

## **ATTACHMENTS**

**to Submission No 76 of 28 February 2001**

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11. **Castlereagh district, 1980 NSW State election**  
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12. **Richmond council election, Melbourne 1975**  
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Letter from the AEC to Mr Lloyd MP of 5 August 1999

***Pens instead of pencils for marking ballot papers***  
***Extract from AEC submission No 210 of 23 July 1999***

4.8 In relation to ... the marking of ballot papers with pencil, section 206 of the Electoral Act requires that:

each voting compartment shall be furnished with a pencil for the use of voters.

4.9 Although there is nothing to prevent voters from marking their ballot papers with their own ink pens, experience has shown that pencils are more universally reliable than pens for marking ballot papers. Polling officials check and sharpen pencils as necessary throughout polling day, and spare pencils are kept by the officers-in-charge of each polling place.

4.10 The 1993 JSCEM considered the issue of pencils in polling booths, and the November 1994 JSCEM Report concluded at page 45 that:

4.3.44 No improvement in security would be achieved by marking a ballot paper in an indelible substance. Regardless of the writing implement used, a voter can cross out or alter a mark and replace it without rendering the vote informal. Also, security of ballot papers is guaranteed by all handling of ballot papers being open to scrutineers, and the secure storage of ballot papers in sealed parcels. Allegations of tampering are virtually unheard of, and certainly no evidence of this was received during the inquiry.

4.11 To put the issue of the possible fraudulent alteration of pencil marks on ballot papers in context, the following extract from pages 478-480 of the article by the former Electoral Commissioner, Dr Colin Hughes, at Attachment 27 to submission No 88, might be of interest:

Use of pencils goes back to the beginning (s.128 in 1902, now s. 206); the perceived threat is that entries can be erased (though erasing is a fairly conspicuous activity) or that corrupt polling officials with bits of lead pencil under their fingernails can alter marks whilst handling ballot papers (which is more discreet)...two matters [are raised].

The first is that it is undeniable that the integrity of elections depends on some 60,000 polling officials...[many] are ordinary citizens, federal and state public servants, school teachers, bank officers, and the like, and often their spouses and grown-up children. They are chosen entirely at the divisional level, and in many electoral divisions constitute a fairly stable workforce as a new returning officer inherits his predecessor's list. Any of them with doubts about their colleagues, and any returning officer, has access to the media, the police and the JSCEM as well as to more senior electoral officials....

Scrutineers do not handle ballot papers so polling officials are the only people who would "change the markings" if that were to happen during the initial count at 6 pm or subsequently in transit to the divisional office. Once there only the regular divisional staff or the temporaries hired for a few weeks would have the opportunity, but if it were done then there would be a disparity between the preliminary count figures held at divisional, state and national levels and eventually published.....

The second point concerns the idea that someone could “change the markings”. Such a fear has a long history in the United States, where it depends on the nature of ballot papers in that country. If there are several offices being voted for on the same ballot paper, and a voter has not offered a choice for some of the contests, then malpractice might fill in vote for those. Or a vote could be rendered invalid by adding one vote or deducting one vote; “change” implies a net gain of two with one deducted and one added, like converting a voter by argument.

Altering numbers on a ballot paper where every box must be filled..., and almost all are, is another matter. Whilst there is no reason why it could not be done as effectively in ink as in pencil, the consequences would be as apparent. Rubbing out one series of numbers (the average now is about five for the House) and writing in a different set is time-consuming and could not be done during the count unless all officials and scrutineers present were part of the conspiracy....

***Division of Fisher, 1987 federal election***  
***Extract from AEC submission No 66 of 9 February 2001***

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

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

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

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

8. The Integrity inquiry has resulted in intense press speculation on the issue of electoral fraud, and there have been allegations made of electoral fraud going back more than a decade. On 4 November, a journalist, Mr Chris Griffith published allegations in the *Courier Mail* of electoral fraud at the 1987 federal election in the Division of Fisher. Mr Griffith's report was based on allegations made by an ALP "insider" who, according to all reports, remains unidentified. On 6 November, the Prime Minister referred these allegations to the Australian Federal Police. The AFP have already been in touch with the AEC and have been provided with AEC files from 1987 that relate to the Division of Fisher.

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

10. The AEC is concerned about the impact on public confidence in the electoral system of the canvassing of unsubstantiated and anonymous allegations of electoral fraud, over a decade after the event. Electoral legislation allows a period of 40 days for challenges to be taken to the Court

of Disputed Returns. This strict timetable was recently affirmed by the High Court, which remarked on the necessity for election disputes to be resolved quickly in order to avoid instability in government.

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

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

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

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

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

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

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

These allegations read as follows:

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

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

I find this story inherently implausible for several reasons. First, after the southern part of Fisher became a large part of the new electoral district of Dickson, when Mrs Cheryl Kernot was chosen as Labor candidate an unusually bitter and protracted row in Labor circles in the area resulted, yet these allegations were not made public in that round of blood-letting. Why not? Second, in 1987 the Queensland police force had exceptionally close (and undesirable) links to the National Party. If any police officer in the area had picked up rumours from the pub, bowling club, or wherever, about how a National Party previously safe seat had been "stolen" by Labor illegalities, would not that officer have told his superior, after which the story would have gone to the Police Commissioner and thence to the Premier? Third, a quick glance at the voting statistics for Fisher (Appendix A) reveal a very different story.

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

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

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

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



***Ballarat South District, 1988 Victorian State election  
Record of proceedings in Joan Chambers petition***

Prior to the 1988 Victorian State election, allegations of widespread and organised electoral fraud in the Ballarat South district were made after the 1982 Victorian State election. These 1982 allegations were investigated by the AFP and reported by the AEC to the JSCEM in submission No 32 of September 1988, as follows:

The one occasion when large scale roll-stacking had been alleged and was investigated by the Australian Federal Police followed the 1982 Victorian State election. Four hundred letters of introduction marked "return to sender" to the Divisional Returning Officer for Ballarat were referred for investigation. The Australian Federal Police reported as follows:

"Four hundred individuals as nominated by ... have been investigated and in respect of each it has been found that each person did in fact reside at some time at the address as nominated on the Electoral Roll. It has been found as a result of investigations made that in certain areas in which ... complained that mail had failed to reach the addressee, that confusion exists as to who delivers the mail, and that the fact that many persons simply left their old address and failed to notify the Australian Electoral Officer of change of address were the principal reasons why ... was unable to make contact with those persons. It is further suggested that ... used as a reference at the time that he posted letters to persons in the Ballarat South Electorate an outdated electoral roll and therefore the addresses were not contemporaneous."

No offence was disclosed and no further action was taken in the matter.

At the Victorian State Election on 1 October 1988, the closest result was in the district of Ballarat South, which Mr Frank Sheehan (ALP) won by 104 votes over Mrs Joan Chambers (Liberal). Mr Sheehan's victory meant the ALP had a 46 to 42 majority in the Victorian Legislative Assembly.

Mrs Chambers then filed a petition on 30 November 1988 with the Victorian Court of Disputed Returns disputing the election result. Mrs Chambers made numerous allegations in her petition of electoral fraud including, that the ALP candidate had received fifty more votes in one booth than the Liberal scrutineers at that booth recorded him as obtaining; and that she was told "off the record" by the returning officer for Ballarat South that 127 names were crossed off the roll twice. These allegations were contested by the Victorian Electoral Commission. Of concern to the AEC under the joint Victorian/Commonwealth rolls arrangement, Mrs Chambers also stated in her petition that:

- 2000 letters sent to persons on the roll were return-to-sender (RTS mail);
- there were 33,491 people on the Ballarat South district roll for the election, but only 28,567 adults living in the district at the June 1986 census;
- she and her supporters had identified numerous persons who were enrolled in Ballarat South district and no longer lived there, including 1294 persons "most of whom are believed to have moved into another electorate prior to July 16 1988";

- she was preparing to lodge 1467 objections with the AEC; of these, it was alleged 125 people were dead, and 16 people were enrolled twice;
- as the number of such persons exceeded the winning margin, the election result could have been affected.

However, Mrs Chambers did not appear to appreciate some significant background facts relevant to the allegations in her petition. For example, any broad assumption that RTS mail is evidence that the rolls are in total disarray is not necessarily justified, given that:

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

But perhaps more significantly, Mrs Chambers appeared to be unaware of population increases in and around the Ballarat South district at the time of the 1988 Victorian State election. That is, the number of enrolments in Ballarat South in October 1988 was higher than the number of adults in the district at the June 1986 census because several areas within the Ballarat South district were experiencing high growth rates. Between the 1981 and 1986 censuses, Grenville Part A Statistical Local Area (SLA) grew by 62.9% (the most of any SLA in Victoria), Bunneyong Shire grew by 29.2% and Ballan Shire by 27.2%. Given these high rates, in parts of the district, it is not surprising that enrolment in late 1988 exceeded the total adult population in 1986.

At a directions hearing in the Victorian Court of Disputed Returns on 14 December 1988, Mrs Chambers stated that the Liberal Party was not providing her with financial support because of the costs involved. (It is significant that in 1985 the Liberal Party did finance a challenge to the election result in the Victorian State Nunawading Province, a challenge which was upheld by the court.) Justice Crockett ordered that Mrs Chambers be given access to numerous election-related documents to assist her to prepare her case, and scheduled the next hearing for March 1989.

At the time of the Court hearing, supporters of Mrs Chambers lodged over 1,000 private enrolment objections with the AEC. On 13 December 1988, the federal Division of Burke received 360 private enrolment objections, and on 14 December 1988, the federal Division of Ballarat received 1146 private enrolment objections. That is, a total of 1506 private objections were filed with the AEC concerning the correctness of the rolls in the federal Divisions of Ballarat and Burke (which encompassed the Victorian district of Ballarat South).

Such a large number of private enrolment objections was unprecedented and AEC systems and procedures had some difficulty in managing the processing load, as was described to the JSCEM at the public hearings on 17 March 1989 (JSCEM Hansard pp 1066 to 1074), and subsequently in AEC submission No 95 of 21 March 1989.

Following legal advice to the AEC from the Australian Government Solicitor on 17 January 1989, 552 of these objections were found to be “frivolous or vexatious”, or based on incorrect information, and the number of valid objections was reduced to

954. After substantial further processing, on 20 March 1989, objection notices were despatched from the Victorian Head Office of the AEC, and were finally determined in April 1989. As a result of the objection process, 382 names were removed from the rolls for the two federal Divisions, encompassing the Victorian State district of Ballarat South.

Before the outcome of the enrolment objections had been determined, on 3 February 1989, Mrs Chambers stated that the Liberal Party had not funded her legal challenge because its lawyers could not guarantee her case was “watertight”, admitting herself that “there was no watertight proof.” On 13 February 1989, Justice Crockett struck out Mrs Chambers petition and ordered that she pay costs. That is, despite the court-granted access to electoral records, Mrs Chambers was unable to present to the Court any evidence to support her allegations of electoral fraud, and was unable to convince the Court that her petition had any merit.

When her petition was struck out by the Court, Mrs Chambers claimed that the AEC had obstructed her investigation of the electoral records because the enrolment objections were not processed quickly enough for her to use them as evidence in Court. Under Victorian electoral law, as under federal law, the Court is not empowered to inquire into the correctness of the roll. This means that the speed at which the private enrolment objections were processed by the AEC should not have been determinative in the success or failure of Mrs Chamber’s petition. (Mrs Chambers had every opportunity to file any enrolment objections before she lost the election).

The result of this objection process cannot be used on face value to ground an allegation of enrolment fraud. As the JSCEM would be aware, the Electoral Roll is a continuous roll, and a constantly changing documentary record of individual enrolments. Further, the Australian elector population is a highly mobile one, and electors do not always immediately update their enrolments on moving address. Finally, there was at the time of the election in question a high population growth rate in the district, which would have resulted in an increased turnover of enrolments, and, if only slightly out-of-date mailing addresses were used by candidates for constituency mail, an increased level of RTS mail.

The discovery that some hundreds of electors may no longer be resident at their enrolled addresses, some four months after an unofficial enrolment check by Mrs Chambers and her supporters, during a period of high population growth, should not be surprising. As the AEC has repeatedly submitted to the JSCEM, the Electoral Roll can never be completely correct, and any expectation that it should, is unrealistic. The real issue for the court is always, not whether the roll is 100% correct, but whether any proven illegalities under the Act, such as electoral fraud, could have affected the election result.

**Macquarie Division, 1993 federal election**

**Report on alleged impersonation of religious objectors**

Some 315 religious objectors did not have their names marked off the Certified Lists of Voters for the Division of Macquarie at the 1993 federal election because they did not present to vote at the election. This group of people was well known to the then Divisional Returning Officer for Macquarie because they had provided valid and sufficient reasons for their failure to vote at previous elections, namely, their religious convictions. (Note that section 245(4) of the Electoral Act does not require a DRO to issue a penalty notice to an apparent non-voter if satisfied that there is a valid and sufficient reason for not voting, and section 245(14) of the Act provides that "religious duty to abstain from voting" is a valid and sufficient reason for not voting.)

Accordingly, the DRO decided not to issue penalty notices to these people, and the administrative records showed them all as having valid and sufficient reasons for not voting. In fact, AEC records show the Division of Macquarie recorded by far the largest number of "valid and sufficient" reasons for not voting, 628, out of a total of 7,658 for NSW as a whole. It should be obvious that had any organised group of people attempted to fraudulently cast votes against the names of these religious objectors this would have immediately raised the suspicions of Divisional staff. In summary, despite the repeated allegations made by Mr Kirkpatrick, Dr McGrath and Mr Webster, all the evidence indicates that there could have been no impersonated votes cast in the names of these religious objectors in the Division of Macquarie at the 1993 federal election.

It is notable that a similar allegation of impersonated votes was made to the JSCEM, in relation to another group of religious objectors in the 1993 federal election in the Division of Dickson (another favoured target of the H S Chapman Society). The AEC investigated this allegation and found it to be similarly unsustainable (see Attachment 19 to submission No 26 of 17 October 2000 on the AEC website). The conclusions of the AEC were subsequently unanimously endorsed in the November 1994 JSCEM Report on the 1993 federal election.

***Alleged wrongful issuance of ballot papers***

***Extract from AEC submission No 127 of 19 November 1993***

*Page 39 - Evidence of Dr Sue Flanagan - "The number of votes for the Senate was greater than the number of votes for the House of Representatives. In this current election it was actually greater by some 53,403 votes, which means that one in 200 Australians were disenfranchised for their House of Representatives votes".*

The difference between the numbers of Senate and House of Representatives ballot papers in the count was in fact 53397. The difference can be broken down into a number of components, as follows.

There were 7723 fewer House of Representatives ballot papers than Senate ballot papers placed in ballot boxes at polling places. Part of this difference was due to different numbers of ordinary voters turning out at the separate House of Representatives and Senate polls in the Division of Dickson, but the greater part of the difference arose because larger numbers of House of Representatives ballot papers than Senate ballot papers were removed from the polling place by the elector,

rather than being placed in the ballot box. This pattern is by no means counter-intuitive, as it is easier for the smaller House of Representatives paper to be removed from a polling place unnoticed by the ballot box guard. To the extent that House of Representatives voters in such circumstances could be said to have been disenfranchised, the effect flowed from their own actions.

There were 3068 fewer House of Representatives ballot papers than Senate ballot papers found in declaration envelopes opened for further scrutiny. This again is not counter-intuitive: the smaller House of Representatives ballot paper could well prove easier for the voter to overlook when assembling the declaration vote envelope. In such a case, it is again the actions of the voter which produce the particular outcome in question.

A further 39610 of the difference is due to disallowed House of Representatives ballot papers from declaration envelopes, that is, those declared for the wrong Division but the right State. This can arise when an elector claims an enrolled address, is under the provisions of the *Commonwealth Electoral Act 1918* given a ballot paper for the Division containing that address, and is then found to be enrolled not for that Division but for another Division in the State. In that situation, the House of Representatives ballot paper is rejected and the Senate admitted.

The figures set out above come to a total of 50401. This is less than the figure of 53397, because (a) the number of Senate ballot papers which ought to have been contained in declaration envelopes not rejected outright at preliminary scrutiny exceeded the number of House of Representatives ballot papers which ought to have been contained in declaration envelopes not rejected outright at preliminary scrutiny by 3202, a phenomenon predominantly due to the different numbers of voters at the two elections in the Division of Dickson; and (b) there was a net difference of -206 in the adjustments applied during the counts for the Senate and the House of Representatives, as reported in the official Election Statistics.

