FRAUDING OF ELECTIONS?

by

Dr. Amy McGrath OAM

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with appendix by Peter Brun

review of certain matters from submissions and hearings into the 2001 federal election by the Commonwealth Joint Standing Committee on Electoral Matters

'The backbone of the system is the Register. Without a reliable list of those able to vote, there can be no effective limit on voting fraud.'

(Report on Northern Ireland, House of Commons 1997)

THE FRAUDING OF ELECTIONS? 2003

'*No safeguards can completely deter practiced, professional criminals but they can radically alter the ease with which offences are committed and the gain to the perpetrator*.'
(Report of North Ireland Affairs Committee par.70 1997)

Published by
Towerhouse Publications for the

H.S. Chapman Society
Box 39 PO Brighton-le Sands 2216
(ph 02 9599 7915 fax 02 9599 7916)
email frmcgrath1@ bigpond.com.au
Typography and Typesetting by Alex Frampton

Printed by
Ligare Proprietary Ltd. Riverwood NSW
Cover Design Wendy de Paauw

Previous Publications
Forging of Vote
Frauding of Votes?
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National Library of Australia Card Number and ISBN

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FOREWORD

SHOULD OUR AEC BE IMPARTIAL?

Over the years I have been constantly amazed about the abysmal ignorance of most of the almost 13,000,000 voters in this country about elections although elections are the keystone of our democracy. The core principle of democracy is that governments are elected by a majority vote. If that majority is contrived by fraud, forgery and irregularities then democracy has been stolen from us. Such theft is easy to contrive by the very nature of the secret ballot. It protects the dishonest voter rather than the honest voter, because the dishonest votes can never be identified.

Most voters understand no more than the simplest facts about the voting process on polling day, and how those votes are counted. They would have little comprehension about the principles that govern declaration votes, and none about how they are counted. Many certainly have little regard to restrictions on the right to cast declaration votes, such as the fact they are not eligible to cast a pre-poll vote if they are within 8 kilometres of a polling booth. With four kinds of optional voting in federal elections today, even the watchdogs of political parties are confused and bemused by the complexities that have crept into the electoral process. These are compounded by slack and dubious practices that have developed in managing it.

All this adds up to a lack of transparency at all stages during, and between, federal elections for anyone outside the administration of the Australian Electoral Commission that runs them. If that process is not transparent at all stages from first to last then it is impossible for anyone else to know whether any election has been compromised by the election of a candidate, or whether an entire government has been elected without a majority vote. If that process is as complex as our federal system in Australia has become, then those who understand its obscurities will be few and far between.

The task of those of us, who are concerned that obscurity and complexity have overtaken our electoral process and system, is daunting. Extensive 'progressive reforms' introduced in the name of democracy are largely to blame. They have endangered it by abandoning core principles to protect it introduced in 1901-2 by our first Commonwealth Parliament.

What particularly concerns me is that the Australian Electoral Commission does not exhibit the neutrality proper in the guardian of our democracy. What could be more political than the following statement by the Australian Electoral Commissioner, Mr. A. Becker, to the Inquiry of the Joint Standing Committee on Electoral Matters of the Commonwealth Parliament into the integrity of the Commonwealth Electoral Roll due to the cynical abuse of the electoral roll in Queensland?

'The Committee would be aware that the government is presently negotiating with the states to bring in regulations to enforce new enrolment witnessing and identification provisions in the Electoral and Referendum *(No.1 1999)*. **The AEC advised that, as long ago as 1996, it had indicated its conditional support for**

any reforms. That is, the AEC has no objection to such a reform of the enrolment system, provided it imposes no cost or inconvenience on electors and provided that there is a sufficiently broad class of enrolment witnesses *(JSCEM Sub17.19 par 6.8 Ict,).'***

'The AEC concludes there should be no need for any radical changes to the federal electoral system, such as the early close of rolls, or the introduction of voter identification or subdivisional voting. The AEC is concerned such major changes would have negative impacts on the franchise in particular.'

This statement raised the sensitive question whether the AEC's view would influence those ALP governments, currently in power in all States, in reaching their decision to reject the legislation under Joint Roll Agreements. It was also questionable given the organised 'rorting' of fraudulent enrolment in Queensland.

The AEC risked exposing itself to the cynical query: '**Is the Australian Electoral Commission (AEC) or the Commissioner himself guilty of electoral fraud? Has there been a miscarriage of the Electoral Act in various electorates and are members of the Commission guilty of fraud or conspiracy** *(Editorial Courier Mail)?'*

The AEC also adopts the ALP's policy that open enrolment without any ID is desirable. It argues, that the franchise (to vote) is not some sort of privilege, which has to be earned or bestowed by government, but rather the right of all citizens, restricted only by age, qualifications and some very limited constraints *(JSCEM Hansard SO777 p.8 1993).'* Therefore electors should be allowed the greatest possible freedom to exercise it.

The AEC's argument is flawed. The franchise is not free. It is already constrained since the right to enrol and vote is similar to military service in that it is granted by conscription enforced by penalties. It is also restricted by residence as anyone on the roll, for an address other than their 'real place of living' for one month, is not entitled to vote. As our franchise is already conditional in a system of electoral conscription, the AEC's case that identification of any kind would curtail freedom of franchise does not stand up.

Neither the AEC, nor its Electoral Commissioners, have exhibited the neutrality proper in the guardian of our democracy.The AEC has made preposterous accusations against myself in submissions to the JSCEM in response to mine. Such are that I am trying 'to destroy the entire electoral system' and that I have made 'some quite outlandish suggestions of an international conspiracy to defraud the electoral system'; and lately even that fraud is occurring because I and others of like mind are giving people the idea.

In 1997 a highly defamatory review of the H.S.Chapman Society's book *Corrupt Elections* by Professor Hughes (Commissioner 1984-9) called *The Illusive Phenonomen of Fraudulent Voting Practices* appeared (Academic Journal of Politics and History) comparing us to 'witch finders', 'nuns seeing flying saucers', and liberals with 'angst' over ALP victories.

The AEC endorsed his views by attaching a copy of his article to its JSCEM Submission.

CHAPTER 1

THE DIVIDED HOUSE IS CONCEIVED

Australia's electoral revolution

1983-4

PHASE 1: 'Enormous changes' to the Commonwealth Electoral Act in 1984

In 1996 a memorial service was held in St. Mary's Cathedral, Sydney for the ex-shearer, and AWU (Australian Workers Union) officer, Michael (Mick) Young who was an A.W.U. (Australian Workers Union) man to his bootstraps. One speaker acclaimed his 'democratic reforms' of the Commonwealth electoral system for a user-friendly and voter-easy system as Special Minister for State in the Hawke ALP government from July 1983- February 1987, bar a short exclusion across Christmas 1983-4 when Kim Beazley deputised for him. Many at the time saw it as a phase of revolution rather than reform.

