

**AUSTRALIAN ELECTORAL COMMISSION**  
**SUPPLEMENTARY SUBMISSION TO**  
**THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS**  
**INQUIRY INTO**  
**THE INTEGRITY OF THE ELECTORAL ROLL**

**AEC RESPONSES**  
**TO 15 NOVEMBER HEARINGS AND**  
**QUESTIONS ON NOTICE**

**Submission No 66 of 9 February 2001**

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## **PREAMBLE**

This supplementary submission from the Australian Electoral Commission (AEC) is provided to the Joint Standing Committee on Electoral Matters (JSCEM) in response to the "Inquiry into the Integrity of the Electoral Roll", as advertised on 9 September 2000. The first AEC submission, No 26 of 17 October 2000, is published, with the attachments, on the AEC website at [www.aec.gov.au](http://www.aec.gov.au).

The JSCEM inquiry into the Integrity of the Electoral Roll has now been underway since early September 2000, and would appear to be set to continue into June 2001. Given the pending 2001 federal election, there is very little time remaining for the JSCEM to table its Report in the Parliament, for the Government to formalise its response to any recommendations, for the Parliament to pass amending legislation, and for the AEC to implement any new law before the election period commences. The AEC trusts that due consideration will be given by the JSCEM to the pressing time frame for implementation of any recommendations, if they are set to come into force at the next federal election.

This supplementary submission responds to issues raised by the JSCEM at the public hearing with the AEC on 15 November 2000 (and to some related issues raised at other public hearings on 5 and 14 December 2000), as well as to the 25 Questions on Notice provided to the AEC on 7 and 12 December 2000.

Responses by the AEC to the 50 other submissions filed with this JSCEM inquiry are contained in a further supplementary submission to be filed separately with the JSCEM, for reasons of space and convenience. In its public advertisement for submissions on 9 September 2000 the JSCEM placed no formal conditions on the format of submissions. However, on 31 October, after receipt of AEC submission No 26 of 17 October, the JSCEM resolved not to authorise the 30 attachments to that AEC submission for inclusion in the bound series of JSCEM submissions. It is to be hoped that the attachments to these supplementary submissions will be authorised for binding by the JSCEM.

This supplementary submission is an interim contribution to the JSCEM proceedings in progress and makes no formal recommendations at this stage. The AEC will, as appropriate, file a final submission after the further public hearings yet to be scheduled with AEC witnesses.

## 1. INTRODUCTION

1.1 In submission No 26 of 17 October 2000 the AEC provided an account of the enrolment fraud cases in the Queensland Division of Herbert involving Ms Karen Ehrmann, Mr Shane Foster and Mr Andy Kehoe, including a summary outcome of each of the enrolments affected. These cases were of particular concern to the then Special Minister of State, Senator Chris Ellison, who provided the terms of reference for this JSCEM inquiry.

1.2 In response to the second term of reference for this inquiry, the AEC provided an analysis of all possible enrolment fraud cases over the past decade known to the AEC, and a discussion of identity fraud. In response to a special request from members of the JSCEM at a private briefing on 3 October 2000, the AEC also provided a description of the procedures for maintaining the Electoral Roll on the computerised roll management system RMANS and the implementation of Continuous Roll Updating (CRU).

1.3 In part 13 of submission No 26, the AEC concluded with a summary discussion of possible changes to legislation and procedures, if the JSCEM decides that changes are warranted.

In summary, as detailed at length in previous AEC submissions to the JSCEM, the AEC does not support major amendments to the Electoral Act for the introduction of early close of rolls, voter identification, or subdivisinal/precinct voting, because of the following possible impacts on the federal electoral system:

- a reduction in the franchise, particularly affecting the young and the socially disadvantaged;
- a decrease in the accuracy of the rolls at the close of rolls;
- a reduction in compliance with the legal requirement for compulsory voting;
- queuing delays, confusion and inconvenience at polling booths;
- an increase in declaration voting;
- delays in the delivery of election results.

Further, the AEC does not believe that legislative amendment to require the AEC to conduct internal party preselection ballots, as an antidote to party branch-stacking involving the Electoral Roll, is a viable option. It is unlikely that such an option would be welcomed or supported by the major political parties.

However, if the JSCEM remains of the view that the Ehrmann allegations of an organised branch-stacking conspiracy in the Queensland ALP, and the evidence of possible enrolment fraud over the past decade, requires a legislative or an administrative response, then the AEC would support the following:

- enhancement of CRU and upgrading of RMANS to improve auditing of the enrolment process.
- an increase in penalty levels for all electoral fraud offences.

1.4 On 15 November 2000, the AEC was called to appear before the JSCEM in a public hearing in Canberra. In compliance with the request from the Chairman of the JSCEM, Mr Christopher Pyne MP, AEC witnesses included staff connected with the Division of Herbert in the past few years, the Division of Fisher in 1987, and the Division of Hinkler in 1984, as follows:

- the Electoral Commissioner, Mr Andy Becker;
- the acting Deputy Electoral Commissioner, Mr Mark Cunliffe;
- the Assistant Commissioner Elections and Enrolment, Mr Paul Dacey;
- the Australian Electoral Officer (AEO) for Queensland, Mr Bob Longland;
- the AEO for Victoria, Dr David Muffet (AEO Qld in 1987);
- Mr Steve Brown, DRO Herbert;
- Ms Bronwyn Madden, DRO Hinkler (in 1984);
- Ms Greg Shields, Divisional Clerk Fisher (in 1987).

1.5 At the commencement of the proceedings, the Electoral Commissioner delivered an opening address (reproduced at **Attachment 1**). The following parts of this submission address the issues raised during the proceedings of 15 November 2000, providing additional information or clarifying AEC evidence already submitted.

## 2. ALLEGED POLITICAL BIAS IN THE AEC

2.1 On 15 November 2000, the JSCEM Chairman, Mr Pyne, opened the public hearing of AEC witnesses by asking about security clearances for those AEC staff, including Divisional staff and State/Territory Head Office and Central Office staff, who have access to enrolment information held on the computerised RMANS system on which the Electoral Roll is maintained. This line of questioning apparently arose in relation to the Ehrmann allegations of an "Electoral Commission insider" (see part 3 of submission No 26).

2.2 At pages EM12 and EM15 respectively of the transcript the JSCEM Chairman asked the following:

Mr Becker, do you see that the lack of security checks across the AEC and the reasonable widespread access to sensitive information ... might create the opportunity for an insider, as has been alleged by Karen Ehrmann, to operate in the AEC to assist, in this instance, the Australian Labor Party?

What other kind of information that the AEC holds do you think would have been of use to the ALP in terms of preselection processes that an insider would have been able to provide to the ALP?

2.3 The JSCEM Chairman was generally concerned to discover whether AEC staff, employed under the Public Service Act, as well as casual staff employed under the Electoral Act during election periods (some 60,000 at the last election), are subjected to security checks, secrecy undertakings, or checks on their political affiliations, including union membership. The Chairman was also interested in staff access to personal enrolment information held on the computerised RMANS system (rather than the publicly available Electoral Roll, containing the names and addresses of enrolled electors).

2.4 The personal enrolment information held on RMANS is not accessible to casual staff in polling booths, or indeed, to many permanent AEC staff at any time. On the other hand, registered political parties and Members of Parliament and their electorate staff have almost unlimited access to personal enrolment information, provided by the AEC in CD format on a monthly basis, under the provisions of the Electoral Act (see Attachment 23 to submission No 26 on the AEC website).

2.5 A summary description of AEC employment procedures, including secrecy provisions in the Electoral Act and undertakings with respect to political affiliations, is at **Attachment 2**. A summary description of the protocols for internal access to personal enrolment information held on RMANS is at **Attachment 3**.

2.6 Computer security has been addressed by the AEC in submission No 128 of 24 January 1997 to a previous JSCEM inquiry. As the Assistant Commissioner Elections and Enrolment, Mr Paul Dacey, advised on page EM17 of the transcript, the AEC has a Defence Signals accredited firewall built into its computer systems to deter criminal interference with AEC databases. Further, on page EM22 of the transcript, Mr Dacey advised that:

...we do have security checks and audit trails in place so that, if any internal manipulation for fraudulent purposes was detected through logons and passwords and through our IT security system, we would be able to track that back to the individual officers.

2.7 On pages EM29 to EM30 of the transcript, Senator Mason asked the AEC further questions about staff security checks, particularly with respect to political affiliations, and indicated that it might be useful to sight some of the relevant official forms. These are reproduced in Attachment 2. In relation to Senator Ferris's later observation that senior ministerial staff are required to detail their previous 10-year employment history, there is no such requirement for senior AEC staff, although any curriculum vitae will usually include such information.

2.8 In the following newspaper article by Mr Glenn Milne, published soon after these hearings, it was reported that Government members of the JSCEM were concerned that political infiltration of the AEC was not only indicated by the Ehrmann allegations on 3 October 2000 of an "Electoral Commission insider"; but also by an uncorroborated allegation, of politically biased conduct by an AEC casual staff member, made 12 years ago in relation to the 1987 federal election in the Division of Fisher in Queensland.

...If the Shepherdson inquiry doesn't bring down Queensland Premier Peter Beattie, then there's every chance the ... federal inquiry will. Chris Pyne, the go-ahead Liberal backbencher who has been appointed by Howard to head the joint standing committee, already has Beattie in his sights.

At the inquiry hearings 11 days ago, Pyne was questioning electoral commission officers, when he sprung a nasty surprise. He referred to a submission made to the committee dating back to 1987. In that submission National Party campaign director for the federal seat of Fisher, Graham Smith, detailed how on election day he visited several polling booths where he questioned volunteers of the Wildlife Preservation Society and the Wilderness Society about the make up of their how-to-vote cards and their behaviour.

According to Smith he subsequently complained to a local Electoral Commission officer about that behaviour. But instead of ringing the commission to seek guidance, according to Smith, the divisional returning officer rang the then state secretary of the ALP to ask his advice. The name of that state secretary? Beattie, of course.



Pyne has now put a number of questions on notice for the commission regarding the alleged incident. It's all part of a case he's steadily trying to build that the Electoral Commission itself may have been infiltrated by either the ALP or the union movement. If you think this is fanciful, think again. It was the original Queensland Labor whistleblower, Karen Ehrmann, who alleged there was an "insider" at the commission, assisting the ALP in the rorting that put her behind bars for nine months.

What Pyne has now established is that the commission never investigated her claim. And that it has never instituted security or character checks when hiring personnel. He wants to know why. This road has a long way to run yet. And it's looking all uphill for Labor. (*The Australian*, 27 November 2000, "Qld Labor tangled in the rigging", Glenn Milne)

2.9 As indicated in part 3 of submission No 26, there was no evidence at that stage that there was an "Electoral Commission insider", and consequently, that the independence of the AEC had been compromised. Further, as the AEC responded on pages EM64 to EM65 of the transcript, it would have been most inappropriate for the AEC to directly question Ms Ehrmann (in jail) about her allegations made to the Queensland CJC inquiry when an independent investigation by the Commonwealth Ombudsman was underway.

2.10 There are now two independent reports discrediting the Ehrmann allegations of an "Electoral Commission insider": the interim conclusions of the Queensland Criminal Justice Commission (CJC) Shepherdson inquiry and the draft report of the Commonwealth Ombudsman.

2.11 Following legal advice of 5 September 2000 from Mr McMurdo QC, entitled "Allegations of Electoral Fraud", the CJC Shepherdson inquiry commenced public hearings, interviews and forensic investigations into various allegations of enrolment fraud (see part 3 of AEC submission No 26). The events under scrutiny included the 1996 Mundingburra State by-election, and ALP branch-stacking for the purposes of preselection ballots in the Queensland State districts of Townsville (1996), South Brisbane (1996), East Brisbane (1993), and Morningside (1993).

2.12 On 19 January 2001, counsel assisting the CJC Shepherdson inquiry, Mr Russell Hanson QC, delivered his closing submissions (available on the CJC website). The final report is not expected for at least another two months. Most significantly for this JSCEM inquiry, Mr Hanson submitted that there was no evidence of an ALP "mole" within the AEC, as alleged by Ms Karen Ehrmann, in earlier testimony to the CJC on 3 October 2000. The following comments were made by Mr Hanson about the Ehrmann allegations at pages 18 to 19 of his closing submissions:

...we should make reference to evidence given by Ehrmann that she had been told that the ALP had someone within the Electoral Commission. Although no specific plebescite or election was nominated as having been adversely affected by such conduct, if the allegation had been true it may have impacted on all the terms of reference and in that sense is relevant to all of the them.

Ehrmann in her evidence (T20) stated that Warwick Powell had indicated in around 1993 that they had someone on the inside at the Electoral Commission. She stated that he did not tell her a name. The suggestion was that the contact within the Electoral Commission produced false white cards to be used at plebescites to allow persons to vote when they were not entitled to vote. The white cards were used by the Electoral Commission to advise that a person's name had been entered on the roll at a particular address nominated on the white card.

Powell denied that he had told Ehrmann any such thing. He also denied that Bermingham had said anything like that to her in his presence. He stated that to his knowledge the allegation that there was somebody inside the Electoral Commission was not true (T1685). Bermingham also denied that he had a contact in the Electoral Commission and denied boasting of such a thing to Ehrmann (T2549).

The issue of an ALP contact in the Electoral Office was raised with other relevant witnesses. All denied knowledge of any such person. Also, all denied having heard of any such allegation. Former Assistant State Secretary, Lindsay Jones dismissed out of hand the suggestion that there was a contact within the Electoral Commission. He suggested that any such bragging was factional skiting by people "talking up" their position.

There is no basis for pursuing this matter further.

2.13 As indicated in part 3 of submission No 26, the AEC immediately referred the 3 October 2000 Ehrmann allegations about an "Electoral Commission insider" to the Commonwealth Ombudsman for an independent investigation. On 23 January 2001, the Commonwealth Ombudsman wrote to the Electoral Commissioner advising that, in accordance with his decision of 12 October 2000, he has now conducted his investigation into allegations that electoral enrolment acknowledgment cards were misused and that AEC officers may have been involved, as well as the administrative arrangements in place at the time of the alleged activities and the adequacy of the current arrangements for the provision of enrolment acknowledgment cards.

2.14 The Ombudsman further advised that, in accordance with section 8(5) of the *Ombudsman Act 1976* he would afford the AEC the opportunity to comment on his draft report by the end of February 2001, which the AEC will be doing in relation to his comments about enrolment processing procedures. However, the Ombudsman also said he had no objection to the AEC reporting to the JSCEM on his findings in relation to the "Electoral Commission insider". The summary conclusion of the Ombudsman is as follows:

In my opinion there is no substance to the allegation that a person claimed that he had someone on the inside of the Electoral Commission (AEC or ECQ) or to the implication that any officer of the AEC has conspired with anyone to abuse the roll.

2.15 With respect to the allegations by Mr Colin Graham Smith about the 1987 Fisher election, which according to Mr Milne's newspaper report, were pursued by the JSCEM Chairman at the hearing as possible evidence of political bias in the AEC due to inadequate security checks (pages EM65 to EM68 of the transcript), Mr Smith's allegations were contained in submission No 14 of 5 April 1988 to the JSCEM inquiry into the conduct of the 1987 federal election, reproduced for the record at **Attachment 4**.

2.16 Mr Smith also filed a petition with the Court of Disputed Returns, alleging various offences such as bribery and unauthorised advertising (but none relating to enrolment or voting offences) at the 1987 federal election. The petition was discontinued. The former Electoral Commissioner, Dr Colin Hughes, has advised that he does not recall Mr Smith approaching the AEC with any of his concerns after the 1987 federal election.

2.17 Mr Smith's 1988 submission contains various generalisations about the state of the electoral system, but these are premised largely on false or dubious assumptions about electoral law and procedures. After considering the issues raised in his 1988 submission, neither the JSCEM majority ALP Government members nor the minority Coalition Opposition members gave any support to Mr Smith's allegations in the May 1989 JSCEM Report. (However, Chapter 6 of the May 1989 JSCEM Report did make recommendations on electoral fraud, including an increase in penalties).

2.18 Given the various misleading assertions made in Mr Smith's 1988 submission, particularly in parts 3 and 4, and the fact that he was not called to defend his allegations either before the 1987 JSCEM or the Court of Disputed Returns, this JSCEM must seriously consider whether his allegations should be given any credibility some 12 years later, and used as possible evidence of political bias in the AEC. The following aspects of Mr Smith's allegations should be properly weighed in the balance.

2.19 There is only one Divisional Returning Officer for each Division, and they are permanent officers of the AEC. Casual staff in charge of polling booths are known as Officers-in-Charge (OICs), or previously, Presiding Officers, not "returning officers". Mr Smith appears to believe that OICs had some sort of authority to determine whether party workers can erect stands and hand out how-to-vote cards outside the perimeter of the polling booth. They do not, unless party workers are in some way impeding traffic flowing into the booth by breaching the six metre rule prescribed in section 340 of the Electoral Act. The whole of Mr Smith's allegations are premised on this false assumption.

2.20 Mr Smith does not say that he actually saw the alleged telephone call between the OIC and Mr Beattie take place. There is no independent corroboration that Mr Beattie was on the other end of the line, or that the OIC initiated the phone call in the first place. If such a phone call to Mr Beattie did indeed take place, then it could well have been a party worker who used the booth telephone with or without the OICs permission. It is Mr Smith's uncorroborated allegation alone that suggests that the OIC was seeking instructions, by telephone, from Mr Beattie on the conduct of the election at that booth.

2.21 If the OIC was in fact seeking instructions on the conduct of the election from Mr Beattie, then this would have been highly improper, but it must be asked exactly what damage to the electoral process could have been done at the instant. According to Mr Smith the outcome was that Mr Beattie apparently did not object to the Wildlife Preservation Society and Wilderness Society erecting a stand and handing out how-to-vote cards, but after Mr Smith objected, the OIC asked them to remove their stand. It would appear on the face of this allegation, that more damage to freedom of speech and the electoral process was done by the objection apparently mounted by Mr Smith than by the consent allegedly proffered by Mr Beattie.

2.22 And lastly, Mr Greg Shields, the Divisional Clerk for Fisher at the 1987 federal election, gave testimony during these proceedings that it would have been entirely against procedures and training for an OIC to have acted in such a manner, and he does not recall any such complaint being made to the Fisher Divisional office at the time.

2.23 The line of questioning adopted by Government members of the JSCEM at the 15 November hearings, with respect to security checks on AEC staff, was indeed unexpected, as noted by Mr Milne in his newspaper report reproduced above. There was no indication prior to the hearing that the political independence of the AEC itself was to be scrutinised by the JSCEM.

2.24 In fact, there appeared to be some confusion within the JSCEM during the 15 November hearings about the number of possible "insiders" who might have compromised the political independence of the AEC. For example, on page EM25 of the transcript, during a discussion of the "ALP insider", who apparently informed *The Courier-Mail* journalist about electoral fraud in Fisher in 1987, Senator Ferris observed:

Surely it could be argued that the journalist has performed a valuable public role in disclosing some of this information so that the ombudsman's inquiry could take place.

2.25 For the record, the Ombudsman has recently conducted an investigation into the allegation of an “Electoral Commission insider” in 1993, not an investigation into the “ALP insider” in 1987. The AFP is currently conducting an investigation into the 1987 Fisher allegations and the “ALP insider”. Further, on page EM71 of the transcript, the JSCEM Chairman asked the following

....the media have reported that the DRO for Herbert in 1984, Ray Muller, wrote to Joan Budd, who is one of the Deputy Premier of Queensland Jim Elder’s senior office people, asking the ALP to tighten their rules in Herbert because of the concerns that Ray Muller had with respect to looseness of the arrangements. Can you comment on why Ray Muller would have felt the need to write to Joan Budd?

2.26 As the Chairman immediately acknowledged, Mr Ray Muller was an ALP returning officer, not an employee of the AEC. Mr Steve Brown, the DRO for Herbert for 15 years, was present as a witness before these JSCEM proceedings.

2.27 In essence, the line of questioning about AEC security, from Government members of the JSCEM, was based on (a) an unsubstantiated hearsay allegation by a convicted criminal about an “Electoral Commission insider”, since discredited by counsel assisting the CJC in his closing submissions and by the Commonwealth Ombudsman in his draft report, and (b) an unsubstantiated allegation, about a phone call at a polling booth, made 12 years ago by a National Party member in a written submission to a JSCEM inquiry, which appeared to implicate the present Premier of Queensland. This does not amount to evidence that the independence of the AEC is under serious and present threat from politically partisan infiltration.

2.28 Finally, it is worth noting that the first recommendation of this JSCEM in its June 2000 Report on the conduct of the 1998 federal election was that:

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

2.29 This recommendation was made in the context of (a) unsubstantiated allegations by the Northern Territory Country Liberal Party (NTCLP) of political bias in AEC polling teams servicing Aboriginal communities at the last federal election, and (b) concerns expressed by the Liberal Party of Australia about members of industrial unions being employed as casual polling staff by the AEC.

2.30 The AEC responded to the NTCLP's allegations in part 7.5 and 7.6 of submission No 88 of 12 March 1999, parts 30 and 38 of submission No 176 of 4 May 1999, and parts 30, 35, 47 and 49 of submission No 210 of 23 July 1999. The AEC responded to the Liberal Party's concerns about union membership in paragraph 41.14 of submission No 176 of 4 May 1999. The June 2000 JSCEM Report made no findings in support of the NTCLP's allegations of political bias in the AEC. However, the AEC is currently reviewing the effectiveness of staff selection procedures in accordance with the JSCEM recommendation.

2.31 The AEC remains conscious of the need to continually monitor AEC security matters, to ensure that appropriate staff are employed and that computer systems operate consistently with best government practice. The AEC would welcome the opportunity to comment on any improvements proposed by the JSCEM.

### 3. AEC INTERNAL CONSULTATION

3.1 At page EM75 of the transcript for 15 November 2000, Senator Murray asked the following in relation to submissions filed by four Queensland Divisional staff, as private citizens (see AEC responses in another supplementary submission):

I have read two submissions so far from DROs, and there might be others have come in that I am not aware of. That leads me to this question: does the AEC have a standardised or a regular survey of all its DROs and their views on say, the potential for electoral fraud and the ways in which things should be improved? In other words, how do you arrive at your recommendations coming here? Is it the result of a kind of head office circle or is it a bottom-up process or a top-down process? What is your form of consultation?

...Let me get a more specific answer from you. The integrity of the roll is your prime task. It seems to me that you have two sources of information as to whether there are any threats or problems with the electoral roll and the way in which people register, vote and so on. One is machine driven, which is the comparison of the roll through mechanical means. The other is people driven, which is any observations they make when enrolment occurs or in administering the roll. The expertise on the machine side, I would assume, is primarily central office. On the people side, I would think it would be primarily in the district offices. I would have thought, when you have a major inquiry like this, the first question to all DROs would have been: here is the inquiry, here are the terms of reference – what views do you have and what recommendations would you make? My specific question is: was that question asked of your DROs? If it has not been, will it be?

