AUSTRALIAN ELECTORAL COMMISSION

SUPPLEMENTARY SUBMISSION TO

THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

INQUIRY INTO

THE INTEGRITY OF THE ELECTORAL ROLL

AEC RESPONSES TO ELECTORAL FRAUD SUBMISSIONS

Submission No 76 of 28 February 2001

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2. **Division of Fisher, 1987 federal election**
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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. Submissions from the AEC to this JSCEM inquiry are available on the AEC website at www.aec.gov.au.

This submission responds to a number of other submissions that in one way or another make allegations of electoral fraud (or potential electoral fraud) and make recommendations for amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act).

1. Submission No 5 – Allan Viney – 27 September 2000

1.1 Mr Viney is an associate of Dr Amy McGrath of the H S Chapman Society and a regular contributor to JSCEM inquiries. Mr Viney also provided supplementary submission No 17 to this inquiry. His past submissions include No 73 of 29 August 1990, No 92 of 3 August 1993, No 23 of 15 July 1996 and No 185 of 12 April 1999.

1.2 In this submission Mr Viney recommends the re-introduction of subdivisions (see part 12.4 of AEC submission No 26 of 17 October 2000); the repeal of section 361 of the Electoral Act which prohibits the Court of Disputed Returns from inquiring into the correctness of the electoral roll (see para 46.23 of AEC submission No 210 of 23 July 1999); and is critical of the timing of the close of rolls for elections (see part 12.2 of AEC submission No 26 of 17 October 2000). The AEC has no comment to make on Mr Viney's recommendation for an enrolment lottery of $5,000.

2. Submission No 8 – Fernando Blander – 2 October 2000

2.1 Mr Blander recommends that pens be provided in polling booths instead of pencils for the marking of ballot papers. The AEC responded to a similar recommendation in part 4 of submission No 210 of 23 July 1999, reproduced at **Attachment 1**.

3. Submission No 9 – Nola Frawley – 2 October 2000

3.1 Ms Frawley recommends that pens be provided in polling booths instead of pencils for the marking of ballot papers. The AEC responded to a similar recommendation in part 4 of submission No 210 of 23 July 1999, reproduced at Attachment 1.

4. Submission No 14 – Cherie Reimer – 10 October 2000

4.1 Ms Reimer claims in her submission that the absence of her name (and the names of her neighbours) on the Certified Lists of Voters at the Eimeo school polling booth in Mackay for the 1995 Queensland State election is evidence of enrolment fraud. Ms Reimer says that she was refused a provisional vote by the returning officer at the polling booth. This is not a matter on which the AEC can comment as it relates to the conduct of Queensland State polling officials under Queensland State electoral law. However, in relation to the Electoral Roll, the facts are as follows.

4.2 Ms Elizabeth Cherie Reimer enrolled at 32 Ian Wood Drive Dolphin Heads on 26 February 1990 and was removed by review objection action on 13 January 1995 (the previous review was in 1993). The AEC has no way of knowing how long Ms Reimer had been gone from the Dolphin Heads address, but she would have had a total of three contacts before being removed from the roll by the AEC. Ms Reimer says she was unable to vote in 1995 but she did not re-enrol until 3 February 1996, at 64 Ian Wood Drive Dolphin Heads (changed by amendment on 25 March 1998 to No 6).

4.3 Of the other people mentioned in Ms Reimer's submission, the AEC only holds details of Janice Madge Hodson, who was enrolled for 34 Ian Wood Drive Dolphin Heads from 26 February 1995, and who would have been on the roll for the 1995 State election. Ms Hodson transferred her enrolment to a Brisbane address on 27 July 1995.

4.4 Ms Reimer advocates legislative reform to require enrolment identification, mail checks on enrolment transfers, habitation checks on new and transferring enrolments, and computerisation of polling booths.

4.5 In relation to enrolment identification, the enrolment witness identification provisions of the *Electoral and Referendum Amendment Act 1999* have been addressed by the AEC in part 6 of submission No 26 of 17 October 2000 and in part 4 of the submission filed on 9 February 2001. Enrolment identification in general is addressed in submission No 120 of 10 November 1993 and submission No 98 of 23 October 1996, which form Attachments 14 and 15 respectively to submission No 26 of 17 October 2000 (on the AEC website).

4.6 Ms Reimer's suggestion that habitation checks be conducted on all new and transferring enrolments, would effectively require continuous nation-wide doorknocking, which would require a substantial increase in AEC resources. However, periodic Electoral Roll Reviews (ERR) have now been replaced by Continuous Roll Updating (CRU), as described in part 11 of submission No 26 of 17 October 2000, in part 8 of submission No 66 of 9 February 2001, and in part 12 of the submission filed on 23 February 2001.

4.7 In relation to Ms Reimer's recommendation for the computerisation of polling booths, the AEC has most recently commented on computerised elections in general in Attachment 9 to submission No 176 of 4 May 1999; paragraph 4.13 and part 29 of submission No 210 of 23 July 1999; and part 7 of submission No 258 of 31 May 2000. The June 2000 JSCEM Report concluded as follows:

> 4.83 A number of submitters feel that the use of a fully computerised system with electronic voting will reduce costs and staffing required, improve efficiency, accuracy and security and prevent fraud. Quite a large number suggested the AEC make use of the TAB electronic betting grid which is available in every state and territory in Australian for voting electronically.
>
> 4.84 The Committee does not believe that a computerised system would be an effective measure against security, fraud and efficiency concerns at this time. The concerns voiced by the AEC in their submission to the inquiry into the 1996 federal election are still valid.
>
>> With the current levels of technology and a full preferential voting system in Australia, computerised voting is less practical than paper-based methods. To devise a computerised voting system which could accommodate full preferential voting would require sophisticated and totally reliable computing facilities. In addition, voters would have to handle the equipment, which, even in its simplest forms, would be difficult for a great many voters, especially the elderly and those with poor literacy and numeracy skills.
>
> 4.85 In addition to this, while computerised voting may ensure the result of an election being known within minutes of the poll closing, the Committee cannot justify the level of public expenditure required to computerise the voting system given that the result in the House of Representatives was clear by 8 pm on election night, only two hours after the close of poll for the 1998 federal election.

5. Submission No 16 – Lynley Hewett – undated

5.1 In her submission, Dr Hewett makes a number of incorrect assertions of fact about the federal electoral system. For example:

- it is not generally the case that "only if the card is returned 'address unknown' does the electoral office remove the name from the Roll" (see parts 9, 10 and 11 of submission No 26 of 17 October 2000);
- it is not generally the case that multiple votes "cannot be traced or penalised" (see AEC Electoral Backgrounder No 9 entitled "Multiple Voting" on the AEC website);
- it is not generally the case that "pencil marks can be removed, altered or inserted easily" (see Attachment 1 to this submission);
- it is not the case that "there is no mechanism for correcting voting outcome" if irregularities are detected (see part Part XXII of the Electoral Act).

5.2 Dr Hewett makes a number of recommendations for changing the electoral system that are similar to those that are made by Dr Amy McGrath of the H S Chapman Society in her submissions Nos 25 and 39. For example, Dr Hewett appears to recommend some variation of "limited vote tracing", on which the AEC has commented in part 10.3 of submission No 88 of 12 March 1999.

5.3 Dr Hewett recommends that "in the event of subsequent fines for voting twice, the poll is declared invalid". Dual/multiple voting occurs at every federal election, in the majority of cases for reasons unrelated to deliberate electoral fraud. Where evidence exists of deliberate multiple voting, prosecution action follows as appropriate. However, since the establishment of the AEC in 1984 none of the cases prosecuted would have involved enough defrauded votes to have affected the result of the election.

5.4 For the Court to void a House of Representatives election (involving around 82,000 votes) on the basis of a few fraudulent votes prosecuted up to a year later would overturn a long-recognised principle of electoral law, that elections should stand unless identified and proven irregularities can be shown to have affected the result of the election (see section 362 of the Electoral Act). Further, given the number of "safe" House of Representatives Divisions that would be involved, such a course could make the formation of stable government following an election very difficult.

5.5 Dr Hewett also recommends the introduction of voter identification, which the AEC has addressed in part 12.3 of submission No 26 of 17 October 2000), and enrolment witness identification provisions, similar to those already enacted in the *Electoral and Referendum Amendment Act 1999,* which the AEC has addressed in part 6 of submission No 26 of 17 October 2000, in part 8 of submission No 66 of 9 February 2001, and in part 12 of the submission filed on 23 February 2001.

5.6 Finally, it is noted that Dr Hewett says that "tagging or punching a hole on the voting card, with a polling booth specific machine, is less likely to be tampered with". The 2000 United States presidential election suggests that mechanical voting machines are less reliable, and the counting of punched ballots more problematic, than Dr Hewett suggests. In fact, Australia considered and rejected the introduction of mechanical voting machines in the early part of this century, as reported in Attachment 9 to submission No 176 of 4 May 1999, as follows:

> The possibility of mechanised voting at federal elections has been of periodic interest since the beginning of federation. In 1904 the Minister for Home Affairs commissioned an inquiry into voting machines for federal elections. The Committee invited inventors to submit voting machines for testing and examination, in the following terms:

> In order to obviate informal voting, errors in counting, and delay in Parliamentary Elections, an inquiry has been instituted by the Department of Home Affairs, and exhaustive tests will be made of such Voting Machines as may be submitted to the Department, with a view to the adoption of one of them, if found effective.
>
> (a) that an elector can in one visit to the machine vote preferentially or otherwise with security and perfect secrecy for a Senate or House of Representatives Election, or both, and at least one referendum;
>
> (b) that all possibility of disorganisation, breakdown, fraud, or confusion under the most exacting conditions is eliminated.

The inquiry was advertised nationally and in the USA, where voting machines were already in use. There were sixteen machines submitted from Australian inventors for examination. In explaining the possible reasons why no American inventors submitted the Committee said the following:

> The entirely different electoral conditions obtaining in the United States of America, and the evident difficulty in adjusting the machines in use in that country to meet the novel features connected with the application of the principle of Proportional Representation, may, to some extent, account for the non-submission of American machines.
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> After examining the machines the Committee concluded that none could provide adequately for preferential voting, or guarantee security.

6. Submission No 17 – Allan Viney – 11 October 2000

6.1 Mr Viney has also filed submission No 5, responded to above. In this submission Mr Viney comments on the electoral information and education role of the AEC (under section 7(1)(c) of the Electoral Act), and on the timing of the close of rolls for an election. The AEC has addressed these issues in part 3 of submission No 88 of 12 March 1999, and paragraph 12.2 of submission No 26 of 17 October 2000.

7. Submission No 18 – Bruce Kirkpatrick – 12 October 2000

7.1 Mr Kirkpatrick is an associate of Dr Amy McGrath, and one-time president of the H S Chapman Society. The issues raised by Mr Kirkpatrick are similar to many of those raised by Dr McGrath in her submissions Nos 25 and 39, to which the AEC has responded elsewhere in this submission.

7.2 Mr Kirkpatrick's views on “dead voters” have been responded to by the AEC in paragraph 10.2.13 of submission No 88 of 12 March 1999.

7.3 Mr Kirkpatrick recommends the engagement of "subdivisional officers" for roll maintenance, presumably as an overlay on the century-old Divisional structure. The AEC has previously commented on the abolition of subdivisions in parts 2, 4 and 6 of submission No 97 of 23 October 1996; on subdivisional voting in part 12.4 of submission No 26 of 17 October 2000; and on the notion of an electoral "neighbourhood watch" in paragraphs 3.19 to 3.20 of submission No 210 of 23 July 1999.

7.4 Mr Kirkpatrick provides two unsubstantiated allegations of fraudulent enrolment and multiple voting/personation in support of his advocacy of major changes to the federal electoral system. The first allegation relates to the "quaint behaviour" of groups of "young people" outside a polling booth in Darling Point in the Division of Wentworth at the 1998 federal election. This account of the behaviour of a group of young people on polling day does not contain enough credible detail to sustain an investigation.

7.5 The second allegation relates to the 1987 federal election in the Division of Fisher. Allegations of electoral fraud at the 1987 Fisher election were made by *The Courier-Mail* reporters, Mr Chris Griffith and Mr Hedley Thomas, on 4 November 2000. The AEC has provided detailed comment on the 1987 Fisher allegations in part 9 of submission No 66 of 9 February 2001, reproduced at **Attachment 2** to this submission.