*Page 41 - Evidence of Mr Richard Peet - "There are 53,000 people round Australia who in fact were given wrong ballot papers at the last election. I have broken that up division by division and then looked at those numbers of ballot papers as against the actual election result. That research shows that in this last election five seats were won or lost on a margin less than the number of these lost ballot papers ... If we take that a step further in the federal sphere, we have five divisions - Macquarie, Page, Bendigo, Dickson and Bass - which all could have been challenged in the last election".*

The figures set out in the tables lodged with the Committee by Mr Peet, upon which the comments quoted above rely, cannot, for the reasons set out above in relation to the evidence of Dr Flanagan, be taken as indicating wrongful disenfranchisement of electors. The inference which Mr Peet seeks to draw from the figures in relation to five Divisions is for that reason clearly unsupported. Furthermore, in characterising the result in the Division of Dickson as being in doubt, he has overlooked the fact that the difference in figures which he regards as significant clearly flowed from the conduct of separate Senate and House of Representatives polls in Dickson.

*Page 128 - Annexure to Submission Number 89, lodged by Dr Sue Flanagan - comment in relation to the Division of Macquarie: "since the discrepancy is 165 and there were 416 voters who were disenfranchised this is very relevant".*

In fact there were 415 more Senate votes than House of Representatives votes counted in Macquarie, not 416. For the reasons discussed above, this figure cannot be taken as indicating wrongful disenfranchisement of electors.

***Extract from 1994 JSCEM Report***

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 cast meant that 53 397 electors had been disenfranchised, by virtue of the AEC giving them the wrong ballot paper for the House of Representatives

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.

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.

***Shepherdson Criminal Justice Commission Inquiry in Queensland  
Extract from closing submissions of Mr Hanson QC on 12 January 2001***

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

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

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

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

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

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

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

***Dickson Division, 1993 federal election  
Extract from November 1994 JSCEM Report***

4.6.1 Following the death of a candidate after the close of nominations, the House of Representatives election for Dickson in Queensland was deemed to have failed in accordance with section 180 of the Electoral Act. A supplementary election was held on 17 April 1993 and won by the Attorney General, the Hon. Michael Lavarch MP.

4.6.2 A Queensland-based organisation called the Enterprise Council submitted that the result in Dickson was “manufactured”, owing to:

- electors not residing at their enrolled addresses;
- non-existent or deceased electors at caravan parks;
- electors voting in the name of religious non-voters;
- multiple surnames enrolled at individual households;
- a high level of return-to-sender MP mail; and
- a high level of non-voting when compared with the State average.

4.6.3 The Enterprise Council charged that the AEC had acted improperly in seeking to not challenge the Dickson result in the Court of Disputed Returns.

4.6.4 The AEC responded to each allegation as follows:

- the only basis for alleging that electors were not at their enrolled addresses is a list of return-to-sender MP mail, and the Enterprise Council provides no evidence that any of the electors it refers to were not entitled to vote in Dickson;
- evidence put forward by the Enterprise Council does not address its proposition that electors at caravan parks “did not exist”;
- of the three deceased electors referred to by the Enterprise Council, one died after the supplementary election, and no votes were recorded in the names of the other two;
- the Enterprise Council provides no evidence that any religious non-voters had votes cast in their names;
- the evidence put forward by the Enterprise Council relating to multiple surnames enrolled at households is severely flawed, by failure to explain why different surnames in a household should be regarded as indicating fraudulent enrolment, by factual errors, and by basic misunderstandings such as asserting that nine people were enrolled for one house. In fact, all nine had merely listed their enrolled address as Old Gympie Road, Dakabin (in common with many rural areas, there are no street numbers on this road);
- the accusation of a high level of return-to-sender MP mail is based solely on envelopes obtained in a dubious fashion from the office of the Liberal candidate. The envelopes have not been forwarded by the Enterprise Council to the AEC for investigation, despite such a request being made by the AEC nearly a year ago; and
- the lower voter turnout in Dickson compared with the State average reflects a long-standing pattern of a lower turnout for by-elections than for general elections.



4.6.6 Having examined both submissions, the Committee is satisfied that the evidence put forward by the Enterprise Council fails to substantiate its allegations. This view would appear to be shared by the Liberal candidate in Dickson, Dr Bruce Flegg, who has advised the AEC that

the Enterprise Council...in no way speak for me and I in no way support their misguided campaign.

4.6.6 The AEC did not act unreasonably in declining to challenge the Dickson result in the Court of Disputed Returns. The Committee therefore finds the Enterprise Council's accusation of political interference or improper collusion between the Commonwealth Government and the AEC to be unfounded.

***Close of rolls, 1987 federal election  
Extract from AEC submission No.32 of 22 September 1988***

Allegation of roll stacking

In early July 1987 a Senator for New South Wales wrote to the Commission drawing its attention to the number of his letters of introduction to new enrollees which had been returned undelivered from four rural NSW Divisions. He suggested that "the obvious possibility is that some people are unjustifiably on the rolls and could be using their enrolment, either to make second votes in the forthcoming election, or as a method to gain undeserved social security payments". He enclosed a list of the names and addresses of his suspect enrollees which the Commission then checked.

Of the 87 electors named, 16 were found by late July to be no longer enrolled for the addresses indicated on the roll. The Senator was advised that many electors change address between submitting their enrolment claim cards and the return to them of the acknowledgment card indicating their names have been added to the roll for the Division. In addition it was suggested that many electors do not wish to correspond with politicians in general or of a party other than the one they support and therefore return mail that is sent to them to try to prevent the commencement of a regular correspondence.

The Senator replied that whilst he appreciated that many electors may change address rapidly he could not believe that letters of introduction are returned to prevent further correspondence from politicians. The letters from his office bore no indication that they were from a politician and when returned they were unopened and stamped with the official post office stamp of "return to sender" and marked "unclaimed", "unknown at address", "left address" etc.

Following the election, the Secretary of his Party sent the Commission a further 1292 envelopes addressed to electors in one of the four rural NSW Divisions which were returned to sender, and 317 letters similarly returned from a second of the Divisions and requested that the electoral roll be altered accordingly.

The mark-back of the rolls after the election revealed that only 42 of the original 87 electors' names supplied to the Commission by the Senator were recorded as having voted, a fact which the Commission considered to be indicative of the high elector mobility in rural NSW and indeed generally. The Party was also informed, with respect to the 1292 and the 317 envelopes returned, that in the month of October the first Division had deleted 1813 electors as a result of objection action stemming from the preceding roll review and non-voter follow-up while the second Division had deleted 2181 electors. It was apparent that many, if not most, of those electors identified by the Party as being incorrectly enrolled were also identified by the routine processes of the Commission roll review and non-voter action. Nevertheless, further checking has been undertaken by the Divisional Returning Officers of the names supplied by the Party. The high degree of mobility in the rural NSW Divisions, suspected by the Senator and his Party of possibly being the target of extensive fraudulent enrolment, can be seen in the following table, for the 6 months prior to the close of rolls, 15.12.86 to 12.6.87:

Division	Additions	Deletions	Alterations	Total
A	7 394	5 783	6 052	19 229
B	9 500	3 649	6 064	19 213
C	7 673	5 415	4 173	17 261
D	7 146	5 733	5 521	18 400

Whilst it is possible for individuals to build up false identities to pursue non-enrolment fraudulent schemes (for example, for social security benefits) which might deceive the roll review process, and isolated instances are uncovered in prosecutions of such frauds, it is unlikely that large-scale enrolment malpractice, such as roll-stacking, would be attempted. The size of Federal Divisional enrolments, now approaching 70,000 on average, would require a substantial conspiracy to secure a block of bogus votes of a size likely to influence the outcome of an election. Nevertheless, the Commission does regularly receive allegations of roll stacking during election periods and it appears that the possibility is a matter of concern. The Commission is currently investigating relevant electoral records with a view to establishing whether persons convicted of social security fraud have made use of enrolment procedures in their fraud. A sample of cases has been supplied by the Department of Social Security. A report will be forwarded to the Committee when the investigations are complete.

The one occasion when large scale roll-stacking had been alleged and was investigated by the Australian Federal Police followed the 1982 Victorian State election. Four hundred letters of introduction marked "return to sender" to the Divisional Returning Officer for Ballarat were referred for investigation. The Australian Federal Police reported as follows:

"Four hundred individuals as nominated by ... have been investigated and in respect of each it has been found that each person did in fact reside at some time at the address as nominated on the Electoral Roll. It has been found as a result of investigations made that in certain areas in which ... complained that mail had failed to reach the addressee, that confusion exists as to who delivers the mail, and that the fact that many persons simply left their old address and failed to notify the Australian Electoral Officer of change of address were the principal reasons why ... was unable to make contact with those persons. It is further suggested that ... used as a reference at the time that he posted letters to persons in the Ballarat South Electorate an outdated electoral roll and therefore the addresses were not contemporaneous."

No offence was disclosed and no further action was taken in the matter. No amendment to the Act is considered necessary.

### ***AEC submission No 74 of 30 December 1988***

The question was raised at the Joint Standing Committee whether there was any evidence of an exceptional volume of additional enrolments for marginal Divisions prior to the 1987, election. The relevant enrolment transactions (new enrolments and transfers in) by Divisions for the first half of 1987 have been extracted and the Divisions set out in rank (by ALP % of the two-party-preferred vote at the ensuing election) order. It should be remembered that 'new enrolments' will include some inter-State transfers which have failed to provide their previous address, and also some who have been deleted from the rolls only recently. As gross numbers are likely to reflect the overall level of enrolment activity in the Division at all times, the percentages which the close-of-roll rush transactions constitute of the half-year total were then calculated as possibly providing a better indication of any unusual activity in some Divisions in that period.

Categories of Divisions based on their degree of marginality were also created and averages calculated for them. These averages have been extracted from the larger table and are shown first as an overview.

A longer time perspective by Division is provided by the Commission's earlier submission, "Statistics Relating to Roll Maintenance Activities" (October 1988).

If the hypothesis is that very marginal Divisions would be most likely to show exceptional bogus or contrived enrolment activity, New South Wales and Queensland ALP very marginal Divisions have larger average close-of-roll new enrolments than do ALP safe and marginal Divisions in those States, but not so in Victoria whilst in Western Australia the very marginal Divisions are in the middle. On the other hand, in all 4 States the LNP very marginal Divisions have the smallest averages in the 3 categories of LNP Divisions and, with the exception of the small (n 2) category of ALP safe Divisions in Queensland, generally.

Because the number of Divisions in any category is fairly small, sometimes extremely small. One or two Divisions can affect the average significantly For example, in New South Wales Phillip and Eden-Monaro in the ALP very marginal category have conspicuously greater new enrolments than the other 5 Divisions. and in their gross numbers resemble safe or marginal Divisions like Sydney, Grayndler, Wentworth and North Sydney

The other measure suggested, proportion of transactions in the close-of-roll period, shows higher for ALP very marginal Divisions in New South Wales, Victoria and Queensland, but not in Western Australia, nor for LNP very marginal Divisions anywhere.

The evidence, such as it is, appears well short of corroboration that doubtful enrolments were made, for it may merely show that parties work harder in the more marginal Divisions (or some of them) and one outcome of their activity is a higher proportion of valid enrolments. Further, to the extent that potential electors should be regarded as rational actors in the political system. There would be a greater incentive to enrol in very marginal Divisions than there is elsewhere, a tendency which decades of supposedly compulsory enrolment in Australia has caused to be overlooked.

***Divisions of Parkes and Page, 1993 federal election  
Extract from ALP submission No 99 of 18 August 1993***

*Habitation Reviews...*we wish to express our reservations about the method of verification of residence used in habitation reviews. The ALP has a number of reservations about the posting out of verification letters to enrollees and relying on returned answers to verify that the enrollee is still residing at the current residence, or conversely, deleting enrollees if the AEC does not receive verification after two letters have been sent to the address in question.

Our reservations have been prompted by the close scrutiny of two particular ballots in the 1993 Federal election. Each ballot presents a different concern in relation to the conduct of the roll review

In the division of Page, the number of people applying for a provisional vote on the basis that their names did not appear on the certified roll exceeded 1000. Of these, 617 were admitted to the count. Of the in excess of 500 others not included, over 200 were not granted a vote because they had been deleted as a result of the review conducted earlier by the AEC.

Almost all of these people still lived within the electorate, and had done so perhaps for years; but, because of the review process, they had been deleted from the roll and had not re-enrolled prior to the cut-off date. They did not, in many cases we presume, even know their names had been deleted from the roll.

In the sparsely populated division of Parkes, the electoral review process is carried out by mailing out verification letters. This process relies on the integrity of householders to whom the letter is delivered to correctly inform the AEC of the current enrolled occupants.

According to anecdotal evidence, in some cases people previously resident in the division of Parkes but now residing outside the electorate have retained their enrolment in the division of Parkes, and have been able to retain their enrolment in that division for periods accounting for several elections, because their households have returned the verification letter to the AEC stating that they still reside at the address in question in that division.

More disturbing is further anecdotal evidence that some new enrolments in Parkes are of people resident in another division. According to this evidence, these people submitted an absentee vote in the 1993 Federal election. The lack of a personal visit by AEC officials to many addresses, properties and towns enables this activity to continue.

The ALP is seriously concerned about this matter, and recommends most strongly that the AEC should ensure that during the conduct of the electoral roll habitation review, every effort must be made to verify each enrolment through the process of doorknocking each residence by AEC officials.

Further the ALP recommends that the AEC conduct an immediate review of the enrolments for the division of Parkes since the 1991 redistribution, and cross reference those new enrolments against those voters who applied for an Absent vote at the 1993 Federal election. A comprehensive habitation review of these enrolments ought also be instigated....

*Absent Voting in Parkes:* We wish to draw to the attention of the Committee some facts about the Absent voting in the division of Parkes (NSW) in the 1993 Federal election, and to recommend that the Committee further investigate this matter.

In no other division was the disparity between the support for the major party candidates in Absent votes so unlike the support for these candidates in Ordinary votes as was the case in Parkes. According to AEC data, support for each of the ALP and National Party candidates in 1993 was as follows....

We have no evidence to suggest – or to repudiate any suggestions of – any improper activities by the National Party, by Mr Cobb or by his supporters in relation to Absent votes in the division of Parkes. Indeed, in relation to Absent voters, parties and candidates can exercise little influence on that choice of voting method by any individual.

What we do conclude unequivocally is that the voting behaviour of Absent voters in Parkes at this election is markedly, indeed uniquely, unrepresentative of all voters in the electorate.

The overall number of Absent votes in the division of Parkes (6.46%) was relatively high, being exceeded in only 39 of the 147 divisions. But it was not uniquely high. We suggest that it is the composition of Absent voters in the division of Parkes which is the most likely explanation for the disparity in the voting behaviour in the division at this election.

Specifically, we conclude that it is reasonable to ask whether, in Parkes, the Absent voters are genuinely normally resident in the electorate – or whether they are normally resident elsewhere, and ought to be enrolled elsewhere.

While we can confirm that the ALP has undertaken no activity to encourage the enrolment of voters ineligible by virtue of residence to enrol in the division of Parkes, we cannot say whether any other parties might or might not have undertaken any such activities.

We strongly suggest to the Committee that it examine this matter closely, and, if necessary, either conduct a separate inquiry into the matter of Absent voting with special reference to the division of Parkes in 1993, or request a detailed study by the AEC of the residential eligibility of Absent voters with special reference to Parkes at the 1993 Federal election...

***Extract from Antony Green submission No 114 of 14 October 1993***

*Problems with Parkes:* In submission No 99, the Australian Labor Party drew attention to Parkes, and suggest that the level of Absent voting was abnormally anti-Labor. I also had an interest in Parkes, as the figures were raised with me several times on the night. I feel much of the confusion was created by the way the information was displayed on the screens on the night...

The actual final results were Labor 45.5% and National 47.5%, which indicates if the declaration vote was different from 1990, then it favoured Labor. At the bottom of the printout, the estimated National 2PP is 50.9%. This in fact turned out to be 50.5%. This indicates that the National Party in fact did less well than they had with the absent vote previously.

***Extract from AEC Election Operations Audit – Parkes – 14 July 1995***

Generally the division was well managed during the election period. Polling operations, the conduct of preliminary scrutinies and resource management were, on the whole, satisfactory. Although the audit revealed a number of areas requiring attention for future elections, none of the problems identified is considered serious enough to have undermined the outcome for the 1993 election in this Division.

***Extract from Senate Hansard 20 September 1995***

*Senator Baume...* I am not saying that this AEC report did not have any merit in it at all. It did; it resolved a few problems. The key thing is, though, it did not resolve the essential problem of the extent to which there is a potential for electoral fraud. To pretend that that examination has demonstrated the integrity of the roll is just absolute self-evident, patent nonsense.