3.2 AEC witnesses explained the standard internal consultation procedures, but Senator Murray appeared not to be satisfied, and asked the following further question at page EM77 of the transcript:

What lies behind my question is this: if you have not done the kind of in-depth survey of the views of people who have daily experience of this at the people level – provided, of course, they feel able to express their viewpoint, and I cannot see why they shouldn't – then there are real problems and how to deal with them relative to what is a very strong and fresh allegation arising out of the Queensland events. For the sake of this inquiry and for the sake of your own integrity of your submission, I was seeking that answer.

3.3 Mr Bob Longland, the Australian Electoral Officer (AEO) for Queensland, responded as follows:

In Queensland, on 16, 17 and 18 October, we had a three-day workshop of every divisional returning officer in the state and the head office management team where we explored a range of issues focused on pre-election management training, preparations for the elections and consultation methods, and including open forums on CRU methods, where there was a lot of useful interaction and useful exchange which assisted in my preparation for this approach to you. Significantly, neither of the two DROs who have lodged

submissions have referred to that gathering, nor did they raise any issues at those meetings.

My reading of their submissions is that they are not suggesting that they have been left out of the loop in any way either. It is a fairly comprehensive approach we take to sharing views and developing views. I guess one of the key issues in this is that very many people look upon the commission as a three-tiered structure, with a central office here in Canberra, the state head offices in ivory towers in the capital cities and then the poor long-suffering divisional staff out there in the tentacles. That is an unfortunate view of the commission. While there will always be people at any level in any organisation who feel aggrieved about their lack of ability to contribute, I put it to you that that is not the case and certainly not been mentioned by either of those two officers.

3.4 Again, Senator Murray appeared not to be satisfied with the responses of AEC witnesses to his line of questioning, and asked the following question at page EM79 of the transcript:

Could I please request, through the chair, that the AEC ask, by whatever method you want, all DROs to have a look at that submission and see if they have anything further to add or any additional information which could be used by you in your supplementary submission. I ask you to do that bearing in mind your independence, because I was interested by both the quality and thoughtfulness contained in the two DROs submissions that I saw. It may well be that they could amplify or make additional information available.

3.5 It is understood that Senator Murray is particularly interested in the views of APS Level 6 Divisional Returning Officers (DROs), from their personal perspectives at locations across the nation, rather than the personal views of AEC staff in State/Territory Head Offices or in Central Office, who might have specific expertise in, for example, legislative analysis and policy development, the supervision and coordination of national operations, international best practice in democratic systems, or the impact of the policy and fiscal constraints under which all agencies of government must operate.

3.6 In accordance with Senator Murray's request, on 5 January 2001, a Minute was sent to all Australian Electoral Officers (AEOs), for referral to all DROs, by the acting Electoral Commissioner, Mr Paul Dacey. The Minute is reproduced at **Attachment 5**, and details the usual AEC consultation procedures for AEC submissions to JSCEM inquiries. Given the open-ended time frame for response to Senator Murray's request, because of annual leave commitments at this time of year, other pressing priorities such as the close of rolls for State elections, and the possibility that some DROs might have sent their comments direct to the JSCEM, the AEC will provide a supplementary submission, containing all (unabridged) comments received from DROs, towards the end of this month.



3.7 At the later public hearings of 5 December 2000, attended by the three Divisional Returning Officers who filed submissions as private citizens, Mr Mark Lamerton (DRO Lilley), Mr Bob Patching (DRO Rankin) and Mr Graham Smith (DRO McPherson), Senator Ferris asked Mr Lamerton and Mr Smith the following series of questions at pages EM113 to EM114 of the transcript:

Let me ask you...how you felt, Mr Smith, having been given no opportunity to contribute towards the major submission that was put in by the Electoral Commissioner. Perhaps, Mr Lamerton, you were not either. There were a number of comments made in that letter by Mr Cunliffe and in the attached material which in my view seemed to undermine, in what I consider to be quite an unprofessional way, the comments and experience that you as DROs have amassed over the years. How did you feel about that? Did you feel in any way intimidated or threatened by that letter and that material?

...The staff of the Electoral Commission would be employed under the Australian Public Service Act, I imagine. Clearly, the comments that you have made in your submission, and also those that Mr Patching made in his, would fall within section 13 of the code of conduct, that an APS employee must behave honestly and with integrity in the course of your employment. I would have thought that all three of you, but in particular the two who have been given a fairly hard time as a result of that letter and its attached material, would be quite disappointed, not only because you decided to make comments which you were only able to make in that way, since you were not given an opportunity to be part of the main submission. In fact, when you knew the main submission was being put together, it had already been finished.

...Have you felt before, that the on-ground experience that all three of you, but perhaps in particular you two now, are raising has been overlooked by the central office down here? You people are the ones who have the practical, on-the-ground experience over years, and yet the people in Canberra seem to have constantly overlooked the sorts of issues that you have raised with them. Is there an ongoing sense that you have of perhaps disappointment or frustration?

3.8 And later, at pages EM132 to EM133 of the transcript, Senator Ferris asked Mr Patching a similar series of questions:

Your submission and the letter which came to each of us from the acting commissioner, together with the material, paint a picture of a central office amazingly out of touch with what goes on on the ground and, worse still to my way of thinking – correct me if I am wrong – a culture of targeting people who become critics by trying to destroy their credibility. Would you disagree with that?

...Do you think you are being targeted as something of a whistleblower?

...How optimistic are you, and some of your colleagues who have chosen not to give evidence here today or put in a submission, that in the end the Electoral Commission will listen to you people on the ground and actually make these changes, apart from if they are forced to?

3.9 For the record, the letter to which Senator Ferris refers was sent to the JSCEM Chairman on 30 November 2000 from the acting Electoral Commissioner, Mr Mark Cunliffe, and was copied to the DROs so they would be in no doubt as to their leave entitlements during their appearance before the JSCEM as private citizens on 5 December 2000. The letter is reproduced at **Attachment 6**.

3.10 There were two attachments to Mr Cunliffe's letter: AEC submission No 100 of 24 October 1996, and part 14 of AEC submission No 210 of 23 July 1999. These AEC submissions to previous JSCEM inquiries were attached to Mr Cunliffe's letter to the JSCEM Chairman so that new members of the JSCEM, including the Chairman and Senator Ferris, would be aware of relevant AEC comments concerning submissions to the JSCEM by Mr Smith and Mr Patching.

3.11 That is, the attached submissions were not intended as any form of threat or intimidation in the present proceedings. Further, their contents would not have been unfamiliar to Mr Patching and Mr Smith, as the submissions have been on the public record for at least four years and one year respectively, and are published on the AEC website, along with all other AEC submissions to the JSCEM.

3.12 The AEC will be responding to the submissions of Mr Smith, Mr Lamerton and Mr Patching in a separate supplementary submission to be filed shortly, which responds to the 50 submissions so far filed with the JSCEM.

#### 4. ELECTORAL AND REFERENDUM AMENDMENT ACT

4.1 At pages EM20 to EM21 of the transcript for 15 November 2000, Senator Bartlett and Senator Faulkner asked for information on the state of the regulations required to bring into force the new enrolment witness identification provisions of the *Electoral and Referendum Amendment Act 1999*. At page EM95 of the transcript, the acting Deputy Electoral Commissioner, Mr Cunliffe, responded as follows:

I was asked whether a copy of the regulations as was provided to the states could be provided to the committee. I am assured that in fact that was provided to the previous chair and so it should be in the records of this committee. I gather that the print date and the sending date are September/October. That is the final draft.

4.2 As the AEC observed in part 6 of submission No 26, and the Commissioner said in his opening statement to these proceedings, it is unlikely that the new enrolment witness identification provisions in the *Electoral and Referendum Amendment Act 1999* would have prevented the sort of enrolment fraud seen in the Kehoe/Foster/Erhmann cases in the Queensland Division of Herbert, had the provisions been in force at that time.

4.3 The former Electoral Commissioner, Dr Colin Hughes, in his submission No 49 of 11 December 2000 to this JSCEM inquiry, has stated that he is "definitely not convinced" that the existing identification procedures under the Electoral Act are inadequate. He said the following in relation to the new enrolment witness identification legislation:

I have not seen the draft regulations, and suppose they are not available to the public. If that belief is mistaken, then I respectfully suggest the Committee might well put them on its website and call attention to the fact to create a better informed public.

The franchise has three requirements: age, citizenship, and present fact and past duration of residence. The enrolment procedure adds a fourth: a witness who will support such statements. The first two are "proven" by a birth certificate, or if the birth is not in Australia by a naturalisation certificate, or by a passport; only the passport carries a photograph.

Residence raises a totally different problem, as the evidence before the Shepherdson inquiry has shown. If effective proof is required, then a housecall is essential: 1.5 million a year at, say, \$20 each totals \$30 million on top of ordinary roll-keeping costs. If a visit to the Divisional Office is required, then 10,000 visits per Division are involved. Over a decade ago the Committee found that:

in a non-election period most Divisional Offices had no more than 10 to 15 in person inquiries per week (*October 1988 JSCEM Report, p 39*).

Staffing levels were much higher than they are now and increasing "in person inquiries" tenfold or more would have serious resource implications.

As to the fourth requirement, a witness, the evidence before the Shepherdson inquiry suggests that persons in public life like Members of Parliament and party office-holders should be specifically disqualified from being witnesses, much less be on a selective list of those whose integrity is above doubt.

In any event confirmation of a witness' identity would have to be built into any improved process. If the categories of acceptable witnesses are to be limited, then it should be possible (i) to secure lists of such persons and their signatures for cross-checking by enrolment staff, and (ii) require them to make regular, perhaps monthly, returns of claims they have witnessed. This could be done easily by having a detachable part of the enrolment claim card which they would return separately and which could be recorded separately to identify unusual statistics concerning witnesses.

After further reflection I would repeat my recommendation that if any very substantial changes are to be made to enrolment procedures that a pilot project be undertaken first, even if that requires legislation. The amendments to the Representation of the People Act, still before the British Parliament so far as I know, make provision for some local experimentation.

4.4 In his closing submissions to the Queensland CJC Shepherdson inquiry on 19 January 2001, Mr Russell Hanson QC also expressed doubt about whether the new legislation is directed at the right target.

The evidence suggests that in the vast majority of detected cases of false enrolment, a requirement for the person when initially enrolling to provide more detailed proof of identity would have had little impact on the conduct disclosed. It was at the point of change of enrolment that the possibility arose of false details being provided. The evidence is overwhelming that persons had originally been lawfully enrolled at an address at which they resided. Being lawfully enrolled, sometimes for many years, it is alleged they changed their enrolment to a false address to enable them to vote at a particular plebiscite.

There are no doubt many arguments for and against introducing a requirement for enhanced proof of identity for both initial enrolment and change of enrolment but it is not the Commission's function to canvass these when there are other bodies specifically tasked to look at electoral reform. The issue of possible disenfranchisement of voters, for example, is a complex one which will require significant attention. The submission of Professor Colin Hughes to the Joint Standing Committee on Electoral matters highlights the problems associated with the introduction of such a policy.

This raises the issue of proof of residency. Enhanced proof of residency would no doubt have reduced the opportunities for people to engage in the practices identified. However, once again there are as many arguments for and against enhanced proof of residency requirements for both the time of initial enrolment and the time of change of enrolment. Once again disenfranchisement is a significant issue. Submissions from all relevant parties would need to be received and considered before any conclusions

could be reached about the ultimate effectiveness and overall value of such a change.

It should be noted here there has been recent significant enhancement of monitoring of the electoral rolls by the Australian Electoral Commission. It is understood that from the beginning of 1999 a system known as Continuous Roll Monitoring has been utilised by the Australian Electoral Commission which is the body responsible for maintaining the State and Federal rolls. This includes data matching with information retained by other authorities and data mining of the electoral roll with the view to detecting fraudulent enrolments such as duplications or an unusually high number of enrolments. However, it is very difficult for this Inquiry to evaluate the effectiveness of such tools from the limited amount of information available on their use to date.

4.5 The implementation of Continuous Roll Updating (CRU) is described at part 11 of submission No 26, and discussed later in parts 6 and 8 of this submission.

4.6 It is acknowledged by the AEC that the new enrolment witness identification provisions, assuming they come into force, will be welcomed by many of those concerned about the possibility of electoral fraud. However, the June 2000 JSCEM Report indicates that the JSCEM is conscious of the possible negative impacts of the new provisions:

Recommendation 6: That the AEC investigate and report on the potential impact of the proposed changes to the witnessing and enrolment provisions effected by *Electoral and Referendum Amendment Act (No 1) 1999*. This report should include information on:

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

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

4.7 For example, it is possible that in time the new enrolment witness identification provisions will be judged inadequate because they will not be a barrier to determined forgers, and they will not deter complaints about electoral fraud. There will always be those who accept unsubstantiated allegations of electoral fraud by disgruntled candidates as proof positive that the integrity of the electoral system is under threat. Pressure could then rise for a further "tightening up" of the electoral system by more intrusive and onerous means, which in turn could place the franchise under strain as the electoral system is forced to disqualify increasing numbers of electors. In such circumstances, justification could be found for rolling back the legal requirement to enrol and vote, which presently appears to have the support of the majority of electors and Members of Parliament. There is a respectable argument that compulsory enrolment and voting enhances the integrity of the Electoral Roll, rather than diminishing it.

4.8 The former Electoral Commissioner, Dr Colin Hughes, referred to this “ratchet effect” in his evidence to the JSCEM at the public hearings in Brisbane on 14 December 2000, at page EM218 of the transcript.

...If one were to say a drivers licence is sufficient [as personal identification at the polling booth], it might well quiet public concern for a time. But I think all that would happen is that the ease with which it could be abused ... would mean that the next time round the problem would appear all the worse. And even more drastic methods – treble the dose; the system is far more rotten than we ever thought – would be the consequence of that. One of the overriding concerns at the present time for reform is that what is done both looks reasonable to the average person, is appropriate to the scale of the problem, attacks it where the problem seems to be coming from and will not require a major revision in a couple of years time on the basis of what we already know about abuses in the area of identification and petty crime.

4.9 Finally, if the regulations for the enrolment witness identification provisions in the *Electoral and Referendum Amendment Act 1999* are to come into force, it may well be that in the longer term this will decrease the accuracy and the integrity of the Electoral Roll. That is, the States and Territories may well decide that, rather than coming into line with the federal requirements under the Joint Roll Agreements, given their concerns about the effect on the franchise, they will instead move towards establishing their own separate State/Territory rolls, without the new enrolment requirements required under the federal legislation.

4.10 The outcome could be a gradual transition towards nine separate rolls (federal, six States and two Territories) to cover the nine separate electoral jurisdictions. These separate rolls will inevitably move apart as dual compliance by electors becomes more and more inconvenient. There will then be little agreement, and increasing legal disputation, on which enrolment regime is the most accurate, and hence which elections best reflect the will of the electorate.

4.11 There is no current indication available to the AEC that States such as Queensland have in any way resiled from their original reluctance to pass complementary legislation to bring into force the new enrolment witness identification provisions at a national level.

## **5. IDENTITY FRAUD**

5.1 On page EM30 of the transcript of 15 November 2000, Senator Ferris commenced an examination of the 71 cases of possible enrolment fraud over the past decade, as reported in Attachment 20 to AEC submission No 26, in response to the second term of reference for this inquiry. Senator Ferris was particularly interested in cases of identity fraud, as discussed in part 8 of submission No 26.

5.2 Senator Ferris focussed her examination of identity fraud on case NSW5 of 1990 in the Division of Macquarie, which was then held by Mr Alasdair Webster of the Liberal Party. Mr Webster lost the subsequent 1993 federal election and petitioned the Court of Disputed Returns on the basis of, amongst other things, hundreds of cases of alleged electoral fraud.

5.3 To assist the Court at the time, the AEC deployed a team of staff over three months into the Division of Macquarie and interviewed all persons alleged by Mr Webster to have been guilty of electoral fraud. No evidence to substantiate Mr Webster's allegations was found. The AEC presented the results of its investigations to the Court in sworn affidavits covering every case alleged by Mr Webster. These affidavits remain on the public record with the Court.

5.4 Mr Webster then decided not to proceed with his petition, which was eventually dismissed by the Court, with costs awarded against him, in 1996. The AEC has provided a chronological account of the Webster petition in Attachment 19 to submission No 26 (on the AEC website).

5.5 To this day, Mr Webster continues to agitate his failed candidacy at the 1993 federal election in the Division of Macquarie, with the support of Dr Amy McGrath and the H S Chapman Society. In submissions to this JSCEM inquiry, Dr McGrath and her associates have argued that the proceedings in the Webster petition demonstrate a reprehensible failure by the electoral and judicial systems to find the electoral fraud alleged by Mr Webster. Dr McGrath and Mr Webster were present in the audience during the JSCEM proceedings on 15 November.

5.6 The case to which Senator Ferris referred involved a pet cat that had been enrolled in the Division of Macquarie in 1990 in the name of Curacao Fischer Catt. The facts are as follows.

5.7 A federal election was held on 24 March 1990, and Mr Alasdair Webster was elected as the Member for the Division of Macquarie. On 8 August 1990, an enrolment form was received by the Macquarie Divisional office, for Curacao Fischer Catt of 47 Railway Parade, Hazelbrook NSW. The form was witnessed by Peter Borshac of Lismore, and, as the necessary details were complete, the form was processed onto the roll management system RMANS.

5.8 On 25 October 1990, Mr Webster sent out welcome letters to his constituents in the Division of Macquarie. On 30 October 1990, Mr Webster received the following response from Miss Justine Fischer:

Re your letter – 25th October - Dear Alasdair  
Thank you for your letter regarding my inclusion on the electoral role [sic] of Macquarie. Unfortunately my owner has just advised me that under the Australian Constitution cats are not allowed to vote (which is probably a shame for any politician). Would you please remove my name from the role, and I apologise for the inconvenience....

5.9 Mr Webster referred the letter to Divisional Returning Officer (DRO) for Macquarie for attention. After examining the enrolment form in question, on 4 December 1990, the then Australian Electoral Officer (AEO) for New South Wales, Mr Brian Nugent, wrote to Mr Webster in the following terms:

I refer to the letter dated 30 October 1990 from Miss Justine Fisher of 47 Railway Parade, Hazelbrook regarding the enrolment of her cat, which you passed on to the Divisional Returning Officer for Macquarie for advice. I must apologise for the delay in replying but the documents were inadvertently placed on the wrong file.

Attached for your information is a copy of the fully completed and witnessed enrolment form. Divisional Returning Officers are obliged under section 102(1) of the Commonwealth Electoral Act to process a claim for enrolment unless it is apparent that it is not in order. That is not so in this case and the claim was duly processed.

As you can see from the claim for enrolment form, electors are required to sign the form declaring that all information on it is true and correct. It is an offence under Section 339(1)(k) of the Commonwealth Electoral Act to make a statement in any claim that is false or misleading. The penalty is \$1000 and/or imprisonment for 6 months. Witnesses are required to sign stating that they saw the elector sign the claim for enrolment form and that all statements in it are true. Section 342 of the Commonwealth Electoral Act sets out the duties of a witness, the penalty is \$1000.

The Australian Electoral Commission refers cases of fraudulent enrolment to the Australian Federal Police for investigation. It would be appreciated if Miss Fisher would pass on to us any information she might come across that would assist the Australian Federal Police in their investigation of this matter.



Also, I note that our records indicate that Miss Fisher is not enrolled at the address shown on her stationery. If this is her residential address and she is eligible to enrol, she should fill out an enrolment form and forward it to the Divisional Returning Officer for Macquarie.

5.10 On 2 January 1991, a letter to the editor was published in the *Blue Mountains Gazette* newspaper, under the heading "Going Co Co for votes", as follows:

Sir – I feel neglected by both our State Member Mr Barry Morris and our Federal Member Mr Alasdair Webster. As a Blue Mountains resident and voter, I have almost always taken my electoral duties most seriously, and I feel that I have suffered a terrible slight from both these gentlemen.

Recently, in a moment of frivolousness at the post office I filled out an enrolment form on behalf of my cat Co Co who has not yet turned one year old, but is probably just as capable as any other member of the electorate in picking a box on voting day. I merely added 17 years to his birth date to make him eligible to vote, and in the box marked occupation I filled in Pest Exterminator, and then I waited.

Your readers might well imagine my amazement when the Electoral Commission actually sent a form to our address in the name of Curacao Fischer Catt. I wasn't worried about this, as I felt the worst thing that could happen was Co Co would be hit with a \$50 fine for not voting in the next election – and how were they going to get that from a cat? Cut him back to three tins of fish a week until he has paid it?

What really shocked me was the letter Alasdair Webster sent him addressed "Dear Mr Catt..." congratulating him on becoming enrolled in the Electorate of Macquarie. I immediately sent Mr Webster a letter from Co Co asking him to remove his name from the roll, as "under the Australian Constitution cats are not permitted to vote". At this stage I felt that I'd had my fun at the taxpayer's expense.

Still, worse was to come. Last week I received a letter from Barry Morris sent to Co Co addressed on the envelope "Cuacao F. Catt" in which he, like his Federal counterpart, welcomes my cat as a new constituent in his electorate. This has finally rubbed me the wrong way.

When I moved to the Mountains, and every time I have changed my address up here I have always let the Electoral Commission know of any change in my whereabouts straight away. But not once have I ever received a single letter from any politician thanking me for being a member of the electorate.

Evidently my cat is very special that he would merit two such letters, while his poor neglected owner has to put up with a couple of printed brochures shoved in the letter box every few years to mark a voting occasion.

If Messrs Webster and Morris would prefer my cat's vote to mine I would be happy for him to front up at the polling booth and vote on my behalf. I could probably even go to the necessary expense of buying him a stamp pad so that he could put his paw print in whichever box he desired on polling day. – Neglected Cat Owner, Hazelbrook.

5.11 On 5 December 1990, the matter was referred by the AEO NSW to the AFP for investigation, and two years later, on 24 March 1992, the AFP responded to the AEO NSW in the following terms:

On 5 December 1990 your office referred to the Australian Federal Police an enquiry relating to statements made in claims on Electoral Enrolment Cards which were known to be false. These statements were apparently made by Justine FISCHER and involved her enrolling her cat on the Electoral Role [sic].

As a result of enquiries conducted, Police interviewed Justine FISCHER. During the course of the interview Miss FISCHER supplied Police with a statement in which she admitted that she had enrolled her cat, Cuacao, on the Electoral Role [sic] under the name Curacao Fischer CATT.

Further to this she advised that Peter BORSHAC, who had witnessed the Enrolment card, knew that the information was false and that he in fact had done the same on an earlier occasion.

Miss FISCHER was warned by Police that she may receive a summons for court in relation to the matter. However, due to the statute of limitations expiring on 2/7/91 no further action was taken.

As Police involvement in this matter is now complete, please find enclosed one Electoral Enrolment Card in the name of Curacao Fischer CATT, supplied by your office to the Australian Federal Police for use in our investigation...

5.12 The questioning of AEC witnesses by Senator Ferris on this matter caught the attention of many reporters, and it became the lead story on that night's television news and was widely reported in the newspapers. The following is an example:

How many dogs, cats, birds and ringtail possums are enrolled to vote at next year's state and federal elections? This is not a silly question after last week's case of Curacao Fischer Catt, the pussycat whose name some clever vegemite succeeded in placing on the federal electoral roll in NSW in 1990.

