remain registered and to cast their vote, are not prevented from doing so.

The right to vote

5.2 The franchise for federal elections is not prescribed in the Constitution. Federal Parliament was by the interaction of sections 8, 30 and 51 (XXXVI) of the Constitution empowered to legislate with respect to the qualification of electors of members for both Houses. It first exercised this power in 1902. The features of that legislation have not been altered and permit one vote only, free of property qualifications, being granted to each male and female resident British subject (recent legislation awaiting proclamation will alter this to "Australian citizen") who has attained adulthood. At federation the

franchise for the lower house of the several federating colonies was by no means uniform even in basic principle; male suffrage property qualifications and plural voting were features of some but not of others. The need for a franchise for federal elections was met, first, by the interim measure in section 30 of the Constitution, secondly by conferring on federal Parliament the power to create a new federal franchise and finally by the terms of section 41 preserving the franchise rights of those then with the vote. The Parliament made complete provision by the Commonwealth Franchise Act 1902 for the franchise in federal elections. Section 39 of the Commonwealth Electoral Act (hereinafter referred to as 'the Act') is now the relevant provision. However, it must be considered in the broad context of the scheme introduced by the Act creating a register or roll of electors. Generally speaking only those on the roll of electors are entitled to vote.

5.3 Part IX of the Act (sections 39-39B) deals with qualifications and disqualifications for enrolment and voting. Sub-section 39(1) gives the right to enrol and to vote to all persons, not subject to disqualification, not under 18 years old, male or female, married or unmarried who have lived in Australia for 6 months continuously and who are British subjects. The Committee commends legislation awaiting proclamation which will result in substituting 'Australian citizen' for 'British subjects' and those British subjects on the electoral rolls as at 1 January 1983 for 'British subject'. Additional amendment of the sub-section is necessary however in accordance with current views on gender and marital status. The Committee therefore recommends that the sub-section be redrafted to refer to persons 18 years of age and over, and to remove reference to 'male or female, married or unmarried'. The Committee also recommends that the present six months residence requirement be repealed.

Section 39(3)

5.4 The proviso to sub-section 39(3) and sub-sections 39(4) and (5) of the Act detail disqualifications from the entitlement to vote.

5.5 Sub-section 39(3) indicates that a person is not entitled to vote according to his divisional enrolment unless his real place of living was at some time within the 3 months preceding polling day, within that division with 'real place of living' defined as including a place of living to which a person temporarily living elsewhere has the intention to return.

5.6 The Committee received evidence on the issue of the registration of persons temporarily outside Australia and who have the intention to return to Australia not only being disqualified from voting at a particular election but also being disenfranchised.

5.7 Such persons are unable to maintain their enrolment because of the lack of an address to which they have a fixed intention to return for enrolment purposes; for example, electors overseas for more than 3 months who are uncertain of where they will reside on return, young people who were previously enrolled at the residence of their parents who have moved.

5.8 After consideration of the various possibilities the Committee recommends that the most effective method is to permit Australians overseas intending to return to Australia to retain their enrolment for the subdivision at their last Australian place of residence for a defined period - say 3 years. Such a provision would also cover persons posted overseas in an official civilian or defence service capacity for 3 years. The

Committee also believes that provision should be made for persons absent for a period in excess of 3 years to be entitled to an extension at the discretion of the Chief Australian Electoral Officer. However, such extensions should be of a maximum of 12 months at a time.

5.9 The elector on returning to Australia, would be required to register in the normal way.

5.10 Sub-section 39(3), as currently framed, effectively disenfranchises itinerant workers and others whose occupation require frequent changes of address.

5.11 The Committee recommends that the appropriate amendments be made to the Act to enable itinerant workers to enrol and remain enrolled in an electoral division until such time as they take up a 'permanent' (for electoral purposes) address. The Committee considered various options which might be exercised to give effect to this recommendation, including enrolment in the electoral division in which itinerant workers were born or the last one in which they could have enrolled under the current provisions relating to length of residence. The question of those accompanying itinerant workers entitled to be enrolled also requires consideration.

5.12 There are some categories of electors (who are absent from Australia on official duty with the Commonwealth, or those accompanying them) who are technically or practically disenfranchised because of their absence.

5.13 Section 39A of the Act as currently framed makes express provision for members of the Defence Forces to be deemed to be electors for the subdivision in which they ordinarily lived immediately before departure and for those who accompany part of the Defence Force to be deemed to be part of the Defence Force for electoral purposes. Spouses and dependants have not been considered to be part of the Defence Force, and have been unable to exercise their right to vote. Nor have the numbers been insignificant, as the following average figures provided by the Department of Defence show:

TABLE 5:

WIVES AND DEPENDANTS OF SERVICEMEN OVERSEAS
AVERAGE FIGURES

	Wives	Eligible Dependants	Total
RAN	225	1	
Royal Australian Army	280	10	
RAAF	1000	24	
	1505	35	1540

5.14 The Committee believes that this situation will be remedied with the provision concerning the retention of enrolment rights of Australians temporarily overseas and recommends the repeal of section 39A. The question of enrolment entitlements of dependants who have so qualified during the overseas posting (for example, children who turn 18) will need special provision. Perhaps for them to be deemed to be enrolled for the subdivision for which the parent whose movements were the basis of the overseas absence would be the most appropriate solution.

5.15 Members of the Australian National Antarctic Research Expeditions (ANARE) are faced with usually insurmountable technical and practical difficulties in casting their vote. There are approximately 120 people based at Sub-Antarctic Macquarie Island and in the Australian Antarctic Territory who are away from Australia for twelve to fifteen months at a time. During their stay in the Antarctic their only means of communication with Australia is by radio-telephone and facsimile transmission.

5.16 Resupply and change of expedition personnel takes place each year in the summer months, by necessity, with voyages departing and returning between October and March. Expedition voyages to Antarctica normally last from four to eight weeks. In the absence of a regular mail service to the Antarctic stations it is not possible under existing legislation for expeditioners to receive or return ballot papers within the prescribed time.

5.17 In the 28 years since the first permanent Australian station was established in the Australian Antarctic Territory, ANARE members have not been able to vote in Commonwealth elections while they are employed at the Antarctic bases or in transit at sea, except in two unusual cases at Macquarie Island.

5.18 The Committee considered the possibility of establishing proxy voting rights for members of ANARE but because of its conflict with basic electoral principles, did not pursue this option. The Committee recommends amendment of the Act to enable electronic transmission of details of votes as follows:

- An elector based at an Australian Antarctic station would cast a vote, in the presence of the Antarctic Returning Officer and his Assistant, as if he were casting an ordinary vote; he would be deemed to be enrolled for the subdivision for which he was enrolled before departure.

- The Antarctic Returning Officer would transmit (by whatever facilities were available) details of the votes cast to the Australian Electoral Officer for the State, who would transcribe them on to postal ballot papers and despatch them to the appropriate Divisional Returning Officers.

- For the purposes of the scrutiny these votes would be treated as postal votes.

Section 39B of the Act provides:

> 'Notwithstanding any other provision of this Act, a person to whom section forty-one of the Constitution applies is entitled to enrolment under Part VII and to vote at any Senate election or House of Representatives elections.'

Section 41 of the Constitution provides:

> 'No adult person who has or acquires a right to vote at elections for the more numerous House of Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.'

5.19 The current Section 39B was inserted in the Act by a 1961 amending Act.

5.20 At that stage the High Court had not pronounced on the effect of section 41 of the Constitution and the rights it conferred. The Court has since done so in Re Pearson; Ex Parte Sipka (ALJ 57:4:225). The effect of section 41 of the Constitution and section 39B of the Act were central to the case brought by four persons claiming the right to be enrolled on the Commonwealth rolls for the March 1983 election after the issue of the writs and therefore the closure of the rolls. Two claimed on the grounds that they were enrolled in New South Wales, one on the ground that he was not naturalised until after the issue of the writs and the fourth because her eighteenth birthday fell after the issue of the writs. All four were refused Commonwealth enrolment after the closure of the rolls although their joint enrolment applications admitted them to the New South Wales rolls. All four claimed that the operation of section 41 of the Constitution and section 39B of the Act should allow them to vote in the March 1983 election.

5.21 Six judges of the Full Bench agreed, (Murphy, J. dissenting) in two judgments that section 41 of the Constitution protected the right to vote of persons who had a right to vote for State lower Houses until the Commonwealth legislated a Commonwealth franchise and dictated that the Commonwealth franchise could not be more narrow than the then existing State franchises, that is most obviously that women over 21 years in South Australia and Western Australia could not be disenfranchised by the Commonwealth when it passed its law on franchise. Section 41 protected rights to vote that existed prior to the enactment of the Commonwealth Electoral Act 1902 and only those rights. As the 1902 Act protected these rights Brennan, Deane and Dawson JJ concluded that section 41 is spent; if section 41 is not spent the majority of the Bench agreed it could only apply to someone who had a right prior to 1902, that the 1902 Act did not protect, that is, someone over 21 years in 1902 and therefore 102 years old in 1983 with no other basis on which to claim a right of enrolment.

5.22 The Committee takes the view that while in 1961 there was still doubt as to the necessity of section 39B of the Act, that doubt no longer exists. If section 41 of the Constitution was spent in 1902, or there is no one alive to whom it now applies, then section 39B serves no purpose. The Committee recommends the repeal of section 39B of the Commonwealth Electoral Act and submission of a proposal to repeal section 41 of the Constitution at the referendum concerning the removal of outmoded and expended provisions planned to be submitted to electors in 1984.

5.23 Specific disqualifications for enrolment are provided in sub-sections 39(4) and 39(5) of the Act.

5.24 Sub-section 39(4) provides that no person of unsound mind, attainted of treason or who has been convicted and is under sentence for any offence punishable under the law of any part of the King's Dominions by imprisonment for one year or longer shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election.

5.25 The wording 'unsound mind' is legally most imprecise. The Committee recommends review of this wording with a view to excluding on the ground only those persons who are incapable of making any meaningful vote. Modern State and Territory legislation in this area may provide a useful guide to more precise description.

5.26 The disqualification for treason appears to be a permanent one whereas the disqualification for conviction of another offence is limited to the period of the sentence.

5.27 In relation to the words in sub-section 39(4) 'and no person attainted of treason ... shall be entitled to have his name placed on or retained on any roll or to vote in any Senate election or House of Representatives election' the Committee agrees with the report of the Senate Standing Committee on Constitutional and Legal Affairs on the Constitutional Qualifications of Members of Parliament. The words 'attainted of' had by 1900 a very imprecise legal meaning and a court may well now interpret them to mean 'convicted of'. Ascertainment of conviction is a simple procedure as treason is strictly defined by section 24 of the Crimes Act 1914. Current non-legal usage of 'attainted of treason' would imply someone was associated with treason but not necessarily convicted. In the Committee's opinion the special permanent disqualification for treason should remain but recommends that conviction should be the ground for disqualification. The problem could arise that a pardon could be granted; perceptions of deeds can change. Once pardoned most statutory and other disqualifications are cleared. There is no reason to preserve the disqualification in the electoral case and the Committee recommends an appropriate rewording.

5.28 In relation to the loss of voting rights of prisoners, the majority of the Committee was of the view that, as an initial revision, being convicted and sentenced for an offence punishable by 5 years imprisonment rather than one year as at present should be the basis for deprivation of rights. There was strong support within the Committee for the view that punishment provided by the courts should not be added to by this legislation. (This view is taken by several of the States).

5.29 The Committee recommends that sub-section 39(4) be amended to read 'imprisonment for 5 years or longer'.

5.30 The Committee recommends that section 40 be amended to provide for those electors who are unable to sign their names or even make a mark (e.g. quadraplegics and other severely disabled persons) to be duly enrolled.

5.31 Sub-section 41(4) of the Act provides for choice of enrolment location for Senators and Members. The Committee recommends that this sub-section be repealed.

5.32 Section 42 of the Act, which provides details of procedures to be observed for enrolment and transfer of enrolment, contain many details of a technical nature. The Committee believes as a matter of principle that procedures to enable electors to fulfil their obligation to enrol should be as simple as possible, and non-compliance with the more technical and formal requirements is not a proper basis for invalidating an elector's claim.

5.33 The Committee recommends that sub-section 42(1), providing that an elector entitled to be enrolled and not on the roll, shall send a claim for enrolment to the registrar for the appropriate subdivision, be amended to allow a claim for transfer or enrolment to be sent to any Divisional Returning Officer. The Committee is of the view that an elector's enrolment should not depend on his knowledge of the location or name of the subdivision in which he may be appropriately enrolled.

5.34 The Committee recommends that sub-section 42(3), requiring notification of change of address within a subdivision on the prescribed form, be amended to provide that notification of change of address be in writing but not necessarily on the prescribed form. A form should continue to be available but if an elector chooses to write a letter informing the Divisional Returning Officer of his change of address the Divisional Returning Officer is in fact informed of the change for all obvious intents and purposes. Similarly, the Committee believes that not registering a change of address within a subdivision should not be regarded as an offence under the Act.

5.35 Sub-section 42(5) provides that enrolment is not compulsory for 'Aboriginal natives' of Australia.

5.36 The Committee believes that the compulsory registration provisions should apply to all Australian citizens, and recommends that sub-section 42(5) be repealed. Of course, to make all Aboriginal people subject to the compulsory registration provisions contained in section 42 would also bring into play the compulsory voting provisions contained in section 128A. (Sections 156(aa), 157, 158(aa) and 159, referring inter alia to influencing an Aborigine to exercise the option to, enrol or not to enrol, would also require amendment or deletion).

5.37 Major difficulties arising from this recommendation are essentially of an administrative nature and capable of solution. Mobile polling booths and if necessary the extension of the polling period would enable in remote areas to exercise their vote.

5.38 The Australian Electoral Office Aboriginal Electoral Education teams currently working in remote areas would be well placed to undertake enrolment procedures designed to ensure that Aborigines are registered under one or more names that would ensure that the local community would know which person was registered and if that registered person was the one attempting to vote. Members of the local community might need to be employed during the polling to assist out-of-area officials. The Committee believes that it is possible to design, with due regard to the social mores of Aboriginal culture, a system whereby a person's clan or tribal names and/or a European name, which clearly distinguishes him, can be registered.

5.39 In the applied term of residence and real place of living provisions in sub-section 39(3), the Committee recommends that account should be taken of Aboriginal concepts of real place of living.

5.40 The suggestion of special Aboriginal representation was considered by the Committee. The New Zealand system provides for four seats - the Northern, Southern, Eastern and Western - to be elected by Maoris only. At eighteen years of age and at specified intervals afterwards Maoris may choose to be registered on either the special Maori roll for the purpose of electing Members for the Maori seats or on the roll for other New Zealand citizens. The Committee is of the view that while the New Zealand system may have been an appropriate solution for New Zealand when instituted in 1867, a system of special Aboriginal seats would not be in the best interests of Australia in 1983. The Committee is of the view that the representation of Aborigines by Aborigines or by Europeans is an issue best left to the resources of the Aboriginal community and the existing party structures.

5.41 Section 44 of the Act provides for action to be taken by Registrars and DRO's with respect to accepted and rejected claims for enrolment. The Committee accepts the Australian Electoral Office proposal that the separate position of *Electoral Registrar be abolished, as with the exception of one* electoral division (Kalgoorlie), it is not the practice to appoint them, but was convinced by argument that for the DRO to perform dual functions with respect to rejection of claims for enrolment was to place an appellant in the position of appealing *from Caesar unto Caesar, and* recommends *that any appeal against* rejection by the DRO be dealt with by the Chief Electoral Officer for the appropriate State.

5.42 The Committee considers that the closing of the rolls *almost immediately an election is announced as occurred in* February 1983, is not in the best interests of parliamentary democracy. The Committee believes that a statutory minimum period should be provided before the rolls are closed after an election is announced. The Committee therefore recommends that section 45 be amended to provide that the Governor-General shall, by proclamation, announce the intention of dissolution and the dates proposed in connection with the election at least 7 days before issue of the writs and therefore the closing of the rolls.

5.43 The Committee also recommends that a system of provisional enrolment similar to that operating in the United Kingdom be adopted. Under a system of this kind persons who will turn 18 between the close of the rolls and polling day are entitled to provisional enrolment.

5.44 The Committee recommends that sub-section 49(b) be deleted so as to remove the provision concerning notification of marriages of women as it may actively operate to disenfranchise women whose claim to enrolment should not be in question.

5.45 The Committee gave close consideration to the mechanics of processing of enrolment claims and the maintenance and production of rolls by the Commonwealth Electoral Office. The Committee agreed with the submission by the Australian Electoral Office that the Act be amended to make express provision for the discharge by DROs of their functions in this regard through the use of computer technology, and recommends that the Act be amended accordingly.

5.46 The Committee believes that continued public access should be available to the Divisional Returning Officer's official roll and to printed copies of the rolls. If the Committee's earlier recommendations are agreed to, details of occupation will not generally speaking, appear on these rolls, although to satisfy the joint roll arrangements with at least one State, it may still be necessary for the details to appear on the rolls for that State. However, the Committee recommends that access to the Australian Electoral Office computer tapes should not be available.

5.47 The computer tapes contain information which the Electoral Office requires for electoral purposes but the release of which to third persons may constitute an unwarranted intrusion of privacy. The Electoral Office rolls are instruments to assist in establishing eligibility to vote and for similar electoral purposes. The printed copies of the rolls provide sufficient information for this purpose. The wider release of any additional information is not justified, as the uses to which they would most probably be put would be for commercial gain or similar purposes, and run contrary to current moves for the protection of privacy.

5.48 Regular exercises are conducted by the Electoral Office for the purpose of 'roll cleansing', i.e. ensuring the correctness of detail of the rolls held by the Office. The Committee is of the opinion that habitation reviews provide a most effective means of ensuring that electors are validly enrolled, and recommends that they be intensified. It specifically recommends that section 38 of the Act be amended to provide for annual habitation reviews throughout each metropolitan electoral division.

5.49 The Committee was made aware of requests for the 'silent' listing on electoral rolls of people in certain occupational groups such as police, judges and magistrates, and people in danger of violence. New Zealand has legislation whereby a completely separate silent roll is maintained, and is not open to public inspection. At the moment there is no provision in Commonwealth law for such listing. The Committee recognises the possible need for a provision of this kind and recommends that silent listing be implemented for those who consider themselves to be in danger of violence. Criteria for eligibility and procedures to be followed would need to be spelt out precisely in any legislation. The application for placement on a 'silent' roll would, in the opinion of the Committee, need to be by means of a statutory declaration sworn before a member of the police force or a magistrate. Any such listing should be reviewable every 2 years.

CHAPTER 6

ISSUE OF WRITS, NOMINATIONS AND POLLING

Writs

6.1 The authority for the holding of an election in the House of Representatives is a writ, issued by the Governor-General (or usually the Speaker in the case of a by-election) to a Divisional Returning Officer (DRO), specifying a date by which nominations must be lodged, polling day and the date by which the writ must be returned. Currently, a separate writ is issued to each DRO for House of Representatives elections and to the Chief Australian Electoral Officer for the State for Senate elections. The writ is deemed to have been issued at 6 pm on the day of its issue, at which time the electoral rolls are closed. The Constitution provides that the writs must be issued within 10 days when the Senate is dissolved (section 12) and where House of Representatives is dissolved or expires by effluxion of time (i.e., 3 years after the date of first meeting of the House) (section 32) so that undue delay may not occur. Writs for Senate elections are issued by the State Governors who usually fix election timetables identical with those for the elections for the House of Representatives, the writs for which are issued by the Governor-General, when simultaneous elections are held.

6.2 The Committee has recommended elsewhere in this report that a revised timetable of elections be determined whereby the Governor-General shall, by proclamation, announce the dates in connection with the election a minimum of 7 days before the writ is issued. The period for nominations should be not less than 4 days nor more than 21 days after the issue of the writ and polling day fixed on a Saturday not less than 22 days nor more than 30 days after nominations close, and the writ returnable no more than 90 days after issue. The Committee recommends that rather than a separate writ being issued to each DRO for a House general election, as is currently the case, the Act be amended to provide that a single writ be issued to the Chief Australian Electoral Officer with respect to all electoral divisions, and the DRO's be advised accordingly. The Committee also recommends that a composite advertisement of the details of the writ with respect to each electoral division be authorised.

6.3 Sub-section 141(2) of the Commonwealth Electoral Act provides for declaration of the result and return of the Senate writs without awaiting all ballot papers. This provision is not used and it is doubtful whether it could be used under the present system of Senate scrutiny, and the Committee recommends its repeal. Section 144 of the Act provides that within 20 days before or after the day appointed for any election, the person causing the writ to be issued may provide for extending the time for holding the election or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election. The Committee took evidence from Ms Helen Berrill as to the inconsistency of this section with other sections of the Act. The Committee recommends that the section be rewritten to overcome the inconsistency.

Nomination for the House of Representatives and the Senate

6.4 The Committee considered the provisions in Part XI of the Commonwealth Electoral Act relating to nominations and came to the general conclusion that minor amendments to update and simplify provisions are required and the electoral problems arising from the death of a nominated Senate candidate between the close of nomination and close of polling require attention.

6.5 In relation to section 69(1), qualifications of members of the House of Representatives, the proclamation of sections of the (Statute Law (Miscellaneous Amendments) Act 1981 substitutes 'Australian citizen' for 'British subject'. The Committee therefore recommends that paragraph 69(1)(c) be deleted.

6.6 The Committee considered at some length the provisions contained in section 70 of the Act relating to the nomination of Members of State Parliament. The section currently relates only to Members of State Parliaments. While the Committee has further recommendations for amendment, it considers that the scope of the provision should be extended to include members of Territory Assemblies and recommends that paragraph (a) be amended to read:

> 'No person who -
>
> (a) is at the hour of nomination a Member of the Parliament of a State or of the Assembly of the Northern Territory or of the Australian Capital Territory ...;'

6.7 Paragraph 70(b) requires a Member of State Parliament to resign 14 days before nomination for the Commonwealth Parliament. Presumably such candidates would enjoy advantages over other candidates that being a member of a Parliament would confer, in particular the protection of parliamentary privilege. However, the Committee does not see the member's resignation 14 days before nomination as necessary. The Committee therefore recommends the deletion of paragraph 70(b).

6.8 At present there is no provision in the Commonwealth Electoral Act which defines the name in which a candidate must nominate. A number of members of the Committee saw no difficulty with candidates being able to nominate in the name of his or her choosing. The Committee, however, recommends the inclusion in the Commonwealth Electoral Act of a provision for candidates to nominate in the surname and Christian or given name under which they are enrolled with provision for nomination under the name used most frequently or most well known.

6.9 Sections 83 and 84 provide some of the mechanism for coping with the death of a candidate. The current situation with these provisions is as follows:

- when a candidate for the House of Representatives dies between nomination and polling day the election fails and a supplementary election is held.

- if an elected member of the House of Representatives dies a by-election occurs;

- if a Senator dies after the commencement of term he or she is replaced by a State Parliament nomination under section 15 of the Constitution;

- if a Senator-elect dies between election and taking up his or her term the past practice - there being only two instances - a vacancy was declared at the commencement of the term and it was filled in the normal way. Advice from the Attorney-General's Department suggests that this process cannot be regarded as free from doubt.

- if a candidate for the Senate dies between nomination and polling day the team of which he was a member would remain as it is unless the death or deaths mean that the number of candidates remaining are not greater than the number to be elected whereupon they are declared elected.

6.10 The Committee recommends that the two obvious difficulties

- the death of a House of Representatives or Senate candidate before nominations close; and

- the death of a Senate candidate after nominations close and before polling day

be reviewed.

6.11 In the case of the death of a Senate or House of Representatives candidate during the nomination period the Committee recommends the nomination period be extended by 24 hours to allow extra time for an alternative candidate to be nominated.

6.12 In the case of the death of a Senate candidate the situation appears to be more complex. Advice from the Attorney-General's Department suggests that nomination of candidate and alternate candidates at the same time could be in breach of section 7 of the Constitution which provides that senators shall be "directly chosen by the people". If there were a death late in the election campaign many electors may not realise that they were voting not for the person on the Senate ballot paper but for his alternative nomination.

6.13 Allowing the election to proceed and electing the deceased candidate who would then be regarded as creating a casual vacancy to be filled by a State Parliament nomination would also appear to be contrary to section 7 of the Constitution.

6.14 The only options that appear to be legally available are the incorporation of an alternate nomination in the ballot paper - this could well be administratively impossible - or the nomination of extra candidates in the normal nomination process.

6.15 The Committee recommends that the matter be considered for future constitutional review. In the meantime, political parties may wish to consider the nomination of additional candidates in case the situation arises.

6.16 The Committee considered at some length the question of nomination deposits and their retention. The Australian Democrats in their submission proposed that the deposit be abolished. The Democrats argued that the purpose of the deposit is to restrict the number of candidates at elections and that this provision should be removed. The Australian Labor Party proposed the

raising of deposits to $200 for the House of Representatives and $400 for the Senate. The Liberal Party declared its opposition to raising the deposit. The National Party NSW and Victoria State organisations suggested much higher deposits of $1000 for the House and $2000 for the Senate to discourage non-serious candidates.

6.17 A minority supported the Australian Democrat proposal on the ground that the deposit could deter the nomination of serious but financially restricted candidates. The majority recommends the retention of the deposit as proof of the good faith of a candidate and suggested their increase to offset partially the effects of inflation since their last adjustment in 1965 but to reduce the threshold for the return of the deposits.

6.18 The majority of the Committee recommends the retention of the deposit and its increase for the House of Representatives from $100 to $250 and for the Senate from $200 to $500.

6.19 The Australian Democrats proposed in conjunction with the repeal of the deposit provisions the amendment of paragraph 71(b) to provide 100 electors to be represented by the candidate to indicate their support for the nomination. The Liberal Party proposed that Senate candidates should be nominated by a number of electors from a certain number of Divisions. The NSW and Victorian National Party submissions proposed 10 nominees from five Electoral Divisions.

6.20 The majority of the Committee was of the view that whatever provisions were applied to require candidates to show proof of support they would be readily subject to abuse. The Committee recommends that the provisions of paragraph 71(b) remain unchanged.

6.21 The current provisions of section 76 provide for forfeit of the deposit as follows:

76. The deposit made by or on behalf of a candidate at a Senate election or at a House of Representatives election shall be retained pending the election, and after the election shall be returned to the candidate, or to some person authorized by him in writing to receive it, if he is elected, or -

(a) in the case of a Senate election -

(i) if the total number of votes polled in his favour as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election; or

(ii) where the name of the candidate is included in a group in pursuance of section seventy-two A of this Act, if the average number of votes polled in favour of the candidates included in the group as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election; or

(b) in the case of a House of Representatives election, if the total number of votes polled in his favour as first preferences is more than one-fifth of the total number of first preference votes polled by the successful candidate in the election,

otherwise it shall be forfeited to the King.

6.22 The Committee desires simplification of the provision and the substitution of a flat percentage of the valid first preference vote for return of the deposit. The Committee decided that the amount should be reasonably attainable by a candidate with serious pretensions to represent the electorate. The majority of the options the Committee considered were reductions of the percentage vote required by the current provisions. The Australian Labor Party in its submission suggested 10% of the valid votes for both the House and Senate. The Liberal Party did not suggest a percentage. The NSW National Party suggested 5% for the Senate and the House. The Victorian National Party proposed 1% for the Senate and 2.5% for the House.

6.23 The Committee recommends that section 76 be amended to provide that the deposit is forfeited to the Crown if a candidate for the House of Representatives receives less than 4% of the total valid first preference vote in the electoral division for which he is a candidate or if a Senate candidate or group receives less than 4% of the total valid first preference votes in the State for which he is a candidate.

6.24 The current provisions of the Act do not preclude a candidate from nominating in more than one division for the House of Representatives or for both Houses at the same election. Indeed, a candidate can stand for every House of Representatives divison and for the Senate in each State. The provisions of section 73(a) appear to provide that a candidate can represent only one House division or one State in the Senate. The Constitution (section 43) prohibits dual membership of both the Houses at the one time. The Act therefore appears to provide that while a candidate can lose in as many seats as he or she cares to stand for he or she can win in only one. The Committee recommends amendment of the Act to provide that a candidate can nominate for only one House electoral division or for the Senate in one State only. (Dr Klugman wished that his dissent from this decision should be recorded).

6.25 The Committee recommends two further minor amendments.

6.26 The first is consequent upon the amendment of section 15 of the Constitution in 1977 to remove the necessity for Senate by-elections. Sections 72A(6) 104(2) and 105B are provisions relating to Senate casual vacancy elections and the Committee recommends their removal.

6.27 Section 77(1) provides that the nomination place for the Senate be stated in the writ while sub-section (2) states that for the House of Representatives it will be the office of the Divisional Returning Officer. The Committee recommends the amendment of sub-section (1) to specify the place of nomination as the Office of the Australian Electoral Officer for the State.

Polling

6.28 The Committee received many submissions suggesting that a non-defaceable poster be placed on display at polling booths indicating the political affiliation of candidates. However, there is the practical consideration of cluttering the already confined space available in polling booths. In addition, the Committee's recommendations concerning the printing of candidates' political affiliations on ballot papers (see below) will assist voters to cast a vote for the party of their choice. It therefore recommends against the display of posters in polling booths.

6.29 Some submissions added a suggestion for the banning of party how-to-vote cards outside polling booths. The Committee does not believe that how-to-vote cards should be banned.

6.30 The Australian Electoral Office proposed that ordinary voting facilities be available throughout an electoral division and the Committee recommends this course be adopted, i.e., an elector would not be required to cast his vote in the subdivision for which he is enrolled in order to cast an ordinary vote, provided that the vote was cast within the appropriate electoral division. The Committee gave close consideration to this proposal, particularly in view of the potential it might provide for electoral fraud in the way of multiple voting. (Electoral Office advice was that, in almost all instances apparent multiple voting was attributable to clerical or administrative error.) There would also be a significant additional official cost, with the production of Divisional rather than subdivisional certified lists for each electoral division. The Committee believes that the introduction of this facility would be of significant advantage to voters. It therefore recommends its introduction. However in order to eliminate potential abuse the Committee recommends that appropriate actions be taken including the provision of severe penalty.

6.31 The Committee's recommendations concerning the format of Senate and House of Representatives ballot papers is more closely considered in chapter 3 (Voting systems). A significant recommendation is that the political affiliation of a candidate appear on the ballot paper. The Committee recognises the vital role that political parties play in the working of democratic government in Australia, and that one of the central characteristics of democracy is that there should be parties competing for the right to govern. The concept of the political party has recently been written into the Constitution with the provision concerning replacement Senators following casual vacancies. The Committee recommends that voters should be provided with information that enables them to identify each candidate's political affiliation at the time of casting their vote.It will be necessary for the party designation of specific

candidates to be certified by the party. The Committee recommends that the proposed Electoral Commission maintain a register of candidates including information as to certification of any party designation. (Currently the information is really only obtainable from a survey of each party's separate how-to-vote card.) The identification of each candidate on the ballot paper should particularly facilitate a discerning allocation of subsequent preferences. The Committee recommends that provision be made for all ballot papers to be on white paper with black printing using orthodox printing types and no stylised logos. It would be easy for the headings and type-face to distinguish postal and absent ballot papers from ordinary ones. This would enable political parties and candidates to so design their how-to-vote cards that there can be no confusion between them and a ballot paper.

6.32 Section 115 of the Act currently lists the questions to be put to persons claiming to vote. The Committee recommends that the section be amended to reduce the questions to be put to voters by the presiding officer. The questions should be such as to ascertain the name and address of the voter, and the presiding officer may ascertain whether the voter has previously voted before on the occasion of the particular election. The questions to be put would be in the form:

. What is your name?

. Where do you live?

. Have you voted before in this election?

6.33 Sections 101 and 119 of the Act provide for the mechanics of casting a vote. Section 101 provides that pencils are to be furnished for the use of voters. The Committee recommends, that pencils continue to be furnished for the use of voters. Several submissions to the Committee suggested the supply of ball-point pens for the use of voters, on the grounds that

there may be present in the voter's mind the thought that his pencilled mark could be erased and another mark substituted. The provisions concerning scrutiny are adequate to ensure that votes are not tampered with, and where a voter has altered his mark, practical advice was provided to the Committee that an examination of the pencilled ballot paper enables a determination to be made of the voter's last expressed intention. Section 119 provides for the completion of the ballot paper. The Committee considered whether the Act should provide mandatory provision for the marking of the ballot paper, centred on the philosophical consideration of whether a voter by presenting himself at the polling place had discharged his obligation to vote and should not be compelled to complete the ballot paper, i.e., should be entitled to cast a blank vote. The Committee recommends that the section be amended so as to make it clear to voters that to have their vote recorded they must mark the ballot paper accordingly, and so as to omit the words "in the manner hereinafter described" from paragraph 119(a). Paragraph 119(b) provides that the elector conceal his vote by folding the ballot paper and exhibit it to the presiding officer. As this need not be (and in practice, is not) done, the Committee recommends the repeal of paragraph 119(b).