What sort of man was Mick Young? The profile, given by Kim Beazley's biographer, Peter Fitzsimons, recalls: '(Mick) Young, the member for Port Adelaide, had a singular place in the Parliamentary Labor Party. It was a group that always had a disposition to honour its political forebears, and consequently a certain amount of parliamentary bar- bragging rights could be extended to those whose background most resembled that of the party's sweaty blue-collar founders…. In these stakes, Mick Young beat the lot of them hands down. Whatever that distilled essence of something is that makes Australian males particularly *Australian* males then Mick Young had it by the tankful *(p.189 Beazley Peter Fitzsimons)*.' Mick Young also stood for the A.W.U.'s claim to political pre-eminence as the founder of the Australian union movement and the ALP.

But it was Kim Beazley, graduate from the Department of Politics and History of the University of Western Australia who, as Special Minister for State (July 14, 1983-February 1984), introduced the first clutch of 163 amendments to the Commonwealth Electoral Act 1918 late 1983, when Prime Minister Hawke appointed him as a stopgap for Mick Young after the latter was suddenly stood down after four months of Hawkes' first term of office while an inquiry was held. Young had been heard making an indiscreet remark to a close friend in a Canberra car park over the Combe/Ivanov Affair. As Beazley's biographer records **'one thing he proposed to his fellow Cabinet members was that they pass <u>enormous changes</u> to the Electoral Act** *(ibid pp.207).'*

Kim Beazley was a natural choice as stopgap, although Minister for Aviation and Assistant Minister for Defence, because of 'his very close friendship and affinity with Mick Young', a generation older than himself. Beazley gravitated to Young naturally and stuck to him ever after.' Mick Young also became close to Bob Hawke despite earlier differences - the two regularly made bets on the races together, as well as having shared a Canberra apartment in the early 1970's - and it meant that,

although Beazley and Hawke had an independent friendship, they now saw a lot more of each other than they otherwise might have *(ibid pp.190-191)*.'

There is no doubt there would have been a concurrence of opinion between the three men on the key principles of these **'enormous changes to the Electoral Act'**, that had almost certainly been discussed well before the Joint Select Committee (with an ALP majority) was set up to consider them during the tenure of Mr. Pearson as head of the Commonwealth Electoral Office from the 70's. The paramount change was to establish an Australian Electoral Commission as a statutory corporation to replace the Commonwealth Electoral Office.

However one of the most key principles of all, and the most devastating in its consequences, appears never to have been included in those amendments according to two members of that committee - to end subdivisional voting which required voters to vote in local booths - in favour of division-wide voting where they can vote anywhere although 90% always vote in the same booth.

Division-wide voting has been one of those reforms most persistently opposed by the Coalition, and most universally criticised by the general public. One of the Coalition's leading members at the time said to me 'how could we have missed it?', the other 'I thought we were being snowed.' They missed it because no amendment to the Commonwealth Electoral Act for division-wide voting was ever made for the simple reason it would have required a wholesale re-writing of the Act.

The Commonwealth Electoral Act still remains based on subdivisions in all respects although voters can now vote anywhere in any of the usually 40 to 60 plus booths in their electorate, although some 90% usually vote in the same booth near home. The justification for this was that local rolls were growing too large with 5,000 voters, although why producing rolls of *circa* 80,000 should have been seen as a progressive reform, rather than reducing the size to the initial 2,500, still escapes me. Rather it was retrogressive because these rolls were removed for mechanical scanning within 48 hours of polling day so party scrutineers were no longer able to refer to these rolls during scrutiny of declaration votes to see if voters had voted postal, absent or prepoll as well. Transparency and neighbourhood knowledge had gone out of the window. Among many other contentious issues were early close of rolls and the wholesale change to electoral process discussed in detail in my earlier book *Frauding of Votes?* and the HS Chapman Society publication *Corrupt Elections.*

The ALP revolution proved to be one of 'enormous changes' sanctioned by the Special Minister for State, Mick Young. In the background were the powerbrokers, Senator Ray and Graham Richardson. I was sufficiently provoked by the tributes paid to him in his funeral service to write to the *Sydney Morning Herald* to say many deplored the fact the user-friendly 'democratic reforms', they were acclaiming in his memory, were far too 'abuser-friendly.'

1. THE INHERITED CULTURE OF ENTRENCHED CORRUPTION

In 1996 I was already cynical about those 'democratic reforms' of Mick Young. In 1994 I had written *Forging of Votes* about the octopus-like rise of Communism in the

union movement by fraud, forgery and irregularities in union elections, which defector Cecil Sharpley admitted in a dramatic series of revelations in the Melbourne *Herald* in 1949. He had been perpetrating organised fraud and corruption, as one of a small group on the Communist Party of Australia executive, in unions for years. And I was very familiar with the battle of unions like the AWU to combat it. This was very ironic as the Communists had learned those black arts of ballot-rigging, which had enabled them to win a majority in the ACTU by 1945, from the AWU. They had learned them before and after their formation in 1921 from the AWU's struggles for power from 1915-22 and the notorious ballot-box scandals incriminating the AWU from 1922-24. Quotations from my book *Frauding of Votes? 1996* best exemplify this.

'Ballot box scandals had engulfed the AWU from 1922-24. These were precipitated by the allegations of an ex-AWU loyalist, Jimmy Catts MHR for Cook NSW and Parliamentary Secretary, against the Tammany Hall tactics of Jack Bailey (AWU President) and Bill Lambert (AWU secretary). Jimmy Catts chose to commit political suicide by a dramatic expose of corruption in labor party politics at all levels. He accused the ALP of the kind of corrupt practices honest men thought had been left behind in the 19th century, claiming there had been no honest ballot since 1915. He spelled them out in such devastating detail that the ballot-box scandals remained in the news on and off for the next two years.

In what surely must have been one of the most remarkable and compelling speeches in the history of the Commonwealth Parliament, Catts alleged the 'gang of Tammany Hall Bailey' had been engaged in flagrant branch stacking, particularly in the Goulburn electorate. They had made payments to scrutineers and 'gangs of men' to engage in multiple voting with 'crook' voting cards, and had used ballot boxes with sliding panels (allowing fraud by removing or adding votes) to win ballots in pre-selections for parliamentary seats in the Sydney electorate (*Argus July 7, 1922).*

Catts supported his motion by retailing several stories of corrupt practice in the ALP, which surely must have electrified the Commonwealth Parliament out of its slumbers. I requote examples from my earlier book as they have far more resounding relevance now the revelations of the Queensland electoral scandals demonstrate nothing has changed. This is precisely what the grandfather of a middle-aged woman I met meant when he used to announce 'I am going to rig an election today,' as he clapped on his hat to leave.

A. Branch stacking for preselection in the Goulburn seat

'Tom Arthur, one of Bailey's henchmen, used Bailey's Sydney office as returning officer for this 1919 pre-selection as President of the AWU. Bailey used 300 'crook' votes to snatch the victory from his rival, the general secretary P.C. Evans, according to a signed statement from an old AWU organiser, Dick McDonald. This was verified by another statement from W. Minter, a prominent member of the Clerks Union. 'Mr. Buckland, an officer of the Central Branch of the AWU, had been in the Goulburn electorate during the progress of this selection ballot and had returned to the AWU office.