7.6 The AEC notes that Mr Kikpatrick's allegations of 12 October 2000 about the 1987 Fisher election predate *The Courier-Mail* report on 4 November 2000, and that he makes reference to a "documentary" video by the H S Chapman Society called "Voting Fraud". If the video provides any useful information on the 1987 Fisher election, then presumably Mr Kirkpatrick has made it available to the AFP to assist them with their inquiries.

7.7 In relation to pre-poll voting, the national statistics for the past three federal elections were reported to the JSCEM by the AEC at part 8.2 of submission No 88 of 12 March 1999. Mr Kirkpatrick's allegations about polling official conduct in the Bondi Junction polling booth are anecdotal only, and are similar to allegations made by Dr McGrath to the 1998 federal election inquiry, which suggested a misunderstanding by her of the relevant legal provisions (see paragraph 46.48 of submission No 210 of 23 July 1999).

7.8 Mr Kirkpatrick's assertion that pre-poll voting is not open to scrutineers is correct: the Electoral Act only allows scrutineers to attend voting at "polling booths", which do not include "pre-poll voting centres", a fact which the AEC has drawn to the attention of the JSCEM in the past. However, Mr Kirkpatrick's assertion that the opening of pre-poll declaration votes is not open to scrutineers is incorrect: the preliminary scrutiny and counting of all declaration votes are open to scrutineers under the provisions of the Electoral Act.

7.9 Mr Kirkpatrick refers to “the Cooke Report into Union practices in Queensland”, which was addressed by the AEC, in response to an earlier submission from Dr Amy McGrath, in part 5 of submission No 97 of 23 October 1996. These matters were comprehensively addressed in the October 1997 JSCEM Report entitled “Industrial Elections”.

7.10 In relation to Mr Kirkpatrick’s comments about voter identification, see Attachments 13 and 14 to submission No 26 of 17 October 2000 (on the AEC website).

7.11 In relation to Mr Kirkpatrick’s comments about computerised voting, the AEC has most recently commented on computerised elections in general in Attachment 9 to submission No 176 of 4 May 1999, paragraph 4.13 and part 29 of submission No 210 of 23 July 1999, and part 7 of submission No 258 of 31 May 2000. The conclusion of the June 2000 JSCEM Report on computerised voting is reproduced above at paragraph 4.7.

7.12 Mr Kirkpatrick raises the 1988 Victorian State election in the district of Ballarat South, and the subsequent petition by Mrs Joan Chambers, as evidence of enrolment fraud on the Electoral Roll. The facts as presented at **Attachment 3** do not support Mr Kirkpatrick’s claims, or similar claims by Dr Amy McGrath in submission No 25.

7.13 Mr Kirkpatrick says that “collecting proof of false voting is frequently not attempted by unsuccessful candidates following elections because of the costs and time required before the 40 days to lodge petitions has expired”. Mr Kirkpatrick makes this assertion in the context of the unsuccessful challenge to the result of the 1993 federal election in the Division of Macquarie by the Liberal Party candidate, Mr Alisdair Webster (*Webster v Deahm (1993) 67 ALJR 781*).

7.14 The Webster petition has been raised repeatedly before the JSCEM by Dr McGrath and her associates in the H S Chapman Society. The AEC has reported on the Webster petition in paragraph 7.18 and Attachment 19 to submission No 26 of 17 October 2000, and in part 5 of submission No 66 of 9 February 2001.

7.15 Mr Kirkpatrick says that the allegations in Mr Webster’s petition that were dismissed by the Court nevertheless contained grounds for further investigation under section 364 of the Electoral Act. This provision, entitled “real justice to be observed”, relates to the conduct of proceedings before the Court at the time of the petition, and cannot be raised now to suggest that there is some legal obligation under the Electoral Act to conduct any further investigation. In any event, Mr Kirkpatrick’s reading of section 364 is not in accordance with the way in which the provision has been read by the Court in other cases (see for example, paragraph 6.1.28 in submission No 232 of 28 September 1999).

7.16 In Attachment D to his submission, Mr Kirkpatrick says that evidence "emerged after Webster's case had been withdrawn" about votes that were allegedly cast in the names of Jehovah's Witness and Plymouth Brethren electors in the Division of Macquarie who allegedly did not vote. These same allegations were raised by Dr McGrath during the 1998 federal election inquiry, to which the AEC responded at paragraph 46.5 of submission No 210 of 23 July 1999. At **Attachment 4** to this submission, the facts relating to the votes of religious objectors at the 1993 Macquarie election are provided.

7.17 Mr Kirkpatrick also claims that 415 votes were issued to absent Macquarie voters for the wrong Division, and that "Senate votes were allowed to be counted by the AEC officer, but not those for the House of Representatives". Similar allegations were made in Webster's petition, and dismissed by the Court in the following terms, "on no view do they constitute a statement of 'the facts relied on to invalidate the election or return', within the meaning of s. 355(a) of the Act".

7.18 The reference to the difference between the number of Senate and House of Representatives ballots counted at elections is a familiar misunderstanding, and was first responded to by the AEC in submission No 127 of 19 November 1993, reproduced at Attachment 4 to this submission. The November 1994 JSCEM Report concluded (unanimously) as follows:

> 4.8.5 Submissions and evidence to the Inquiry from Dr Sue Flanagan and Mr Richard Peet alleged that the difference of 53 397 between the total number of Senate votes cast and the total number of House of Representatives votes case meant that 53 397 electors had been disenfranchised, by virtue of the AEC giving them the wrong ballot paper for the House of Representatives
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> 4.8.6 The AEC responded that the allegation
>
>> is a total fallacy. There are a number of ways in which there can be a difference between the number of House of Representatives ballot papers and the number of Senate ballot papers in the count. One is that, whatever we put in the way of resources into guarding ballot papers, there are some people that will walk out with a ballot paper, for whatever reason…secondly, it is also the case that a number of declaration votes, or declaration vote certificates, are received where the elector omits to put both ballot papers in the declaration envelope. Now again, because of the smaller nature of the House of Representatives ballot paper, it is easy to omit to put that in. Thirdly, there are people who give us an address when they declare for their enrolled address, we give them a ballot paper for that Division and then we find they are in fact on the roll for [an address in] another Division. Now that has not been our, or the AEC staff's, in any way giving these people a wrong ballot paper.
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> 4.8.7 The AEC have sought to break down the figure of 53 397 against the three categories. There were 7723 fewer House of Representatives ballot papers than Senate ballot papers placed in ballot boxes, due largely to House of Representatives ballot papers being removed from the polling place; 3068 fewer House of Representatives ballot papers than Senate ballot papers were

placed in declaration envelopes; and there were 39 610 cases that the AEC believes were due to declaration voters claiming enrolment for the wrong address. An outstanding 2996 are largely accounted for by the different dates for the Senate and House of Representatives elections in Dickson.

7.19 Mr Kirkpatrick says at the end of Attachment D relating to the Webster petition that, "the AEC officer with whom this was discussed refused to support a call for a by-election…". The AEC officer did not support a call for a by-election because there was no evidence of any irregularities that could have affected the result of the 1993 Macquarie election.

7.20 Mr Kirkpatrick then concludes his submission by saying, "one hopes that political bias does not influence voters who are employed by the AEC or the Judiciary". In response, it must be said that neither the AEC, the JSCEM, nor the Court of Disputed Returns, can test allegations of electoral fraud that are not properly put before them, or put before them at all. On the other hand, the public record in the High Court holds all Mr Webster's allegations of electoral fraud arising from his petition, as well as the sworn affidavits of the AEC contesting his allegations about electors who were properly enrolled and did not vote fraudulently at the 1993 federal election.

7.21 The AEC understands from reports at the time that the Liberal Party declined to support Mr Webster's legal challenge to the 1993 Macquarie election, and that he was subsequently disendorsed by the Liberal Party. At the end of his legal proceedings before the Court of Disputed Returns, in 1996, Mr Webster was ordered to pay the legal costs of Ms Maggie Deahm, the winning candidate whose election he unsuccessfully challenged. Those costs would have been substantial, given the length of the proceedings, due in no small part to repeated delays requested of the court by the petitioner.

8. Submission No 20 – De-Anne Kelly – 12 October 2000

8.1 Ms Kelly, the National Party Member for Dawson, has submitted that, on the basis of the Ehrmann/Foster/Kehoe convictions for forgery and the evidence that has been provided to the Queensland CJC Shepherdson inquiry, there should be an "exhaustive cleansing" of the Queensland electoral roll. The JSCEM must consider carefully whether the CJC findings indicate evidence of widespread and organised fraud against the Electoral Roll for the purposes of parliamentary elections, sufficient to justify the large public expenditure recommended by Ms Kelly.

8.2 The forged enrolments in the Queensland State districts encompassed by the federal Division of Herbert have been analysed in part 2 and Attachments 4, 5 and 6 of AEC submission No 26 of 17 October 2000. Together with the evidence from the CJC, it can be demonstrated that the forged enrolments were for people mostly known to the forgers; were for the purposes of internal ALP party preselection ballots and not for the purposes of parliamentary elections; and were corrected soon after either by elector initiative or by normal "roll cleansing" by the AEC.

8.3 Further, as reported in part 9 of the submission filed on 9 February 2001, in his closing submissions to the Queensland CJC Shepherdson inquiry, Mr Russell Hanson QC, counsel assisting the CJC, said the following:

> It is … 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.

8.4 Ms Kelly has submitted that the Parliament might consider providing supplementary funding so that the AEC can send letters to all enrolled electors requesting personal confirmation of their enrolments, and a State-wide doorknock to verify the information so provided. The AEC has reported on the Queensland mailout just prior to the State election on 17 February, and the relative merits of periodic Electoral Roll Reviews (ERRs) and Continuous Roll Updating (CRU) in part 11 of submission No 26 of 17 October 2000, in part 8 of submission No 66 of 9 February 2001 and part 12 of the submission filed on 23 February 2001.

8.5 Ms Kelly further submits that there should be no abolition, transference, consolidation or downgrading of the century-old Divisional staffing structure, despite the fact that the collocation of some Divisional offices across Australia has already proceeded, with significant cost and efficiency benefits, and with no perceptible decrease in roll integrity as a direct result. Given Ms Kelly's original premise, that roll integrity has been already compromised under the traditional staffing structure that still operates in the Division of Herbert, for example, it appears to be a contradictory assertion that roll integrity in the future is dependent on retaining that traditional staffing structure (see also part 13 and Attachment 2 of the submission filed on 23 February 2001).

9. Submission No 21 – Caroline Stott – 13 October 2000

9.1 In her submission, Councillor Stott submits that the JSCEM should examine an "incident" that occurred at the 1999 Ashfield local council election, involving one of the candidates, Ms Karin Cheung. Councillor Stott says that she has no "concrete evidence", but suggests on the basis of "general opinion" that Ms Cheung was fraudulently enrolled. The facts relating to the Electoral Roll, as they are known to the AEC, are as follows.

9.2 Ms Kwai Lin Cheung was enrolled for 14 Brunswick Parade, Ashfield, between 30 April 1999 and 14 December 2000. On this latter date, Ms Cheung transferred her enrolment to 35 Carrington St, Summer Hill, where she is currently enrolled. It would appear that Karin Cheung is an anglicised version of Kwai Lin Cheung.

10. Submission No 22 – Lynton Crosby – 13 October 2000

10.1 Mr Crosby, on behalf of the Liberal Party of Australia, claims in his submission that:

- the fraudulent enrolments uncovered by Queensland CJC Shepherdson inquiry make it "inconceivable" that fraudulent voting did not take place at federal elections.
- an analysis of enrolment statistics in Queensland, of multiple enrolments at single addresses and post boxes, demonstrates the distinct possibility of ongoing enrolment fraud.
- reports about return-to-sender constituency mail from Members of Parliament indicate serious errors in the rolls.
- there is evidence that dead people are not removed from the rolls in a timely manner, and that on the rolls there are "names of people who do not seem to exist".