6.34 Section 120 of the Act currently provides for assistance to certain electors (with sight impairment or a physical disability) by friends in casting their vote. The Committee recommends that the section be reviewed to provide consistent treatment for all electors who come within its scope such as, for example, illiterate voters. The Committee also recommends the insertion of a new section, 120A, to permit electors who are otherwise entitled to assistance in recording their vote to present to the polling official a printed or written statement, which may be a how-to-vote ticket, as an instruction to the official indicating the voter's first and later preferences. This amendment would put the use of how-to-vote tickets in this way

beyond question. The Committee also recommends that the proposed Electoral Office maintain a register of how-to-vote tickets certified by the individual parties or non-aligned candidates. (The official would need to be satisfied, before marking the ballot paper, that such a card or list reflected the wishes of the elector).

6.35 The Committee received many submissions from disabled persons, and took evidence from Mr J. Heath of the Disabled Peoples' International (Australia). The Committee recommends that the Electoral Commission place advertisements at election times publicising facilities available to disabled persons, including disabled voter assistance, mobile polling facilities (see later in this chapter), postal voting entitlements (see Chapter 7), and the location of polling booths accessible to wheelchairs.

6.36 Section 121 permits a voter whose name does not appear on the certified list to claim, under certain circumstances, a 'section vote'. The present requirements of the section which require the presiding officer to make a preliminary determination of the voter's entitlement to the vote, have led to unnecessary misunderstandings and friction in polling booths. In order to avoid such situations for the future the Committee recommends that section 121 be rewritten so as to remove any discretion possessed by presiding officers as to whether or not a 'section vote' should be issued. The Committee recommends that all persons claiming a vote who are not on the certified list be given a 'provisional vote'. All provisional voters would be issued with a written statement which would outline the steps that would be taken to determine whether the vote should or should not be admitted to the scrutiny. All provisional voters whose names had been wrongly omitted from or not included on the certified lists would have their votes admitted to the scrutiny - this would involve a check of each voter's individual enrolment history. The admission of a provisional vote would automatically lead to the

reinstatement of the voter's name on the rolls. If the vote were not admitted, the person would be informed, and follow up action would be taken by the Australian Electoral Office to effect his or her enrolment.

6.37 Several provisions of the Act currently require action by officials, such as the initialling of each ballot paper, the absence of which could raise doubt as to the validity of the elector's vote, without any fault being attributable to the elector. With regard to all requirements of this kind, the Committee recommends that provision be made that no action by an official or failure to perform a required action on the part of an official should render a vote informal.

6.38 Sections 129 to 140 of the Act relate to the scrutiny. The Committee recommends that section 130 be amended to make specific provision for each candidate to be entitled to have a scrutineer present wherever an officer is performing a task relating to the count or the scrutiny. Section 133 deals with informal ballot papers. This section will require extensive modification in view of the Committee's recommendations on voter intention and validity of the vote (see Chapter 3) and the recommendation earlier in the last paragraph concerning administrative action or the lack of such action and the formality of the vote.

6.39 The Committee was informed that under current provisions, if it appears that an elector recording an absent, 'section', or postal vote is not enrolled in the division shown on the absent, or 'section' vote declaration or the postal vote certificate the envelope containing ballot paper for the incorrect House of Representatives division will be rejected at

the preliminary scrutiny. This also means that the Senate vote which is in the same envelope will also not be admitted. However, the elector may be correctly enrolled for another division in the same State, and thus qualified to record a Senate vote. The Committee recommends that the Act should be amended to allow the admission of the Senate vote in these circumstances.

6.40 The Committee also recommends that ballot material for both Houses may be preserved for the purpose of electoral research.

6.41 Section 111 of the Act currently provides that the hours of polling shall be from 8 a.m. to 8 p.m. The Committee received a great number of submissions suggesting that the poll be closed at 6 p.m. New South Wales, Victoria, Queensland, South Australia and the Northern Territory have 6 p.m. closing for State elections The majority of the Committee recommends the closing at 6 p.m. (The minority, observing that approximately 8% of electors cast a vote after 6 p.m., believes that the existing rights of electors should be preserved, and that polling hours should be retained as at present.).

6.42 The Committee also recommends the introduction of electoral visitor voting with mobile polling booths in hospitals and similar institutions, and mobile polling booths in remote areas. In terms of Aboriginal voters in particular, this may guard against alleged electoral malpractices associated with postal voting. The Committee realises that this polling facility may involve significant costs, but believes that such costs would be justified. The time of operation of mobile polling booths will probably need to extend over more than one day. The locations of the booth should be extensively advertised, as should the fact that the booth will only call once at the one location.

6.43 Part XVIII of the Act relates to disputed elections and the Court of Disputed Returns. The Committee recommends that the proposed Electoral Commission and individual candidates be permitted to take out injunctions. The Committee recommends that the onus rests with the proposed Electoral Commission to ensure that elections at every stage are conducted in accordance with the laws, and it should have the responsibility to initiate action on any occasion when in its opinion sufficient reason is demonstrated. (This would include seeking injunctive relief in situations where information available to the Commission indicated that a breach of the law was probable).

6.44 The Liberal Party submission to the Committee suggested that legislative provision should specifically be made to allow a Court of Disputed Returns to order the payment of costs by the Crown where the Court regards this as appropriate. The Committee recommends that specific legislative provision be made to provide accordingly.

CHAPTER 7

POSTAL VOTING

7.1 The Australian Electoral Office provided in its original submission to the Committee a series of proposals to alter the existing system of postal voting as prescribed under Part XII of the Commonwealth Electoral Act 1918.

7.2 These proposals were discussed in detail with Mr K. Pearson, the Chief Australian Electoral Officer, when he appeared before the Committee at its first public hearing in May this year. A great deal of time was also spent by the Committee during its private deliberations considering these proposals and their likely effects.

7.3 The Committee recommends that the proposals contained in this report for changes to the existing system of postal voting and to particular sections of the Commonwealth Electoral Act 1918 be adopted.

Proposals for change to the system of Postal Voting

7.4 A register of postal voters be introduced for the automatic despatch of postal vote applications. This would give voters in remote country areas access to postal vote application forms comparable to that enjoyed by persons who can go to a Post Office. This scheme would also greatly assist the infirm and permanently disabled with limited mobility.

7.5 The Northern Territory Chief Minister, Mr P. Everingham, drew the Committee's attention to the provision of the Territory's Elections Act whereby electors resident not less than 20 kilometres from a polling place may apply to be registered as postal voters. The Committee recommends that electors resident not less than 20 kilometres from a polling booth or those infirm or permanently disabled be eligible to be placed on the postal vote register.

7.6 A postal vote application should be on a form specified as being the correct form. Information should be printed on the application stressing the need to quickly complete and return the form to the Returning Officer. Prior to despatch electoral officials should complete any formal parts of the application.

7.7 Procedures for applying for a postal vote in person at a Divisional Office or at an overseas post after nomination day should be amended, to provide that an elector would only have to complete the declaration on the ballot paper envelope.

7.8 Provision should be made for interstate postal voting facilities at declared centres in addition to those at the Divisional Returning Office, particularly on election day. More widespread availability of such facilities would be of great assistance to those people travelling long distances on polling day, and would help overcome problems experienced with respect to interstate postal voting in the very large country electorates.

7.9 Postal vote papers should be automatically despatched to registered quadraplegics who may not otherwise receive a vote.

7.10 Section 85(1) of the Commonwealth Electoral Act prescribes the grounds upon which an application for a postal vote can be made. These grounds should be extended to include those caring for the ill and infirm, those who expect to be in hospital and not able to vote at the mobile polling facilities, and those prisoners who are eligible to vote.

7.11 Section 85(2), which requires that postal vote applications be signed in the applicant's handwriting should be amended to permit the signing of postal vote applications and postal vote certificates by a mark. This would enfranchise those unable to attend a polling booth and who, because of their physical condition or illiteracy (marksmen) are unable to sign their names other than by a mark. (Provision should also be made for those individuals who cannot act as marksmen.) This proposal will require an alteration to section 85(2)(b) and amendment to section 92(1)(b) dealing with an authorised witness seeing the applicant sign. It is proposed that section 225(2) of the Constitution Act Amendment Act 1958 (Vic.) (No. 6224) be adopted. (See Appendix 5).

7.12 No alteration should be made to section 88(1A) which provides that postal vote papers should not be despatched after Friday, 6 p.m. before polling day. However, a warning should be printed on the postal vote envelope as to the severe penalties for the fraudulent despatch of postal votes after polling day.

7.13 Provision should be made in the new legislation to allow an electoral officer to correct an immaterial error or omission in a postal vote application or certificate.

7.14 Section 87(A) of the Act which prescribes that a person shall not induce or persuade an elector to apply for a postal vote should be deleted.

7.15 All applications for postal vote certificates and postal ballot papers should be open to public inspection at all convenient times during office hours, as presently provided for by section 89(3).

7.16 Section 90(2) should be altered so that it merely provides for ballot papers to be initialled.

7.17 At present section 91(A) provides for a 'section' vote for individuals who are on the certified list of voters for postal votes but who claim they have not received such papers. It also provides that section votes should not be admitted unless the DRO is satisfied that the postal vote has not been received by the voter. Express provision should be made that preliminary and main scrutiny of such votes should be open to party scrutineers, and that any postal vote issued to the elector in question should not be admitted to the scrutiny.

7.18 In view of the representation from disabled persons organisations, section 92(1)(f) should be amended to provide that in recording a postal vote, assistance should be provided to all individuals with physical disabilities who so request. This will require some consequential amendments to other sections.

7.19 The Australian Electoral Office submission contained a proposal that the close of poll should be the deadline for receipt of postal votes, in order to speed up the final determination of election results. At present section 96 provides for the receipt of postal votes for up to 10 days after the poll. The Committee believes this provision should remain. Further, as one submission from an elector in Tibooburra noted, infrequent mail services in country areas can result in considerable delays in postal votes reaching the appropriate returning office.

7.20 The Committee believes that there is a need to accelerate the determination of a probable result in elections. The Committee, understanding the need for quick provisional results, recommends that no provision of the Commonwealth Electoral Act should prevent at the recheck stage a provisional distribution of preferences.

7.21 The Committee noted the concern of some submissions that absent and postal votes may not be secret under the present system. It is however satisfied that secrecy is preserved, unless the law is contravened.

CHAPTER 8

INCREASE IN THE SIZE OF THE PARLIAMENT

8.1 Chapter 1 of the Australian Constitution concerns 'The Parliament'. Some of the provisions of Chapter 1 relate to the election of the first Parliament or to the early years of the federation, and can be regarded as transitional or capable of future adaptation, the 'transitional' provisions containing the words 'until the Parliament otherwise provides'. Other provisions of Chapter 1 were intended to have more enduring effect.

8.2 Among the transitional provisions of the Constitution were those fixing the size of the Senate and the House of Representatives. It was obviously envisaged at the time of framing the Constitution that provision be made for increases in the size of the Parliament. Such an alteration was effected by the Representation Act 1948, section 4 of which increased to 10 the number of Senators for each State (and, by virtue of the nexus provision - see immediately below - the House of Representatives to as near as practicable to 120). Initially, however, the Senate was to consist of 36 Senators, the House of Representatives to have 75 Members. Parliament was authorised to alter the number of Senators for each State, so long as each original State retained equality of representation (section 7), and to alter the size of the House of Representatives (section 27) subject to the nexus provision that the number of Members be as nearly as practicable twice the number of Senators

(section 24) and so long as each original State retained at least 5 Members (section 24). (The Constitution Alteration (Parliament) 1967 proposal, intending to remove the nexus provision of section 24, was submitted to, and rejected by, the electors. The argument not to disturb the relationship between the Senate and the House of Representatives prevailed.)

8.3 In 1973 legislation was introduced to provide Senate representation for the 2 mainland territories. The legislation was opposed by the coalition parties and ultimately received assent after passage by the joint sittings of both Houses after the 1974 double dissolution. There have since been 2 High Court challenges to the legislative power of the Commonwealth to enact the Senate (Representation of Territories) Act 1973, (Western Australia v. Commonwealth 1975 134 CLR 201; Queensland v. Commonwealth [1977] 16 ALR 487). The constitutional power of the Commonwealth to provide Senate representation for the Northern Territory and the Australian Capital Territory has now been upheld in both cases. However, territorial Senators are not counted for the purpose of the calculation to ascertain the State representation entitlements in the House.

8.4 The Committee received several submissions and took evidence from several persons advocating an increase in the size of the Parliament. Mr Malcolm Mackerras in his submission demonstrated how the allocation of State representation would result with an increase of the number of Senators for each State to 12. In his submission Mr Mackerras pointed out the very considerable increase in the number of electors represented by each Member of the House since the last increase in the size of the Parliament in 1948-49. The following table shows percentage differences as at 1949, 1983 and with the proposed increase.

TABLE 6:

AVERAGE ENROLLED VOTERS PER ELECTORAL DIVISION, 1949, 1983 AND WITH PROPOSED INCREASE

State	Average Enrolment per Division 1949 (A)	Average Enrolment per Division March 1983 (B)	% Difference B/A	Average Enrolment with more Members (C)	% Difference C/A
NSW	40 782	75 536 (43)**	85.2%	63 687 (51)*	56.2%
VIC	41 510	75 663 (33)	82.3%	64 023 (39)	54.2%
QLD	38 724	81 826 (19)	111.3%	61 369 (24)	58.5%
SA	43 432	80 085 (11)	84.4%	67 764 (13)	56.0%
WA	39 471	72 507 (11)	83.7%	61 352 (13)	55.4%
TAS	32 308	56 493 (5)	74.9%	56 493 (5)	74.9%
ACT	11 841	68 662 (2)	-	68 662 (2)	-
NT	6 586	57 471 (1)	-	57 471 (1)	-
TOTAL AVERAGE	39 948	74 989(125)	87.7%	63 335(148)	58.5%

** Figures in brackets in Column B refer to number of Members at March 1983

* Figures in Column C, refer to number of Members if proposal to increase size of Parliament were accepted.

8.5 At the 1983 general elections 43 Members were elected for New South Wales and 3 248 036 electors were entitled to vote. In other words, the average enrolment was 75 536, an increase of 85.2% over 1949.

8.6 If the 1983 general election had been conducted with 51 Members for New South Wales (its entitlement with a quota based on 12 Senators for each original State) then the average would have been 63 687. Even that figure would have represented an increase of 56.2 per cent over 1949.

8.7 The Mackerras' submission also points out the capricious operation of the seat allocation process which is likely to result in Victoria losing a seat to Queensland at the next distribution. This is despite the fact that the population to be represented would have increased; the process rather reflects the shift of population between States. The following table indicates the average number of enrolled voters and the average population for each electoral division.

TABLE 7:

AVERAGE ENROLLED VOTERS AND AVERAGE POPULATION FOR EACH ELECTORAL DIVISION

State or Territory	Average enrolled voters per Electoral Division*	Average** Population per Electoral Division
New South Wales	75 536	124 005
Victoria	75 663	125 412
Queensland	81 826	122 495
South Australia	80 085+	121 281
Western Australia	72 507	122 854
Tasmania	56 493	86 120
Northern Territory	57 471	131 400
Australian Capital Territory	68 662	116 600
National	74 989	122 208

* as at March 1983

** ABS December 1982 quarter

\+ possibly the reason for South Australia's greater number of enrolled voters/electoral division is the larger number of British immigrants resident in that State (assuming the same distribution).

8.8 A question which faced the Committee, therefore, was the determination of weight to attach to the question of numbers of people to be represented. The National Party (NSW) suggested that more equal representation would be obtained in the event of an enlargement in the size of the Parliament, as indicated in the following table.

TABLE 8:

AVERAGE NUMBER OF ENROLLED VOTERS PER ELECTORAL DIVISION

States/Territories	Electors	(10 Senators) No More Members	(12 more Senators) More Members
New South Wales	3,248,036	75,536 (43)	63,687 (51)
Victoria	2,496,904	78,028 (32)	64,023 (39)
Queensland	1,472,861	73,643 (20)	61,369 (24)
South Australia	880,936	80,085 (11)	67,764 (13)
Western Australia	797,581	72,507 (11)	61,352 (13)
Tasmania	282,467	56,493 (5)	56,493 (05)
Australian Capital Territory	137,324	68,662 (2)	68,662 (02)
Northern Territory	57,471	57,471 (1)	57,471 (01)
	9,373,580	74,989 (125)	63,335 (148)

8.9 It will be seen that an increased Parliament ensures that the electoral quotas for each State and Territory are more even and therefore more consistent with the concept of '<u>one vote one value</u>'.

8.10 The National Party (NSW) argued that:

> If 'one vote one value' is a worthy objective, then it cannot be achieved whilst we have the present number of Federal Members.

Under the present enrolments the average number of registered voters in South Australian electorates is 80 085 while Tasmanian electorates have an average of 56 493. Therefore the average enrolment for South Australian electorates is 40% higher than the average Tasmanian enrolment - a far cry from one vote one value.

Mr Mackerras' proposal would reduce the South Australian average enrolment to 67 764 against the Commonwealth average of 63 335 electors and only 20% more than Tasmania.

The advocates of '<u>one vote one value</u>' should support an increase in the size of Parliament.

8.11 The figures of average number of electors per representative may be compared with figures for Canada, the United Kingdom and the United States of America. In 1980, the average number of electors per representative in Canada was 56 026 and in the USA the figure was 198 881. At present in the United Kingdom a Member of Parliament represents an average of 47 186 electors. In the United States of America for congressional elections it has been accepted that the size of Congress will remain fixed so that representatives must perforce continue to represent increasing numbers of people. (This is compensated to some extent by provision of substantial staff support.) In the United Kingdom however frequent distributions of seats are conducted to maintain a level of representation for the people resulting in an increase regularly in the number of Members of the House of Commons.

8.12 An argument in favour of no increase is that existing representatives can be rendered more effective in their role by allocating to them the resources which would otherwise be required to finance an increased number of representatives (as in the U.S.A.). It is also sometimes argued that the prime functions of Members of Parliament are to be legislators rather than legislative ombudsmen.

8.13 The arguments advanced to the Committee by those wishing to maintain a ratio between electors and representatives were:

- that there has been no real increase in the size of Federal Parliament since 1949 while average House of Representatives enrolments have risen from 39 948 electors in 1949 to 74 989 in 1983;

- that a larger Parliament would strengthen the operation of the parliamentary system - a larger backbench would strengthen Parliament's independence in relation to the Executive. The present Ministry is 70% larger than the Chifley Ministry and the ratio between the backbench and the Executive is unsatisfactory. (Professor Gordon Reid informed the Committee that in the United Kingdom House of Commons, many of the reforming developments had come about overtly and covertly through the collective activity of backbenchers). There would be a larger pool of talent from which to choose the Executive;

- this more diverse range of responsibilities has not only resulted in a larger Executive but has put greater responsibility and work loads on the back-bench members of the Parliament;

. that access of electors to political representatives would be more immediate;

. the growing involvement by the federal Parliament in many additional issues since 1949 as follows:

- Aboriginal Affairs
- *more extensive social welfare and health* policies
- uniform legislation such as company law
- education
- environment and conservation
- family law
- status of women
- law reform and legal aid
- ethnic affairs
- consumer affairs
- child care
- minerals and energy policy
- tourism and small business
- sport and recreation
- cultural affairs and the national heritage
- *federal affairs and local government*
- science and technology
- electronic communications (TV and satellite)
- expanded industrial relations role
- more complex economic issues
- greater involvement in overseas aid;

. that the developing committee systems of both Houses, extremely important in our democratic system, requires an increasing number of Members. An increase in the size of Parliament would enable the systems to work more smoothly, and members would be more able to concentrate on becoming subject specialists, and

. the cause of 'one vote one value' would be advanced with smaller electoral divisions and more Members since the State average enrolment in Tasmania would be brought closer to those in the mainland States. An enlarged Parliament brings a more even result in the average size of enrolments for electorates as between the States; an enlarged Parliament with 10% variation for distribution purposes will help prevent existing large area electorates from becoming increasingly larger.

8.14 These issues depend for their answers on a wider analysis of the nature of representative government than considerations of the electoral process alone. The roles of Members of Parliament and the weight to be attached to them are relevant. The representative role of the Member might be considered to be less important now, than traditionally, given greater access to people for redress of grievances and representation by other means such as the Ombudsman, or the evolving administrative law. It may be held that the energy of elected representatives should be directed to the role of developing policy and legislation rather than representation. However, it appears that the Australian people have come to place great emphasis on the 'ombudsman' role of Members of Parliament; to a large number of electors, this would be their primary role.

8.15 On the practical issue of an increase of the number of Senators, that is the normal 6 year terms of Senators and the gaining by one major political group of a majority of Senators at half Senate elections, the Committee took the view that 6 Senate vacancies were more likely to provide a majority in a half Senate election than 5 vacancies, and 12 vacancies more likely to provide a majority than 10 in a double dissolution

situation. This point can be illustrated from the 1974 elections and the 1975 elections when in New South Wales 5 Senators were returned by the ALP and the Liberal Party respectively. In 1974 the two party preferred vote was 54% ALP and 46% Liberal; in 1975 the vote was the same in reverse. Had the requirement been to elect 12 Senators the result would have been a 7-5 split on each occasion favouring the party with the highest vote. In half Senate elections the effect of electing five rather than six is supposed to ensure numerical advantage to the winner. However, where an independent or third party candidate gains the fifth seat as happens frequently then winners and losers share the remaining seats equally.

8.16 The Committee recognises that to adopt the cause of an increase in the size of the Parliament will never attract media (and possibly therefore) might not attract public support. Nonetheless, the Committee believes that it has a duty to report with objectivity on matters of principle such as this. The majority of the Committee therefore recommends that the size of the Parliament be increased by increasing the number of Senators to which each original State is entitled to 12, with a corresponding increase in the size of the House of Representatives.

CHAPTER 9

PUBLIC FUNDING OF POLITICAL PARTIES

9.1 The first of the matters the Committee was specifically requested to investigate by the Parliament were the issues of public funding and disclosure of funds. While these two issues are closely related, the Committee considered them separately. Disclosure of funds is dealt with in Chapter 10.

9.2 The Committee received a number of submissions on the issue of public funding for election campaigns and/or for political parties in general.

9.3 While at present there is at the Commonwealth level no form of direct cash subsidy for political parties and candidates, there are in fact services provided or indirect subsidies provided in Australia which to some extent constitute subsidisation of the political process. For example, enforcement of the compulsory voting provisions and the maintenance, "cleansing" and printing of electoral rolls (which are supplied free of charge to candidates) removes from the parties the need to ensure that people enrol and turn out to vote. Indirect subsidies such as tax deductions for candidates' election expenses (discussed later in this chapter) also constitute partial subsidisation of the political process. The submission of the Liberal Party of Australia listed instances of current support for political activity. In fact, many of the items listed by the Liberal Party are suspended during the course of an election. However, an indication of indirect public funding of the election process is provided by:

- continued payment of staff for Members of Parliament during election campaigns;

- payment of Members' telephone accounts for all purposes;

- provision of travel within Australia for Members, even during the course of election campaigns;

- provision of staff to Opposition Front Bench, party leaders and to Ministers;

- provision of limited "free time" on the A.B.C.;

- provision of R.A.A.F. No.34 squadron aircraft to certain party leaders during election campaigns;

- access for Members to parliamentary research facilities;

- provision of offices for Members;

- election-related advertising by the Australian Electoral Office and the Australian Information Service;

- provision of material (e.g. Guide to Candidates and Scrutineers) by the Australian Electoral Office;

- tax deductibility of individual election expenses under section 74 of the Income Tax Assessment Act;

- tax deductibility of Union dues, a proportion of which is paid by compulsion to the Australian Labor Party.

- companies may make political donations without previously obtaining the approval of their shareholders. Companies, unlike trades unions, are not required to ballot their shareholders. It may be suggested that shareholders enjoy a form of redress not available to trade union members in that they can sell their shares. But this could require a shareholder who wishes to avoid making a political contribution being forced to make a decision which, on commercial grounds, he may believe to be mistaken. Nor is such a choice available to a member of a pension fund which decides to purchase shares in a company making political donations. Evidence was taken that payment to the Bjelke-Petersen Foundation for advertising were claimed as tax deductions with the commercial value of the charge for the advertisement not being taken into account.

9.4 The Committee received a number of submissions on the issue of public funding for election campaigns and/or for political parties in general.

9.5 Submissions in favour of the proposal were received from the Australian Labor Party, the Australian Democrats, the Communist Party of Australia, the 'A Call to Australia' Coalition, Members of the Commonwealth and State Parliaments and a number of private citizens. Submissions in opposition to the proposal were received from the Liberal Party of Australia, the

National Party of Australia Federal body and the New South Wales, Victoria and Queensland State organisations of that party, Members of State Parliaments, local government authorities and organisations and private citizens.

9.6 Public funding was extensively discussed with the witnesses appearing on behalf of the major political parties and with a number of expert witnesses. The Committee considered the views and proposals of the four major political parties in some detail.

9.7 The Labor Party put the view that elections should be decided on the quality of the policies put forward not on the quantity of money to which the proponents of these policies have access. The Party believes a system of public funding should be introduced to narrow the differential in the financial resources available to the various competing parties.

9.8 The ALP considered the best method of funding is a pool system set initially at $1 per voter (indexed to maintain its real value) distributed in accordance with the primary vote gained by each party as follows:

- 2/3 of the funds available (or 67 cents per voter) be allocated to the House of Representatives campaign,
- 1/5 of that amount be allocated for constituency campaigns, and
- 1/3 of the fund (or 33 cents per voter) be allocated to the Senate campaign.

A threshhold vote for eligibility for assistance of 10% of the primary vote in the relevant election was put forward by the ALP.

9.9 The Australian Democrats also supported public funding of election campaigns on the grounds that it would ensure a greater level of equality between the aspirants for public office and minimise the risk of financial considerations corrupting the political process.

9.10 The Democrats suggested funding should be available to all candidates on the basis of votes gained with no minimum level of support required for eligibility.

9.11 The Liberal Party was opposed to public funding. The Liberal Party's basic objections to a scheme of public funding were as follows:

- no case has ever been made out against the private funding of political parties;
- public opinion is strongly against this type of expenditure of public funds as has been confirmed by all public opinion polls on this subject;
- there should be higher priorities for the expenditure of scarce public funds than on support for political parties;
- public subsidies could have the effect of undermining volunteerism and reducing levels of membership participation within political parties, both of which are regarded as quite undesirable consequences;

- taxpayers should not be forced to subsidise parties they oppose or find morally objectionable;

- public funding of election campaigns would reduce one of the constraints which currently operate to make governments more wary about precipitating early elections, and

- public funding systems entrench incumbent politicians and parties to the disadvantage of new groups, parties or interests.

9.12 But, on the assumption that public funding would be introduced, the Liberal Party suggested a fund related to a cost per elector to be divided into State and Territory funds directly proportional to the numbers of electors in each State or Territory. Each State fund would then be divided 2/3 for the Senate campaign and 1/3 for the House of Representatives campaign. The Senate fund is then to be disbursed in proportion to votes obtained in the previous Senate election provided the party or candidate obtained 10% of the total votes cast at that election.

9.13 The House of Representatives fund should be distributed in proportion to the votes received by party candidates provided that no party received more than 50% of the fund. Independent candidates would receive assistance provided they received 10% of the vote cast in the seat based on the total House of Representatives fund divided by the number of seats in the State or Territory. The Party expressed an interest in the tax check off system used in the USA whereby those individuals prepared to provide an amount of their tax paid towards election campaign support indicate this on their tax returns.

9.14 The Liberal Party also put forward the proposition that funds be provided annually for party maintenance activities based on a cost per elector apportioned according to the votes received by each party at the last general election provided that the party received more than 5% of the national vote.

9.15 The National Party was also opposed to public funding. It objected to public funding on the following grounds:

- it is presumptuous in the extreme to require taxpayers to provide additional funds to help politicians get themselves elected to positions of power;

- in the current climate any decision to appropriate funds for election campaigns would be particularly reprehensible because of the many legitimate unmet demands on the public purse;

- with public funding and all the attendant legislative and bureaucratic machinery the major political parties would run the grave risk of becoming divorced from their rank and file, and in effect, become nationalised institutions;

- the complexity of the legislation and its administration would impose additional costs on the taxpayer, and

- there is little evidence that dependence on private funding leads to undue influence on candidates.

9.16 Assuming public funding will be introduced the National Party organisations for Victoria and New South Wales proposed a system involving a pool raised by tax checkoffs to be disbursed 1/3 to candidates, 1/3 to State party organisations and 1/3 to national level party organisations on the basis of percentage of the formal vote cast with no candidate or party receiving more than 50% of any section of the fund.

9.17 Both the Liberal and National Parties added to their basic objection that should a system of public funding be introduced they will participate otherwise the parties and their supporters would be disadvantaged in the political process.

9.18 The point was made to the Committee both in a submission and as witnesses by the Hon. Mrs D. Grusovin, MLC and Messrs R. Cavalier MLA, M. Egan MLA and E. Quinn MLA, (all of the N.S.W. Parliament) and by Mrs Adams, the former secretary of the NSW Election Funding Authority that a system of public funding could be operated by a small staff - 4 in the case of the NSW authority - and relatively cheaply - $90 000 in 1982-83 in the case of the NSW authority.

9.19 After much discussion of the issues directly and indirectly related to public funding the Committee was unable to come to a unanimous view on the principle. A minority report raising basic objections to public funding is attached.

9.20 The majority of the Committee considered that the arguments against public funding were outweighed by considerations in support of public funding.

9.21 The Committee recognises that political parties play a vital role in the working of democratic government. Indeed one of the central characteristics of democracy is that there should be parties competing for the right to govern.

9.22 It was argued before the Committee that large donations might be made in an attempt to influence political decisions and could lead to political corruption. The majority of the Committee believes that it is in the interests of a democratic system to use public funding to remove the necessity or temptation to seek funds that may come with conditions imposed or implied. The majority of the Committee believes that far from entrenching existing parties public funding will allow new parties or interest groups to compete effectively in elections as shown at the first election following the introduction of public funding in N.S.W. where both the Australian Democrats and A Call to Australia coalition received significant funding.

9.23 The financing of political parties and elections has become a worldwide issue of major political concern in recent years. Most democracies have adopted schemes to fund publicly the political process (see appendix 6) without the dire consequences predicted by its opponents and a commission in the United Kingdom has recommended in its favour.

9.24 In Australia it is known that all the political parties have drawn attention to the high cost of elections and to their financial difficulties. In addition, there has been public disquiet about the influence of large donors or would-be donors e.g. allegations about money from Iraq and from multi-nationals. A number of reasons can be given to explain why most countries in Western Europe have introduced the public funding of political parties. The initiative for introduction has not always been taken by governments of any particular political complexion. Thus direct grants to parties were introduced in Sweden by Social Democrats but in Italy and West Germany by Christian Democrats. Among these reasons are:

. to assist parties in financial difficulties;

. to lessen corruption:

. to avoid excessive reliance upon 'special interests' and institutional sources of finance;

. to equalise opportunities between the parties, and;

. to stimulate political education and research.

9.25 The Committee considered the question of whether parties should be subsidised for administrative maintenance as well as for election campaigns. The Committee sought the advice of Mr P. Brazil, Secretary, Attorney-General's Department, as to whether appropriation from the Consolidated Revenue Fund for party administration would be "for the purposes of the Commonwealth" in the terms of section 81 of the Constitution. Mr Brazil's opinion indicated that: "It would be desirable to have the details of any such proposal before advising in full on it. If the party administration expenses were too remote from Federal electoral matters a doubt might arise in the minds of some as to the validity of the appropriation." On the other hand, the Attorney-General's Department took the view that the Commonwealth Parliament has power to appropriate moneys for the purpose approved by the Parliament, subject only to certain possible restrictions that do not appear to be relevant here. The Committee however is of the opinion that any public funding at this stage should be to assist the parties in the election process (which will in turn provide relief for the parties' maintenance funds).