Last week, Queenslanders were absorbing new concerns about the parlous state of the electoral roll to be used at next year's Queensland and Commonwealth elections.

The alleged inaccuracy of the roll, coupled with claims of attempts to rig past polls, in the Brisbane seat of Fisher in 1987, for example, suggests there will be lingering doubt, come polling nights next year, that the results flashed up on our TV screens might not reflect the will of Australians – at least homo sapien voters.

There remains that little dark thought, thanks to the Shepherdson inquiry and this paper's revelations, that someone, somewhere, may have "parachuted in" some voters – or let it rain cats and dogs in a marginal seat – to engineer a few rorted votes.

For its part, the Australian Electoral Commission top brass seems not too concerned about the state of the roll. Speaking at a parliamentary committee hearing in Canberra last week, Australian Electoral Commissioner Andy Becker said the electoral system was in "good shape".

He said the commission could find no evidence of organised fraud that had swung an election in the past 15 years, although there had been 71 cases of electoral fraud in the past decade. Becker blames the public's supposedly shaky faith in the voting system and the state of the rolls on adverse publicity in the media.

"The AEC is concerned about the impact on public confidence in the electoral system of the canvassing of unsubstantiated and anonymous allegations of electoral fraud more than a decade after the event", he said.

But the Electoral Commission's most damning critic is not the media, political parties, or even disgruntled candidates, but its own long-serving officers who have tendered hard-hitting submissions to the Joint Standing Committee on Electoral Matters, the committee reviewing the roll's integrity. They are especially critical of the commission's decision to scrap the regular house to house doorknocks previously used to update the roll in favour of computerised cross-matching of government agency data...

The commission cannot be too dismissive of public concerns about the roll. Where there is inaccuracy there is the potential for scurrilous individuals to commit electoral fraud. The question is, what will the AEC do to guarantee that the electoral roll to be used at next year's Queensland and federal elections is as accurate as possible and the potential for fraud all but eliminated? (*Courier Mail*, 20 November 2000, "Paws for thought", *Chris Griffith*)

5.13 It is important to appreciate that the AEC is not directly empowered by the statute to personally interrogate, and perhaps reject, enrolment applicants whose names merely sound suspicious. The Electoral Act requires AEC staff to enter an enrolment application onto RMANS if all necessary details are complete and correct on the face of the enrolment application form. The AEC can and does interrogate its own RMANS database at the point of processing an enrolment and if any anomalies do appear, then they are followed up by contact with the applicant (see part 10 of submission No 26). AEC staff have no powers to demand verification of personal information provided at the doorstep during roll reviews. Were the AEC to be provided with powers of this kind, for the purposes of door-knocking, considerable public opposition might be expected.

5.14 In the case of the pet cat, the name Curacao Fischer Catt might sound, in retrospect, like an obvious invention. However, there are 438 electors on the Roll with the surname Catt (267 of them in NSW), and there are many given names on the Roll that are much stranger than Curacao Fischer (see for example, part 10 of submission No 88 of 12 March 1999).

5.15 Further, the notification to the AEC by Mr Webster of his return-to-sender (RTS) mail, and the subsequent removal of the suspect enrolment by the AEC and referral for investigation to the AFP, demonstrates that the system is working (sometimes slowly), not that it is comprehensively failing. RTS mail from Members of Parliament is one of the useful cross-checking methods that contribute to the integrity of the Electoral Roll.

5.16 However, the AEC has submitted in the past to the JSCEM that any broad assumption that RTS mail is evidence that the rolls are in total disarray is not necessarily justified, given that:

- not all electors are pleased to receive constituency mail from Members of Parliament and may seek to stop any further communication by RTS mail;
- the rolls are continuously amended and Members of Parliament have used out-of-date versions in addressing their mail in the past;
- the Australian elector population is relatively mobile, resulting in a high level of daily enrolment transactions; and
- not everyone transfers their enrolments as promptly as they should, so that the rolls will never be 100% accurate at any point in time.

5.17 The particular case of the pet cat enrolled in the Division of Macquarie is an interesting one for the reasons indicated by Dr Colin Hughes, a former Electoral Commissioner, who has independently analysed the results of the 1993 election in the Division of Macquarie in an article entitled "*The Illusive Phenomenon of Fraudulent Voting Practices*", published in the Australian Journal of Politics and History (Vol 44, No 3, pp 471-91), and reproduced at Attachment 27 to AEC submission No 88 of 12 March 1999.

5.18 Dr Hughes said the following in his submission No 49 of 11 December 2000 to this inquiry:

The most newsworthy ingredient in the current debate has been the enrolment of a cat under a human name in the Division of Macquarie, raised at the Committee's first day of public hearings. It has specificity, but what does it tell about roll integrity? The earliest account reads:

The extravagantly named pet, Curacao Fischer Catt, was included on the roll by its owner in the Blue Mountain-based Federal seat of Macquarie. It was only discovered after a letter from the local Liberal MP, Mr Alasdair Webster, was returned to sender because there was no record of a person with that name (Mark Robinson, "How a cat called Catt got a vote", *Sydney Morning Herald*, 16 November 2000).

....In the first place, why that surname which, it has been claimed, was a giveaway for the hoax and should have alerted the AEC before the name ever went on the roll? Had I been the divisional officer about to enter the name, I would have thought: "Wonder if she's any relation of Dr Helena Catt of the Department of Political Science of the University of Auckland? (*Who writes about electoral matters e.g. Helena Catt, "Referendum Themes", eds. Vowles and Aimer, Double Decision: The 1993 Election and Referendum in New Zealand (1334)*). The area is really filling up with New Zealanders."

In the second place, why the bogus registration? As the Committee is no doubt aware, a number of (then) Opposition members and/or their constituents were concerned with the incidence of returned welcoming letters and were pressing the AEC to investigate these. My recollection is that Mr Webster shared that concern.

My suspicion consequently is that the celebrated cat may have started out as a mole: a false enrolment form lodged to lead to an enrolment, which would be notified to Mr Webster, who would write a welcoming letter, which would be returned by the occupant of the address marked "Not at this address", the Post Office would pass it to Mr Webster, who would pass it to the AEC, and there would be a controlled experiment as to what the AEC actually did about such matters. It would have been a simple way of testing system performance.

Attendance on the Committee of "the owner" mentioned in the original story might clear that up were it thought necessary.

5.19 Dr Hughes reiterated his views on the enrolment of Curacao Fischer Catt during his oral evidence before the JSCEM in Brisbane on 14 December 2000, at page EM217 of the transcript.

I tend to try to look for rational behaviour in the first instance as an explanation of why people do things....Why in heaven's name would somebody go to all that trouble to put a cat on the roll? The ... possibility is that instead of it being a mole it was a bottle of port that was laid down to be opened at an appropriate occasion such as the present inquiry.

5.20 In summary, the facts in relation to the enrolment of Curacao Fischer Catt are as follows:

- the enrolment was detected within 26 days, by return-to-sender mail referred to the AEC from the Member of Parliament for the Division.
- the enrolment remained effective for 15 weeks, during which time the AEC determined the facts.
- the AFP investigation did not recommend prosecution for falsifying an enrolment application because the statute of limitations had expired by the time the investigation was concluded.
- the person involved publicly admitted her motivations were frivolous, to "test the system", rather than to affect the result of a federal election.

- the person did not impersonate Curacao Fischer Catt to vote at any federal election because no federal election occurred during the time that the enrolment was effective.

5.21 The AEC acknowledges that it is not always possible to immediately detect cases of identity fraud at the time they are perpetrated, although many such cases are eventually picked up indirectly by other means, such as RTS mail and other information sources. The issue for this JSCEM to determine is whether the individual cases of identity fraud over the past decade, listed in Attachment 20 to submission No 26, including the case of Curacao Fischer Catt, indicate (even circumstantially) any widespread and organised conspiracy to affect the results of federal elections.

5.22 The evidence available to the AEC is that identity fraud on the Electoral Roll is not directed to affecting the results of federal elections. The case of Curacao Fischer Catt does not show that federal election results are affected by this kind of electoral fraud, or that the electoral system is in need of urgent reform, including the introduction of even stricter enrolment identification requirements than are already in prospect. The Catt case does demonstrate that occasionally people are motivated to “test the system” by identity fraud. (See also, for example, case NSW16, discussed further in response to Question on Notice No 15 in part 13 of this submission.)

5.23 In the longer term, ever stricter enrolment and voting identification requirements will not necessarily present a barrier to anyone determined to defraud the electoral system. However, if the legislation were to be amended to upgrade CRU procedures by facilitating extended data-matching with larger federal government databases such as ATO, this could have a real impact on the ability of the AEC to detect cases of identity fraud more speedily and reliably. Improved funding for the AEC to upgrade RMANS, to allow more frequent data-processing and to allow enrolment signature verification on-line in Divisional offices, would also improve the ability of the AEC to detect cases of identity fraud at the time that enrolment applications are processed onto RMANS. This is addressed further in part 6 of this submission.

## 6. UPGRADING RMANS AND CRU

6.1 The AEC is aware of the concerns that have been expressed about the issue of identity fraud on the Electoral Roll, and has already addressed these in part 8 of submission No 26. The AEC made the point in that submission that identity fraud is a risk increasingly affecting all government agencies to a greater or lesser extent, but on the electoral front, there is no evidence that identity fraud has affected the result of any federal election.

6.2 Most cases of identity fraud on the Roll appear not to be motivated by any intention to affect the results of federal elections, but rather, as collateral attacks designed to support other criminal or nefarious intentions (such as under-age entry to licenced premises, immigration fraud, or social security fraud), or to “test the system”. Note that the Queensland cases of enrolment fraud, that initiated this inquiry, did not involve identity fraud, but in the main, forged enrolments of known persons, mostly family and friends.

6.3 Although there is no evidence that identity fraud is a critical problem for the federal electoral system, the AEC notes the refrain by some critics of the federal electoral system that “it is easier to enrol than to register at the local video store”, and the consequent insistence on increasingly strict personal identification requirements for enrolment and voting.

6.4 At pages EM58 to EM61 Senator Mason pursued a line of questioning with the Australian Electoral Officer for Queensland (AEO Qld), Mr Bob Longland, in relation to identity fraud, that suggested that the AEC might be in denial about the existence of electoral fraud. This view was reinforced by the JSCEM Chairman on page EM63 of the transcript where he said:

...it surprises me that the AEC, who I hope would have been trained to pick up rorting electoral rolls – that would be one of their prime jobs – would sit there like the three monkeys and hear no evil, see no evil and speak no evil and say, “as long as it has been referred to the AFP – and there are 71 case of that – then we really have no responsibility.” Doesn’t that seem a bit unusual?

6.5 During his questioning of Mr Longland, Senator Mason was of the same view as the JSCEM Chairman. The following exchange is reproduced here, because an abbreviated version was read out to other witnesses at a later hearing:

Senator Mason - You have just given evidence ... of fictitious people voting at a real address and of real people voting at a wrong address. Can you be certain that that did not occur? Before you answer, I should just make an admission: I used to be a teacher of criminology, and the police would always say in relation to any offence, Mr Longland: ‘There is no evidence of it.’ Yet there was what criminologists call a very large dark figure, which you may know is the difference between those offences, in a sense, recorded and those charged. It is a huge difference.

With murder there is not much difference obviously – you usually find a body or someone goes missing. Ten or 20 years ago people used to say there was no evidence of paedophilia or domestic violence. Yet today in criminology two huge areas of study are domestic violence and paedophilia. So it does not work with me to say that there is no evidence. We know the means and there is a motive: a very marginal seat – 140-odd votes. So how can you say that there is no evidence and that is sufficient?

Mr Longland – I have made it very clear here today that these things can be done. It is a matter of them being done on a scale that would affect the result...

Senator Mason – If you target those two methods – particularly fictitious people in real addresses – I bet that you will be able to pick most of the seats that will be under one per cent after the next election.

Mr Longland – I bow to your knowledge on that. My reading of the history is that that is not generally the case; that it is based on a lot of things, including issues, the quality of candidates, the performance of sitting members – issues like that that tend to be a dynamic rather than a set situation....

Senator Mason – I have spelt out the fact that you have the means. You suggested before, and no-one has disagreed with us, that fictitious people at real addresses is a real means of defrauding. To suggest that there is not a motive is ridiculous – the motive is federal government...We are suggesting that if there is targeted interference it could make a difference – not that the whole system is a rort. We are suggesting that targeted interference can make a difference. You do not seem to think it can.

Mr Longland – That is correct; I stand by that.

Senator Mason – So you are saying that targeted interference cannot make a difference? Is that your claim?

Mr Longland – It cannot change the results of an election.

Senator Mason – That is your claim?

Mr Longland – Yes.

6.6 Senator Faulkner took the view that this exchange constituted badgering of a witness, and suggested that the question had not been put in a fair way. For the sake of clarification, Mr Longland was claiming that:

- it is not possible to reliably predict which electoral Divisions will be won by a small margin;
- those intending to perpetrate identity fraud to affect an election result can only guess which Divisions to target;
- identity fraud is not a simple matter, as has been explained elsewhere (see paragraph 8.9 of submission No 26);
- it is highly unlikely that widespread identity fraud could be successfully organised, in total secrecy, at a sufficient level to change the result of a federal election.



6.7 It must be noted that during these proceedings, there was the suggestion from the Government members of the JSCEM that the only electoral fraud that the AEC is prepared to acknowledge to the JSCEM is the 71 cases of possible enrolment fraud over the past decade reported in Attachment 20 to submission No 26, and that this must leave a lot of undetected electoral fraud that the AEC is refusing to acknowledge. In fact, the AEC routinely reports to the JSCEM, after every federal election, hundreds of cases of *possible* multiple voting, so that the JSCEM can examine for itself whether or not these cases are concentrated in marginal Divisions and could have affected the result of the election (see for example, submission No 129 of 7 February 1997 and submission No 239 of 15 October 1999 on the AEC website). The AEC does not routinely report cases of possible enrolment fraud to the JSCEM after every federal election because such cases are relatively few and far between, as Attachment 20 to submission No 26 demonstrates.

6.8 The AEC has never denied that electoral fraud is possible, or that it occurs from time to time. However, the AEC has concluded, and the JSCEM has consistently agreed over the years, that there is no evidence to suggest that such cases represent a widespread and organised conspiracy against the federal electoral system, in particular in marginal Divisions. Individual cases of electoral fraud, including multiple voting and enrolment forgery, are detected, investigated, and prosecuted. However, in order for a federal election to be overturned on the grounds of electoral fraud, it must be demonstrated to the Court of Disputed Returns that electoral fraud has occurred to such an extent that the result of the election might have been affected (see section 362 of the Electoral Act). Such a level of proof has not been presented to the Court in recent decades.

6.9 The AEC has addressed the problems involved in establishing proof of identity for electoral purposes in submission No 120 of 10 November 1993 and submission No 98 of 23 October 1996 (which form Attachments 14 and 15 to submission No 26 of 17 October 2000, on the AEC website).

6.10 It is apparent that the difficulties raised by the AEC in relation to documentary proof of identity in those earlier submissions, and the doubts expressed by the AEC in part 6 of submission No 26 as to whether the new enrolment witness identification requirements would have deterred determined forgers such as Ehrmann/Kehoe/Foster, are now finding some vindication in submissions from other government agencies to other parliamentary inquiries.

6.11 For example, as noted in part 8 of submission No 26, the August 2000 Report of the House of Representatives Standing Committee on Economics, Finance and Public Administration, entitled "Numbers on the Run", examined the extent of identity fraud affecting government agencies, as follows at paragraphs 6.5 to 6.9.

In their report, the ANAO noted the ease with which false identity documents can be obtained, and the difficulties this poses for government departments in terms of their POI processes.

It is clear from the Committee's inquiries, that identity fraud is a significant issue for the Australian community. As stated by the ABA:

Identity fraud is not only an issue for industry and government, but also for the whole community that is affected by the impact of criminal activity.

As noted by Federal Agent Gordon Williamson from the Australian Federal Police (AFP) the concerns about false identity:

...essentially revolve around the ease of availability of some documents which can then be used to prove identity and the ease with which technology permits the falsification of documents.

With improvements in technology and their increased availability through reduction in cost, this issue is a growing concern. The move to greater use of electronic commerce is likely to further increase the level of identity fraud and the difficulty of uncovering perpetrators – a point highlighted by Dr Smith from the Australian Institute of Criminology (AIC) and Federal Agent Williamson.

Indications of the problem include:

- 'the estimate would be that approximately 25 per cent of reported frauds to the AFP involve the assumption of false identities';
- Federal Agent Williamson observed that 'when I was a fraud investigator, most fraud offenders had multiple identities available to them, whether they were used or otherwise;
- that 'identity kits' consisting of a set of fabricated documents for a false identity are 'increasing in availability, particularly due to the ability of modern technology to generate forged documents of very high quality';
- 'that identity documents of various types are available for the payment of money – either forged documents or genuine documents which have been stolen and otherwise dealt with', including via the Internet';
- that in a pilot conducted by Westpac and the NSW Registry of Births, Deaths and Marriages of a Certificate Validation Service, that in 'the particular instances where a birth certificate was tabled to the bank as part of the identification documentation, some 13 per cent were found to be false';
- Centrelink detected 'about \$12 million worth of fraud from identity' in 1999; and
- the National Crime Authority's (NCA) concern about the ease 'with which false identities may be established and used to facilitate organised criminal activity.'

6.12 More recently, the Attorney-General's Portfolio Submission of 13 November 2000 to the PJC-NCA Inquiry into the Law Enforcement Implications of New Technology, made the following relevant comments on pages 18-19:

....With advances in technology, it is now easier and less expensive to create false documents. This has weakened the integrity of identity verification processes. As a result there is an increased risk of a wide range of other criminal activity, including fraud, tax evasion, illegal immigration, and fraudulent claims against Commonwealth programs.

The 100 Points System of identity verification which is currently utilised in various forms by a range of Commonwealth agencies, particularly AUSTRAC, will become increasingly vulnerable to abuse due to:

- increased capacity to counterfeit or purchase forged identity documents or identity kits;
- increasing remote access to financial and other services (eg. by phone or online links), which reduces the capacity to 'know your customer'; and
- ease of access to information about how the identification system functions, including offshore access, eg. through the AUSTRAC website.

On the other hand, technological developments that could strengthen identity verification over the next five years include:

- increased capacity to transform current paper-based systems into electronic systems to facilitate crosschecking of information;
- increased use of biometric and location identifiers;
- expanding capacity to store and utilise new types of identity data (eg. photographic images and DNA) to create new systems for verification of identity;
- increased mobile access to identification information eg. mobile access to photographic images to check against drivers licences; and
- increased use of electronic identifiers to enhance security in the more anonymous online environment eg. passwords, digital signatures.

These changes are occurring within an environment in which the community is increasingly sensitive to invasions of privacy by both the public and private sectors, with a flow-on effect upon attitudes to methods of identity verification.

At a national level, the Commonwealth's primary law enforcement objectives include:

- protecting its programs from fraud;
- preventing laundering of the proceeds of criminal activity;
- ensuring that its citizens meet their tax obligations;
- border control, to combat entry of unauthorised persons and drug trafficking; and
- ensuring that those who commit criminal acts are brought to justice.

Security of identity is fundamental to carrying out the above functions and the security of systems for verification impacts directly on the Commonwealth's capacity to enforce its laws and protect the integrity of its programs.

These concerns need to be addressed cooperatively with the States and Territories and the private sector to protect the integrity of national economic and social institutions. Currently, Commonwealth agencies contribute to a number of working parties involving the States/Territories and the private sector focusing on the security of personal identity mechanisms, including

exploring alternative means of identifying the entities with which they need to interact. These include the Steering Group on Proof of Identity Issues (facilitated by AUSTRAC), the Inter-Agency Workshops on Proof of Identity and the Fraud Coordination Group. Under the auspices of the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA), AUSTRAC is also convening a task force to further explore identity fraud.

However, without systemic change and reconsideration of some of the fundamentals of identity systems currently in use, there is a limit to what these groups can achieve. The Office of Strategic Crime Assessments within the Attorney-General's Department has prepared a strategic assessment of the changing nature of the criminal exploitation of identity.

6.13 The AEC is represented in the Inter-Agency Workshops on Proof of Identity, as mentioned in the A-Gs submission, and receives reports on possible cases of identity fraud that might have impacted on the Electoral Roll. For example, a recent case involving the defrauding of drivers licences has been referred to the AEC for attention.

6.14 The Attorney-General's preference for strengthening personal identity verification through improvements in computer systems and electronic technology, rather than through reliance on personal identity documentation that is increasingly vulnerable to forgery (such as voter cards, drivers' licences and passports), is of relevance in the light of the AEC's implementation of Continuous Roll Updating (CRU) as described in part 11 of submission No 26.

6.15 On the recommendation of a previous JSCEM, the AEC has abandoned the inefficient and costly biennial national door-knock, where the AEC is not empowered in any case to demand documentary proof of identity at the doorstep, to the more cost-efficient CRU data-matching procedures, supplemented by targeted door-knocking. Using the computerised RMANS database, the AEC is able to construct enrolment histories for electors as well as for addresses, and cross-check information with other databases for verification purposes. Further enhancements to the database are expected to flow from GIS technology, as discussed in part 11.6 of submission No 26.

6.16 Any identification system tailored only to a particular set of statutory responsibilities, such as the new enrolment witnessing requirements, will probably be found wanting in the longer term, which is the reason why many have argued that a universal identification system for Australian citizens is necessary. It is of interest in this context, that the Government may be considering resurrecting the 1988 "Australian Card" to combat identity fraud against the Commonwealth, as the following report indicates:

The Federal Government is examining compulsory electronic identification for all Australians in a move which may spark another "Australia card" debate. Outgoing Justice Minister Amanda Vanstone has flagged the move in a submission to a parliamentary committee on electronic crime.

Senator Vanstone told the committee the 100-points system used by Australians to prove their identity for bank accounts, passports and other

Government uses was beginning to fail. "The 100 points system of identity verification ... will become increasingly vulnerable to abuse," she said.

Senator Vanstone said a range of Government departments were working with the private sector to devise a new system for Australians to identify themselves and she flagged controversial changes.

"Without systemic change and reconsideration of some of the fundamentals of identity systems currently in use, there is a limit to what these groups can achieve," Senator Vanstone said. "The security of systems for verification impacts directly on the Commonwealth's capacity to enforce its laws and protect the integrity of its programs. With advances in technology, it is now easier and less expensive to create false documents. This has weakened the integrity of identity verification processes. As a result there is increased risk of a wide range of other criminal activity, including fraud, tax evasion, illegal immigration and fraudulent claims against Commonwealth programs."

The submission made in the name of the Attorney-Generals' Department to the National Crime Authority committee predicts a new identification process for Australians based on electronic identification or DNA within five years. Senator Vanstone flagged the idea of using biometric technology such as eye scans or even satellite tracking to confirm somebody's identity.

Biometric technology has echoes of the 1987 plan for the Australia Card. The proposal was designed to fight tax evasion and welfare fraud by creating a register of the birth-date address and name of each citizen. Many people rallied against the card because of fears it represented a Big Brother-style invasion of privacy.