It may well be that the government is taking notice of such information when it determines that it should not close these loopholes. Maybe it is the bureaucratic advice on which the government is acting which has encouraged it not to close clear, evident, available opportunities for electoral fraud in a system that is clearly open to large-scale abuse. I would hope that this is the situation, that it is simply because the government has perhaps been in for far too long that it relies entirely on bureaucratic advice which may well not necessarily be in the best interests of Australians. It also, however, might be that allowing this potential for electoral fraud suits the government and, as a result, it is quite prepared not to close off these clear loopholes, which certainly should be closed off. ...

*Senator West.* There are conspiracy theories and there are conspiracy theories, and I think today we have just heard the bobby-dazzler of them all. I am someone who sends out welcome-to-the-electorate letters and material. I send them out to conservative seats. I also get returns. So maybe people in the conservative seats also do not want to receive mail from Labor senators. I am quite prepared to believe and support and uphold the work of the AEC. They have a difficult job to do. People setting off hares about conspiracy theories does nothing to maintain the integrity and the value of this system that we have.

If Senator Baume wants to really get into conspiracies of all conspiracies, I suggest that he goes and looks at some of his own seats. You can stand there and play tit for tat, but obviously the discrepancies that Senator Baume sees as conspiracies are apparent, and variations are apparent across all seats.

I would commend to his viewing and his investigation the postal votes from the last federal election for the division of Parkes. They disclosed a very interesting result. The votes on those postal votes were totally against the trend of voting in that electorate and every other part of the election. They were totally against the absentee vote percentages. Lest anybody says it was because the postal votes were done early, let me say it was against the trend and the swings in the pre-poll voting, and, more importantly, it was different from the swings in the mobile booth.

I am not complaining and I am not alleging conspiracies, but I want to point out to Senator Baume that, if he wants to come in here and allege that all sorts of conspiracies are being done by Labor Party people next door to safe Labor seats in transferring votes, I think he ought to go and check his own backyard first, just stop being such a conspiracy theorist and look faithfully and actually at the hard work the AEC does – and he should support it.



***Scrutineers and Computer Technology***  
***Extract from AEC submission No 88 of 12 March 1999***

9.2.1 One of the most important guarantees of transparency and accountability in the delivery of election results is the oversight of all AEC procedures by scrutineers appointed by candidates. Scrutineers are entitled to observe every step of the various scrutinies and counts, and to object if they believe that procedures are in error. Decisions on such objections are taken by senior AEC officials and in the majority of cases are resolved to the satisfaction of scrutineers. Where a scrutineer is dissatisfied, and believes that the result of the election was affected by an adverse decision, then a candidate is entitled to petition the Court of Disputed Returns after the return of the writ for the election.

9.2.2 The practices of scrutineers in obtaining the information they require to inform their candidates on the progress of the count may vary widely, and it is not for the AEC to advise scrutineers on how they should conduct themselves, as long as they do not interfere with or obstruct AEC officials in the performance of their duties. The majority of scrutineers that AEC officials have contact with are highly skilled and experienced individuals, who have a clear idea of what they should observe during the various scrutinies and counts and how they should collect the information they require.....

9.7.2 In the past, the Senate scrutiny could take up to two months in the larger States such as New South Wales. However, with the passage of amendments to the Electoral Act in 1998, the Senate scrutiny is now computerised, allowing the delivery of all Senate results for the 1998 federal election between 23 and 29 October, about three weeks after polling day, which is a significant improvement on the past (see also paragraph 2.1.9)....

9.7.4 The AEC recognises that whilst scrutineers can observe the first preference counts and the preliminary scrutiny of declaration votes for the Senate in exactly the same way as for the House of Representatives, the computerised Senate scrutiny process has changed the traditional physical access that scrutineers have had in the past to the striking of the quota and the allocation of preferences for the Senate: this now occurs 'inside' the computer, and for obvious reasons, it is not possible to provide scrutineers beforehand with copies of the programs used to run the system, although reports on the computerised scrutiny in progress are made available, and assistance in interpretation provided as requested.

9.7.5 However, in the year leading up to the legislative amendments that made the computerised Senate scrutiny possible, the AEC ensured that the major political parties and any other interested parties were fully briefed on the computer program and relevant procedures, with the provision of demonstration runs on dummy ballot papers. The first real test of the computer program was at the proportional representation Constitution Convention election in 1997, where it was considered an outstanding success in delivering early results. The Auditor-General was invited to investigate the computer program to be used for the Senate scrutiny, and before the 1998 federal election cleared the program for application at any federal election.

9.7.6 The computerised Senate scrutiny system inputs and verifies the information on each Senate ballot paper and determines formality, and a large number of PCs were temporarily installed in each State and Territory to accommodate this. When all the ballot paper information had been entered, the system then distributed

preferences resulting in the election of the Senators for each State and Territory. There was a considerable saving in staff and time using this system.

9.7.7 The progress of the Senate count produced some complaints which were mainly based on a misunderstanding of the procedures necessary. Following polling day, a re-check of all Senate ballot papers was required under the Electoral Act and the AEC computerised Senate scrutiny system was used as part of this process. This meant that all Senate counting re-commenced from a 'nil balance' and no advance on the polling night figures was available for some time. This situation is similar to previous elections where even though a manual count was conducted, a recheck of ballot papers meant that the AEC started from a 'nil balance' after polling night.

9.7.8 Procedural modifications will be considered by the AEC to provide more effective access to meaningful Senate results in the weeks following polling day. It should be noted, however, that as a quota cannot be struck until at least the thirteenth day following polling day, when all postal votes are in, figures released before then may not, on their own, necessarily provide meaningful information.

***Extract from part 40 of submission No 176 of 4 May 1999.***

40.2 In relation to the article included in the submission, entitled "Will there be corrupt and dubious practices in the November Referendum?", the AEC notes that this has already been published in the *Australian National Review* (Vol 3 No 9 of March 1999). Dr McGrath raises ten issues relating to electoral and referendum law, policy and procedures, which lead her to conclude that, "The forthcoming November 1999 referendum is even more certain to be swamped by dubious practice by both electors and officials than the 1997 Constitution Convention election." Similar issues are raised in the article entitled "Scrutineering in the Constitutional Convention Election", also included in the submission. Dr McGrath offers as solutions to these purported corrupt and dubious practices: limited vote tracing; a habitation review before the referendum; and prohibiting the enrolment reinstatement of provisional voters.

40.3 The AEC does not propose to address in detail every point raised by Dr McGrath in these articles, as they involve unsubstantiated attacks on the integrity and professionalism of the AEC; some quite outlandish suggestions of an international conspiracy to defraud the electoral system; and raise again many issues that have been dealt with in previous submissions to the JSCEM.

40.4 Suffice it to say here that Dr McGrath's complaints about the conduct of the 1997 Constitution Convention election, and in particular her complaint about her scrutineer being denied access to the Batch Control Room at the Sydney scrutiny centre (a small room where ballot papers were held prior to their allocation to data entry operators), were put before the Commonwealth Ombudsman, who concluded as follows:

I have formed the view that the procedures for scrutiny of the poll for the Constitutional Convention by the AEC were reasonable and that there has not been defective administration. However, if the AEC is to ensure that all proceedings of the scrutiny are "open to the inspection of scrutineers", it should consider revised procedures for preparing bulk batches of ballot papers prior to them being entered into the computer system.

40.5 The 1998 Senate Central Scrutiny in New South Wales was conducted in a much larger and more convenient space than previously, allowing scrutineers entry

into all areas, including storage areas, without obstructing or disrupting the complex physical operations involved in organising a computerised scrutiny of some 4 million ballot papers. At the 1998 federal election, scrutineers appeared to be quite satisfied that they were able to observe all aspects of the scrutiny of the Senate ballot papers.

40.6 With respect to Dr McGrath's solutions to the dubious and corrupt practices she believes are likely to occur at the 1999 Referendum on the Republic: limited vote tracing has been addressed in part 10.3 of submission No 88; habitation reviews are no longer considered by the AEC, the JSCEM or the Government as the most effective means of roll cleansing, as discussed in parts 4.3 and 4.4 of submission No 88; and the AEC has already made recommendations for changes to the preliminary scrutiny of declaration votes and the enrolment reinstatement of provisional voters in part 9.12 of submission No 88 and in submission No 159.

40.7 In the article entitled "Outsourcing the Electoral Roll", included as part of the submission, Dr McGrath expresses her concerns at the way in which the Commonwealth Electoral Roll has been managed in the past, and is being managed now, on various computer mainframes. Dr McGrath may not be aware of the Government's commitment to outsourcing information technology across federal departments and agencies, and the contracting processes involved in the Cluster 3 arrangements that include the AEC, but if the JSCEM thinks it necessary, perhaps the Minister for Finance and Administration would be a more appropriate person to respond to these issues than the AEC. In this article, Dr McGrath also raises again the case of Mr Timothy Cooper, which was addressed by the AEC in submission No 128 of 24 January 1997 to the previous JSCEM (Attachment 20).

***Division of Gilmore, 1993 federal election  
Extract from AEC submission No 91 of 2 August 1993***

14.4 Return to Sender MP Mail

14.4.1 This investigation centred on mail sent to electors in a marginal Division which was returned unclaimed. Details were provided to the AEC by a political party. The AEC has been conducting a thorough examination of this data as a case study of the nature of elector mail returned unclaimed to political parties, candidates and Members. Information provided by the party has been compared to the consolidated list of voters for the Division. Where the returned unclaimed mail was addressed to an elector at the address for which he/she appeared on the certified list for the election, the type of vote, place of voting and any subsequent re-enrolment by the elector is being examined. Samples of those electors who cast an ordinary vote, and all those electors who cast a declaration vote at a polling place outside this Division and have not subsequently re-enrolled elsewhere are being followed up by personal visit. While the study is not yet complete, a number of significant findings have emerged at this stage.

14.4.2 The first stage of the AEC's investigation strongly indicated that the mailing was not derived from the close of roll data provided by the AEC. For example, of the 1,410 individual names that could be identified from the 1,035 generically addressed mail items (eg Mr & Mrs Jones, The Smith Family) which were "returned unclaimed", 346 (25%) were names that were not on the roll for the Division concerned as at the close of rolls for the election. Later discussions with the party concerned have confirmed that end December 1992 enrolment data - data that was six weeks out-of-date - was used as the basis for the mailing. Given that the turnover rate of electors averages nationally around 20%, it would not be unusual for some 1,600 mail items to be returned unclaimed in an average Division if six week old enrolment data were used. The number actually returned - 1,035 - was significantly fewer than what would be expected with the normal turn-over of electors in the average Division.

14.4.3 Upon further investigation of those names (1,058) listed on the electoral roll for the particular Division, it was found that 224 (21%) did not vote at the election. This was much higher than the 3% non-voter rate for the Division as a whole and would indicate that these people were no longer living in the Division. They certainly played no part in the election. A further 17 had been noted prior to polling day as requiring deletion from the electoral roll, generally because of death after the close of the roll. No vote was recorded for any of these names.

14.4.4 The remaining 817 electors voted in the election. Of these 608 cast an ordinary vote, of which 90% were cast in the same town, or a nearby town, as that for which the electors were enrolled. Given the rural nature of this particular Division, that would tend to indicate that those electors were still living at, or nearby, the address for which they appeared on the electoral roll. Investigations have shown that of those 608 ordinary voters, 74 re-enrolled in the period February to May 1993 for another address within the same Division.

14.4.5 The remaining 209 of the "unclaimed" electors voted by declaration - 124 absent, 36 postal, 47 pre-poll and 2 provisional. For all except the absent voters, this represents a similar percentage to that experienced in the Division as a whole. The proportion voting absent is significantly higher than for the Division as a whole - 12% as against 5%. Amongst these absent voters from whose addresses mail was

returned unclaimed, was a significant proportion (25%) who had re-enrolled in the period between close of roll and end-May 1993. This was to be expected: included in this figure are electors who had moved to an address outside the Division either prior to the close of roll and were not yet entitled to re-enrol for their new address or had neglected to re-enrol, or had moved after the close of roll. In the AEC's experience, numbers of electors wait until polling day to advise of their changed address.

14.4.6 Additionally, the AEC believes, and officers of the party concerned have agreed, that a significant, but as yet unquantifiable proportion of electors will mark for return unsolicited mail received - often in the hope that this action will prevent further unsolicited mail from the same source.

14.4.7 Two points have become strongly evident from this study. Firstly, it has uncovered no evidence of fraudulent enrolment: the evidence examined has tended to reinforce the view that the enrolment system is operating as intended. Secondly, those electors from whom mail had been returned unclaimed had been enrolled for at least two months prior to the announcement of the election and generally have been longer term residents in this Division, that is they were not a close of rolls influx.

14.4.8 The AEC has in the past emphasised to political parties, Members and Senators the need to use only the most up-to-date enrolment information when mailing electors, due to the significant levels of on-going elector movement. To do otherwise unfortunately gives rise to unfounded allegations of gross inaccuracies or fraud in the rolls used at elections.

#### ***Extract from November 1994 JSCEM Report***

##### **Return to Sender MP Mail**

4.8.8 Submissions from several individuals and MPs expressed concern about apparently high rates of return-to-sender MP mail, suggesting that such mail indicates a high level of incorrect names or addresses on the electoral rolls. These claims are refuted by the AEC, which advised the Inquiry that it investigates names and addresses on return-to-sender mail forwarded to it.

4.8.9 One recent investigation in a marginal Division produced no evidence of fraudulent enrolment; indeed, "the evidence examined has tended to reinforce the view that the enrolment system is operating as intended" (Evidence (AEC) ppS0457-469 and ppS0814-815). In the study in question, late-December 1992 roll data was being used for a March 1993 mail-out. The AEC has emphasised the importance of Members and Senators using only the most current enrolment information for mail-outs; failure to do so can give rise to unfounded allegations of inaccuracies in the rolls.

4.8.10 Those organisations who believe that mail returned unclaimed to them indicates inaccuracies in the rolls always have the option of instituting objection action against the electors in question, as provided for in subsection 114(1) of the Electoral Act. As the AEC points out, there has been a dearth of such private objection action. (Evidence pS0815)

**Letter from Electoral Commissioner to all Senators and Members on 25 March 1995**

TO ALL SENATORS AND MEMBERS

RETURN TO SENDER MAIL ARISING FROM POSTINGS USING ELECTORAL ROLL DATA

INFORMATION FOR MEMBERS AND SENATORS

As you are aware, the Australian Electoral Commission (AEC) provides the offices of Members and Senators with monthly updates to the electoral roll on floppy disc. These updates include new electoral enrolments, amendments and transfers of enrolments. Over the last 2 years the volume of Members and Senators mail returned to sender by Australia Post (RTS mail) and subsequently forwarded to the AEC for investigation has increased.

To assist members and Senators, the AEC is providing the following information on the procedures which will shortly be adopted by AEC Divisional staff to investigate returned mail.

1. On receipt of RTS-Mail, Members are requested to forward the returned mail envelopes to the relevant AEC Divisional Office or, in the case of mail returned to Senators, to AEC State Head Offices.

2. AEC Staff will check the enrolment details of addressees against the electoral roll provided that:

-the addressee's name (including given names) and address is shown in sufficient detail to allow a positive match with an entry on the electoral roll; and

-the returned envelope is marked with an official Australia Australia Post "Return to Sender" stamp or with other clear information indicating that the addressee may have left their enrolled address.

3. In carrying out checks against the roll, AEC staff will terminate enquiries if they have prior information indicating that electors are correctly enrolled e.g. electors are temporarily overseas or enrolled for addresses where there are known mail delivery problems, including delays in the collection of mail from posse restante delivery addresses or where an incorrect postal address was used. In these cases the envelopes will be endorsed with the reason for the termination of investigations and set aside for return to the Senator or Member.

4. In those instances where preliminary checks indicate that an elector may have left their enrolled address, the AEC will make further enquiries by phone call to the elector's residence (particularly in remote areas) or by the posting of an enquiry letter, an example of which is at Attachment A.

5. Further action by AEC staff will depend on the nature of replies received from electors and on the endorsements noted on any returned, unopened enquiry letter envelopes. In cases where the responses to the enquiry letters indicate that electors have permanently left their enrolled address (including no reply or returned unclaimed), official objection action under Part 9 of the *Commonwealth Electoral Act 1918* will be commenced.

6. Upon completion of all investigations for a batch of RTS mail, Members and Senators will be provided with information regarding the results of AEC enquiries. In cases where investigations take the form of an official enquiry letter, the AEC will retain the original RTS mail as evidence in support of ongoing enrolment action, and a summary listing the names of electors and the results of investigations will be provided (see Attachment B). RTS mail envelopes which were not subject to further investigation, i.e. an enquiry letter was not sent, will be returned with the summary listing.

In investigating reasons for the return of mail addressed to electors it is important to be aware that no matter how efficient and effective enrolment processes may be, there will always be electors whose enrolment details are not correct at a given moment and that this will result in a proportion of mailings being returned.