9.26 Public funding will also relieve all parties new and established from the constant round of fund raising and allow them to concentrate on discussion of issues of local or national concern and development of policy responses to these problems which is more appropriately the role of political parties.

9.27 If funding is disbursed in relation to votes gained at elections no taxpayer is being forced to support a party he or she finds objectionable. A taxpayer's contribution will in effect follow his vote to the party of his choice. No party will receive more funding than it is entitled to receive on the basis of votes cast. However, a party will receive less funding than it receives votes if there is a minimum cut-off level required for eligibility. As a consequence, some taxpayers will be called upon to fund parties for which they have not voted.

9.28 While the majority of the Committee agree that there are many competing legitimate demands on the public purse, they do not see this as an argument that weighs more strongly against public funding than any other recommended claim for public moneys. Moreover, the concept of public funding centres on the essence of legitimate political decision-making, that is, ensuring that no element in the political process should be hindered in its appeal to electors nor influenced in its subsequent actions by lack of access to adequate finance.

9.29 The majority of the Committee is convinced that public funding can be simply, cheaply and efficiently administered. The New South Wales system is an example in point. Bureaucratic complications can abound if the legislators do not consider the long term effects, costs and benefits of their decisions. Any bureaucratic system can be simply run if the legislators so decide and the administrators' duties are so framed.

9.30 With regard to the Liberal Party's objection that public funding would encourage the calling of more frequent elections, the absence of public funding has not proven to be a deterrent to the calling or forcing of early elections in the past decade. Only the 1972 and 1980 elections were held at the end of a 3 year period.

9.31 Whilst the Committee disagreed on the principle, it emphasises that its recommendations on the practical application of public funding were in accord after very lengthy discussions. The Committee agreed to the following basic principles of public funding:

- aid should be given only to those parties which have demonstrated in general elections that they can command a significant level of support (Senator Macklin dissented);
- the subsidies are to be calculated and allocated according to fixed rules in order to rule out the possibility of preferential treatment;
- the amount of support should be related to the relative electoral strengths of the parties; and
- there should be no public control over the ways in which the parties use the support but that the funds received must not exceed election related expenditure.

9.32 The Committee considered the various systems of public funding operating in Australia and overseas (a summary of NSW and overseas practice is attached at Appendix 6 and 7) and those put forward by the parties and recommends the following system.

9.33 The basic amounts for public funding be based on the primary postage rate, and would be indexed to increases in the postage rate. On this basis -

9.34 The Committee notes that the basic postal vote is scheduled to increase to 30 cents in October 1983. This would make the relevant amounts 90 cents for a House of Representatives/half Senate election or double dissolution election, 60 cents for a House of Representatives election alone and 45 cents for a half Senate election alone. Based on results of the 1983 general election, the total cost to revenue would have been $6.5m at the current postal vote, $7.5m at October 1983 rate. It must be remembered that the cost is not an annual one; it is a cost per election.

- In the case of a double dissolution or combined House of Representatives and half Senate elections the amount per valid first preference vote be 81 cents, which is the current cost of three mailed communications to each elector.

- In the case of an election for the House of Representatives the amount be 54 cents, the current cost of two mailed communications, per valid first preference vote.

- In the case of a half Senate election that amount be 40.5 cents the current cost of one and a half mailed communications per valid first preference vote.

9.35 The Committee discussed the issue of separate constituency funding for House of Representatives candidates. It was argued before the Committee that the only way to ensure suitable support for each local campaign was to provide some measure of funding to constituencies. Even safe seats are entitled to an energetic campaign.

9.36 The majority of the Committee considered that campaign strategies regularly called for campaign emphasis over a group of seats or in dispersed key seats and that decisions on where money was best spent should be left to party organisations. The majority of the Committee were also of the view that providing funding at the central State party level only would make for the most simple accountability system. Consequently the Committee recommends:

- The funding for all candidates endorsed by a Party (Senate and House of Representatives) be paid to the respective State party organisation; where a candidate is not a member of a registered party to the candidate direct.

- That each party, group or independent, nominate one person as accountable for receipt and expenditure up to the amount claimed of public moneys.

- Funding for by-elections be on the same basis as that of other elections - 54 cents per valid vote for a House of Representatives seat.

The Committee recognises that the majority of party workers in elections would remain voluntary but that presumably an official such as a State Secretary would be the party's agent and as such accountable for public funds. In preparing documentation that official would be receiving material from numerous inexpert voluntary assistants. Consequently, the Committee recommends that the person accountable for public moneys be under no penalty for mistakes of fact in any returns but that knowingly submitting false returns should have suitably heavy penalties attached.

9.37 The Australian Labor Party and the National Party propose that all political parties be registered. The Liberal Party submission suggests party registration should be voluntary i.e. only those parties accepting public funding register. The Committee is aware of the difficulties that arose in New South Wales with parties changing their views on whether they wished to seek public funding and the eventual criticism of the public funding system that arose from the registration problems. The Committee recommends that all parties and candidates wishing to receive public assistance register - once only in the case of parties and any independent who runs in successive elections - at the commencement of the scheme and any time up to the close of nominations for a specific election; that applications to register not be accepted between the close of nominations and polling day, and that the Divisional Returning Officer be one of the persons entitled to receive such a registration.

9.38 This proposal would give all involved time to decide their view on public funding but would not allow a change of mind once the election process was well advanced. No party or independent should be disadvantaged by such a proposal.

9.39 Registration will of course also be necessary if the Committee's recommendations on party names on ballot papers and list votings for the Senate are accepted.

9.40 The submissions from the Australian Labor Party, the Liberal Party and the National Party all recommended provision for advance payment of assistance. Such payments would have to be calculated prior to the election on the basis of votes received in prior elections and acquitted after the polls. The Committee recommends that for reasons of administrative simplicity advance payments not be made to political parties or independent candidates (i.e., candidates or parties will not be eligible for an advance grant to be acquitted on the basis of forthcoming election results).

9.41 The Committee also recommends that, for the purposes of public funding parties and candidates be required to furnish evidence of expenditure incurred in the actual running of a campaign only up to their reimbursement limit.

9.42 Also in the interests of administrative simplicity the Committee unanimously recommends that public funding be operated by the Australian Electoral Commission, the establishment of which is recommended in Chapter 2.

9.43 The Committee expects that on New South Wales experience the staffing necessary for the program will be small. The establishment of a separate authority is unnecessary when the Electoral Commission could perform the necessary tasks.

9.44 The question of a threshold for reimbursement was considered at some length. The Australian Democrats and the National Party have both put the view that no threshold should be required. The view that a taxpayer's financial support follows his vote is persuasive. The majority of the Committee however accepted the argument that fundings should be related to the return of the deposit. The Committee recommends that only those candidates or groups who receive 4% or more of the formal first preference vote be eligible for public funding.

9.45 The Committee notes that the submissions from the Labor and Liberal Parties recommended a threshold of 10%.

9.46 Evidence was taken by the Committee that escalating costs of radio and television advertising accounted for a large portion of parties' election expenses. This was reinforced by the practical experience of several members of the Committee. Professor Joan Rydon gave evidence to the Committee that the only form of assistance that should be given to political parties was for the provision of free time for political broadcasts, to be made a condition of television and radio

station licences (advertising to be made illegal). Evidence was also taken from Mr Foster and Mr White, of the Federation of Australian Radio Broadcasters (F.A.R.B.) and Mr Malone of the Federation of Australian Commercial Television Stations (F.A.C.T.S.) on the provision of free air time during election campaigns. The Committee is of the view that this matter requires examination at a deeper level than was possible during the Committee's inquiry, working as it was to a strict reporting deadline. Therefore the Committee recommends that this matter be the subject of further consideration.

CHAPTER 10

DISCLOSURE OF INCOME AND EXPENDITURE

10.1 In the chapter of the Committee's report dealing with public funding, it was indicated that while the Committee believed that public disclosure of financial dealings was closely related to the concept of public funding of the political process, the question of disclosure extended beyond public funding and should be considered as a separate although not unrelated issue. Public disclosure encompasses electoral expenditure, expenditure on the political process as a whole, and the wider question of donations to political parties.

Disclosure of Income

10.2 The Committee received submissions in favour of disclosure of income from the Australian Labor Party, the Australian Democrats, the Communist Party of Australia and a number of private citizens. The Liberal Party, the National Party federal body, the National Party (Queensland) and private citizens put forward arguments against disclosure. The National Party (New South Wales) was in favour of disclosure of income and the Victorian State body willing to accept a bureaucratically simple system.

10.3 The Australian Labor Party sees disclosure of party income as an essential corollary to public funding and as necessary for the minimisation of the potential for corruption.

The Labor Party argues that the long-term viability of the democratic system depends on public confidence in the legitimacy and integrity of the political process and that any hint of corruption undermines public confidence.

10.4 The Labor Party proposed that any donation to a party in excess of $1000 or any donation to a candidate in excess of $200 be disclosed. The Party also proposed that registered parties provide annual balance sheets to the proposed Electoral Commission and that the existing Broadcasting Tribunal disclosure system of the purchase of radio and television time be extended.

10.5 The Australian Democrats proposed that any individual company, trade union or organisation should be required to disclose any donation to a candidate, a party or for any political purpose. In addition they proposed that any donation or assistance for any party, candidate or group valued at more than $2000 be disclosed.

10.6 The Liberal Party put forward the view that disclosure of donations for political parties is a grave infringement of civil liberties. The Liberal Party saw the concept of secrecy of the ballot as extending to the giving of donations to political parties. The Liberal Party argued that any disclosure of donations exposes the political sympathies of individuals and therefore violates privacy. The Party submission argued that the only disclosure it would support would be to the Commissioner of Taxation if donations were tax deductible. The Liberal Party also argued that disclosure of donations could lead to victimisation of individuals particularly by certain trade unions. The Liberal Party proposed that should disclosure provisions be introduced only donations above $10 000 should be disclosed by the candidate or party receiving the donation and that any party which declined to receive public funding not be obliged to disclose donations.

10.7 The National Party Federal body accepted in principle that large undisclosed donations could provide the potential to corrupt the political process but considered it very difficult to make disclosure laws work properly or fairly. It put the view that any disclosure laws will immediately prompt the development of mechanisms for evasion and would therefore have to be complex and expensive in terms of both time and money for compliance. The National Party also put forward the view that disclosure laws would lead to intimidation particularly by unions. As a consequence it foresaw that many people would not contribute to a political party or would contribute to all parties equally. It also raised the difficulty of determining the value of contributions in kind. The National Party proposed that should disclosure provisions be introduced, donations for a party or candidate above $10 000 only (indexed for inflation), should be required to be disclosed.

10.8 The National Party (Queensland) also expressed its total opposition to disclosure of donations. The National Party (New South Wales) and (Victoria) took a different view. The New South Wales organisation supported full disclosure of income and expenditure on the grounds of minimising corruption and advocated specific disclosure of donations in excess of $5000 to a candidate or $10 000 to a party. The Victorian body proposed that any disclosure be as administratively simple as possible and that only donations in excess of $5000 be disclosed.

10.9 The majority of the Committee accepts the view that the receipt of significant donations provides the potential to influence a candidate or party and that to preserve the integrity of the system the public need to be aware of the major sources of party and candidate funds of any possible influence. The Committee is aware that party income is derived from many sources.

10.10 The majority of the Committee recommends that donations designated for Federal election purposes in excess of $200 to a candidate or constituency organisation and donations to a party in excess of $1000 be required to be disclosed and the donor identified. In addition, the total amount of donations received by a candidate, constituency organisation or party must be disclosed.

10.11 The Committee also recommends that donations made specifically for a State or Territory election or to a party maintenance or administrative expenditure fund not be required to be disclosed provided that those funds not be used for Federal election campaign purposes.

10.12 While not in agreement on the basic principle of disclosure, the Committee was in general agreement as to the details of disclosure once the majority decision was taken on the philosophical position.

10.13 A number of members of the Committee raised the possibility of substantial anonymous donations being received which, because they were anonymous, could not be said to influence decisions. The counter arguments raised were that evasion of the requirements of the law under the cloak of anonimity should be prevented. The desire for anonymity on the part of some donors should not be allowed to outweigh the rights of the general public to know the source of finance for political activity. The Committee recommends that anonymous donations for election campaign purposes above the set limits including those received via solicitors' trust funds not be accepted or where they have been received and cannot be returned they be forwarded to the proposed Electoral Commission and be used to defray the costs of the public funding process.

10.14 The possible development of the practice of "front" organisations of making substantial donations to a party or candidate was noted by the Committee. The Committee considers that all organisations or individuals that use funds for influencing elections should be subject to the same disclosure provisions as recognised political parties.

10.15 The Committee recommends that all organisations or individuals receiving and/or donating funds above the prescribed levels for federal election campaign purposes must disclose the sources of those funds. The Committee further recommends that the proposed Electoral Commission should be vested with the power to investigate the origins of the funds of 'front' organisations.

10.16 The Committee recommends that where at least one individual cannot be named as being involved with a donation above the disclosable level, for example as an office holder of the "front" organisation, the donation be declared anonymous and returned or forwarded to the Commission.

10.17 The Committee also considered the question of donations in kind. Although there are difficulties in assigning accurate monetary values to such donations they still may represent major assistance to parties and candidates. The Committee recommends that a system for assigning monetary values to donations in kind be devised and those that exceed the disclosure limits be disclosed.

10.18 The Canadian Elections Act could provide a useful model. It defines 'election expenses' to mean, among other things -

> '(c) the commercial value of goods and services donated or provided, other than volunteer labour, and

(d) amounts that represent the differences between amounts paid and liabilities incurred for goods and services, other than volunteer labour, and the commercial value thereof where they are provided at less than their commercial value.'

10.19 The Committee is concerned that any proposed system be administratively simple and efficient. If, as the Committee recommends, the Electoral Commission operates the public funding system and the registration of political parties, groups and candidates, it is the most appropriate body to which donations are to be disclosed. The Australian Electoral Office, which will be subsumed by the proposed Electoral Commission if the Committee's recommendations are accepted, has offices widely dispersed across the country at which returns could be filed and at which citizens, interest groups and the media can seek access to the returns.

10.20 The Committee therefore recommends that all administrative functions relating to disclosure be conducted by the Electoral Commission. It further recommends that the Commission report to Parliament on a regular basis.

10.21 The Committee considers that for the efficient operation of any public funding or disclosure system the persons with the responsibility to file the returns should be clearly designated.

10.22 The Committee recommends that parties and independent candidates or candidates grouped for the purposes of a Senate election should register with the Electoral Commission an Agent who will ensure that donations required to be disclosed are disclosed. Parties should be required to register Agents at the national as well as the State level to record donations at the national level of the party. The Agent could well be the registered agent for public funding purposes, and for administrative convenience for parties and candidates is likely to be the same person.

10.23 *The Committee notes again that the majority of workers* in any campaign will be voluntary helpers, some of whom will have expert accounting skills. However, innocent mistakes may be made. A party official or candidate's Agent should not be held responsible for mistakes of this kind.

10.24 The Committee recommends that no penalty be attached to innocent mistakes. However suitably severe penalties should be attached to the wilful filing of false or incorrect returns.

10.25 The Committee considered that the most administratively simple method of filing returns should be operated.

Disclosure of Expenditure

10.26 *In 1980 the provisions of the Commonwealth Electoral Act 1918* which related to campaign expenditure by candidates were repealed. The limits set in 1946 of $1000 for a Senate candidate and $500 for a House of Representatives candidate had became unenforceable. A common response from candidates was non-compliance with the provision requiring a return. The then Government sought the advice of an independent inquiry before developing new provisions. Sir Clarrie Harders, the recently retired Secretary of the Commonwealth Attorney-General's Department, was commissioned to inquire into electoral expenditure. His terms of reference were to report on the provisions that should be included in the Commonwealth Electoral Act to require public disclosure of electoral expenditure by, on behalf of, or in the interests of a candidate or a political party and other electoral expenditure, including material published in the media and its cost. More particularly, the inquiry was requested to make recommendations on the form and content of the disclosure; the persons and bodies required to make disclosure (which was to be clear and unambiguous);

when disclosure of expenditure should be made; any exemptions that should exist and whether there should be a financial limit below which disclosure need not be made. Donations to a political party or trade union were specifically excluded from the definition of electoral expenditure. The terms of reference did not extend to whether expenditure should be subject to pecuniary limits or whether there should be public funding of elections.

10.27 The Harders Inquiry made the following broad recommendations -

'There is an obvious need for:

- clear identification of the persons and organisations required to furnish returns of electoral expenses;
- clear definition of the items in respect of which returns should be required;
- clear specification of the period to be covered by the returns, and
- effective administration and enforcement of the public disclosure requirements.'.

10.28 While it seemed impractical to require disclosure of all expenses, disclosure of major items constituting some 80-90% of expenditure, which would provide meaningful information to the public, seemed practical.

10.29 More particularly the Harders Inquiry recommended -

'Every political party should be required to furnish returns disclosing electoral expenses at the national, State and electorate levels of the party which show -

- cost of television and radio broadcasting time and newspaper space;
- production costs of television, radio and newspaper advertising;
- cost of printing, distributing and displaying material such as how-to-vote cards, circulars, pamphlets, photographs and posters;
- cost of producing and displaying advertising matter at theatres and other places of entertainment;
- cost of hire of places for public meetings;
- fees to consultants and advertising agents, and
- cost of opinion polls and other electoral research.

Non-monetary assistance should be included in disclosure requirements, but not the voluntary offer of services.'

10.30 For the purpose of public disclosure there should be a system of electoral agents at the national, State and electoral levels. The Agents would pay and incur electoral expenses, authorise others to pay and incur electoral expenses, and furnish returns. A candidate should have the option of appointing an agent or providing returns himself.

10.31 The period for which returns would be required should be from six months preceeding the issue of the writs until polling day. Returns should be furnished within three months of polling day.

10.32 All media should be required to furnish returns of the time or space provided to candidates, parties or other groups participating in the election process, the amounts charged and any time or space provided without charge or at less than normal commercial rates. Such returns should include particulars of the persons authorising the material.

10.33 Groups not standing candidates should be permitted to participate in campaigns with the requirement that where this is done on the authorisation of the candidate or party, particulars of the expenditure were to be included in the return of the candidate or party. Where expenses are incurred without that authority, the group would be required to furnish the return.

10.34 Disclosure provisions should be backed up by offences and penalties for non-compliance. However these should not extend to the invalidation of elections or disqualification of those elected. As some parties are not incorporated bodies' there needs to be a means of enforcement. Legislation to give effect to these recommendations could deem an unincorporated political party to be a person for the purposes of prosecution.

10.35 The Electoral Office should:

- be able to initiate proceedings under the disclosure provisions without obtaining Ministerial approval or direction;
- be responsible for providing candidates, etc., with information concerning the operation of the provisions; and
- be required to make information available to the public;

10.36 *This report was completed on 21 May 1981 and tabled* finally on 24 August 1983 at the request of the Committee.

10.37 The Committee believed that implementation of a system of the scope of that recommended by Harders was not desirable. The Committee sought an administratively simple system for disclosure of expenditure which would open to public scrutiny the major activities and related expenditures of parties and candidates. The Committee considered that full annual accounts of party expenditure would provide a great deal of information, most of which is already available through the party organisations and their annual accounts. Most of that information would in non-election years relate to party maintenance functions. It is not the Committee's intention to recommend disclosure of this vast bulk of information. The Committee *is aware that exemption of administration funds may be* seen as a way around the disclosure provisions, but believes that the public revelation of practices of this kind with its attendant opprobrium should provide sufficient deterrent. Moreover, the Committee has recommended that perhaps it might be appointed as a permanent body to monitor departures from the spirit of the proposed scheme of this kind.

10.38 The Committee considered the general question of limitation of election expenditure. Such limitations have proved to be unenforceable in Australia and overseas. Any limits set would quite quickly become obsolete. The Committee recommends that no election campaign expenditure limits be imposed and considers that its further proposals would render any expenditure limits superfluous.

10.39 The Committee considered at length the proposition put forward by Sir Clarrie Harders that the disclosure period be the six months preceeding issue of the writs to polling day. The Committee has elsewhere recommended that the election period be from proclamation of the election dates to polling day. The Harders suggestion would commit all parties and potential candidates to operate continuously as though an election was about to be announced. The relevant six months would not be known until proclamation.

10.40 The Committee recommends that disclosure be required of all expenditure during the election period, whenever incurred or paid, that is from the proclamation of the election dates to polling day. This would provide the public at large with information on the conduct of this crucial part of our political system.

10.41 The Committee also recommends that the election costs providing the best indication of the level of expenditure of funds are as follows, and recommends their disclosure -

- cost of television, radio and newspaper advertising (including production costs);
- costs of authorised material;
- costs of producing and displaying advertising at theatres etc.;
- fees to consultants etc., and
- costs of opinion polls.

10.42 The Committee recommends that public disclosure be required of these major electoral expenses paid or incurred by political parties, candidates, interest groups and others who participate in the electoral process in support of, or in opposition to, a candidate or political party or through involvement in the issues in an election.

10.43 The Committee recognised that some of the expenditures required to be disclosed could in fact be incurred well in advance or paid well after the election period. The Committee recommends that any goods or services for the election paid for in advance or paid for after the election period be required to be disclosed in the same way as those goods and services paid for during the election period.

10.44 The Committee also considered the question of donation of services or the provision of media time or production facilities at lower than normal costs. The Committee recommends that such "donations" should be disclosed if the system were to accurately reflect the resources available to parties and candidates.

10.45 Newspapers currently provide returns to the Australian Electoral Office under section 153 of the Act on election advertising. Television and radio stations provide information to the Australian Broadcasting Tribunal on all political advertising time purchased during election campaigns. Printers must print their business name and address on all authorised political material. These groups should be required to disclose the value of work undertaken for parties, candidates, interest groups and others who participate in the election process. Such returns would provide a useful double check on candidates' and parties' returns on one of their major costs. The Committee therefore recommends that newspapers, radio and television stations and printers be required to provide returns on election advertising space or time and printing bought by candidates,

parties and other participants in the electoral process during the election campaign. (It may be appropriate to have a value threshold for this obligation).

10.46 The Committee considered the position of interest groups and others in relation to disclosure of expenditure. Sections 161, 164, and 164A provide that election advertisements notices, handbills, pamphlets, articles, reports, "dodgers" or radio broadcasts must be authorised with the true name and address of the author or authors. Any organisation producing the kind of material that requires authorisation operates during the election period as a political organisation, whether standing candidates or not. The Committee recommends that any material that requires authorisation be the subject of full disclosure of expenditure. Consequently the Committee recommends that an organisation responsible for the issue of material that requires authorisation should be required to abide by the same disclosure provisions as parties standing candidates or independent candidates.

10.47 The Committee recommends that only one administrative body be involved and that all disclosures of expenditure be filed with the Electoral Commission.

10.48 The Committee also recommends that Agents of parties and candidates who have responsibility for disclosure of income and are likely to be Agents for public funding be the person required to provide expenditure returns. Centering these responsibilities in the one person at the national, State or electorate level, as appropriate, appears to the Committee to be the administratively most simple procedure.

10.49 The Committee considered that a reasonable period of time should be available for the preparation of returns. All accounts would need to be received. The Committee also considered that in many cases the one set of accounts may well suffice for both public funding and disclosure purposes. The Committee recommends that disclosure of expenditure returns should be required of candidates within 15 weeks of polling day and for organisations within 20 weeks of polling.

10.50 The Committee discussed the issue of offences and penalties for non-compliance at some length. Sir Clarrie Harders recommended that the outcome of an election not be able to be challenged on the ground of non-compliance with disclosure of expenditure provisions. Disruption to the political process was caused in Tasmania when challenges to the validity of elections on similar grounds were accepted. The Committee recommends that the failure to file a disclosure of expenditure return not be a cause in itself for disqualification of a Member of Parliament or invalidation of an election.

10.51 The Committee considered that the appropriate penalties for non-compliance with disclosure of expenditure provisions and similarly with disclosure of donations provisions should be monetary, and do not warrant imprisonment. The Committee again recognises that there will be many volunteers keeping records, that genuine mistakes will occur and that punishment of them will serve no good purpose.

10.52 Wilfully submitting false returns is a serious matter. Harders suggests imprisonment as an appropriate penalty for such an offence. The Committee is not inclined to a penalty of imprisonment. Any private person or party official who is convicted of knowingly providing false returns and is fined would pay sufficient penalty with the consequent probable denial or loss of public office or office of trust.

10.53 The Committee recommends that fines of the level of $1000 per person or $10 000 per party (indexed) would ensure that the responsibility to disclose properly was observed.

10.54 The Committee further recommends that any person making a knowingly false return or otherwise refusing to comply with disclosure provisions not be eligible to hold again a position which requires official returns under the Act.

10.55 Harders pointed out the deficiencies in the expenditure disclosure provisions removed from the Act in 1980. It was better to provide no return under those provisions than a false one. That situation is not of the standard of propriety that the public should be able to expect of those standing for public office.

10.56 The Committee agrees with Harders that non-compliance should be an offence under the Act and that it should continue and accumulate until the requirements for filing returns are adhered to and recommends accordingly.

10.57 The Committee notes that new offences of not providing the necessary material to those persons required to make official returns may need to be created and suggests that financial penalties again apply.

10.58 While the Committee does not believe that any system can ensure full and complete disclosure on the part of all concerned it believes that if all involved adhere to the spirit of the scheme the basis for a system that would allow the electorate to be well informed on the major donors to political parties groups and candidates and the major expenditures of those involved in an election campaign would have been established.

10.59 The Committee recommends that the proposed Electoral Commission report to Parliament on any practices not in accordance with the spirit of the disclosure system proposed. It also recommends that consideration be given by both Houses of Parliament to appointing the Committee on a permanent basis to monitor the operation of the system (perhaps the annual report of the Commission could stand referred to the Committee) and to recommend any additions or deletions to the requirements of the system that may be needed in the light of practical experience.

CHAPTER 11

POLITICAL ADVERTISING AND BROADCASTING OF POLITICAL MATTER

11.1 While they are in many ways associated, the matters of political advertising and the broadcasting of political material also are issues for separate consideration. The Committee considered the matters together and in isolation and reached specific conclusions with respect to several of them.

11.2 Section 161 of the Commonwealth Electoral Act prescribes certain illegal practices in relation to electoral advertisements, handbills, pamphlets etc. This section contains the 'authorisation' provisions for printed material. The Committee recommends that the authorisation provisions continue in force, (Senator Macklin dissenting) as authorisation tends to lead to more care being taken with the subject matter.

11.3 The question of campaign novelties (badges, balloons, T-shirts etc.) was considered by the Committee. The Committee recommends that where authorisation is physically and commercially feasible, it should appear on all electoral material. The Committee noted that the application of the section was not limited to an election period, and believed that this situation should continue. It would be sufficient if the person authorising the material is identified.

11.4 The Committee also examined section 164, requiring articles of this nature to be signed, and noted that 'signed' is interpreted as identification of the author, including an address at which the author could be reached.

11.5 Section 164A of the Electoral Act relates to broadcast matter. The Committee noted that the Broadcasting and Television Act also contains sections relevant to electoral broadcasts, and that there are certain inconsistencies between the two Acts, for example, in the definitions of electoral matter and the election period. The Committee recommends that the relevant sections be removed from the Broadcasting and Television Act and, subject to certain amendments, be incorporated in the Electoral Act. One amendment the Committee recommends is that 'broadcasting' be defined so as to refer to television in all its forms. Other amendments the Committee recommends are a definition of 'election period' consistent with its recommendations of proclamation of election dates until polling day (see chapter 6) and that the name of speakers, authors etc. not be required in an advertisement, but that it be sufficient for a responsible agent to be identified.

11.6 The Committee also received a submission from Mr G. Lindell (Senior Lecturer in Law, A.N.U.) concentrating on misleading electoral advertising. The main points of Mr Lindell's submission were:

- There is a need to review the prohibitions against misleading electoral advertising.
- There is a need to ensure that those prohibitions extend to electoral advertising by T.V. and radio broadcasting.
- There is a need to ensure that the Chief Australian Electoral Officer and any affected candidate can seek an injunction to prevent a threatened breach of the provisions against misleading electoral advertising.

11.7 The Australian Electoral Office submission to the Committee also suggested the provision of a right for candidates to seek an injunction to restrain misleading advertising including misleading how-to-vote cards. At present only Victoria has a provision along these lines. The Electoral Office indicated that such a provision would go a long way towards avoiding Australian Electoral Office involvement in last minute inter-party or candidate differences, for example, the Liberal Party complaints about National Party how-to-vote cards in 1980 and the National Party complaints about Australian Democrat how-to-vote cards in Queensland at the election on 5 March 1983. The Australian Electoral Office has no power to restrain breaches or anticipated breaches of the Act. It can only prosecute - and this effectively means after the election. (However, the Committee has recommended elsewhere in this report that the proposed Electoral Commission have the obligation to ensure compliance with the law at every stage of the electoral process. In the specific context of this chapter, the Committee recommends that the commission be obliged to seek injunctive relief in issues such as misleading electoral matter.

11.8 In its consideration of broadcasting and television in relation to election campaigns, the Committee believed these issues to be clearly within its terms of reference. Accordingly, submissions were invited from, and public evidence given by, representatives of the Federation of Australian Commercial Television Stations and the Federation of Australian Radio Broadcasters. Time constraints precluded detailed consideration of all the ramifications, nor was evidence taken from the Australian Broadcasting Corporation. The Committee believes that extended inquiry is necessary into the broadcasting and television provisions concerning elections, indirect public funding via 'free' time and standards governing political advertising vis a vis trades practices legislation, among other things. The Committee strongly recommends that it be empowered to pursue these matters, and others raised elsewhere in this report at greater length.

CHAPTER 12

REGISTRATION OF POLITICAL PARTIES AND NON-PARTY CANDIDATES

12.1 The Committee believes that in light of its recommendations with respect to the public funding of political parties for election campaigns, the printing of the political affiliation of candidates on ballot papers and the adoption of the list system for Senate elections, provision for the registration of political parties will be necessary.

12.2 The Committee considered at length a draft scheme for the registration of political parties submitted by the Australian Electoral Office. Various options were discussed as well as the elements and likely effects of such a scheme. The Committee recommends that the scheme outlined in this report, the registration of political parties and non-party candidates be adopted.

Definition of Party

1 .3 For the purposes of the registration a political party is defined as a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election of a candidate or candidates endorsed by it, or by a body or organisation of which it forms a part.

Requests for registration

12.4 It would be provided that:

(a) in respect of a party represented in either House of the Commonwealth Parliament, the national or general secretary or the parliamentary members of the party could request the registration of the party;

(b) in respect of a party not represented in either House of the Commonwealth Parliament but represented in a State Parliament, the Legislative Assembly of the Northern Territory or the A.C.T. House of Assembly, the (State) secretary or the parliamentary members of the party could request the registration of the party;

(c) in respect of a party which is not represented in a Commonwealth, State or Territory legislature but which has a membership of 500 persons or more, 10 members could apply for registration of the party. (The Committee discussed at length the basic level of total membership. As some indication of membership support was required - and the party's constitution should provide a basis - the figure of 500 was agreed upon. The Electoral Commission should accept a party's claim of membership. Only if an objection to the registration of such a party is lodged with the Chief Australian Electoral Officer on the grounds of membership claimed should the number of members of such a party be checked).

Form of requests for registration

12.5 Applications, in writing, would be made to the Chief Australian Electoral Officer, and would have to contain:

(a) the full name of the party, comprising no more than six words;

(b) an abbreviation or alternative form of the name, comprising not more than six words, could be used at the discretion of the party in official election documents such as ballot papers and official posters showing the party affiliation of candidates;

(c) the name and address of a person who would be the registered officer would be supplied; and

(d) the request will be accompanied with a copy of the Constitution of that party, where applicable.