Senator Vanstone is even considering the use of DNA embedded into a credit card. However, the Government recognises that there will be major privacy concerns. "These changes are occurring within an environment in which the community is increasingly sensitive to invasions of privacy by both the public and private sectors," Senator Vanstone said. (*The Sunday Telegraph*, 14 January 2001, "Privacy fear over ID plan", Simon Kearney)

6.17 If the JSCEM comes to the conclusion that identity fraud is a serious problem for the federal electoral system, then part of the solution might be to take advantage of developments in computer technology to upgrade RMANS to allow increased frequency of enrolment audit reports as well as enrolment signature verification on-line in Divisional offices, and to upgrade CRU procedures, to facilitate extended data-matching with other large agency databases.

6.18 As stated in part 13 to submission No 26, such enhancements to existing systems would be preferable to requiring ever stricter documentary identification at enrolment and voting (which could disenfranchise electors who for a variety of reasons do not have convenient access to personal identification documentation), and introducing the early close of rolls for an election (which will inevitably decrease rather than increase the accuracy of the rolls as people are unable to update their enrolments at the time an election is announced).

6.19 At part 12.8 of submission No 26, the AEC said the following:

If the JSCEM were to conclude that the functionality of RMANS should be upgraded, it would be possible to increase the frequency and improve the precision of reports generated for roll auditing purposes, to improve the accuracy of the roll and to detect enrolment fraud. For example, RMANS can produce reports showing multiple enrolments at single addresses; reports on enrolments in excess of benchmarks for particular types of residences; and reports linking single postal addresses with multiple enrolled addresses. Any anomalies uncovered can then be targeted for mail-outs or fieldwork.

RMANS reports presently include unnecessary and irrelevant detail, such as establishments with *bona fide* large enrolments, such as military bases and nursing homes, and these must be manually culled from the reports. Further, these RMANS reports can only be generated within a six-monthly cycle. More frequent and precise reports would more effectively target moving populations of enrolments, particularly any anomalous movements around electoral events. (The AEC understands that such reports are routinely run in the Department of Social Security to detect possible fraud). However, this would be expensive and is presently beyond AEC resources.

6.20 Further, the Electoral Commissioner summarised his opening statement to these proceedings on 15 November 2000 as follows:

...the AEC has recommended an increase in the penalties for electoral fraud offences, and an upgrading of the computerised systems used to maintain the integrity of the roll. Needless to say, the upgrading of these computerised enrolment systems would require increased resourcing for the AEC.

Such increased resourcing for the AEC would have to be accompanied by specific legislative measures enabling guaranteed and continuing access to a wider range of data sources than is currently available to the AEC for data-matching purposes, including from Commonwealth agencies such as the ATO and from State and Territory agencies.

6.21 At page EM58 of the transcript of these proceedings, the Electoral Commissioner advised the JSCEM that, with extra funding of around \$25 million per annum ongoing, the AEC could upgrade RMANS to allow increased frequency and refinement of RMANS reports to track the moving population of electors, and the development of electronic signature verification on-line in Divisional offices, for example. With additional legislative powers, and the appropriate privacy regulation, the AEC could also upgrade CRU data-matching, so as to include the Australian Taxation Office, for example, which is responsible for one of the largest personal databases in the nation.

6.22 Taken together, such changes would allow a significant improvement in the ability of the AEC to audit the integrity of the Electoral Roll on an ongoing basis. It is noted that the Queensland Legislative Assembly Legal, Constitutional and Administrative Review Committee, in its Interim Report, made recommendations for improved funding for the Queensland Electoral Commission to upgrade its computerised identification systems, in cooperation with the AEC.

6.23 As the Assistant Commissioner Elections and Enrolment, Mr Paul Dacey, said at pages EM72 to EM74 of the transcript:

....if you had a system online of signature recognition, [you could] check the signature of the witness on their original application for enrolment against their signature on the new claim. However, that comes at a price; not only in terms of machinery but also a significant price in terms of the time it would take to process an enrolment. That would have significant implications for a close of rolls period when you are looking at processing 300,000 enrolments in a period of a week and doubling or tripling that time if you made those checks. We are not saying the checks cannot be done; we are saying the checks can be done, but with a significant price not only in terms of dollars for equipment but in terms of time as well....

You could eyeball Paul Dacey's original signature when he registered. If he then witnesses someone else's enrolment form 10 years later, you might be making a pretty good judgement – signatures mature and we are not handwriting experts, but you would have some indication – that looks pretty good; that signature is verifiable....

...our general ongoing funding for support for roll management has basically remained static despite an increase in the number of electors...

6.24 The AEC suggests that this JSCEM give consideration to recommending increased funding for upgrading RMANS data-processing and CRU data-matching. If the JSCEM indicates further interest in this proposal for increased funding, the AEC will submit a more detailed accounting, and consult with the Privacy Commissioner about the legal requirements for extended data-matching.

## **7. AFP INVESTIGATIONS AND PENALTY LEVELS**

7.1 The AEC has a statutory responsibility to institute investigations and prosecutions where it has uncovered possible breaches of the Electoral Act that might indicate electoral fraud (see parts 9 and 12 of submission No 26). However, the penalties for electoral fraud offences in the Electoral Act are relatively low, and this has a significant effect on the number of cases of possible electoral fraud, detected by the AEC, that are accepted for investigation by the AFP. Low penalties are also associated with a short period within which prosecutions can be initiated (in many cases one year), which means that some cases that are investigated by the AFP cannot be prosecuted because of the statute of limitations.

7.2 In the June 2000 JSCEM Report of the inquiry into the conduct of the 1998 federal election, comment was made by the JSCEM on the multiple voting offence under the Electoral Act, as follows at paragraph 3.128:

The Committee strongly believes that deliberate multiple voting is a serious offence that can have significant impact on the effective operation of the democratic process. Authorities need to take this matter seriously.

7.3 In submission No 26 to this inquiry, the AEC discussed the low penalty levels for offences under the Electoral Act, and said the following at paragraph 12.5.4:

The significance of the relatively low level of penalties in the Electoral Act is simply that investigations of such offences by the AFP are accorded a lower priority in a climate of limited resources than investigations of offences with significantly higher penalties. Further, a good proportion of possible breaches of the law are rejected at the outset for investigation by the AFP. This in turn means that the institution of proceedings is less likely, and prosecutions for electoral fraud remain at a relatively low level, despite detection by the AEC.

7.4 At page EM44 of the transcript of the hearings of 15 November 2000, Senator Bartlett of the Australian Democrats asked whether the AEC should have wider investigative powers in order to address the problems experienced in attracting the resources of trained investigators in the AFP.

Is there a belief that you could do with more powers, whether they are more investigative powers, rather than having to refer things to the AFP? I have noticed some frustration expressed that the AFP do not necessarily give a high enough priority to prosecuting some of these instances, compared to other things that they are doing. Would you like to have some of those powers to initiate action yourself, or wider investigative powers?

7.5 The AEC appreciates Senator Bartlett's suggestion, but is not seeking any amendments to the Electoral Act to provide investigative powers for Divisional staff, for example, or any extra funding dedicated to the establishment of a centrally-organised electoral fraud "flying squad", as was suggested in some media reports late last year.



7.6 The AEC is of the view that providing AEC staff with police-style powers of entry and interrogation would not enhance the reputation of the AEC with the community at large, no matter how well trained such staff might be. The AEC would also be concerned about the business risks inherent in providing such coercive investigative powers to AEC staff across the nation, who are already charged with the core business of maintaining the rolls and conducting elections.

7.7 Divisional staff are guided in the conduct of elections and the maintenance of the Electoral Roll by the Divisional Office Procedures Manual and the General Enrolment Manual. Information on possible electoral fraud can arise through written complaints and allegations, CRU procedures such as data-matching and mail-outs derived from RMANS, from the electronic scanning of Certified Lists of Voters, from return-to-sender mail from Members of Parliament, from the enrolment objection process that follows every major electoral event, as well as from the observations and deductions made by experienced AEC staff, as occurred in the Division of Herbert in relation to the Kehoe forgeries.

7.8 The uncovering of possible electoral fraud through these standard inter-locking electoral events and procedures is the responsibility of AEC staff. The tracking down and interviewing of suspects, the examination of forensic evidence such as fingerprints and handwriting, and the provision of a brief of evidence to the DPP is the responsibility of the AFP.

7.9 The acting Deputy Electoral Commissioner, Mr Mark Cunliffe, responded to Senator Bartlett's query, about providing investigative powers to AEC staff to replace or supplement AFP investigations, as follows.

A better option might be to have tied funding specifically available to the AFP for electoral inquiry activities, perhaps on the basis that that was not able to be dissipated in other activities, given that they have the skills in investigation and training to do this sort of work.

7.10 At pages EM79 to EM81 of the transcript, Senator Murray of the Australian Democrats returned to the issue of low penalty rates and AFP investigation resources by asking why the AEC does not have a "specialist fraud unit", on the basis that "every major regulatory agency in control of a significant data base which they are required to police...does have such internal capabilities, for instance, the ATO..."

7.11 It must be said that the AEC is a significantly smaller government agency than the Australian Taxation Office and does not have the economies of scale that would permit the continuous resourcing of a specialist electoral fraud unit. However, the AEC Internal Audit Section in Central Office is called upon on occasions to undertake detailed analyses of large-scale allegations of electoral fraud.

7.12 For example, AEC Internal Audit has devoted its resources in the past to the analysis of return-to-sender mail in order to uncover any indications of widespread and organised electoral fraud. However, this work is generally case-driven rather than continuous, and of an analytical/statistical nature rather than a forensic/investigative nature. Any indications of possible electoral fraud uncovered by such analyses would be referred to the AFP for proper investigation if necessary.

7.13 The discussion between Senator Murray and AEC witnesses continued as follows:

Mr Dacey – It is not necessarily an ongoing problem. Problems arise particularly at election time, when more allegations do surface. Our people are particularly tied up at those busy times and I cannot see that there would be a full-time role for an investigative unit in the AEC. If we were provided with funding to fulfil that sort of role, I suspect it would be something that we may well consider outsourcing as not our core business, not only because it is not a full-time role and because of its cyclical nature but also, as I said, because we are not the experts.....

Senator Murray – Let me follow it through. It is claimed that the Australian Federal Police have no passion, interest or enthusiasm in this area.

Mr Dacey – I think a lot of that has to do with resourcing and prioritisation as well.

Senator Murray – The fact is that their resourcing may not change and their prioritisation may not change. One of the proposals made to attract their interest is that the penalties should be raised. But what happens if the penalties are raised and they are still not interested?

Mr Cunliffe – That is why we have suggested some form of tied funding and, following it through, that that tied funding would be made available to the AFP specifically for this electoral activity. In turn, they would, I suggest, have a responsibility for reporting, probably to this committee and to the parliament, separately about the work that they had undertaken.

Senator Murray – Is it your view that the committee should perhaps ask the AFP to appear before it to ask about their views on penalties and prioritisation and the ties such as you suggest?

7.14 The AEC suggests that the JSCEM consider calling the AFP to this inquiry to comment on the reasons for the generally low prioritisation of most electoral fraud cases, and to comment on any proposed moderate increase in funding, dedicated to the establishment and maintenance of an AFP electoral fraud squad. Such an AFP squad would of necessity experience peaks and troughs of activity related to the electoral cycle and this could be built into the funding regime. Further, the AEC suggests that the JSCEM consider calling the Attorney-General's Department at the same time to comment further on submission No 28 of 20 October 2000, and the legal policy considerations that

might guide the JSCEM in recommending higher penalty levels for electoral fraud offences.

7.15 It would appear that AFP funding levels, and investigative capabilities, are a matter of more general concern, as the following recent report indicates:

Australia's national law enforcement agencies, the Australian Federal Police and National Crime Authority, face the prospect of damaging funding cuts as tens of millions of dollars in tied funding dries up. The prospect of a merger of some of the agencies, including parts of the NCA and Customs, is also being reconsidered in the light of funding shortages across national law enforcement.

The AFP and the NCA are both heavily reliant on funding tied to drugs or special purposes. The NCA gets \$8.8 million a year and the AFP a total of \$24 million a year, until 2003, linked to drugs investigations. The AFP received an extra \$117 million over three years as a consequence of an inquiry by former Defence head, Tony Ayers, as Stage 1 of urgent restructuring and to help stop an expected 30 per cent drop in operational capacity. The Ayers money ends in July, and there are no provisions for Stage 2.

It is understood the Ayers report found the AFP unable to cope with the volume of crime impacting on the Commonwealth; it lacked technological and human resources to investigate complex crime; and it was unable to sustain its investigative capabilities due to budget cutbacks. The AFP Association fears both agencies are already in funding trouble and would not survive intact if the Federal Government failed to continue the tied funding.

The association said problems had become chronic in parts of the AFP. There had been an artificial saving in AFP salaries due to missions to East Timor and the Solomon Islands, where salaries were taken off the books. But this saw a reduction in manpower working on federal investigations. Association members in the NCA have told of similar shortfalls in funding. The NCA told a Senate estimates committee in June last year that it would have to sack 50 people when the tied funding ran out in 2003.

It is estimated the AFP would lose 200 federal agents if the Ayers funding is not rolled over into base funding. The then Justice Minister, Amanda Vanstone, said the Government only prepared its Budgets a few years in advance and had not gone beyond the 2002-03 year.

An unpublished report by former top Liberal Party staffer, Gary Sturgess, for the Federal Department of Finance, recommended creating a single national agency along the lines of a National Bureau of Investigation. This would contain the national law enforcement functions of the AFP, the investigative areas of the NCA, and sections of Australian Customs. It could also incorporate the Australian Bureau of Criminal Intelligence and parts of several other national agencies. It is understood Mr Sturgess outlined savings of tens of millions of dollars from shared premises and having a single administration. (*Canberra Times*, 4 February 2001, "Funding shortfall for crime fighters", Peter Clack)

7.16 It might be noted for the record, that when the 1996 JSCEM was considering the introduction of “truth in political advertising” legislation, the AEC submitted that the “policing” of such a law was well beyond the resources and experience of the AEC, and that consideration might be given to dedicated funding for an Electoral Complaints Authority, established separately to the AEC. Submission No 109 of 14 November 1996 (on the AEC website) outlined the possible structural organisation and legal responsibilities of such a body, which could be adapted for consideration by the JSCEM, in relation to the possible establishment of a separate body to investigate and police electoral fraud.

7.17 In his submission No 49 of 11 December 2000 to this JSCEM inquiry, the former Electoral Commissioner, Dr Colin Hughes, suggested that, given the “considerable damage now done to the reputation of the electoral system and its administration”, consideration might be given to the creation of an “Inspector-General” with strong powers to receive and investigate complaints. Dr Hughes prefers this model to the “Electoral Ombudsman” recommended by Dr Amy McGrath in her various submissions alleging maladministration and prejudicial conduct by the AEC.

7.18 However, the JSCEM should weigh in the balance the substantial costs in establishing either an Elections Complaints Authority, an Inspector-General, or an Electoral Ombudsman, against the relatively modest costs that would be involved in providing improved funding to the AFP to do what it is trained to do, together with legislative amendments to increase penalty levels for electoral fraud offences.

7.19 Finally, the JSCEM will be aware that, in his closing submissions to the CJC on 19 January 2001, Mr Hanson QC made some trenchant observations on the state of federal electoral law with respect to the statute of limitations for the prosecution of electoral offences, which should also inform the JSCEM in considering higher penalty levels for electoral fraud offences.

## **8. MANAGEMENT OF THE ELECTORAL ROLL**

8.1 Various issues raised by the JSCEM at the public hearings of 15 November, relating to AEC management of the Electoral Roll on RMANS and the implementation of Continuous Roll Updating (CRU) to replace periodic national door-knocks, are addressed in this part of the submission.

### ***Enrolment of New Citizens***

8.2 On page EM111 of the transcript for 5 December 2000, Senator Murray asked the JSCEM Secretariat to:

...find out and give us a briefing paper on exactly what wash is capable between the immigration department's database and the AEC. I am not aware of what physical data is available to automatically wash the roll and establish who is a citizen and who is not.

8.3 Senator Murray's concerns date back to submission No 88 of 18 September 1996 from Mr Bob Patching, who made his submission as a private citizen rather than in his official capacity as the DRO for Rankin. Mr Patching was highly critical of an AEC management directive that he discontinue his unauthorised personal contacts with the Department of Immigration, seeking to confirm the citizenship details of enrolment applicants of mainly asian extraction in the Division of Rankin. The AEC responded to Mr Patching's submission in submission No 100 of 24 October 1996. Mr Patching has again raised his complaints about procedures for enrolling new citizens in his submissions to this inquiry.

8.4 At paragraph 11.4.1 of submission No 26, the following was reported on the enrolment of new citizens:

As part of CRU, all new Australian citizens now receive a pre-printed enrolment card with their other documents at citizenship conferral ceremonies. AEC staff attend as many of these ceremonies as practicable to collect the enrolment cards and provide advice to new electors. It is estimated that this CRU activity is responsible for the enrolment of 80% of new citizens. The citizenship enrolment program is a good example of how cost-savings...are now being put to much more productive use in funding AEC staff to attend citizenship ceremonies and enrol new citizens.

8.5 Further information on the enrolment of new citizens is as follows. In its response of 8 April 1998 to the June 1997 JSCEM Report, the Government supported recommendation 4: that the AEC investigate the practicality of data-matching with other agencies for the purpose of validating the identity of citizens applying for enrolment. Following negotiations, the AEC reached agreement with the Department of Immigration and Multicultural Affairs (DIMA), and programming commenced in early 2000 on a system for the regular electronic transfer of citizenship data to the AEC. The planned implementation date of August 2000 has been delayed because of the necessity for DIMA to make major changes to their citizenship database, and

recurring problems with a system already in production for the transfer of citizenship data to the Passports Office.

8.6 The AEC has commenced upgrading Divisional procedures for the checking of citizenship claims on enrolment applications entered onto RMANS using the DIMA data. AEC Divisional staff will be able to make on-line checks of claims on enrolment forms of citizenship by grant made by persons not born in Australia. The AEC will also match the DIMA data against RMANS enrolments to confirm the status of an estimated 3.5 million electors who have been granted citizenship over the last 50 years. Currently the RMANS database holds approximately 400,000 enrolments for Australian citizens by grant. Other than in South Australia (where country of birth is held on RMANS), the new system will not assist in identifying non-citizens who are either British electors or already incorrectly enrolled. The DIMA data will provide a positive confirmation that an elector is a citizen, but will not provide information concerning resident non-citizens.

8.7 It is presently anticipated that the new data-matching system will be fully operational by mid 2001. In the meantime, it is worth noting that the re-directing of funding to allow AEC attendance at citizenship ceremonies, facilitated by the implementation of CRU, has resulted in the enrolment of approximately 80% of new citizens at the time their citizenship is granted.

### ***AEC Mailout prior to Queensland State election***

8.8 There has been some recent criticism of the decision by the AEC in Queensland to commence a mailout for "roll cleansing" purposes just prior to the 2001 Queensland State election. It has been suggested, by Dr Amy McGrath in particular, that the Queensland mailout is an admission by the AEC that the rolls are in complete disarray just prior to a State election, thereby casting doubts on the outcome of that election. The following report by Mr Chris Griffith, entitled "Research Body Warns of Poll Farce", in the *Courier Mail* of 22 January 2001, is an example:

Queensland could be heading into an election for which the enrolments of more than a third of eligible voters are under review. Queensland Electoral Commissioner Bob Longland yesterday confirmed the commission would today mail 850,000 notices to voters who were believed not to be on the electoral roll or possibly not enrolled at their current home address.

The H S Chapman Society, a group that researches electoral corruption, said the state could be facing a "farical" election. The group said this was because enrolment details of a third of Queensland's 2.26 million voters were under review with only week to a poll.

Premier Peter Beattie yesterday said the commission assured his office last November the electoral roll would be clean after 230,000 houses were visited because there was no response to mail sent to the address. Opposition Leader Rob Borbidge said the new review indicated "very serious discrepancies in the rolls as we move to an election presumably in the next few weeks"....

... H S Chapman Society president Amy McGrath said it would be impossible to hold an "honest election" with what amounted to 10 federal divisions of electors incorrectly enrolled or not enrolled.

"This could be a tragedy for the coming Queensland election," Dr McGrath said. "Normally, replies to these mailouts come back in a trickle and take weeks, particularly from the country. So if an election is called in five weeks, the changes may have no effect at all. It could mean a farcical election," she said....

8.9 The facts are as follows. On 22 January 2001, the AEC in Queensland mailed approximately 835,000 letters to residences and individuals. This mailout included some 200,000 letters to persons in the 18 to 25 year age group, with the remainder addressed to residences throughout the State. The letters were generated through the application of a major State database against the RMANS database.

8.10 As detailed in part 11 of submission No 26, the AEC has been actively applying a number of Continuous Roll Update (CRU) strategies since early 1999 in updating the Electoral Roll. These include obtaining and applying change of address information to the RMANS database and mailing to the relevant addresses. RMANS can also identify addresses where there is no enrolment, or where typical enrolment levels are exceeded, and letters are mailed to these addresses. Where a response is not received from these mailouts, field investigations are carried out.

8.11 The recent Queensland mailout, which had been planned since last September 2000 in conjunction with the Queensland Electoral Commission, clashed to some extent with routine activities required for the roll close for the early Queensland State election. However, it has not affected the accuracy of the rolls for that election other than in positive ways, with enrolment transactions in the roll close week totalling over 69,000, compared with the 1998 election total of some 35,000.

8.12 CRU activities generate consistently high levels of enrolment changes, high public awareness of enrolment responsibilities when changing address, and in general, a more accurate Electoral Roll more of the time. However, an area that available data sources were not targeting was new enrolments of 17 and 18 year olds. Historically, the enrolment levels of this age group drops to unacceptable levels, without prompting and encouragement. There has been a most satisfactory response to the Queensland mailout, with over 12,000 18 year old electors added to the Electoral Roll. This has almost doubled the estimated eligible enrolment for this age group; now up to some 60% in Queensland.

8.13 A further major strategy of CRU is to apply external databases against the RMANS database, in order to verify as many enrolments as possible, and to identify possible enrolment and address anomalies, without the need for direct contact such as blanket door-knocking. It was expected that the different addresses on the two databases would in many cases be due to

minor variations in how address details were shown, such as variations in locality names or street types, application of rural road numbering and so on.

8.14 Returns from the Queensland mailout are proving this to be the case and valuable address information is being obtained that will assist in confirming many addresses in the RMANS Address Register. The matching to date has demonstrated that the RMANS Address Register is of high quality compared with other State databases. This is a result of the rigorous application of address standards and spot-on-the-earth information applied to the processing of new enrolments. Non-personal address information is being provided to other government agencies in an effort to promote consistency in address standards across the nation.

8.15 In this recent exercise in Queensland, the AEC applied the State database by:

- matching names and dates of birth against the roll to verify electors on the roll. 1,968,384 electors (89.4% of the roll) were matched.
- further checking those electors' addresses against the two databases. This resulted in 1,338,625 (60.8% of the roll) with exact address matches.

8.16 This was the first time that the AEC has applied a complete external database to the RMANS database for the checking of enrolment details and enrolment addresses, and targeted a particular demographic group. The information and experience gained from this exercise will be invaluable in refining future CRU programs.