10.2 Mr Crosby says that "the state of the rolls is serious matter" and urges the JSCEM to consider stricter proof of identity requirements at enrolment. The AEC has commented on the *Electoral and Referendum Amendment Act 1999,* which would introduce enrolment witness identification provisions on the passage of enabling regulations, in part 6 of submission No 26 of 17 October 2000 and part 4 of submission No 66 of 9 February 2001. The AEC has commented on the increasing vulnerability to forgery of proof of identity documents, and the trend towards identity verification through higher integrity electronic means on computerised systems in parts 5 and 6 of submission No 66 of 9 February 2001.

10.3 Mr Crosby's claim that "it is inconceivable that, where votes had been fraudulently cast at the by-election, those concerned would not arrange for fraudulent votes also to be cast at the Federal election" is not supported by the closing submissions on 19 January 2001 of Mr Russell Hanson QC, counsel assisting the Queensland CJC, who said the following about the 1996 Mundingburra by-election (on the CJC website):

> The Mundingburra analysis is consistent with the overwhelming evidence the vast majority of false enrolments was perpetrated for the purposes of internal party politics and not for the purposes of elections.

10.4 The AEC has addressed the progress of the Queensland CJC Shepherdson inquiry in part 3 of submission No 26 of 17 October 2000, and has commented on the interim findings of the CJC in part 9 of submission No 66 of 9 February 2001. The relevant extract from the closing submissions of Mr Hanson QC to the CJC is at **Attachment 5.**

10.5 Mr Crosby recommends the implementation of enrolment data-matching with “State Government utilities and other holders of relevant information like Australia Post and Telstra”, and an “increase in the level of scrutiny of details provided to the AEC during habitation reviews”. The AEC as has described the implementation of Continuous Roll Updating (CRU) in part 11 of submission No 26 of 17 October 2000, part 8 of submission No 66 of 9 February and part 12 of the submission filed on 23 February 2001.

10.6 In support of his claim that multiple enrolments at single addresses and post office box numbers demonstrates the distinct possibility of enrolment fraud, Mr Crosby draws attention to June 2000 enrolment data showing that there were 29,137 addresses in Queensland at which there were four or more electors with more than one surname and with different enrolment dates, involving 128,746 electors. Mr Crosby also draws attention to June 2000 enrolment data showing 32,871 instances of electors with different surnames showing the same Post Office box number. Mr Crosby claims that this many addresses enrolled with multiple names should be indicative of enrolment fraud. The facts are as follows.

10.7 On 3 January 2001, the AEC computerised roll management system RMANS showed 2,269,245 electors enrolled and 1,365,468 addresses valid for enrolment in Queensland. Of all Queensland addresses on RMANS, 67,744 or 5% have four or more electors enrolled (referred to as ‘multi-addresses’). These multi-addresses have a total of 295,033 enrolments or 13% of the Queensland Roll. After taking into account possible differences in surname or dates of enrolment and ‘vacant’ addresses where there is no current enrolments, these AEC statistics are roughly comparable to the 30,000 addresses with 130,000 electors referred to in Mr Crosby’s submission.

10.8 The AEC does not accept that there is a necessary connection between the number of identified multi-addresses on the Electoral Roll for Queensland and the potential for fraudulent enrolment, but does agree that enrolments at certain multi-addresses need to be checked. These checks are already undertaken as part of CRU procedures, particularly when other evidence such as different surname and elector movement is available (see part 11 of submission No 26 of 17 October 2000).

10.9 Australian Bureau of Statistics (ABS) statistics show that at June 1999 there were 600,000 households in Australia with four or more residents aged 15+. The Queensland share of the national total is estimated at 120,000 households. Even after adjustments for 15-17 year olds, persons not eligible and others not enrolled, this is still a significant proportion of the 7.5 million households identified by ABS nationally. Multiple enrolments can occur at a standard dwelling if it is a ‘group house’, has a granny flat attached, or contains merged families. Further, there is an increasing preference for partners not to use the same family name and for young people to continue to live at the family address until well after age 18.

10.10 There are types of addresses which by definition will have multiple enrolments, such as nursing homes. Others include grazing properties, aboriginal communities, defence accommodation, university halls of residence, hotels and hospitals, and so on. The AEC is currently applying land-use codes to non-standard dwellings, and while this process is not complete or mandatory at this stage, Queensland Divisional staff have already identified over 50,000 electors at these types of addresses. A further indicator is that, of the 67,744 multi-addresses for Queensland, 2,165 have 10 or more current enrolments (a generous threshold for an institution or hostel) covering a total of 59,685 electors, or 20% of the total.

10.11 Many addresses in Queensland outside urban areas have incomplete address descriptions. The AEC holds 14,000 Queensland addresses with 56,000 electors where there is no street number. This is not a deficiency in AEC data processing, rather it is because council street or rural road numbers are not yet allocated. Divisional staff make great efforts to give these addresses a true 'spot on earth' such as land parcel details, and Queensland Divisions are recently trialling a Geographic Information System (GIS) for this purpose. However, when addresses do not include a street number, it is possible for a number of residences (and therefore electors) to have the same address, such as Bruce Hwy, Princhester, even if they are separate residences along a rural road. When this data is analysed by external users it will show all electors as apparently living at the same address.

10.12 The AEC also holds enrolments with the locality only as the address description, such as Daydream Island (Qld) with 20 electors, and Andamooka (SA) with 299 electors. The electors at these localities are seemingly enrolled for the same address as the locality name is the only identifier available.

10.13 The use of a different spelling of surname for males and females in the same family will give rise to apparent multi-addresses, for example, Mr Petrovski and Mrs Petrovska, who might be a married couple at the same address. Similar naming conventions are found with many asian families. When combined with factors such as enrolled children at the same address, the conditions for multiple enrolments at the same address are triggered.

10.14 Population movement (and of electors) is estimated at 20% per year nationally, and for Queensland higher. This means that at least 500,000 Queensland electors move address each year (including interstate moves) at an average of 40,000 per month, with a significant peak early in the year for moves in connection with jobs, commencement of study and public service and armed forces transfers. Some electors, particularly young people, may change address a number of times per year. The constant churning of the roll as electors transfer addresses, complicate any analysis of statistics derived from a 'snap-shot' of the roll.

10.15 Delays in electors notifying change of address are inevitable when the one month residential qualification period and the three weeks to comply with the Electoral Act is taken into account. Of those who move, approximately 40 to 50% advise the AEC in a timely manner (within 2 months of moving), with

the balance of moves being picked up through roll review or at close of rolls for state and federal elections. This results in some addresses showing more than one family enrolled with other addresses apparently vacant. For calendar year 2000, the AEC processed approximately 400,000 enrolment forms from Queensland electors changing address (after allowance is made for amendments to the roll). Much of this enrolment activity is a consequence of the CRU procedures implemented in 1999.

10.16 CRU has been successful in Queensland in identifying electors who may need to transfer their enrolment, and those addresses where there are grounds for believing that multiple enrolment is a consequence of electors moving without notifying the AEC. During the year 2000, Queensland Divisional staff checked the details of 40,000 multi-addresses extracted from RMANS, with a subsequent posting of 20,000 mail review letters. Following these checks a *further* 2,500 enrolments were received from the same multi-addresses. While a significant proportion of addresses on RMANS have a stable enrolment history, other addresses (and localities) have a high turnover of electors. This movement results in their being a roughly fixed number of 'vacants' and multi-addresses on RMANS, but with a continual change in the actual addresses involved.

10.17 As multi-addresses are the normal residential arrangement for a significant portion of the elector population, the AEC is concerned to ensure that residents are not subject to any abnormal special investigations apart from normal CRU checks. Further, occupation of a residence by more than one family group or by four or more electors should not be regarded as *prima facie* evidence that their enrolments are not in order, or that their enrolments are possibly fraudulent.

10.18 Mr Crosby also claims that post office (PO) boxes with multiple enrolments might be indicative of enrolment fraud. Approximately one million electors have a postal delivery address that is different from their enrolled address. Of the postal address held on RMANS, 70% are for PO boxes and the balance are for street addresses.

10.19 It is not unusual for people to use a common PO box, often belonging to their place of employment, for their mail. This is more common in rural areas where mail delivery is a problem with PO boxes in the name of properties, pastoral companies, mining companies and the like, being used by various people for the delivery of mail. Using Queensland enrolments as examples, there are only 68 Post Office boxes in the Division of Oxley with more than one enrolled address, while at the other end of the scale there are 2,541 such PO boxes in the Division of Kennedy. A summary of enrolments with PO Boxes on the Roll in Queensland is as follows.

Scenario	Electors	PO Boxes
More than one surname	44,171	15,736
More than one enrolled address	37,123	11,645
More than one enrolled address AND more than one surname	22,971	6,740
More than one enrolled address OR more than one surname	58,323	20,641

10.20 Another common reason for different families to have the same postal address is the lapsing of the rental of a PO box and its subsequent use by another Australia Post customer. Unless the AEC is advised of the change of use, the box number will remain on RMANS until mail is returned or the elector(s) re-enrol for a new residential address.

10.21 The checking of postal addresses with multiple enrolled addresses is an identified CRU roll integrity check activity. An RMANS report has been developed that includes all types of postal addresses where there are more than one surname enrolled and/or more than one enrolled address. This report has been used by Divisional staff nationally to identify addresses where there are clear reasons for multiple enrolments. such as mail services in country areas. The increasing use of rural road numbers and upgraded AEC procedures will cut the number of apparent mail delivery address problems. The AEC is also considering including checks on apparent multiple enrolments using a single PO box as part of CRU targetted fieldwork. In areas where fieldwork is not practical the checks can be undertaken by mail or phone.

10.22 In summary, the AEC is unable to agree with Mr Crosby that the enrolment statistics on multiple enrolments at single addresses and PO box numbers demonstrate, *prima facie*, the possibility of enrolment fraud.

10.23 Mr Crosby's reference to concerns raised in past Liberal Party submissions about the state of the rolls indicated by the amount of return-to-sender constituency mail from Members of Parliament should be balanced by reference to the responses provided to these concerns in past AEC submissions, summarised as follows:

- 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.

10.24 Mr Crosby also raises the concerns of Mr Jim Lloyd MP in relation to "dead people" on the roll for the Division of Robertson. The AEC has commented further on these claims in part 18 of this submission in response to Mr Lloyd's submission.

11. Submission No 23 – Geoff Walsh – 13 October 2000

11.1 In his submission, Mr Geoff Walsh of the ALP National Secretariat, makes no allegations of possible electoral fraud, but does recommend that there should be more door-knocking to complement Continuous Roll Updating in order to improve the Integrity of the Electoral Roll. This issue has been addressed by the AEC in part 11 of submission No 26 of 17 October 2000, part 8 of submission No 66 of 9 February 2001 and part 12 of the submission filed on 23 February 2001.

12. Submission No 24 – Peter Brun – 13 October 2000

12.1 In his submission, Mr Brun refers to the 1993 submission to the JSCEM from the "Enterprise Council" in relation to the Division of Dickson. The AEC responded to the 1993 claims of the Enterprise Council in submission No 140 of 14 January 1994, which was reproduced in Attachment 19 to submission No 26 of 17 October 2000. The unanimous conclusions of the November 1994 JSCEM Report, reproduced at **Attachment 6,** do not support the claims of the Enterprise Council.

12.2 In relation to multiple voting statistics, Mr Brun appears to be unaware that the AEC has provided such statistics to past JSCEM inquiries as they become available during the course of proceedings. For example, submission No 239 of 15 October 1999, entitled "Dual and Multiple Voting", provides the statistics for the 1998 federal election, and submission No 129 of 7 February 1997, entitled "Dual and Multiple Voting", provides the statistics for the 1996 federal election.

12.3 In his submission, Mr Brun provides his own raw statistics for multiple marks on Certified Lists of Voters (rather than suspected cases of multiple voting). This suggests Mr Brun is unfamiliar with the procedures used by the AEC in detecting multiple voting, as described in the Electoral Backgrounder entitled "Multiple Voting", in particular at para 17 as follows:

> 17. …the AEC examines all detected cases of multiple voting in each Division after the election, and where it appears that the level of multiple voting might have exceeded the winning margin for the elected candidate, the AEC will consider disputing the election result by petition to the Court of Disputed Returns under section 357 of the Act. In relation to multiple voting, under section 362 of the Act, the Court can only void the election if it is satisfied that the result of the election was likely to have been affected by such an illegal practice, and where the Court considers it just to do so.