Parties ineligible for registration

12.6 A party would be ineligible for registration if its name or abbreviation or alternative form provided under paragraph 12.5(b):

(a) included the word "independent", e.g. Independent Party, Independent Labor Party or Independent Liberal Party;

(b) suggested a connection with:

(i) Royalty, the Crown or the Government of Australia or of a State;

(ii) the government of a country other than Australia or with the United Nations; or

(iii) a department, authority or instrumentality of the government of Australia or of a State or Territory or with a municipal or other local government authority;

(c) was obscene;

(d) was the name, acronym, abbreviation or alternative form of a party represented in a Commonwealth, State or Territory legislature, unless the application was made by the national, State or territory secretary (as appropriate) of the represented party; or

(e) so nearly resembled the name or abbreviated name of a party represented in the Commonwealth or a State Parliament or the Legislative Assembly of the Northern Territory or the A.C.T. House of Assembly, or the name or abbreviated name of a party already registered, as to be likely to be confused with, or mistaken for, that name or abbreviation.

12.7 The Committee gave detailed consideration to the use and possible abuse of the term "Independent", particularly in view of the recommendation that a candidate's political affiliation be printed on the ballot paper. This term has, in the political sphere, usually been adopted by individuals standing for Parliament, who are not members of a party. The Committee notes the long-standing practice of individuals to stand for election, as independents. It believes that the term "Independent" should not be allowed to be used by any party, since it would have the effect of pre-empting other non-aligned, non-party candidates from using the term. The Committee therefore recommends in paragraph 12.6(a) that any party using the term 'independent' should not be eligible to be registered.

12.8 The Committee is aware that the requirement for registration entrenches the claims of existing political parties,and may deprive individuals of the right to be registered in a name of their choosing. However the Committee believes the requirement is not so restrictive as to preclude the evolution of a political party.

12.9 Any attempt to pre-empt the registration of the major political parties once the scheme comes into operation should not be permitted by the proposed Electoral Commission.

Procedures to be adopted for dealing with applications

12.10 It would be provided that:

(a) if the Chief Australian Electoral Officer was not satisfied that the application was in order he would reject the application and advise the applicant(s) of the reasons for the rejection;

(b) the applicant(s) could vary the application so as to meet the Chief Australian Electoral Officer's objection(s);

(c) an applicant who did not accept the Chief Australian Electoral Officer's objection(s) could request that the application be determined;

(d) before determining an application the Chief Australian Electoral Officer, as soon as practicable after an application had been lodged with him, or after a request under sub-paragraph 12.10(c), would give notice of the application;

- the notice given would be published in the Gazette and one or more major newspapers circulating within each State and Territory and would contain the particulars referred to in sub-paragraphs 12.5(a), (b) and (c) above; and

- the names and addresses of the person(s) by whom the application was made;

(e) any person could object to the registration of the party on any of the grounds in paragraph 12.6 above;

(f) where objections were lodged, the Chief Australian Electoral Officer would determine the objections, and subject to the application satisfying the requirements of paragraph 12.6, register the party;

(g) if at the expiration of one month after publication of the notice no objections were lodged against the application the Chief Australian Electoral Officer would, subject to the application satisfying the requirement of paragraph 12.6, register the party;

(h) the Chief Australian Electoral Officer would give notice of the registration in the Gazette and also notify the applicant(s) and any objectors. In the case of notice to the objectors he would be required to give his reasons for rejecting the objection(s);

(i) where the Chief Australian Electoral Officer did not register a party he would have to notify the applicant(s) giving his reasons.

Appeal to the Administrative Appeals Tribunal

12.11 An appeal would lie to the Administrative Appeals Tribunal against the Chief Australian Electoral Officer's decision to register or not register by -

(a) the applicants(s); or

(b) any person who had previously lodged an objection.

As there could be a major equity case involved, there must be adequate provision for appeal if any person referred to in (a) or (b) objects to the decision of the Tribunal; a final recourse for appeal lies with the Federal Court of Australia.

Register of parties

12.12 On registering the name and/or abbreviation of a party, the Chief Australian Electoral Officer would cause to be entered in the register of parties, maintained for the purpose -

(a) the name of the party;
(b) the abbreviation; and
(c) the name and address of the registered officer.

Changes to the register

12.13 The applicant(s) in paragraphs 12.4(a) and (b) or three applicants in the case of paragraph 12.4(c) could apply in writing to the Chief Australian Electoral Officer to have the name, or abbreviated name, of the party, or the name of the registered officer, changed to a name specified in the application. A change in the address of the registered officer would be made automatically but the procedures applying to initial registration would apply to an application for a change in registration of the name or abbreviation of a name of a party. A change in the name of the registered officer would be effected where no objections were received from the registered officer as shown in the register within seven days of notice of the proposed change having been given to him. Where the registered officer objects to the proposed change the Chief Australian Electoral Officer shall refuse to register the change and an appeal would lie to the Administrative Appeals Tribunal against the refusal.

Voluntary deregistration

12.14 An application made by the persons mentioned in paragraph 12.13 for the deregistration of a party would be granted automatically. The reason that provisions for notice of the objections to deregistration applications are not proposed is that objections would probably only arise in the context of an intra-party dispute. This may best be handled by removing the party from the register, and dealing with the substantive issues in dispute if and when a faction applied for a new registration assisted by the benefit of any court decisions affecting the retention of the name.

Automatic deregistration

12.15 The Chief Australian Electoral Officer would automatically cancel the registration of a party if that party did not endorse candidates for an election in the period of four years following the registration of the party, and would notify the registered officer of the cancellation and give notice of it in the Gazette. A party so deregistered would automatically be ineligible for re-registration for one election, as would any party with a name which so nearly resembled that of the deregistered party as to be likely to be confused with, or mistaken for, that party. There should be no additional penalty.

Other deregistration

12.16 It would also be provided that -

(a) if the Chief Australian Electoral Officer, following a challenge to the registration on the basis of the size of its membership, believed for any reason that a registered party, other than a party represented in the Commonwealth or State Parliament, the Legislative Assembly of the Northern Territory or the A.C.T. House of Assembly, had ceased to exist or no longer had a membership of 500 persons, he would give to the registered officer notice of his intention to deregister the party, and also give notice of it in the Gazette;

(b) if one month after the date of posting of such a notice or the notice in the Gazette, the registered officer or 10 members of the party had not shown cause why the party should not be deregistered, the Chief Australian Electoral Officer would remove the party from the register, and give notice of it in the Gazette;

(c) where the registered officer or 10 members had shown cause the Chief Australian Electoral Officer would determine the matter and if appropriate cancel the registration;

(d) where the Chief Australian Electoral Officer determined the matter against the registered officer or the members he would notify them accordingly giving his reasons;

(e) an appeal would lie to the Administrative Appeals Tribunal against a cancellation by any person who had previously shown cause. Again, adequate provision must be made for the lodging of appeals from the Tribunal's decision.

Deletions of registrations obtained through fraud or misrepresentation

12.17 Where the Chief Australian Electoral Officer was of the opinion that there were reasonable grounds for believing that the registration of a political party had been obtained by means of fraud or misrepresentation, he could, by notice in writing given to the person(s) on whose application the party was registered, and the registered officer, require that cause be shown, within the period specified in the notice, why the registration of the party should not be cancelled.

12.18 *The procedures outlined in paragraph 12.16 would apply* to such a deregistration.

Applications during an election period

12.19 Applications to register a party, or to change the name or abbreviated name, lodged with or received by the Chief Australian Electoral Officer after 6p.m. on the day of the issue of the writ for an election, and all proceedings in respect of such applications, would be suspended until polling day. (Applications for a change in the registered officer of a party and any proceedings in respect of such applications would not be affected.)

Public inspection

12.20 The register would be made available for public inspection.

Registration of candidates not sponsored by registered political parties

12.21 The Committee recommends that the general principles outlined in this chapter, in relation to the registration of political parties, should apply to candidates not sponsored by a registered political party. However, some of the points do apply to individuals, the following elements of the registration scheme apply to such candidates.

12.22 A candidate for election not sponsored by a registered political party is under no compulsion to register. However, such a person who does not register would not be able to receive such public funding as he may be entitled to, or have a political affiliation alongside his name on the ballot paper.

Requests for Registration

12.23 Indidividual candidates who are not sponsored by a registered political party (hereafter non-party candidates) may request, in writing to the Chief Australian Electoral Officer to be registered as a candidate for election.

Terms Ineligible for Registration

12.24 In submitting his application for registration the applicant would indicate the term by which he wishes to be described. However, as indicated in paragraph 12.6, the term 'independent' cannot be used by any party on a ballot paper (it may be used on all other election materials such as posters and how-to-vote cards). No independent will be allowed to 'group' with other independents for the purposes of a Senate election. No non-party candidate can identify himself in the manner prescribed in paragraph 12.6 of this chapter; that is no suggestion of a connection with Royalty, a government of another country, etc., is permitted.

Procedures for dealing with applications and Appeals to Administrative Appeals Tribunal

12.25 The procedures to be adopted for dealing with applications outlined earlier in paragraph 12.10 would apply to non-party candidates. A candidate would be able to appeal to the Administrative Appeals Tribunal against the decision of the Chief Australian Electoral Officer not to register.

Register of Candidates

12.26 Following a decision of the Chief Australian Electoral Officer to register a non-party candidate, the following details would be entered into a register of candidates -

(a) name and address of the individual non-party candidate; and

(b) the term by which the candidate wishes to be described.

Automatic de-registration

12.27 The Chief Australian Electoral Officer would automatically cancel the registration of a non-party candidate if he failed to re-nominate for election in the period of four years following initial registration, and would notify the said person of the cancellation.

Deletions of registrations obtained through fraud or misrepresentation

12.28 Where the Chief Australian Electoral Officer was of the opinion that there were reasonable grounds for believing that the registration of a person as a non-party candidate had been obtained by means of fraud or misrepresentation, he could, by notice given in writing to the person so registered, require that cause be shown why the registration should not be cancelled.

Applications during an election period and public inspection of the register

12.29 The provisions of paragraphs 19 and 20 of this chapter concerning applications during an election period and publication of registration should also apply to non-party candidates.

CHAPTER 13

ELECTORAL OFFENCES AND PENALTIES

13.1 The Committee received considerable evidence concerning the range of electoral offences covered in the present Act. It spent much time debating the relativities of various offences, noting in particular the point that, apart from a 1965 review of the penalties for failure to enrol and failure to vote, no other penalty has been increased since the particular offence to which it relates was inserted in the Commonwealth Electoral Act 1918. At Appendix '8' is a schedule of the penalties presently prescribed in the Act, and the dates of their last review.

13.2 In prefacing its specific recommendations regarding electoral offences and penalties, the Committee stresses its view that the question of penalties is more appropriately for detailed consideration and advice by the Attorney General's Department. In that way, electoral offences and their penalties can be placed in perspective against all the offences and penalties prescribed across the range of Commonwealth legislation. However, the Committee has included recommendations for specific penalties in order to provide an indication of its assessment of offences within the context of the Act.

13.3 The Australian Electoral Office presented a compelling case for a complete revision of Part XVII of the Act, covering electoral offences. The point was put, and the Committee agrees, that the present range of penalties brings the law into disrepute. Magistrates have noted the ludicrously low penalty for failure to enrol, for example a fine of $1 to $4, and electoral officers have felt reluctant to press legal action against offenders. If the law is to maintain its standing and respect, then clearly a failure to abide by its provisions must be accompanied by appropriate sanctions. A further point, put strongly by the Australian Electoral Office, is that more realistic penalties would provide additional incentive for more substantial compliance with the compulsory provisions of the Act. The Committee supports that view.

13.4 As a result of its detailed examination of Part XVII, the Committee recommends that:

- section 155 (breach or neglect of official duty) be amended to re-word the provisions of sub-paragraphs (iii) and (iv) and to provide for wilful disclosure in sub-paragraph (ii), and to prescribe a penalty not exceeding $1000 or imprisonment not exceeding two years;

- paragraph 156(b) (relating to the offence of bribery) be repealed;

- section 157 (interpretation of bribery) be reviewed to enable the definitions and extent of 'bribery' and 'undue influence' to be up-dated to deal with serious offences, with due regard to preserving the integrity of election day, and to remove reference to Aboriginal Australians;

- paragraphs 156(aa) and 158(aa) (undue influence on Aboriginal Australians) be repealed;

- section 159 (interpretation of undue influence) be amended to remove reference to Aboriginal Australians;

- section 164A (advertising and broadcasting matters) currently provides for offences and penalties. However, the Committee has recommended elsewhere in this report that:

  (i) references to broadcasting and television to incorporate the provisions of the Broadcasting and Television Act and be deleted from that Act;

  (ii) references to time frames in the revised section be amended so as not to limit the application to the election period; and

  (iii) the Committee be re-appointed to pursue these matters, and others raised elsewhere in this report (see Chapter 12).

13.5 The Committee further recommends that:

- sub-section 164B(1) (display of certain electoral posters), section 164BA (removal of prohibited electoral posters) and section 164BB (injunctions for removal of posters) be repealed;

- sub-section 165(1) (cards or papers left in polling booths), be amended to incorporate the notion of a wilful offence;

. section 166 (untrue statements in forms), be repealed and a monetary penalty be added for the offence under section 170 (electoral offences).

13.6 The Committee reviewed the table of electoral offences and punishments (section 170) at length. It recommends that the Table be deleted and replaced by the following:

First Column Offences	Second Column Punishments
Falsely personating any person to secure a ballot paper to which the personator is not entitled, or personating any other person for the purpose of voting.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Fraudulently destroying or defacing any nomination paper or ballot paper.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Fraudulently putting any ballot paper or other paper into the ballot-box.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Fraudulently taking any ballot paper out of any polling booth or counting centre.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Forging or uttering, knowing the same to be forged, any nomination paper or ballot-paper.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Supplying ballot papers without authority.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Unlawfully destroying, taking, opening, or otherwise interfering with ballot boxes or ballot papers.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.
Wilfully voting more than once at the same election.	Penalty not exceeding $1000 or imprisonment not exceeding 2 years.

Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any Returning Officer or by his authority.	Penalty not exceeding $100
Knowingly making any false statement in any claim, application, return, or declaration, or in answer to a question under this Act.	Penalty not exceeding $100
Distributing any advertisement, hand-bill or pamphlet published in contravention of section one hundred and sixty-one of this Act.	Penalty not exceeding $100
Any contravention of the Act for which no other punishment is provided.	Penalty not exceeding $100

13.7 The Committee further recommends that:

- sub-section 171(2) (buildings and grounds of polling booths), be amended so as to provide that the grounds in which the polling booth is situated is not part of the booth unless the Divisional Returning Officer has so advised (thus removing determination from Presiding Officer prerogative);

- section 174 (forging or uttering electoral papers) be amended by omitting the existing penalty and substituting:

  'Penalty not exceeding $1000 and/or imprisonment for 2 years';

- sub-sections 177(1) and 177(4) (disorderly behaviour at meetings), be each amended by omitting the existing penalty and substituting:

  'Penalty not exceeding $100 or imprisonment for one month';

- section 178 (failure to initial ballot papers), be repealed;

- sections 179 and 180 (offences in polling booths) be each amended as follows:

  'Penalty not exceeding $100 or imprisonment not exceeding one month.'

- section 181 (defamation of candidate) requires strengthening so as to become an effective deterrent, and the penalty from the aspect of an offending corporation should be $1000. The Committee recommends that it be empowered to pursue this matter at greater length.

13.8 The Committee draws attention to proposed penalties for other offences suggested elsewhere in this Report, particularly in Chapter 9 on public funding of political parties and Chapter 10 on the public disclosure of donations to political parties.

SUMMARY OF PRINCIPAL RECOMMENDATIONS

(All references to 'Act#' relate to the Commonwealth Electoral Act 1918)

The Committee recommends that -

(1) the separate position of Electoral Registrar be abolished, and that responsibility for the determination of appeals against objections with respect to removal from the electoral roll should be vested with the Australian Electoral Officer for the particular State in which the electoral divison, administered by the relevant Divisional Returning Officer, is located (paragraphs 2.20, 2.21 and 5.41).

(2) an Australian Electoral Commission be established as an independent statutory authority, Commissioners to be appointed by decision of the Governor-General-in-Council with fixed periods of tenure and reappointment provisions (paragraph 2.30).

(3) the appointment of a person to the statutory office positions of Chief Australian Electoral Officer and of Australian Electoral Officer for a State should continue to be a Cabinet decision (paragraphs 2.30 and 2.49).

(4) the Electoral Commission should play an active educational role in the community, particularly in schools, informing citizens as to their rights, responsibilities and entitlements as electors (paragraph 2.38).

(5) electoral redistributions for a particular State should be conducted by 4 commissioners:

(a) the Chief Australian Electoral Officer, who will be a redistribution commissioner for every State;

(b) the Australian Electoral Officer for the particular State;

(c) the State Surveyor-General or, in his unavailability, his deputy; and

(d) the State Auditor-General or, in his unavailability his deputy (if the State government officials are unavailable, the Commonwealth Government may appoint an officer of similar status from the Australian Public Service) (paragraphs 2.44 and 2.45).

(6) a career structure be available within the Electoral Commission, but that the Commission also have access to the resources of the wider public service (paragraph 2.50).

(7) vacancies in all positions (with the exception of Chief Australian Electoral Officer) be advertised in the Gazette and a senior second division officer from the Department of the Special Minister of State and a senior officer from the Public Service Board should be made available to participate in interview selection panels, in relation to the appointment of an officer to a second division position with the Commission (paragraphs 2.51 and 2.52).

(8) provision be made for an internal system of appeals against promotions within the Commission for the statutory office positions (paragraph 2.53).

(9) the staff (i.e. all except the statutory officers) of the proposed Commission should be employed under the terms and conditions of the *Public Service Act 1922* (paragraph 2.55).

(10) the practice of retaining experienced staff on a casual basis, for the conduct of elections, should be continued, as should the practice of maintaining a register of experienced staff (paragraphs 2.56 and 2.57).

(11) training sessions should be introduced for all registered casual polling staff and carried out as a matter of priority, with attendance allowances. The current rates of pay for casual staff employed on polling day and the payment of retainers should be reviewed (paragraph 2.58).

(12) it be empowered to examine in greater depth the conduct of industrial elections by the Australian Electoral Office and the proposed Electoral Commission (paragraph 2.62).

(13) legislation associated with electoral matters be incorporated, as far as is consistent with other recommendations of the Committee, within the Act" (paragraphs 2.63 and 11.5).

(14) the interests of balancing responsible government and democratic representation in Australia are best served by continuing State-wide proportional representation for the Senate and single-Member constituencies returning representatives elected by a preferential system of voting for the House; however, current voting systems should be modified for each House (paragraph 3.22).

(15) the current system of voting for each House should be modified as follows -

(a) for the Senate, a 'list' system should be introduced together with the retention of the existing system as an option open to those who wish to exercise their allocation of preferences, provided that a vote is not considered invalid if a mistake in sequence is made, but the voter intention is clear, i.e. a Senate vote should be considered formal as far as its intention is ascertainable provided that numbers are placed in at least 90% of squares;

(b) a House of Representatives vote should be considered formal as far as its intention is ascertainable provided that all except one of the squares is numbered (paragraphs 3.27 and 3.33).

(16) following a double dissolution election, the Australian Electoral Commission conduct a second count of Senate votes, using the half Senate quota, in order to establish the order of election to the Senate, and therefore the terms of election (paragraph 3.39).

(17) the practice of ranking Senators in accordance with their relative success at the election be submitted to electors at a referendum for incorporation in the Constitution, by way of amendment, so that the issue is placed beyond doubt and removed from the political area (paragraph 3.39).

(18) the allocation of positions on the House of Representatives ballot paper be determined by lot rather than by alphabetical listing (paragraph 3.40).

(19) the process of double randomisation be employed for the allocation of places on the Senate and the House of Representatives ballot paper (paragraph 3.42).

(20) while the application of computer technology to the voting process is not recommended at this stage, computer voting would be possible in Australia, and should be kept in mind for the future (paragraph 3.43).

(21) the attention of the Parliament should be directed to the potential problem contained in section 22 of the Constitution, whereby the extent of representation of territories is stated to be as the Parliament thinks fit (paragraph 4.6).

(22) determination of State representation entitlement should continue to be made in the twelfth month of each new Parliament (paragraph 4.23).

(23) the provision of the Act* providing a discretion to the government to order a redistribution should be repealed and distributions should be mandatory:

(a) whenever one-third of the divisions in a State or one-fifth of divisions Australia-wide differ by more than 10% from their respective State enrolment;

(b) in a State not redistributed for 7 years (paragraphs 4.26, 4.28 and 4.29).

(24) electoral redistributions for a particular State be conducted by 4 commissioners: the Chief Australian Electoral Officer, the Australian Electoral Officer for that State, the State Surveyor-General or in his unavailability his deputy, and the State Auditor-General or in his unavailability his deputy; the redistribution commission may delegate the initial task of preparing draft recommendations for any one State to 3 of its members, but no redistribution is to be approved without the support of a majority of the commission of 4 (paragraphs 4.29 and 4.30).

(25) suggestions in connection with electoral redistributions should continue to be acceptable and reasons for the commissioners' determinations be published; a proposed distribution should be able to be appealed against and the appeal heard in open session, but not so as to hinder unduly the total process (paragraphs 4.31 and 4.32).

(26) added to the considerations to which distribution commissioners have regard, the major consideration should be the aim, where practicable, that all electoral divisions approximate equal enrolment at the median or mid point time between redistributions and, subject to this main consideration of elector trends, the concept of area be adde (paragraphs 4.34 and 4.35).

(27) provisions concerning 'large' and 'small' electoral divisions should be deleted from the Act* (paragraph 4.36).

(28) the right of distribution commissioners to canvass widely for views should be provided by legislation but it should be an offence to attempt to exert improper influence on the commissioners (paragraph 4.37 and 4.38).

(29) the redistribution proposals agreed upon by the commissioners should, after the appeal period, be final, without the need for parliamentary approval (paragraph 4.38).

(30) section 25A of the Act*, providing for an election at large where a State whose entitlement of representation has altered and the State has not been redistributed at the time of dissolution of the House, be repealed: where a State is to receive an additional electoral division, the two existing divisions with contiguous boundaries and the greatest number of enrolled electors should be combined so

as to form three electoral divisions; where a State is to lose an electoral division, the two electoral divisions with contiguous boundaries and the lowest enrolment of electors should be combined into one electoral division (in each case, the determination to have effect only until a complete redistribution can be completed) (paragraphs 4.51 and 4.52).

(31) the provisions of section 39 of the Act* conferring the right to enrol and to vote, be amended by -

(a) repealing paragraph (1)(a) requiring six months residence in Australia;

(b) removing from sub-section (3) reference to gender and marital status (paragraph 5.3), and

(c) review of the wording of sub-section (4) so as to:

(i) exclude, on the ground of 'unsound mind', only those incapable of casting a meaningful vote (paragraph 5.24);

(ii) make conviction (not attaintment) of treason the basis of disqualification (paragraph 5.27), and

(iii) make the disqualification for prisoners being sentenced for five years (not one year) (paragraph 5.29).

(32) Australians overseas intending to return to Australia should be able to retain their enrolment for the subdivision at their last Australian place of residence, for a defined period, with a provision for renewal (paragraph 5.8).

(33) the Act* should be amended to enable itinerant workers to enrol and remain enrolled in an electoral division until such time as they take up a 'permanent' (for electoral purposes) address (paragraph 5.11).

(34) the Act* should be amended to enable members of the Australian National Antarctic Research Expeditions to have details of votes transmitted electronically (paragraph 5.18).

(35) section 39B of the Act* should be repealed and repeal of section 41 of the Constitution should be submitted in the referendum concerning the removal of outmoded and expended provisions planned for 1984 (paragraph 5.22).

(36) section 40 of the Act* should be amended to provide for those electors who are unable to sign their names or even make a mark (e.g. quadraplegics and other severely disabled persons) to be duly enrolled (paragraph 5.30).

(37) sub-section 41(4) of the Act* providing for choice of enrolment location for Senators and Members should be repealed (paragraph 5.31).

(38) sub-section 42(1) of the Act*, providing that an elector entitled to be enrolled and not on the roll, shall send a claim for enrolment to the registrar for the appropriate subdivision, should be amended to allow a claim for transfer or enrolment to be sent to any Divisional Returning Officer (paragraph 5.32).

(39) sub-section 42(3) of the Act*, requiring notification of change of adress within a subdivision on the prescribed form, be amended to provide that notification of change of address be in writing but not necessarily on the prescribed form (paragraph 5.34).

(40) sub-section 42(5) of the Act*, providing that enrolment is not compulsory for 'Aboriginal natives' of Australia, should be repealed (sections 156(aa), 157, 158(aa) and 159, referring inter alia to influencing an Aborigine to exercise the option to enrol or not to enrol, would also require amendment or deletion) (paragraph 5.36).

(41) a system of provisional enrolment should be instituted for persons turning 18 between the close of rolls and polling day (paragraph 5.43).

(42) sub-section 49(b) of the Act* should be deleted so as to remove the provision concerning notification of marriages of women (paragraph 5.44).

(43) section 45 of the Act* should be amended to provide that the Governor-General shall, by proclamation, announce the intention of dissolution and the dates proposed in connection with the election at least seven days before issue of the writs and therefore the closing of the rolls (paragraph 5.44).

(44) the Act* be amended to make express provision for the application of computer technology to the mechanics of processing elector information (paragraph 5.45).

(45) continued public access be available to the Divisional Returning Officer's official roll and printed copies of the rolls, but that access to the computer tapes not be available (paragraph 5.47).

(46) habitation reviews be intensified, specifically so as to provide annual reviews in metropolitan areas (paragraph 5.48).

(47) silent listing on electoral rolls be implemented for those who consider themselves to be in danger of violence (*paragraph* 5.49).

(48) the Act* be amended to provide that for a general election for the House of Representatives, a single writ be issued to the Chief Australian Electoral Officer with respect to all electoral divisions, and the Divisional Returning Officers be advised accordingly (paragraph 6.2).

(49) a composite advertisement of the details of the writ with respect to each electoral division be authorised (paragraph 6.2).

(50) the repeal of sub-section 141(2) of the Act* which provides for the declaration of the result of the election and return of the Senate writs without awaiting all ballot *papers* (*paragraph* 6.3).

(51) section 144 of the Act* be rewritten to overcome its inconsistency with other section of the Act (paragraph 6.3).

(52) paragraph 69(1)(c) of the Act* relating to qualifications of Members of the House of Representatives be deleted (paragraph 6.4).

(53) paragraph 70(a) of the Act* (relating to the nomination of State Members) be amended and paragraph 70(b) be deleted (paragraphs 6.6 and 6.7).

(54) the inclusion in the Act* of a provision for candidates to nominate in the surname and Christian or given name under which they are enrolled (paragraph 6.8).

(55) the mechanisms for dealing with:

(a) the death of a House of Representatives or Senate candidate before nominations close; and

(b) the death of a Senate candidate after nominations close and before polling day,

be reviewed (paragraph 6.10).

(56) in the case of the death of a Senate or House of Representatives candidate during the nomination period, the nomination period be extended by 24 hours, to allow extra time for an alternative candidate to be nominated (paragraph 6.11).

(57) matter of the death of Senate candidate late in an election campaign be considered for future constitutional review (paragraph 6.15).

(58) the nomination deposits for candidates to the Senate and House of Representatives be retained, and the amount of the deposits be increased to $500 for the Senate and $250 for the House of Representatives (paragraph 6.18).

(59) the provisions of paragraph 71(b) of the Act* relating to mode of nomination be retained (paragraph 6.20).

(60) section 76 of the Act* be amended to provide that the nomination deposit is forfeited to the Crown if a candidate for the House of Representatives receives less than 4% of the total valid first preference vote in the electoral division for which he is a candidate or if a Senate candidate or group receives less than 4% of the total valid first preference votes in the State for which he is a candidate (paragraph 6.23).

(61) the Act* be amended to provide that a candidate can nominate for only one House electoral division or for the Senate only in one State (paragraph 6.24).

(62) sub-sections 72A(6), 104(2) and section 105B of the Act* relating to Senate casual vacancy elections be removed (paragraph 6.26).

(63) section 77(1) of the Act* be amended to specify that the place of nomination for the Senate be the Office of the Australian Electoral Officer for the State (paragraph 6.27).

(64) the display of posters in polling booths not be permitted (paragraph 6.28).

(65) ordinary voting facilities should be available throughout an electoral division, (so an elector does not have to cast his vote in the subdivision for which he is enrolled in order to cast an ordinary vote, provided it was cast within the appropriate electoral division); appropriate penalties should be provided to discourage any abuse (paragraph 6.30).

(66) voters should be provided with information that enables them to identify each candidate's political affiliation at the time of casting their vote (paragraph 6.31).

(67) the proposed Electoral Commission maintain a register of candidates including information as to certification of any party designation (paragraph 6.31).

(68) provision be made for all ballot papers to be on white paper with black printing using orthodox printing types and no stylised logos (paragraph 6.31).

(69) section 115 of the Act* be amended to reduce the questions to be put to voters (paragraph 6.32).

(70) pencils continue to be furnished for the use of voters (paragraph 6.33).

(71) section 119 of the Act* be amended to make clear to voters that to have their vote recorded they must mark the ballot paper and remove reference in the section to 'a described manner'(paragraph 6.33).

(72) paragraph 119(b) be repealed (paragraph 6.33).

(73) section 120, which provides for assistance to certain electors, be reviewed to provide consistent treatment for all electors who came within its scope (paragraph 6.34).

(74) provision should be made in the Act* to permit electors who are otherwise entitled to assistance in recording their vote, to present to the polling official a printed or written statement (which may be a how-to-vote ticket), as an instruction to the official indicating the voter's first and later preferences (paragraph 6.34).

(75) the proposed Electoral Commission should maintain a register of how-to-vote tickets certified by the individual parties or non-aligned candidates (paragraph 6.34).

(76) the Electoral Commission place advertisements at election times publicising facilities available to disabled persons (paragraph 6.35).

(77) that section 121 of the Act* be re-written so as to remove any discretion possessed by presiding officers as to whether or not a 'section vote' should be issued (paragraph 6.36).

(78) all persons claiming a vote who are not on the certified list be given a 'provisional vote' (paragraph 6.36).

(79) provision be made that action or failure to act by an official to perform a required action should not render a vote informal (paragraph 6.37).

(80) section 130 of the Act* be amended to make specific provision for each candidate to be entitled to have a scrutineer present whenever an officer is performing a task relating to the count or scrutiny (paragraph 6.38).

(81) ballot material for both Houses be preserved for the purpose of electoral research (paragraph 6.40).

(82) polling booths close at 6 p.m. (paragraph 6.41).

(83) the electoral visitor voting with mobile polling booths in hospitals and similar institutions, and mobile polling booths be introduced in remote areas (paragraph 6.42).

(84) the proposed Electoral Commission and individual candidates be permitted to take out injunctions (paragraph 6.43).

(85) the onus rests with the proposed Electoral Commission to ensure that elections at every stage are conducted in accordance with laws, and it should have the responsibility to initiate action on any occassion when in its opinion sufficient reason is demonstrated (paragraph 6.43).

(86) that specific legislative provision should be made to allow a Court of Disputed Returns to order the payment of costs by the Crown where the Court regards this as appropriate (paragraph 6.44).

(87) the proposals contained in Chapter 7 of this report for changes to the existing system of postal voting and to particular sections of the Act* be adopted (paragraph 7.3).

(88) the size of the Parliament be increased by increasing the number of Senators to which each original State is entitled to 12, with a corresponding increase in the size of the House of Representatives (paragraph 8.16).

(89) public funding for political parties for election purposes be introduced: the basic amounts for public funding being based on the primary postage rate, and indexed to increases in the postage rate (paragraphs 9.32 and 9.33).

(90) the public funding of political parties and candidates be disbursed as follows:

(a) at a double dissolution or combined House of Representatives and half Senate election public funding be provided at the rate of three postage stamps per valid first preference vote;

(b) for a House of Representatives election (and by-elections) the amount be equivalent to two postage stamps per valid first preference vote;

(c) for a half-Senate election the amount be equivalent to one and a half postage stamps per valid first preference vote (paragraph 9.34).

(91) the person accountable for public moneys be under no penalty for mistakes of fact in any returns but that knowingly submitting false returns should have suitably heavy penalties attached (paragraph 9.36).

(92) (a) the funding for all candidates endorsed by a Party (Senate and House of Representatives) be paid to the respective State party organisation; where a candidate is not a member of a registered party, to the candidate direct;

(b) each party, group or independent nominate one person as accountable for receipt and expenditure up to the amount claimed of public moneys (paragraph 9.36).