'In the presence of myself and a number of other persons, Mr. Buckland pointed to packages of AWU postal votes which had been got ready to be admitted to the ballot, but which had not been required and therefore had not been used. Mr. Buckland said "we have been challenged with the admission of 'crook' AWU votes. As others did that kind of thing should we not do the same?" Mr. Bailey, who was present, said to Buckland, "you are a damn fool. You are practically telling these men that we did it." Buckland said, "you know perfectly well we did it. Look at all those voting papers left over that we had no occasion to use." Bailey swore at Buckland, wheeled on his heel and walked out of the office." The ballot papers were found to be missing from the ALP's office when sought by an AWU Convention shortly afterwards.'

B. First Preselection ballot for the Sydney Seat 1922

Jimmy Catts assured the Commonwealth Parliament: 'This is an absolutely true version of what occurred in the Trades and Labour Council rooms and elsewhere by Mr. Thomas Wells. 'Six of us were seated round a table in the Labour Council rooms. The roll book for each division was placed before us. After certain instructions were given, we wrote names from each division choosing only labourers and domestics. Certain names on the rolls had crosses marked opposite them. We were instructed to leave these severely alone. The work went on all day. **We, the personators, were taken from the Trades Hall together for our meals and were watched very closely. There were fully 600 personations which came under my notice.** We were all paid one pound for the day, and supplied with three meals. There were special code arrangements for telephone communications with the Trades and Labour Council rooms during the day. After trying in other directions to have these matters exposed, I decided to place the facts in the hands of Mr. J.H. Catts on the 12th day of April 1922.' This ballot was eventually upset, and another ballot was ordered through the parties falling out among themselves.'

C. Second Preselection ballot for the Sydney Seat 1922

'At Alderman Stokes' committee rooms Elizabeth St. Redfern near Central Railway Station, operations were conducted in connection with the second Sydney ballot. Alderman Stokes had four gangs of personators in operation, each gang under the charge of a superintendent or ganger. Alderman Stokes' brother was in charge of one gang. A lady after lunch obtained a list of those of the League who had not voted at the Belmore booth, and who it was understood did not intend to vote or were away, and these were personated by the gangs. One of the candidates attended the funeral of a member of the Belmore League on the Thursday prior to the ballot and personated this dead man in the ballot on the Saturday and boasted in the committee rooms of having done so.

'The gangs in question were operating on forged union tickets. There were 600 Federated Liquor Trade union tickets of a different colour, 1,000 municipal employees' tickets and 1,000 Water and Sewerage Board tickets, and there appeared to be a limited quantity of other trade union tickets. **They were obviously forged and**

had no printer's imprint or union label. Mr. Bains, organiser of the Liquor Trades Union, signed all the faked union tickets himself as C. Bains. In some cases, Ted Moon, Managing Director of Catholic Insurance, signed some of the faked tickets and other signatures were made by other persons promiscuously in the committee rooms. In the case of these forgeries, originals of the various signatures, and other particulars, were copied.'

'The clerks in the Committee rooms supplied each member of the personating gang with the name and address of some person from the electoral roll in the district on a slip of paper and the union ticket, or pence card, was made out in the name of the voter to be personated. **The gangs were sent to operate first on one polling booth, then return to the committee rooms for fresh supplies of tickets and instructions and then to operate on another polling booth. Having gone round the whole of the booths they came back to the committee room and commenced the same procedure again.**

'Scouts were sent out from the committee rooms to bring back reports as to the best booths for the operations of duplication and personation. These scouts reported that there was an "open go" at the Pyrmont booth, that an unlimited number of votes could be polled there provided that a union ticket of any sort could be produced. At the Belmore booth, where Mr. Macgrath, Secretary Printing Employees Union, was the district returning officer in charge, more than 25% of the votes were challenged by the scrutineers, and these votes were placed in separate envelopes for investigation after the close of the booth. At the count Mr. Macgrath said he proposed to treat them as valid and asked had anybody any objection? Nobody objected but myself, and I urged that the unchallenged votes be first counted, and then the challenged votes be forwarded to the returning officer, Mr. Bates, for his investigation and decision. **This demand was disregarded and the whole of these votes admitted without scrutiny. Had these votes been investigated there is no doubt that a fraud would have been exposed.'**

By September 1922, the pot was on the boil sufficiently for a Mr. Considine MHR to demand a public investigation 'into the widespread charges of bribery, corruption, forgery, impersonation and other criminal practices now being made in the various states in the Commonwealth with the selection and election by political organisations for State and Commonwealth Parliament.'

D. Dr Evatt and E.G. (Red Ted) Theodore in the Balmain and West Sydney seats

5 years later Dr. Evatt undoubtedly had AWU backing when he stood for the State seat of Balmain. He was invited to join that old Queensland AWU warhouse and ex-premier, E.G. Theodore on the platform of the Balmain Town Hall for the latter's campaign launch for the federal seat of Dalley on February 16, 1927. According to the NSW ALP secretary, S. Bird, he captured almost the entire AWU vote for his own election by stacking ALP branch meetings with their henchmen and hawking the rule 18 roll book from factory to factory in Balmain in defiance of ALP rules. Notwithstanding he lost the pre-selection and stood as an independent.

The AWU was not alone however. W. Lambert MHR for West Sydney complained he lost his seat to Jack Beasley, the President of the NSW Labor Council in 1928, through fraud. Irwin Youngs' biography *Theodore* explained **how it was done. 'They had organised the ballots in a manner which made ballot boxes with sliding panels appear amateurish. Young girls voted. Some voters voted up to 12 times. Officials outside the booths reminded voters of the names that they were personating. Signatures were practiced outside some booths. Voters travelled from place to place by car. Many supporters of Beasley wore special pins in the lapels of their coats. This allowed them to vote unchallenged. Long before polling day some unions made lists of members entitled to vote available to Beasley supporters only.'**

E. Federated Ironworkers National and Sydney Branch elections 1949

In his closing address in the challenge of Laurence Short to the conduct of the 1949 National and Sydney Branch 1949 elections, his counsel Eric Miller KC attacked the political culture which had made the fraud being challenged possible. He declared: 'which individual communist, inside or outside the union, was actually responsible for the forgery was not important in an overall assessment of the FIA 1949 ballot. What was important was the attitude of mind which made it possible - whether it was a conspiracy between several, or perpetrated by one, or two, individuals.

'Forgery took place because of the degree of tolerance of one communist towards another, which made it of no individual concern to any one to protect the rights of union members, or to bother to see if fraud was taking place. It was the degree of submissiveness among union officials and employees, due to the centralised militant character of Communist Party of Australia control, that had made fraud possible.'