12.4 Mr Brun's conclusions about declaration voting are misleading. Declaration vote envelopes must pass through the preliminary scrutiny under Schedule 3 of the Electoral Act, involving a comprehensive check against the

Electoral Roll, before being opened. Multiple declaration votes can be detected at this point, before the envelopes are opened and the ballot papers included in the count. (Note that the AEC recommended an amendment to the Electoral Act to permit the removal of identifiable multiple declaration vote envelopes from the scrutiny, in part 8.6 of submission No 88 of 12 March 1999, but the JSCEM declined to recommend accordingly in the June 2000 JSCEM Report.)

12.5 On the basis of a flawed analysis of possible electoral fraud, Mr Brun makes four recommendations:

- the first recommendation, that pre-poll, absent and provisional declaration voting be abolished, and that postal declaration voting only be permitted, would inevitably result in a substantial reduction in the franchise.

- the second recommendation, for the introduction of precinct voting and voter identification, has been addressed in parts 12.3 and 12.4 of AEC submission No 26 of 17 October 2000.

- the third recommendation, that postal voters be marked on the Electoral Roll to prevent multiple voting, is based on an inadequate understanding of the existing laws and procedures.

- the fourth recommendation, that the all postal votes should be received on the last day prior to polling day, would amend the current section 266(1)(b) of the Electoral Act, which allows postal votes to be received up to 13 days after polling day, and would result in a substantial reduction in the franchise, particularly for electors in remote areas of Australia and overseas.

13. Submission No 25 – Amy McGrath – 15 October 2000

13.1 Dr McGrath is the president of the H S Chapman Society and has made submissions involving allegations of electoral fraud to every JSCEM election inquiry over the past decade. Submissions on similar themes to those canvassed by Dr McGrath in her submissions Nos 25 and 38 to this JSCEM inquiry have been filed by Mr Allan Viney (Nos 5 and 17), Dr Lynley Hewett (No 16), Mr Bruce Kirkpatrick (No 18), and Mr Geoffrey Moss (No 45).

13.2 In a media release from the current JSCEM Chairman, Mr Christopher Pyne, dated 24 January 2001, announcing public hearings of 30 January 2001, Dr Amy McGrath is described as “a strong advocate for greater transparency in the electoral system and a critic of the Australian Electoral Commission”. The JSCEM Chairman added that “the hearing provides the committee with an opportunity to obtain concrete evidence of fraudulent activity and to explore avenues of reform with witnesses whom we consider are critical to our inquiry”.

13.3 As indicated in the opening passages of her submission, Dr McGrath supports the Coalition Government's attempts to "see as many people are deterred as possible from illegal enrolment", and condemns the "priority of ALP governments from 1983-96 … to see as many people legally enrolled as possible…rather than to ensure …dishonest people … are deterred from illegal enrolment". The AEC trusts this JSCEM will closely examine Dr McGrath's submissions for any concrete evidence of electoral fraud, in the light of the following comments by the AEC.

13.4 Dr McGrath's submission is not easy to follow, as the numbering system is disordered, but it may be that this submission represents part of a draft publication by Dr McGrath on the history of electoral fraud in Australia (rather than the current state of the electoral system). The issues responded to are identified by Dr McGrath's page numbers.

Enrolment Procedures

13.5 At pages 2 to 8 of her submission, Dr McGrath provides her understanding of enrolment procedures and claims that the enrolment forms fail to "deny opportunities to effect fraudulent enrolment". The following references to some of the many previous AEC submissions that address the issues raised by Dr McGrath are provided.

- Enrolment procedures are described in part 10 of submission No 26 of 17 October 2001 and the design of enrolment forms is commented on in response to Dr McGrath's later submission No 39.
- The implementation of Continuous Roll Updating (CRU) supplemented by targetted door-knocking, as opposed to the previous periodic national door-knocks, or Electoral Roll Reviews (ERRs), is described in part 11 of submission No 26 of 17 October 2000, in part 8 of submission No 66 of 9 February 2001 and part 12 of the submission filed on 23 February 2001.
- Enrolment identification, and the relevant provisions of the *Electoral and Referendum Amendment Act 1999*, are discussed at part 6 of submission No 26 of 17 October 2000, in part 4 of submission No 66 of 9 February 2001 and in part 12 of the submission filed on 23 February 2001.
- The citizenship of new enrollees is discussed at part 8 of submission No 66 of 9 February 2001.
- Identity fraud is discussed at part 5 of submission No 66 of 9 February 2001.
- Regionalisation and collocation of Divisional offices is discussed at part 12 and Attachment 2 to the submission filed on 23 February 2001.

Close of Rolls 1987 federal election

13.6 At page 10 of her submission. Dr McGrath suggests that the level of transactions at the close of rolls at the 1987 federal election indicates electoral fraud. The AEC addressed these concerns in detailed submissions to the JSCEM inquiry into the conduct of the 1987 election (**Attachment 7**). The May 1989 JSCEM Report made no adverse findings about the 1987 close of rolls.

Robertson provisional votes 1998 federal election

13.7 At page 11 of her submission, Dr McGrath quotes Mr Jim Lloyd, Member for Robertson, about the level of provisional voting in the Division at the 1998 federal election, in order to suggest possible electoral fraud. The AEC addressed Mr Lloyd's previous submissions in part 36 of submission No 176 of 4 May 1999 and in part 45 of submission No 210 of 23 July 1999, and later in this submission in response to his submissions Nos 38 and 40.

Real Place of Living and 3 Month Rule

13.8 At page 12 of her submission, Dr McGrath claims the questions asked of voters before they enrol and vote are not strict enough. Dr McGrath says that "real place of living" should be defined (it already is) and the "3-month rule" should be enforced for enrolments. The AEC has addressed these issues in part 45 and Attachment 9 of submission No 210 of 23 July 1999 and in part 15 and Attachment 3 of the submission filed on 23 February 2001.

Inquiries into enrolment fraud in Queensland

13.9 At page 14 of her submission, Dr McGrath claims that the enrolment fraud uncovered in Queensland by the Shepherdson CJC inquiry demonstrates that the AEC has been misleading Parliament about evidence of electoral fraud over the years. The AEC has addressed the CJC findings in part 12 of submission No 66 of 9 February 2001.

Close of Rolls 1993 federal election

13.10 At page 15 of her submission, Dr McGrath raises the 1993 close of rolls enrolments as possible evidence of enrolment fraud. The AEC has addressed these unsubstantiated allegations, made previously by Dr McGrath and Mr Alan Jones, in part 10 of submission No 66 of 9 February 2001.

Division of Parkes, 1993 federal election

13.11 At page 16 of her submission, under the heading "Absent and provisional voting tests of roll accuracy?", Dr McGrath takes up an ALP complaint to the JSCEM of possible electoral irregularities at the 1993 federal election in the Division of Parkes. The National Party candidate Mr Michael Cobb won the election over the ALP candidate Mr Barry Brebner by 802 votes.

13.12 In submission No 99 of 18 August 1993, to the JSCEM inquiry into the conduct of the 1993 federal election, Mr Gary Gray of the ALP National Secretariat recommended that the result in the Division of Parkes be re-examined because the level of absent voting was suspiciously high. On this basis Mr Gray suggested that many absent voters might not really be resident in the Division of Parkes and the AEC should check this with increased door-knocking. (It is quite possible that, given this is a rural Division, many people

leave for extended periods, for itinerant employment or university study, for example, and vote absent at elections.)

13.13 After selectively quoting Mr Gray's submission, Dr McGrath then purports to quote from submission No 114 of 14 October 1993 from Mr Antony Green to the 1993 JSCEM inquiry. However, an examination of Mr Green's submission shows that Dr McGrath has run together a number of statements from Mr Green's submission, for reasons that are not entirely clear.

13.14 The overall effect of Dr McGrath's submission is to suggest that concrete evidence of electoral fraud existed in the Division of Parkes in 1993. There is no such evidence, as the extracts at **Attachment 8** demonstrate. In fact, the ALP, not the Nationals, gained more of the absent vote in Parkes in 1993 than at the previous federal election. As Mr Green said in his submission "I feel much of the confusion was created by the way the information was displayed on the screens on the night".

Division of Page, 1993 federal election

13.15 At page 16 of her submission, under the heading "Absent and provisional voting tests of roll accuracy?" and "Provisional votes", Dr McGrath quotes an ALP claim of possible electoral irregularities at the 1993 federal election in the Division of Page. The ALP candidate Mr Harry Woods defeated the National Party candidate Mr Mike Emerson by 193 votes in the Division of Page in 1993.

13.16 In submission No 99 of 18 August 1993 to the JSCEM inquiry into the conduct of the 1993 federal election, Mr Gary Gray of the ALP National Secretariat claimed that over 200 persons residing in Page had been deleted from the roll incorrectly and their provisional votes had been rejected. Mr Gray said that many of these people would have been unaware that their names had been deleted from the roll, but provided no evidence to support this (see Attachment 8). Dr McGrath then says that:

> By 1998 such votes rose from .42% to .78%, being 105, 091 of the national vote in 1996 – 700 if averaged but in fact higher in certain seats like Kingston (SA) and Robertson (NSW)….In 1983 they were a literal handful per seat.

13.17 If is not at all clear why Dr McGrath has linked Mr Gray's concerns about the number of provisional votes rejected in the Division of Page in 1993 (and there is no evidence that this signified any irregularities) with the obvious fact that the number of provisional votes admitted between 1983 and 1998 increased nationally. This part of Dr McGrath's submission does not constitute concrete evidence of electoral fraud.

Computer hacker Incident

13.18 At page 18 of her submission, Dr McGrath raises again the computer hacker incident that the AEC reported to the JSCEM in submission No 128 of 24 January 1997. The hacker entered the AEC computer system as a gateway to other computer systems and not in order to access the Electoral Roll. However, without any supporting evidence, Dr McGrath has repeatedly claimed that the hacker incident somehow affected computer processing for the close of rolls and election results at the 1993 federal election. Mr Alan Jones has broadcast the same unsubstantiated allegations on radio 2UE (see part 10 of submission No 66 of 9 February 2001).

13.19 Dr McGrath's speculations about computer security in 1993 may be based on submission No 121 of 15 November 1993 from the Public Sector Union. This submission questioned the workload placed on Divisional office staff by the increased dependence on computer processing at the 1993 election, and raised some problems that were experienced with the computerised processing of election results after polling day. The AEC responded in submission No 133 of 26 November 1993. This operational problem with the computer network at the 1993 federal election had nothing to do with the earlier computer hacker incident and had no effect on the outcome of the election.

Role of scrutineers and outsourcing of information technology

13.20 At page 19 of her submission, Dr McGrath claims that "the role of scrutineers in federal elections has been confused because the word 'scrutiny' applies to the functions of both the AEC and candidates' scrutineers. The scope of their role has been greatly degraded and diminished particularly by computerisation…". Dr McGrath also raises again the issue of outsourcing of information technology.

13.21 The AEC does not agree that any confusion exists in the role of scrutineers, and does not agree that the role of scrutineers has been "degraded and diminished" by computerisation. In part 9 of submission No 88 of 12 March 1999, the AEC reported on the role of scrutineers and the Senate scrutiny, and in part 40 of submission No 176 of May 1999, the AEC responded to Dr McGrath's complaint about the outsourcing of information technology (**Attachment 9**).

1987 federal election audit

13.22 At pages 20 to 21 of her submission, Dr McGrath again raises the AEC internal audit of Divisional office operations following the 1987 federal election, which was provided to the JSCEM as submission No 32 of September 1988. Dr McGrath has once again misrepresented the purpose and outcomes of this audit, as indicated in paragraph 46.20 of submission No 210 of 23 July 1999. The May 1989 JSCEM Report commented in part 7 that, "The audit is one of the most positive management initiatives undertaken by the AEC in recent years".

AEC submissions on Enrolment and Voter Identification

13.23 At page 22 of her submission, Dr McGrath comments selectively on an AEC submission about enrolment and voter identification. AEC submission No 120 of 10 November 1993 and submission No 98 of 23 October 1996 can be accessed on the AEC website as Attachments 14 and 15 to submission No 26 of 17 October 2000.