(93) applications to participate in the public funding process operate as follows:

(a) all parties and candidates wishing to receive public assistance may register with the proposed Australian Electoral Commission at the commencement of the scheme and any time up to the close of nominations for a specific election;

(b) applications should not be accepted between close of nominations and polling day and that the Divisional Returning Officer be one of the persons entitled to receive such a registration (paragraph 9.37).

(94) for reasons of administrative simplicity advance payments of public funds should not be made to political parties or non-party candidates (paragraph 9.40).

(95) for the purposes of public funding, parties and candidates should be required to furnish evidence of expenditure incurred in the actual running of a campaign only up to their reimbursement limit (paragraph 9.41).

(96) public funding should be operated by the Australian Electoral Commission (paragraph 9.42).

(97) only those candidates or groups who receive 4% or more of the formal first preference vote be eligible for public funding (paragraph 9.44).

(98) the provision of free broadcasting time on television and radio to political parties during election campaigns should be the subject of further consideration (paragraph 9.46).

(99) donations designated for Federal election purposes in excess of $200 to a candidate or constituency organisation and to a party in excess of $1000 should be required to be disclosed and the donor identified (paragraph 10.10).

(100) the total amount of donations received should be disclosed (paragraph 10.10).

(101) donations made specifically for a State or Territory election or to a party maintenance or administrative expenditure fund should not be required to be disclosed provided that those funds not be used for Federal election campaign purposes (paragraph 10.11).

(102) anonymous donations for election campaign purposes above the set limits should not be accepted or should be forwarded to the proposed Electoral Commission and be used to defray the costs of the public funding process (paragraph 10.13).

(103) all organisations or individuals receiving and/or donating funds above the prescribed levels for federal election campaign purposes should be required to disclose the sources of those funds (paragraph 10.15).

(104) the proposed Electoral Commission be vested with the power to investigate the origins of the funds of 'front' *organisations; where at least one individual cannot be* named as being involved with a donation above the disclosable level, the donation should be declared anonymous (paragraphs 10.15 and 10.16).

(105) a system for assigning monetary values to donations in kind should be devised and those that exceed the disclosure limits be disclosed (paragraph 10.17).

(106) all administrative functions relating to disclosure be conducted by the proposed Electoral Commission (paragraph 10.20).

(107) the Commission should report to Parliament regularly on the effectiveness of the disclosure system (paragraph 10.20).

(108) parties and independent candidates or candidates grouped for the purposes of a Senate election should register an Agent who will ensure that donations required to be disclosed are disclosed to the Electoral Commission (paragraph 10.22).

(109) parties should register Agents at the national as well as the State level (paragraph 10.22).

(110) a candidate's or party's Agent should not be held responsible for innocent mistakes leading to failure to disclose donations; suitably severe penalties should be attached to the wilful filing of false or incorrect returns (paragraph 10.24).

(111) no limits should be imposed on election campaign expenditure (paragraph 10.38).

(104) the proposed Electoral Commission be vested with the power to investigate the origins of the funds of 'front' organisations; where at least one individual cannot be named as being involved with a donation above the disclosable level, the donation should be declared anonymous (paragraphs 10.15 and 10.16).

(105) a system for assigning monetary values to donations in kind should be devised and those that exceed the disclosure limits be disclosed (paragraph 10.17).

(106) all administrative functions relating to disclosure be conducted by the proposed Electoral Commission (paragraph 10.20).

(107) the Commission should report to Parliament regularly on the effectiveness of the disclosure system (paragraph 10.20).

(108) parties and independent candidates or candidates grouped for the purposes of a Senate election should register an Agent who will ensure that donations required to be disclosed are disclosed to the Electoral Commission (paragraph 10.22).

(109) parties should register Agents at the national as well as the State level (paragraph 10.22).

(110) a candidate's or party's Agent should not be held responsible for innocent mistakes leading to failure to disclose donations; suitably severe penalties should be attached to the wilful filing of false or incorrect returns (paragraph 10.24).

(111) no limits should be imposed on election campaign expenditure (paragraph 10.38).

(112) the election costs providing the best indication of the level of expenditure of funds to be disclosed are as follows:

(a) cost of television, radio and newspaper advertising (including production costs);

(b) costs of authorised material;

(c) costs of producing and displaying advertising at theatres, etc;

(d) fees to consultants, etc, and

(e) costs of opinion polls (paragraph 10.41).

(113) public disclosure should be required of political parties, candidates, interest groups and others who participate in the electoral process in support of, or in opposition to, a candidate or political party or through involvement in the issues in an election (paragraph 10.42).

(114) any goods or services for the election paid for in advance or paid for after the election period be required to be disclosed in the same way as those goods and services paid for during the election period (paragraph 10.43).

(115) the donation of services or the provision of media time or production facilities at lower than normal costs should be disclosed (paragraph 10.44).

(116) newspapers, radio and television stations and printers be required to provide returns on election advertising space or time and printing bought by candidates, parties and other participants in the electoral process during the election campaign, possibly with a value threshold for this obligation (paragraph 10.45).

(117) any material that requires authorisation under sections 161, 164 and 164A of the Act* should be the subject of full disclosure of expenditure (paragraph 10.46).

(118) an organisation responsible for the issue of material that requires authorisation should be required to abide by the same disclosure provisions as parties standing candidates or independent candidates (paragraph 10.46).

(119) all disclosures of expenditure should be filed with the Electoral Commission (paragraph 10.47).

(120) Agents of parties and candidates who have responsibility for disclosure of income and are likely to be Agents for public funding be the person required to provide expenditure returns (paragraph 10.48).

(121) disclosure of expenditure returns should be required of candidates within 15 weeks of polling day and for organisations within 20 weeks of polling (paragraph 10.49).

(122) the failure to file a disclosure of expenditure return not be a cause in itself for disqualification of a Member of Parliament or invalidation of an election (paragraph 10.50).

(123) fines of the level of $1000 per person or $10 000 per party (indexed) should be imposed to ensure that the responsiblity to disclose properly was observed (paragraph 10.53).

(124) any person making a knowingly false return or otherwise refusing to comply with disclosure provisions should not be eligible to hold again a position which requires official returns under the Act (paragraph 10.54).

(125) non-compliance should be offence under the Act* and should continue and accumulate until the requirements for filing returns are adhered to (paragraph 10.56).

(126) the proposed Electoral Commission report to Parliament on any practices not in accordance with the spirit of the disclosure system proposed (paragraph 10.59).

(127) consideration be given by both House of Parliament to appointing the Committee on a permanent basis to monitor the operation of the system (perhaps the annual report of the Commission could stand referred to the Committee) and to recommend any additions or deletions to the requirements of the system that may be needed in the light of practical experience (paragraph 10.59).

(128) the scheme outlined in Chapter 12 of this report for the registration of political parties and non-party candidates, be adopted (paragraph 12.2).

(129) the recommendations contained in Chapter 13 of this report for major changes to the existing provisions of Part XVII of the Act* relating to electoral offences and penalties, be adopted (paragraphs 13.4 to 13.7).

(130) the authorisation provisions for printed electoral advertisement, handbills, pamphlets, etc., should continue in force and that where physically and commercially feasible, authorisation should appear on all electoral material (paragraphs 11.1 and 11.2).

(131) 'broadcasting' of electoral material should be defined so as to refer to television in all its forms and the definition of 'election period' in relation to electoral broadcasts should be consistent with the Committee's

recommendation that it encompass the proclamation of the announcement of election dates until polling day (paragraph 11.5).

(132) machinery amendments to the Act* proceed as a matter of course (page (v)).

DISSENTING REPORTS

SUBMITTED BY

SENATOR the HON.

SIR J. CARRICK, K.C.M.G.

TO THE

JOINT SELECT COMMITTEE

ON ELECTORAL REFORM

5 September 1983

VOTING SYSTEMS

There is a very real danger that excessive pre-occupation with methods of reducing informal votes will achieve mechanisms which significantly damage the true nature of particular voting systems.

Preferential and proportional representation systems depend for their success upon an educated and motivated electorate which will seek to ascertain the backgrounds and affiliations of candidates and groups and will make a conscious effort to allot them a considered order of preferences. Some may be willing to follow a particular how-to-vote card. Others will want to be free to move freely over the ballot paper.

The question to be asked is: What is more important, the character and integrity of the voting system or the maximum reduction of informal voting? The two are not readily compatible.

Total pre-occupation with eliminating informal votes ends up in a first-past-the-post system. Major pre-occupation will certainly weaken the integrity of the preferential and proportional systems. Certainly if each elector is allowed to express only a limited number of preferences and if preferences are counted on a ballot-paper up to the point of informality wherever it occurs, then there will not be one vote one value. Individual votes will have different values and effectiveness.

In my comment "Compulsory Voting", I have indicated the weaknesses and distortions which arise from compelling people to vote. There is inevitably a significant degree of apathy, carelessness, reluctance and hostility reflected in the quality of such votes, both formal and informal.

We acknowledge and react to the "donkey" vote, because it is visible, formal and liable to influence the election result. Accordingly we seek a lottery system as a crude form of defence system against it. We have no way of measuring the informal "donkey" vote.

Surely by seeking too earnestly to reduce the informal vote (particularly in the Senate), we are in danger of greatly increasing the influence of the apathetic and reluctant vote upon the final result?

Ballot papers can become very complex. They can be difficult for the aged, infirm and illiterate who deserve due consideration. And certainly they should be allowed assistance if they request it. The Committee is making recommendations to extend the nature of such aid.

But the system should not be so modified that it is no longer truly preferential or proportional.

How-to-vote cards are available freely to virtually all electors. They are designed to facilitate copying and checking. It is no great burden to check that a true sequence of numbers has been recorded.

History shows that the size and complexity of a ballot paper are not the sole reflections of the level of informal votes. Where heightened interest exists, the level of informality falls.

A ballot paper should be declared formal only if the correct sequence is indicated up to but not necessarily including the final square.

A list system, which appears superficially attractive, may have some unexpected side effects. It will probably lead to the emergence of more groups and candidates, since incapacity to distribute how-to-vote cards at polling-booths can be mitigated by the placing of a simple tick in a single box, thereby authorising a vote for the full order of preferences as registered by the group or candidate.

Nevertheless, in my view the list system will be a further step in institutionalising existing political parties due to the compelling seduction to the voter of a single tick by contrast with the greater difficulty of expressing an individual preference.

The more the rigidity of the party system is entrenched, the less meaningful is the system of proportional representation and the less the opportunity for minor parties to emerge.

The list system (combined with registered parties and registered how-to-vote cards) is likely to encourage political parties to put up a series of "front" groups, thereby increasing their opportunity to gain the advantage of the left-hand column. Under a list system, the "donkey" vote is doubly simplified. It can be delivered by a single tick to the party of its choice and eliminates the risk of informality arising from incorrect numbering throughout.

The "donkey" vote will no longer necessarily flow to the main group on its immediate right. If the "donkey" group has registered a how-to-vote card, and if the majority of its voters use a single tick, it will deliver its preferences by design and not by chance.

In addition, a list system will encourage main parties to make arrangements with minor groups and candidates prior to the close of nominations and to encourage the registration of that arrangement.

Assuming a major development of these predictable trends, then the list system will have very largely, if not wholly, removed the value or need of the randomisation of positions on the Senate ballot paper.

Experience may well show that a list system has serious disadvantages and distortions.

5 September 1983

Sen.the Hon.Sir J.Carrick,KCMG

ELECTORAL REDISTRIBUTIONS

I believe it desirable that the Electoral Redistribution Commissioners be required to submit their proposed redistributions to the Commonwealth Parliament to provide an opportunity (to be availed of or not by Parliament) for scrutiny, debate and recommendation.

To remove the capacity for a Government or Parliament to delay or destroy the redistribution, the legislation should provide :

(1) that within six weeks (or two months) of its submission to Parliament, the Parliament shall return the redistribution to the Commissioners together with any comments or recommendations deemed necessary to make. This period to include sitting and non-sitting periods.

(2) At the end of the prescribed period, whether Parliament has deliberated and reported or not, the Commissioners to consider any such recommendations and to announce their plans. Such plans to be final.

Such a mechanism would permit public broadcast debate of the redistribution as distinct from the more limited and unpublicised dialogue at individual Appeals hearings.

It would wholly preserve the independence of the Commission and prevent undue delay. At the same time it would expose the proposed redistributions to critical examination. The public is well able to judge between expressions of individual self-interest and the broader and more objective criticisms.

Statutory bodies are given independence in order that they may act objectively. It was never intended however that they should be isolated from full public or parliamentary gaze or comment.

It is not sufficient for such an authority to report to the Parliament after its findings become final. Any parliamentary debate then is ineffectual and irrelevant. A statutory authority remains the creature of the parliament which created it.

I have been concerned at the tendency of Parliament in recent years to surrender many of its responsibilities to outside bodies which do not always receive full public scrutiny.

Independence in itself confers no particular magic or virtue. The virtue emerges if the independence is used for its sole purpose - to enable full objectivity and integrity of action. Since we are all human and capable of fallibility of judgement, whether members of independent tribunals or not, there is no substitute for full public scrutiny of those to whom we have given particular powers.

5 September 1983 Sen.the Hon.Sir J.Carrick,KCMG

FRANCHISE AND REGISTRATION OF VOTERS

1. Compulsory Voting:

Compulsory voting is now so entrenched in the Australian ethos that any criticism of it may be regarded as heretical. All major political parties advocate it. Nevertheless, compulsion is the exception rather than the norm in the world's democracies.

The right to vote (an imperative of any democracy) does not require compulsion. It simply establishes a valuable freedom and privilege.

To force a person to vote does not increase that person's awareness or discharge of civic responsibility. It almost certainly does the reverse.

The compulsion of an apathetic, reluctant or even hostile person to vote may well produce an ill-considered and irresponsible vote.

An analysis of recent Senate informal votes reveals that more than 20 per cent of such votes were either unmarked ballot papers or papers with writing or symbols. Of the remainder where errors occurred in numbering, it is reasonable to assume that a considerable number of errors may have been caused by the apathetic or careless approach of persons who only voted because of compulsion.

The "donkey" vote, which represents about 2 per cent of formal votes and which is the subject of a number of earnest recommendations in this Report, is clearly the indication of the unwilling voter. Our proposed solutions, with this as with the informal votes, seek to modify the symptoms rather than eliminate the causes. We acknowledge that the "donkey" vote is irresponsible. We acknowledge that it could affect the election outcome. Instead of removing it, we propose to make a lottery of it in the House of Representatives as it now is in the Senate.

The Committee after full deliberation has decided not to recommend provision for conscientious objection (on religious or other grounds) to compulsory voting. Yet there are people who have such conscientious beliefs. Strangely, the Committee recommendation will allow in future such people to place an unmarked ballot paper in the box. They will be forced to attend, but not to vote. This does seem unnecessary coercion.

Many Australian election results are narrow - with *margins of 2-3 per cent or less. This is the* measurable margin of the apathetic and reluctant.

It to me is a strange voting system which allows its results to be determined by the apathetic rather than the considered vote - a very strange system indeed which allows the random lottery of the "donkey" vote to override the votes of the many thoughtful and concerned electors.

Compulsory voting will certainly force people to the polling-booths and so overcome the massive transportation problems which confront political parties in the United Kingdom and the USA where voluntary voting prevails.

But what does coercion do to the quality of the outcome?

2. Imprisonment:

The Committee has recommended that section 39(4) be amended to alter the voting disability of a person "convicted and under sentence for any offence punishable by law ... for one year or longer" to five years or longer.

I disagree and recommend that the current provision be altered to cover an actual prison sentence (as distinct from a liability) of one year or more. There is a current tendency for Courts (and governments) to reduce prison sentences. An actual sentence of one year indicates a significant offence.

3. Notification of Marriages:

I recommend that the provision that the Registrar-General report to the Chief Electoral Officer that notification of marriages of women be maintained, but that the words "of the age of eighteen years or upwards" be deleted.

I further recommend that the Electoral Office should then inquire from such persons in writing whether they wish their single or married name to appear on the roll, such decision to be one for the elector.

5 September 1983 Sen.the Hon.J.Carrick,KCMG

ISSUE OF WRITS, NOMINATIONS AND POLLING

1. Ordinary Voting Within a Division:

The Electoral Office has recommended and the Committee by majority has accepted that ordinary voting be permitted anywhere within the division of enrolment in contrast to the current provision that ordinary voting is restricted to the subdivision.

I disagree strongly. It is my view that the recommendation would offer wide opportunities for electoral abuse in the casting of multiple or false votes.

This would be particularly the case in large electorates where an impersonator is unlikely to be recognised if voting at a distance from the true elector's place of residence.

Once an ordinary vote is placed in the ballot box it has lost its identity and is incapable of subsequent challenge even if the Electoral Office has information that such a vote should not have been cast. This is not so with postal, absent or section votes whose validity is subject to scrutiny before the ballot paper is admitted and its identity lost.

Past experience of alleged malpractices offers no assistance. There has been no previous opportunity to cast an ordinary vote outside a subdivision and therefore no previous opportunity for such corrupt practice. The restraint of the section or absent vote has militated against corruption.

2. Monetary Value of Deposits:

I disagree with the majority recommendation that deposits be increased from $100 to $250 for the House of Representatives and from $200 to $500 for the Senate.

In my view the deposits should remain at their current levels. I do not agree that they should be adjusted to current real values because in my opinion they were too high in the past.

There was a general agreement in the Committee that the size of a deposit should not be such as to deter any genuine candidate. Certainly there should be no advantage to the more affluent.

It was further agreed that it was not possible to define a genuine candidate or to seek by money means to exclude the frivolous. A high deposit might well deter the more impoverished of the frivolous but not the more affluent of them.

A more rational deterrent is the threshhold set for loss of deposit. Such a threshhold should not be punitive. Like the size of the deposit, it should not be (or be seen to be) set to favour existing parties and groups by excluding potential competition.

Natural irritation with the length and complexity of the Senate ballot paper cannot justify restrictive and punitive measures.

There is a respectable view that there is no real justification for deposits at all. However, on balance I recommend their retention at existing levels as a simple test of bona fides.

3. Conscientious Objection:

The Committee has decided not to recommend provisions for granting conscientious objections to voting on religious or any other grounds.

I disagree. There is evidence of the existence of people who have compelling genuine objections in conscience to enforced voting, such objections being on religious and other philosophical grounds.

My understanding is that in the past the great majority of these people (if not all), upon stating their reasons for not voting have not been fined. This is an unsatisfactory method since it allows the excuse post hoc and without proof of its validity.

Surely it is carrying the concept of compulsory voting to absurd extremes to deny a genuine application on conscience grounds - one which can be subject to scrutiny, registered and dealt with in the period between elections.

The Committee has acknowledged during its deliberations that it is a practical impossibility to force an enrolled person to mark a ballot paper according to instructions or to fill it in at all.

The Committee is aware that in Senate ballots some 20 per cent or more informal votes are either blank papers or ones with writing, drawings or symbols.

Its proposed relief for the conscientious objector is to compel attendance at the polling-booth but to recognise that such a person (presumably lawfully) can deposit a blank ballot paper in the box.

This, to me at least, has some of the elements of a farce. Certainly, if it is to be the solution to a vexed problem, then the Act should contain a clause stating unequivocally that while every enrolled person is compelled by law to go to a polling-booth and secure a ballot paper, there is no compulsion at all to mark the ballot paper in any way and that the voter's duty will be lawfully discharged by depositing an unmarked ballot paper in the ballot box.

If, whether for reasons of conscientious objection or for sheer impracticability of scrutiny and enforcement by presiding officers, it is decided that nothing in the Act shall compel the marking of a ballot paper, this should be made known to all electors. It would, in fact, be a right.

I have examined these aspects further in a comment on compulsory voting.

4. Hours of Polling:

The Committee by majority supports the reduction of polling hours (now 8.00 a.m. to 8.00 p.m.) to 8.00 a.m. to 6.00 p.m.

I disagree strongly. Polling day exists to extend to all electors who can physically get to a booth the right to cast an ordinary vote. The hours should accommodate all such persons.

There is indisputable evidence that two religious groups in particular, those of Jewish and Seventh Day Adventist faith, are prevented from voting within the proposed hours.

There are others, too, who from their occupational, recreational or other commitments (often not predictable) are unable or find it difficult to vote before 6.00 p.m.

Evidence shows that approximately 8 per cent of voters cast their vote between 6.00 p.m. and 8.00 p.m. This is an appreciable percentage of all voters. It argues that they should continue to be accommodated.

Why should they be forced to secure postal votes or to experience significant difficulties simply to adjust to restricted polling hours?

There is a natural and understandable desire on the part of polling-day workers (whether party workers or electoral office staff) to reduce the length of the working hours, particularly the hours of darkness. There is also an

understandable eagerness to commence and complete the count as early as possible.

But these factors should not be allowed to restrict the rights of a significant number of voters who have demonstrated in the past their use of the hours of 6.00 p.m. to 8.00 p.m.

It is no valid argument to point to the application of restricted hours in certain States. Of course people will accommodate themselves. But why should they be forced to do so?

5 September 1983 Sen.the Hon.Sir J.Carrick,KCMG

THE SIZE OF THE PARLIAMENT

Evidence was submitted to the Committee that if Australia is to have an enlarged Parliament during this decade, steps must be taken now. The 1984 redistribution is likely to prevail for two parliamentary terms.

Many of the arguments adduced for an enlarged parliament are cogent. The Australian population has grown rapidly since 1948 (almost doubled) and the demands upon parliamentarians in a more complex social framework have greatly increased.

Certainly the extra burden cannot be fully met simply by increasing the size of the member's personal staff. The community will continue to demand the personal presence and attentions of the member.

However, a number of questions emerge and require answers :

- Is there justification for a larger Senate, whether to fulfil its evolving responsibilities or simply to enable the enlargement of the House of Representatives?

- Is a Senate of 72 members (plus territorians) a workable figure or would it incline to deadlocks (i.e. 3-all in each State in a half Senate election) or make it easier for minority groups to emerge and secure the balance of power?

- Would the public now support the breaking of the nexus between the two Chambers?

- Is an increase of at least 35 parliamentarians (12 Senate and 23 House of Representatives) justifiable on work-load and, more imperatively, acceptable to the community at a time of serious economic recession?

In my view, while the logic of a larger parliament is strong, the overriding restraints of the current economic period must prevail. I therefore believe that the question should be deferred and its various aspects (including the nexus) put under further study.

5 September 1983 Sen.the Hon.Sir J.Carrick,KCMG

PUBLIC FUNDING AND DISCLOSURE

I oppose these measures for the reasons given in the Liberal Party submission and more specifically because :

- It is not possible to legislate for honesty. To erect a facade which cannot work and to represent it to the community as a reform to strengthen the integrity of the democratic system is to do the community a grave disservice.

- If a candidate, member or political party has an inherent tendency to dishonesty or a weakness to yield to temptations or pressures for a reward, no public subsidies towards Federal election campaigns will strengthen the integrity of the individual or the organisation, nor will disclosure of election funds be any deterrant.

- It is a cynical view of mankind (and one which I do not share) which somehow believes that integrity can be bought by a public payment which may alleviate the financial pressures of election expenses.

- There is absolutely no evidence that substantial donations to political parties or candidates have ever achieved changes of policies against the normal interests of those parties and individuals.

  The "Iraqi breakfast" incident and the possible gain of $500,000 to ALP funds at a time of extreme financial stringency have been cited as evidence of a payment which could have changed the nature of Labor's Middle East policy and vote at the United Nations. If a change of policy of such magnitude had occurred, the public would have reacted violently and Labor's support would have suffered severely in long term. It is inconceivable that, apart from any ethical and moral breaches involved, the Labor Party would have acted with such suicidal irresponsibility. If it had, disclosure and retribution would have been speedy and inevitable.

- The Labor Party has argued that "a system of public funding should be introduced to narrow the differential in the financial resources available to the various competing parties".

A little reflection will reveal the unreality of such an argument. Political campaigning is a three years continuous process. The winning and losing trends which consolidate in the ballot box are firmly pre-determined over the years and months before polling day. Evidence indicates that the campaign period has little effect except where the result is likely to be very marginal anyway.

Why, then, choose the final three weeks period to "narrow the differential in the financial resources"? Why not look to the financial and physical resources available to the various parties throughout the three-years period?

How can anyone measure the immense financial and physical advantage accruing constantly to the Labor Party from its huge industrial wing, the trade union movement? What dimension of unique advantage is conferred upon the Labor Party throughout the year and during the election campaign by the campaigning efforts of thousands of trade union officials and shop stewards, by the outpouring of trade union journals and leaflets, by the ready access to factory, shop and office floor and by the use of party-owned radio? How can these be measured in the in-kind contributions identified by the Harders Committee Report?

To infer that because the Labor Party was outspent by its opponents in recent Federal elections, it was the most impecunious of the major parties, is to fly in the face of reality. The resources available to the Labor Party for all-round campaigning dwarf those of its rivals. To publicly subsidise party funding in election campaigns is to widen and not narrow the gap of Labor's electoral advantage over all other parties and groups.

- Overseas experience shows that disclosure has not worked. It has provoked the setting-up and proliferation of political "front" organisations in successful attempts to get around the laws. It has created an enormous government bureaucracy and massive red-tape in unavailing efforts to police the burgeoning laws and regulations. It has been proclaimed as a lawyers' and accountants' bonanza.

- Disclosure inevitably is intimidatory. In an otherwise secret ballot, it forces the donor to reveal the political direction of his support. It has an in-built duress. It carries the implied threat that it would be wise for the donor to give an equal amount to *all* political parties (a thrust which has no doubt not escaped the notice or, indeed, motives of some who advocate disclosure).

It is a strong deterrent against private or corporate donation. It provides a ready-made and published "hit list" available for punitive action by a mean-minded and vengeful government. President Nixon's so-called "enemies list" as revealed by the Watergate inquiry reveals the grave dangers of the corrupt use of the list of disclosed donations.

- Political parties are and should remain essentially voluntary organisations. They should be encouraged (and not deterred) to seek their funds from the community at large.

Since concern has been expressed by some Committee members at the possible relationship between private donations and party policies, individual political parties might well look to their current fund-raising procedures to ensure that appropriate ethical practices are adopted.

Some methods could offend such principles, for example:

(i) the practice of a party leader (or, indeed, any member of parliament) making a public appeal over his name whether by advertisement or signed letter and of asking for the donations to be sent to him direct is surely one to be avoided if a charge of undue influence is not to be levelled.

Such a practice indicates to the addressee that the leader or parliamentarian will know the size of any donation or its absence. This has an implied duress which many people would regard as objectionable.

(ii) the practice of members of parliament having access to lists of donors, the size of donations and the names of persons who have failed to donate have equally objectionable features even if the donations are solicited by a non-parliamentary organisational committee.

While it is probably undesirable or impracticable to seek to entrench an ethical code of fund-raising in law, its development is at least as important as any legislative procedures.

DISSENTING REPORTS

SUBMITTED BY

MR. STEELE HALL, M.P.

TO THE

JOINT SELECT COMMITTEE

ON ELECTORAL REFORM

30th August, 1983.

ELECTORAL DISTRIBUTIONS

PARLIAMENTARY APPROVAL OF PROPOSED DISTRIBUTIONS.

The Committee's majority recommendation that distributions agreed by the Commission should be final is based on the very respectable argument that politicians should not possess the power to overturn in a self-interested way the work of an independent Commission.

However, a much better procedure from the public's point of view would be to allow both Houses of Parliament the capacity to debate a proposed distribution before it became final and to require the Commission to consider any recommendation Parliament may make about it.

The distribution would then, after a strict time limit to *prevent manipulative delay, adopt or reject the advice* preferred and finalise the distribution without further parliamentary involvement.

In this way we would create a highly visible process for distribution with all the disciplines that are inherent in such public exposure.

- - - - -

30th August, 1983.

Mr. Steele Hall, M.P.

ISSUE OF WRITS, NOMINATIONS AND POLLING

NOMINATION DEPOSITS:

The size of the deposit ought not to be tied to inflation but related to an intention to prevent frivolous candidatures.

The other side of the coin is that no contender, serious in his or her mind about the value of a political stance, should be prevented from nominating by lack of money.

An increase from $100 to $250 for the House of Representatives and $200 to $500 for the Senate must raise a question mark about standing for the many who are at this moment at the tail end of the economic downturn.

The deposits should remain as they are.

30th August, 1983. Mr. Steele Hall, M.P.

DISQUALIFICATION OF ENROLMENT BECAUSE OF IMPRISONMENT

The question of depriving a person of voting rights because of a conviction for an offence resulting in imprisonment is one of degree.

To raise the level of the operation of disqualification *from one year to five years is to greatly diminish the* effect of the penalty.

A one year sentence today would more than likely represent a greater sentence in the times prevailing when the penalty was first inserted.

However, the Constitution provides that a person cannot be chosen or sit as a Member of Parliament if he or she is sentenced or is under sentence for one year.

The same one year rule should apply to voting rights.

Otherwise the absurd example could be envisaged - a Member could be disqualified from his seat in Parliament for a one year offence but still vote from prison on the choice of his successor.

30th August, 1983. Mr. Steele Hall, M.P.

THE SIZE OF PARLIAMENT

There are 189 Members in the Federal Parliament and 562 Members in the six State Parliaments.

Collectively therefore 751 Members of Parliament serve the public and compete for political approval. They are joined by 19 Members of the Northern Territory Assembly and the Australian Capital Territory Assembly of 18.

Quite obviously the different Parliaments operate with their own Constitutions and State Administrations are confined to their own borders.

However, they are all part of a federal system and Commonwealth electors are also State electors.

The public view is that there are politicians all over the place and one has only to attend public functions to find this to be often the situation.

Taking all 788 politicians including members of the two Assemblies into the calculation, Australia has a Member to each 12000 electors.

The public would rightly be offended if the size of Federal Parliament was increased at a time when many businesses are reducing the number of their employees because of recession.

An increase in Members would inevitably swell the bureaucracy and put a stamp of approval on its growth when much of Australia is asking for smaller government.

My view does not hold that there should never be an increase. Population growth will make this desirable probably at the end of the century.

In the meantime, Members of Federal Parliament and the public would be well served by an increase in electorate office staff.

The work load of electorate offices is continually increasing as media influence and Member involvement in it grows.

Additional assistance in this way for Members to fulfill their representational role will allow them more time for their legislative and parliamentary duties.

In particular, more country electorates should receive more special assistance related to multiple office needs and travel allowances.

30th August, 1983. Mr. Steele Hall, M.P.

PUBLIC FUNDING

My attitude to this part of the Report is governed by my overall objection to public funding of political parties.

I therefore comment on any details of a proposed scheme on the basis of its inevitability and not its desirability.

The reasons why public funding of political parties should be rejected have been well documented by the Liberal Party in its submission to the Committee.

CYNICISM:

The knowledge by taxpayers that their taxation contributions will be used to bolster party election funds will lead to an increase in the already considerable cynicism about politics in general.

STALENESS:

Public funding will entrench existing parties and make more difficult the emergence of philosophies carried by new parties.

It may well create a stale and moribund atmosphere in parties whose position will be more secure from challenge.

THRESHOLD:

A statement that "elections should be decided on the quality of the policies put forward not on the quantity of money" should in logic lead to a disbursement of funds simply on that basis.

However, it is proposed that a 4% threshold be instituted. This is at odds with the former emphasis of "quality and not quantity" and I find it unsustainable.

Certainly anything higher than 2% adopted to mitigate against frivolous candidates must be there simply to advantage existing party machines.

Even small contenders have equal claim to the use of electoral machinery.

CANDIDATE SUBORDINATE TO PARTY:

The trend away from individual candidates to party machines is accentuated by the recommendation that all public funds attracted by parties' votes be paid to a central party office.

This proposal makes a mockery of the theory that a candidate might have something worthwhile to say in his or her own electorate.

CANDIDATE SUBORDINATE TO PARTY (continued)

If this becomes the rule, parties will even more than now concentrate public funds in two areas - state wide and nationwide publicity and in critically important marginal electorates.

Again, the stated intention to have voters consider questions on the quality of policies instead of the money parties can allocate will not be fulfilled in electorates that are not marginal.

SENATE:

This may also affect the standing of Senate campaigns which often have a local element running in tandem with their party's House of Representatives candidates' operations.

These are but a few of the problems that arise about public funding.

The public voting response will inevitably divide up into major left and right groupings. The existing parties will, as a consequence, be automatically funded.

This removes the need of those parties to impress potential financial members and supporters of their merits.

It is this "pay" without the necessity of "performance" which is the principal weakness of public funding.