Mr. Justice Dunphy of the Federal Industrial Court could not be said to have reached anything but a deliberate conclusion when he finally gave his judgement on November 29, 1951. He pointed out the startling similarity of hundreds of ballot papers and the omission of the defence to call expert testimony to rebut evidence of such similarity and the failure to produce comparative papers to demonstrate there was nothing unusual, or extraordinary, about markings on large numbers of the challenged ballot papers, he went on to conclude: "No jury of sane and sensible men could come to any other conclusion but that an unscrupulous form of forgery, fraud and irregularity was indulged in."

F. Australian Workers Union National and Queensland Branch election 1996-7

A former AWU organiser, Brian Courtice, gave evidence in Townsville in January 2001 to the special inquiry of the Commonwealth Joint Standing Committee on Electoral Matters on the integrity of the electoral roll, set up in response to dramatic revelations of false enrolments for ALP pre-selections and elections for the Brisbane Council, on the 1997 Queensland branch and national elections in which he had stood unsuccessfully for the post of Queensland secretary of the AWU in the 1996-7 election against Bill Ludwig. The two men had clashed in the fall-out of loyalties in the Hawke vs Keating leadership drama, Queensland being considered 'a Hawke State' and Courtice supporting Keating.

In introducing him, the Chairman Mr. Pyne, explained 'the coincidence between

AWU membership of the ALP and membership figures of the union indicated the level of support in the ALP and that a culture of fraud may have existed as a consequence of the AWU's activities.' Mr. Courtice's evidence was ample demonstration of this.

Mr. Courtice: 'The difference between the state and federal ballots was considerable. About 20,000 members' names were knocked out of the federal ballot. In the state ballot there were several thousand knocked out… The difficulty that exists, and where things are open to fraud is that people who have picked fruit for one or two weeks and have paid a proportion of a union ticket - in other words, one or two or three weeks out of their pay - are put forward as members of the AWU…… Importantly in the federal ballot, the difference was that the former federated ironworkers (union) which amalgamated with the AWU at a federal level. Therefore, one would have thought those eligible for the federal ballot would be much greater, with another 10,000 FIA members included, than the state ballot but it was not the case. There were fewer numbers eligible federally to vote than there were at a state level.

'The thing that concerned me in the union ballot was that literature was sent out by the state secretary prior to the first ballot. There were several thousand letters returned as 'not at this address'. I did not have access to who those people were. **But that leaves open the fact that - and this is just part of the integrity of ballots, whether it be union ballots or normal ballots - if someone has the information as to where people are not, you can guarantee that, if you are able to collect the ballot papers from those same places, then you can fill them out yourself.**

Chair: Were you concerned that might have been happening?

Mr. Courtice: Absolutely

Chair: Do you have any evidence that it was happening?

Mr. Courtice: I do not have any evidence that it happened. But when there is an open door or there is an open gate you cannot tell how many cattle are going to walk out of the gate. So they are the sort of things that need to be looked at in regard to maintaining the integrity in any ballot whatsoever. The only people who have right of entry to do that, of course, are organisers in that particular union. I could not - I never had right of entry in that ballot go anywhere. I had to stand outside the gate to talk to members - but the organisers certainly could have. I am not saying they did. I am simply saying that there is a hell of a big gate open there that allows things to happen.'

The AWU claimed 69,000 members in the 1996 state ballot. Mr. Courtice thought there were something like 50,000 who got ballot papers. In the federal union about 45,000 even though another 10,000 were entitled to vote. In the first ballot he got 39% of the vote, in the second in 1997 he got 46% of the vote when it came under the scrutiny of federal rules of the AEC, not state rules. **Mr. Courtice said if he had known that AWU officials were making many applications for additional ballot**

papers he would have made it public and taken it to the Federal Police.

Chair: So you say there was a possibility that those ballots could have been intercepted by AWU officials and that has worried you since that election?

Mr. Courtice: It has; in particular in the light of things that have come to the fore subsequently, through the Shepherdson inquiry, because there is a culture in Queensland that has basically existed since the days that Ned Hanlon set up the gerrymander. Ned Hanlon was the second last Labor Premier before the conservatives won power. That was maintained and improved under the conservatives, particularly when Joh Bjelke-Petersen became premier. If we want to improve the standing, and respect, of people in public life we have to change the culture. It has become ingrained into our system unfortunately.

Chair: You described the culture this way on the Four Corners program: 'The fact of the matter is that there is a political mentality in Queensland that belongs in the 60's in Mississippi.'

Mr. Courtice: That is correct.

Chair: Did you discover or encounter that culture in the AWU?

Chair: Unquestionably (JSCEM Hansard EM 244-6)

2. THE AUSTRALIAN WORKERS UNION CULTURE IN QUEENSLAND 80 YEARS ON

One of those engulfed by the Queensland electoral scandals was an AWU protégé, Wayne Swan, over an allegation in the Shepherdson Inquiry that he once had 12 people enrolled at his home; and that he had given $1,400 in a brown envelope to AWU organiser, Lee Bermingham, to take to a Democrat campaign manager to encourage the Democrats to give him first preferences in his 1998 campaign to retain his Lilley seat. The Prime Minister said they were 'very serious allegations, which Kim Beazley should be examining as Wayne Swan was not only on his front bench but one of his closest confidantes.'

Swan at first denied, then admitted, money had passed but not for preferences. He had simply failed to declare the donation. Others said Wayne Swan was merely 'unlucky' to get caught in the backwash on the Shepherdson inquiry into systemic electoral fraud in his home state of Queensland. According to Tony Walker in the *Australian Financial Review:* 'These observations are disingenuous if it is also borne in mind that Swan has been a key player in the powerful right-wing faction of the Queensland ALP virtually since he cut his baby teeth as a student activist in the mid-1970's becoming, like many before and after him, recruits to the AWU political machine.

'The product of a traditional working class background, he graduated from the University of Queensland with BA (Hons) Politics. Swan went on to be adviser to the leader of the Opposition, Bill Hayden (also from Queensland) and assistant to Mick Young, the Party's former federal secretary, who was his hero and mentor until

his death in 1996 *(December 1, 2000)*.' He assisted Mick Young and Kim Beazley when the 'enormous changes' to the electoral system were being introduced .

Wayne Swan was also the campaign director who 'helped engineer' the landslide State election victory of Premier Goss when he came to power, according to Mike Steketee in *The Weekend Australian (Dec.1-2 2000).* 'It was a victory notable not only for complaints in the Queensland Parliament by Terry Gygar and other sitting members of a considerable number of false enrolments in several seats during the 1989 State election, but also for an ALP victory after 32 years in opposition.' As Tony Walker writes 'it probably explains his influence with Opposition Leader Kim Beazley who is said to pay close attention to his advice, particularly during the interregnum when he lost his federal Lilley seat in Brisbane from 1996-8.'

Wayne Swan held the Queensland ALP's top machine job of state secretary from 1991-3; and 'engineered', as he put it, the contentious 1993 win of Michael Lavarch in Dickson as his campaign manager, which he openly attributed to the aid of paid organisers donated by the Trades Hall. Throughout he was a staunch member of the AWU faction.