The basic reasons for this are twofold. First, on average around 15% of the Australian electorate changes address each year. This means that in a typical federal division with an enrolment of 78,000, almost 12,000 electors will change address each year, or about 1,000 per month.

Second, persons are obliged under the *Commonwealth Electoral Act 1918* to advise the AEC of a change of address when they have lived at a new address for one month (or 21 days if within the same division). They are not permitted to do so earlier. In practice, a fair proportion of people do not provide new enrolment addresses immediately after the relevant period has expired. Periodic electoral roll reviews address this problem to a limited extent and election roll closes also prompt a lot of people to update their enrolments.

Taking these two factors together it is clear that, on average, in excess of 1000 addresses in any list of electors for a division will be out of date at any given time. The enrolment records cannot be more accurate than this and Members and Senators should expect some mail to be returned. Rates of population movement may vary considerably between divisions, so the above numbers are only indicative of average levels of RTS mail. As well, the above figures apply only to mailings using up-to-date information. It is essential that the most recently available enrolment details (including postal address) are used for mailings and that printing arrangements do not unnecessarily delay posting. In order to minimise the volume of returned mail, Senators and Members are urged to mail correspondence within one week of receipt of the updated monthly enrolment data.

Further RTS mail problems may inadvertently arise from the reformatting of AEC roll data by Members' and Senators' offices to produce mailing lists with abbreviated given names and gender specific titles which are not provided by the AEC on their base data. The AEC cannot always investigate RTS mail where envelopes are, for example, addressed to a whole family or where individual electors cannot be clearly identified at the claimed address on the electoral roll.

Please contact the Australian Electoral Commission, Enrolment Section - Client Services Unit on 06-2714464 if you have any queries regarding the processing of address data supplied as part of the AEC's monthly update of enrolment information for Members and Senators. Further information regarding the handling and investigation of RTS Mail can be provided by AEC Head Offices in each State capital and Darwin or by individual Divisional Offices of the AEC.

**Extract from 20 September 1995 Senate Hansard pp 1133 to 1135**

*Senator Michael Baume* (New South Wales) (5.41 p.m) - My concern about the Electoral and Referendum Amendment Bill is that it fails to address many electoral issues that the coalition members of the Joint Standing Committee on Electoral Matters recommended in their dissenting report on the 1993 election. There is no doubt there is still the capacity for electoral fraud. The government appears to be totally lacking in concern about that. I suppose one can impute motives, if one wishes to, and say a lack of enthusiasm about fixing up a situation where there is potential for fraud might well indicate that one may believe one benefits from that potential. The fact is the government has completely ignored the issue of electoral fraud and the system is wide open to abuse.

2. The big question is: to what extent have we been able to establish that that abuse exists? I was angry after the 1993 election about a lot of things but one of the things I was particularly angry about was that I had direct mailed the electorate of Gilmore and a very large number of those envelopes were returned—'not known at this address', 'left address' and a whole lot of other things. I referred all these to the Electoral Commissioner.

3. There had been a general view in the past that this was all a great waste of time and that the Electoral Commissioner did not think resources should be employed to examine them. I must say I am glad the Electoral Commissioner did in this case examine the returned envelopes. All I have to remark though, is that I thought the report by the AEC on the investigation of mail returned was precious, illogical, nonsensical and self-serving. Apart from that, it was terrific.

4. The mail-out I did was based on a return that came in on 7 February or so in 1993. In other words, the final electoral roll for the mid-March election was not made available until 22 February. In other words, the ones I sent out did not include what may well have been a last minute flood of people wanting to get onto the rolls for a whole range of reasons, some of them may well have been fraudulent. The fact is that the end January enrolment list I had probably did not cover those who may have been fraudulently seeking to change their address from a safe Labor seat, which happened to adjoin Gilmore, into this marginal seat.

5. This is one of my problems. There has clearly, to my mind, been evidence of people moving their addresses from a safe Labor seat into a marginal seat for the purpose of influencing the result in a marginal seat. As I said, the list I had did not include such last minute attempts to do so, but there may have been other people in my list who had done that for that deceptive purpose. What intrigued me was that the investigation by the Electoral Commission concentrated on the fact that, because I had used the end January list rather than the 22 February list, the list somehow massively diminished the merit of my complaining that there had been a lot of people voting who had not received mail because they were not known at that address, yet they voted in that election.

6. Yes, I had sent them 1,400 names. In fact, after the commission deducted people who died and people who had subsequently changed between the two lists the commission still ended up with 1,058 names on the roll, mail to whom had been returned to my office-1,058 voters in one electorate could be very significant, indeed. I have an analysis here that the commission kindly did showing what that situation really represented.



7. Of the 1,058, 224 did not vote at the election. As the AEC says, these are the ones most likely to be no longer living in the division of Gilmore. It sensibly concludes:

These electors played no part in the result of the election.

8. They only represented 20 per cent of the returned envelopes. Eighty per cent of the people who did not collect their mail did in fact vote. Were they at those addresses or weren't they? I do not know. The AEC did not tell us. The AEC said:

The remaining 817 electors voted for Gilmore in this election. Of these, 608 cast an ordinary vote: 93% of these ordinary votes were cast in the same town as that for which the elector was enrolled, or in a nearby town.

9. The illogical conclusion that the AEC then drew was:

Given the rural nature of this Division—

it happens to be right next door to Wollongong and has the town of Kiama in it, which is basically now a dormitory suburb of Wollongong—

this would tend to indicate that these electors were still living at, or near, the address for which they appeared on the certified list for this election.

10. Bunkum! It may well also mean that people had travelled there from the nearby safe Labor seat of Throsby or Cunningham to vote at their phoney address where they are not known and if you send them mail it is returned. What an extraordinary conclusion unless there is further work done by the AEC of which there is no evidence here, that it had pursued these matters. It goes on:

Investigations have also shown that of these ordinary voters, 78 re-enrolled for another address in the February-May 1993 period—all but four of these re-enrolled within Gilmore.

11. There is no doubt that of the 608 who cast an ordinary vote, about 11 or 12 percent remained within Gilmore and re-enrolled shortly after the election. The remaining 209 of these voters did not vote by ordinary means; they voted by declaration. In other words, 124 cast an absent vote, 36 cast a postal vote, 47 cast a pre-poll vote and 2 cast a provisional vote.

12. The absent vote figure there is about 2 ½ times the proportion of absent voting for the division as a whole. Surely that kind of high absentee vote should sound some kind of alarm bell because it clearly indicates that those people may well not have been at those addresses. It is certainly a much higher proportion than for other people within the electorate.

13. Once again, the real probability exists that people who did not live in the electorate— mail to whom was sent back to me 'return to sender'—were able to vote in Gilmore and influence the result in a marginal seat. An examination by the AEC of the post office markings shows that, of all the envelopes that came back, something like 579, or 70 per cent, were returned 'left address'. Of those, 70 per cent of the addressees were recorded as having voted by ordinary vote while the remainder had voted by declaration.

14. The AEC says that very few envelopes were returned stating that the elector was not known in the area—eight of which electors cast declaration votes and 55 ordinary votes. It intrigues me how someone can be 'not known at this address' but known well enough to be on the electoral roll and turn up to vote. Of course, there are other reasons for people returning their envelopes.

15. If you have a post office box you may not want to get what appears to be junk mail. I must say that is an appalling description of a letter from me recommending how you should vote. If it is to be described as junk mail, it is very high quality junk mail. Of the 62 mailings unclaimed from the post office, it is possible that they could have been returned for that reason. Of them, 52 were marked 'return to sender' rather than 'unknown at this address'.

16. That may have been the result of people not wanting to accept that kind of mailing. I do not know. All I do know is that there was a very large number of people who voted but who do not appear to have been at their recorded address and from whom mail was returned. The conclusion drawn by the AEC is interesting. It says:

Two points have become strongly evident from this study. Examination of the list of names from whom the party mailing was returned unclaimed in the election period has uncovered no evidence of organised fraudulent enrolment or voting:

17. That simply does not follow from anything that the AEC said. It goes on:

the evidence examined has tended to reinforce a finding that the system is operating with integrity.

18. That is simply not so. For example, it does not deal with the question of multiple enrolments at one address, because I had not raised that matter. There is a fair prospect of multiple enrolments, particularly if people who really live outside the electorate have one address. It does not deal with the question of vacant allotments. I do not know if the AEC followed up to see whether these addresses were vacant allotments. All I know is that people whose mail was returned still voted in considerable numbers.

19. Something else that interested me in the AEC report is where it says that the volume of mail returned unclaimed was less than the number of persons likely to have changed address since the compilation of the end-December 1982 roll data which was apparently used for this bulk mailing. Naturally it would be, because most of the people who change address leave change of address notices with the post office. That is a most nonsensical comment from the AEC.

20. It is acceptable, normal procedure that you have a forwarding address for a while. The post office does that for a while. We are talking about changes of address in the last month or so. I cannot understand how the AEC could rationally have come to the conclusions they have come to in this report.

21. The report notes that it was not a close of roll influx. They sure weren't because I had used the earlier roll. It might be interesting next election to keep the overall mailing until the last minute when we get the latest enrolment list. What particularly annoys me about this inadequate AEC examination is this recommendation:

In future, the AEC not consider any undertaking to conduct investigations of this nature until both the original envelopes (or photocopies thereof) and a computer record of addressees from whom mail has been returned unclaimed have been provided.

22. As I understand it, I provided all that. It goes on:

The source of this computer record (extract form mailing data base, re-keyed list of names/addresses of mail resumed unclaimed, etc) should be provided.

23. That conclusion is a pretty smart Alec way of saying that because I used the end-January list it was massively incorrect and therefore it wasted its time. The fact remains that 1,058 letters were resumed, leaving a tiny fraction of the database inactive.

24. Clearly, the AEC could not adequately demonstrate in this examination that there was no fraud, that people were not living in the electorate and were transferring their vote from where they did live in a safe Labor seat into this marginal area. One good idea was the recommendation:

On the announcement of a general election or by-election, the AEC immediately advise all parties of the date on which close of roll data is likely to be available, and indicate the "lower return unclaimed" rate likely if the last roll data provided to relevant members/parties is used for election mailings.

25. Has the AEC ever heard of a forwarding address, According to this report it has not. It assumes that because people have changed their addresses letters will not be sent on to them. Because I do send out such mail, it would be handy for me to know when I should time my mail-out. It then says:

When updating an electors enrolment, particularly where the elector moves to a new suburb, town or city, if no change has been advised to the old postal address the elector be asked to confirm that the old postal address should be retained, or to advise a new postal address.

26. I am not saying that this AEC report did not have any merit in it at all. It did, it resolved a few problems. The key thing is, though, that it did not resolve the essential problem of the extent to which there is a potential for electoral fraud. To pretend that that examination has demonstrated the integrity of the roll is just absolute self-evident, patent nonsense.

27. It may well be that the government is taking notice of such information when it determines that it should not close these loopholes. Maybe it is the bureaucratic advice on which the government is acting which has encouraged it not to close clear, evident, available opportunities for electoral fraud in a system that is clearly open to large-scale abuse. I would hope that that is the situation, that it is simply because the government has perhaps been in for far too long that it relies entirely on bureaucratic advice which may well not necessarily be what is in the best interests of Australians. It also, however, might be that allowing this potential for electoral fraud suits the government and, as a result, it is quite prepared not to close off these clear loopholes, which certainly should be closed off. I commend the amendments that the coalition is proposing to the government's legislation.

**Extract from 24 November 1995 FPA Committee Hansard pp 153 to 155**

*Senator Michael Baume* – I complained to the commission about the large volume of returned mail I got and the commission did a study of it. This is for the Gilmore electorate. I had sent out a complete mail cover.

*Senator Robert Ray* – Do you want to table that?

*Senator Michael Baume* – I have already presented the envelopes to AEC and they did a study. You kind of did a study, though I must say that the conclusions of that study – and I do not know whether they spring to mind at the moment – seem to be extraordinary. I dealt with them in the Senate on 20 September this year. Are you aware of that speech in which I outlined some of the problems I had with the results of the AEC study?

*Mr Gray* – Senator, we are aware of your speech in the Senate and we are aware of your views and the comments that you made.

*Senator Michael Baume* – Dealing then with the actual number of 1, 058 people, rather than the 1,400 because I totally accept your explanation about the 400 odd whose names were on the roll but whose mail was returned to my office: Gilmore was a very closely fought electorate and is still a marginal seat. That is why I am keen to establish that the rolls will be as clean as possible at the next election. Eighty per cent of the people who did not collect their mail, according to your survey, did vote. What concerns me is that one still cannot draw a reasonable conclusion from your survey that they did or did not live at those addresses. I notice in your survey you said that of the remaining 817 – that is, given the 224 who did not vote – 608 cast an ordinary vote. You draw the conclusion that, given the rural nature of this division, this would tend to indicate that these electors were still living at or near the address for which they appeared on the certified list for the election. I responded that, as much of the electorate is now a set of dormitory suburbs of Wollongong, it would be very easy for people living in the nearby safe Labor seat to temporarily or in some way transfer their enrolment from Cunningham. What response do you have to those concerns I expressed.

*Dr Bell* – The report to which you referred was provided to the Joint Standing Committee on Electoral Matters about two years ago as part of a broader submission on the 1993 election and as one of a number of reports relating to investigations of possible fraud or unnecessary voter movements. We heard very little about it after that until your speech in September, in light of which we have reviewed what had happened following completion of that report. We have since arranged to follow up of a number of matters which I think have not been pursued after the matter had gone quiet. The issue had been dealt with by the JSC and there did not appear to be a need to do anything more.

The things we can do now, and are doing, include looking at what happened as a result of the subsequent general habitation review and what has emerged through the RMANs system in the intervening two years to see what has happened to the enrolments of the people who did vote, although their mail was returned.

It might be worth remembering that the amount of mail returned was, if anything, surprisingly small. Gilmore in that period had a higher than average rate of movement. About 30 per cent of people changed enrolments in some way in the previous 12 months. It is 20, 000 people or about 1700 a month. As you know, you

must have moved for about a month before you can change. People then have another month to do it. Independent studies with Australia Post elsewhere show that perhaps one quarter, one-third or sometimes one-half of the people will not change their enrolment within three months or thereabouts, but a large proportion do not notify change until we knock on their door or there is an election.

There is nothing suspicious in the number returned, given the date of the list which, I think, coincides with what you were indicating earlier. But we are going back to look at what we can get out of the RMANs system as to the changes of those people's enrolments after this survey took place and after the election.

One reason we were hesitant to go ahead with that is it is a very big workload. This part of the study cost nearly \$13, 000 and it will be quite costly – I do not have a figure – to do the further work required. We hope that we can get some more details. We will be happy to provide them.

*Chair* - I assume you would acknowledge that some people would send their mail back just because it had your name on the envelope, the same as some do with mine.

*Senator Michael Baume* - Absolutely. I acknowledged that in the speech. The AEC has kindly broken it down into those that had 'Return to sender', those that had 'Not known in the area' and those that had 'Left address'. The survey was so thorough—and I thank the AEC: for that—that it broke that down to avoid that problem. My concerns related to the 'Left address' – 579 or 70 per cent were returned with that 'Left address' mark on the envelope, not the 'Return to sender'.

*Chair* - If you want to get off somebody's mailing list that is the best thing to write on it.

*Senator Michael Baume* - Anyway, 52 were marked 'Return to sender' rather than 'Unknown at this address'. That coped with that problem. What concerns me was that the absent vote figure that emerged from your study was 2 ½ times the proportion of absent voting for the division as a whole. Is that the normal situation that exists when you have your examinations of 'Return to sender' or 'Left address' mail-outs? I presume you have done other studies in other electorates.

*Dr Bell* – This was the first such study, and it was an unusual opportunity because the mailout coincided with the election. We could then look at the mark-offs on the certified lists and use our computers to get the information out. It is interesting that over half of the 608 people voted in the town where they were enrolled. I think a lot of people might well put a low priority on saying 'I have moved address within town'. They can still vote for the same member, the same senator and so on.

*Senator Michael Baume* - The point I made was that if you live in Berkeley it is, at the most, a 10 minute drive or a five minute drive to vote in Kiarna, from a safe Labor seat to a marginal Liberal one.

*Dr Bell* – I suppose, to put it another way around, there is no evidence they voted a long way from where they were enrolled. The great preponderance voted near where they were enrolled.

*Senator Michael Baume* – I am just making the point that it diminishes the significance of the 'rural nature' that was claimed.

*Dr Bell* – We are now looking back at those, in light of your recent speech, to see what we can find from the system.

*Senator Michael Baume* – I am very grateful for that. Will you be letting me know what your findings are, or is that in-house?