Ballarat South District, 1985 Victorian election

13.24 At page 23 of her submission, under the heading "Challenge to fraudulent enrolment outside the AEC", Dr McGrath raises the 1985 Ballarat South State election in Victoria. This election was also raised by Mr Kirkpatrick of the H S Chapman Society in his submission No 18 to this JSCEM inquiry. The facts as known to the AEC are presented at Attachment 3. This factual analysis does not demonstrate any concrete evidence of electoral fraud.

Division of Gilmore, 1993 federal election

13.25 At page 24 of her submission, under the heading "Challenge to fraudulent enrolment outside AEC", Dr McGrath raises a complaint made by Senator Baume about the level of his return-to-sender (RTS) constituency mail prior to the 1993 federal election in the Division of Gilmore.

13.26 At the 1993 federal election in the Division of Gilmore the ALP candidate Peter Knott defeated the Liberal Party candidate Bill Eddy by 606 votes. Shortly before the election the Liberal Party Senator for NSW, Michael Baume, sent out constituency mail to electors in the Division of Gilmore. At least 1035 of these letters were returned to sender and the NSW Liberal Party asked the AEC investigate.

13.27 In her submission, Dr McGrath does not refer to the detailed investigations conducted by the AEC over the period 1993 to 1996, or the conclusions reached on the evidence by the JSCEM itself. The historical record is at **Attachment 10** and demonstrates that there is no concrete evidence of electoral fraud arising from Senator Baume's complaint about RTS mail.

Division of Dickson, 1993 federal election

13.28 At pages 25 to 26, under the heading "Challenges to fraudulent enrolments outside the AEC", and in the appendix to her submission, Dr McGrath raises once again the allegations of electoral fraud in the Division of Dickson made by Mr Geoff Moss and the Enterprise Council in submissions to the JSCEM inquiry into the conduct of the 1993 federal election. It is noted that Mr Geoff Moss has also made submission No 45 to this JSCEM inquiry. The AEC reported on this matter in detail in Attachment 19 to submission No 26 of 17 October 2000. The unanimous conclusions of the November 1993 JSCEM Report are reproduced at Attachment 6 to this submission. Mr Moss's

submission No 45 to this JSCEM inquiry provides no new evidence of electoral fraud at the 1993 Dickson election.

Division of Fisher, 1987 federal election

13.29 On page 26 of her submission, Dr McGrath makes nine allegations of electoral fraud at the 1987 federal election in the Division of Fisher, without providing any concrete evidence in support. Some of these allegations are directly contradicted by the historical record, others amount to no more than eccentric assertions of fact. Similar allegations were made by Mr Chris Griffith and Mr Hedley Thomas in the *Courier Mail* on 4 November 2001, quoting both an unidentified "ALP insider", and Dr Amy McGrath, in support.

13.30 The AEC has provided a detailed report on this matter in part 9 of the submission filed on 9 February 2001, reproduced as Attachment 2 to this submission. AEC official records do not demonstrate any concrete evidence of electoral fraud.

Division of Northern Territory, 1996 federal election

13.31 On page 27 of her submission, under the heading "Challenges in Court of Disputed Returns", Dr McGrath once again raises the Snowdon petition to the Court of Disputed Returns after the 1996 federal election (*Snowdon v Dondas (1996) 70 ALJR 864*). The AEC reported in detail on the Snowdon petition, and the relevant statutory background, in submission No 96 of 23 October 1996 (on the AEC website)

13.32 Following the AEC submission on the Snowdon petition, the unanimous recommendation of the June 1997 JSCEM Report was as follows:

> That the Electoral Act be amended to allow the reinstatement of provisional votes where an elector has moved between subdivisions in the Northern Territory or Kalgoorlie, but has remained within the relevant division (*recommendation 18*).

13.33 The Government Response of 8 April 1998, reported in the Senate Hansard at page 1662, was as follows:

> Supported in principle. The amendment should reflect that the provisional votes be admitted but that these voters should be required to re-enrol in the normal way.

13.34 The *Electoral and Referendum Amendment Act 1998* made the necessary changes to the Electoral Act.

13.35 In summary, the petitioner, Mr Snowdon, was not alleging any form of electoral fraud, but was challenging the legal interpretation of the Electoral Act by the AEC with respect to the reinstatement of provisional voters in the Northern Territory. The AEC was found by the Court to be correctly interpreting the relevant provisions and Mr Snowdon was ordered to pay costs. In accordance with the Government's intentions, as expressed in the

Government Response of 1998, the Electoral Act was amended by the Parliament without dissent, with the effect that many provisional voters in the Northern Territory, including many Aboriginal voters and itinerant workers, are now treated in the same way, with respect to the admission of their votes, as provisional voters in the rest of Australia.

Various Districts, 1989 Western Australian State election

13.36 At pages 28-29 of her submission, under the heading “Challenges in court of disputed returns”, Dr McGrath provides an interpretation of the allegations made by a group of petitioners to the WA Court of Disputed Returns in 1989, in particular the allegations made by Mr Neil Oliver in his petition No 8 of 1989, in relation to the WA district of Swan Hills.

13.37 Dr McGrath quotes the argument made in the solicitor’s brief to the petitioners’ barrister, about “massive electoral fraud”, apparently to suggest that there was evidence of enrolment fraud at the Swan Hills election that should be of interest to this JSCEM inquiry. The following facts are extracted from the Annual Reports of the WA Electoral Commission for 1989-90, 1990-91 and 1991-92.

13.38 After the 4 February 1989 WA State election, there were 10 petitions filed on 12 April 1989 with the WA Court of Disputed Returns. The grounds on which the petitions were made included bribery and irregularities in the conduct of the poll. On 7 and 8 June 1989, an application was made to have petitions 4,5,6,7,8, and 9 struck out. On 28 June 1989, Mr Justice Pidgeon decided that sufficient reasons had not been advanced for him to strike out the whole or any parts of the petitions.

13.39 On 25 January 1990, Justice Pidgeon agreed to an order for the production of electoral documents for petition No 8 of 1989 (Neil Oliver - Swan Hills). The documents from the WA Legislative Assembly and the WA Electoral Commission were delivered to the Supreme Court on 6 April 1990 in compliance with that order. The petitioner Mr Oliver, and his colleagues, spent some one hundred hours between 21 May and 26 June 1990 inspecting those documents. On 15 September 1992, Justice Wallwork of the WA Court of Disputed Returns dismissed various petitions from the 1989 WA State election, including petition No 8 (Swan Hills) from Mr Neil Oliver.

13.40 That is, despite Mr Oliver being provided by the court with unrestricted access to electoral documents relating to his allegations, he was not able to provide any proof of his allegations and the petition was dismissed. Dr McGrath’s selective quotations from a lawyer’s brief and from a preliminary court decision relating to document disclosure prior to trial of the petition, does not amount to concrete evidence of electoral fraud.

13.41 It might be added that similar document disclosure, under conditions of confidentiality, was ordered by the court in *Webster v Deahm*, to assist the petitioner in attempting to prove his allegations of enrolment fraud (see Attachment 19 to submission No 26 of 17 October 2000). The same

document disclosure was ordered by the Court in the Chambers petition (see Attachment 3 to this submission). That is, Dr McGrath is well aware that document disclosure, including confidential access by the petitioner to the marked Certified Lists of Voters used at the election, is not an unusual procedure in Courts of Disputed Returns when allegations of enrolment fraud are made.

Division of Macquarie, 1993 federal election

13.42 At pages 30 to 31 of her submission, Dr McGrath raises once again the allegations of electoral fraud in the Division of Macquarie made by Mr Alasdair Webster in his unsuccessful petition to the Court of Disputed Returns (*Webster v Deahm (1993) 67 ALJR 781*). The AEC reported on this matter in detail in Attachment 19 to submission No 26 of 17 October 2000 (on the AEC website) and in part 5 of submission No 66 of 9 February 2001.

13.43 Dr McGrath raises further allegations about the defrauding of the votes of religious objectors in the Division of Macquarie, as does Mr Kirkpatrick in his submission No 18. These allegations are responded to at Attachment 4.

13.44 Dr McGrath claims that the then Australian Electoral Officer for NSW, Mr Brian Nugent, "knew that 415 voters had been misdirected to lodge their votes for the Blaxland electorate of south-west Sydney not Blaxland in the Blue Mountains, and so did his staff" (the same claim was made by Mr Kirkpatrick in his submission No 18 and the AEC has responded at Attachment 4 to this submission). The JSCEM is of course at liberty to call Mr Nugent to test whether Dr McGrath really does know what was in the minds of Mr Nugent and his staff at the time. Dr McGrath further claims that there is no public record of the AEC investigation of the petitioner's allegations. In fact, as Dr McGrath should be aware, the sworn affidavits of the AEC were filed with the Court and remain on the public record.

Castlereagh District NSW by-election, 1980

13.45 At page 33 of her submission, Dr McGrath raises the conduct of the 1980 Castlereagh by-election, under the heading "Some are caught but what about the others", and the following leading suggestion: "As a great deal of fraudulent voting involves fraudulent enrolment, how many are still floating at large in our society corrupting our electoral system? Some examples may give pause for thought."

13.46 This election was conducted by the predecessor of the NSW Electoral Commission under NSW electoral law, but has been raised in the past by critics of the federal electoral system, including Dr McGrath and the then Senator Bronwyn Bishop, as an example of possible electoral fraud. This is despite the detailed contrary analysis provided by the AEC to a previous JSCEM, in submission No 61 of 3 November 1988, in response to the Liberal Party submission No 29 of 31 May 1988. An extract of this AEC analysis was provided as Attachment 24 to submission No 26 of 17 October 2000.

13.47 The facts as they are known to the AEC are presented at **Attachment 11,** and do not demonstrate any concrete evidence of electoral fraud.

Gladesville District, 1992 NSW State election

13.48 At page 35 of her submission, under the heading “Dubious corruptions of the roll”, Dr McGrath provides an account of a “mysterious” case of fraudulent enrolment involving Mrs Rosemary Lavery and the Ryde Council election in September 1992. This case of enrolment fraud for the purposes of a local council election, which was referred by the AEC to the AFP for investigation, is reported as case NSW 6 in Attachment 20 to AEC submission No 26 of 17 October 2000.

Richmond Council election, Melbourne 1975

13.49 At page 35 of her submission, under the heading “Dubious Corruptions of the Roll”, Dr McGrath provides three quotations from a book by Dr P N Grabosky, entitled “Wayward Governance: Illegality and its Control in the Public Sector”, published by the Australian Institute of Criminology in 1989. Chapter 18 is entitled “Machine Politics, Corruption and the Richmond City Council”.

13.50 Dr McGrath has selected three short extracts from this chapter in Dr Grabosky’s book, and provides neither the necessary historical and political context of the events described, nor any reference to the eventual reforms to Victorian State local government electoral law made by the incoming ALP State Government on the recommendations of the 1982 Nicholson Inquiry (see *Victoria 1982, “Report of Board of Inquiry relating to Certain Matters within the City of Richmond”, 3 vols, A B Nicholson QC, Board of Inquiry, Government Printer, 1982*).

13.51 At **Attachment 12** is an extract from chapter 18 of Dr Grabosky’s book which should enable a more balanced assessment of whether this historical review represents concrete evidence that the federal electoral system as it now exists requires the major changes advocated by Dr McGrath. Amongst other relevant factors, Dr McGrath has failed to make it clear in this part of her submission that in 1975 the Richmond City Council elections were conducted on municipal rolls created by local government officials, rather than on rolls derived from the Commonwealth Electoral Roll. The conduct of Victorian local government elections no longer bears any similarity to the historical events described.

Mayoral election, North Sydney

13.52 At page 36 of her submission, Dr McGrath raises an undated Mayoral election for North Sydney, under the heading “Some are caught but what about the others”, and the following leading suggestion: “As a great deal of fraudulent voting involves fraudulent enrolment, how many are still floating at large in our society corrupting our electoral system? Some examples may give pause for thought.”

13.53 It is probable that Dr McGrath is referring to the September 1999 election for North Sydney Council, which was held “not long” after a NSW State election, and for which Ms Shirley Colless was a candidate. Ms Colless is now an elected councillor for the Wollstonecraft Ward of the North Sydney Council.

13.54 Dr McGrath reports that she complained to the NSW Electoral Commissioner about return-to-sender mail (“50 letters”) received by candidate Shirley Colless, and about electors receiving mail from candidate Colless, addressed to the correct surnames but with reversed or incorrect initials (apparently giving rise to “some 100 phone calls”). Dr McGrath claims that candidate Colless used the Electoral Roll for her mailout.