Brian Toohey of the *Sun Herald* wrote that Swan was not the only member to enjoy Ludwig's backing, but also 'two ambitious backbenchers, Kevin Rudd and Craig Emerson benefited from the blessing of the faction. Like Swan, neither went directly from the shearing shed to Parliament House. Emerson is an economist and Rudd a former diplomat.' The AWU had been the predominant influence in labour governments in Queensland from 1915 to 1957 and still held a 40% influence in the 1990's despite the antagonism of Peter Beattie who had set out to crush their influence as the 'Old Guard' in the Trades Hall.

These men are products of a political machine, according to Dr. Paul Reynolds, Queensland University lecturer in political sociology and state politics. 'It's fairly clear that the AWU has had a long-standing policy of catching them young, providing mentors and skilling them up in the folklore of the party. They induct into the group neophytes who, if they stay, have to do the group's bidding and learn its ways. It is a social phenomenon. Where it becomes a moral question is the means by which it happens, and when certain people in their zeal cross into criminality.'

Dr Reynolds' colleague, Dr Rae Wear, who lectures on political leadership at the University of Queensland, expanded on this: 'Inquiry evidence reminds her of the 'whatever it takes' mantra of Labor's former number-cruncher, Graham Richardon. The young and ambitious apparatchik-types are drawn to the power (of the AWU faction) partly because of their passion and partly because they want jobs *(October 28, 2001)*.'

When Karen Ehrmann became the victim of what she called 'a grand scheme' of electoral corruption, she declared she was merely 'a bit player in a well-known scheme being carried out by the AWU.' And no state was more famously AWU than Queensland, its founding state, through its notorious strong men like Charlie Oliver from Western Australia, Tom Dougherty from N.S.W., Clarrie Fallon and currently Bill Ludwig, AWU secretary, from Queensland.

As a survivor of many faction fights, Bill Ludwig was not in the least perturbed

by the crisis in Queensland - the Deputy Premier of Queensland and leader of the AWU faction in the Queensland Parliament, Jim Elder, disgraced, 3 ALP members of Parliament convicted, and 2 pre-selected candidates convicted and a third sent to gaol. Not to mention the Beattie government shaken to its core, and Kim Beazley's chance of becoming Prime Minister threatened. Not a whit. **Ludwig shrugged it off as he had the Cooke inquiry into his union in 1990 (closed down by the Goss ALP government when it came into office) 'these things come and go and I don't think the electorate is taking much notice.'**

Did other major figures have doubts? Christopher Pearson, distinguished editor of the *Adelaide Review* at the time, remarked: '*Sydney Morning Herald's* Alan Ramsey, who understands Queensland politics better than most, noted Beazley's silence on these issues and said "he remains in total denial." He also urged the Opposition leader to speak to AWU-affiliated front-benchers Wayne Swan and Kevin Rudd, who "should be able to inject some reality into his thinking." Swan is Beazley's most intimate political adviser, far closer than his deputy, Simon Crean. Yet Ramsey, who is far more sympathetic in the cause of Federal Labor than I am, feels no hesitation in referring to "the taint of power and influence of people like Swann and Rudd."

'Where I part company with Ramsey is his trivialisation of the issue of defrauding the electoral rolls. He says that the Joint Standing Committee on Electoral Matters of the (Commonwealth Parliament) is designed "to foment and incite misinformation" and that the only real problem is factional branch stacking, which relies on systemic fraud. He is wrong. **Plainly, if people are fraudulently enrolled, they will exercise their votes to affect electoral outcomes as well as preselection ballots.**

'As a committee witness, Andrew Becker, the CEO of the Australian Electoral Commission inspires very little confidence in the process over which he presides. **Notwithstanding the evidence from Queensland, he's just assured the committee that "we do not have a culture of fraud."**

'Hear no evil, speak no evil, see no evil - the culture of the three monkeys - seems to be the prevailing ethos of the AEC. If Becker believes what he's saying, I suggest that he reads Amy McGrath's books *The Forging of Votes (1994), Corrupt Elections: Ballot Rigging in Australia (1997).* He might also care to reflect on recent evidence on the outcome of the 1987 election in Fisher.'

Denial by the Australian Electoral Commission of the Culture of Corruption

Obviously Mr. Becker did believe what he told the JSCEM that "we do not have a culture of fraud' because he repeated it when he flatly contradicted Mr. Pat Bradley CBE during a meeting in Canberra in September 2000, before his 6 most senior officials, after Mr. Bradley declared he had never seen any election in any country where there was not some fraud. The elections, Mr. Bradley referred to, were not only in Northern Ireland, where he had been Chief Electoral Officer for Northern Ireland for 20 years, but in 22 countries as election analyst and consultant for the United Nations and International Democratic Electoral Assistance (IDEA). He had

also given evidence before the 1997 House of Commons Committee on Electoral Fraud in Northern Ireland on the particular problems of fraud in Northern Ireland, chiefly from the IRA.

Dr. Hughes, the first Australian Electoral Commissioner 1984-9 repeatedly said the same both in and out of office. One question, that has never been asked nor answered, is why Mick Young anointed Dr. Colin Hughes in 1984 in that post when his entry in *Who's Who* declares no electoral experience and, indeed, no Australian residence during his education. He emerged via the U.S.A. (Columbia Univ) and U.K. (London School of Economics) to be a Professor of Political Science in Queensland University's Department of Political Science (1965-74). Consequently he accepted a Fellowship in the Australian National University in 1975 where enthusiasts for change to the electoral system are still to be found, thus moving closer to the corridors of power.

And Mick Young, elected to parliament in 1974, may well have seen Dr Hughes as a logical choice to manage his electoral revolution as Australian Electoral Commissioner ten years later. Dr. Hughes task in this role was to implement the 'enormous changes' to the Commonwealth Electoral Act, predicted by Kim Beazley in 1983, which were destined to cause unremitting criticism from politicians, parties, journalists, talk-back hosts, private citizens and public at large for the next 20 years.

Mark Robinson implied much the same of Mr. Paul Dacey, now Deputy Commissioner of the AEC, as of Mr. Becker when he reported in the *Courier Mail (Nov.16 2000)* that the Australian Electoral Commission had admitted to the JSCEM that a cat's owner had successfully registered it under the improbable name of Curacao Cat on the Commonwealth electoral roll in the Blue Mountains seat of Macquarie to vote in the 1990 election. Worse that the hoax was only discovered when a letter from the local member, Alisdair Webster, was returned and he could find no record of a person of that name.

The journalists and cartoonists of course had a field day. A discomfited Mr. Dacey assured the AEC that Curacao Cat was the only pet the AEC had ever registered. I negated this by telling the *Courier Mail* that a mouse had been enrolled in Springwood, with his own post-box for AEC mail, as Michael Raton otherwise Mickey Mouse, Raton being the Spanish surname for 'mouse.' No one detected his false enrolment. Mr. Dacey had to admit that the electoral system was open to abuse, and there were only limited ways to stop fraudulent enrolment.