*Dr Bell* – I would expect that we would. I cannot imagine why we would not.

*Senator Robert Ray* – Senator, why not ask the commission to formally respond to your speech. That gives it formal status, and they can then write to you.

*Senator Michael Baume* – I will fit in with whatever suits the commission, whatever is the most convenient.

*Senator Robert Ray* – If you do that, they have a reason to write to you. They are not going to write to you just because you gave a speech.

*Senator Michael Baume* – In that case, I formally ask if you would be kind enough to reply to me.

*Mr Gray* – We formally agree to reply to you, senator.

*Senator Michael Baume* – There is only one last concern I do have. That was the conclusion that this was a waste of money. I was not terribly attracted to that conclusion. It said ‘We spent x amount doing this. We don’t think we should do this sort of thing in the future.’ Is that an unfair summary of the conclusion?

*Dr Bell* – From our perspective, it is. It was not what we intended. We are conscious in this (*not clear*) sort of thing that your result is as good as the information you can get. We had at about the same time a very large complaint from another organisation which refused to provide us with any of the envelopes. When they did provide us with typed lists, they were in different formats. There were major problems with them. The point we are trying to make here is that (*not clear*) you need access to the actual materials to do a good job.

*Senator Michael Baume* – Would it be of use to you- to assist you in your inquiries not for any political purpose – if I handed you a direct mail for Gilmore immediately before the next election and provided you with the same material, so that you could follow it up? I’m certain Senator Ray would find that to be a sensible course.

*Dr Bell* – We are intending to indicate to candidates that if they are proposing to mail out just before the election, then the final close of rolls lists would be by far the best for that (*not clear*) because the mere closing of rolls brings in a lot of transactions that otherwise would be (*not clear*) tardy.

*Senator Michael Baume* – I understand that

*Dr Bell* – Certainly it would make this sort of study much more finely tuned

*Senator Michael Baume* – Thank you. That will add to my enthusiasm to a direct mail (*not clear*) into Gilmore.

## **Letter from Electoral Commissioner to Senator Baume on 24 June 1996**

I am writing in response to your request in the Senate Estimates (Legislation) hearings, held on 24 November 1995, to the Australian Electoral Commission (AEC) to respond to a speech you made in the Senate on 20 September 1995 (Hansard p1133 -1136). In this speech you queried a number of the findings made by the AEC following its investigation into electors in the division of Gilmore who returned mail unclaimed to the Liberal Party electorate office.

### **Background**

In April 1993, following the 1993 federal election, Mr Barry O'Farrell, State Director of the Liberal Party of Australia, New South Wales Division, contacted the AEC in Canberra and sought an investigation into the large volume of mail returned by electors to the Liberal Party electorate office in the division of Gilmore.

Following the request, the AEC undertook an investigation into the return-to-sender (RTS) mail. A preliminary report was prepared and on 30 July 1993 a meeting was held to discuss the findings between a representative of the Liberal Party of Australia, Mr Colin Curnow and officers of the AEC: Mr Brian Nugent, the Australian Electoral Officer (AEO) for New South Wales and Mr Allan Wall, Internal Audit, Central Office.

The AEC investigation found that:

- the mailing list used by the Liberal Party to send campaign material to electors in February 1993 was derived from the AEC enrolment update sent monthly to all parliamentarians. In this case the December electoral roll update sent on 19 January 1993 was used to compile the mailing list;
- enrolment activity that took place during the month of January and up until 15 February (a six week period) was not taken into account when the mailing list was constructed. The AEC noted in its report that considerable electoral activity can occur in a six week period, and especially between the issue of the writ and the close of rolls. The AEC emphasised that the name and address details contained in the most recent updates were the most accurate available on electors and therefore should be the main source of information used by a candidate if writing to constituents;
- an examination of the RTS mail items found errors on the envelopes including misspelt names and initials, misspelt addresses, names that could not be identified as belonging to electors having enrolled for Gilmore and addresses of electors residing outside the Gilmore electorate;
- there were 1410 individuals that could be identified from 1035 generically addressed mail items. 1058 were listed on the electoral roll; and
- of the 1058, 224 electors did not vote at the election, 17 people were deleted from the roll because of death and 817 had voted at the election. 608 of these had cast an ordinary vote and 209 electors had voted by declaration.

The AEC had concluded that taking into account the use of outdated enrolment data, elector movements, voting patterns of RTS electors and the inaccuracies in the mail-out list, there was no evidence that the volume of mail returned was unusual or in itself an indication that any impropriety such as enrolment fraud had occurred.

The report prepared by the AEC is at Attachment A.

The AEC submitted a paper on the allegations of fraud to the Joint Standing Committee on Electoral Matters (JSCEM) for its Inquiry into the conduct of the 1993 federal election. The JSCEM considered this issue in its report and found no evidence of fraudulent enrolment. The Committee did however comment on the need for political parties and candidates to take due care to use only the most up-to-date electoral information if they wished to send mail to their constituents.

The matter had not been pursued by Mr O'Farrell following receipt of the AEC report. After the tabling of the JSCEM report, the AEC assumed the matter had been satisfactorily resolved.

#### 20 September 1995 speech in the Senate

The report on the RTS mail items formed the basis of your speech in the Senate on 20 September 1995, almost two and half years after the initial request by Mr O'Farrell to undertake the investigation. In this speech you raised concerns that, while the 817 RTS electors voted in the election, you held reservations as to whether they were *bona fide* electors living at addresses within the division of Gilmore.

In response to your request to reply to this speech, the AEC conducted a further examination of the 817 electors to establish whether they were residents of Gilmore and how long they had resided in the Division. The findings and a detailed response to your speech are provided at Attachment B.

The examination by the AEC was based on inspection of the Electoral Roll Review (ERR) which commenced on 1 May 1992. The AEC investigated how many of the 817 RTS electors were enrolled in the division of Gilmore before the commencement of the 1992 ERR. 543 of the 817 RTS electors were already enrolled in the Gilmore electorate on 1 May 1992. The remaining 274 electors enrolled in the division of Gilmore after this date at the addresses used by the Liberal Party in its mail-out.

The AEC sought to find out if the 274 RTS electors were still living in the Gilmore electorate at the time of the 1994 ERR: 170 RTS electors were still enrolled for Gilmore; and 1 RTS elector had died. Of the remaining 103, 62 were found to have moved away from the division of Gilmore (16 of these people moved into the adjoining divisions of Macarthur, Cunningham and Eden-Monaro) and 41 had been deleted from the roll by objection in December 1994. The grounds for objection were that the electors no longer resided at their enrolled addresses.

Of the 41 electors deleted from the roll, 5 had re-enrolled at the close of roll on 5 February 1996 for the 1996 federal election - 3 of these in Gilmore. Another 11 have since re-enrolled (as at 3 May 1996) - 6 of these in Gilmore. The remaining 25 appear not to have re-enrolled. The AEC is unable to make any further comment on the activity of these electors.

An additional matter raised in the your speech was the "last minute flood of people wanting to get on the rolls for a whole range of reasons, some of them may well have been fraudulent." It was claimed that these people may be fraudulently seeking to change their address from a safe Labor seat to the marginal seat of Gilmore (Hansard, p 1133, paragraph 4 & 5). The reference to the "last minute flood of people" relates to people who enrolled during the period 1 January 1993 to 15 February 1993 (the close of rolls for the 1993 March federal election).



A physical investigation by the AEC of all electors enrolling between 1 January and 15 February 1993 was beyond the scope of the initial inquiry and the AEC regards this matter as a separate issue to the investigation into the 817 RTS electors. To undertake an additional investigation into this group of people, the AEC would need to dedicate extra human resources and time to the task, particularly so given the time now elapsed. In the current climate, AEC resources are tightly allocated and will continue to be so for some time in the future. As such the AEC is unable to now institute a new investigation into this matter.

#### Conclusion

I would like to stress that the AEC acknowledges your concern for the potential for enrolment fraud and takes very seriously any allegations of enrolment fraud. At all times the AEC seeks to work within the current law to maintain the highest standards in regard to the scrutiny and the maintenance of up-to-date electoral rolls. A high priority is placed on using the most effective tools to ensure all levels of government have a continuous, accurate roll, and the public, including political candidates, have confidence in the system.

The integrity of the electoral roll is an ongoing concern for the AEC. Currently the AEC is considering other approaches to maintaining an electoral roll. As commented to you in the Senate Estimates hearing, the Australian Joint Roll Council (AJRC) has initiated a major study to investigate alternative electoral roll review methodologies. It is the intention of the AEC to consider the current electoral roll system in light of the study findings and to make any appropriate recommendations to the Government and the Parliament.

Yours sincerely

Bill Gray  
24 June 1996

REPORT ON INVESTIGATION OF  
MAIL RETURNED UNCLAIMED FROM PRE-ELECTION MAILING  
DIVISION OF GILMORE, MARCH 1993 ELECTION

1 A concern that has been regularly raised by political parties, members, Senators and candidates is the level of mail returned unclaimed from mailings to electors. Significant levels of returned mail from mailings, if generated from the most recent AEC-provided enrolment data, is rightly of concern. Alleged levels of mail returned unclaimed from mailings to electors prior to the election have also been subject to some public comment as indicative of gross inaccuracies in the roll used for the election or of possible attempts to place significant numbers of fraudulently enrolled persons on the roll for particular target Divisions.

2 Following discussions with Commission officers, on 17 May 1993 the AEC was provided with computer records and hard copy information on mail that had been returned unclaimed from a pre-election bulk mailing carried out by a political party in the Division of Gilmore. The Commission has conducted a thorough examination of this data as a case study of the nature of mail returned, unclaimed to political parties, candidates and members.

3 Cost of this investigation has been in excess of \$5000 in direct wages and salaries costs, with estimated all-up costs of around \$12700.

KEY FINDINGS

RELATIONSHIP OF MAIL RETURNED INFORMATION TO CLOSE OF ROLLS  
DATA SUPPLIED BY THE AEC

4 Audit examination has shown that close of rolls data provided by the AEC was definitely not the basis for the mailing list used for these pre-election mailings by this political party in the Division of Gilmore. Of the 1410 individual names that could be identified from the 1035 mail items noted as "returned unclaimed" in the data provided on disk to the AEC, 346 (25%) did not appear on the certified list for Gilmore for the 1993 election. A further 6 appeared twice on the disk.

5 It appears that six-week old end-December enrolment data for the Divisions of Gilmore and Macarthur despatched to a NSW Senator on 19 January 1993 may have been a source for the construction of this party's Gilmore mailing list for the election. Most of the 346 names noted above as not appearing on the certified list for Gilmore were names deleted from the Gilmore roll in January and February 1993. None of these "missing" names was found as a deletion from the Gilmore roll prior to January 1993. This data would have been what was available to the party with regard to Gilmore on the day the election was announced (7 February 1993). Gilmore and Macarthur enrolment data as at end-January 1993 was despatched to the Senator referred to above on 11 February 1993, and close of roll data was supplied to the relevant candidates and parties on 22 February 1993 (within 7 days of the close of the roll). It does not seem to have been recognised by the party concerned that the rapid movement rate of the Australian electorate will lead to significant addressing errors unless the most recent data available is used.

6 The turnover rate of electors averages nationally around 20% per year. In Gilmore, during the period 16 February 1992 to close of roll on 15 February 1993,

9181 names were added to the roll, 5699 electors advised a change of address within the Division and 6605 electors advised that they were moving from the Division - a total of 21 485 (30.1% of electors enrolled for the election). Given the use of enrolment data at least six-weeks old, and Division of Gilmore close of roll enrolment of 70480, this elector movement rate produces a figure of around 2400 Gilmore electors likely to have changed address between the time the roll data used for this mailing was compiled, and the actual date of the party's pre-election mailing. The actual number of mail items returned - 1035 from 1410 identified electors - was significantly less than the number of persons likely to have changed address during the relevant period - whether using the Gilmore elector turnover rate in the year to 15 February 1993 shown above, or the average national turnover rate (equivalent to 1600 electors during the period).

7 When compared to external standards, the return rate (a little over 2%) also compares very favourably with the 5% used as a benchmark in relation to monthly mailings by the direct mail industry.

8 The information provided by the party to the AEC contained: a number of errors in the spellings or given. name initials of electors' names and errors in the spelling of addresses (32 errors in total); names that, from the information supplied, could not be identified as belonging to electors ever having been enrolled for Gilmore (16); and addresses outside the Division of Gilmore (13). If the information provided by the party to the AEC was directly from the database used for the mailing, this would suggest that electors for Divisions other than Gilmore were mistakenly included in the pre-election mailing to Gilmore electors, or that information from sources other than the AEC may have been used in the construction of the party's mailing list.

9 Some of these errors may have been the result of manipulation of name data to provide one mailing to the one address - instead of a separate mailing to each individual elector. Thus addressees on the party's mailing list appear as "Mr and Mrs XX)OO~" or "The YYYWY Family" and all have some form of honorific. These attributes are not identified in enrolment data supplied by the AEC. Others may have occurred when transcribing to the database the names and addresses on returned envelopes.

#### INVESTIGATION OF ELECTORS LISTED AS "MAIL RETURNED" FOUND ON THE CERTIFIED LIST FOR GILMORE

10 Of the 1410 names supplied on the "mail returned unclaimed list", 1058 could be identified as electors appearing on the certified list for Gilmore for the 1993 election. Of these electors, 224 (21 %) did not vote at the election. This is much higher than the 3% nonvoter rate for the Division as a whole and would indicate that of all the names on the "mail returned unclaimed" list, these are the ones most likely to be no longer living in the Division of Gilmore. The Commission would expect that, if non-voter notices later returned unclaimed were also to be examined, a large number of these electors would be found to be no longer at their enrolled address, and action to remove them from the roll would have been taken. Even if no longer at the enrolled address, these electors played no part in the result of the election.

11 A further 17 of those appearing on the certified list were noted between close of rolls and polling day as requiring deletion from the roll - generally these were electors who died after close of rolls. No votes in this election were recorded as having been attempted in the names of these electors. A check of the actual envelopes returned also indicates that no vote was recorded in the name of any elector whose mailing was returned as "deceased".

12 The remaining 817 electors voted for Gilmore in this election. Of these, 608 cast an ordinary vote: 93% of these ordinary votes were cast in the same town as that for which the elector was enrolled, or in a nearby town. Given the rural nature of this Division, this would tend to indicate that these electors were still living at, or near, the address for which they appeared on the certified list for this election. Investigations have also shown that of these ordinary voters, 78 re-enrolled for another address in the February-May 1993 period - all but four of these re-enrolled within Gilmore.

13 The remaining 209 of these electors voted by declaration: 124 cast an absent vote, 36 cast a postal vote, 47 a pre-poll vote and 2 a provisional vote. For all except the absent voters, this represents a similar percentage to that experienced in the Division as a whole. However, the proportion of these electors voting absent is significantly higher than for the Division as a whole: 12% as against 5%. As would be expected a large proportion of these absent voters appear to be electors who had not advised their change of address until polling day or who had moved after close of roll: 25% of them had re-enrolments processed in the period between close of rolls and end-May 1993.

#### EXAMINATION OF ACTUAL ENVELOPES RETURNED UNCLAIMED

14 Following the Commission's examination of the computer records provided by the party, the AEC requested that the original returned envelopes be made available for inspection. This request was accepted and a study was made of the returned unclaimed envelopes that had been addressed to electors who were on the roll for, and had voted for Gilmore in the election. Examination of the post office or resident markings on these envelopes showed that the most common reason for return was "left address" - some 579 (70%). Of this 579, again around 70% had voted by ordinary vote in the town of enrolment or a nearby town: the remainder had voted by declaration.

15 Very few were returned for reasons that suggested that the elector was not known in the area: some 8 declaration voters and 55 ordinary voters - though a number of these were addressed to post offices rather than residential addresses.

16 A number of the other returned envelopes did not provide evidence of any weight that the elector was no longer at the enrolled address: 5 were returned with a pithy message addressed to politicians; 62 were unclaimed from a post office (for collection from a post office an addressee can refuse to accept mailings appearing to be junk mail) or the post office box lease had expired (some electors neglect to update their PO Box postal address when renewing enrolment); 52 were marked "return to sender" rather than the other available notations of "unknown at address" or "not at address" available to Post Office staff. These, again, are as likely to have been returned from electors who did not wish to accept this mailing, rather than being an indication that the elector had moved. There is also indication that attempts had been made to deliver a small proportion of these "return to sender" envelopes at incorrect addresses.

17 The highest risk of fraud is likely to have occurred where the mailing was returned by the Post Office as "could not find address". In this batch of returned mail there were three such envelopes: further examination indicated that the address had been incorrectly entered into the enrolment system and had been corrected prior to the production of the certified list for the election.