13.55 Dr McGrath says she received no response from the NSW Electoral Commissioner, Mr Ian Dickson, to her complaint, which consisted of a list of names and alleged irregularities, as reproduced in her submission to this JSCEM inquiry. On 22 February 2001, the NSW Electoral Commissioner, Mr John Wasson, advised the AEC of the following (in extract), in relation to Dr McGrath’s implications of enrolment fraud in her submission:

> …Dr McGrath has not provided the full name of those involved nor their address which makes a proper investigation impossible. However, an examination of the roll used at the 1999 State general election for North Shore and Willoughby electorates do not show the additional persons claimed to be improperly enrolled at the time of the Council elections.
>
> It has been possible with some certainty to say that Judge McGuire was not enrolled for the North Sydney election as he transferred his enrolment to Norah Head in the Wyong Council area in 1992 and has been enrolled there ever since.
>
> Probably if the full details of names and addresses were provided by Dr McGrath it would be that similar explanations would be found….

13.56 If the JSCEM believes that Dr McGrath’s list shows some evidence of enrolment fraud, then it might consider calling the three judges to give their own testimony. It would also be useful if the JSCEM, the AEC or the NSW Electoral Commissioner could be provided with the allegedly improperly addressed mail for examination.

13.57 With respect to candidate Colless’s RTS mail, and Dr McGrath’s assumption that this demonstrates the possibility of enrolment fraud, the following factors should be noted:

- not all electors are pleased to receive constituency mail from members and candidates and may seek to stop any further communication by returning such mail RTS;
- the rolls are continuously amended and members and candidates 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.

13.58 Dr McGrath's account of her suspicions about the conduct of the North Sydney Mayoral election does not in any way constitute concrete evidence of electoral fraud.

Dubbo district, NSW State election 1998

13.59 On page 36 of her submission, under the heading "Dubious corruptions of the roll", Dr McGrath raises an "unusual situation" that occurred at the 1999 (not the 1998) NSW State election for the district of Dubbo, in relation to the double issue of 60 postal votes. At this election, an Independent candidate Mr Tony McCrane defeated the National Party candidate Richard Mutton by 14 votes.

13.60 On 22 February 2001, the NSW Electoral Commissioner, Mr John Wasson, provided the AEC with the following comments on Dr McGrath's submission:

> As regards the State election in Dubbo in 1999 (not 1998 as stated by Dr McGrath) I have been unable to contact the Returning Officer who conducted the election as he is on leave. However, I do recall that due to some problem a number of electors were issued with two postal votes. This was discovered and only one vote for each of these electors was eventually admitted to scrutiny. There was never any suggestion that these were cases of duplications on the roll. The Dubbo election was exhaustively scrutinised and I am sure that as a result no major discrepancies as appears to be suggested by Dr MvGrath were detected.

13.61 In summary, Dr McGrath's submission fails to demonstrate any concrete evidence of electoral fraud, not already known to the AEC and the JSCEM, that would support her recommendations for substantial changes to the federal electoral system.

14. Submission No 27 – Gary Lucas – 18 October 2000

14.1 Mr Lucas recommends the introduction of stringent enrolment identification requirements. The *Electoral and Referendum Amendment Act 1999*, which would introduce enrolment witness identification, is addressed by the AEC in part 6 of submission No 26 of 17 October 2000 and in part 4 of submission No 66 of 9 February 2001.

14.2 Mr Lucas says that he has provided recent submissions on electoral fraud to the "Australian Electoral Office in Sydney", but it is not clear whether he is referring to the AEC Head Office in Sydney, or to the NSW Electoral Commission in Sydney. The AEC has no record of any such submissions.

15. Submission No 30 – Don Harwin – 11 October 2000

15.1 Mr Harwin's submission concerns an allegation which came to the AEC from the AFP. The General Manager of Wollongong City Council wrote to the AFP in September 2000 referring them to allegations of postal voting irregularities at Local Government elections, reported in the *Illawarra Mercury* and *The Sydney Morning Herald*. The AFP referred the matter to the AEC on 29 September 2000. The AEC referred the matter to the NSW Electoral Commissioner, Mr Wasson, on 6 October 2000 and advised AFP and Wollongong City Council of this action on the same day. The AEC has no further knowledge of this matter.

16. Submission No 38 – Jim Lloyd – 12 October 2000

16.1 Mr Lloyd asks for an investigation into the enrolments of Mr and Mrs Vincent Fazio, presumably on the basis of the following newspaper report:

> The elderly parents of a NSW Labor MP have been dragged into the branch-stacking crisis, after it was alleged that they transferred their electoral enrolments to a crucial seat where they had a holiday home. Despite residing in a house at Petersham, in Sydney's inner-west, Vincent and Ruth Fazio, life members of the ALP and parents of NSW Legislative Council member Amanda Fazio, are enrolled in the federal seat of Robertson at their weekender at Woy Woy, on the NSW Central Coast.
>
> The Fazios, both in their 70s, are known supporters of Belinda Neal, the wife of right-wing factional chief John Della Bosca who narrowly lost her bid for preselection in Robertson last month. Neal lost to local school librarian Trish Moran 87-85 and has asked ALP head office to investigate her claims the vote was rigged.
>
> One local ALP members, who did not want to be named, told the Australian that the Fazios' preselection votes were far more useful to the NSW Right in Woy Woy than if they had voted in Petersham.
>
> Speaking from his Petersham address yesterday, Mr Fazio said he and his wife lived in Woy Woy full-time and only came to Sydney to mind their grandchildren. "I am enrolled in Robertson because I live there and the whole thing's a bloody beat-up", Mr Fazio said.

> But the Australian's photographer yesterday spoke to a woman clearing out the letterbox at the Woy Woy address who told him she lived in the house and the Fazios returned "every couple of weeks". The grass outside the house appeared slightly overgrown, the blinds were drawn and the windows shut. The local post office confirmed that the Fazios personal mail was not received at that address.
>
> Ms Fazio, 45, was elected to the Legislative Council in September this year. She joined ALP head office in 1993 to formulate rules and procedures during election campaigns. (*Australian, 6 December 2000, "Home away from home raises electoral suspicions", Luke McIlveen)*

16.2 AEC records on RMANS show that Mr and Mrs Fazio changed their enrolment from Petersham to Woy Woy in 1992 and have been continuously enrolled there since that time. At the last electoral roll review of the Woy Woy residence conducted in 1998, they were confirmed as still living at the address.

17. Submission No 39 – Amy McGrath – undated

17.1 The JSCEM will be familiar with the many submissions over the years from Dr McGrath and her associates in the H S Chapman Society. This submission is supplementary to submission No 25 responded to above.

17.2 In the opening passages of her submission, Dr McGrath claims that "The ALP and the AEC insist that increasing the penalties in the Commonwealth Electoral Act will deter people from enrolment 'scams". Recommendations 54 and 55 of the May 1989 JSCEM Report were that the penalties for electoral offences be substantially increased and that they be subject to regular review. These recommendations were supported by all political parties represented on the JSCEM, including the Liberal, National and Democrat party members. Subsequent JCSEM Reports and Government Responses include similar unanimous recommendations concerning increased penalty levels, from all major political parties. The AEC has discussed the penalty levels for electoral fraud in part 12.5 of submission No 26 of 17 October 2000 and in part 7 of submission No 66 of 9 February 2001.

17.3 Dr McGrath says that penalties for electoral fraud should be "broadcast", and included on official forms such as enrolment applications and declaration vote envelopes, in polling booths and pre-poll voting centres, in newspaper advertisements, at naturalisation ceremonies, and on school education visits. Dr McGrath claims that the existence of penalties for electoral fraud is "one of the best kept secrets in the nation" and suggests that a street poll would support her case.

17.4 There is no conspiracy by the AEC to hide the fact that penalties for electoral offences exist, as a perusal of various AEC publications on the AEC website, such as the *Commonwealth Electoral Act 1918*, *Commonwealth Electoral Procedures* and the *Electoral Backgrounde*r series, would attest. Further,, the enrolment form is currently being redesigned to include information about the offences and penalties.

17.5 Dr McGrath asserts that "hapless candidates, who lose elections, are forced to doorknock hundreds of dubious addresses on return to sender mail and check the rolls to see if the people who do not live there have voted and draw up a petition – all in 40 days. This is plain ludicrous". Unsuccessful candidates at federal elections are not forced to undertake such activities. The majority of unsuccessful candidates concede that their election loss is a clear manifestation of the will of the electors at the ballot box and accept their defeat gracefully.

17.6 However, if an unsuccessful candidate believes there is evidence of electoral fraud sufficient to have affected the result of the election then they should consider approaching the AEC with their suspicions so that the resources of the AEC can be used to investigate their complaint in the time available. If the AEC is able to uncover sufficient indicative evidence to confirm such suspicions then the AEC is empowered to challenge the election itself (see part 46 of AEC submission No 210 of 23 July 1999), in all probability bearing the resultant court costs in the public interest. With respect to the 40 day period for the filing of petitions, this is not only a long-standing legislative requirement, but has been confirmed by the High Court in a recent decision as necessary for the stability of government (see below).

17.7 In part A of her submission, in her discussion on the merits of enrolment identification, Dr McGrath says that who oppose strict enrolment identification requirements do so because they believe that "fraud is of so little account it cannot affect the result of an election". Whilst this might be true in part, based on the lack of evidence of widespread and organised fraud at federal elections, Dr McGrath does not acknowledge the genuine concerns that have been expressed about the possible disenfranchisement of electors that might follow the imposition of strict enrolment identification requirements as discussed in paragraphs 5.4 and 5.5 of AEC submission No 26 of 17 October 2000.

17.8 The AEC trusts the JSCEM will not endorse Dr McGrath's recommendations in part 1 of her submission, that the Federal Government override the States' concerns about the implementation of the enrolment identification provisions of the *Electoral and Referendum Amendment Act 1999,* by "calling the bluff" of the States. No discernible public interest could be served by such an approach to joint roll management.

17.9 In part 2 of her submission, Dr McGrath claims the support of the AEC for her recommendation for the appointment of an Electoral Ombudsman, a claim repeated in a broadcast interview with Mr Alan Jones on Radio 2UE on 11 November 2000, as follows:

> JONES: Do we need an electoral ombudsman?
> MCGRATH: Yes, we do need an electoral ombudsman because you need someone independent to audit it. When I had serious issues about the yes and no count, 15 ways for declaring votes informal other than yes and no, I went through the ombudsman and found this a very satisfactory procedure. And interestingly enough, the Australian Electoral Commission itself in answering my demand for an ombudsman, they said it was not a bad solution, that I'd already used it so why did I need anything else.

17.10 Dr McGrath has misrepresented the views of the AEC. Further, Dr McGrath appears to have conflated her complaint to the Ombudsman concerning the scrutiny arrangements for the 1997 Constitution Convention election, with the unsuccessful Benwell injunction application to the Federal Court, in relation to the scrutiny of ballot papers for the 1999 Referendums. The only relevant mention by the AEC in a previous submission of Dr McGrath's recommendation is in part 3 of submission No 210 of 23 July 1999, as follows:

> 3.14 Dr McGrath's fourth and final recommendation is:
>
> > That a Commonwealth Ombudsman to develop a data base of electoral law and judicial decisions and of justifiable complaints and grievances of those directly involved or the public at large. It should be charged with bringing any reasonable matters to the attention of the Parliament or the Australian Electoral Commission.
>
> 3.15 Dr McGrath has concluded that complainants should be able to by-pass the judicial consideration of election disputes by the Court of Disputed Returns, and that an electoral Ombudsman should be established, with undefined non-judicial powers, presumably on the assumption that any AEC investigation or judicial consideration of the same complaints might be tainted by political bias.
>
> 3.16 Apart from the costs involved in establishing an entirely new office with powers that would essentially duplicate those of the AEC in many respects, this recommendation fails to acknowledge the present availability of the formal review of administrative decisions that affect the rights of citizens (through the Ombudsman or the Administrative Appeals Tribunal, for example), and the consideration of complaints such as her own by parliamentary committees such as the JSCEM.
>
> 3.17 Further, Dr McGrath has failed to mention in this context that she has approached the Commonwealth Ombudsman recently with complaints about the performance of the AEC and its administration of elections, and has had these complaints duly investigated within the powers already available to the Ombudsman (see paragraphs 40.4 and 40.5 of submission No 176).
>
> 3.18 Finally, Dr McGrath may not be aware that the AEC publishes a series of Electoral Backgrounders, which discuss many of the important judicial decisions in electoral matters over the last century. These Backgrounders are available to the public in either hard copy or on the AEC Internet site at www.aec.gov.au.