The public will require a very long period to regard their donations through the public purse to political parties as anything else than force feeding already very fat pigeons.

30th August, 1983. Mr. Steele Hall, M.P.

DISCLOSURE OF INCOME AND EXPENDITURE

My opposition to the disclosure recommendations is based on the infringement of personal liberties involved and the fear of victimisation which will deter a number of potential contributors from supporting the party of their choice.

The need to properly define election expenditure so that it correctly fits in to the defined period for disclosure will be forever controversial.

Mid-term campaigns, the splitting of large donations into a number labelled "anonymous" and kept below disclosure levels and the getting behind groups and societies operating at elections as organisations of influence are but three of the many difficulties which will arise.

The activities of these latter operators such as Teachers Federations and Right to Life will become very important in that their backers should be equally visible with those of political parties.

Another area which the government must address if it is to prove its "disclosure" attitude is not just an attack on non-Labor financial backers, concerns the donations made for political purposes by Trade Unions.

These, as part of originally tax-deductible membership fees collected by Union management, may be small at their individual source but are politically powerful in their aggregate.

If they are allowed to continue, other organisations must also have this privilege of tax free contribution.

I see some notional figure of tax deductibility per member of an organisation for political donations as the only way of placing many varied organisations on the same equitable footing.

30th August, 1983.

Mr. Steele Hall, M.P.

REGISTRATION OF POLITICAL PARTIES

Registration is part of the paraphernalia that will inevitably swell the bureaucracy when public funding is introduced.

One detail concerning the eligibility of a name for party registration could be unfair in particular circumstances.

A party could not register with the word "independent" included in its name.

It is conceivable that the inclusion of "independent" might be essential to describe a new party's political position. In any event I believe that it should be entitled to register the name with which it has evolved in the community, given of course that it must observe the other disciplines required in the recommendations.

The word independent should not be automatically prohibited in relation to a party's name.

- - - - -

30th August, 1983.

Mr. Steele Hall, M.P.

DISSENTING REPORTS

SUBMITTED BY

the HON RALPH J. HUNT, M.P.

TO THE

JOINT SELECT COMMITTEE

ON ELECTORAL REFORM

5 September 1983

Electoral Distribution

The majority of the Committee recommends that the Electoral Redistribution Commissioners not be required to submit their redistribution of electoral boundaries to the Commonwealth Parliament.

I disagree.

The legislation under which these boundaries are drawn is the product of the Parliament. I therefore believe that there should be an obligation for the Commissioners to report to the Parliament to enable debate on the recommendations and to enable suggestions and amendments to be advanced by members of the Parliament.

The Commissioners should be bound to give consideration to the views of the Parliament before finally determining the boundaries.

It is appropriate for a statutory authority to simply report to the Parliament without taking cognizance of the views of the Parliament.

The Parliament should not avoid its responsibility to statutory authorities since they are the creatures of the Parliament.

5 September 1983 Hon. Ralph J. Hunt, MP

Ordinary Voting Within a Division

The Committee has accepted by majority an Electoral Office recommendation that ordinary voting be permitted anywhere within the division of enrolment whereas under the existing provisions ordinary voting applies only to the subdivision.

I do not agree with the majority of the Committee.

I firmly believe the recommendation, if adopted, will lead to electoral abuse in the casting of multiple votes. I am particularly concerned about this prospect in large area electorates where an elector can travel long distrances and cast an ordinary vote more than once with little likelihood of recognition.

An ordinary vote loses its identity once the vote is cast and cannot be challenged once it is in the ballot box.

Postal, absent and section votes are subject to scrutiny before the ballot paper is lodged. This restraint on postal, absent and section votes has no doubt helped to minimise abuse of the electoral system.

5 September 1983

Hon. Ralph J. Hunt, MP

Public Funding

1.1 The National Party in its submission to the Committee is absolutely opposed to direct public funding of political parties, groups and candidates.

1.2 In the view of the National Party it is presumptuous to require taxpayers to provide additional funds to directly help politicians get themselves elected to office.

1.3 In the current economic climate the National Party believes that any decision to appropriate funds for election campaigns would be unwarranted in view of the many legitimate unmet demands on the public purse. Indeed, public funding of election campaigns may not strengthen the democratic process but weaken it and cause further cynacism about our political and parliamentary system. The National Party, therefore, disputes the ALP claim "that public funding will strengthen the democratic process".

It also views with concern the proposal that public funding of election campaigns should be merely a first step and that eventually it should establish public funding for the day to day administrative costs of parties. This could double the level of public funding and create a very unfavourable public perception of the parliamentary system.

1.4 It is claimed by supporters of public funding that inflation in recent years has made it impossible for parties to meet their election expenses from their own resources and from private contributions. The National Party believes that the taxpayer should not be compelled to subsidise a party which cannot finance itself, for whatever reason.

Moreover, rather than being a reason for public funding, it implies an ever increasing demand being placed on taxpayers for the financing of the politicians' election expenses.

1.5 With public funding and all the attendant legislative and bureaucratic machinery, the major political parties run the grave risk of becoming divorced from their rank and file, and become, in effect, nationalised institutions. It is the rank and file of each party which should provide the mainspring for commitment to worthwhile policy objectives. Without the need of rank and file support, parties would be encouraged to simply seek to attract votes and lack any deep commitments to worthwhile policy objectives consistent with the aspirations of the people.

Further, where public funding is guaranteed to existing parties, ruling cliques could evolve independent of the party membership and its contributions able to manipulate party policy, candidate endorsement and the parliamentarians.

1.6 The bureaucracy and costs involved in both New South Wales and the United States are an illustration of the administrative problems associated with public funding and disclosure.

1.7 Apart from the subsidies to parties and the costs of administration which the taxpayer would bear, there would be additional costs of compliance with the conditions attached to public funds. Parties would need to hire accountants and to provide the necessary documentation on the use of funds and invariably there would be costly legal disputation. It is estimated that in the United States presidential candidates who accept public funding may now spend up to 20 percent of their campaign budget in bookkeeping and accounting costs. This bureaucratic and costly process would undoubtedly expand as the scheme developed. The National Party believes that these costs have not been justified by any evidence placed before the Committee.

1.8 Many campaign tasks of parties including some fund-raising activities, are now performed by unpaid supporters. With the introduction of public funding there would be a strong temptation to pay for these tasks out of public funds. Volunteers could ask to be paid if the Government is funding election campaigns, as there will not be the motivation to give free service, as there is when campaigns are privately financed.

1.9 Today the popularity and general standing of a party are reflected in the various forms of support it receives at election time, whereas an unpopular party will not attract support. It would be absurd that public money should be used to 'bail out' a party simply because it is unpopular.

1.10 Perhaps the most familiar argument used to support public funding of election campaigns is that parties and candidates do not need to rely heavily on large contributions from a handful of supporters, and are therefore less prone to undue influence. Yet at the Commonwealth level there is no evidence of this kind. Certainly, no party has produced any evidence in submissions on it, in the course of the hearings. Clearly the ALP is proposing a scheme which will work to its advantage and against the interests of other parties. The Secretary of the ALP has conceded at the hearings that business people will be less likely to make contributions to parties when public funding is introduced. Yet the ALP will continue to receive funds from compulsory union levies.

1.11 Recognising that the majority of the Joint Committee does not agree with the Party's position on public funding, the National Party wishes to record that it would be only reasonable for it and its candidates to obtain a fair share if public funding were to be introduced. If the Labor Party is determined to introduce public funding the National Party must accept the fact that it cannot afford to give the Labor Party a multi-million dollar election advantage.

1.11 The National Party recommended that there should be no lower limit on votes required to attract public funds. The National Party is opposed to any threshold level. On this point it agrees with Senator Macklin that it is only fair that public funds should match the votes received no matter how few. A threshold would also work to the disadvantage of new parties and to the advantage of parties already entrenched in the political system.

Disclosure

2.1 The National Party remains opposed to the public disclosure of the sources of funds received by parties and candidates for electoral purposes.

2.2 A very complex and expensive system must be devised if disclosure laws are to be made to work. They must be able to deal effectively and equitably with the various mechanisms for 'laundering' money, with parallel spending campaigns by groups supporting political parties including the federal organisations of parties during elections and vice versa. Moreover, the information provided in the last days before an election would be difficult to investigate properly.

2.3 Many quite legitimate contributors may feel intimidated by disclosure, believing that if the party they did not support, managed to gain power they would be made to suffer. Others might be concerned by the possibility of retaliation by unscrupulous unions. As a consequence some persons or organisations might decide not to make contributions at all, while others might feel forced to make equal contributions to both sides.

There are some who see disclosure as an intrusion into their civil liberties and privacy. There are those who value very highly the secret ballot and right to privacy so far as their financial contributions to any organisation are concerned.

2.4 Many contributions are in kind. Some are easy to quantify while others are not, but for disclosure to be equitable it must apply to all benefits received by parties and candidates. Quite arbitrary decisions must be made about the value of benefits in kind.

2.5 If donations to political parties are to be made subject to forced disclosure, then they should also be made taxdeductible. After all, donations to the ALP which come from members of unions on a capitation basis enjoy a degree of tax-deductibility as the original due is an allowed deduction. There is moreover no voluntary aspect in this as the Government supports a system of compulsory unionism, and payments to the ALP are taken out of the dues of affiliated unions, without reference to the wishes of individual union members, a large proportion of whom do not in any way support the ALP.

If it is thought that donations to a political party could have undue influence on that party in government, then surely the same people should not ignore the degree of influence that compulsory union dues could have on the ALP.

Conclusion

4.1 Finally, the National Party stresses that while it is opposed to the public funding of election campaign expenses and the disclosure of private contribution to political parties, it will abide by the law if these measures are enacted by the Parliament.

5 September 1983 Hon.Ralph J. Hunt,M.P.

Hours of Polling

The Committee by majority supports the reduction of polling hours from 8.00 am to 8.00 pm to 8.00 am to 6.00 pm.

I oppose this reduction in polling hours for a number of reasons.

The Committee has endeavoured to make the voting intentions of voters easier to identify in many other ways but, in this case, the majority of the Committee has recommended a measure that will make it harder for some voters to cast a vote. Therefore there is an inconsistency in this recommendation.

There may be a desire on the part of party workers and booth officials to reduce the length of working hours by 2 but the provisions of the Electoral Act should be drawn in favour of the voter at all times.

Approximately 8% of voters cast their votes between 6.00 pm and 8.00 pm. This represents a large number of people Australia-wide. If the recommendation is adopted 2 religious groups, the Jewish and Seventh Day Adventist faiths, will be prevented from voting on polling day.

Many voters travel hundreds of kilometers in country areas to cast their votes and can require the extra 2 hours in wet weather, where, all-weather roads often do not exist.

There are other people who because of sporting, recreational, occupational, and other commitments would be inconvenienced by the closing of the poll at 6.00 pm.

It will be argued that these people can obtain postal votes but should they be put to this difficulty to satisfy poll workers, party workers and to enable the count to commence 2 hours earlier than at present.

5 September 1983

Hon. Ralph J. Hunt, M.P.

DISSENTING REPORTS

SUBMITTED BY

SENATOR M.J. MACKLIN

TO THE

JOINT SELECT COMMITTEE

ON ELECTORAL REFORM

5 September 1983

A. NO LOWER LEVEL FOR PUBLIC FUNDING

The principle of funding by multiplying the primary vote of a candidate by an electoral funding unit ought to be maintained. Those citizens who had cast their vote for these candidates are as entitled as anyone else in the community to have their funding unit assigned to the candidate of their choice, regardless of the fact that only a small number of other voters also chose that candidate.

B. THE USE OF NEW TECHNOLOGIES

Insufficient attention has been given in the Report to the use of new technologies in the electoral process. It is unfortunate that, whereas the general community is rapidly employing new technologies in areas which demanded high input and output, security and reliability - because of demonstrated capacities of such new technologies to provide such capacities - the Committee seems to hold that these very demands militated against using such developments. New developments have much to offer at every level of the electoral process. The Committee ought to seek an extended reference to undertake a thorough investigation of available technologies.

C. ABOLITION OF MONETARY PENALTY

The express need to place some limitation on those who nominate for election should be met by democratic procedure rather than by monetary penalty which is a left over from a previous period where property qualifications appeared at every level of the electoral process. The only limitation that ought be placed on intending candidates should be an indication of support within the community.

D. BANNING HOW-TO-VOTE CARD AT POLLING BOOTHS

Implementing the New Zealand system of banning how-to-vote cards at the polling booths would be welcomed by the public and by the party workers who had to perform this task. Other reforms proposed by the Committee, if adopted, will result in increased information to the elector on the ballot paper. However, if it is still felt that each voter ought have access to a card on the day of the election, the best method would be to have such cards placed in the polling booths themselves, either by poster form on the wall or in self-dispenser boxes at the door of the polling booths. Each voter would then be able to take such a card if they wish, but either of these methods would prevent the harassment of voters as occurs at present.

E. POLITICAL PARTIES

The position of political parties has been overstated in the report. Political parties are presently an extremely important part of Australia's democratic life, but this fact should not be universalised for all places and for all times. It is inappropriate to argue for policies based on the expectation that the current position would always be the case.

F. CONSCIENTIOUS OBJECTION

Conscientious objection must be allowed with regard to voting. However, the problems involved with conscientious objection would be removed if such objections were required prior to election day, either by individuals or groups on behalf of their members.

G. DISALLOWANCE OF RIGHTS TO VOTE FOR PRISONERS

Those citizens deprived of their liberty because of criminal offences should not suffer a double penalty. Having established a duty to vote with penalty for non-compliance it is odd for the Committee to exempt certain citizens from that obligation and that penalty because they are serving prison sentences. The removal of political rights because of civil or criminal offence was entirely inappropriate for a democracy.

H. PROPORTIONAL REPRESENTATION FOR THE HOUSE OF REPRESENTATIVES

1. The Electoral System

Sections 7 and 24 of the Constitution of the Commonwealth of Australia set out the basic requirements for election to the Houses of the Parliament. While both sections lack specificity, there is a clear intent that the composition of each House should be determined by the people. The test of any electoral legislation must be that this intention is put into an acceptable practical form.

2. Terms of Reference

In considering the matters set out in the terms of reference of the joint Select Committee on Electoral Reform, it was necessary, therefore, to look first at existing provisions to determine if they provide for optimal realization of the choices of the people. While the mere holding of an election means that some candidates will fail to be elected and that as a consequence some voters will be disappointed, the aim must be to find the system which provides the highest possible proportion of voters with personally chosen representation.

3. Accurate Representation versus Stability

There is a view, expressed in several submissions to the Committee and in oral evidence before the Committee, that there is an incompatibility between the attainment of optimal personally chosen representation and the maintenance of stable parliamentary government. Such a view must obviously be taken seriously and be given careful consideration for if it could be upheld then a choice would have to be made between effective representation and stability of government. Other material before the Committee, both written and oral, argued that there is no such incompatibility and that means exist for ensuring optimal levels of accurate representation without threatening the stability of our governmental system.

4. The Existing System

The incompatibility question resolves itself into consideration of the relative merits of systems based on single-member districts with election by majority in each district and those systems providing form some form of proportional representation based on multi-member districts. The present electoral arrangements for the Commonwealth Parliament provide an example of each kind of system. It is, therefore, to examine the operation of the present system for conformity or otherwise with the basic thrust of the Constitutional provisions and also to judge if the functioning of the present system provides any information on the question of stability.

5. Failure of the House of Representatives Electoral System
The establishment of the Joint Select Committee on Electoral Reform is itself evidence of dissatisfaction with the working of the existing system for elections. The failure of the House of Representatives electoral system to give results consistent with the views of the voters is documented in a submission to the Committee from the Proportional Representation Society of Australia and in several other submissions. The evidence presented illustrates that two kinds of failure have been common: first, correspondence between votes for endorsed candidates of parties and the winning of seats by the parties has been poor with advantage to different parties at different times; second, the system has consistently left a high proportion of voters without the representation that they indicated as their choice.

(i) Correspondence Between Votes and Seats Won
The first kind of failure has been presented as a virtue of the present system by opponents of reform. The essential claim of those who take this line is that a Westminster-type parliament can only function satisfactorily if a party or coalition can be sure at all times of out-voting all opposition. This argument, if it was univerally valid, would bring into question the value of the parliamentary system itself since debates and votes on issues that have already been resolved by extra-parliamentary bodies would reduce parliament to a formal ratification procedure.

It may be granted limited validity only if there is complete certainty that a parliamentary majority could be held only by a party or coalition that had the support of a majority of voters. In fact, there have been instances of parties or coalitions without majority support winning parliamentary majorities in the House of Representatives with the same system.

It is generally recognized that the winning of seats by parties is affected in a major way by the placing of electoral district boundaries and accusations of gerrymandering are always expected when redistributions take place. The Committee in its report has brought forward recommendations which will greatly improve the redistribution system. Nevertheless, as a means of ensuring that any government formed will be one supported by a majority of the voters, the existing single-member-district system is crude and unreliable.

(ii) Effective Representation

The system also fails as a means of ensuring effective representation of individual voters. With only one seat to be filled from each electorate, it is inescapable that only one group of voters in each electorate can have the representation they want. This is true of any system based on single-member districts. The division of voters into 'majority' and 'minority' in such systems depends on the exact method used. With plurality or 'first-past-the-post' systems, it is possible for a seat to be won by a candidate who is unacceptable to more than half the voters in the district. It is also possible, as demonstrated in the 1983 election of the British House of Commons and in the 1981 election of the House of Representatives of New Zealand, for a party with substantially less then half the votes to win more than half the seats.

6. The Preferential System

The system used for the House of Representatives is better. It does allow people who vote for candidates who are not strongly supported to have their votes transferred to candidates whom they indicate as second choice when their first-preference candidates are excluded. This means that a majority of voters whose first preferences are divided between two or more candidates with similar policies can be represented by one of these candidates rather than by an opposing candidate with only minority support. Although the results of elelctions with the system used for the House of Representatives do not usually exhibit such spectacular distortions as those with first-past-the-post, the system still allows only the majority group in each electorate to have the representation that its members want.

7. Relationship Between Member and Constituents

One of the main claims for systems based on single-member districts is that the special relation between the local member and his constituents is preserved. It is suggested that each local member represents and works for all the voters in his electorate, whether they voted for him or her, or not. I believe that a representative and representative member will find new opportunities to enhance that relationship and serve his electorate better if the electorate in question is based on a large community of shared life and interest. There would be more chance for each constituent of having at least one member of Parliament from the party which he supported. The availability of several members in an electorate could give greater likelihood of a person being able to contact a member with specialised knowledge of a given problem, or with adequate sympathy for a particular point of view, or willingness to give proper attention to a constituent's problem. It is well

known that some members of Parliament are more assiduous to attending to their electorate than others and some members, for example, ministers, are unable to give as much time for constituents' problems as others. Moreover, members of the same party could and doubtless would share the electorate duties between them. I also believe that the scope of members to act together on issues affecting their area regardless of personal loyalty would be greatly enlarged to the benefit of the entire country.

8. Voting Support versus Seats Won

The oddities of party representation noted above arise from the fact that the proportions of satisfied and frustrated voters vary from district to district. A candidate needs a bare majority of the votes to win a seat. Any additional votes do not help the candidate, except perhaps psychologically, nor do they help his or her party. If by chance or otherwise the arrangement of electorates is such as to allow one party to use its votes more efficiently than its opponents, it will win a disproportionate share of the seats and may even win more than half the seats with the support of less than half the voters.

The use of a preferential system does not prevent this happening. It is usual for a high proportion of House of Representatives seats to be won by candidates who receive more than half the first preferences. In the 1983 election, this was the case in 94 of the 125 electorates. The proportions of first preferences received by candidates who were eventually elected to the House of Representatives ranged from 31.5% to 72.1%, so that the real cost to the parties in votes per seat varied widely.

The final result was that the formal votes of more than 3.75 million people had no effect on the outcome and there were substantial discrepancies between the voting support for the parties and the numbers of seats their candidates won. The evidence presented to the Committee suggests that this was not an isolated instance of failure of the system. Rather, it could be considered as typical.

9. "Safe" Seats

The fact that many seats are 'safe' for one or other of the parties also encourages governments to favour some electorates and to neglect others. Obviously, it is more important for a government to build up goodwill by spending money in swinging electorates than in those that are safe, especially those that are safe for its opponents. Under Proportional Representation, a party seeking to win government would need to win seats in every electorate.

10. One Vote One Value

A remedy for the defects in the existing system often suggested, and repeated in several submissions to the Committee, is redistribution of electoral districts with a reduced tolerance on enrolments. The possibilities for discrepancies between what the voters want and what a single-member-district system gives them are certainly greater if the numbers of voters vary significantly from district to district, but there are no grounds for believing that reduction of this variation, even to zero, will ensure accurate representation of voters or parties.

While the one vote, one value principle has been mentioned frequently in recent discussions both before the Committee and in the media, there is confusion about the meaning of the term. Those who suggest that making enrolments equal or nearly equal will put the principle into effect, choose to ignore some of the relevant facts. It was shown earlier that nearly half the formal votes in the 1983 election had no effect on the outcome. The value of these votes to the voters, the candidates for whom they voted, and the parties which endorsed the candidates, was zero.

Another view is that the value of votes can be gauged by examining their effectiveness in securing representation of parties. In other words, one vote, one value, might be said to be realised if the average number of votes of party supporters per seat won by each party are approximately the same. The evidence quoted earlier shows that this was not the case in the 1983 election nor in earlier elections by the existing method. One vote, one value has real meaning only if it refers to the electoral value of votes. To put the principle into effect there must be recognition of the fact that single-member-district systems make it certain that an unacceptably high percentage of votes will have no electoral value. It is logically absurd to claim to be maximising the one vote, one value principle and at the same time to advocate retention of a system based on single-member districts.

11. Stability

The claim that the present single-member district system ensures a desirable kind of stability can also be examined against the facts. Stability is not necessarily laudable for its own sake. Some of the most stable governments are in countries where there is virtually no voter participation. The U.S.S.R., for example, may be held to have had a totally

stable government - the ruling party remaining in power from 1917. This surely would be stability which voters would not seek to emulate. Stability is more a function of the responsibility of those elected rather than of the system which elects them.

12. Small Change in Support

Looking at the longer term, the 1983 House of Representatives election has shown how a relatively small change in support for the parties can produce a very large change in the party composition of the House. A net change in preference for Labor of only 3.6%, as estimated by the Legislative Research Service of the Parliamentary Library, resulted in the replacement of a large majority for the Coalition by one even larger for Labor. A uniform change of less than 2.5% in the reverse direction before the next election could put Labor back into opposition.

13. Long-term Stability

Looking even further ahead, it is unrealistic to expect that the lack of confidence in the parliamentary system and in politicians evident in the community at present will be replaced by the kind of respect we would like to see until it becomes clear that the Houses of Representatives produced by the electoral system are those the voters want. The stability of our democratic parliamentary system, in the long term, depends on the maintenance of a high level of public confidence in the system. The risks associated with continued use of a system that gives short-term stability but damages public confidence are very serious.

14. Alternatives

In view of the evidence of the problems in the present system, the alternatives should be studied carefully. Various proposals were submitted for hybrid systems with some seats filled from single-member-districts and some

'top-up' seats. While they provide for the allocation of seats to parties in numbers in reasonable agreement with the votes for the parties, the situation in the single-member-electorates would be, if anything, worse than the present system. In every district, a large number of voters would be left without effective representation, and with only one member for a larger area, contact between member and voters would be even more difficult.

(i) Top-up Method

Several different proposals have been made for specifying how the top up seats should be filled. They are generally derived from the system used in West Germany and the Additional Member System proposed for the House of Commons by the Commission on Electoral Reform of the Hansard Society in 1976. In the West German system, half the seats in the Bundestag are assigned for topping up. They are filled from lists submitted by the parties, so that the voters have little influence in the choice of the candidates to fill these seats. The Hansard Society Commission recommended that the one-quarter of the seats in the House of Commons assigned for topping up should be filled by candidates not elected in any of the single-member-electorates but with the highest percentages of votes among unsuccessful candidates of their parties in the several regions. With this system, although at first glance it might appear that the top-up seats are filled by people chosen by the voters, the candidates actually elected could come from districts quite remote from those where the votes that made their election possible were recorded. The absence of provision for choice within lists tends to encourage the submission of separate lists.

There could be constitutional problems with such proposals. Without constitutional amendment, it would continue to be necessary for seats to be allocated to the States as at present. It would therefore be necessary to provide for the topping up to be done within each State or Territory. Situations in which topping up could not be applied might well occur. The submission from the Proportional Representation Society showed that, if seven of the ten seats in Western Australia at the time of the 1977 election had been filled from single-member-districts, the Liberal Party would almost certainly have won six of them although its total entitlement under a top-up system would have been only five. In West Germany, a party which wins more seats in the single-member-districts than its total entitlement retains the extra seats. This would not be possible in Australia without constitutional amendment.

(ii) The Dunstan Method

A noval proposal was submitted to the Committee by Mr Don Dunstan, who commented on 'the effective disenfranchisement of many voters because they happen to live in so-called "safe" seats'. Unfortunately, his proposal would not solve either this problem or that of ensuring the correct representation of parties. The proposal was for a system in which seats not won by party candidates with absolute majorities of first preferences or by independents after preference distribution would be allocated to the parties in numbers approximately proportional to their voting support. The system would not ensure that the total numbers of seats won by the parties corresponded with their voting support. For example, the National Party in 1983, with a total entitlement of 12 seats, won 14 seats with majorities of first preferences.

(iii) Proportional Representation

In a considerable number of submissions, a system of proportional representation with optional preferential voting in multi-member electorates was recommended. A detailed proposal was put forward by the Proportional Representation Society of Australia. The Society based its arguments on the proposition that, as nearly as is practicable, an electoral system should allow voters in every electorate to have the representation that they choose. It was argued that this concept cannot be put into effect in any system of single-member-districts, since no one person can be an effective representative of all the people in an electorate when, as in any Australian electorate, their political views range from strong support for those of the person elected to direct opposition. This thinking led to the recommendation of a system based on multi-member-districts, with provision for the filling of the several seats by candidates chosen by the voters to represent coherent bodies of opinion. In terms of conventional party politics, this means that the system should provide for the winning of seats by the parties in proportion to the votes received by their candidates. It would also mean that there would be both government and opposition members in every electorate.

15. The Proportional Representation Society's Submission

The specific recommendation of the Proportional Representation Society was for the use of electorates with numbers of seats in the range from five to nine. The Society pointed out that the proportion of voters who are assured of satisfactory representation depends on the number of seats in an electorate, increasing as the number increases. With five seats in an electorate, the proportion would be

There is no doubt that this practice was used in Ireland although responsibility for the placing of boundaries has since been given to an independent Constituencies Commission. This Committee has also recommended an independent Commission whose decision on boundary changes are nonreversible. The problem would be practically eliminated if all districts had odd numbers of seats, as proposed by the Proportional Representation Society. As with any system involving the placing of electorate boundaries, there is still some possibility of gerrymandering even with a multi-member-district system of proportional representation. But there is no doubt that the scope for gerrymandering would be greatly reduced as compared with a single-member-district system. The Proportional Representation Society pointed out that the difficulty of gerrymandering successfully increases with the number of seats per electorate and offered this as an additional reason for recommending that each electorate should return at least five members.

Proportional representation in Eire has given representation to the parties to an extent that has greatly reduced tension and has led to a situation in sharp contrast to that in Northern Ireland. While it would not be realistic to claim that the difference is entirely due to differences in electoral practices, there can be little doubt that the under-representation of the minority in elected bodies in the North has seriously exacerbated the problems there.

17. Criticism of Proportional Representation

The main criticisms of quota-preferential systems relate to the alleged tendency of such systems to lead to instability, and to allow individuals or small groups of members to exercise disproportionate influence in parliament. It is suggested that proportional representation would make coalitions almost inevitable, and single-party governments unlikely.

(i) Coalition

Obviously, the present system has not saved Australia from coalition governments in which party with limited electoral support has exerted a substantial influence on the policies of successive Coalition governments. Whether or not coalition governments would be likely after the introduction of proportional representation would depend on several factors, among the most important being the responses of the major parties to the change.

(ii) Minority Parties

Relatively few candidates outside the major parties have been elected under the Tasmanian Hare-Clark system although the quota in its seven-member electorates is only 12.5%. On the other hand, non-major party candidates have been elected in all recent Senate elections. The most notable difference between Hare-Clark and Senate elections has been that the parties in Tasmania have left their supporters free to choose within the parties while party endorsements for Senate elections have been restricted and party supporters have been urged to follow party tickets exactly. Voters would be less likely to look for candidates outside the major parties if these parties offered them a wider choice than has been the case under the present system.

(iii) Balance of Power

The extent to which groups or individuals in 'balance-of-power' positions can influence political affairs also depends on the responses of the major parties. It must be recognized, in the first place, that such groups are by no means powerless with a single-member-district system. Even if a minor party does not receive enough support to win seats, it may

be able, if its supporters can be persuaded to allocate their preferences as directed, to influence the winning of seats by one or other of the major parties.

In a country with universal adult suffrage, it has to be accepted that those who vote outside the main parties will be voters under whatever system is in force. With a single-member-district system, their votes are likely to affect the winning of seats by the major parties. With a proportional system, these voters may win direct representation, or, failing that, they may have some influence on the winning of seats by the major parties.

If a member representing a minority appears to hold the balance of power, that member is in a position to exercise a decisive influence only if it can be assumed that all members of the major parties will vote on party lines on every issue. If no party has been able to persuade more than half the voters to support it and its policies, there is no justification for any party to have uninhibited decision-making power. If the parties choose to continue in confrontation, it is right that the minority representative should influence any decisions, just as the voters of the minority group would influence a referendum decision. But any individual minority representative really has only as much power as any one member of either of two parties confronting each other with equal numbers.

(iv) The Size of the Majority

It is true that a party with majority support will be unlikely to have a large parliamentary majority under a quota-preferential system. Incidentally, this would also be true with top-up systems. Apart from the convenience of those who make the essential decisions in the major parties, there does not appear to be any special virtue in large majorities. In fact, it may well be that, as some argue, governments perform better when their majorities are small. Whether this is true or not, the choice available seems to be between a single-member-district system that may give a government a comfortable majority but fails to provide many of the basic requirements of democracy, and a quota-preferential system that is *unequestionably democratic*, but will give a *governing* party only the majority corresponding with its public support. I believe that the risks that would go with adoption of a democratic system are small compared with those associated with the continued use of one that destroys confidence through repeated failure to give effective representation.

(v) The Bicameral System

The view has been expressed that it is necessary, in a bicameral system, to have different methods for the election of the two Houses.

If there is a case for bicameral systems in general, it must be based on the proposition that there are important differences of function between the two Houses. The Senate, having been established by the Constitution as part of the deal in which the existing States surrendered some powers to the new Commonwealth, has significantly different functions from those of the House of Representatives. With

provision for equal representation of the States in one House and representation on a population basis in the other, there is already a significant difference in the manner of election. In any case, there could not possibly be a sustainable case for one House to be elected democratically and the other by a non-democratic method just so that the methods would be different.

(vi) Casual Vacancies

The problem of a casual vacancy if Proportional Representation is adopted for the House of Representatives has been raised during the Committee's deliberations. The relevant part of the Constitution is Section 33 which states "whenever a vacancy happens in the House of Representatives the Speaker shall issue his writ for the election of a new member or, if there is no speaker or if he is absent from the Commonwealth, the Governor-General In-Council may issue the writ". This Section does not seem to rule out the use of the Hare/Clark system of filling such vacancies since the writ could so specify. This procedure is logically sound and would ensure that a group of voters whose representative died or retired would have satisfactory representation when the vacancy was filled. In addition, disruption associated with by-elections would be avoided. Although this procedure could probably be used without constitutional amendments it would be desirable for Section 33 to be amended so that the procedure was clearly specified.

The alternative arrangement would be to seek a constitutional change to parallel for the House of Representatives the already existing arrangements for filling casual vacancies in the Senate.

18. Conclusion

Replacement of the present single-member-electorate system for the House of Representatives by a quota-preferential system would have both immediate and longer-term effects. From the first election, the proportion of voters directly represented by candidates of their choice would be much higher. Along with this, the winning of seats by parties would be rationally related to the voters for the parties. It would probably take some time for parties, members, candidates, and voters to adjust fully to the new situation. The full benefit to the parties, and ultimately to the community, would be realised only when some of the practices associated with the present system were dropped.