## CONCLUSION

18 Two points have become strongly evident from this study. Examination of the list of names from whom the party mailing was returned unclaimed in the election period has uncovered no evidence of organised fraudulent enrolment or voting: the evidence examined has tended to reinforce a finding that the system is operating with integrity. In this instance, the volume of mail returned unclaimed was less than the number of persons likely to have changed address since the compilation of the end-December 1992 roll data apparently used for this bulk mailing. Those electors from whom mail was returned unclaimed had been enrolled for at least two months prior to close of rolls and had generally been longer term residents of the Division: they were not a close-of-rolls influx. Those electors who voted, voted at a location consistent with their address of enrolment.

19 The Commission has in the past emphasised to political parties, Members and Senators the need to use only the most up-to-date information when mailing electors, due to the significant levels of ongoing elector movement. At considerable expense, accurate close-of-rolls enrolment data is despatched speedily (within a week of roll close) to all candidates and parties so that pre-election mailings can be targeted to those eligible to vote at the election. It would appear that in this case the information the Commission is providing through this service is not being effectively utilised.

## RECOMMENDATIONS

20 In future, the AEC not consider any undertaking to conduct investigations of this nature until both the original envelopes (or photocopies thereof) and a computer record of addressees from whom mail has been returned unclaimed have been provided. The source of this computer record (extract from mailing database, re-keyed list of names/addresses of mail returned unclaimed, etc) should be provided.

21 On the announcement of a general election or by-election, the AEC immediately advise all parties of the date on which close of roll data is likely to be available, and indicate the "return unclaimed" rate likely if the last roll data provided to relevant members/parties is used for election mailings.

22 When updating an elector's enrolment, particularly where the elector moves to a new suburb, town or city, if no change has been advised to the old postal address the elector be asked to confirm that the old postal address should be retained, or to advise a new postal address.

INTERNAL AUDIT SECTION  
SEPTEMBER 1993

TABLE 1 (a)

TABULAR BREAKDOWN OF MAIL RETURNED LISTING  
PRE-ELECTION MAILING - DIVISION OF GILMORE

NUMBER OF LINES OF DATA SUPPLIED	1035
NUMBER OF INDIVIDUAL NAMES IDENTIFIED	1410
NAMES NOT FOUND ON GILMORE CERTIFIED LIST	346

Comprising:

No records found	16
Address mailed outside Division of Gilmore (Made up of 11 in Macarthur, 2 in Eden Monaro)	13
Significant errors in name or address on returned mail listing	4
Names found on AEC enrolment deletions records	313

Comprising:

Deletion Type	Deletion Date		Total
	Jan 1993	Feb 1993	
Silent Enrolment	2	0	2
Transfer within Division	13	111	124
Transfer to another Division	37	135	172
Duplicate deletion	0	3	3
Death deletion	3	9	12
<b>TOTAL</b>	<b>55</b>	<b>258</b>	<b>313</b>

Names duplicated on "returned mail" list provided 6

NAMES FOUND ON CERTIFIED LIST FOR GILMORE 1058

Of these electors:

Number of non voters 224

(21.4% of these electors, as against 3% for the Division as a whole)

Number marked as death etc pre-polling day on List 350. 17

NUMBER OF ELECTORS ON RETURNED MAIL LIST WHO VOTED FOR  
GILMORE 817

TABLE 1 (b)

OF THESE ELECTORS WHO VOTED:

NUMBER WHO CAST AN ORDINARY VOTE  
 (58.4% of electors as compared to 84.2% for the Division as a whole) 608

Analysis of where these ordinary voters voted shows:

Voted in town of enrolled address	335	(55%)
Voted in a town nearby to enrolled address (as far away as nearest major centre or nearby beach resort)	231	(38%)
Voted at a location distant for enrolled address (at least one major centre between enrolled address and polling place where elector voted)	42	(7%)

This would tend to indicate that these electors were still living at, or nearby, their enrolled address;

Further analysis of these 608 voters shows that 98 (16%) of these advised a change of address between close of rolls and end-May 1993, or were mailed with incorrect name or address details:

Number of "returned mail" advices for ordinary voters with errors in name or address details 20

No of ordinary voters advising post close of rolls change of address						78
Transfer	Feb	Mch	Apl	May	Total	
Within Division	0	18	24	32	74	
To another Division	2	0	0	2	4	
<b>TOTAL</b>	<b>2</b>	<b>18</b>	<b>24</b>	<b>34</b>	<b>78</b>	

An additional 18 of these electors advised a transfer to a new address in June/July 1992, and 2 died in June 1992.

Of the 42 electors who cast an ordinary vote at a "distant" location, 6 have since re-enrolled in either the same, or a nearby town to their enrolled address shown on the certified list.

TABLE 1 (c)

NUMBER WHO CAST A DECLARATION VOTE 209  
 (19.8% of these electors compared to 12.8% for the Division as a whole)

Breakdown of different types of declaration vote shows:

Absent	124	(11.7%)	5.4% for Division as a whole)
Postal	36	(3.4%)	(3.1 % for Division as a whole)
Pre-Poll	47	(4.5%)	(3.6% for Division as a whole)
Provisional	2	(0.2%)	(0.7% for Division as a whole)

Further analysis of these voters shows that 42 (20.1%) of these advised a change of address between close of rolls and end-May 1993, or were mailed with incorrect name or address details:

Number of "returned mail" advices for declaration voters with errors in name or address details 5

Number of declaration voters advising a post-close of rolls change of address 37

	Feb	Mch	Apl	May	Total
Transfer					
Within Division					
Absent	0	1	0	1	2
Postal	0	0	1	0	1
Pre-Poll	0	0	1	0	1
SubTotal	0	1	2	1	4
To another Division					
Absent	3	8	17	1	29
Postal	0	0	0	0	0
PrePoll	0	3	1	0	4
SubTotal	3	11	18	2	33
TOTAL	3	12	20	3	37

An additional 3 of these absent voters advised a transfer to a new address in June/July 1992.

As would be expected, a large proportion (31 of 124 or 25%) of the absent voters amongst these electors appear to be people who had left their change of address advice too late to make the close of roll, or who had moved after close of roll.



TABLE 2(a)

TABULAR BREAKDOWN OF ENVELOPE MARKINGS ON  
RETURNED MAIL

PRE-ELECTION MAILING - DIVISION OF GILMORE

NUMBER OF ELECTORS WHO CAST AN ORDINARY VOTE 608

ENVELOPE MARKINGS

Pithy Message 5

Unclaimed from Post Office/Post Box lease expired 41

Return to Sender 44

Not known at the address 55

Not at this address 39  
(Of the electors in the above categories 16 advised a new address after close of roll)

Left Address 424  
(Of those electors shown as "left address", 62 advised a new address after close of roll)

TABLE 2(b)

TABULAR BREAKDOWN OF ENVELOPE MARKINGS ON  
RETURNED MAIL

PRE-ELECTION MAILING - DIVISION OF GILMORE

NUMBER OF ELECTORS WHO CAST A DECLARATION VOTE ENVELOPE MARKINGS	209
No letterbox at property/insufficient address detail	4
Unclaimed from Post Office/Post Box lease expired	21
Return to Sender	8
Not known at the address	8
Not at this address	9
(Of the electors in the above categories 8 advised a new address after close of roll)	
Left Address	156
(Of those electors shown as "left address", 29 advised a new address after close of roll)	
Address could not be found	3
(Each of these was found to have been an error in the recording of the address on the roll and had been corrected for the production of the certified lists)	

## Attachment B

Detailed response to Senator Baume's speech in the Senate on 20 September 1995  
AEC investigation into 817 RTS electors in the division of Gilmore.

(For ease of reference, a copy of the speech made in the Senate on 20 September 1995, pp 1133 to 1136 of Hansard, is attached. Each paragraph has been numbered. References to paragraphs in this response correspond to the numbers on the attached speech.)

In the initial paragraph of the speech (Hansard, 20 September 1995, p1133) it is claimed that there is still capacity for electoral fraud. This followed with the question in paragraph 2 ... "To what extent have we been able to establish that abuse exists?"

These introductory remarks relate to a concern that, following a pre-election mail-out in February 1993 for the March 13, 1993 federal elections to constituents in the electorate of Gilmore, a large volume of the pre-election mail was returned to the Liberal Party office unclaimed. Mr Barry O'Farrell, State Director of the Liberal Party of Australia, New South Wales Division asked the AEC to investigate possible enrolment fraud.

The AEC undertook an investigation and was unable to find any evidence of fraudulent enrolment or fraudulent voting. The AEC found that the mail-out list used by the Liberal Party was constructed from an outdated enrolment list derived from lists produced by the AEC each month and sent to all electorate offices. It had been ascertained that the mailing list was some six weeks old (end of December 1992 list) and therefore transactions registered between 1 January and 15 February were not taken into account in the Liberal Party mail-out.

Paragraphs 3, 4 and 5 of the speech acknowledged the investigation- undertaken by the AEC and the fact that the mailing list was constructed using outdated enrolment data. In paragraph 4 it was queried whether the subsequent enrolment data, which contained the transactions of electors between 1 January and 15 February 1993, included "what may well have been the last minute flood of people wanting to get onto the rolls for a whole lot of reasons, some of which may well have been fraudulent." The speech continued ..."The fact is the end of January enrolment list I had probably did not cover those ... fraudulently seeking to change their address from a safe Labor seat, which happened to adjoin Gilmore, into this marginal seat. This view was reiterated in paragraph 5.

The AEC was initially requested in 1993 to investigate the return-to-sender (RTS) mail received by the Liberal Party following the pre-election mail-out. This investigation centered on a mailing list constructed by the Liberal Party using information from an end of December enrolment list sent to Members and Senators in mid-January 1993. The AEC is unable to comment on the accuracy of the statements that were made in paragraphs 4 and 5 of the speech which implied fraudulent enrolment was occurring during the period 1 January and 15 February 1993. The terms of reference for the AEC Investigation specifically related to those electors who returned their pre-election mail to the Liberal Party electorate office. The allegation raised in paragraph 4 and 5 was beyond the scope of the initial AEC inquiry, therefore the AEC refrains from commenting on this matter.

Paragraphs 6 through to 10 discussed the AEC-analysis of the RTS electors. Of the 1,058 RTS voters, the AEC was able to discount 224 electors as being non-voters at the 1993 election, while the remaining 817 electors voted. This raised a question in paragraph 8...Eighty per cent of the people who did collect their mail did in fact vote. Were they at those addresses or weren't they?" It was claimed that the analysis by the AEC was insufficient to be able to conclude that the RTS electors were legitimately entitled to vote in the election. It was suggested that the RTS electors were evidence of people who had traveled from adjoining safe Labor seats of Throsby and Cunningham to phony addresses in Gilmore.

The AEC investigated the 817 electors to find out how long they lived in the Gilmore electorate. The AEC found that prior to the commencement of the 1992 Electoral Roll Review (ERR) in May, 543 of the 817 electors were enrolled in the division of Gilmore. The remaining 274 enrolled after 30 April 1992. A further investigation of these 274 electors revealed that:

- 28 had re-enrolled at the same or another address within Gilmore;
- 142 had maintained their previous enrolment within Gilmore;
- 1 person had died;
- 62 had enrolled in other divisions;
- 1 had been deleted from the roll by objection on 8 December 1993; and
- 40 had been deleted from the roll by objection on 2 and 3 December 1994.

The AEC was unable to ascertain the dates on which the 62 electors moved out of the Gilmore electorate although the dates on which they re-enrolled at their new addresses are known. However, it was found that 16 of these 62 electors moved to the adjoining divisions of Macarthur (6), Eden-Monaro (3) and Cunningham (7).

As at 3 May 1996, of the 41 objection deletions:

- 9 electors had re-enrolled in Gilmore;
- 7 had re-enrolled in other divisions; and
- 25 electors had not re-enrolled since the deletion.

The objections were made on the grounds that the electors no longer resided at their enrolled address and it was believed they no longer resided in the Division. All electors deleted by objection had been enrolled in the division of Gilmore for at least 3 months prior to the federal election held in March 1993.

Of the 41 electors deleted from the roll as a result of 1992 ERR, 5 had re-enrolled at the close of roll on 5 February 1996 for the 1996 federal election - 3 of these in Gilmore. Another 11 have since re-enrolled (as at 3 May 1996) - 6 of these in Gilmore. The remaining 25 appear not to have re-enrolled. The AEC is unable to make any further comment on the activity of these electors.

In paragraph 12 it was said that the absent vote figure, which was 2.5 times the proportion of absent voting for the Division as a whole, "should sound some kind of alarm bells because it clearly indicates that those people may well not have been at those addresses". Paragraph 13 reiterated the view that a "real probability exists" that people who do not live in the electorate ... were able to vote in Gilmore and influence the result in a marginal seat.

The AEC acknowledges that the proportion of absent voting is high for the Gilmore electorate as a whole. The initial investigation had found 124 of the 817 electors voted absent. While it may appear that the number is disproportionately high, it should be noted that the RTS electors who had voted absent were more likely to include people who had left the Division but had not subsequently re-enrolled for their new address. Having not re-enrolled before the close of rolls, they could cast an absent vote for the last enrolled address.

A check of the ERR conducted on 1 May 1992 revealed that 75 electors who had voted absent were already enrolled in the division of Gilmore. The remaining 49 absent voters enrolled in the division of Gilmore between June and December 1992, the majority, 31, enrolling between June and August.

Paragraphs 14 and 15 discussed some of the reasons for electors returning mail to sender. Paragraph 16 questioned the AEC conclusion that "the examination of the list of names did not find any evidence of organised fraudulent enrolment or voting" and that ... "the evidence has tended to reinforce a finding that the system is operating with integrity" (paragraph 17). The claim was then made, in paragraph 18, that the AEC conclusion failed to address the issue of multiple enrolments and vacant allotments.

Habitation or electoral enrolment reviews (ERR) are conducted within two years after the first meeting of a new parliament. The reviews require the AEC to contact electors according to their address to establish they are legitimately living at their designated address or have moved. In the course of the 1992 ERR, the legitimacy of all enrolments in the division of Gilmore would have been checked. Had any electors been enrolled at a vacant allotment or an address at which they no longer resided, action would have been taken to remove these people from the electoral roll. Because the 1992 ERR was conducted just prior to the RTS mail-out, the AEC has assumed that any irregularities found would have been rectified during the review process. Consequently, the AEC had found no reason to investigate further the legitimacy of addresses.

The final paragraphs of the speech had concentrated on the conclusions reached by the AEC and its recommendations. It was claimed that the report was inadequate to resolve the essential problem of the extent to which there was potential for electoral fraud.

The AEC investigation had not been undertaken with the intention to test the extent to which fraudulent activity might pervade the enrolment system. In the context of the investigation into the RTS mail unclaimed, the AEC responded to a request to investigate whether the volume of mail resumed unclaimed to the Liberal Party office in the division of Gilmore was an indication of enrolment impropriety or possible fraudulent activity. It was on this premise the AEC undertook its investigation.

Following an examination of the RTS mail items, the AEC had been unable to find evidence to suggest the RTS electors had been deliberately registering on the electoral roll in order to vote in the 1993 federal election. As had been indicated in the review of the 817 RTS people who voted in the election, more than half of these electors had been enrolled residents in the Gilmore electorate prior to the ERR in May. The balance of RTS electors who enrolled between May and November 1992 were legally entitled to vote at the 1993 federal election, having complied with s 99 (1) of the Commonwealth Electoral Act 1918 which requires an eligible voter to be living at an address for a least one month prior to re-enrolling.

The AEC endeavored to present a number of plausible explanations for the large volume of mail unclaimed. In part, many of the mail items were returned because the information on the RTS electors was outdated due to the use of an enrolment list some six weeks old. This resulted in the recording of inaccuracies on the details of the electors with the result that many mail items were returned unclaimed. The AEC also noted that mail was frequently returned to sender if the mail was perceived to be "junk mail" of an advertising or a political nature. Returning junk mail was frequently an indication that an elector had made a deliberate choice not to accept such mail. It should not automatically be assumed that if mail is returned to sender, it indicated the addressee had moved from that address.

The AEC takes very seriously allegations of fraudulent behaviour, particularly in relation to enrolment. To allay concerns, the AEC has implemented strategies to address this matter. As a result of the increased volume of Members' and Senators' mail returned to sender by Australia Post and the subsequent increase in requests for the AEC to investigate the unclaimed mail, the Commission has implemented a policy on RTS mail. A letter was sent to all Members and Senators in March outlining the procedures to be followed in the event that Members and Senators wish RTS mail to be investigated (a copy of the letter is at Attachment C).