17.11 It is of interest that the former Electoral Commissioner, Dr Hughes, has indicated in his submission No 49 that, if public confidence in the federal electoral system appears to warrant it, then he would support the establishment of an Electoral Registrar. In another context, the AEC outlined the possible establishment of an Election Complaints Authority, but this does not constitute any support by the AEC for the establishment of an Electoral Ombudsman, as Dr McGrath claims (see part 7 of submission No 66 of 9 February 2001).

17.12 Dr McGrath's arguments for the restoration of subdivisions, in part 3 of her submission, are based on various misunderstandings of the facts and misapplications of the law, that have been addressed in previous AEC submissions (see for example, part 3.10 of submission No 120 of 10 November 1993; part 2.15 of submission No 84 of 16 September 1996; part 2.29 of submission No 90 of 20 September 1996; submission No 96 of 23 October 1996; submission No 97 of 23 October 1996).

17.13 While recommendation 7 of the June 1997 JSCEM Report was that the restoration of subdivisions be investigated, this recommendation raised strong dissent from both the ALP and Democrat members of the JSCEM. The Government Response of 8 April 1998 read as follows:

> Supported in principle. The Government supports the conducting of an investigation into the reintroduction of subdivisional voting. However, the Government believes the JSCEM should conduct a more detailed investigation into the positive and negative aspects of the reintroduction of subdivisional voting.

17.14 The June 2000 JSCEM Report made no relevant recommendations on the restoration of subdivisions. The AEC does not agree that the restoration of subdivisions would be publicly welcomed or would have any significant effect on electoral fraud, and has commented most recently on subdivisional/precinct voting in part 12.4 of submission No 26 of 17 October 2000.

17.15 In part B(i)(a) of her submission, Dr McGrath recommends that "union organisers/staff doorknocking for weeks be declared as donations". Dr McGrath has not put forward any argument for singling out members of industrial unions.

17.16 The recommendation in part B(i)(b) of Dr McGrath's submission, that recounts be mandatory for all margins of 200, and possibly 500, presumably for House of Representatives elections, would remove from the Electoral Commissioner the discretion provided for in section 279 of the Electoral Act to order a recount only in those circumstances deemed necessary (see also paragraph 4.32 in AEC submission No 97 of 23 October 1997; part 9.6 of AEC submission No 88 of 12 March 1999; and paragraphs 4.18 and 4.19 of the June 2000 JSCEM Report).

17.17 If the law were to provide as Dr McGrath recommends there would be substantial and unnecessary delays in providing an indicative election result on polling night, an outcome that would run counter to the legislative reforms enacted by all major political parties in the past decade to achieve an early election outcome (see for example section 277 of the Electoral Act on "scrutiny for information").

17.18 The recommendation in part B(i)(c) of Dr McGrath's submission, that the vote be denied to all those not on the Certified Lists, would disenfranchise any number of provisional voters, who through no fault of their own, have been wrongly omitted from the Certified List of Voters (see section 235 of the Electoral Act).

17.19 If the real purpose behind this recommendation is Dr McGrath's concerns about enrolment reinstatements for declaration voters under Schedule 3 of the Electoral Act, then it must be said that Dr McGrath has demonstrated in past submissions a misunderstanding of these provisions (see for example paragraph 40.8 of AEC submission No 176 of 4 May 1999, and paragraphs 46.33 to 46.48 of AEC submission No 210 of 23 July 1999). Dr McGrath also appears not to be aware of the relevant recommendations of the AEC (see part 9.12 of submission No 88 of 12 March 1999 and submission No 159 of 23 March 1999) and of the relevant recommendations of the June 2000 JSCEM Report (recommendations 7, 38 and 39), which are awaiting a formal Government Response.

17.20 The recommendation in part B(ii)(a) of Dr McGrath's submission, for an extension of the 40 day period for filing a petition to the Court of Disputed Returns, under section 355(e) of the Electoral Act, perhaps to 12 months, has been addressed in previous AEC submissions (see for example paragraph 46.29 of submission No 210 of 23 July 1999) and previous JSCEM inquiries (see for example paragraphs 4.7.4 to 4.7.5 of the November 1994 JSCEM Report).

17.21 It might also be noted that in a recent High Court decision, in *Rudolphy v Lightfoot (1999) 73 ALJR 1619*, the following was said:

> The provision with respect to the 40 day period plainly is designed to produce criteria which are objective and certain and reflect the public interest in resolving expeditiously and with finality questions respecting disputed elections and returns. Further, there is a body of authority which predates the 1989 Act and establishes that, once the 40 day period has expired, it is not possible thereafter to amend the petition which has been filed within time so as to cure any non-compliance with the requirements of s. 355. The reasoning underlying those decisions is that to permit amendment would in effect permit evasion of the requirement that the petition in final form be filed within the 40 day period. Those cases do not in terms specify the 40 day requirement but, as indicated above, that is how the matter should be understood.

17.22 The recommendation in part B(ii)(b) of Dr McGrath's submission, that residence be defined as 'real place of living' for the purposes of both enrolment and voting, omits to mention that section 4 of the Electoral Act defines "real place of living" as, including "the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place". The term is currently applied in the legislation with respect to postal voting (see for example section 184A(2)). Reference should also be made to Attachment 9 to submission No 210 of 23 July 1999.

17.23 The recommendation in part B(ii)(c) of Dr McGrath's submission, that Divisional offices should be "mandatory within each electorate with adequate staff and funding", is similar to other private submissions to this inquiry by four Queensland Divisional staff. The AEC has responded to this issue in part 13 and Attachment 2 to the submission filed on 23 February 2001.

17.24 In part C(a) of her submission, Dr McGrath recommends that all AEC staff involved with "computer processes", (effectively, the majority of permanent AEC staff) be subjected to "security screening to Defence Department standard". This was the first issue raised by the JSCEM Chairman at the public hearing with the AEC on 15 November 2000, and is responded to in part 2 of submission No 66 of 9 February 2001.

17.25 At part C(b) of her submission, Dr McGrath recommends mandatory reporting by the AEC of any intrusion by a computer hacker into any computer process and asserts that a hacker intrusion in 1993 was kept secret. Dr McGrath has made considerable mileage out of the 1993 hacker incident in various submissions to the JSCEM (see for example paragraph 40.7 of AEC submission No 176 of 4 May 1999, and paragraph 46.32 of AEC submission No 210 of 23 July 1999). AEC submission No 128 of 24 January 1997 provides the facts on the hacker incident, and the matter is addressed further in part 10 of submission No 66 of 9 February 2001 and in this submission in response to Dr McGrath's submission No 25.

17.26 At part C(c) of her submission, Dr McGrath recommends the printing of subdivisional "street walk" rolls, containing a "designation that those living in the area can only vote in the polling booths within that area", with postal and pre-poll voting an alternative. The AEC has commented on subdivisional/precinct voting at part 12.4 of submission No 26 of 17 October 2000.

17.27 At part C(d) of her submission, Dr McGrath recommends "all enrolment forms to state penalties and warn that failure to enrol within one month of change of address means loss of the right to vote until re-enrolment". The Electoral Enrolment form is already being redesigned by the AEC to include penalties. The recommendation that the franchise be removed for failure to enrol would result in the disenfranchisement of many otherwise law-abiding citizens.

17.28 At part C(e) of her submission, Dr McGrath recommends that “any voters allowed to declare the place with which they have the closest connection as the place where they may enrol (eg itinerants) be no longer allowed to do so”. Dr McGrath provides no rational argument for effectively disenfranchising itinerant electors, such as Aboriginal people and pastoral workers in remote areas, under section 96 of the Electoral Act.

17.29 In part C(f) of her submission, Dr McGrath recommends that “overseas electors be required to state exactly when they propose to return to Australia and to provide proof that the residence they claim in Australia is their ‘real place of living’”. It is assumed that if overseas electors cannot meet Dr McGrath’s stringent requirements then they are effectively disenfranchised. This would be contrary to recommendations 4 and 5 of the June 2000 JSCEM Report, which would relax the enrolment and voting provisions for the convenience of citizens overseas.

17.30 In part C(g) of her submission, Dr McGrath recommends that “habitation reviews remain as a complement to Continuous Roll Review and not be abolished as in Queensland since 1997 and likely to be in all other states. Dr McGrath assumes that CRU procedures and ‘habitation reviews’ (or ‘door-knocks’) are separate activities. National CRU procedures already incorporate targeted door-knocking, as described in part 11 of submission No 26 of 17 October 2000, in part 8 of submission No 66 of 9 February and in part 12 of the submission filed on 23 February 2001. That is, Dr McGrath’s assertion that “habitation reviews” were “abolished … in Queensland since 1997 and likely to be in all other states” is simply wrong.

17.31 In part C(h) of her submission, Dr McGrath recommends that “parties be allowed to appoint auditors, who can monitor computer programs used for management of the outsourced roll with CSC, and election process”. The AEC has addressed Dr McGrath’s concerns about access by party scrutineers to computerised election processes in response to her submission No 25 above.

17.32 In part C(i) of her submission, Dr McGrath recommends that “all declaration votes must be checked, and not spot checked, for dubious enrolment”. This is not entirely clear, as spot checks are not and never have been involved in the preliminary scrutiny of declaration votes. Dr McGrath should be aware of the requirements of Schedule 3 of the Electoral Act and the detailed procedures followed by electoral staff during declaration vote scrutinies.

17.33 In part D of her submission, Dr McGrath asserts that “for some years, the AEC has pursued a policy known as AEC 2000 of collocation of DROs into clusters of offices”. The Divisional office structure is addressed by the AEC in part 13 and Attachment 2 of the submission filed on 23 February 2001.

17.34 In part E of her submission, Dr McGrath returns to her advocacy of an electoral ombudsman, which has already been addressed above. In this part Dr McGrath also makes a series of dubious claims that can be addressed in a later submission if identified by the JSCEM as worthy of further comment.

17.35 For example, in part E(i)(h), Dr McGrath says that "in 1997 before the Constitution Convention election, when 220,000 'gones' (1/10 of the voting population) – that is, names that had to be removed from the roll by objection – were identified in a State-wide habitation review but DROs were instructed not to remove them. When or even whether, this was ever countermanded I have no idea." The facts are as follows.

17.36 The 1997 Electoral Roll Review (ERR) was not finalised in all Queensland Divisions at the announcement of the Constitutional Convention (CC) election on 12 September 1997. Therefore objection action arising from the ERR and fieldwork in Divisions where this was not complete was suspended until the conclusion of the voting period on 9 December 1997. The number of electors initially listed for objection arising from the ERR activity before the CC election was 160,448. This total was reduced during the CC election period as electors notified change of address, resulting in 131,860 objection notices being posted on 11 December 1997. Following responses to objection notices and further transfers of address, 107,290 electors were removed from the roll on 20 January 1998. In those Divisions were ERR fieldwork was not completed until after the CC election, the objection and determination process concluded on 9 April 1998 when 7,018 electors (mostly ERR objections) were removed.

17.37 In part E(ii) of her submission, Dr McGrath raises the issue of return to sender mail, which has been addressed at length by the AEC in many submissions to the JSCEM, including most recently, in part 9 of submission No 176 of 4 May 1999, and in Attachment 10 to this submission The objection process has been described most recently at part 9.2 of submission No 26 of 17 October 2000. Dr McGrath's claims about the Mrs Joan Chambers misrepresent the facts, as described in Attachment 3 to this submission. Finally, it is not clear how Dr McGrath is able to assume that she speaks on behalf of all DROs in relation to their collective attitudes to the objection process.

17.38 In part E(ii) of her submission, Dr McGrath complains about the Court of Disputed Returns. As well as providing a sweeping assessment of justices of the High Court of Australia, and legal counsel, as inexperienced in electoral law, Dr McGrath also provides her own singular interpretation of the history of the Court of Disputed Returns. Dr McGrath makes some incorrect assertions about the costs of electoral litigation and about court inquiries into the correctness of the roll. The AEC has addressed Dr McGrath's concerns most recently in part 46 of submission No 210 of 23 July 1999.