### ***CRU vs door-knocking***

8.17 A number of submissions to the JSCEM have criticised the abandonment of periodic national door-knocks, and the implementation of Continuous Roll Updating (CRU), with targeted door-knocking as required. The following newspaper report summarises the case:

Both major political parties at federal level want every home doorknocked to sort out once and for all the electoral rorts scandal. In submissions to the federal parliamentary committee examining vote rigging, the Liberal Party's federal director and the national secretary of the Australian Labor Party have called for the doorknock, known as a habitation review. Several Australian Electoral Commission senior officers and state and federal MPs have also backed the move.

But the AEC is unmoved, preferring its method of cross-checking with agencies such as Australia Post and Centrelink.

Liberal Party federal director Lynton Crosby said that through checks of the Queensland rolls the party had found evidence of many people with different surnames living at the same address. "The state of the rolls is a serious matter," he said in his submission. "The party is convinced more accurate rolls can and must be provided, through thorough and more regular habitation reviews."



The party found 29,137 addresses involving 128,746 electors in Queensland where there were four or more electors with more than one surname and different enrolment dates. They also found there were 32,971 cases of a postbox being used as the postal address for two or more electors with different street addresses. In the controversial seat of Mundingburra the Liberals found a postbox for five electors registered at three different street addresses.

ALP national secretary Geoff Walsh backed the call for a national doorknock and raised concerns that recent doorknocks had been axed because of funding cuts. "The potential for fraudulent enrolment will rise if the AEC's resources allocated for door-to-door habitation reviews are wound back," Mr Walsh said.

In another submission, electoral officer Bob Patching called for an immediate doorknock. But the AEC said doorknocks were too resource-intensive and quickly became dated. (*Sunday Mail (Brisbane)*, 17 December 2000, "Both parties back door-to-door doorknock", Simon Kearney)

8.18 Continuous Roll Updating (CRU) has replaced the periodic national door-knock, known as the Electoral Roll Review (ERR), on the recommendation of a previous JSCEM and with the cooperation of the Joint Roll partners in the States and Territories. CRU is not just an AEC innovation, it is a central policy platform of the Electoral Council of Australia (ECA) for roll maintenance, arising as it did out of joint federal/State/Territory research and development studies. Targeted door-knocking is an integral part of the plan for the eventual full implementation of CRU, and occurs when, for example, there has been no satisfactory response from an enrolled address to a mailout, or when new real estate developments or high population growth rates in local areas indicate direct contact would be productive in ensuring compliance with compulsory enrolment obligations.

8.19 Various CRU strategies for targeted door-knocking were undertaken by AEC Head Offices and Divisional Offices in the different States in 2000. In Queensland and Western Australia addresses were door-knocked where there had been no response to a CRU mailout. In NSW, South Australia and Tasmania door-knocking took place in high population growth and newly developing areas. In the Northern Territory, in co-operation with the NT Electoral Office, the focus was on habitation checks in remote areas. In 2001 it is planned that targeted door-knocking will take place in future at all addresses where there has been no response to mailouts, where practical.

8.20 It should be acknowledged that CRU is still maturing and full implementation is some 18 months to two years away. The process of introducing common address standards across all address users in the nation is slow and is periodically delayed due to intervening federal/State/local electoral events. However, midway into the full implementation of CRU, the level of enrolment activity nationally exceeds that generated previously under full ERR door-knocking. In 2000 there were an estimated 1.2 million enrolment forms generated from CRU activities undertaken by the AEC and State/Territory electoral authorities. Further, electors are increasingly being enrolled when they become eligible, rather than when they decide to eventually initiate contact with the AEC.

8.21 Those few DROs who have publicly registered their discontent with the implementation of CRU and the phasing out of periodic national Electoral Roll Reviews (ERRs) over the past few years may be experiencing problems in adapting to the fundamental changes in approach to roll maintenance that are now expected of them. By contrast, the JSCEM would have noted that the three Queensland Divisional staff, Ms Bronwyn Madden (DRO Hinkler), Mr Steve Brown (DRO Herbert) and Mr Greg Shields (Divisional clerk, Fisher), who gave evidence at the 15 November JSCEM hearings, were generally supportive of CRU under direct questioning from JSCEM members.

8.22 However, the AEC does acknowledge that this expressed discontent by some DROs might suggest a failure to properly inform some Divisional staff about the complexities involved in implementing CRU. In November 2000, the AEC commenced a series of information sessions with relevant staff in order to raise awareness and understanding of the principles behind CRU and the expected longer-term improvements to the accuracy and integrity of the Electoral Roll.

## **9. OTHER INQUIRIES AND INVESTIGATIONS**

9.1 There have been a number of other relevant inquiries and investigations travelling parallel to this JSCEM inquiry into the Integrity of the Electoral Roll.

### ***Queensland Parliamentary Committee Inquiry***

9.2 On a reference from the Queensland Legislative Assembly on 22 August 2000, the Queensland Legal, Constitutional and Administrative Review Committee (LCARC) conducted an Inquiry into the Prevention of Electoral Fraud (see part 4 of AEC submission No 26). On 14 November 2000, LCARC tabled in the Queensland Legislative Assembly Report No 28, entitled "The Prevention of Electoral Fraud: Interim Report" (available on the LCARC website), which recommended as follows:

- that the Queensland electoral system be upgraded to provide a computerised enrolment verification system, to be developed in close consultation with the AEC;
- that the Electoral Commission Queensland (ECQ) be provided with increased funding to support the management of a computerised enrolment verification system; and
- that consultations commence with the AEC to escalate fraud audit procedures prior to the next State election.

### ***Queensland CJC Shepherdson Inquiry***

9.3 Following legal advice of 5 September 2000 from Mr McMurdo QC, entitled "Allegations of Electoral Fraud", the Queensland Criminal Justice Commission (CJC) Shepherdson inquiry commenced public hearings, interviews and forensic investigations into various allegations of enrolment fraud (see part 3 of AEC submission No 26). The events under scrutiny included the 1996 Mundingburra State by-election, and ALP branch-stacking for the purposes of preselection ballots in the Queensland State districts of Townsville (1996), South Brisbane (1996), East Brisbane (1993), and Morningside (1993).

9.4 On 19 January 2001, counsel assisting the Queensland CJC Shepherdson inquiry, Mr Russell Hanson QC, delivered his closing submissions (available on the CJC website). The final report is not expected for at least another two months. Mr Hanson's closing submissions will be discussed later in this submission, but most significantly for this JSCEM inquiry, Mr Hanson submitted that there was no evidence of an ALP "mole" within the AEC, as alleged by Ms Karen Ehrmann, in earlier testimony to the CJC on 3 October 2000.

9.5 The following summary by Mr Hanson, at pages 65-67 of his closing submissions, on the nature of the enrolment fraud exposed by the Queensland CJC inquiry, is of importance to this JSCEM inquiry:

As previously submitted the evidence suggests that in respect of matters within the terms of reference there were two main types of improper enrolment practice. The first, and more serious, practice was where persons were enrolled, without their consent or knowledge, at a particular address to enable a vote in their name to be made at a plebiscite. The evidence suggests that in the majority of these cases the person who was improperly enrolled was later "re-enrolled" at his or her correct address, again without their knowledge, following the plebiscite and prior to any general election.

There is evidence to suggest that this type of conduct occurred in a number of plebiscites, including 1986 South Brisbane, 1996 East Brisbane, 1996 Thuringowa and 1996 Townsville.

The second form of improper practice was far more extensive, the evidence would suggest. This was where persons knowingly enrolled themselves at an address at which they did not live. It is submitted that, in these instances, the person witnessing the enrolment form in most cases also knew that the information provided was not correct. This practice was engaged in principally for the purpose of increasing the number of persons able to vote for a particular candidate at a plebiscite. Once again, the evidence suggests that the enrolments were rectified, in the majority of cases, prior to any election.

The evidence given to the Inquiry suggests that the second form of improper practice was part of a "culture" within at least some factions of the ALP, and predominantly the AWU faction. Powell, Bermingham, Joan Budd, Grant Musgrove and Ehrmann suggest that it was an existing culture. There is evidence from Dennis Mullins in relation to East Brisbane 1996, that factions other than the AWU resorted to such conduct in response to the AWU.

The evidence from Joan Budd suggested that it was a "convention" among politicians of all parties to enrol members of their family at the family home regardless of where the members lived. In her family's case she acknowledged that this practice extended to voting at elections and not merely at internal party plebiscites and conferences.

It is perhaps equally important to note that the Inquiry has not received any evidence to indicate that false identities had been created to enable persons who did not exist to register to vote. Furthermore, the Inquiry has not received any evidence to suggest that, at least since 1990, persons had fraudulently voted in elections using the identity of persons who had died. The Mundingburra by-election analysis suggests that not a single "dead" person voted. It would seem that the computerised information provided by the Registrar of Birth, Deaths and Marriages to the Electoral Commission may have had a marked effect on any such practice.

Also importantly, the evidence suggests that in those few detected cases of persons voting in a state or local government election, where they were falsely enrolled, this was not an organised activity. It is submitted that the

evidence suggests that such conduct was opportunistic and relatively uncommon.

### ***Commonwealth Ombudsman Inquiry***

9.6 As indicated in part 3 of submission No 26, the AEC referred the Ehrmann allegations about an “Electoral Commission insider” to the Commonwealth Ombudsman for an independent investigation. On 23 January 2001, the Ombudsman wrote to the Electoral Commissioner attaching his draft report and seeking comments in response from the AEC. The Ombudsman has indicated that he has no difficulty with the AEC advising the JSCEM at this early stage that he has found no evidence of an “Electoral Commission insider”, a conclusion that conforms with the Hanson submissions to the CJC.

### ***AFP Investigation into Fisher 1987***

9.7 On 6 November 2000, the then Special Minister of State, Senator Chris Ellison, referred to the then JSCEM Chairman, Mr Gary Nairn MP, allegations published in *The Courier Mail* newspaper on 4 November 2000 of electoral fraud by the ALP during the 1987 federal election in the Division of Fisher in Queensland. On 6 November 2000, the Prime Minister referred the allegations to the AFP for investigation. The newspaper reports by Mr Chris Griffith and Mr Hedley Thomas in *The Courier-Mail*, sourced to an anonymous “ALP insider”, are reproduced at **Attachment 7**.

9.8 In his opening address to the JSCEM hearings on 15 November 2000, the Electoral Commissioner expressed his concern about the possible effect on public confidence in the electoral system arising from the various unsubstantiated allegations of electoral fraud made by particular individuals after every federal election, and in some submissions to this inquiry. In this context, it is worth noting the comment made by the former Electoral Commissioner, Dr Colin Hughes, in AEC submission No 61 of 3 November 1988, following the 1987 federal election:

The Commission believes... that such allegations are a continuing phenomenon. Non-specific and unauthenticated allegations of multiple voting (and other breaches of electoral law) are made at most elections as part of the process of denying the legitimacy of an unwelcome outcome.

9.9 In his opening address, the present Electoral Commissioner reiterated the conclusions of the AEC, the Court of Disputed Returns, and every JSCEM Inquiry since the establishment of the AEC in 1984, that the results of the 1987, 1990, 1993, 1996 and 1998 federal elections were not affected by widespread and organised electoral fraud. The Commissioner summarised the 1987 Fisher allegations in his opening statement, as follows:

8. The Integrity inquiry has resulted in intense press speculation on the issue of electoral fraud, and there have been allegations made of electoral fraud going back more than a decade. On 4 November, a journalist, Mr Chris Griffith published allegations in the *Courier Mail* of electoral fraud at the 1987

federal election in the Division of Fisher. Mr Griffith's report was based on allegations made by an ALP "insider" who, according to all reports, remains unidentified. On 6 November, the Prime Minister referred these allegations to the Australian Federal Police. The AFP have already been in touch with the AEC and have been provided with AEC files from 1987 that relate to the Division of Fisher.

9. It is difficult for the AEC to make any comment on this matter whilst an AFP investigation is underway, but it is necessary to put on the record in this parliamentary forum, that the AEC holds no evidence on its files of any organised electoral fraud at the 1987 Fisher election that would have affected the election result.

10. The AEC is concerned about the impact on public confidence in the electoral system of the canvassing of unsubstantiated and anonymous allegations of electoral fraud, over a decade after the event. Electoral legislation allows a period of 40 days for challenges to be taken to the Court of Disputed Returns. This strict timetable was recently affirmed by the High Court, which remarked on the necessity for election disputes to be resolved quickly in order to avoid instability in government.

11. The winning margin at the 1987 Fisher election was some 700 votes. After scanning of the certified lists, 200 multiple marks were recorded by the AEC, and 188 of these were recorded as official errors because they could be matched with apparent non-voters. There remained 11 cases of possible multiple voting for which no conclusive evidence could be found, and one case was referred to the AFP for investigation. Even if all 200 marks had been substantiated as multiple voting, this would not have been nearly enough to have affected the 700 vote winning margin. Further, there were no complaints made to the AEC of any impersonated voting, or any other method of defrauding votes.

12. A petition by Mr Colin Smith was filed with the Court of Disputed Returns against the Fisher election, but this related to issues of bribery, and electoral advertising, and not to the defrauding of votes. The petition was not progressed through the court and was apparently abandoned by the petitioner.

13. The AEC files from the period show press reports of allegations of electoral fraud made by an unidentified person at a National Party meeting in Toowoomba. Mr Chris Griffith, who was responsible for the recent *Courier Mail* reports, was active in the press in 1989 in calling for these allegations to be properly investigated. The file also shows that the then Electoral Commissioner, Dr Colin Hughes, invited anyone who had evidence of electoral fraud to bring it forward to the AEC, or to test their claims in the Court of Disputed Returns. No such evidence was forthcoming.

14. The AEC understands that this committee may have the power to summon Mr Griffith to find out the identity of the "ALP insider" who has made these allegations, and to question this person about the veracity of the claims made. The AEC believes that such a course of action should be seriously considered by this committee, despite the fact that an AFP investigation is already in train.

9.10 At pages EM26 to EM29 of the transcript, Senator Faulkner questioned the AEC on the Commissioner's suggestion that *The Courier-Mail* journalists, Mr Chris Griffith and Mr Hedley Thomas, who reported the allegations of the "ALP insider", should be questioned by the JSCEM. The Australian Electoral Officer for Queensland (AEO Qld), Mr Bob Longland, responded that he had already asked these journalists for the identity of the "ALP insider", mentioning that the statute of limitations for any prosecutions had probably passed, but to no avail.

9.11 The AEO Qld also noted in his response that, back in 1989, Mr Chris Griffiths called himself the "Coordinator of the Citizens for Democracy", and made similar allegations then, to those that he has now made via an unidentified "ALP insider". The AEO Qld confirmed that this information, together with AEC files from the period, have been passed on the AFP to assist in their investigation. The AEC notes the reluctance of the JSCEM to call Mr Griffith to give evidence to this inquiry, but it also notes that the JSCEM subpoenaed Mr Lee Bermingham to appear at the public hearings in Brisbane on 14 December, and he subsequently gave evidence at the public hearings in Sydney on 30 January 2001.

9.12 Dr Colin Hughes was the Electoral Commissioner at the time of the 1987 Fisher election, and said the following in his submission No 49 of 11 December 2000 to this inquiry:

These allegations read as follows:

The Labor insider, a member of the 1987 campaign team, said the voting rort involved first compiling the names of voters who had left the Fisher electorate, but were still listed as enrolled there. He said supporters then cast votes in those names on polling day. Some supporters, including a girl too young to vote legally, cast ballots more than a dozen times. The insider, who did not suggest Mr Lavarch knew of any wrongdoing, said supporters never needed to vote at the same booth twice as there were more than 60 booths in Fisher to choose from. ... The insider said the rort was never spelled out on paper or raised in meetings and many campaign workers would have been unaware fellow volunteers were doing it. (*Hedley Thomas and Chris Griffith, "Vote rorters in '87 poll, says insider", Courier Mail, 4 November 2000*)

Another account published at the same time described "a fleet of cars filled with ALP campaigners ... each containing three or four people pulling up at tiny rural polling booths ... [they] raced into the booth, voted, raced out and took off in a cloud of dust". (*Chris Griffith, "Labor squads hit rural poll booths", Courier Mail, 4 November 2000*)

I find this story inherently implausible for several reasons. First, after the southern part of Fisher became a large part of the new electoral district of Dickson, when Mrs Cheryl Kernot was chosen as Labor candidate an unusually bitter and protracted row in Labor circles in the area resulted, yet these allegations were not made public in that round of blood-letting. Why not? Second, in 1987 the Queensland police force had exceptionally close

(and undesirable) links to the National Party. If any police officer in the area had picked up rumours from the pub, bowling club, or wherever, about how a National Party previously safe seat had been “stolen” by Labor illegalities, would not that officer have told his superior, after which the story would have gone to the Police Commissioner and thence to the Premier? Third, a quick glance at the voting statistics for Fisher (Appendix A) reveal a very different story.

There was massive growth in the electoral district such that enrolment in 1987 was up by more than 11,000 over 1984. That growth was largely in the southern area that tended to vote Labor, and thus the stock of Labor voters grew whilst the stock of National voters did not. In the State as a whole the Labor vote rose 1.6 percentage points, but in Fisher by 2.8 points. Booth by booth the figures are remarkably consistent over the two elections, and certainly the smallest rural booths show no signs whatever of the impact of carloads of Labor-voting strangers. Where there are obvious changes eg Linville, it is because much of its vote went off to a newly-opened polling place. Moreover there would have been a greater risk of discovery in small, relatively isolated polling places where non-locals would be conspicuous. Unexpected traffic gets reported for planning allocation of resources at the next election.

And to say that no paper was generated by the fraudulent operation is especially remarkable: according to the allegations, volunteers had to remember a number of strange names and addresses, and be matched for voting with polling places far distant from where the original voter who had left Fisher lived without a sheet of information? However, it is certainly possible that one or two instances of personation happened, it always is unless ironclad identification is required. It is to be hoped that a full version of the police report will be available later to establish whether any real evidence was found by the police inquiry. For the present, I would have to say that when similar generalised allegations were presented and then properly investigated eg on a petition to the Court of Disputed Returns, few survive the test.

9.13 The AEC reiterates that there is no evidence on the official record that might even circumstantially support *The Courier Mail* allegations, from an anonymous “ALP insider”, about electoral fraud in Fisher in 1987. Although this election was beyond the terms of reference of the Queensland CJC inquiry into allegations of electoral fraud, it might have been expected that some collateral evidence would have arisen if there were any basis to the allegations.

9.14 Nevertheless, the AEC remains open to the possibility that the AFP investigation might uncover evidence of electoral fraud that did not come to its attention in 1987, under the rules and procedures then in force. If such evidence is uncovered, then it is unlikely that any meaningful legal remedy could follow, as the statute of limitations would probably exclude any prosecutions, and the election result cannot be voided.



## ***AFP Investigation into Hinkler 1984***

9.15 On 6 November 2000, the Bundaberg *News Mail* published the following in relation to the Division of Hinkler:

Labor Party members have been accused of illegally impersonating other voters to help secure Brian Courtice's victory in Hinkler in the 1987 federal election. State Liberal Leader David Watson yesterday called for the Shepherdson vote-rigging inquiry to be expanded to investigate that federal election in five Queensland seats, including Hinkler.

Bryan Conquest, the National Party member for Hinkler ousted by Mr Courtice in that election, said yesterday that he had his suspicions but no concrete evidence to back them up. "A lot of people from the Labor machine were in Bundaberg for the election and it was a very intense campaign," he said. "Whether anything untoward happened, it hasn't come to my notice."

Mr Conquest said National Party stalwarts had heard rumours and had their suspicions for many years, not only in relation to that election. Mr Conquest, who became the first member for Hinkler in 1984 with a 221-vote win against Mr Courtice, suffered a swing of less than 2% in 1987 after the disastrous Joh-for-PM push.

Mr Courtice could not be reached for comment yesterday.

Dr Watson said yesterday he may have been a victim of electoral fraud in the 1987 federal election and wants the Shepherdson inquiry widened to investigate. Dr Watson was the sitting member for the South-East Queensland electorate of Forde in 1987 which was "surprisingly" lost to Labor's Mary Crawford. He called on Premier Beattie to expand the Shepherdson inquiry to investigate the results in the Queensland electorates of Fisher, Forde, Petrie and Hinkler during the 1987 poll.

Special Minister of State Chris Ellison referred the new allegations of electoral fraud and vote rigging in Queensland to the federal joint standing committee on electoral matters. "The forging of electoral enrolment forms is an extremely serious matter that should be fully investigated," he said.

9.16 On 8 November, Mr Brian Courtice, the former ALP Member for Hinkler, alleged that the National Party had defrauded the 1984 federal election in Hinkler, and that rural polling booths were set up in houses of those sympathetic to the Nationals. Mr Courtice narrowly lost the 1984 federal election in Hinkler, but won the seat at the 1987 federal election. (Mr Courtice later gave oral evidence to the JSCEM in Townsville on 29 January 2001 that his allegations of National Party electoral fraud in 1984 in Hinkler were in reaction to the Bundaberg *News Mail* report of Dr Watson's allegations of ALP electoral fraud in 1987).

9.17 The facts in relation to the 1984 Hinkler election, as they are known to the AEC, are as follows. Three private homes were used as polling places in the Division of Hinkler in 1984. This was not an uncommon practice in those times, especially in rural areas where the availability of regular booth facilities

was limited. For the 1984 federal election, the following votes were recorded for the three polling booth in homes in Hinkler:

- The first was at Tirroan outside Gin Gin, and took 94 votes. (This was not a counting centre as were the two others, so a break up of the vote by party is not possible).
- The second was at Isis North outside Childers, and took 110 formal votes, of which 83 were for the NPA and 23 for the ALP.
- The third was at Beecher, west of Gladstone, and took 97 formal votes, of which 35 were for the NPA and 58 for the ALP.

9.18 The winning margin after the distribution of preferences in 1984 was 221, but it is not possible to conclude in retrospect whether the votes recorded in three private homes would have affected this margin either way. The fact remains, that whilst polling was conducted in a few private homes in 1984 in Hinkler (due to force of circumstances), this no longer occurs.

### ***AFP investigations into Ryan, Moncrieff and Bowman***

9.19 On 8 November, *The Courier-Mail* newspaper reported that three possible enrolment fraud cases in the Queensland Divisions of Ryan, Moncrieff and Bowman were currently under AFP investigation.

The Australian Federal Police confirmed an investigation has been launched into suspected electoral fraud in three federal seats in south-east Queensland.....The Federal Government has also referred to the Federal Police claims that the 1984 election result on the Bundaberg-based seat of Hinkler was rorted by the National Party....The AFP probe into electoral rorting in the three federal electorates was initiated after suspected attempts at fraudulent enrolment were uncovered by Australian Electoral Commission staff earlier this year.

The three electorates involved are Ryan and Bowman in Brisbane and Moncrieff on the Gold Coast. This comes as a parliamentary committee expanded its investigations into claims of electoral fraud in three Queensland federal electorates – the Townsville-based seat of Herbert, the outer Brisbane seat of Dickson and Hinkler, centred on Bundaberg.