In particular, it would be necessary for the parties to learn that substantial benefits for them could result from encouraging voters to choose freely within as well as between parties. The present system and the practice of single endorsement that goes with it inevitably mean that there are occasions when substantial numbers of potential party supporters are unhappy about the candidates endorsed by their parties. With a multi-member system, any errors of judgement by those responsible for pre-selection need not have catastrophic consequences for the parties. If the voters were offered a choice between several candidates of each party, they would indicate clearly which of the candidates they preferred, thus, among other things, providing the parties with valuable information. Potential party supporters with strong feelings about factional differences would not have to face the dilemma of choosing between voting for candidates of whose views they did not approve and voting outside the party.

Some relaxation of the rigidity of party discipline would undoubtedly come with a quota-preferential system. This would greatly increase the probability of entry into politics of many talented people who are unwilling to accept the constraints on thinking and behaviour that they see at present.

From the national point of view, the most important benefit would be that parliaments would consist of people whom the voters would recognise as those they had chosen. On this basis, we might realistically expect a trend towards replacement of the present widespread distrust of the parliamentary system by respect for elected politicians and confidence in the institution of parliament.

5 September 1983 Senator M.J. Macklin

APPENDIX 1

INNOVATION IN REPRESENTATIONAL ARRANGEMENTS
LOWER HOUSES

Parliament	Manhood Suffrage	Adult Suffrage[1]	Abolition of Plural Voting	Secret Ballot	Payment of Members	Compulsory Registration of Voters	First Election with Compulsory Voting	Preferential Voting
United Kingdom	1918	1928	1948	1872	1911	-	-	-
New South Wales	1858	1902	1894	1858	1889	1921	1930	1926[2]
Victoria	1857	1909	1899	1856	1870	1923	1927	1911[3]
Queensland	1859	1905	1905	1859	1886	1914	1915	1892[4]
South Australia	1856	1894	Never existed	1856	1887	-	1944	1929
Western Australia	1907	1907[5]	1907	1877[6]	1900	1919	1939	1907[7]
Tasmania	1901	1903	1901	1858	1890	1930	1931	P.R. 1907[8]
Commonwealth	1901	1902[9]	Never existed	1901	1901	1911	1925	1918

1. I.e. votes for women. But note that some States did not enfranchise indigent inmates of State charitable institutions at dates given in first two columns (e.g. such people in Queensland did not all attain State franchise until 1915).

2. New South Wales experimented with the 'second ballot' for a few years from 1910 and with proportional representation between 1918-26 but abandoned each in turn.

3. In 1915 optional was replaced by compulsory preferential voting.

4. This was a form of optional contingent voting; preferential voting was abandoned in 1942 in favour of a reversion to 'first past the post'. In 1962 the Anti-Labour State Government restored preferential voting.

5. Western Australia gave some women the vote in 1899 on the same restricted franchise then applying to men.

6. The Ballot Act, 1877, for the elective element of the old Legislative Council did not operate until 1879.

7. This was a form of optional contingent voting, replaced in 1911 by the obligatory preferential form.

8. Proportional representation was introduced in 1896 for the Hobart and Launceston metropolitan areas only: in 1907 it was made general for the State.

9. The Constitution provided that at the (initial) Federal Election of 1901 the franchise was to be that in operation at the time for the Lower House in each State: this meant that in 1901 women generally in S.A. and some women in W.A. had a vote for the first Commonwealth Parliament which in turn legislated for complete adult suffrage for subsequent Federal Elections.

Source: L.F. Crisp, Australian National Government, Longman Australia, Third Edition, 1973, p.137.

APPENDIX 2

Section 170 of the Conciliation and Arbitration Act 1904 - Industrial Elections: Number referred by Industrial Registrar for conduct by the Australian Electoral Office during years ended 30 June 1978-82.

	1977/78	1978/79	1979/80	1980/81	1981/82
New South Wales	79	81	89	85	89
Victoria	71	85	88	87	98
Queensland	36	37	49	39	36
South Australia	34	51	46	53	55
Western Australia	38	32	34	33	40
Tasmania	46	34	44	38	54
Australian Capital Territory	24	29	21	29	31
Northern Territory	10	7	8	11	14
Australia	338	356	379	375	417

SURVEY OF INFORMAL VOTING (: DECEMBER 1977 ELECTIONS)

Each of the following tables is divided into two parts. The first part shows the frequency of different types of informal ballot papers. The second part shows the relationship between party preference and informal voting.

Types of Informal Ballot Papers

The Commonwealth Electoral Act provides that a voter shall place the number '1' in the square opposite the name of the candidate of his first preference, and the numbers '2', '3', '4' and so on in the squares opposite the names of all the remaining candidates so as to indicate the order of his preference for them. Ballot papers which are not marked in this manner are informal, provided that where the number representing a voter's last preference is omitted the ballot paper remains formal.

Ballot papers which are not authenticated by the initials of the presiding officer or by an official prescribed mark and ballot papers which reveal an elector's identity are also informal.

In the tables, informal ballot papers are categorised in the following manner:

1. Blank ballot papers;
2. Ballot papers with writing, lines or scribble only;
3. Ballot papers with symbols used (typically, 'X' or '✓');
4. Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers);
5. Ballot papers with some squares left blank; and
6. Other (those not authenticated, those which identify the elector etc.)

The totals which are provided represent the total number of informal ballot papers and the per cent informal of the total vote (formal and informal).

Party Preference and Informal Voting

Many ballot papers in the fourth and fifth categories noted above (that is, with an incorrect numeric sequence or with some squares left blank) incorporate a single number '1'. In these cases it is therefore possible to identify the candidate (and the party) whom it reasonably might be assumed that the elector prefers.

The second part of each of the following tables shows:

1. The per cent of the identifiable informal vote which appears to favour each political party (that is, the per cent of those which might be attributed to a party, not of all informal ballot papers);
2. The per cent of the formal first preference vote obtained by each political party at the election;
3. The per cent of an 'adjusted vote' which would have been received by each political party if all identifiable informal ballot papers (column 1) had been considered formal (column 2) and counted in favour of the party of the candidate for whom the single first preference was indicated; and
4. The difference between the 'adjusted vote' and the actual vote (column 3 minus column 2).

Two totals are provided at the bottom of these tables: the first indicates the percentage of the total vote (formal and informal) which the ballot papers classified in each column comprise and the second indicates the actual number of ballot papers classified in each column.

TABLE 1 - AUSTRALIAN SUMMARY

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	66,394	32.40	63,394	8.67
Ballot Papers With Writing, Lines or Scribble Only	30,787	14.99	35,225	4.82
Ballot Papers With Symbols Used	43,525	21.24	51,311	7.01
Ballot Papers With An Incorrect Numeric Sequence	33,640	16.42	378,787	51.78
Ballot Papers With Some Squares Left Blank	11,513	5.62	192,327	26.29
Other	19,133	9.34	10,511	1.44
Total	204,912	2.52	731,555	9.00

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	29.27	38.09	38.07	-0.02	5.71	10.60	10.34	-0.26
National Country	9.28	9.81	9.81	0.00	0.61	0.50	0.50	0.00
L-NCP	0.72	0.21	0.21	0.00	25.31	34.47	33.98	-0.49
Labor	36.27	39.65	39.64	-0.01	33.93	36.76	36.61	-0.15
Australian Democrats	11.66	8.38	8.39	+0.01	13.08	11.13	11.24	+0.11
Democratic Labor	3.49	1.43	1.44	+0.01	4.37	1.67	1.81	+0.14
Other	9.29	1.44	1.46	+0.02	16.99	4.86	5.32	+0.64
Per Cent of the Total Vote	0.26	97.48	97.74		5.08	91.00	96.08	
Total Number	21,118	7,922,854	7,943,972		412,745	7,396,207	7,808,952	

Table 2.- State Summary

NEW SOUTH WALES

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	20,279	30.88	20,801	7.48
Ballot Papers With Writing, Lines or Scribble Only	9,048	13.78	11,007	3.96
Ballot Papers With Symbols Used	13,679	20.83	16,309	5.86
Ballot Papers With An Incorrect Numeric Sequence	9,612	14.64	154,901	55.68
Ballot Papers With Some Squares Left Blank	2,880	4.39	70,784	25.44
Other	10,162	15.48	4,394	1.58
Total	65,660	2.26	278,196	9.59

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	25.92	35.93	35.91	-0.02	-	-	-	-
National Country	8.35	11.29	11.29	0.00	-	-	-	-
L-NCP	-	-	-	-	29.71	43.35	42.50	-0.85
Labor	57.65	42.40	42.39	-0.01	31.34	40.08	39.54	-0.54
Australian Democrats	13.94	8.46	8.47	+0.01	11.72	8.33	8.54	+0.21
Democratic Labor	-	-	-	-	-	-	-	-
Other	14.15	1.91	1.93	+0.02	27.23	8.24	9.42	+1.18
Per Cent of the Total Vote	0.19	97.74	97.93		5.96	90.41	96.37	
Total Number	5,626	2,833,785	2,839,411		172,934	2,621,249	2,794,183	

Table 2 - State Summary

VICTORIA

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	21,896	35.04	16,372	8.21
Ballot Papers With Writing, Lines or Scribble Only	7,944	12.73	8,585	4.30
Ballot Papers With Symbols Used	13,960	22.38	16,704	8.37
Ballot Papers With An Incorrect Numeric Sequence	10,614	17.01	110,324	55.31
Ballot Papers With Some Squares Left Blank	3,906	6.26	44,982	22.55
Other	4,101	6.57	2,504	1.26
Total	62,381	2.85	199,471	9.11

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	32.17	39.60	39.58	-0.02	-	-	-	-
National Country	6.60	5.64	5.64	0.00	-	-	-	-
L-NCP	-	-	-	-	28.50	41.87	41.19	-0.68
Labor	32.44	37.18	37.17	-0.01	28.47	34.20	33.90	-0.30
Australian Democrats	11.85	11.80	11.79	-0.01	19.76	16.20	16.38	+0.18
Democratic Labor	11.56	5.32	5.34	+0.02	16.87	6.19	6.73	+0.54
Other	5.38	0.45	0.47	+0.02	6.42	1.54	1.79	+0.25
Per Cent of the Total Vote	0.29	97.15	97.44		4.88	90.89	95.78	
Total Number	6,378	2,127,526	2,133,904		107,028	1,990,436	2,097,464	

Table 2 - State Summary

QUEENSLAND

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	4,034	22.14	5,475	5.76
Ballot Papers With Writing, Lines or Scribble Only	2,845	15.62	3,558	3.75
Ballot Papers With Symbols Used	3,412	18.73	4,716	4.96
Ballot Papers With An Incorrect Numeric Sequence	4,321	23.73	43,122	45.39
Ballot Papers With Some Squares Left Blank	1,894	10.40	36,241	38.15
Other	1,707	9.37	1,893	1.99
Total	18,213	1.53	95,003	7.96

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	22.33	27.74	27.72	-0.02	-	-	-	-
National Country	25.23	25.97	25.96	-0.01	-	-	-	-
L-NCP	-	-	-	-	35.92	51.34	50.52	-0.82
Labor	35.99	37.70	37.69	-0.01	38.80	34.62	34.84	+0.22
Australian Democrats	10.27	6.56	6.58	+0.02	8.16	8.93	8.89	-0.04
Democratic Labor	-	-	-	-	-	-	-	-
Other	8.18	2.03	2.05	+0.02	17.13	5.11	5.75	+0.64
Per Cent of the Total Vote	0.30	98.47	98.77		5.18	92.04	97.22	
Total Number	3,582	1,175,663	1,179,245		61,860	1,098,872	1,160,732	

Table 2 - State Summary

SOUTH AUSTRALIA

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	10,581	39.99	10,965	13.46
Ballot Papers With Writing, Lines or Scribble Only	5,377	20.32	5,838	7.17
Ballot Papers With Symbols Used	5,195	19.63	6,113	7.51
Ballot Papers With An Incorrect Numeric Sequence	2,797	10.57	35,790	43.94
Ballot Papers With Some Squares Left Blank	1,117	4.22	21,994	27.00
Other	1,396	5.28	751	0.92
Total	26,461	3.38	81,451	10.39

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	36.69	44.95	44.95	-0.02	35.96	49.04	48.38	-0.66
National Country	4.36	0.80	0.81	+0.01	-	-	-	-
L-NCP	-	-	-	-	-	-	-	-
Labor	46.56	42.84	42.65	+0.01	46.35	36.83	37.31	+0.48
Australian Democrats	10.61	11.30	11.30	0.00	9.78	11.18	11.11	-0.07
Democratic Labor	-	-	-	-	-	-	-	-
Other	1.78	0.30	0.31	+0.01	7.91	2.95	3.20	+0.25
Per Cent of the Total Vote	0.21	96.62	96.83		4.71	89.61	94.32	
Total Number	1,630	757,208	756,858		36,925	702,218	739,143	

Table 2 - State Summary

WESTERN AUSTRALIA

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	7,224	33.51	7,395	13.77
Ballot Papers With Writing, Lines or Scribble Only	3,711	17.21	4,213	7.88
Ballot Papers With Symbols Used	4,456	20.67	4,813	9.01
Ballot Papers With An Incorrect Numeric Sequence	3,938	18.27	23,164	43.36
Ballot Papers With Some Squares Left Blank	1,256	5.73	13,250	24.80
Other	995	4.62	631	1.18
Total	21,560	3.30	53,426	8.17

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	34.29	48.68	48.62	-0.06	29.25	46.39	45.66	-0.73
National Country	6.00	4.04	4.05	+0.01	9.39	6.10	6.24	+0.14
L-NCP	-	-	-	-	-	-	-	-
Labor	33.13	32.56	32.56	0.00	41.78	32.79	33.17	+0.38
Australian Democrats	10.27	11.17	11.16	-0.01	13.03	12.48	12.51	+0.03
Democratic Labor	-	-	-	-	-	-	-	-
Other	16.31	3.54	3.60	+0.06	6.56	2.24	2.42	+0.18
Per Cent of the Total Vote	0.42	98.70	97.12		4.10	91.83	95.93	
Total Number	2,765	632,024	634,789		26,824	600,158	626,982	

Table 2 - State Summary

TASMANIA

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	1,578	23.94	1,760	9.79
Ballot Papers With Writing, Lines or Scribble Only	1,271	19.32	1,529	8.51
Ballot Papers With Symbols Used	1,737	26.40	1,462	8.14
Ballot Papers With An Incorrect Numeric Sequence	1,565	23.79	9,788	54.47
Ballot Papers With Some Squares Left Blank	182	2.46	3,285	18.28
Other	269	4.09	147	0.82
Total	6,582	2.60	17,971	7.09

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	44.74	54.57	54.55	-0.02	42.95	49.79	49.65	-0.14
National Country	-	-	-	-	-	-	-	-
L-NCP	-	-	-	-	-	-	-	-
Labor	46.56	42.09	42.10	+0.01	40.06	37.69	37.73	+0.04
Australian Democrats	8.70	3.34	3.36	+0.02	6.21	5.86	5.87	+0.01
Democratic Labor	-	-	-	-	-	-	-	-
Other	-	-	-	-	10.77	6.67	6.75	+0.08
Per Cent of the Total Vote	0.19	97.40	97.60		1.94	92.91	94.85	
Total Number	494	246,819	247,313		4,910	235,427	240,337	

Table 2:- State Summary

AUSTRALIAN CAPITAL TERRITORY

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	635	22.59	443	11.97
Ballot Papers With Writing, Lines or Scribble Only	424	15.08	377	10.18
Ballot Papers With Symbols Used	779	27.71	825	22.29
Ballot Papers With An Incorrect Numeric Sequence	472	16.79	936	25.34
Ballot Papers With Some Squares Left Blank	102	3.63	994	26.85
Other	399	14.19	125	3.38
Total	2,811	2.38	3,702	3.14

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss	Per Cent of the Identifiable Informal Vote	Per Cent of the Formal Vote	Per Cent of the Adjusted Vote	Gain or Loss
Liberal	38.18	41.87	41.86	-0.01	23.59	38.44	38.27	-0.17
National Country	-	-	-	-	-	-	-	-
L-NCP	-	-	-	-	-	-	-	-
Labor	40.73	50.24	50.22	-0.02	55.42	43.23	43.38	+0.15
Australian Democrats	18.91	7.42	7.45	+0.03	6.45	12.75	12.68	-0.07
Democratic Labor	-	-	-	-	-	-	-	-
Other	2.18	0.46	0.47	+0.01	14.54	5.58	5.68	+0.10
Per Cent of the Total Vote	0.23	97.62	97.80		1.14	96.86	98.00	
Total Number	275	115,091	115,366		1,348	114,200	115,548	

Table 2 - State Summary

NORTHERN TERRITORY

FREQUENCY OF DIFFERENT TYPES OF INFORMAL BALLOT PAPERS

TYPES OF INFORMAL BALLOT PAPERS	HOUSE OF REPRESENTATIVES		SENATE	
	Number	Per Cent	Number	Per Cent
Blank Ballot Papers	207	16.64	225	9.64
Ballot Papers With Writing, Lines or Scribble Only	87	6.99	118	5.05
Ballot Papers With Symbols Used	309	24.84	369	15.80
Ballot Papers With An Incorrect Numeric Sequence	321	25.80	760	32.55
Ballot Papers With Some Squares Left Blank	216	17.36	797	34.13
Other	104	8.36	66	2.83
Total	1,244	3.46	2,335	6.49

PARTY PREFERENCE AND INFORMAL VOTING

PARTY PREFERENCE	HOUSE OF REPRESENTATIVES				SENATE			
	Per Cent of the Identifiable *Informal* Vote	Per Cent of the *Formal* Vote	Per Cent of the *Adjusted* Vote	Gain or Loss	Per Cent of the Identifiable *Informal* Vote	Per Cent of the *Formal* Vote	Per Cent of the *Adjusted* Vote	Gain or Loss
Liberal	-	-	-	-	-	-	-	-
National Country	-	-	-	-	-	-	-	-
L-NCP	41.58	47.39	47.33	-0.06	38.43	45.96	45.76	-0.20
Labor	45.11	42.64	42.66	+0.02	37.88	40.40	40.33	-0.07
Australian Democrats	5.16	7.13	7.11	-0.02	4.80	8.22	8.13	-0.09
Democratic Labor	-	-	-	-	-	-	-	-
Other	8.15	2.84	2.90	+0.06	18.89	5.42	5.78	+0.36
Per Cent of the Total Vote	1.02	96.54	97.57		2.55	93.51	96.06	
Total Number	368	34,738	35,106		916	33,647	34,563	

SENATE ELECTION, 5 MARCH 1983

INFORMAL BALLOT PAPER SURVEY

Introduction

This paper sets out the results of a survey of all informal ballot papers at the 1983 Senate elections for the following divisions:

New South Wales	- Calare, Cunningham, Lyne, St George
Victoria	- Lalor, Wannon, Wills
Queensland	- Fisher, Lilley
South Australia	- Grey, Kingston
Western Australia	- Perth
Tasmania	- Wilmot
Australian Capital Territory	- Canberra

2. The informal ballot papers in each of these divisions were sorted into the following six categories:

(i) Blank ballot papers
(ii) Ballot papers with writing, lines or scribble only
(iii) Ballot papers with symbols used (e.g. ticks or crosses)
(iv) Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers)
(v) Ballot papers with more than one square left blank
(vi) Others- those not authenticated; those which identify an elector.

As with any survey, subjective decisions had to be made from time to time as to the category in which particular ballot papers should be placed.

3. Summary Table I sets out for each division the number of informal ballot papers which fell into each of these categories. Summary Table II sets out for each division the percentage of informal ballot papers within the division which fell into each of these categories.

4. For each division, further breakdowns were conducted of ballot papers in categories (iv) and (v), according to the number of preferences shown correctly before incorrect numbering or a blank square intervened. Three tables are provided for each division, setting out the results of each breakdown.

5. Table I classifies the ballot papers in category (iv) according to the number of preferences which the voter succeeded in showing before his numbering failed. It sets out the number of ballot papers which showed no preferences, one preference, two preferences etc; the percentage these represent of the total of the category (iv) ballot papers in the division; the cumulative number of these ballot papers; and the cumulative percentages.

6. Table II presents similar data for ballot papers in category (v).

7. Table III is derived by treating categories (iv) and (v) as a single category - representing numbering errors (broadly defined) - and breaking down the relevant ballot papers as in Tables I and II.

1983 INFORMAL VOTE SURVEY - SUMMARY TABLE I
NUMBER OF BALLOT PAPERS IN EACH CATEGORY, BY DIVISION

Categories of informality	CALARE	CUNNINGHAM	LYNE	ST. GEORGE	LALOR	WANNON	WILLS
(i) Blank ballot papers	403	550	371	555	958	283	714
(ii) Ballot papers with writing, lines or scribble only	161	183	201	224	332	96	229
(iii) Ballot papers with symbols used (e.g. ticks or crosses)	175	370	181	383	848	172	556
(iv) Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers)	4296	4986	5177	4053	8659	4467	5531
(v) Ballot papers with more than one square left blank	2233	3224	3055	2580	2947	1805	2546
(vi) Others (those not authenticated; those which identify an elector)	262	0	31	9	5	5	0
TOTAL	7530	9313	9016	7804	13749	6828	9576

1983 INFORMAL VOTE SURVEY - SUMMARY TABLE I
NUMBER OF BALLOT PAPERS IN EACH CATEGORY, BY DIVISION

Categories of informality	FISHER	LILLEY	GREY	KINGSTON	PERTH	WILMOT	CANBERRA
(i) Blank ballot papers	228	164	717	824	532	268	237
(ii) Ballot papers with writing, lines or scribble only	236	116	386	346	170	274	210
(iii) Ballot papers with symbols used (e.g. ticks or crosses)	127	153	299	304	369	156	381
(iv) Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers)	4961	3372	3370	2461	2328	2944	556
(v) Ballot papers with more than one square left blank	1437	1135	1855	1521	2242	1105	522
(vi) Others (those not authenticated; those which identify an elector)	29	11	5	1	2	5	68
TOTAL	7018	4951	6632	5457	5643	4752	1974

1983 INFORMAL VOTE SURVEY - SUMMARY TABLE II
PERCENTAGE OF BALLOT PAPERS IN EACH CATEGORY, BY DIVISION

Categories of informality	CALARE	CUNNINGHAM	LYNE	ST. GEORGE	LALOR	WANNON	WILLS
(i) Blank ballot papers	5.35	5.91	4.11	7.11	6.97	4.14	7.46
(ii) Ballot papers with writing, lines or scribble only	2.14	1.96	2.23	2.87	2.41	1.41	2.39
(iii) Ballot papers with symbols used (e.g. ticks or crosses)	2.32	3.97	2.01	4.91	6.17	2.52	5.81
(iv) Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers)	57.05	53.54	57.42	51.93	62.98	65.42	57.76
(v) Ballot papers with more than one square left blank	29.65	34.62	33.88	33.06	21.43	26.44	26.59
(vi) Others (those not authenticated; those which identify an elector)	3.48	0.00	0.34	0.11	0.04	0.07	0.00
TOTAL	100.00	100.00	100.00	100.00	100.00	100.00	100.00

1983 INFORMAL VOTE SURVEY - SUMMARY TABLE II
PERCENTAGE OF BALLOT PAPERS IN EACH CATEGORY, BY DIVISION

Categories of informality	FISHER	LILLEY	GREY	KINGSTON	PERTH	WILMOT	CANBERRA
(i) Blank ballot papers	3.25	3.31	10.81	15.10	9.43	5.64	12.00
(ii) Ballot papers with writing, lines or scribble only	3.36	2.34	5.82	6.34	3.01	5.77	10.63
(iii) Ballot papers with symbols used (e.g. ticks or crosses)	1.81	3.09	4.51	5.57	6.54	3.28	19.30
(iv) Ballot papers with an incorrect numeric sequence (either a break in sequence or a duplication of numbers)	70.69	68.11	50.81	45.10	41.25	61.95	28.17
(v) Ballot papers with more than one square left blank	20.48	22.92	27.97	27.87	39.73	23.25	26.44
(vi) Others (those not authenticated; those which identify an elector)	0.41	0.22	0.08	0.02	0.04	0.11	3.44
TOTAL	00.00	100.00	100.00	100.00	100.00	100.00	100.00

LIST VOTING - POSSIBLE BALLOT PAPER

APPENDIX 5

Constitution Act Amendment Act, 1958 (Victoria) (No. 6224)

Paragraph 225(2)

(2) An authorized witness shall not-

(a) visit any elector for the purpose of witnessing the signature or mark of such elector to the declaration relating to his postal ballot-paper;

(b) witness the signature or mark of any elector to the declaration relating to his postal ballot-paper at any place other than the ordinary residence or place of business of the authorized witness; or

(c) witness the signature or mark of any elector to the declaration relating to his postal ballot-paper unless the authorized witness has satisfied himself as to the identity of the elector and has seen the elector sign the declaration in the elector's own handwriting or with his mark:

Provided that if any elector has received a postal ballot-paper and is unable on account of ill health or infirmity or approaching maternity to appear before an authorized witness any authorized witness when so requested by any such elector in writing may visit such elector for the purpose of witnessing such elector's signature or mark to the declaration relating to such postal ballot-paper.

Table: Public Subsidies to Political Parties in Selected Democratic Countries

Country	Direct Public Funding Available	Funding for Elections on Daily Admin	Method of Determining Amount to be Distributed	Determination of Threshold for funding	Free Time TV & Radio	Other
Austria	Yes	Daily Admin	Pool allocation	% votes polled		
Canada	Yes	Elections	Formula allocation - candidates	15% of votes polled	Yes, plus - reimbursed for 1/2 cost of time up to 6 1/2 hrs prime time	Tax credits for donations to candidates and registered parties.
Denmark	Yes	Daily Admin		Representation in Parliament	Yes	
Finland	Yes	Daily Admin		Representation in Parliament	Yes	
West Germany	Yes	Elections	Pool allocation	Representation in Parliament & % votes polled	Yes	Parties must disclose sources of revenue. Contributions are tax deductible
Israel	Yes	Daily Admin & Elections		Representation in Parliament	Yes	State Controller examines income & expenditure of political parties
Italy	Yes	Daily Admin & Elections	Pool allocation	Representation in Parliament & % votes cast	Yes	Parties must publish annual balance sheets, showing all revenues. Private contributions to be disclosed
Japan	Yes	Elections			Yes	Funding given to candidates
Netherlands	Yes	Daily Admin		Representation in Parliament	Yes	Donations to parties tax deductible

Table: Public Subsidies to Political Parties in Selected Democratic Countries

Country	Direct Public Funding Available	Funding for Elections on Daily Admin	Method of Determining Amount to be Distributed	Determination of Threshold for funding	Free Time TV & Radio	Other
New Zealand	No				Yes	NZ 1980 Report rejected public funding of parties. Free broadcasting time only at elections Administered by NZBC
Norway	Yes	Daily Admin		Representation in Parliament & 2.5% votes polled	Yes	Nomination costs of candidates subsidised
Sweden	Yes	Daily Admin		Representation in Parliament & 2.5% votes polled	Yes	Subsidies averaged over at least two elections
United Kingdom	No		Pool allocation has been proposed		Yes	Opposition Parties receive funding for parliamentary work. Illegal to advertise for political purposes on TV or radio. Free use public halls, postage during elections. Parties do not have to disclose donations received, but Trade-unions & corporations must disclose donations to parties.
United States	Yes	Presidential primaries and Election. Major Parties National Conventions.	Pool allocation, Candidates major parties matching grants in primaries. Fixed sum in Presidential election.	Major party - candidate received 25% or more vote in preceding election Minor party candidate received 5-25% of vote. (Presidential campaign)	No	In Presidential campaigns if candidate accepts full amount public funds, cannot spend any further. Tax check-off. $1 on income tax form determined size of fund for Presidential election.
Venezuela	Yes	Elections		% votes polled	Yes	

APPENDIX 7

New South Wales

In New South Wales, section 57(2) of the Election Funding Act 1981 provides that funds set up under the Act shall be credited with an amount calculated according to the formula:

$$A = \frac{E \times Y \times M}{100}$$

Where A represents the aggregate amount in dollars to be credited to the funds, E the total enrolment for all electorates as at the issue of the writs, Y the life of the Parliament in years, and M the amount in cents of the 'monetary unit', set by section 57 (3)(a) (at 22 cents for the first election to which the Act applied, and) thereafter by section 57 (3)(b) at a figure determined by indexing the monetary unit for the first election by the movement in the Consumer Price Index (All Groups) for Sydney. Such a scheme as this places the size of the pool for distribution on a reasonably certain footing, as the formula is embodied in statute. This would not be the case were the size of the pool to be determined by ad hoc administrative decree.

The aggregate amount available for public funding in New South Wales is credited to 2 Funds (Central Fund, Constituency Fund) which are allocated to parties and candidates as follows:

- the Central Fund is for distribution to registered parties, groups and candidates contesting the Legislative Council election; and,

- the Constituency Fund is for distribution to registered candidates contesting the Legislative Assembly elections.

The Constituency Fund is divided by the total of contested constituencies to determine the sum available for distribution in each constituency.

APPENDIX 8

COMMONWEALTH ELECTORAL ACT 1918 -
SCHEDULE OF OFFENCES AND PENALTIES

Section	Offence	Existing Penalty	Last Legislative Review
42(4)(a)	Failure to enrol - first offence	Not less than $1 and not more than $4	1965
42(4)(b)	Failure to enrol-subsequent offence	Not less than $4 and not more than $10	1965
46	Failure of an officer to process a claim for enrolment	$20	1918
85(3)	False statement in postal vote application or declaration	$100 or 1 month imprisonment	1918
87(1)	Witness to postal vote application not satisfied of truth of application	$100 or 1 month imprisonment	1918
87A	Persuading or inducing elector to apply for postal vote	$100 or 1 month imprisonment	1949
93(1)	Failure of authorised postal vote witness to comply with duty	$200 or 3 months imprisonment	1918
93(2)	Witness influencing or attempting to influence postal voter	$200 or 6 months imprisonment	1934
93A	Unlawfully marking postal ballot paper	$200 or 6 months imprisonment	1922
93B	Unlawfully opening postal ballot paper	$100	1922
94	Failure to post or deliver postal ballot-paper	$100 or 1 month imprisonment	1918
94A	Inducing elector to hand over postal ballot paper	$100 or 1 month imprisonment	1949
95	Interference by persons present when an elector votes by post	$200 or 3 months imprisonment	1918
109(1)	Interference by scrutineers in polling	$10	1918
128A(12)	Failure to vote or failure to reply to non-voters notice	Not less than $2 and not more than $10	1965
134	Officer marking ballot-paper so voter can be identified	$20	1918
153(1)	Failure by newspaper proprietor to submit return of expenses	$200	1918
155	Breach or neglect by officers	$400 or 1 year imprisonment	1918

Section	Offence	Existing Penalty	Last Legislative Review
162(a)	Bribery or undue influence	$400 or 1 year imprisonment	1918
162(b)	Other illegal practices (See s.161)	$200 or 6 months imprisonment	1918
163(1)	Failure by newspaper proprietor to print heading "Advertisement"	$100	1918
164(1)	Failure to sign newspaper article	$100	1918
164(2)	Permit publication of article without author's signature	$100	1918
164A(1)	Broadcasting without name and address of author	$100	1940
164A(2)	Failure to supply true name & address of author for broadcast	$100	1940
164B	Display of poster which is too large, drawing on building etc.	$200	1946
164BA	Obstructing removal of above	$200	1949
165(1)	Leaving how-to-vote-cards in polling booth	$40	1918
166(1)	Untrue statement in electoral paper	$40	1918
167(3)	Forging signature on electoral paper	$100	1918
169(1)	Witness signing blank electoral paper, person signing false name	$100	1918
169	Illegally marking ballot paper	$100	1918
170 Item 1	Personating to secure ballot paper	2 years imprisonment	1918
	2 Fraudulently destroying or defacing nomination or ballot paper	2 years imprisonment	1918
	3 Fraudulently putting any ballot paper or other paper into ballot box	6 months imprisonment	1918
	4 Taking ballot paper out of polling booth (fraudulently)	6 months imprisonment	1918
	5 Taking ballot paper out of polling booth (not fraudulently)	$100	1918

Section	Offence	Existing Penalty	Last Legislative Review
170	Item 6. Forging nomination or ballot paper	2 years imprisonment	1918
	7 Misconduct in polling booth & failure to obey directions	$100 or 1 month imprisonment	1918
	8 Supplying ballot papers without authority	6 months imprisonment	1918
	9 Interfering with ballot boxes or ballot papers	6 months imprisonment	1918
	10 Voting more than once	$100 or 3 months imprisonment	1918
	11 Wagering on election result	$100	1918
	12 Defacing etc. notice fixed by Returning Officer	$4	1918
	13 Knowingly making false statement in claim etc.	2 years imprisonment	1918
	14 Distributing pamphlet etc in contravention of s.161	$100 or 1 month imprisonment	1918
	15 General penalty for contravention of Act for which no other punishment provided	$100	1918
171(1)	Canvassing within 20ft of polling booth	$50	1918
171A	Officer or scrutineer wearing badge etc in polling booth	$50	1940
172	Witness to claim to enrolment to satisfy himself that statements true	$100	1918
173	Failure to transmit electoral claim to registrar	$100	1918
174	Forging ballot-paper (see also s.170(6))	2 years imprisonment	1918
175	Employer failing to allow employee leave to vote	$10	1918

Section	Offence	Existing Penalty	Last Legislative Review
176(1)	Illegally making official mark on ballot paper	$200	1918
177(1)	Disorderly behaviour at public meeting	$10 or 1 month imprisonment	1918
177(4)	Person who has been removed from a meeting returning	$20 or 1 month imprisonment	1934
178	Officer failing to initial ballot paper, mark certified list or attest to declaration	$20	1918
180	Re-entering polling booth after removal	Twice original penalty	1918
181(1)	Publication of false or defamatory statement about candidate	$200 or 6 months imprisonment	1918
181A(1)	Publication of matter regarding candidates - eg. association with organisations without candidates approval	$100 or 3 months imprisonment	1940

Australian Electoral Office
July 1983.