17.39 In the second part E(ii) of her submission, Dr McGrath makes a series of critical statements about the JSCEM. The AEC frequently promotes the work of the JSCEM in international forums as an exemplar of transparency in the electoral process. The AEC has had no overwhelming difficulties in accessing the historical records of the JSCEM, and is progressively publishing its submissions to the JSCEM on the AEC website. AEC submissions are currently available back to 1996 on the AEC website and submissions to earlier inquiries will be added progressively as they are converted to electronic format.

17.40 In part E(iii) of her submission, Dr McGrath begins by mentioning a 1987 audit of procedures, which she has previously misrepresented, as detailed in paragraph 46.20 of submission No 210 of 23 July 1999. Dr McGrath then makes a very dubious statement about the number of recounts, which appears to once again conflate the conduct of industrial elections with federal elections. Dr McGrath's complaint that the "role cannot be questioned in court", and about the costs of electoral litigation, have already been addressed above and elsewhere.

17.41 Dr McGrath's claim that the AEC should act as *amicus curiae* rather than in adversarial role in electoral litigation demonstrates a misunderstanding of the electoral litigation process, particularly as the AEC or the Electoral Commissioner is frequently named by the petitioner as a respondent (as for example, in *Webster v Deahm 1993*), and has the power to file a petition on its own initiative under section 357 of the Electoral Act (as it did in a number of ATSIC election cases in 1993 under the ATSIC Act 1989).

17.42 Dr McGrath may not be aware that the AEC frequently enters proceedings in an *amicus curiae* role, as for example in *Sue v Hill 1998* and in *Free v Kelly 1996*, when the then Chief Justice Brennan said the following about the role of the AEC in electoral litigation, in the context of costs orders:

> The Commission may be represented and heard under s 359 in at least four categories of case: cases where the Commission seeks to defend the conduct of an election or the conduct of an officer of the Commission in relation to an election; cases in which the Commission intervenes for the purpose of advancing a proposition for which it seeks curial confirmation to assist it in the discharge of its statutory functions; cases where the Commission adopts a partisan stance supporting one party or another; and cases where the Commission merely makes appropriate reference to the Act and to authority in order to assist the Court to determine a petition.
>
> It may be appropriate to make an order for or against the Commission in the first three categories of case, but in the fourth category the Commission is engaged in the proper performance of a statutory function in the public interest. The appearance of the Commission in such a case ought not to enlarge the risk of costs to the other parties in proceedings. Being incidental to the proper performance of its statutory functions, the cost of being represented and heard ought properly to be borne as a cost of the Commission's administration.

> This is such a case. Expressing, as I do, appreciation of the considerable assistance that the Commission offered – not least in the preparation of an agreed statement of facts – it is appropriate to make no order with respect to the costs of the Commission.

17.43 Having dismissed the electoral experience and expertise residing in the three arms of government under the Australian Constitution, the Executive Government (the AEC), the Judiciary (the Court of Disputed Returns), and the Federal Parliament (the JSCEM), and without acknowledging the statutory powers and functions of the already existing Office of the Commonwealth Ombudsman, Dr McGrath concludes that an Electoral Ombudsman must be appointed.

18. Submission No 40 – Jim Lloyd – 31 October 2000

18.1 Mr Lloyd, the Liberal Party Member for Robertson, made a number of submissions to the previous JSCEM inquiry about the integrity of the roll to which the AEC responded at that time. In this submission, Mr Lloyd recommends the close of rolls prior to the issue of the writs for a federal election. The government majority JSCEM recommendation 3 of the June 2000 JSCEM Report was that the rolls close on the day the writs are issued for new enrolments, and three days after, for enrolment amendments.

18.2 The AEC has already addressed the early close of rolls in part 12.2 of submission No 26 of 17 October 2000. To the extent that Mr Lloyd's supporting arguments appear to relate to enrolment reinstatements, the AEC addressed this issue in submission No 159 of 23 March 1999 and the June 2000 JSCEM Report made recommendations accordingly.

18.3 In arguing that the late rush of new enrolments or transfers after the announcement of an election is somehow wasteful of a member's prior enrolment activities, Mr Lloyd appears to be suggesting that (a) members of parliament are personally responsible for ensuring the rolls are accurate; (b) no more transactions should be permitted after some point in time at which the member has personally satisfied himself that the roll is 100% correct; and (c) all late enrolment transactions, just prior to the close of rolls, are *a priori* unlawful.

18.4 Mr Lloyd's claim that he would be able to "check on the genuineness of enrolments within a reasonable timeframe" if the roll closed prior to the issue of the writs is also questionable, given that the announcement of an election is usually followed rapidly by the issue of the writs (at the 1998 federal election, on the same day).

18.5 Mr Lloyd's concerns with respect to enrolment identification have been addressed by the Government in the *Electoral and Referendum Amendment Act 1999*, and discussed in part 6 of AEC submission No 26 of 17 October 2000, and part 4 of submission No 66 of 9 February 2001.

18.6 In this submission, Mr Lloyd raises once again his concerns about deceased voters in the Division of Robertson, as were put to the JSCEM inquiry into the conduct of the 1998 federal election. He says that prior to the 1998 federal election he "received information that certain residents were planning to vote in the name of recently deceased persons" and recommends that Members of Parliament be provided with direct access to Births, Deaths and Marriages databases, apparently because the relevant personal information supplied to the AEC from the BMD Registries as a statutory requirement cannot be personally double-checked by his own staff. Such a proposition, were it to be recommended by the JSCEM, would undoubtedly raise substantial privacy concerns.

18.7 The AEC first responded to Mr Lloyd's concerns in part 10.2 of submission No 88 of 12 March 1999. Mr Lloyd then provided submission No 141 of 23 February 1999 to the JSCEM inquiry, in which he again raised his allegations of deceased voters, amongst other matters. The AEC responded in part 36 of submission No 176 of 4 May 1999. On 11 May 1999 Mr Lloyd appeared at a public hearing by the JSCEM and repeated his allegations about deceased voters. The AEC responded in part 45 of submission No 210 of 23 July 1999.

18.8 Finally, at the specific request of the JSCEM for a response to a letter from Mr Lloyd, the AEC wrote to the JSCEM on 5 August 1999 detailing the enrolment histories of the persons named by Mr Lloyd. The letter is reproduced at **Attachment 13** with the confidential aspects deleted. The AEC must assume that the JSCEM conveyed the necessary information contained in this confidential letter to Mr Lloyd in order to allay his concerns.

18.9 The AEC reported to the JSCEM in part 11.2 of submission No 26 of 17 October 2000 on recent developments in the removal of the names of deceased electors from the rolls, as follows:

> 11.2.8 An essential part of CRU data-matching is to identify and remove the names of deceased electors from the rolls, especially in light of the regular (but mostly apocryphal) allegations of "cemetery" voting (see for example Attachment 24). Under section 108 of the Electoral Act the State Registrars-General of Births, Deaths and Marriages (BDM) are required to forward to the DROs in that State a list of all persons over the age of 17 years of age in their Division whose deaths have been recorded in the preceding month, including their name, address, occupation, age, gender and date of death. Each BDM Registrar-General provides this information in various formats separately to the Australian Electoral Officer (AEO) in the relevant State and the Northern Territory.
>
> 11.2.9 Section 110 of the Electoral Act requires the AEO for the State (or the DRO as the case requires) to take action to alter the rolls as necessary, on receipt of information from the Registrars-General under section 108. Death information from the Registrars-General, and other sources, is therefore matched by computer with enrolment information on RMANS on an ongoing basis. Details of matches are then forward to the appropriate DRO for manual deletion.

> 11.2.10 When death information received from a Registrar-General is found to match enrolment information on the Current File of RMANS, the enrolment record is moved to the Deleted File and coded to indicate death as the reason for deletion. Where no match is found with an enrolment record on the Current File, but a match is found on the Deleted File (and the deletion reason was not because of death, such as "left address") the enrolment record is notated to indicate that death has since occurred.
>
> 11.2.11 At all times, but especially during election periods when roll accuracy is a critical issue, death notices in newspapers, and advice provided by the relatives of deceased persons, are monitored by DROs in each Division, and confirmed information is applied to RMANS.
>
> 11.2.12 In addition to the above data-matching procedures already undertaken in accordance with the requirements of the Electoral Act, the AEC is currently establishing administrative procedures to verify the death information received from each of the State Registrars-General. The AEC has recently purchased the 1999 Fact of Death File (FDF), a national compilation of death information from all State and Territory Registrars-General. This information has been matched on RMANS and Divisional office staff are currently following up some anomalies. Monthly data from the FDF is also being supplied to the AEC for all of 2000.

18.10 The AEC has nothing further that it can usefully add to Mr Lloyd's claim in this submission that "even today more than two years after the last election there are three constituents of my original list of 51, who I believe became deceased immediately prior to the 1998 election, who are still on the electoral roll."

18.11 Finally, Mr Lloyd asks the JSCEM to investigate the enrolment history of Mr and Mrs Vincent Fazio, which was apparently first raised on the *Crikey* website. This matter has been addressed above in response to submission No 38.

19. Submission No 41 – Lynton Crosby – 1 November 2000

19.1 In this supplementary submission, the Secretary of the Liberal Party of Australia asks the JSCEM to investigate "what the ALP may be doing in NSW" on the basis of material posted on the *Crikey* website on 30 October 2000. This matter has been addressed above in response to submission No 38.

20. Submission No 43 – De-Anne Kelly – 25 October 2000

20.1 Ms Kelly, the National Party Member for Dawson, attaches to her submission correspondence from Mr Peter Snowdon and asks the JSCEM to consider his proposals. Mr Snowdon suggests the introduction of electronic electoral rolls and electronic voting, aligned with voter identification. Mr Snowdon may not be aware that the Commonwealth Electoral Roll has been held for many years now on a computerised system known as RMANS (see part 10 of submission No 27 of 17 October 2000), and that the Senate scrutiny is now computerised (see part 9.7 of submission No 88 of 12 March 1999).

20.2 Mr Snowdon's suggestion for the introduction of electronic voting and voter identification has been addressed in a number of previous AEC submissions to the JSCEM (see for example, part 3.23 of submission No 90 of 20 September 1996 on computerised voting, submission No 98 of 23 October 1996 on enrolment and voter identification, part 7 of submission No 258 of 31 May 2000 on electronic voting, and the June 2000 JSCEM Report, quoted in part 4 to this submission).

21. Submission No 44 – Robert Spratt – 8 November 2000

21.1 In his submission, Mr Spratt raises the issue of multiple voting, which has been addressed by numerous AEC submissions and JSCEM Reports over the years; computerised/electronic voting, which has been addressed above in relation to the previous submission; and statistics on multiple voting at the 1998 federal election, which were provided to the JSCEM in AEC submission No 239 of 15 October 1999.

22. Submission No 45 – Geoffrey Moss – 13 November 2000

22.1 This submission from the Enterprise Council reprises a 1993 submission to the JSCEM from the Enterprise Council in relation to the Division of Dickson. The AEC has provided its original submission in response, No 140 of 14 January 1994, and the relevant extract from the November 1994 JSCEM Report, as Attachment 19 to AEC submission No 26 of 17 October 2000.

23. Submission No 46 – Rodney Gamon – 20 October 2000

23.1 In his submission, Mr Gamon recommends that voters be marked with an indelible dye when they receive their ballot papers, in order to deter multiple voting. This proposal was discussed in part 3.9 of AEC submission No 120 of 10 November 1993, and the JSCEM concluded in the November 1994 JSCEM Report as follows:

> 4.3.31 Several nations prevent multiple voting by marking the voter's thumb with either visible ink or ink visible only under ultraviolet light. The marks made by either ink vary in durability, in general they fade within four to five days.
>
> 4.3.32 While such a system would not result in the same sort of upheaval to existing enrolment procedures as other options canvassed, it would add significantly to the cost of running elections – in particular the cost of deploying additional polling place staff to avoid the sorts of queuing delays experienced in 1990.
>
> 4.3.33 In the absence of any objective evidence of widespread multiple voting, the Committee does not recommend that electors be subjected to a "voter marking" scheme.