But two Australian Democrat senators told the all-party Joint Standing Committee on Electoral Matters yesterday that f the probe was used as a political tool to attack the Labor Party they would walk out.

Bob Longland, AEC officer for Queensland, said electoral fraud cases under investigation by the AFP were discovered during routine “doorknocks” by commission staff. He said the commission had referred all the cases to the AFP after preliminary investigations by the commission failed to rule out foul play..... (*The Courier-Mail*, 8 November 2000, “Federal Police probe fraud in three seats”, Craig Johnstone and Dennis Atkins)

9.20 These electoral fraud cases in the Divisions of Ryan, Moncrieff and Bowman had been detected during the year 2000 by the AEC using Continuous Roll Updating (CRU) procedures, supplemented by targeted door-

knocks (not “routine doorknocks” as reported). These cases were referred to the AFP before the commencement of proceedings in this JSCEM inquiry. They were also listed in Attachment 20 to AEC submission No 26 of 17 October 2000 as part of the 71 cases of possible enrolment fraud over the past decade (Ryan – Qld15; Moncrieff – Qld16; and Bowman – Qld17). The outcomes in each case are as follows.

9.21 The Ryan case was referred by the AEC to the AFP on 23 June 2000, and on 10 November a person was convicted for forging and uttering under section 344(1)(a) and (b) of the Electoral Act, with a fine of \$350. A second person was convicted for forging and uttering under section 344(1)(a) of the Electoral Act, with a fine of \$300. The Moncrieff case was referred by the AEC to the AFP on 22 September 2000. On 10 January 2001 the matter was adjourned for a committal hearing on 22 February 2001. A person is charged with three counts of imposition under the *Crimes Act 1914*. The Bowman case was referred by the AEC to the AFP on 8 June 2000. On 29 September 2000 a person was convicted for forging and uttering under section 344(1) of the Electoral Act, with a fine of \$350.

#### ***AFP investigations into Longman 1998 and Lindsay 1999***

9.22 On 20 December 2000, the AEC referred to the AFP a possible case of enrolment fraud, in August 1998, involving a former electorate staff member in the Division of Longman in Queensland. The AFP investigation has been extended to cover other persons implicated. The possible offences involve persons making false statements about their principal place of residence, apparently so that they could vote in the Division for which their employer, Mr Mal Brough MP, was a candidate at the 1998 federal election.

9.23 In late January 2001, after Mr Brough became aware of the AFP investigation, he stood aside from promotion to the position of Minister for Employment Services, and resigned as parliamentary secretary, pending the outcome of the investigation. At the time of the AEC referral to the AFP in December 2000, there was no evidence linking Mr Brough directly to the enrolment activities of his former electorate staff, and it is noted that Mr Brough has denied any involvement, despite the contrary claims made by a former member of his staff, Ms Andrea Chitakis.

9.24 Allegations of similar possible enrolment fraud offences have arisen in relation to the activities of former electorate staff of Ms Jackie Kelly, Member for the Division of Lindsay in New South Wales. These allegations were referred to the AFP for investigation on 15 October 1999 but no evidence was found at the time to support the allegations (see case NSW32 in Attachment 14). However, at the JSCEM public hearings in Sydney on 30 January 2001, two of Ms Kelly’s former staffers involved appeared and were questioned by JSCEM members. The AEC is currently re-checking the enrolments of the individuals named in relation to the Division of Lindsay (and the 1999 Penrith City Council election) at the Sydney JSCEM hearings. The following is a media report on the allegations and the proceedings:

The allegations in this case include staff who were members of the Liberal Party, and who not only worked for Kelly, but in one case, lived with her. Allegations of dubious preference deals, the setting up of dummy candidates and the establishment of 'front' parties have been directed not only at her staff, but also at her. It was only due to the protection of the Government's chair of the Joint Standing Committee on Electoral Matters Christopher Pyne, that Kelly was not called before the committee.

Labor members had to make do with two former Kelly staffers, now local government politicians, and they appeared with a barrister, with whom they frequently consulted before answering. They also were assiduously shepherded and shielded through their evidence by Pyne. But the picture which emerged at the hearing was nonetheless bad for a Liberal government seeking to pretend that only Labor engaged in rorting.

Steven Simat, a Penrith city councillor and former Kelly staffer, told the committee he sought out "three people who said they were interested in running for some pre-existing micro-parties". He told them he wanted their preferences. He told them they needed to live in the Penrith area and to be on the electoral roll in Penrith before they would be eligible to run.

But he did much more than that for them. He found a place for them to live, so they could satisfy the residency criterion. Simat told the committee his niece and her partner had fortuitously purchased a home in early 1999, although they lived elsewhere. The niece, Lilliana Duka, incidentally also was a Liberal candidate in the same election. "I believe they moved in and the house became their principal place of residence. This enabled them to nominate in the election," he said.

The three were Adam Brown, who stood in the election for the No Badgerys Creek Airport Party, Paul Matosin and his brother Josip, who both stood for the Marijuana Smokers Rights Party. Why would they do that for strangers? Well, the answer is that they were not strangers. The marijuana front party candidates were Liberal Party members and allies of Simat.

Labor's Senator Faulkner closely questioned both Simat and another former Kelly staffer, Nicolas Berman, about their knowledge of who witnesses the enrolment forms for the micro-party candidates. Both said they had "no recollection". Simat's own evidence damns him as a political dirty trickster, even if, as he said, none of it breached the Electoral Act.

But what does this mean for his boss? Well, she was president of the campaign committee for the 1999 local government council elections in Penrith. She played a large part in working out the tactics employed. It seems hard to believe that an exercise involving preference swaps, stooge candidates and front parties could have gone unknown. (*Sydney Morning Herald*, 3 February 2001, "Ball's in the other rort", Mark Robinson and Mike Seccombe)

9.25 The AEC notes that, in the Longman case in particular, the motivation for the alleged enrolment activities by Mr Brough's former electorate staff appears to have been directed towards affecting the result of the 1998 federal election. That is, this case can be distinguished from the other various enrolment fraud cases uncovered in Queensland by the AEC/AFP/CJC, where the motivation was directed towards affecting the results of ALP party preselection ballots, rather than federal elections.

9.26 As reported on 7 February 2001, the JSCEM has apparently resolved to call Mr Mal Brough MP and Ms Andrea Chitakis to a public hearing, to examine their knowledge of enrolment fraud, as soon as the AFP investigation is completed.

### ***AFP Investigations into Electoral Bribery***

9.27 During the course of this JSCEM inquiry, there have been allegations made of possible electoral bribery under section 326 of the *Commonwealth Electoral Act 1918* (the Electoral Act), in relation to alleged "cash-for-preferences" deals in the Divisions of Lilley, Adelaide and Mayo. These three matters have been referred by the AEC to the DPP for advice and to the AFP for investigation, according to standard procedures.

9.28 Unless advised otherwise by the JSCEM, the AEC will assume that these matters are not within the terms of this inquiry, as they do not relate directly to the Integrity of the Electoral Roll.

### ***JSCEM hearings on "AWU slush fund"***

9.29 It was reported on 7 February 2001, that the JSCEM has resolved to call to a public hearing, Queensland ALP MPs Kevin Rudd (Griffith) and Craig Emerson (Rankin) and Victorian ALP Senator Stephen Conroy, because they had been mentioned by Mr Lee Bermingham in earlier hearings, in relation to an "AWU slush fund".

9.30 The AEC has no particular knowledge of these matters, and notes the following comments of Mr Russell Hanson QC, in his closing submissions to the Queensland CJC inquiry, at page 18:

Some matters were raised with witnesses to ascertain whether they should be further pursued. An example of this was the issue of a suggested "AWU slush fund". There was evidence from Lee Bermingham and Warwick Powell that such a fund existed for the payment of ALP membership. However, as there was no evidence that such a fund was called upon with the specific purpose of paying for fraudulent enrolments, this was not within the Commission's jurisdiction.

## 10. OTHER ALLEGATIONS OF ELECTORAL FRAUD

10.1 At pages EM91 to EM93 of the transcript of 15 November 2000, Senator Ferris asked a series of questions relating to broadcast commentary on electoral fraud by Mr Alan Jones. The AEC had provided some comments on Mr Jones' broadcasting activities in part 7 of submission No 26. Senator Ferris asked the Electoral Commissioner whether he would like to go on Mr Jones' program, to which the Commissioner responded, "not particularly, frankly...". The following exchange then took place.

Senator Ferris - How else are you going to address the difficulty that you have cited yourself in your opening remarks today and in your submission that there is a severe crisis in the federal electoral system brought about by these sorts of circumstances. If you as the federal electoral commissioner could go onto a program that has hundreds of thousands of listeners and assure them, surely that would be a very valuable action?

Mr Becker – Put it this way: I am more than happy to talk to Mr Jones. I would talk to him in the studio, not on the phone.

Senator Ferris – Sure.

Mr Becker - When people have got button control they can do all sorts of things, and we know how that has happened, certainly with the shock-jocks, of whom Mr Jones is one. Really, we have got to look at this in perspective: he is a shock-jock and there is a good story. It is really those sorts of things that are concerning me: they are undermining it. Perhaps you are right; perhaps the answer is to say: well, okay, let us buy some time from Mr Jones and go and talk to him in his studio.

Senator Ferris – Given that Mr Jones has made this an issue of such public interest, I would have thought you would not need to buy time on the program.

Mr Becker – No, I am not suggesting that.

10.2 Following these JSCEM proceedings, the Electoral Commissioner received a letter from Mr Jones, dated 28 November 2000. The Commissioner responded on 11 December 2000, advising that he would not be appearing on Mr Jones' radio show, and drawing Mr Jones' attention to various errors of fact monitored by the AEC in his previous broadcasts. On 15 December 2000 Mr Jones responded with a further letter. The correspondence is reproduced at **Attachment 8**.

10.2 On 31 January 2001, in a broadcast on radio station 2UE, Mr Jones read out part of the Commissioner's letter to him of 11 December, and part of his own letter in response of 15 December. Mr Jones did not read out from the Commissioner's letter any of the AEC's detailed refutations of Mr Jones' previous allegations of electoral fraud. The AEC remains available to assist his producers/researchers with factual information.

10.3 On page EM93 of the transcript, Senator Ferris raised an allegation by Mr Jones, that on 15 October 1993, 450,000 people enrolled on a single day at the close of rolls for the 1993 federal election. The Assistant Commissioner Elections and Enrolment, Mr Paul Dacey, responded as follows:

- these enrolment transactions occurred over a seven-day period, not on a single day as alleged;
- the majority of the enrolment transactions would not have been new enrolments (and supposedly fraudulent), but enrolment transfers, because many electors only update their enrolment details when an election is announced;
- the number of enrolment transactions at the close of rolls is always high, but has been decreasing over time, in association with the implementation of Continuous Roll Updating (CRU) in recent years.

10.4 Further, it is not the case that new enrolments are not “checked” during the close of rolls, although it is the case that they cannot be reviewed in the limited time available, by for example, door-knocking. The detailed procedures for all enrolment entries onto RMANS, at the close of rolls and any other time, are detailed in part 10 of submission No 26. Senator Ferris then asked for a breakdown of the 1993 close of rolls enrolment transactions. The following facts are provided.

10.5 During the 1993 federal election Close of Rolls (COR) from 8 to 15 February 1993, the AEC processed 437,479 enrolments, including 160,700 additions to the roll. The statistics do not show any abnormal trends or changes in enrolment patterns. The relatively high number of enrolments received was a consequence of:

- the lengthy period (9 months) since the completion of fieldwork for the 1992 Roll Review (ERR). As a result many electors notified change of address for moves since the ERR. There were 147,216 transfers of enrolment between Divisions and 129,563 transfers within Division (including amendment to enrolment details) in the 1993 COR period.
- young people and new citizens enrolling for the first time who were not eligible or not contacted at the time of the 1992 ERR fieldwork. An estimated 95,000 first time or new enrolments were received in the COR. This is not unexpected as there would have been an estimated 160,000 persons who turned 18 years of age between the completion of the 1992 ERR and the COR.
- the processing of large batches of ‘objection’ determinations in the six months prior to the issue of writs for the 1993 election, resulting in 400,000 electors being removed from the Electoral Roll nationally. Of these electors, an estimated 65,000 re-enrolled during the federal COR. An even greater number would have re-enrolled prior to the COR (particularly at the three State elections which preceded the federal election), or did not re-enrol.

- State elections in 1992 in Victoria and Queensland, and in Western Australia in February 1993 had an impact on subsequent enrolment at the federal close of rolls. The detailed enrolment statistics show that additions to the roll at the federal COR were reduced by the State events in Victoria and Queensland, but transfers remained at the same level as in other jurisdictions. In Western Australia, the State election took place immediately prior to the announcement of the federal election. Therefore, enrolment cards picked up at State polling places were processed during the federal COR, resulting in a higher than usual turnover in Western Australia and a particularly high level of re-enrolment.

10.6 The two later federal elections have shown smaller numbers of enrolments received during the COR period than in 1993. At the 1996 election COR the number of enrolments decreased to 409,377. And at the 1998 COR the number of enrolment decreased to 351,410, although this followed the processing of approximately 3 million enrolments in 1997/98, including 700,000 arising from the 1997 Constitutional Convention Election. The number of enrolments at federal CORs is heavily influenced by the extent of CRU activities over the preceding 12 months, the posting of objection determination notices, and the timing of State/Territory and local government elections.

10.7 On 29 January 2001, the following exchange between Mr Alan Jones and the Leader of the Opposition in the Queensland State Parliament, Mr Rob Borbidge took place on radio station 4BC:

Borbidge: ...Mr Beattie has decided to go to the polls to beat Mr Shepherdson's report. And I think the great irony is what is of major concern, Alan, is that the day before the election was called the Australian Electoral Commission sent out 800,000 'please explains' to check the bona fides of people enrolled across Queensland...They have to be returned within 14 days of being received. But of course the electoral rolls close this afternoon, so there are very real questions about the integrity of the electoral rolls....

Jones: ... The Australian Electoral Commission, of whom I, for one, have been very critical because they've done absolutely nothing to guarantee the cleansing of rolls. Why 800,000, is that...what's magic about that number?

Borbidge: Well, I guess when you look at the total number of people eligible to vote in Queensland, its something like 2.1 million....So the fact that 800,000 people have been queried would suggest that the Electoral Commission themselves must have some serious doubts about the accuracy of the rolls. And I would also have to express concern that with all the revelations at the Shepherdson inquiry, with all the speculation that Mr Beattie was about to call an election, why it took the Electoral Commission so long to act?

Jones: Yes, well that's a very valid question. No doubt the Electoral Commission will argue that no-one has ever proved that there's anything wrong with the electoral process, but many people would want to know why the Electoral Commission didn't actually act ahead of the Shepherdson results. They...its their job isn't it, to see that the process is fair and above board.



Borbidge: Well, they should be keeping a watching brief. And I guess, I think it would be quite unprecedented, Alan for an election to be called when there have been serious allegations substantiated before a commission of inquiry about electoral fraud. The election is called before the Commissioner can hand down his report, and at a time when 800,000 out of 2.1 million voters are being queried by the Australian Electoral Commission. I mean its really quite extraordinary.

10.8 On 31 January 2001, Mr Jones made the following related statement on radio station 2UE at 8.15 am:

Jones: We've got an Electoral Commissioner who keeps telling us the system is fair and above board. An Electoral Commissioner who criticises me for even suggesting that might not be the case. Yet with the current system there's no way we could know that there haven't been say 500,000 people or more rigging the vote all over the country affecting every federal election just like these people are alleged to have done. Yet all the Electoral Commissioner can do is criticise. If further proof were needed the system we've got makes a joke of democracy.

10.9 The CRU mailout conducted by the AEC in Queensland on 22 January 2001, just prior to the Queensland State election, was scheduled well before the announcement of that election, and has been highly successful in improving the accuracy of the Electoral Roll, particularly with respect to the enrolment of young people. The Queensland mailout is discussed in further detail in part 8 above.

10.10 It is not for the AEC to make judgements on whether Mr Jones' exaggerated criticisms of the AEC and the federal electoral system are related to his past political connections. However, Mr Jones' inability to accept some federal election results, notably from 1987 through to 1993, might explain his inattention to the objectively established facts in his broadcasts.

10.11 The former Electoral Commissioner, Dr Colin Hughes, in his discussion of electoral bribery in submission No 49 of 11 December 2000, makes reference to a relevant newspaper report from 1990, concerning Mr Jones' past political affiliations (**Attachment 9**).

10.12 In his broadcasts, Mr Jones frequently makes reference to the publications of Dr Amy McGrath of the H S Chapman Society and appears to rely exclusively on these publications as the source for his opinions on the federal electoral system. Dr McGrath and her colleagues in the H S Chapman Society have filed a number of submissions with this JSCEM inquiry, which recycle previous allegations of electoral fraud at federal elections. These have been subjected to detailed refutations in past AEC submissions, and/or have been dismissed by the Court of Disputed Returns; and/or have been dismissed by the JSCEM itself. These various unsubstantiated allegations of electoral fraud are again responded to as part of the AEC supplementary submission which responds to the other 50 submissions filed with this inquiry.

10.15 Finally, the AEC registers its concerns about the activities of Dr Amy McGrath and her associates in the H S Chapman Society during the course of these JSCEM proceedings. Dr McGrath has in the past sent letters to DROs apparently soliciting their support for her organisation, particularly during the conduct of the 1999 Referendums. Letters from Dr McGrath are again being received by DROs during the course of these JSCEM proceedings (**Attachment 10**).

10.16 At the 15 November JSCEM public hearing with the AEC in Canberra, Dr Amy McGrath and Mr Alasdair Webster of the H S Chapman Society were present in the audience. It was observed that, during proceedings, two Government members of the JSCEM, Senators Ferris and Mason, consulted with Dr McGrath. This was followed by particularly aggressive questioning of AEC witnesses by these JSCEM members. Further, during breaks in proceedings Dr McGrath made unwelcome approaches to AEC witnesses and argued with their evidence to the JSCEM.

10.17 The AEC is not suggesting that the rules prohibiting attempts to influence witnesses before parliamentary committee proceedings be invoked against Dr McGrath, but does suggest that Dr McGrath be called by the JSCEM at the earliest opportunity to give evidence in support of her submissions. The AEC notes that Dr McGrath was scheduled to appear at the Sydney hearings on 30 January, but this was cancelled due to lack of time.

## 11. MEDIA COMMENTARY

11.1 This JSCEM inquiry into the Integrity of the Electoral Roll has generated more media commentary than any previous JSCEM inquiry since the establishment of the AEC in 1984. Much of this media commentary about “electoral rorts” and “vote-rigging” has been characterised by a rush to judgement on the basis of insubstantial evidence, and a tendency to conflate the conduct of internal party preselection ballots, with the conduct of industrial elections, and with the conduct of parliamentary elections. In submission No 26 the AEC expressed concern about the possible impacts of such a climate of crisis on public confidence in the federal electoral system, as follows in paragraph 1.6:

The context of the current JSCEM inquiry may give rise to a further round of allegations of electoral fraud at the federal level, and a further round of proposals to “tighten up” the federal electoral system. The AEC is concerned that this inquiry should not lead to a diminution in public confidence in the overall integrity of the federal electoral system (an outcome that would not be justified by the facts), or lead to any changes to the electoral system that could impact negatively on the franchise, or on the efficient and cost-effective conduct of federal elections.

11.2 Part 7 of submission No 26 elaborated on this concern by canvassing the unsubstantiated allegations of electoral fraud that are recycled after every federal election, and reiterated that no JSCEM inquiry to date has found any evidence of widespread and organised electoral fraud that would have affected the result of any federal election:

7.1 Many of the present critics of the federal electoral system believe that the major platform of electoral reforms to the *Commonwealth Electoral Act 1918* (the Electoral Act), introduced in 1983-84 by the Parliament, deliberately weakened the electoral law and opened the way for widespread and organised electoral fraud. This view has been expressed by Dr Amy McGrath of the H S Chapman Society, for example, in past submissions to the JSCEM.

7.2 This is not a view that is shared by the AEC. The 1983-84 electoral reforms, recommended by all major political parties represented on the Joint Select Committee on Electoral Reform, have ensured that federal redistributions, the maintenance of the electoral rolls, and the conduct of federal elections are now administered on a more independent, transparent and accountable basis than previously, without in any way diminishing the franchise.

7.3 It has been concluded by every JSCEM inquiry into the conduct of federal elections, since the AEC was established in 1984, that there has been no widespread and organised attempt to defraud the electoral system; that instances of electoral fraud that do occur show no pattern of concentration in any Division, marginal or otherwise; and that the level of fraudulent enrolment and voting is not sufficient to have overturned the result in any Division in Australia. That is, there is no evidence to suggest that the results of the 1984, 1987, 1990, 1993, 1996 and 1998 federal elections were affected by fraudulent enrolment and voting.

7.4 The AEC has made numerous submissions to the JSCEM over the years on all aspects of electoral fraud, many in response to specific allegations that were demonstrably false, and many in response to proposals for “reform” that would in fact be highly retrogressive....

7.17 The AEC is confident that the current JSCEM inquiry will give proper consideration to the potential impacts of this inquiry and its outcomes on public confidence in the federal electoral system, and that there will be a balanced assessment of all allegations of electoral fraud, many of them previously discredited, that are now reaching a larger audience, particularly through radio broadcasts and the Internet.

7.18 To this end, at Attachment 19, there are two examples of major allegations of electoral fraud that have been comprehensively examined and dismissed by either the JSCEM or the Court of Disputed Returns. Nevertheless, these same allegations continue to be recycled to this day in various forums.

11.3 At the JSCEM public hearings on 15 November 2000, some members of the JSCEM queried the AEC’s concern about public confidence, suggesting it might be overstated or misplaced. Measurement of changing levels of public confidence in the federal electoral system is obviously not a simple matter. However, to the extent that media commentary on electoral matters in newspapers, journals and talk-back radio reflects public opinion, an overview of the views and reports of senior journalists, editorial writers, reporters, commercial broadcasters and others, during the proceedings of this JSCEM inquiry, might be of assistance.

11.4 Some commentators have suggested that the cases of enrolment fraud revealed in the State of Queensland as the result of ALP branch-stacking, leave little doubt that the federal electoral system is in disarray, and that wholesale reform is required. This sense of crisis has been deepened by media reporting that “electoral rorts” have spread nationally, on the basis of a series of allegations of electoral fraud at previous federal elections (many of which have been previously examined and discredited); allegations of “cash-for-preferences” deals in Queensland and South Australia (that are under investigation by the AFP, and might or might not involve breaches of the bribery provisions of the Electoral Act); and allegations of misuse of travel allowances by parliamentary staff in Western Australia (that are under investigation by the Department of Finance and Administration, and involve possible breaches of the Parliamentary Allowances Act, not the Electoral Act).

11.5 Others have directed their criticism at the AEC, for allegedly ignoring the state of the rolls and allowing electoral fraud to flourish, whilst apparently victimising those who would bring allegations of “electoral rorts” to the attention of the public. The sort of reforms that have been widely proposed by critics of the federal electoral system and the AEC range from the introduction of strict enrolment and voter identification requirements, to the early close of rolls for an election, to the downgrading of Continuous Roll Updating (CRU) in favour of periodic national door-knocks (ERRs). Relevant extracts are reproduced at **Attachment 11**.

