

Senate Estimates November 2013

Opening Statement

Australian Electoral Commission

For the Australian Electoral Commission, the 2013 federal election has been one of significant achievements, and a significant failure.

We have seen increased enrolment to record levels from the 2010 election; seen an increase in the number of people who actually turned out to vote and a reduction in the number of people who did not vote; we helped in excess of 2800 blind and low vision voters to cast an independent and secret ballot for the first time in their lives – a small number I know, but nonetheless a significant moment in the life of the individuals involved and more than six times the number who voted this way in 2010. More electors participated in this election than in 2010 in both absolute and percentage terms.

We have printed, distributed, issued and counted record levels of ballot papers – 26 million. Some 400,000 more ballots were counted on election night 7 September than were counted on election night in the 2010 election; and in all but a handful of seats, the result was known and clear before the end of the night.

New technologies were introduced successfully, including facilities to enrol online – more than 80% of all enrolment transactions lodged by electors prior to the close of rolls were completed online; an online system for applying for postal votes was successfully implemented; and we introduced electronic certified lists in a number of polling places to begin the transition away from 12 million pages of elector names and addresses used on election day to mark off who had voted.

We managed the most complex and largest set of Senate ballot papers in the history of Australian elections, driven by a record number of candidates – 529 candidates contested 40 available positions across Australia - representing double the number of political parties that contested the 2013 election in comparison with the 2010 election; with complicated senate preference tickets that needed to be verified, entered and computed faithfully in our automated systems.

In South Australia, for the first time in the history of the AEC, the election was managed centrally rather than in individual electorate offices,

through a larger work unit located in the Adelaide CBD that brought together 9 of the 11 divisions in that state, significantly enhancing the level of quality control and consistency over an increasingly complex operation.

And in the seat of Fairfax, we managed one of the closest elections in the history of Australian electoral contests, including dealing with an unprecedented number of challenges to ballot papers – 50 000 were examined by the DRO and in excess of 43000 were referred to the AEO for final determination – most on grounds never contemplated in the design of the recount provisions of the CEA – leading to protracted and painstaking processes to control the movement of ballots, consideration of those challenged ballot papers by only 2 legislatively mandated individuals at critical points as determined by the recount provisions of the Act; and the reintegration of those ballots at a later stage into the final two candidate preferred count to determine the winning candidate. The inevitable consequence was a delayed return of the QLD writ. But it was returned on 1 November 2013 and before 13 November as required by the writ.

Apart from the QLD writ and the WA Senate writ, all other writs were returned within 5 weeks of the election and consistent with our election planning.

In the WA Senate election however, the AEC failed to meet the high standards that it has worked so hard to achieve over many decades and on which its high standing in the Australian and international community is based.

1370 ballots out of 1.35M were unable to be located for purposes of the recount of the WA Senate election. I unreservedly apologise to those electors whose Senate franchise has been lost because of this failure by the AEC. My apologies are also extended to the candidates who contested the election.

In detailing achievements and failure, it is not my intention to suggest that they cancel each other out to give some neutral score about the AEC's conduct of the 2013 election. The failure to account for all Senate ballot papers in WA has left doubt in the minds of the candidates and wider electorate about the results of the Senate election, something I was seeking to overcome when I ordered that a recount should take place in accordance with s 278 of the Act in respect of the announcement of the first poll result. In ordering that recount, while

exclusions based on small margins are not unusual, a margin of just 14 out of 1.35M ballots at such a critical stage in the distribution of preferences was simply too small to ignore.

And this failure has damaged the reputation of the AEC, a vital ingredient of any democratic system that requires the community to have confidence in the electoral management body established to manage the election on its behalf.

That said, I remain proud of what the staff of the AEC have achieved and our collective determination to improve the processes that have led to this outcome.

In that respect, on 5 November, I requested Mr Mick Keelty AO to conduct an investigation into the circumstances of the missing ballots. I have asked him to provide his report by the end of November to establish the facts regarding the misplaced ballot papers, identifying any administrative or procedural failures that may have occurred as well as providing recommendations on how to avoid similar issues in the future.

On 15 November 2013 Australian Electoral Commission lodged a petition with the High Court acting as the Court of Disputed Returns. The petition was lodged on the basis that the result of the WA Senate election was likely to be affected as a result of the omission of 1370 senate ballots misplaced by the AEC and that the election should be declared void. Notwithstanding that the details of preferences contained in the missing ballots is known, no other option was effectively open to the Commission given that those missing ballots had not been subject to any further scrutiny as part of the recount, and accordingly, the Australian Electoral Officer for Western Australia would have been unable to determine in what way the election of senators would have been affected.