JOINT SELECT COMMITTEE ON ELECTORAL REFORM

LIST OF SUBMISSIONS

Submission No.	Persons/Organisation
1	Submission from Mr Bill Helem, Electoral Equity, PO Box 70, Coburg, Vic 3058 date received 24 May 1983
2	Submission from A.C. Bennett, 125 Fellows Road, Point Lonsdale, Vic 3225 date received 25 May 1983
3	Submission from the Australian Electoral Office, date received 25 May 1983
4	Submission from Mr R. Kirkup, 88 Deaves Road, Cooranbong, NSW 2265, date received 25 May 1983
5	Submission from Mrs Becker, Penthouse, 32 'The Reef',19 Ithaca Road, Elizabeth Bay, NSW 2011 dated 21 May 1983
6	Submission from Suzanne Leo, PO Box 871, Nhulunbuy, NT 5797 dated 24 May 1983
7	Submission from Peter Wilsmore, Prisoners Action Group, PO Box 50, Fremantle, WA 6160 dated 22 May 1983
8	Submission from Paul Ward-Harvey, 41 Glover Street, Mosman NSW 2088 dated 24 May 1983
9	Submission from The Association for Good Government, 143 Lawson Street, Redfern, NSW 2016 dated 24 May 1983
10	Submission from Mrs Jill Meechan, 18 Jugiong Street, West Pymble NSW 2073
11	Submission from Mr Roger Donegan, 30 Trafalgar Street, Mont Albert, VIC 3127 dated 25 May 1983
12	Submission from E.W. Haber, 8 Holbrook Avenue, Kirribilli, NSW 2061 dated 26 May 1983
13	Submission from Mr A.E. Rutter, 'Woodstock', Stannix Park Road, North Wilberforce, NSW 2756
14	Submission from Electoral Equity in petition format authorised by Bill Helem, PO Box 70 Coburg, Vic 3058
15	Submission from Mr J.H. Morris, 34 Jessie Street, Coburg, Vic 3058 dated 26 May 1983
16	Submission from Mr G.A. Forster, 26 Maysia Street, Canterbury, Vic 3126 dated 26 May 1983

17 Submission from SA Chapter of Disabled Peoples' International Inc, GPO Box 909, Adelaide, SA 5001 dated 25 May 1983

18 Submission from Mr Frank Hudson, 54 Vivienne Street, Kingsgrove, NSW 2208 dated 27 May 1983

19 Submission from Jean Mackay, PO Box 279, Lismore, NSW 2480 dated 29 May 1983

20 Submission from Jondaryan Shire Council, PO Box 105,Oakey, Qld 4401 dated 30 May 1983

21 *Submission from Professor A.L. Burns, Research School* of Social Sciences, Australian National University, PO Box 4, Canberra, ACT 2600 dated 9 March 1982

22 Submission from Mr Malcolm Mackerras, Faculty of Military Studies, Department of Government, Royal Military College, Duntroon, ACT 2600 dated 17 December 1981

23 Submission from R.R. Miller and R.B. Thomas, PO Box 12, Mooroolbark, Vic 3138 dated 20 January 1982

24 Submission from Antarctic Wives Association Australia, 131 Mickleham Road, Tullamarine, Vic 3043 dated 12 March 1982

25 Submission from Link Inc., GPO Box 909, Adelaide, SA 5001 dated January 1982

26 Submissions from Proportional Representation Society of Australia, GPO Box 3058, Sydney, NSW 2001 dated 8 March 1982 and 14 June 1983

27 Submission from Federation of Australian Radio Broadcasters, PO Box 294, Milsons Point, NSW 2061 dated 26 February 1982

28 Submission from Mr B. Musidlak, 42 Acton Street, Hurstone Park, NSW 2193 (formerly 59 Wellbank Street, North Strathfield, NSW 2137) received 29 March 1982

29 Submission from Mr A. Fischer, Senior Lecturer in Economics, The University of Adelaide, SA 5001 dated 5 March 1982

30 Submission from Mr R.F. McMullan, National Secretary, Australian Labor Party, 22 Brisbane Avenue, Barton, ACT 2600 of March 1982

31 Submission from Mr and Mrs M.J. Matheson, 4 Wright Avenue, Upwey, Vic 3158 dated 5 March 1982

32 Submission from The Electoral Reform Society of South Australia, GPO Box 696, Adelaide, SA 5001 dated 5 March 1982

33 Submission from Elizabeth Sub Branch of the SA Labor Party, PO Box 378, Elizabeth, SA 5112 dated 5 March 1982

34 Submission from Mr P.S. Bright, 115 Dampier Avenue, Mullaloo, WA 6025 dated 27 February 1982

35 Submission from Mr J.N. Anderson, 106 Cobb Street, Scarborough, WA 6019 dated 25 February 1982

36 Submission from Miss E.M. Pillinger 89 Macquarie Street, Roseville, NSW 2069 dated 25 February 1982

37 Submission from Mr Kevin M. White, 90 Petra Street, Bicton, WA 6157 dated 22 February 1982

38 Submission from Mr Jack McEwen, 14 Stirling Place, Belrose, NSW 2085 dated 22 February 1982

39 Submission from Mr Mark Williams, 99 Maud Street, Fairfield West, NSW 2165 dated 20 February 1982

40 Submission from Mr Edward Harvey, 4/6 Darley Street, NSW 2010 dated 26 February 1982

41 Submission from Mr John H. Taplin, 5 Croydon Street, Nedlands WA 6009 received 9 June 1983

42 Submission from Mrs Becker, Penthouse 'The Reef', 32/19Ithaca Road, Elizabeth Bay, NSW 2011 dated 12 January 1982

43 Submission from Mr Paul Lucy, Flat 3, 15 South Terrace, Clifton Hill, Vic 3068 dated 1 January 1982

44 Submission from Mr John L. Whitty, 39 Killarney Avenue, Manly West, Qld 4179 dated 21 December 1981

45 Submission from The Deadly Serious Party, GPO Box 1418, Canberra, ACT 2601 received 7 June 1983

46 Submission from Mr J.K. Giovanetti, Shire Secretary, Shire of Charlton, PO Box 179, Charlton, Vic 3525 received 7 June 1983

47 Submission from Mrs Mavis Black, Kiel Mountain Road, Woombye, Qld 4559 received 7 June 1983

48 Submission from Mr Rodney Cavalier, MP, Member for Gladesville, PO Box 249, Gladesville, NSW 2111 received 7 June 1983

49 Submission from Mrs Ruth Holmes, Sturt Street, Tibooburra, NSW 2880 received 7 June 1983

50 Submission from Mr D.J. Nilon, 226 Dean Street, North Rockhampton, Qld 4700 received 7 June 1983

51 Submission from Mr George Hannaford, 'Coverham Vale', Cambooya, Qld 4358 received 7 June 1983

52 Submission from Ethnic Affairs Commission of New South Wales, 140 Phillip Street, Sydney, NSW 2000 received 7 June 1983

53 Submission from Mr S.S.Gilchrist, 3 Pockley Avenue, Roseville, NSW 2069 received 8 June 1983

54 Submission from W.N. Maxfield, 20 Russell Street, Cranbourne, Vic 3977 received 8 June 1983

55 Submission from Mr Allen Hampton, 1 Russell Street, Tamworth, NSW 2340

56 Submission from B.M. Wicks, 39 Maning Avenue, Sandy Bay Tas 7005 received 9 June 1983

57 Submission from Mr Lawrence John Nock, 4 Dugan Street, Deakin, ACT 2600 received 9 June 1983

58 Submission from Mr Graham Hawkes, 21 Cook Street, Darlington WA 6070 received 10 June 1983

59 Submission from Michel Beuchat, 19 Macedon Avenue, North Balwyn, Vic. 3104 received 14 June 1983.

60 Submission from E.N. Widdicombe, Shire Secretary, Shire of Dunmunkle, PO Box 98, Rupanyup, Vic. 3388 received on 14 June 1983.

61 Submission from E.D. Goode, 3 View Street, Mont Albert, Vic. 3127 received 14 June 1983.

62 Submission from Dr M.H. Andrew, 48 Thornton Crescent, Moil, NT 5792 received 14 June 1983.

63 Submission from David McMillan, Shire Secretary, Shire of Mildura, Box 366, PO, Irymple, Vic 3498 received 14 June 1983.

64 Submission from Queensland Land Rent League, 1 Bird Street, Herston, Qld 4006 received 14 June 1983.

65 Submission from Mr M. Mueller, 337 Charles Street, Albury, NSW 2640 received 14 June 1983.

66 Submission from Alan J. Lehmann, 103 Drummond Street, Bedford, WA 6052 received 14 June 1983

67. Submission from Mr Graham F. Smith, 11 McIntyre Street, Mount Isa, Qld 4825 received 15 June 1983

68. Submission from Mr R.C. Stone, 7 Magdala Court, Stawell, Vic. 3380 received 15 June 1983

69. Submission from Peter J. Mears, 13 Wilson Street, Lawson, NSW 2783 received 16 June 1983

70. Submission from Mrs Celia M.L. Taylor, Unit 2, 8 Houston Street, Rockingham, WA 6168 received 17 June 1983

71. Submission from Tom Stephens, MLC, Member for North Province, Legislative Council, Parliament House, Perth WA 6000 received 17 June 1983

72. Submission from R.J. Clough, MP, Member for Bathurst, Legislative Assembly, Parliament House, Sydney NSW 2000 received 17 June 1983

73. Submission from Professor A.L. Burns, Research Schoolof Social Sciences, Australian National University, Canberra, ACT 2600 received 17 June 1983

74. Submission from Helen T. Berrill, 7/273 Williams Road, South Yarra, Vic 3141 received 20 June 1983

75 Submission from Paraplegic and Quadriplegic Association of Victoria, "Yarra-Me" 295 Maroondah Highway, North Croydon, Vic 3136 received 20 June 1983

76 Submission from Mr Denis Byrnes, Shire Clerk, Woongarra Shire Council, Barolin Street, Bundaberg, Qld 4670 received 20 June 1983

77 Submission from Mr G.J. Mennie, Town Clerk, City of Swan Hill, PO Box 506, Swan Hill, Vic 3585 received 20 June 1983

78 Submission from Chris Curtis, 2/15 Harrow Road, Edenhope, Vic 3318 received 20 June 1983

79 Submission from Mr B.J. Evans, MLA, Member for Gippsland East, 177 Main Street, Bairnsdale, Vic 3875 received 20 June 1983

80 Submission from Mr John F. Dyer, Shire Secretary, Shire of Kerang, PO Box 20, Kerang, Vic 3579 received 20 June 1983

81 Submission from Mr J.R. Lennard, 16 Alwyn Road, Lenah Valley, Tasmania 7008 received on 22 June 1983

82 Submission from Sally Petherbridge, 1/41 David Street, O'Connor, ACT 2601 received on 22 June 1983

83 Submission from P. Baldwin, Shire Secretary, Shire of Wimmera, 28 Urquhart Street, Horsham, Vic 3400 recieved on 22 June 1983

84 Submission from Andre M. Langberg, 20 Ballantyne Crescent, Kilsyth, Vic 3137 received on 22 June 1983

85 Submission from Dr Dennis Rumley, Lecturer in Geography, University of Western Australia, Nedlands, WA 6009 received on 22 June 1983

86 Submission from Mrs Rose de Costa, Hon Secretary, Mirani Womens' Section, N.P.A. Queensland, C/- Post Office, Ilbilbie, Qld 4741 received 24 June 1983

87 Submission from Mr B.J. Ross, P.O. Box 65, Kingston, ACT 2604 received 22 June 1983

88 Submission from Handicapped Persons Alliance, Level 4, 323 Castlereagh Street, Sydney NSW 2000 received 24 June 1983

89 Submission from Mr Geoff Rodda, Hon. Secretary, LGPA of NSW 'Nagaella' Station, Broken Hill, NSW 2880

90 Submission from Mr Mark L. Williams 99 Maud Street, Fairfield West, NSW 2165 received 23 June 1983

91 Submission from Mr Bernard Griffin, 46 Elizabeth Street, Holmesville, NSW 2286 received 23 June 1983

92 Submission from The Shire Secretary, Shire of Wycheproof, PO Box 1, Wycheproof Vic 3527 received 23 June 1983

93 Submission from Mr H.R. Thomas, 177 Church Street, Balranald NSW 2715 received 23 June 1983

94 Submission from Mr G. Hardie, Hon Secretary, LGPA of NSW, 'Currawong', Tallimba NSW 2669 received 23 June 1983

95 Submission from Mr David R. Sutherland, PO Box 279, Auburn, NSW 2144 received 24 June 1983

96 Submission from Mr R.F. Stephens, Unit 2, 4 Roebuck Drive, Manning WA 6152 received 24 June 1983

97 Submission from Mr R. Bailey, Town Clerk, The Council of the Municipality of Casino, Administrative Building, Civic Centre, Casino, NSW 2470 received 27 June 1983

98 Submission from Graeme P.T. Sweeney, PO Box 40, Berwick, Vic 3806 received 27 June 1983

99 Submission from I.R. Farr, City Administrator, Maryborough City Council, City Hall,. Maryborough, Queensland 4650 received 27 June 1983

100 Submission from K.R. Rosenberg, Shire Clerk, Atherton Shire Council, Council Chambers, 45 Mabel Street, Atherton, Qld 4883 received 27 June 1983

101 Submission from B.W. Cross, Shire Secretary, Shire of Walpeup, Shire Office, 79 Oke Street, Ouyen Vic 3490 received 27 June 1983

102 Submission from Mr R.V. Free, MP, Member for Macquarie, PO Box 712, Penrith, NSW 2750 received 27 June 1983

103 Submission from Mr Andrew J. Gunter, 66 Spencer Street, Essendon, Vic 3040 received 27 June 1983

104 Submission from C. George, Chairman, National Party of Australia, Mirani Electorate Council, C/- PO Box 204, Sarina, Qld 4737 received 27 June 1983

105 Submission from Mr W.J. Hobson, Shire Secretary, Tambo Shire Council, Shire Office, Bruthen, Vic 3885 received 27 June 1983

106 Submission from Mr J.G. Foley, Shire Clerk, Council of the Shire of Wentworth, PO Box 81, Wentworth NSW 2648 received 27 June 1983

107 Submission from Mr Roderick A. Harris, Shire Secretary, Shire of Omeo, PO Box 40, Omeo VIC 3898 received 27 June 1983

108 Submission from Mr D. Campbell Carnie, PO Box 52, Berrigan, NSW 2712 received 27 June 1983

109 Submission from Mr Alec Simpson, Director, Institute of Public Affairs (NSW), 8th Floor, 56 Young Street, Sydney NSW 2000 received 27 June 1983

110 Submission from Joan Rydon, Professor of Politics, La Trobe University, Bundoora Vic 3083 received 28 June 1982

111 Submission from Mr Harold Jenyns, 'Boondee', Hannaford, Qld 4406 received 27 June 1983

112 Submission from Mr Brian Aarons, National Executive Committee member, Communist Party of Australia, 4 Dixon Street, Sydney, NSW 2000 received 30 June 1983

113 Submission from Gordon Payne, 139 Churchill Avenue, Subiaco WA 6008 received 30 June 1983

114 Submission from Kilkivan Shire Council, Council Chambers, Bligh Street, Kilkivan Qld 4600 received 30 June 1983

115 Submission from Mr Nick Minchin, Deputy Director, The Liberal Party of Australia, Federal Secretariat, GPO Box 13, Canberra ACT 2600 received 30 June 1983

116 Submission from Mr Peter A. Paterson, 2/14 Blaxland Road, Bellevue Hill, NSW 2023 received 30 June 1983

117 Submission from the Rev The Hon. Fred Nile, ED, MLC, National President, A Call to Australia, PO Box 240, Gladesville NSW 2111 received 30 June 1983

118 Submission from Mr R.F. McMullan, National Secretary The Australian Labor Party received 30 June 1983

119 Submission from Alison Harcourt, 4 Carnsworth Avenue, Kew Vic 3101 received 30 June 1983

120 Submission from Mr Norman George Ellis, 504 Gilbert Road, West Preston Vic 3072 received 30 June 1983

121 Submission from Mrs Louise Mackay, President, League of Women Voters of Victoria, 11 Craigavad Street, Carnegie Vic 3163 received 30 June 1983

122 Submission from Mr Geoff Powell, Lot 47 Kerry Road, Warranawood Vic 3134 received 9 July 1983

123 Submission from Nina Mistilis, 42 Cooloy Road, Vaucluse, NSW 2030 received 30 June 1983

124 Submission from Mr Sydney W. Hutchinson, 11 Whitfield Avenue, Ashfield NSW 2131 received 30 June 1983

125 Submission from Mr Eric Sibly, 8 Inverness Drive, Kew East Vic 3102 received 30 June 1983

126 Submission from Mr R.C. Wright, Acting Secretary, Australia Party, PO Box 415, Ringwood Vic 3134 received 30 June 1983

127 Submission from William J. Sullivan, 51 Tottenham Road, Gagebrook Tas 7402 received 30 June 1983

128 Submission from Dr P. G. Fleming, 12 Moselle Street, Mont Albert North Vic 3129 received 30 June 1983

129 Submission from Mr Geoffrey Goode, 18 Anita Street Beaumaris Vic 3193 received 1 July 1983

130 Submission from Mr Brian Austen, Convenor, Electoral Reform Policy, Australian Democrats, GPO Box 225, Hobart Tas 7001 received 1 July 1983

131 Submission from Mr R.L. Gregg, Shire Secretary, Shire of Mirboo, PO Box 16, Mirboo North Vic 3871 received 1 July 1983

132 Submission from The Hon. Elisabeth Kirkby, MLC, State Parliamentary Leader - NSW, Australian Democrats, Legislative Council, Parliament House, Macquarie Street, Sydney NSW 2000 received 1 July 1983

133 Submission from Mr R.C. Wheaton, R.S.D., Barongarook West Vic 3249 received 1 July 1983

134 Submission from B.R. Masters, Mayor, Mayor's Office, Warwick Qld 4370 received 1 July 1983

135 Submission from Michael Behan, President, Kenny *Divisional Council, National Party (Qld), Bilbah Downs,* Isisford, Qld 4731 received 1 July 1983

136 Submission from Chris Schacht, State Secretary, Australian Labor Party (South Australian Branch), Trades Hall, 11-16 South Terrace, Adelaide SA 5000 received 1 July 1983

137 Submission from Mavis Gunter, Secretary, Mitchell Federal Electorate, Australian Labor Party, 6 Toledo Place, Baulkham Hills NSW 2153 received 1 July 1983

138 Submission from Dean R. Dowling, Physics Dept., Ballarat CAE, Mt.Helen, Ballarat Vic 3350 received 1 July 1983

139 Submission Mrs N. Herring, Howick Street Tumut NSW 2720 on behalf of some concerned residents of Tumut received 5 July 1983

140 Submission from R.V. McFaul, Chairman, Pioneer Valley Branch, National Party of Australia, Gargett Qld 4741 received 1 July 1983

141 Submission from Michael Copeman, 24 Clanville Road, Roseville NSW 2069 received 1 July 1983

142 Submission from Professor L.E. Fredman, The University of Newcastle, Department of History, NSW 2308 received 1 July 1983

143 Submission from Dorothy Bell, 17 Tower Street, Mont Albert Vic 3127 received 1 July 1983

144 Submission from R.S. Calwell, 15 Kerr Street, Blackburn Vic 3030 received 1 July 1983

145 Submission from Katherine Eason, 10 Acre Place, Malvern, Vic 3144 received 1 July 1983

146 Submission from Dr John Glenton Watson, 197 Malabar Road, South Coogee NSW 2034 received 5 July 1983

147 Submission from Ms Irene Kelly, 15 Hardman Street, O'Connor ACT 2601 received 5 July 1983

148 Submission from Mr T.J. Newton, Shire Secretary, Shire of Alberton, PO Box 1 Yarram Vic 3971 received 5 July 1983

149 Submission from Mr W. Pickering, Shire Clerk, Crow's Nest Shire Council Shire Office, Crow's Nest, Qld 4355 received 5 July 1983

150 Submission from Mr A.J. Macdonald, Shire Secretary, Shire of Nathalia, Blake Street, Nathalia Vic 3638 received 5 July 1983

151 Submission from Mr E.H. Newberry, President, Snowy Mountains Group, Association of Professional Engineers, PO Box 343, Cooma North NSW 2630 received 5 July 1983

152 Submission from Mrs Christine Parker, Secretary, National Party of Australia, Tottenham Branch, 'Stratford', Tottenham NSW 2873 received 5 July 1983

153 Submission from Mr K.F. McCartney, Chief Executive Officer, City of Echuca, PO Box 35, Echuca Vic 3625 received 5 July 1983

154 Submission from Mr D.J. Miller, Shire Clerk, The Council of the Shire of Richmond River, PO Box 378, Casino NSW 2470 received 5 July 1983

155 Submission from S.N. Brooke-Kelly, 'Hiltona', Thuddungra Road, Young, NSW 2594 received 5 July 1983

156 Submission from Mr G.J. Lindell, Faculty of Law, The Australian National University, PO Box 4, Canberra ACT 2600 received 5 July 1983

157 Submission from Mr S.B. Collins, Daintree Station, Winton Qld 4735 received 5 July 1983

158 Submission from Mr P.A. Cleverly, Shire Engineer, Shire of Kaniva, 25 Baker Street, Kaniva Vic 3419 received 5 July 1983

159 Submission by Dr Kenneth N. Grigg forwarded on his behalf by Mr Geoff Powell, Lot 47 Kerry Road, Warranwood, Vic 3134 received 1 July 1983

160 Submission from Mr B. Robinson, PO Box 32, Binnaway NSW 2395 received 5 July 1983

161 Submission from Denys Correll, Executive Director, Australian Council for Rehabilitation of Disabled, PO Box 60, Curtin ACT 2605 received 6 July 1983

162 Submission from Mr John Black, Electoral Reform Committee of the Australian Labor Party, Queensland Branch, 79 Bunya Street, Greenslopes Qld 4120 received 1 July 1983

163 Submission from Sir Ronald East, CBE, 57 Waimarie Drive, Mt. Waverley, Vic 3149 received 6 July 1983

164 Submission from A.E.A. Viney, Wakehurst Parkway, Frenchs Forest NSW 2086 received 6 July 1983

165 Submission from Mr R.J. Solomon, R.J. Solomon Consultants Pty. Ltd., 24 Glenmore Road, Paddington NSW 2021 received 7 July 1983

166 Submission from Rev. N.M. Ford, Salesian Theological College, PO Box 80, Oakleigh, Vic 3166 received 7 July 1983

167 Submission from Mr J.H. Bryant, 'Milliwindi', 83 Strafford Street, Manilla NSW 2346 received 7 July 1983

168 Submission from Mrs Shirley M. McKerrow, Federal President, National Party of Australia, Secretariat, John McEwen House, National Circuit, Canberra ACT 2600 received 7 July 1983

169 Submission from Mr K.J.L. Clarke, 37 Turramurra Avenue, Turramurra, NSW 2074 received 7 July 1983

170 Submission from Mr Wilson Tuckey, MP, Commonwealth Parliament Offices, City Centre Tower, 44 St George's Terrace, Perth WA 6000 received 9 July 1983

171 Submission from Senator Graham R. Maguire, Commonwealth Parliament Offices 15th Floor 1 King William Street, Adelaide SA 5000 received 9 July 1983

172 Submission from Mr Bruce David Phillips, 34/2A Forsyth Street, Glebe NSW 2037 received 9 July 1983

173 Submission from Mr Harold Wilkinson, Executive Officer, Australian Association for the Mentally Retarded (ACT), PO Box 647, Canberra City ACT 2601

174 Submission from Dr George Howatt, 25a Kirksway Place, Hobart Tas 7000 received 11 July 1983

175 Submission from Mr M.A.F. Pereira, 89 Windella Crescent, Glen Waverley Vic 3150 received 11 July 1983

176 Submission from Mr R.G. Ferguson, Shire Secretary, Shire of Dimboola, PO Box 186, Jeparit Vic 3423 received 11 July 1983

177 Submission from Dr Keith D. Suter, President, United Nations Association of Australia, Administration Office, Room 206, 147A King Street, Sydney NSW 2000 received 11 July 1983

178 Submission from Mr A.M. Hewson, PO Box 169, Cootamundra NSW 2590 received 11 July 1983

179 Submission from Mr P.W. Forsyth, President, Batlow Fruit Branch, LGPA of NSW, Mayday Road, Batlow NSW 2730 received 12 July 1983

180 Submission from Mr S. Williams, 10 Calais Road, Wamberal NSW 2260 received 5 July 1983

181 Submission from V.G. Abraham, Hon Secretary, Women's International League for Peace and Freedom, GPO Box 2598, Sydney NSW 2001 received 12 July 1983

182 Submission from Mr Neville F. Trethowan, Chief Executive, The Outdoor Advertising Association of Australia (Inc.), 520 Collins Street, Melbourne Vic 300 received 14 July 1983

183 Submission from Mr John Willis on behalf of Public Interest Advocacy Centre, GPO Box 4264, Sydney NSW 2001 received 14 July 1983

184 Submission from Sir Eric Willis, 5/94 Kurraba Road, Neutral Bay NSW 2089 received 18 July 1983

185 Submission from N.J. Lethlean, Shire Clerk, Warren Shire Council, Shire Council Chambers, Warren NSW 2824 received 18 July 1983

186 Submission from Mr P.D. Thew, Shire Clerk, Kyogle Shire Council, Administrative Office, Stratheden Street, Kyogle NSW 2474 received 18 July 1983

187 Submission from Mr F.E. Perry, 320 Nelson Road, Mt Nelson Tas 7007 received 18 July 1983

188 Submission from Mr Peter V. Wardrop, Box 72 PO, Woolloongabba Qld 4102 received 18 July 1983

189 Submission from Quentin Bryce, Convenor, National Women's Advisory Council GPO Box 1966 Canberra ACT 2601 received 18 July 1983

190 Submission from I.C. Hinckfuss, C/- Philosophy Department, University of Queensland, St Lucia Qld 4067 received 18 July 1983

191 Submission from Dr Colin Anfield Hughes, Professorial Fellow in Political Science, Research School of Social Sciences, Australian National University, GPO Box 4, Canberra City ACT 2601 received 18 July 1983

192 Submission from Mr James Malone, Federal Director and Chief Executive, Federation of Australian Commercial Television Stations, 13th Floor, 447 Kent Street, Sydney NSW 2000 received 19 July 1983

193 Supplementary Submission received from Ms Helen Berrill, 7/273 Williams Road, South Yarra Vic 3141 received 20 July 1983

194 Submission from E.J. Goodwin, 6/70 Beach Road, Mentone Vic 3194 received 22 July 1983

195 Submission from Department of Immigration and Ethnic Affairs, Canberra ACT 2600 received 22 July 1983

196 Submission from Mr Les Dean, Secretary, Australian Labor Party, Molong Branch, 1 Marsden Street, Molong NSW 2866 received 18 July 1983

197 Submission from Mr Allan Choveaux, Shire Clerk, The Council of the Shire of Burke, Civic Centre, Burketown Qld 4830 received 25 July 1983

198 Submission from Mr John Foley, Executive Director, National Multiple Sclerosis Society of Australia, 616 Riversdale Road, Camberwell Vic 3124 received 25 July 1983

199. Submission from Mr Russell Morse, Convenor & Candidate for Melbourne Ports, Australian Republican Party, C/- Burnley North Post Office 115 Burnley Street, Burnley, Vic. 3121 received 20 July 1983.

200. Submission from Mr Tom Walsh, Unit 3, 111 Chaucer Street, Moorooka, Qld. 4105 received 29 July 1983

201 Submission from Mr George Gear, MP, Federal Member for Tangey, Suite 6, Canning House, 173 High Street, Willetton, W.A. 6155 received 3 August 1983

202 Submission from Mr Don Dunstan, 62 Hall Street, Ormond, Vic. 3204 received 3 August 1983

203 Submission from Department of Science and Technology, Canberra, ACT received 3 August 1983

204 Submission from Mr L.E. Withers, Assistant Secretary, Secretariat and Policy Co-Ordination Branch, Department of Veterans' Affairs, PO Box 21, Woden, ACT received 4 August 1983

205 Submission from The National Society of Labor Lawyers, received 4 August 1983

206 Submission from Mr Ken Symonds, 21 Cooper Park Road, Bellevue Hill, NSW 2023 received 4 August 1983

207 Submission from the Hon. J. Bannon, MHA, Premier of South Australia, State Administration Centre, Victoria Square, Adelaide SA 5000 received 5 August 1983

208 Submission from Mr Geoff Taylor, 18 Parklands Square, Riverton, WA 6155 received 29 July 1983

209 Submission from Mr I.D. Davidson, Executive Director, Australian Provincial Press Association, PO Box 916, Darlinghurst, NSW 2010 received 22 August 1983

210 Submission from Dr D.E. Ingram, President, Australian Federation of Modern Language Teachers' Associations, C/- Department of Education Studies, Darwin Community College, PO Box 38221, Winnellie, NT 5789 received 29 August 1983

211 Submission from Mr I.R. Pawsey, Secretary, Municipal Association of Victoria, Rigby House, 15 Queens Road, Melbourne, VIC 3004 received 29 August 1983

APPENDIX 10

LIST OF EXHIBITS

Exhibit	1	Forms issued by the Australian Electoral Office to the public.
	2	*Electoral Claim Form* (Victoria).
	3	Electoral Claim Form (A.C.T.).
	4	'Equal Electorates, Unequal Votes - 1977 House of Representatives Election Aftermath,' by J.F.W. Wright and E.W. Haber, reprinted from Australian Quarterly June 1978.
	5	'Electing a Representative House,' by E.W. Haber, B. Musidlak and J.F.H. Wright, reprinted from Australian Quarterly Autumn 1981.
	6	Play Redistribution roulette with the *gerrymander wheel*.
	7	Application for Postal Vote Certificate and Postal Ballot Paper(s) (South Australia).
	8	Newspaper Advertisements, Weekend Australian 30.10.82, The News (Adelaide) 5.11.82.
	9	Radio 2SM FR cassette tape recording, 'Is there an Analyst in the House'.
	10	Diagram: Improved Layout of Polling Booth.
	11	Material supplied by Mr G. Lindell, concerning *difficulties experienced by the Tasmanian* Wilderness Society in distributing How-to-Vote cards in Queensland.
	12	Manual of Information on Public Funding of election Campaigns in NSW.
	13	Articles on 'Randomization' from Science, Vol. 171 (1971).
	14	Letter from Election Funding Authority (NSW) to political groups.
	15	'Australian and American Leadership in *Strengthening Democracy*,' by Dr. G. Howatt.