In addition, to ensure all political candidates use the most up-to-date information on electors, the AEC inserted a note in all Certified Lists circulated to candidates prior to this election reminding them of the need to use the Certified List data if wishing to write to the electors in the division for which they are a candidate. The AEC mentioned this undertaking at the Senate Estimates (Legislation) hearing on 24 November 1995 (Finance and Public Administration, p 155).

***Castlereagh district, 1980 NSW State election  
Extract from AEC submission No 61 of 3 November 1988***

The Liberal Party submission No 29 of 31 May 1988 to the JSCEM claimed the following at paragraph 5.4:

The Castlereagh (NSW) by election in 1980 received a great deal of publicity and with good reason. The significance is not so much that it was claimed that Labor used the names of 400 dead people to win the seat in a close election. Rather, the significance is that the case is a federal matter.

This claim in the 1988 Liberal Party submission was based on a statement by Senator Bronwyn Bishop in the Senate on 17 March 1988, as follows:

The year 1980 saw the calling of the by-election for Castlereagh, a country seat which had been held by Premier Renshaw ... In 1980, when that by-election was called upon the retirement of Mr Renshaw, 28,828 voters were enrolled. Of that number 18,112 in fact voted. Those are most interesting figures. We can see that the margin by which the Labor Party won that seat was in the region of 660 votes. If one-half of those people had changed their vote, of course, there would have been a different result

Senator Bishop then quoted from a tape (which she subsequently tabled in the Senate) of a speech allegedly made by Mr John Patrick Begg at Wyong Creek Hall in 1984:

...I just sat down one day and I, you know, sort of got myself and I thought to myself this is going to be close Now, you know, I then went down - there's one office, the regional newspaper office, and Castlereagh started at Dubbo and went right through to Bourke - it was huge - big electorate - and I went to the local thing and I went - it took me two days - and I went through twelve months and looked at the obituaries and I got everyone that died in the past 12 months and then I compared them to see if they were on the roll and there were 400 on the roll. So I sent little people out to vote for them on these blokes' behalfs and, do you realise, we won the seat by 330 votes.

In her statement, Senator Bishop misquoted the enrolment statistics in her claim that:

In 1980, when that by-election was called upon the retirement of Mr Renshaw, 28,828 voters were enrolled. Of that number 18,112 in fact voted.

In fact, the number of electors enrolled at the by-election on 23 February 1980 was 21,828, not 28,828. On the number of electors who voted, the actual turnout for the by-election was therefore 82.71%, an unexceptional turnout for a by-election, and not by any means suggestive of a corrupted electoral roll.

In her statement, Senator Bishop also wrongly claimed that:

the margin by which the Labor Party won that seat was in the region of 660 votes. If one-half of those people had changed their vote, of course, there would have been a different result.

The successful ALP candidate polled 9,327, the losing Country Party candidate 8,651. That is, the difference of 676 is indeed “in the region of 660”. However, the allegation is that 400 cemetery votes were cast as part of this difference. These cannot be counted as changes, transferred from one candidate to the other as in, for example, a miscounting of ballot-papers. Even if 400 spurious votes, cast in the names of 400 dead electors, had been recorded for the ALP candidate, identified and disallowed, his vote would have fallen to 6,927 and he would have won by a margin of 276.

Unless the supposition is that had the 400 dead not been voted by the Labor Party they would have been voted by the Country Party, they can be counted on only one side of the equation, not both. Nevertheless, the Liberal Party submission at paragraph 5.4 repeats the claim “that Labor used the names of 400 dead people to win the seat in a close election (emphasis supplied)”.

In his speech Mr Begg claimed that:

there’s one office, the regional newspaper office

In fact, there was no regional newspaper covering the area which then constituted the electoral district of Castlereagh. The then Australian Electoral Office Divisional staff were responsible for the two Divisional rolls which overlapped Castlereagh, but the problem was that there was no regional paper which could be relied on for death notices (which would have been the source of information rather than obituaries).

The names of the subdivisions of Castlereagh-Baradine, Bourke, Cobar, Coonabarabran, Coonamble, Gilgandra, Nyngan and Warren, indicate the area is a scatter of settlements. If any newspaper was to be called “the regional newspaper” of Castlereagh, then the only choices would have been the (Dubbo) “Daily Liberal” and the (Tamworth) “Northern Daily Leader”.

In his speech, Mr Begg also claimed that:

I went through twelve months and looked at the obituaries and I got everyone that died in the past 12 months and then I compared them to see if they were on the roll and there were 400 on the roll.

The AEC searched the (Dubbo) “Daily Liberal” and the (Tamworth) “Northern Daily Leader” for 1979, the “twelve months” prior to the by-election. The “Daily Liberal” for the whole year contained a total of 182 death notices of which 141 were for addresses in Dubbo itself. Only 11 notices gave addresses within Castlereagh, and at least one of those was of an infant.

The “Northern Daily Leader” for 1979 contained 437 death notices of which 173 were for Tamworth itself, many others for nearby towns like Werris Creek (12) and Manilla (10), and only 1 for an address in Castlereagh. A further 73 bore no address for the deceased, but it is probable that most of these would have been for Tamworth and its vicinity, in the light of the distribution of those carrying addresses.

That is, it would not have been possible to find the names of 400 dead electors of Castlereagh in either of the newspapers in question or any more than a handful of dead electors of Castlereagh in the pair of them.

It is also unlikely that there would have been 400 dead electors available to be found on the roll, unless there had been an extraordinary lapse in roll maintenance



activities. The most stable component of roll transactions, year after year, is death deletions. At that time, the information came from the State Registrars of Deaths, and from death notices in local newspapers. The typical Division lost 50, 60 or 70 electors by death deletions. The likelihood that a Division (or the one-third of it contained in a particular State electoral district) could neglect death deletions for a whole calendar year is implausible.

For example, from 30 November 1979 to 9 December 1979, the Division of Gwydir (which contained all the subdivisions comprising Castlereagh save one) recorded 657 death deletions. The Castlereagh subdivisions accounted for 212 (32.3%) of these, just as they accounted for 26.2% of the Division's enrolment at the beginning of the period and 25.8% of its enrolment at the end. The remaining subdivision, Coonabarabran, accounted for 31 of the Division of Paterson's 677 death deletions for the year, some 4.6% when it had 5.1% of Paterson's enrolment at the beginning of the year and 5.0% at its end.

Death deletion statistics by subdivision for 1979 have not been preserved so only the Divisional figures can be given. As Gwydir accounted for almost the entire State electoral district of Castlereagh its figures are more significant than Paterson's. However, both are shown in the table below to document the basic stability of the operation. With barely one third of a Division's population, Castlereagh should have had no more than 20-25 deaths per month and accordingly would have taken 16-20 months to accumulate 400.

#### Monthly death deletions 1979: Gwydir and Paterson

	Gwydir	Paterson
Jan	68	71
Feb	63	61
Mar	48	66
Apr	71	30
May	33	45
June	67	64
July	43	37
Aug	114	124
Sept	48	38
Oct	68	59
Nov	82	69
Dec/Jan	75	58

That is, in the 12 months for which the death notices supposedly accumulated to be used for fraudulent purposes later, death deletions from the rolls were being recorded at their normal rate. The fact remains that 400 relevant names could not have been found in a newspaper that might conceivably meet the specification of "the regional newspaper", and there could not have been that many names of deceased persons on the roll for the by-election.

Finally, in his speech, Mr Begg claimed that:

I sent little people out to vote for them on these blokes' behalfs

If these votes had been cast as ordinary votes, then personation (and mainly of elderly electors for it is the elderly who are more likely to die) had to be extraordinarily risky. At the by-election only seven polling places took more than

1,000 votes: Bourke 1,364; Cobar 1,785; Coonabarabran 1,809; Coonamble 1,839; Gilgandra 1,775; Nyngan 1,525; and Warren 1,410. The likelihood that someone could pass themselves off as a deceased elector at a booth of this size in the country is remote. The overwhelming number of booths took fewer than 500 votes.

As the then Minister for Home Affairs, Senator Robert Ray, said in the Senate on 18 March 1988:

It is fairly inconceivable to me that, in a small country electorate with small booths, bodgie votes could be lodged. Nearly all the officials are locals. They know whether Mrs Smith or Mr Jones has passed away in the last couple of years.

Senator Michael Baume asked at the time: "What was the absentee vote?" In a by-election the opportunities for casting an absentee vote are less than at a general election and more use is made of postal voting facilities. However, the following table shows the statistics for the previous two general elections and the 1980 Castlereagh by-election. Only half the "usual" number of absentee ballots were cast, again unexceptional for a by-election.

Absent and postal voting Castlereagh: 1976, 1978, 1980

	Absent	Postal
1976	2717	203
1978	2 822	196
1980(by)	701	745

On 22 March 1988 the Minister for Home Affairs, Senator Ray, wrote to the Premier of New South Wales, Mr Nick Greiner, indicating his concern that the allegations made by Senator Bishop be investigated thoroughly, pointing out that breaches of State law were alleged, and offering the cooperation of the AEC in any investigations. On 31 March 1988 the Premier replied:

The new Government will shortly be instigating a review of the State Electoral Office. In the course of this review the specific allegations you refer to will be covered in addition to the general status of electoral rolls.

Your offer of assistance and co-operation is appreciated and I will ask the relevant officers to contact the Australian Electoral Commission.

On 11 April 1988 the Minister for Home Affairs wrote again to the Premier, saying in part:

Because the allegations about the Castlereagh by-election made by Senator Bronwyn Bishop in the Senate on 17th March raised not only questions of administrative procedure but also breaches of the Electoral Act, I am not sure than a general review would be the most appropriate means of addressing the allegations. I would respectfully suggest that a more appropriate course would be reference, via the State Electoral Office, to the New South Wales police.

At this stage, I have not referred the allegations to the Joint Standing Committee on Electoral Matters, or to any other Commonwealth authority, as I believe it is a matter which the New South Wales Government has a more substantial interest in due to the possibility of State Electoral Act breaches. I would therefore appreciate an indication that a New South Wales investigation of possible breaches of New

South Wales law will be initiated, to which a Commonwealth investigation could then be supplementary.

The AEC is not aware of any further action that was undertaken by the NSW Government in this matter. For further detailed analysis of the 1988 Liberal Party submission based on the claims by Mr Begg and Senator Bishop about the 1980 Castlereagh by-election see Attachment 24 to AEC submission No 26 of 17 October 2000 on the AEC website.

***Richmond council election, Melbourne 1975***

***Extract from P N Grabosky, "Wayward Governance: Illegality and its Control in the Public Sector", Australian Institute of Criminology, 1989 - Chapter 18: "Machine Politics, Corruption and the Richmond City Council"***

Richmond, an inner suburb of Melbourne, was constituted as a municipality in 1855. From the outset, its politics were characterised by something less than genteel civility. At the first municipal election, one of the returning officers was himself elected, along with six non-residents of the district, including the British Secretary of State. In the aftermath of the election, angry residents petitioned the Governor of Victoria to disallow the returns, alleging that many electors were debased with drink, and that supporters of both sides in the contest had impersonated voters (Barrett B, 1979, "The Civic Frontier", MUP).

During the 19th century, Richmond became a classic working-class Australian suburb, known colloquially as Irish Town. It remained a close-knit community for the best part of 100 years. Even after the postwar influx of southern and eastern European migrants, Richmond still retained much of its character. It remained a Labor stronghold, surviving the split of 1955. Richmond politics, and power in the city council, became synonymous with the O'Connell family. O'Connells and their relatives through marriage held seats on the city council and numerous positions of employment with council.

The Richmond City Council was described as a 'feudal feifdom' (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, p. 78). Indeed, it embodied many of the characteristics of the 'political machines' which grew up in American cities during the 19th and early 20th Centuries - extreme social conservatism and a strong element of reciprocity, where political favours were dispensed in return for continued electoral support.

The Richmond dynasty was to pass, but only after a prolonged and bitter struggle...

It has been said of Richmond that it is the only place in Australia where dead men voted. In 1975 an employee of the Council was fined \$1,500 after having been found guilty of having voted twice under another person's name. The case merely confirmed the general suspicions which surrounded Richmond elections. No less a person than a former Deputy Prime Minister of Australia, Dr Jim Cairns, remarked that old-timers in Richmond did not regard multiple voting as criminal, but rather as a kind of game (Victoria 1982, p. 65).

The first independent was elected to Richmond City Council in 1978. By 1981 the Council comprised five independents and ten members of what was termed 'the ruling group'.

Electoral fraud in Richmond took two basic forms. The first was good old-fashioned multiple voting. This involved the impersonation of individuals whose names were on the electoral rolls, but who for various reasons, such as the fact that they had died or had moved away from the municipality some years before, were disinclined to vote. The second type of fraud involved tampering with ballots. On two occasions, there was evidence of seals having been broken on bags containing ballots. In both of these elections non-labor candidates who appeared to have won, lost their seats after a recount.

The time-honoured practice of ballot box stuffing was also common in Richmond. This involved the insertion of false ballot papers into the ballot box, and the removal of a sufficient quantity of valid papers to reconcile the numbers. On occasion, those engaged in this practice demonstrated some lack of finesse. In 1981 the presiding officer in the East Ward reported having counted eleven more ballots than he had issued (Victoria 1982, p. 97).

Tampering with postal votes was yet another form of electoral malpractice. Here, envelopes containing postal votes were opened, and false ballot papers substituted for the votes actually cast. To this end, one of the major electoral strategies of the Richmond ruling group was to encourage postal voting.

It was also common for candidates and their supporters actually to fill out ballot papers for voters, in violation of the law. Indeed, a board of inquiry was later to conclude that

the Mayor, his wife, another councillor, and a Council officer were ready to admit to the wholesale commission of criminal offences as a means of providing a defence to the more serious charge of ballot forgery and substitution (Victoria 1982, p. 115, emphasis in original).

Such practices in fact were against the law. Regulation of the Postal Voting (Elections of Municipal Councillors). Regulations 1980 states

No person shall persuade or induce or associate himself with any person in persuading or inducing a person to make application for a postal ballot paper.

The penalty for contravention was a fine of up to \$200 or imprisonment for a term of up to three months.

In addition to direct interference with ballots, supporters of the Richmond ruling group engaged in a variety of unorthodox campaign techniques. In August 1981 motor cars belonging to two independent councillors were firebombed. A prominent supporter of independent candidates received a pamphlet stained with human blood. Three men were attacked and beaten while delivering how-to-vote cards for independent candidates. One was struck in the face and sustained a broken jaw. Another was beaten unconscious. Local newspapers containing unfavourable editorial comment about the sitting Council were stolen from letter boxes. A brick was thrown through the window of a house whose occupants displayed a poster supporting an independent candidate.

Rowdyism and bullying outside polling places was not uncommon. Supporters of independent candidates were subject to pushing, insults and menacing remarks. How-to-vote cards were snatched away and occasionally burned. Activities on the occasion of an extraordinary election in April 1981 were such that a board of inquiry later remarked:

The scene outside the polling booth on the day of this election might be thought to be more appropriate to a menagerie (Victoria 1982, p. 217).

Resuming the classic understatement which is typical of the legal profession in Victoria, he said, in reference to supporters of the Richmond machine:

I do not regard the persons associated with this particular group as being capable of great subtlety in their approach to political problems (Victoria 1982, p. 252).

.....

The difficulties which beset the municipality of Richmond arose from a number of factors. Perhaps most striking was the tribalism which characterised municipal administration. No less than two brothers, two sons, two nephews, one niece, one sister-in-law and one cousin of the mayor were employed by the Council; several other Council employees were themselves former councillors. Nepotism and the Richmond Council were synonymous. The close family relationships between Council employees and elected officials led to a situation where perpetuation of the political status quo was seen by Council staff as in their best interests.

Despite widespread allegations of electoral misconduct, Council officials themselves undertook no investigations. Indeed, the pattern of behaviour seemed to indicate that the misconduct was condoned, if not encouraged, by the ruling group.

In 1975 one Council employee was charged and convicted of voting more than once and voting under another person's name. Members of Council were something less than indignant about the criminal acts. The person in question retained his position with the Council and the fine was paid after colleagues at the Council passed the hat. By contrast, an Assistant Town Clerk who informed police of a case of multiple voting was excluded from further Council electoral duties and was ostracised by Council officers.

The person responsible for the overall administration of municipal government in Richmond was the Town Clerk. Charles Eyres served as Assistant Town Clerk for ten years, before becoming Town Clerk in 1958. He was to hold the position for twenty-two years. A member of his local branch of the Australian Labor Party (ALP), Eyres was closely allied with the ruling group in Richmond City Council. Eyres went about his duties with a certain lack of integrity and competence.

Charles Eyres' partisan inclinations were reflected in the manner in which he administered the electoral process in Richmond. As Returning Officer he was vested with significant power under the Local Government Act 1958 (Vic) to take action against rowdiness and bullying by supporters of the Richmond machine. He never did.