11.6 On the other hand, a number of media commentators have suggested that many allegations about the fraudulent manipulation of federal election results are the stuff of Australian folklore, and that the federal electoral system should not be “reformed” on the basis of unsubstantiated allegations of electoral fraud, in order to secure party political advantage. And finally, it has been suggested that it is not the federal electoral system that is in crisis and in need of reform, but political party preselection procedures, which are responsible for most of the detected assaults on the Electoral Roll. Preselection ballots are closed to public scrutiny and accountability, despite being an important determining element in the electoral process. Relevant extracts are reproduced at **Attachment 12**.

11.7 Other media commentary has questioned the nature of these JSCEM proceedings and suggested the inquiry is motivated by party political considerations. Relevant extracts are reproduced at **Attachment 13**.

11.8 If anything is to be read into this brief overview of media commentary over the past few months, as it might reflect public confidence in the federal election system, it is that there is divided opinion about the extent of electoral fraud and no consensus on the need for major reforms to the federal electoral system. On the other hand, no-one seems to disagree that internal party preselection procedures should be more transparent and publicly accountable, so as to avoid the enrolment fraud that is periodically perpetrated for party branch-stacking purposes.

## 12. EVIDENCE OF ELECTORAL FRAUD

12.1 This part of the submission broadly summarises all cases of enrolment fraud that have been brought to the attention of this JSCEM inquiry over the course of proceedings in the past four months, in order to assist the JSCEM in drawing conclusions on the extent of enrolment fraud in the federal electoral system that might have affected the Integrity of the Electoral Roll.

12.2 In drawing such conclusions, it is essential that the JSCEM is able to distinguish the motivations behind the cases presented. That is, the JSCEM should distinguish those cases that were clearly intended to affect the results of federal elections, from those cases motivated by other criminal activities or to “test the system”, and from those cases motivated by political party branch-stacking for preselection ballots or for local council elections. Those cases that are clearly intended to affect the results of federal elections should be the central focus of any proposals to reform the federal electoral system.

12.3 In part 8 of submission No 26 of 17 October 2000 the AEC presented a summary discussion of all cases of possible enrolment fraud over the past decade known to the AEC. The table of cases in Attachment 20 (on the AEC website) has been updated from the original submission date four months ago, and the new version is now presented in **Attachment 14** to this submission. A general categorisation of these cases was provided in part 8 of submission No 26, and further discussion of some particular cases is at part 13 of this submission, in response to JSCEM Questions on Notice.

12.4 Part 2 of submission No 26 contained an analysis of the enrolment fraud cases in the Division of Herbert, which initiated this JSCEM inquiry and the Queensland CJC inquiry, together with a detailed description of the outcomes of these enrolment fraud cases in Attachments 4, 5, and 6 (on the AEC website). These enrolment fraud cases were perpetrated for the purposes of affecting the results of ALP party preselection ballots and not for the purposes of affecting the result of a federal election. Further, the routine “roll cleansing” procedures used by the AEC, or the corrective actions taken by the persons themselves, resulted in the defrauded enrolments being corrected before they could have been used to affect a federal election result.

12.5 The Queensland CJC inquiry has not yet formally reported, but as the JSCEM will be aware, having been provided with the daily transcripts of the CJC proceedings, there have been perhaps 100 cases of alleged and substantiated enrolment fraud, over a period of a decade and more. These cases were motivated by ALP branch-stacking activities for party preselection ballots and were not used not for federal election purposes, according to the consistent testimony of all relevant witnesses.

12.6 The Hansard record shows the following witnesses testifying to the JSCEM that the motivation for defrauding the rolls was for party preselection purposes and not in order to affect the result of a federal election: Ms Karen Erhmann (pp EM141, 143, 157, 164), and Mr Lee Bermingham (EM372, 404).

12.7 Further, the cases uncovered by the CJC were not concentrated over time in any one particular location, but appear to be “one-off” reactions to branch-stacking imperatives associated with particular ALP preselection ballots throughout Queensland over a period of a decade. The timing of the cases does not necessarily coincide with the timing of a federal election (see relevant extract from Mr Hanson’s closing submissions, at part 9.5 above).

12.8 On a related matter, the AEC routinely reports to the JSCEM numerous cases of possible multiple voting at federal elections after each federal election (see for example, submission No 129 of 7 February 1997 and No 239 of 15 October 1999), so that the JSCEM can determine for itself whether these cases might have affected an election result. After examining the pattern of distribution of these cases of multiple voting, particularly in marginal Divisions, the JSCEM has consistently concluded that no federal election result since the establishment of the AEC in 1984 has been affected by multiple voting. The AEC has not addressed multiple voting in this submission because the terms of this inquiry are focussed on enrolment fraud.

12.9 There are also a number of unsubstantiated allegations of organised electoral fraud at previous elections that have surfaced during this JSCEM inquiry, in particular the Fisher 1987 and the Hinkler 1984 allegations, which are currently under investigation by the AFP. These allegations are further addressed in part 9 of this submission. Other more recent cases of electoral fraud, such as those in Ryan, Bowman and Moncrieff, demonstrate that Continuous Roll Updating (CRU) procedures are effective in detecting and prosecuting individual cases of enrolment fraud.

12.10 Dr Amy McGrath and her associates in the H S Chapman Society have filed a number of submissions containing allegations of electoral fraud at previous local government, State and federal elections, and in industrial elections, that have been repeatedly put before the JSCEM on previous occasions without any substantiation. For example, the Macquarie 1993 allegations were dismissed at the time by the Court of Disputed Returns, and the Dickson 1993 allegations were unanimously dismissed at the time by the JSCEM itself. Both these recycled allegations are addressed again by the AEC in Attachment 19 to submission No 26 (on the AEC website), and in part 5 of this submission. The other allegations of electoral fraud made by Dr McGrath and her colleagues, few of which are new, are responded to by the AEC in another supplementary submission to this inquiry.

12.11 It is for the JSCEM to decide whether it will accept the same unsubstantiated allegations of electoral fraud from Dr McGrath and her associates, in the knowledge that these allegations are repeatedly submitted to the JSCEM year after year, without yet persuading the JSCEM that they represent real evidence.

12.12 As Attachment 14 to this submission and the summary discussions elsewhere in this submission demonstrate, the major categories of fraudulent enrolment over the past decade appear to be:

- identity fraud on the Electoral Roll for other criminal purposes, or to “test the system”;
- enrolment forgery for the purposes of party preselection ballots and local council elections;
- false enrolments transferring the principal place of residence, intended to affect results at federal elections and local council elections.

12.13 On the basis of all the evidence so far put before this inquiry, the issue for this JSCEM to determine is whether the cases of enrolment fraud reported by the AEC, or uncovered by the CJC, or under investigation by the AFP, represent a significant assault on the Integrity of the Electoral Roll, or whether they might be viewed as a “tolerable” background level of enrolment fraud, given the following factors:

- There are approximately 12.7 million electors on the Electoral Roll. The Roll is continuously amended as electors comply with their legal obligation to enrol and transfer enrolment. The Roll can never be 100% correct because it is continuous, but compulsory enrolment and voting is likely to deliver a higher level of roll integrity than otherwise.
- The various credible cases of enrolment fraud uncovered so far in Queensland, and nationally, do not appear to be concentrated around any single federal electoral event in any particular location over time, and were soon corrected either by elector initiative or routine roll cleansing procedures.
- Most of the credible cases of enrolment fraud uncovered to date were not perpetrated for the purposes of affecting a federal election, but for various collateral purposes involving branch stacking for party preselection ballots. The evidence available from the Queensland CJC and these JSCEM proceedings is that enrolment fraud for the purposes of ALP party preselection ballots in Queensland did not result in the same defrauded enrolments being used later for federal election purposes.
- The uncovering of the cases of enrolment fraud to date shows that by one means or another, organised branch-stacking conspiracies involving enrolment fraud, such as originally alleged by Ms Karen Ehrmann at her sentencing, are eventually exposed. There is no circumstantial evidence that the cases uncovered represent the “tip of the iceberg”.



- There will always be some few cases of enrolment fraud that the AEC cannot detect through its own procedures, particularly cases of identity fraud. Identity fraud is a problem affecting all government agencies. The evidence over the past decade indicates that identity fraud against the electoral system is not perpetrated for the purposes of defrauding federal elections, but usually for other criminal purposes or to “test the system”.

12.14 With this background summary in mind, it might be useful to note the reforms that the major political parties are already proposing, or bringing into effect, to address the problem raised by branch-stacking for the purposes of political party preselection ballots.

12.15 For example, as reported in *The Australian* newspaper on 3 February 2001, voters were required to show proof of identification for the Liberal Party preselection ballot on 4 February 2001 for the Queensland federal Division of Ryan, after allegations of widespread branch-stacking. (Unlike ALP members, Liberal Party members are not required to demonstrate proof of enrolment on the Electoral Roll before voting in party preselection ballots.)

12.16 Further, it would appear that the Queensland Liberal Party intends to amend its constitution to prevent foreign nationals from voting in party preselection ballots, as reported in the following:

A Liberal Party member who is not an Australian citizen will fly from Hong Kong to Brisbane tonight to vote in the hotly-contested preselection ballot in the Federal seat of Ryan. Bonita Chan, a Hong Kong solicitor, who plans one day to emigrate to Australia, said yesterday she was coming to Brisbane on vacation but confirmed she intended to vote in the preselection ballot to be held on Sunday.

She confirmed she had met Ryan preselection candidate and alleged branch-stacker Michael Johnson, a Chinese-Australian barrister “on several occasions” in Brisbane but would not say whether he had recruited her as a Liberal Party member. “Sorry, I can’t say anything,” Ms Chan said. “I’m not a Communist or a republican...so the Liberal Party is the way to go, to join.”

Asked whether she considered it strange that a Hong Kong citizen was able to vote in an Australian preselection contest, Ms Chan replied: “Well, it all depends on how the constitution is...if it says its all right that one can vote in an Australian political party, then people are acting to what the constitution says.”

Liberal Party state director Graeme Jaeschke said he had no comment on the issue. But party state president Con Galtos admitted the Chan situation resulted from a loophole that would “most definitely be closed” when the party completed its constitutional overhaul after recommendations from the Shepherdson inquiry into electoral rorting. “Our constitution is silent on that particular matter,” Mr Galtos said. “We have looked into it and we couldn’t have done anything else other than accept the nomination of the lady otherwise we would have been breaching the constitution and we would have had problems. Its not illegal and not only is it not illegal but also it does not

interfere with the Federal Electoral Act. There has not been any fraudulent representation.”

It is understood a number of foreigners are among the 280 new members introduced to the party by Mr Johnson over the past two years, some of them living as far away as Edinburgh. No proxies or postal votes are accepted but it is not known if any others intend flying to Australia to vote.

A rival candidate in the bitter Ryan preselection contest said the prospect of a foreigner voting in the ballot “sums it all up. Its just about demonstrates to us the ludicrous situation we find ourselves in. As long as you’re over 16, have a warm body and pay your membership fees – which I expect isnt a problem if you can afford to fly to and from Hong Kong to vote – you’re in the Liberal Party.”..

Liberal Party federal director Lynton Crosby when asked if he found the situation bizarre, replied: “I could imagine you might think that.” However he said the terms and conditions of party memberships were for the states and territories to decide themselves. (*Courier Mail*. 2 February 2001, “*Non-Citizen to vote in poll*”, Wayne Smith)

12.17 Finally, immediately following Mr Hanson’s closing submissions to the Queensland CJC on 19 January 2001, the Premier Mr Peter Beattie announced the Queensland State election would be held on 17 February 2001, and that he would institute a series of reforms to ALP party preselection procedures.

*ALP reforms:*

- Replace postal votes with stand-up ballots at ALP preselections
- Electoral Commission Queensland (ECQ) to audit ALP internal ballots
- New ALP disputes tribunal and new rules to handle disputes
- Rules to ensure people are not signed up as ALP members without their knowledge
- Six-monthly internal audits of ALP party membership
- Re-organisation of ALP head office; special ALP conference in June

*Party reforms:*

- All party preselections to be supervised by ECQ
- Parties must have a community-based membership and proper constitution to get funds
- Preference deals, loans gifts and contributions to other candidates and parties to be disclosed
- Funding to be disclosed or funds will be forfeited
- Request Commonwealth to toughen enrolment fraud laws

*Parliamentary reforms:*

- Parliamentary debates to be broadcast on Internet
- Parliament to meet in a regional centre once a term
- On-line system for petitioning Parliament
- Training for new Members of Parliament

12.18 However, Premier Beattie's proposals drew immediate criticism from the then Special Minister of State, Senator Chris Ellison, on the basis that the provisions of the *Electoral and Referendum Amendment Act 1999*, if brought into force with the agreement of States/Territories such as Queensland, would be more effective in addressing electoral fraud.

Beattie Reform Proposals Desperate and Opportunistic: If Mr Beattie was serious about reforming Queensland's electoral system he would support the Commonwealth's proposal to strengthen the integrity of the electoral system, Special Minister of State, Senator Chris Ellison, said today.

"Increasing penalties for contravention of the *Commonwealth Electoral Act 1918* is only one small part of what is needed to achieve sensible, long-term electoral reform. An ounce of prevention is better than a ton of cure," Senator Ellison said. "For months the Federal Government has been calling on Mr Beattie and Mr Foley to support the Commonwealth's proposed witnessing and identification provisions for electoral enrolment with no success. Beattie won't even support this very important first step, designed to introduce safeguards at the time of enrolment, let alone seriously consider supporting the Commonwealth's broader package of reforms. Currently, it is easier to enrol to vote than hire a video from your local video shop."

Senator Ellison said he was still awaiting a letter from Mr Foley, which had not yet been received by his office. Senator Ellison said the Federal Government had introduced a range of reforms to *Commonwealth Electoral Act 1918* over the past three years including strengthening provisions regulating the registration of political parties and disclosure rules for associated entities.

In addition, the Joint Standing Committee on Electoral Matters (JSCEM) had made over 50 recommendations to Federal Government as part of its most recent report in June 2000 which were being carefully considered. Recommendations include increased penalties for breaches of the *Commonwealth Electoral Act 1918*, close of the electoral roll on the day an election is called and improved procedures for updating the electoral roll.

Senator Ellison said Peter Beattie's proposal for the electoral commission to conduct party preselections had already been considered and rejected by the Australian Electoral Commission on the grounds their "political neutrality" could be compromised (AEC submission to JSCEM Inquiry, 17 October 2000).

"Queensland Labor has had every opportunity to demonstrate a real commitment to cleaning up the rorts, but have failed to do so. Yesterday's announcement by Peter Beattie was desperate and smacks of political opportunism. We all remember Peter Beattie's last electoral reform idea - reintroduction of the Australia Card. Yesterday's announcement is simply another desperate stunt from the Sunshine State's self-confessed media tart." (Media Release, 22 January 2001, Senator the Hon Chris Ellison, Special Minister of State)

12.19 These concerted moves to reform internal party preselection procedures, by two opposing political parties in Queensland, in response to the AEC/AFP/CJC investigations into party branch-stacking and related enrolment fraud in that State, suggest that it is not the federal electoral system that requires major reform. However, the ability of the AEC to detect and prosecute enrolment fraud, and maintain the integrity of the Electoral Roll, would be enhanced by upgrading RMANS data-processing and CRU data-matching, and increasing the penalties for electoral fraud offences.

12.20 The AEC would welcome the opportunity to respond to any JSCEM questions that might arise from this supplementary submission. A further supplementary submission is to be filed shortly responding to the other 50 submissions already filed with the JSCEM, and a final submission will be filed following the further public hearings yet to be scheduled with the AEC.

### **13. RESPONSES TO QUESTIONS ON NOTICE**

13.1 On 7 and 12 December 2000 the JSCEM provided the AEC with a list of 25 Questions on Notice, which are responded to as follows.

*1. Is the Roll capable of being analysed demographically? If it is, is it possible for the demographic profile of electorates to be compared with the ABS demographic profile? For instance if the ABS tell us that 13% of households are single persons households, would the Roll reflect the same situation?*

The Electoral Roll can be, and is, analysed demographically by the AEC. The AEC extracts demographic data from the computerised roll management system (RMANS) for the purposes of redistributions of electoral boundaries under part IV of the Electoral Act, and for roll review purposes as part of Continuous Roll Updating (see part 11 of AEC submission No 26). Under CRU procedures, age data is extracted from RMANS to determine participation rates, particularly by young people, and enrolments at particular addresses are analysed for the purposes of targeting CRU mailouts and door-knocking. Further, reports of elector and address information are regularly extracted for data integrity checking in all Divisions.

Australian Bureau of Statistics (ABS) Census data can be matched to the Electoral Roll. This data-matching would be useful in determining participation, by comparing enrolments with ABS population estimates, provided the match was undertaken as soon as possible after results are available for the 2001 Census. This will provide information at the Census Collection District (CCD) level; subsequent annual updates of population estimates will be available at the Statistical Local Area (SLA) level. However, subsequent matching would become progressively less useful over the ensuing five years from the Census. Further, ABS population data is not currently available at the federal Division level, although this could be readily constructed from SLA aggregates.

Matching of the Roll to Census data can only give useful information about the participation rate. It cannot be used to confirm the accuracy of enrolment details and at the best would provide only general information about address types and their occupancy. The ABS is not empowered by legislation to supply data to the AEC, which could provide information about the accuracy of the Roll at individual addresses.

The following considerations need to be taken into account in matching the Electoral Roll to Census data and annual ABS updates of population estimates.

The 2001 Census will exclude all residents who are temporarily overseas, including those on short holidays. At the 1996 Census this was estimated at 300,000 persons and it is likely to be higher at the next Census. A majority of these persons (an estimated 75%) will be eligible and enrolled and, aside from the few who advise the AEC of their absence or register as Eligible

Overseas Electors, there is no way of knowing the Division in which they are enrolled. Note that the Census will take into account persons who are temporarily resident elsewhere in Australia by coding them back to their home CCD.

The AEC estimates that there are 1,000,000 adult residents not eligible to enrol because they are not Australian citizens, as well as an estimated 200,000 non-citizen 'British' electors. Whilst the ABS accounts for non-citizens in Census statistics, it does not provide changes in their number or movement in the annual population updates at the SLA level. Some allowance could be made for this large group of persons in matching of total population and electors at the Division level. However, it would not be possible to account for non-citizens (and persons temporarily overseas) in matching demographics at particular address types, for example, single person households. In the particular case referred to in the question, the Roll would not necessarily reflect ABS data, and any difference would not be a useful indicator as to Roll accuracy.

Aside from non-citizens, the AEC estimates that there is a minimum of 200,000 Australian citizens 18 years of age or older who are not enrolled because they are of unsound mind, in jail, or are frail and elderly. In the latter case they may be eligible but are not enrolled for health reasons. As with non-citizens, the spread of this group between Divisions cannot be identified in the ABS aggregated data and would provide further inaccuracies in a match.

Further, differences between the ABS and AEC profiles will arise with the constant change of address by electors, estimated at 175,000 to 200,000 nationally per month. Delays in notifying change of address are inevitable, when the residential qualification period and the three weeks to comply with the Electoral Act are taken into account. Of those electors who move, approximately 40 to 50% advise the AEC in a timely manner (within two months), with the balance being picked up through CRU procedures or at the close of rolls for State/Territory and federal elections. This results in some addresses showing more than one family enrolled, with others vacant.

In addition to electors changing address, the AEC estimates that there is a constantly changing population of approximately 750,000 eligible persons who are not enrolled, but who are included in Census data. This group is made up of an estimated 200,000 persons aged 18 to 20 who are yet to enrol for the first time, those electors objected off the Roll and yet to re-enrol, and the 'hard-core' of non-enrollees who have avoided roll review activities.

At the Divisional level there would be a general correlation between the ABS population estimates and the Roll, but with a lower number of electors on the Roll than residents in the ABS estimates. It would provide general indicative information as to whether the Roll included all persons eligible to enrol and highlight areas for investigation, such as for under-enrolment or for high turnover, activities the AEC already undertakes as part of CRU. Because of the significant numbers of non-eligible persons to exclude from Census data, and the difficulties of accounting for electors overseas, the match would not give

any information about the accuracy of Roll at individual addresses and would provide only crude information about enrolment profiles at particular address types.

Due to the differences between ABS data on residents and AEC data on enrolled electors, and the significant and constant changes of address by electors, analysis using matches of the Electoral Roll and ABS data would not be effective in identifying electoral fraud, unless the fraud was on a particularly wide scale.

*2. What problems if any would be posed by the date of birth and gender being on the Roll that officials use at the polling booths? Would asking voters to give their date of birth be a useful automatic identity check?*

If the JSCEM concludes that electoral fraud is of sufficient magnitude to require changes to voting procedures (in addition to the changes to enrolment procedures that have already been legislated), then it is difficult to see how including the gender of electors on the Certified Lists of Voters for elections would be cost-effective in deterring possible electoral fraud at polling booths, where the gender of most electors is usually not an issue.

Including the date of birth on Certified Lists has more merit as a deterrent to possible electoral fraud, as electoral officials in polling booths would be able to make judgements about a very young person presenting to vote in the name of a very old person, for example. But such a possible change leaves open the issue of what is to be done if a polling official disagrees with a voter about their age.

Inclusion of such information on the Certified Lists is technically feasible, subject to increased programming costs; a slight reduction in the legibility of the Lists, which are limited in the amount of information that can be included in a single line of text in a readable font; and a possible increase in polling official error, given the further actions required to mark off the Certified Lists. There are other factors that must be weighed in the balance.

The first issue is personal privacy in the polling booth. Many electors may have objections to providing their date of birth to a polling official in a public place, perhaps in hearing distance of family and friends, and complete strangers. The introduction of such changes might be met with resistance from some sectors of the voting population, such as the elderly. The second issue involves those electors who simply do not know their date of birth, such as some Aboriginal and migrant Australians. Such persons might provide a guesstimate of their date of birth at enrolment, and subsequently forget or misplace this information. This suggests that a declaration vote should be available in such circumstances, rather than denying the franchise to those who are unable or unwilling to respond to a question about their date of birth.

If the JSCEM recommends that date of birth should be included on Certified Lists of Voters to deter electoral fraud, then it must be conceded that such a change bears no relationship to the sort of electoral fraud that gave rise to this

inquiry, that is, forgery of enrolment forms for party preselection purposes. Further, the enrolment fraud that was committed in Queensland mostly involved family and friends, whose personal details such as gender and date of birth were known to the forger, rather than complete strangers, whose personal details are not so easily determined.

Further, if the evidence is that members of registered of political parties, and Members of Parliament and their staff are the major offenders in enrolment fraud, then it must also be acknowledged that registered political parties have almost unlimited access to personal enrolment information under the provisions of the Electoral Act, including gender and date of birth. Armed with this sort of information, it is difficult to see how members of political parties or their staff, intent on committing voting fraud at the polling booth, would find the addition of gender and date of birth on the Certified Lists any real barrier.