That it was open to abuse, without being discovered, was dramatically demonstrated by the fact the AEC was never aware of two other fraudulent enrolments, in the same name at two different addresses, that caused utmost consternation when they were discovered in August 2001 just 3 months before the federal election. The name was that of the Prime Minister. And neither of these addresses were at Kirribilli House, his primary place of residence where he believed himself to be enrolled as he had been legally advised to enrol. They were at his electorate office and his private home in his electorate where he was no longer living while at Kirribilli House.

Worse the false enrolments were only found out, and the alarming news passed on to those who would know what to do about it, by sheer chance. Bob Bottom happened to be speaking to a conservative group in Brisbane about his research into Queensland electoral fraud, when a member of the audience told him that someone was boasting on the internet that the Liberal Party 'did it too,' meaning as well as the ALP had been shown up as doing in an organised way in Queensland. They had an extract from the Commonwealth electoral roll, showing the Prime Minister's name at both addresses, on their website to prove it. We were appalled as it might have disqualified the Prime Minister for nominating as a candidate if it had been exposed after nominations closed, and moved swiftly to have it rectified.

But a mystery remains. How was it possible that the DRO's office for Bennelong could enrol anyone as well known as the Prime Minister twice at two addresses where they surely would know perfectly well he was not living? Acknowledgement cards are sent to enrolees at the given addresses. Did the PM's electorate office get one to alert them? If not, why not? But there can be no mystery about one fact? The AEC's much vaunted continuous roll review let the Prime Minister down badly.

CHAPTER 2

THE HOUSE DIVIDED IS BORN 1984

The AEC versus the Commonwealth Parliament

(against)

Creation of the 3 man Australian Electoral Commission (AEC)

Is the AEC, as constituted in 1984, appropriate to be seen as a democratic body?

The argument for creation of a statutory body like the AEC, removed from dependence on the public service and given a degree of independence from the Parliament but answerable to it, is usually justified by the principle that it is more democratic. The argument is particularly thought justifiable in the singular case of an institution created to be the guardian of our democracy.

When the AEC was established in 1984, the electoral system of management it inherited was undoubtedly democratic as part of the public service. It had been managed by a Commonwealth Electoral officer with a handful of staff in a totally decentralised system of Divisional Returning Officers (DROs) located in every division managing the core responsibilities of keeping the electoral roll updated, conducting elections and dealing with problems, arising from either, such as objections and prosecutions. They also individually issued the writs for elections.

The system is now managed by an expanding office with a centralising attitude and ambitions. It is subjected to no consistent check on its policies because of the small size of the Commission itself and the inadequacies of the overseeing Joint Standing Committee on Electoral Matters of the Commonwealth Parliament.

The AEC comprises a judge of a federal court chosen from a panel of 3 by the Governor General, the Electoral Commissioner, and a senior officer in the Public Service, currently the Statistician. The period of service of the two part-time Commissioners is unlimited. There have been 4 full-time administrative Commissioners, who are the chief executive officers, from 1984-2000 - Dr. Colin Hughes 1984-9, Brian Cox 1990-5, Bill Gray 1996-2000 and Andrew Becker 2000-3 (still in office) I understand they were consecutively an academic, an archivist, a chief executive of ATSIC and member of the Prime Minister's Office, and the State Electoral Commissioner for South Australia.

The AEC should never have been established with a Commission of only 3 people - one of whom is the Commissioner who controls its administration as its Chief Executive Officer. It is the only Commission of just 3 people out of all the other 15 Commonwealth Commissions, whose Acts I examined. Indeed the third member, the Statistician, comes from the Council of the Australian Bureau of Statistics, which governs the Bureau of Statistics and therefore his work as Statistician, prescribes a Council of not less than 10 members and not more than 22. Terms of office are 5 years for the Chairman, 3 for members but all are renewable.

The very least number of Commissioners required for all Commonwealth Commissions, other than the AEC, is 5. Almost all Commissions have a much greater number. None of them function with a quorum of only 2. This can scarcely be considered as desirable given the complexity of administration which elections involve, or that decisions can be reached in *ad hoc* meetings not necessarily in person.

Yet it is these three Commissioners, who have managed the 'democratic reforms' of 1983-4, carried through parliament by Mick Young and Kim Beazley, that were claimed to end a 'period of stagnation for 60 years (a false assertion) and to free Australia from corruption and fraud in the electoral system (which it has failed to do as the Queensland and other electoral investigations and incidents have shown).'

It is these three Commissioners who have implemented the ALP's new user-friendly/voter easy policy for division-wide voting and new procedures in booth management and ballot counting. While the system may have become more 'open' to electors in the ensuing years, it has become more closed towards its DRO's as it has pursued centralising policies to restrict then destroy their independent role and even to move them outside their electorates. These policies have consistently been opposed by the Coalition.

This situation exposes the full time Electoral Commissioner, who is the Chief Executive Officer, to concern that his position is too powerful for a body that must guarantee - through its electoral roll - the delivery of democracy to every adult in Australia (now 12 and a half million) at every level of government - Commonwealth, state and local councils. This full time Electoral Commissioner can virtually unchecked -

- take advantage of the fact the two other Commissioners are only part-time Commissioners with insufficient time to give to complexities of electoral matters, to advance administrative change.
- selectively control the flow of documents to the other Commissioners
- favourably sit in judgement on his own performance
- ignore his own shareholders, the electors, who remain unrepresented.
- exercise undue influence via constant familiarity with only 2 other part-timers
- enable him to become, with his Deputy and 6 Assistant Commissioners, virtually a de facto board.
- persuade the other two commissioners to endorse his preferred policies when outside their range of expertise - a situation which is too collusive, allowing too self-limiting a debate.
- encourage too much dependence on the advice of expensive outside consultants and academics in universities with no electoral experience.

The British Electoral Commission

In view of constant disquiet in the political community about the undue power of the AEC as a 3 man body created by the ALP, it is valuable to consider what the

British ALP thought was the optimum number and format for a British Electoral Commission during the debates in the House of Commons that led to its recent establishment. The British Labor Party settled for 9 members.

a) Principles for establishment of the British Electoral Commission

The cross-party Howarth and Neill Committees of the British House of Commons considered the appropriate size and principles in deciding the character of the projected British Electoral Commission, finally established on November 30, 2000 should be -

- a wider range of experience from a variety of sources
- less potential for partisanship
- assurance of adequate attendance to cover unforeseen circumstances
- more formal, less collusive and genuine debate
- a chance to appoint Commissioners to represent voters at large.