Eyres had a statutory duty to post out notices to those on the electoral rolls who had not voted in any given election. He failed to do so. Inclined to ignore complaints from non ALP sources, he was quick to respond to complaints about independent candidates and to forward these to the state Department of Local Government. Eyres appointed a traffic officer, whom he knew to be corrupt, to be the Council officer in charge of postal voting. The administration of postal voting in general was exercised with an almost total lack of security precautions. Keys to rooms containing voting material were readily accessible; the postal voting room in any event, was often left unlocked.

In keeping with the tradition of nepotism which characterised personnel management at Richmond Council, Eyres' son Carl was appointed rate collector in 1970. Among his responsibilities was that of keeper of the electoral rolls, Carl Eyres was less than impressive in the discharge of his duties:

It is difficult to imagine Mr Eyres being appointed to any responsible office in any organisation and were he not the son of Mr Charles Eyres I doubt that he would even have been employed at Richmond. He appears to have demonstrated a degree of incompetence, both as a rate collector and as the keeper of the electoral rolls . . . My own observation of him leads me to doubt whether he would have the capacity to detect the most obvious type of electoral malpractice if it was to occur in front of him, in the unlikely event that he had the inclination to do so. For the purposes of those engaged in electoral fraud, he no doubt was and is an ideal person to be holding a responsible electoral position (Victoria 1982, p. 54).

Under the guiding hands of Charles and Carl Eyres, the system of electoral administration in Richmond left much to be desired. The electoral rolls were poorly maintained, and badly out of date. A considerable number of persons left on the rolls had died or had long since moved out of Richmond. If it did not constitute an open invitation to voter impersonation, the state of the electoral rolls certainly facilitated the practice....

In theory, the activities of local government are subject to oversight by the state minister, through the Department of Local Government. In practice, state government oversight was ineffective. Traditionally, the government of Victoria regarded municipalities with a degree of deference, as independent organs of government. State authorities were content that electoral accountability would be realised through the democratic process. This avoidance of paternalism on the part of state government was reflected in the size and operating style of the inspectorate of municipal administration within the Department of Local Government. There were some five inspectors to oversee some 211 local governments, all of whom conducted elections at the same time each year.

The inspectorial style was one of considerable tolerance. Perhaps understandably, given their lack of resources, inspectors did not usually initiate investigations of their own motion but rather responded to complaints from aggrieved members of the public. They approached their investigative tasks with strict legalism but with something less than messianic zeal. Inspectors would confront Council officials with allegations of misconduct, which the officials would promptly deny. The inspectors would then find that there was insufficient evidence to substantiate the allegation and advise the complainant accordingly....

But it seemed that there was on the part of the inspectorate a reluctance to pursue allegations or indeed, to enforce the law. It was alleged in one case of suspected voter impersonation, an inspector 'suggested off the record that it was very difficult to get prosecutions in these cases, and that his advice would be to press the matter no further and to not give the names' (Victoria 1982, p. 123, emphasis in the original).

On another occasion, following allegations of multiple voting and complaints about the operation of tickboards and access by messengers to a polling booth, a departmental inspector reported:

It is generally accepted at municipal elections that provided there is no interference to voters or threat to the orderly conduct of the poll, returning officers and presiding officers cannot prevent the compilation of such lists by scrutineers and do not prevent the passing of such listings to other persons (Victoria 1982, p. 86).

Explicit breaches of the Local Government Act were thus condoned.

In 1978, following a complaint by an independent councillor that Council employees were delivering postal ballots to voters by hand, an inspector

was apparently satisfied with the assurances he received at the Town Hall and did not, in fact, conduct personal interviews with these voters.

This episode highlights a difficulty relating to a number of the Local Government investigations in that Local Government Officers are no doubt used to dealing with officials who are basically honest, and thus in the case of Richmond were, perhaps, over ready to accept assurances given (Victoria 1982, p 104)

In the entire history of local government in Victoria, state intervention in local matters was extremely rare. Keilor Council was dismissed in 1975 after intractable divisions. It was replaced by a state appointed commissioner. Following a petition by ratepayers and the report of a public inquiry which identified breaches of the Local Government Act, Sunshine Council was dismissed in 1976. Melbourne City Council was dismissed in May 1981.

In light of these precedents, it is perhaps surprising that the government of Victoria did not intervene earlier into the affairs of Richmond Council. A government backbencher, Morris Williams, had conducted a lengthy crusade against the Council, and had for many years been critical of the comfortable arrangements between the Council and Protean. At one point he presented a petition to Parliament calling for an inquiry. In 1978, the Attorney-General, Haddon Storey, requested that the Victoria Police investigate allegations of bribery. Detectives reported that they had been unable to obtain evidence sufficient to substantiate the allegations.

As the gentrification of Richmond continued into the 1980s, the council machine had to work that much harder to maintain its control over Town Hall. Independent candidates observed that Labor councillors, who usually received between 48 and 52 per cent of the primary vote, were winning in excess of 90 per cent of the postal vote. The contrast was too great not to compound the chronic suspicions surrounding Richmond electoral politics. Following a by-election in April 1981, independent councillor Andrew Alexander sought out voters who had cast postal ballots. He obtained statutory declarations from fourteen people who had voted for an independent candidate - the same candidate who received but five postal votes according to the official tally.

Alexander enclosed the statutory declarations in a letter to the Secretary of the Local Government Department. The state Liberal government, having recently completed a quarter century in power, remained under relentless criticism from the Opposition for alleged irregularities in the acquisition of land for public housing. With an election looming the following year, the opportunity thus presented itself to discredit the ALP. The government was thus moved to abandon its traditional posture of tolerance toward the shortcomings of municipal government. The Minister for Local Government requested that the Victoria police conduct forensic tests on postal ballot papers to determine if they had been interfered with. Indeed analyses revealed that the envelopes in which postal ballots were enclosed had been opened and resealed with a glue different from that used in their manufacture. On 21 July 1981 the government appointed Alastair Nicholson, Q.C. to conduct an inquiry into electoral irregularities in Richmond. His terms of reference extended to postal voting in Richmond since 1970.



Only a matter of days after the inquiry was established political tensions in Richmond heightened in the run-up to the annual Council elections. In the aftermath of the firebombings and assaults noted above, the Nicholson terms of reference were widened to include the outbreak of violence preceding the 1981 Council elections. Not long after commencing the inquiry Nicholson began to explore the relationship between the Council and Protean. Arguing that its affairs were outside the inquiry's terms of reference, the company unsuccessfully sought an injunction to stop the hearing of evidence relating to its affairs. Corruption, maladministration and electoral irregularities were in the eyes of many, inextricably linked.

An interim report was tabled in Parliament on 15 December 1981. The report noted that the 1980 annual election and April 1981 by-elections were marked by serious electoral frauds, and concluded that a number of ALP councillors might not have been elected had the poll been conducted honestly. Hearings continued into 1982 and more than 250 witnesses eventually appeared before the inquiry, which sat for nearly a year.

On 29 June 1982 the new Labor government tabled the three-volume, 900 page Nicholson Report and introduced legislation to dismiss the Richmond City Council. On 5 July, the Council had its last meeting. At the conclusion, the outgoing councillors who had been members of the ruling group were presented with certificates which specified their services to the municipality. With the dismissal of Richmond Council, the Cain government installed as Administrator a person with accounting qualifications and with wide experience in local government.

The Local Government Act 1958 provided that no penalties could be imposed for offences under the Act unless prosecutions commenced within one year of the commission of the offence. By the time the Nicholson Report was tabled, the time available for prosecutions under the Local Government Act had passed. Another of the Report's recommendation was that the time specified be extended from twelve months to four years.

Few prosecutions were brought under the Crimes Act 1958 (Vic). Charles Eyres, a key figure in the alleged irregularities, had fallen ill by the time the Nicholson Report was published, and died soon thereafter. The forensic evidence relating to the alleged forgery of ballot papers, while sufficient to meet the civil standard of proof applied by the Board of Inquiry, was regarded as insufficient to support a criminal prosecution in all but one case. Vasilios Sevastopolous pleaded guilty in the County Court at Melbourne on 31 May 1985 to 32 counts of forgery and 32 counts of uttering relating to postal ballots for the 1978 election in the North Ward of Richmond. He was sentenced to a total of 64 weeks imprisonment.

Three men were charged with perjury committed before the Nicholson Inquiry. One was acquitted at the direction of the trial judge, one pleaded guilty and was sentenced to six months imprisonment, and one was tried and convicted and sentenced to nine months. Both of these sentences were directed to be served at the Prahran Attendance Centre.

Gregory O'Connell, the nephew of the former Mayor of Richmond, was tried in the Country Court at Melbourne in April 1983 on charges of inflicting grievous bodily harm and assault occasioning actual bodily harm. The charges arose out of the alleged assaults against three men who were placing campaign material in letterboxes on behalf of independent candidates in August 1981. O'Connell was acquitted on all counts.

Prosecutions for offences relating to bribery also proved to be unsuccessful. One individual charged with receiving a secret commission of \$500 was discharged by the Magistrates Court at the preliminary hearing in July 1983. Another was committed for trial on one charge of attempting corruptly to 'receive a valuable consideration' (an offence at common law). Ultimately, because the evidence against the accused was found to be unsatisfactory, a nolle prosequi was entered.

The third and final volume of the Nicholson Report proposed a number of amendments to the Local Government Act which were designed to improve the conduct of municipal elections.

These included the creation of a court of disputed returns, which would provide for declaring an election void if the outcome were found to have been affected by misconduct. Other recommendations included the creation of an offence of undue influence and intimidation of voters and the power for a returning officer to seek proof of identity from an intending voter. The Nicholson Report also called for the creation of an offence providing up to two years imprisonment for fraudulently altering any official mark or writing on any electoral paper.

In the years following the dismissal of Richmond Council, the Local Government Department was significantly restructured to provide for a new strategy of regulatory oversight. The old reactive, rulebook approach to inspection was replaced by a more diagnostic style. The provision of technical assistance became an important function of the Department. A scheme of regionalisation was introduced and a new group of specialists with expertise in accounting and financial management were appointed to disseminate guidelines and to conduct seminars for local government officials.

A new senior position of Manager for Human Resources Consultancy was created within the Local Government Department and steps were taken to assist municipalities in recruiting the best qualified personnel and in implementing modern management practices. Electoral rolls, now computer-generated by the state Electoral Office, are regularly purged of the names of those who have moved from Richmond, to terrestrial locations or elsewhere.

Shortly after the Labor government came to power in 1982 it introduced freedom of information legislation. Because of political resistance, local government matters were exempt from provisions of the Act. But steps were eventually taken to improve the accountability of local government in Victoria.

Five years after the dismissal of Richmond Council, the Victorian Government introduced a new Local Government Bill which would require that council and committee meetings be held in public. The new Bill addressed many of the shortcomings of local government addressed in the Nicholson Report. Requirements that the terms of proposed leases be published in advance were intended to prevent disastrous situations such as the arrangement with Protean. A term of imprisonment of up to two years was specified for making false or misleading statements to an auditor. Councillors and council staff would be required to register their pecuniary interests. The integrity of the electoral process would be protected by such provisions as six months imprisonment for communicating any information likely to defeat the secrecy of voting six months imprisonment for multiple voting, and two years imprisonment for returning officers tampering with or fraudulently altering voting materials.

The Bill would also create municipal electoral tribunals to whom candidates or aggrieved voters could apply if they disputed the propriety of electoral processes or

outcomes. The tribunal would be empowered to declare an election void if allegations in question were substantiated.

State supervision of local government activities is still intended to avoid even the appearance of paternalism. Beyond the proffering of managerial advice, actual intervention in the affairs of local government would not occur unless there were an apparent breach of the law, or serious mismanagement of financial matters.

The state government also planned to introduce a system of efficiency audits which would compare the local government agencies of Victoria on such criteria as the percentage of rate revenue allocated for administrative expenses. Authorities believe that compliance with proper administrative standards is more readily achievable by letting such facts speak for themselves rather than by overt chastisement. While recognising that municipalities are responsible for allocating their resources, audits would also look to the effectiveness of resource usage in meeting community needs.

Nearly five years after the dismissal of Richmond Council, the municipality's business remained the responsibility of an appointed administrator. There was obviously no rush to restore a democratically elected council, given the anti-democratic traditions which were so deeply ingrained in the Richmond electorate. By 1987, consideration was given to restoring the democratic process, perhaps in conjunction with a merger of the local governments of Richmond and neighbouring Collingwood.

In the end, the likelihood that Richmond-style maladministration might one day recur seems extremely remote, due less to any reformist inclinations on the part of state government than to the course of history. By the late 1980s the social and demographic requisites of the city political machine had become part of Australia's urban past.

***Allegations by Mr Jim Lloyd MP re "dead people" on the Robertson roll  
Letter from the AEC to the JSCEM dated 5 August 1999***

I refer to correspondence of 28 July 1999 from the Secretary of the JSCEM, Ms Bev Forbes, which requested comment on a letter to you from Mr Jim Lloyd MP of 3 May 1999 on the subject of allegedly deceased electors voting in the Division of Robertson, and the provision, on a confidential basis, of the names of the five allegedly deceased electors who were investigated by the AEC and reported on in paragraph 10.2.11 of submission No 88. (It should be noted that the AEC has further reported on Mr Lloyd's allegations in part 36, paragraph 43.18 and Attachment 13 of submission No 176, and in part 45 of the latest AEC submission filed on 23 July.)

Following AEC evidence presented at the public hearings of 1 April, the Australian Electoral Officer for NSW (AEO NSW), Ms Frances Howat, wrote to Mr Lloyd on 12 April advising that his allegations that votes were cast in the names of 51 deceased electors in the Division of Robertson were unfounded. This letter has already been provided to the JSCEM as Attachment 13 to submission No 176, and reads as follows:

I refer again to the list of fifty-one electors supplied to the Australian Electoral Commission by Mr Lance Barrett of your office. Mr Barrett alleged that these electors were deceased, yet had voted at the Federal Election on 3 October 1998.

The Australian Electoral Commission takes all allegations of fraudulent enrolment and voting extremely seriously and investigates such allegations as a priority.

On 12 November 1998, Mr Barrett was advised by the then Acting Divisional Returning Officer for Robertson that the Commission's records indicated that, of the fifty-one electors on the list provided by Mr Barrett, five had voted at the Election.

I am now writing to advise you that each of the five people in question is alive and has maintained eligibility for enrolment in the Division of Robertson. There is therefore no evidence of fraudulent enrolment or voting activity by any of the persons named by Mr Barrett.

As first reported in general terms to the JSCEM by the AEC in paragraph 10.2.11 of submission No 88, the following five allegedly deceased electors who voted in the Division of Robertson were confirmed as alive and correctly enrolled between 9 and 11 March by AEC staff. The NSW Registrar of Births Deaths and Marriages confirmed on 29 April that no deaths had been registered for these electors, who are currently enrolled:

*[five names and addresses deleted]*

On 27 April Mr Barrett of Mr Lloyd's office telephoned the AEO NSW seeking further specific information on the list of electors previously provided. The AEO NSW explained that privacy considerations prevented a direct response. Later on 27 April, Mr Lloyd faxed an undated letter to the AEO NSW, attaching a list of 15 names of allegedly deceased electors, and requesting information on whether these electors were alive or dead (Attachment A). On 26 May the AEO NSW wrote to Mr Lloyd letter

advising that: “there are at least 6 persons on the list you have provided for whom no advice about their death has been received from either the Registrar of Births, Deaths and Marriages or any other source”. (Attachment B). The remaining nine electors on Mr Lloyd’s list did not vote at the election.

Of the six electors mentioned by the AEO NSW, five are the electors from Mr Lloyd’s original list, who had already been confirmed as alive and who did vote at the election. The sixth elector, *[name and address deleted]*, was on the roll at the time of the election but no vote was recorded in her name. The Registrar of Births Deaths and Marriages did advise the AEC, before the election, of the death of a *[name deleted]*, but no connection was made at that time between name recorded at death and the name on the roll. It is for this reason that *[name deleted]* remained on the roll at the time of the election even though she was deceased. The salient point is that no vote was recorded in her name.

In summary, Mr Lloyd’s allegations of votes being cast in the names of deceased electors in the Division of Robertson are confirmed as unfounded. The history of previous JSCEM inquiries into the subject of “cemetery voting” is extracted for your convenience at Attachment C.

The AEC is concerned to protect the identities of the individuals named in this letter from any form of release or publication, and appreciates the assurance in the request from the JSCEM Secretary that their identities are being provided to you on a strictly confidential basis. On the evidence available to the AEC these individuals are innocent of any wrongdoing whatsoever and do not deserve to have their identities or their voting habits publicly questioned as the result of these allegations.