*3. It is appreciated that there is no legal requirement for Political Party Constitutions to be provided on a current basis, but there is nothing preventing a request being made. In view of the need to establish exactly which Parties have a membership pre-selection link with registration on the Electoral Roll, could the AEC consider requesting registered political parties to provide them with their current constitutions and rules?*

Section 126(2)(f) of the Electoral Act provides as follows: "An application for the registration of an eligible political party shall be in writing, signed by the applicant or applicants and by the person who is to be the registered officer of the party, and shall....be accompanied by a copy of the constitution of the party...". The current review of political party eligibility for registration following recent changes to eligibility criteria (effective 3 October 2000) requires parties to submit copies of their current constitution.

*4. If the AEC does that, would they put those Constitutions on the web so that they are publicly available?*

There are no plans to provide copies of party constitutions on the AEC website. This might give the impression that the AEC was somehow promoting or endorsing political party material. At present, the AEC provides copies of party constitutions to the public on request. This is usually during the application objection period, but as they form part of a party application, they can be accessed at any time.

*5. It is noted that the AEC has reviewed all cases of possible enrolment fraud that are on the record for the past decade. Is it possible to generalise about how each of these cases were brought to the attention of the AEC?*

The 71 cases of possible enrolment fraud over the past decade, listed in Attachment 20 to AEC submission No 26 and updated at 14 to this submission, were drawn to the attention of the AEC through the following sources:



- Detection through AEC roll review procedures, including CRU (35 cases).
- Information provided by the public (15 cases)
- Information provided by Members of Parliament (10 cases)
- Information provided by other government agencies investigating other offences (8 cases)
- Information from press reports (3 cases)

*6. What number of these cases were the result of the AEC's own investigations?*

Of the 71 cases of possible enrolment fraud over the past decade as reported in Attachment 20 to submission No 26, 35 cases arose as a result of AEC roll review procedures, including more recently, CRU procedures.

Further, of the seven convictions over the past decade for enrolment fraud, five arose directly as a result of routine enrolment processing procedures, including CRU procedures. The remaining two cases, the Ehrmann and Foster cases, arose as incidental to the investigations into the Kehoe case, that had been detected by AEC staff in the Division of Herbert.

*7. It is stated in the AEC submission that there are a number of cases indicating the possibility of organised activities to defraud the rolls for council elections. Could the AEC elaborate further on this?*

In paragraph 8.3 of AEC submission No 26 of 17 October 2000, the following was said in relation to the 71 cases of possible enrolment fraud over the past decade, as reported in Attachment 20 to submission No 26:

There were no cases that disclosed any organised conspiracy against the Electoral Roll for federal election purposes (including the Ehrmann case at issue in this inquiry, which involved party preselection ballots), although there are a number of cases that indicated the possibility of organised activities to defraud the rolls for council elections.

The four cases of possible enrolment fraud listed in Attachment 20 to submission No 26 that appear to have involved council elections were all in New South Wales: NSW6 (Bennelong - 1991), NSW31 (Prospect - 1997), NSW32 (Lindsay - 1999), and NSW35 (Werriwa - 1999).

Case NSW6 involved a local council election within the federal Division of Bennelong in 1991. Four false enrolment forms were submitted to the AEC, including one for a council candidate. This candidate complained that she and another person had been fraudulently enrolled without their knowledge or consent. The case was referred to the AFP for investigation, but the DPP was unable to recommend prosecution because the statute of limitations had expired. However, the DPP did issue a warning letter to another council candidate who was suspected of being involved in the fraudulent enrolments.

Case NSW31 involved a local council election within the federal Division of Prospect in 1997. The person involved first enrolled in 1989, and in 1992 submitted an enrolment form notifying a change of address, and indicating she was not an Australian citizen. Although the enrolment form should not have been accepted at the time, it was processed, and no further inquiries were made as to her eligibility to enrol. The person stood as a candidate in a 1995 council election, although she did not become an Australian citizen until 1997. The case was not referred to the AFP for investigation. The DPP advised that the statute of limitations had expired for a prosecution for a false declaration as to citizenship under s.339(1)(k) of the Electoral Act, and that prosecution under the Crimes Act was not in the public interest. The false declaration on citizenship enrolment was not linked to any attempt to affect the result of the council election because it was effected six years previously. It should be noted that more recent changes to the enrolment form now require detailed information on citizenship, which might have avoided the original false declaration.

Case NSW32 involved a local council election within the federal Division of Lindsay in 1999. Senator Hutchins raised the matter with the Special Minister of State, alleging that there were irregularities in the enrolments of a number of candidates seeking election to the council. It was alleged that the parties represented by the candidates were possible 'front' parties for a major party, designed to feed preferences back to the larger party. After AEC staff visited addresses at St Clair and at Rossmore, the matter was referred to the AFP for investigation on 15 October 1999. On 3 July 2000 the AFP advised the AEC that there was insufficient evidence for prosecution. This is the case allegedly involving Minister Jackie Kelly, discussed further in part 12 of this submission.

Case NSW35 involved a local council election within the federal Division of Werriwa in 1999. An elected councillor changed his enrolled address from his usual place of residence to an address within his council electorate, for the duration of the election campaign. After the election, the councillor changed his address back to his original enrolled address. Under the NSW Local Government Act, the councillor was entitled to nominate for the election even though he was living outside the council electorate, as he owned property within the electorate. The matter was referred to the AFP for investigation. The DPP advised, on the last day available for prosecution under the statute of limitations, that there was not a reasonable prospect of a conviction.

*8. Would it be correct to assume that more cases of possible electoral fraud detected by the AEC in the last decade have been detected in the last two years than previously?*

*9. Could this indicate that a large amount of electoral fraud has gone undetected in the past?*

It is noted that questions 8 and 9 ask about "electoral fraud" rather than "enrolment fraud", although it is understood that this JSCEM inquiry is concerned with the latter more specifically. Attachment 20 to submission No 26 of 17 October 2000 deals only with possible enrolment fraud. Electoral

fraud includes a wide variety of electoral offences, inclusive of those offences known as enrolment fraud. Electoral fraud would also include, for example, multiple voting. The AEC routinely reports hundreds of possible multiple voting cases to the JSCEM after each federal election (see for example, submission No 129 of 7 February 1997 and submission No 239 of 15 October 2000).

Of the 71 cases of possible enrolment fraud over the past decade as reported in Attachment 20 to submission No 26, 53 were detected to the end of 1998, and 18 were detected during the last two years, 1999 and 2000. That is, it is not safe to assume that more cases were recorded in the last two years than in the previous eight years. However, the rate of reporting of irregularities has increased over the decade from approximately six per year to nine per year.

Attachment 20 to submission No 26, which was filed on 17 October 2000, has now been revised and updated and is at Attachment 14 to this submission. The new cases recorded in the past few months might conceivably suggest either of the following:

- continuous roll updating (CRU) is now delivering improved results in the detection of possible enrolment fraud;
- there is a real increase in enrolment fraud in recent times (perhaps due to the factors indicated in part 7 of submission No 26).

*10. Does the AEC have a view on why most of the possible electoral frauds it has recorded have been in NSW and Queensland, rather than other states and territories?*

No, although part 7 of AEC submission No 26 does discuss some suggestive factors in relation to NSW at least. Note again that Attachment 20 to submission No 26, to which this question refers, does not report on “electoral fraud” but on “possible enrolment fraud”.

*11. In case NSW5, in 1990, in the seat of Macquarie, how long did it take to detect the application for enrolment by someone's pet cat? How long was the cat enrolled? How was this detected?*

It took 26 days to detect the problem. The enrolment was effective for 15 weeks. The enrolment was brought to the attention of the AEC by the Member for Macquarie as the result of return-to-sender constituency mail. For further discussion see part 5 of this submission.

*12. What were the circumstances involved in NSW8, in 1991, in Phillip? How was the fraud detected?*

Case NSW8, as reported in Attachment 20 to submission No 26, involved an enrolment form, without date of birth details, submitted to the then Phillip Divisional office. The Divisional office contacted the person named on the enrolment form and was advised that this person had not submitted the enrolment form and was not an Australian citizen. The matter was referred to

the AFP for investigation on 28 August 1991. The AFP advised the AEC on 10 April 1992 that an offender could not be located and the matter was closed.

*13. What were the circumstances involved in NSW13, involving multiple enrolments for the one person, in Parkes in 1992? Can you describe it? How many enrolments were submitted for the one person? How was this detected?*

Case NSW13 arose as the result of a routine mail review of rural and remote addresses conducted in the Division of Parkes in April/May 1992. The review involved sending lists of enrolled electors to "The Householder" at various addresses within the Division, for confirmation of the enrolment details shown.

In a written reply to the Divisional office, a mother advised that her son should also be enrolled for her address, and an enrolment reminder form was delivered. The father then wrote to the Divisional office and advised that his son's name and identity had been assumed by someone else for unknown purposes and that the matter was being investigated by the NSW Police.

The matter was referred to the AFP for investigation on 7 September 1992. Inquiries revealed that the son had been falsely enrolled for an address in Redfern (the multiple enrolment) and that the enrolment form had been signed and witnessed by person/s unknown. The AFP advised on 13 October 1992 that they were unable to locate an offender and the matter was closed.

*14. What were the circumstances involved in NSW15, in Berowra-Wentworth in 1992? Can you describe it? How were the fake identities detected?*

Case NSW15 arose in December 1992 when an elector lodged private objections against four electors in the Division of Wentworth and three electors in the Division of Berowra. The reason provided on the objection forms was "Fictitious people voting do not provide a fair, honest and accurate Election due to the extent of other sham entries on the same and other electoral rolls".

The objection forms submitted by the objector, as well as other correspondence subsequently received from the objector, listed three different contact addresses. They included: c/- Post Office, Glen Waverley, Victoria; c/- High Street, Victoria; and Springvale Rd, Glen Waverley, Victoria. No current enrolment or recent deletion could be found anywhere in Australia for the objector. The DROs for the Divisions concerned rejected the objections on the ground that the person was ineligible under section 114(1) of the Electoral Act, because he did not live in the same subdivision as the persons objected to.

As a matter of course, the AEC conducted inquiries into the enrolments in question. Detailed investigations established an enrolment history, verified by electoral roll review records, for all the electors objected to. Two electors were confirmed as living in a NSW National Parks and Wildlife Service residence. That is, the enrolments objected to were not fictitious as claimed.

A number of letters were sent to the objector in an attempt to refund the objection lodgement fees. Most, but not all, correspondence was returned undelivered. Inquiries revealed that the address at Springvale Rd, Glen Waverley, Victoria was the address for the Victorian State Member for Kew. The address at c/- High Street, Victoria was the local Sheriff's Office. Staff at both these addresses had no knowledge of the identity of the objector.

A person telephoned the NSW Head Office on 24 February 1993, claiming to be the objector, and advising that he was using a "pen" name because he was involved in an unrelated legal matter. He asserted that "nobody would be living in a National Park". The objector declined to provide his real name or address.

The objector complained to Commonwealth Ombudsman in May 1993 about the lack of action by the AEC. The Ombudsman responded to the objector advising that the AEC's actions had been reasonable. The objector also wrote to the Attorney General in July 1993, but the AEC is not privy to the response or any further action taken.

*15. In relation to NSW16, what does the AEC mean when it says that an application for fake enrolment was submitted as a "test" case? Were the suspected offenders associated with a political party?*

Case NSW16 arose when the then President of the Hurstville Branch of the Liberal Party wrote to the Shadow Minister for Administrative Services, Senator Parer, on 25 October 1992, alleging that a false enrolment at her address in the Division of Watson had been accepted by the AEC. The letter stated (in part):

I am not at liberty to divulge the name of the person who placed this name on the Rolls as it was to prove to me how easily it is, for anyone to place not only this name but I'm sure, any amount of names on the Rolls, in any electorate, for obvious reasons. The name ... is fictitious and was placed on the Electoral Roll application form along with a fictitious witness and address. The application was accepted within a few weeks. The name will be deleted from the Rolls in the near future.

The surname used in the false enrolment form was the same as the surname of the Branch President. The witness had the same surname and initials as the Branch President. The address of the witness was the Hurstville Branch of the Liberal Party.

Senator Parer referred the allegations to the AEC and the DPP recommended referral to AFP. This was done on 14 January 1993. On 8 February 1993, the AFP asked the AEC for a copy of the original enrolment form for handwriting and fingerprint analysis, but it had been routinely destroyed and only microfiche records remained. On 26 February 1993, the AFP attempted to interview the Branch President of the Hurstville branch, but she was unavailable for interview because of holiday commitments. Several later attempts were made to interview the Branch President but she declined. The AFP advised the AEC on 1 June 1993 that the Document Examination Branch

were unable to conduct handwriting comparisons or collect fingerprint evidence and were therefore unable to progress the matter further.

*16. What were the circumstances in NSW28, in the seat of Fowler in 1995, where a state preselection candidate submitted 15 cards, 12 for the wrong address? Why did the AEC decide to take no further action?*

Case NSW 28 arose when a candidate for preselection for the State seat of Liverpool attended the Fowler Divisional office and handed in approximately 15-20 electoral enrolment forms. It was noticed by Divisional staff that the candidate had witnessed most of these forms. AEC electoral acknowledgment forms were posted to the electors at the addresses supplied. Approximately 12 of the acknowledgment forms were returned to the Divisional Office marked "not known at this address", and the enrolments were accordingly removed. The then DRO for Fowler referred the matter to the then AEO for NSW, who decided that no further action should be taken, for reasons that are not apparent on the file record. (The former AEO has been contacted and is unable to recall any details of this case.)

*17. What were the circumstances in NSW32, in Lindsay in 1999, where council candidates allegedly made false enrolment declarations?*

As reported above in response to question 7, Case NSW32 involved a local council election within the federal Division of Lindsay in 1999. Senator Hutchins raised the matter with the Special Minister of State, alleging that there were irregularities in the enrolments of a number of candidates seeking election to the council. It was alleged that the parties represented by the candidates were possible 'front' parties for a major party, designed to feed preferences back to the larger party. After AEC staff visited addresses at St Clair and at Rossmore, the matter was referred to the AFP for investigation on 15 October 1999. On 3 July 2000 the AFP advised the AEC that there was insufficient evidence for prosecution. This is the case allegedly involving Minister Jackie Kelly, discussed further in part 12 of this submission.

*18. What were the circumstances in NSW38, in Charlton this year, where an ALP candidate for pre-selection attempted to enrol for a vacant block? How was this detected? Has the AFP been involved: if not, why not?*

Case NSW 38 arose when an elector contacted the NSW Head Office in August 2000 concerning his enrolment entitlement. The elector advised that he had contacted the AEC Inquiry Line (from Lewisham in Sydney) and had spoken to somebody concerning a block of land he owned in the Division of Charlton. He claimed to have been advised that, because he had a fixed intention to build at and reside at the block of land, he was entitled to enrol for the block of land.

Because the information allegedly given to the elector was clearly incorrect, extensive inquiries were made by AEC management to all staff in Divisions likely to have received the elector's telephone call. These inquiries failed to

reveal any recollection of this phone call or to identify an AEC officer responsible for providing the incorrect information.

The elector wrote to the AEC on 29 August 2000 advising that he was a candidate for an ALP internal party ballot but that his credentials had been challenged. He sought written confirmation of the basis of the conversations he had with AEC Officers. The AEO NSW replied to the elector on 30 August 2000 advising that the DRO for Charlton had been instructed to remove his name from the Charlton roll and that the elector should re-enrol for some other eligible address. The AEO also warned the elector of the penalty for making fraudulent statements on electoral papers.

The Member for Charlton, Kelly Hoare separately wrote to the DRO for Charlton on 31 August 2000, enclosing a copy of the elector's statement to the ALP Credentials Committee, and requesting an investigation of the elector's enrolment. The matter was not referred to the AFP because the elector raised the matter directly with the AEC, and received a formal warning from the AEO NSW.

*19. What are the circumstances in relation to NSW41, in the seat of Throsby, where there were multiple enrolments for different names at the same address? How many names were enrolled? How was this detected? Why has the AFP not been involved?*

Case NSW 41 arose in September 1999 when an elector (called Elector "A") wrote to the Throsby Divisional office claiming that another elector ("B"), enrolled for the same address, had moved interstate. In the normal manner, the name of elector "B" was added to the automated list of electors awaiting batch objection action. On 3 February 2000, a routine enrolment review letter was sent to the address. In response to this letter, advice was received by telephone on 8 February, and in writing, that elector "B" still lived at the address. On 22 June 2000, elector "B" submitted an enrolment form to change her name to elector "C".

On 6 September 2000, elector "A" telephoned the Throsby Divisional office claiming that elector "C" no longer resided at the address. Elector "A" was advised to make the claim in writing as a formal objection. On 8 September 2000, elector "A" advised the Throsby Divisional office by telephone that she did not wish to object to elector "C", as the elector was now returning to live at the address. During the conversation, elector "A" referred to the name of elector "B", not elector "C".

On 11 September 2000, in an attempt to clarify a confused situation, the DRO Throsby posted an enrolment review letter to "The Householder" at the address. The letter listed elector "C", elector "A", and the husband of elector "A", as being the enrolled electors at the address. On 12 September 2000, a person "D", identifying herself by a variation of the name used by elector "C", telephoned the office to indicate that the eligible electors at the address were herself and the husband of elector "A".

By this time, Throsby Divisional staff believed that electors "A", "B" and "C" might be the same person. A further enrolment review letter was sent to the husband of elector "A" on 15 September 2000. This letter listed the enrolled electors at the address as elector "B", elector "A", and the husband of elector "A". The letter was returned to the Throsby Divisional office on 25 September 2000, apparently signed by the husband of elector "A", indicating that the information on the letter was correct. The matter was referred to the AFP on 25 October 2000 and the AEC has not yet been advised of the outcome.

*20. In relation to NSW45, in Reid this year, how many applicants were allegedly falsified by the one person? Were these at different addresses or the same address? How were they detected? Does the alleged perpetrator have political affiliations? What penalty would this offence attract? Has the AEC received official advice in writing that the AFP will not investigate this case?*

Case NSW 45 arose in July 2000, the ALP Member for Reid, and member of this JSCEM, Mr Laurie Ferguson, wrote to the DRO for Reid alleging the involvement of a person ("A") in various false enrolments in the Division. Mr Ferguson also sought an investigation into the claimed enrolment of an elector ("B") at an address in his Division. Attached to his letter, Mr Ferguson supplied statutory declarations, signed by himself and two other people, to the effect that they had visited addresses in the Division in order to establish whether elector "B" did or did not reside at the enrolled address.

The AEC carried out various inquiries into Mr Ferguson's claims. An RMANS report was produced which listed electors (including elector "B") who were enrolled at the address. A copy of the enrolment form submitted by elector "B" for the address, which may or may not be signed by person "A", was also retrieved. An enrolment history for person "A" was produced showing his current and two former enrolments listing his date of birth as 1 January 1972, and three other enrolments listing his date of birth as 10 September 1972. The current and immediately previous enrolments for person "A" show a PO Box postal address. An RMANS report listed 10 electors at three separate addresses "linked" to the PO Box used by person "A". The AEC referred the matter to the AFP on 14 July 2000 for investigation, and Mr Ferguson was advised of the AFP referral on the same date.

As reported already in part 12.5 of submission No 26, the AFP wrote to AEO NSW on 29 August 2000 advising that it did not intend taking any further action in relation to this matter. The AEO NSW referred the matter to the DPP on 11 September 2000, for an opinion on whether prosecution action might be possible on the evidence available. Mr Ferguson was also advised of the DPP referral on the same date.

On 20 September 2000, the DPP advised that further evidence would be required, and that potential witnesses, including elector "B", should be interviewed, preferably by experienced interviewers (that is, the AFP). The AEO NSW wrote again to the AFP on 4 October 2000, asking them to reconsider their rejection of the case, and to the DPP, asking them to keep



their file open on this matter, pending reconsideration by AFP. Mr Ferguson was advised of these matters on the same day.

*21. What were the circumstances in QLD8, where multiple enrolments were detected at two different addresses? How was this alleged fraud detected? Were any of the alleged perpetrators affiliated with political parties? Why did the DPP conclude that there was not enough evidence for prosecution?*

Case Qld8 arose when a bundle of 16 enrolment forms were handed into Griffith Divisional office in November 1996. AEC staff processing the enrolment forms noticed that there were only two addresses among the 16 forms and that both addresses appeared to be normal residential addresses. The AEC was aware of party preselection activity at the time through media reports and referred the matter to the AFP on 24 December 1996.

The AEC has been advised that, following the AFP investigation, the DPP concluded that a prosecution would not succeed because a significant number of witnesses and other persons received legal advice to not speak with the police. Note that this matter was also raised at the CJC Shepherdson inquiry.

*22. What are the circumstances in QLD 15, in Ryan this year, where fraudulent enrolments were made in the names of parents?*

Case Qld15 arose in June 2000 when Ryan Divisional staff were processing two enrolment forms collected by a roll review officer for an address, and noticed that the names on the enrolment forms matched those of the former residents, but the dates of birth differed. Further checking suggested to Ryan Divisional staff that the enrolments were not legitimate. On 6 June the Divisional Returning Officer referred the matter to the Queensland Head Office for further consideration. The matter was referred to the AFP for investigation on 23 June 2000.

Both offenders were convicted and fined \$300 and \$350 on 10 November 2000. Both were charged under the Commonwealth Electoral Act. The husband convicted under sections 344(1)(a) and (b), the wife convicted under section 344(1)(a).

*23. What are the circumstances in QLD17, in Bowman this year, where an attempt was made to enrol a dead person during a doorknock?*

Case Qld17 arose when Bowman Divisional staff processing an enrolment form, collected by a review officer, found that the name had already been removed from the roll as a death deletion. The matter was referred to the AFP for investigation on 8 June 2000. On 29 September 2000 the offender was convicted of forging and uttering under section 344(1) of the Electoral Act, and a fine of \$350 was recorded.

*24. Has the AEC conducted a fraud risk assessment and does it have a fraud control plan in place? Can you provide a copy of any assessment undertaken and a copy of the AEC's current Fraud Control Plan.*

The AEC has provided the JSCEM Secretariat with copy of the Fraud Control Plan 1997-1999, which is still in force until the updated version is approved by the Attorney-General's Department. The AEC will provide the JSCEM with copy of the updated Fraud Control Plan when it is released. The ANAO Report No 47 "Survey of fraud control arrangements in APS agencies" is available on the ANAO website.

*25. Colin Graham Smith, in his submission to the 1987 federal election inquiry, states that he made complaints at three polling booths in the division of Fisher concerning the behaviour and how to vote cards being issued by volunteers of the Wildlife Preservation Society and the Wilderness Society. He claims that at the Petrie polling booth, the officer-in-charge, in response to his complaint, contacted Peter Beattie, Secretary of the ALP, rather than the Divisional Returning Officer or the Queensland State Commissioner, to seek advice on appropriate action to take concerning the Wildlife Preservation Society and Wilderness Society volunteers. Can you explain why the officer-in-charge would have contacted the Secretary of the ALP rather than the appropriate AEC officers? Was this matter brought to the attention of the AEC, and if so, how did the AEC deal with it? What would be the usual course of action for dealing with such complaints made at polling booths, and why would this process not have been followed in this instance?*

See part 8 earlier in this submission.