The Numbers of Commissioners for the UK Electoral Commission?

a) Labor Party The model that the British Labour Party lawyers, David Gardner and Gerald Shamash, produced for the Working Party that followed the Howarth Committee Report of the House of Commons in January 1999 was as follows-

3.2 The precise size of an Electoral Commission and its composition varies widely in different countries. Kenya has 12 Commissioners, Australia 3, Malawi 17. The Neill Committee recommends 5. However, what we envisage is an electoral commission with a wider remit to deal with all matters relating to the way we run elections. Consequently, without wishing to be prescriptive, **we consider an Electoral Commission with a slightly higher membership of 9 Commissioners to provide the range of skills, experience and geographical considerations.**

3.3 We recommend that the 9 Commissioners should be appointed by the Commissioner of Public Appointments following consultation of all parties on the recommendation of the Home Secretary (4 members Scottish/Welsh/Northern Ireland (one each), Secretary for Environment, Transport and Regions one each. Members of the Commission should incorporate individuals with the following skills:

a) High Court Judge or Lord of Appeals

b) Academic with constitutional or psephological background

c) Electoral practitioner

d) Lawyer

e) Chartered accountant

f) Principal local government officer (retired or serving)

g) Scottish Commissioner

h) Welsh Commissioner

There may also be a case for a Commissioner with a communications, marketing and/or broadcasting background or one with a public education background. It could be that a commission member combines two or more of these criteria (eg Scottish lawyer etc)

3.4 In some countries political parties are represented but we do not think that this is appropriate, especially in the light of the Neill recommendations. However, the parties may themselves make nominations and each principal party should appoint designated officials to maintain a systematic, but appropriate relationship with the commission.

3.5 Notwithstanding, individual members of the commission should be acceptable to the leaders of the main parties. Although this may make the commission somewhat larger than what was anticipated by the Neill Committee (5 members) the range and scope of the issues with which it would have to deal is such that the expertise available to the commission will be of direct benefit.

b) <u>Conservative Party</u> Electoral consultant, Paul Gribble CBE, as national agent and lawyer for the Conservative Party, presented the same working party with notes on the ideas of the Labour Party. He warned that 'the whole of the Labour Government's plans for electoral change have been hastily constructed. They are vulnerable in that area. The work of the Constitutional Unit at the School of Public Policy at University College, London, seems to have formed the basis of many of Labour's ideas.' He recommended

1.1 It would be sensible to have a Commission, which contains experts covering a range of specialties, however political 'practitioners' should not be overlooked. Their experience can be extremely useful. It might be sensible for the commission to have access to an advisory committee of practitioners, who could assist whenever the commission felt the need of advice on more political questions.

1.2 We must ensure that we develop sufficient safeguards within our electoral system to be certain that it can continually be fair, and be seen to be fair, and transparently fair at that.

3.1 Membership of any Electoral Commission needs very careful construction. It must be seen to be fair and independent, and yet contain members with considerable knowledge and experience.

3.2 Labour's proposed membership is interesting. I cannot see why their list should contain a Chartered Accountant, an Academic with constitutional or psephological background or a Lawyer amongst their numbers. Whilst no doubt they could all contribute, the proposed list seems to have been carefully laid out to accommodate the potential candidates that Labour has in mind.

4. Any Electoral Commission must ultimately be responsible to Parliament and report to the Speaker of the House of Commons.'

c) **<u>Chief Electoral Officer of Northern Ireland</u>** Pat Bradley CBE brought 20 years expertise as Chief Electoral Officer of the turbulent electorate of Northern Ireland to the advice he offered the Howarth Committee.

2.12 It would appear that membership of the electoral commission is unlikely to be on a political party representational basis. Accordingly a membership of five, as suggested by Neill, does seem very appropriate. The Electoral Commission will need time to develop its resources and range of functions and will develop incrementally. **That provides for the opportunity at a subsequent stage, if deemed necessary, for an increased number of members.** Such an approach would also ensure that, through time, as individual commissioners depart, there is a continuing core of skill and experience.

2.1 In determining the qualities and experience to be sought of potential members of the Electoral Commission, due regard should be made for the fact that the considerable vocational skill, which will eventually be required of commission members can only develop after experience in office. The personal qualities of individual commissioners, and especially their actual and perceived impartiality, are of prime importance.

2.2 Accordingly I do not agree with the suggestion by Gardner and Shamash that membership of the Electoral Commission should be targeted to include individuals with skills such as chartered accountant, electoral practitioner or principal local government officer. Such an approach could result in an undue emphasis. Where such skills in themselves are required they can be adequately provided through the commission itself.

The Oxford academic, Dr David Butler, declared in a paper for the Hansard Society for Parliamentary Government that 'in the last resort Parliament must, of course, be sovereign over the electoral framework *(The Case for an Electoral Commission p.13).'*

<u>Present members of the United Kingdom Electoral Commission</u>

Sam Younger (Chair)	Ex-managing director BBC World Service
Prof. G. Zellick	Professor Public Law/Vice-Chancellor London University
Pamela Gordon	40 years Local Government Service, Nat. Lottery Charities Board
Glyn Mathias	Journalist and ex-Manager Public Affairs BBC Wales
Karamjit Singh CBE	Member Criminal Cases Review Commission
Sir Neil McIntosh CBE	ex-Chair Scottish Local Government Commission
Roger Creedon	Chief Executive, seconded from Home Office

Proposals for an enlarged Australian Electoral Commission

- The AEC be enlarged on a permanent basis.
- The AEC be increased to 7 members to be drawn from the community at large - some with electoral experience - plus the Chief Executive and a non-judicial chairman.
- The vacancies for appointment of the 7 community members be advertised, and the choice be made by a Speaker's Parliamentary panel.
- The head of the administration resume the original title of Chief Electoral Officer.
- The Chairman of the AEC be known as the Australian Electoral Commissioner, and appear in person at all meetings, unless a deputy takes his/her place.
- The Chairman or deputy appears in person before all sittings of the Joint Standing Committee on Electoral Matters when AEC attendance is required.
- The AEC no longer have such unrestricted power as to delegate all or any of its powers to any electoral officer or member of staff.
- That a quorum of four or five be required for all decisions of the AEC.
- That the Chairman sign off all responses of the AEC to the Joint Standing committee of the Commonwealth Parliament (JSCEM) not the CEO.

As for the Chairman for the entire period of the AEC's existence 1984-2003, Mr. Justice Morling, no one knows what his views may be as he never signs off submissions to the JSCEM nor attends its hearings, although the AEC only consists of 3 people, himself, Mr. Becker and the Statistician. Although the AEC claims to be more transparent, the Chairman is an invisible man.

Has the AEC's interpretation of independence proved divisive?

At the time of writing this book, I was challenged to define what the status of the AEC, as a declared statutory corporation, actually was because the office of the Special Minister for State had been refused a copy of a legal opinion the AEC claims gives it the 'discretion' to proceed with amalgamation of the offices of DROs.

I found no answer in the dictionary which merely said that 'statutory' meant 'created by statute'. I found no answer as to what was intended by the establishment of such a corporation as the AEC, or the degree of independence it should attribute to itself, in authorities I consulted. But I was lucky enough to find a definition in the excellent work by Frank Byrt and Frank Crean, *Government and Politics in Australia (pp. 273-4)* published in 1982, which I had bought quite by chance in a library sale. Frank Byrt is described as Reader in Business Administration in the Graduate School of Business Administration, University of Melbourne, and Frank Crean, father of the present Leader of the Opposition, as a graduate in business and commerce and a former Treasurer of a federal ALP government.

Under the title *The Statutory Corporation*, Byrt and Crean provide an clear

exposition - ‘Statutory or public corporations have been established in Australia under both Commonwealth and State law. They vary in composition, functions and legal status and it is difficult to arrive at an all-embracing, satisfactory definition.

‘A statutory corporation has been described as a body exercising official or governmental functions yet possessing various degrees of independence from the executive; as a corporation clothed with the power of government but possessed of the flexibility and initiative of private enterprise and as an organisation that gives the best of both worlds, combining progressive modern business management with the proper degree of public accountability.

‘What mainly distinguishes a statutory corporation from a ministerial department is that, in exercising its statutory powers and duties, it does not have full and direct responsibility to parliament. **The public corporation is legally subject to ministerial control and ideally should possess flexibility, show initiative and be accountable to parliament through the minister.**

‘The main reasons for establishing statutory corporations have been:

- the desire for freedom from direct executive control.
- to separate administration from partisan politics.
- the desire for boldness and enterprise in management.
- the need to escape from caution and circumspection, which is thought to be typical of government departments.
- the technical and legal advantages of an entity with perpetual succession, capable of suing and being sued by ordinary process of law and of obtaining, owning, and giving title to property, free from the cumbrous restrictions and immunities of crown law.
- the possibility of getting functional specialists on boards.
- the possibility of introducing “business” methods of accountancy.

‘Strictly speaking, statutory corporations are not part of the administrative machinery of government, at least not to the same extent as are ministerial departments. They are institutions for carrying out certain economic activities, for example the provision of power and transport and do not formulate policy. Thus the Commonwealth government attempts to keep the operations of its airlines, Trans-Australia Airlines and Qantas, separate from the policy-making activities of the Department of Transport. TAA is just as much subject to government policy and regulation as is its competitor, Ansett Airlines. Board members and senior executives of the major statutory authorities probably do advise on government policy in their fields but this is not their major function.

‘It could be said that the provision of certain services, for example, social services by the Commonwealth and education by the States, might be better undertaken by statutory authorities than by ministerial departments. The first statutory corporation to be set up in Australia was the Victorian Railways as reconstituted in 1883. Since then, many corporations have been set up in the states. In Victoria there are the State

Electricity Commission, the Metropolitan Tramways Board and the Melbourne Harbour Trust.

'Fewer corporations are operated under Commonwealth law but there has been an increase in their number in the post-war period. Commonwealth Statutory Corporations are either commercial - that is engaged in the development, production and marketing of goods or services, for example Telecom Australia, Australia Post, the Australian Broadcasting Commission, the Commonwealth Banking Corporation and the Commonwealth Serum Laboratories. - or regulatory, such as the Australian Broadcasting Control Board and the Reserve Bank of Australia,

Organisation of the Statutory Corporation

'Statutory corporations vary in their forms of organisation. All, however, are established and have their powers and functions prescribed by an Act of Parliament.

The Board

'Each corporation is placed under the direction of a Board or Commission, normally appointed, in the case of Commonwealth corporations, by the governor-general in council, that is, in effect, by cabinet. **Members of boards are appointed for fixed terms, usually between three and seven years,** but may be removed by cabinet for inefficiency, inability to perform or misconduct. In some cases, the Act stipulates that parliamentary approval is required for removal.

'The board of a corporation differs from that of a company in that it is supposed to look after the interests of consumers, employees, the government and the community as well as the organisation. A board is usually expected to be policy making rather than functional. It is felt that it should be free from functional direction so as to be able to concentrate on broad issues.

'Members of boards may be experts, in effect executives, devoting their full time to corporation matters, or they may either be persons with some expertise in the corporation's operations or disinterested people, in each case devoting only part of their time to the affairs of the corporation.

'**Executive board members are likely to have a deeper knowledge of the affairs of the corporation but may tend to concentrate rather narrowly on the goals of the organisation and on building it up in size and influence. They may neglect the interests of the consumers and of the community generally.** Although disinterested persons may lack expertise, it is hoped that they will exercise independent judgement, provide sounding boards for the opinions of executive members and furnish laymen's opinions on the claims of experts. Part-time members are not so deeply committed to furthering or maintaining their careers in the corporation as are full-time members. Resignation, as a means of drawing attention to abuses or loss of appointment because of alleged uncooperativeness, will not impose so much hardship on them.

'Most boards have a full-time chairperson who, if the other members are acting in part-time capacity, may tend to dominate proceedings. A board member may be appointed as an individual or as a representative of a particular interest group. The

danger in the latter practice is that members appointed as representatives of a particular group may find themselves with divided interests, those of the corporation and those of the group they represent.

Parliamentary and ministerial control

'Parliamentary control of statutory corporations tends to be nominal (latent rather than active) but ministerial control is real. Parliamentary control may be exercised in several ways: through questions asked in parliament of the relevant minister; by scrutiny of the finances of the corporation by the auditor-general and Parliamentary Public Accounts Committee; by the tabling of the corporation's annual report in Parliament. Parliament must approve the granting of funds to the corporation and may amend the Act under which it is constituted and operated.

'The Minister is usually given general control over the corporation; he is also given specific control over certain matters. In each case, his power is specified in the Act. He does not exercise power as a result of general responsibility for the working of the corporation, as is the case with his department.

'Ministerial control may be exercised in a variety of ways. Certain information must be provided the minister by means of either *ad hoc* or regular reports. The minister may request information. The chief method of ministerial influence, however, is through consultation between the minister and key board members, particularly the chairperson. This method is usually hidden from Parliament.

'The Act usually states that ministerial approval is needed for certain actions, such as capital expenditure over a particular amount or entry into new fields of activities. Also the minister may issue directions on certain matters.

'The Act may be amended, thus altering the corporation's functions or powers. Usually this is done on the initiative of the minister. Members of Boards are usually appointed by cabinet, the minister playing the main part here. Accordingly, members who intend to seek reappointment are unlikely to oppose the minister too strongly.

'The modern tendency is to bring statutory corporations under tight ministerial control. In most countries, the wings of the statutory corporation have been clipped. This has been evident in the increase in the range of decisions requiring ministerial approval; the placing of representatives of government, particularly treasury officials on boards, and financial restrictions on borrowing, the form of accounts and audit provisions. Finally, there have been, in some cases, changes in staffing policies and procedures.

'This tendency is the result of pressure from parliamentarians, ministers and public servants. Statutory corporations cannot be allowed too much freedom in an economy in which government decisions are the major decisions. It has been said that the end of *laissez-faire* was the end of the autonomous corporation.'

How independent is the statutory corporation of the AEC?

On May 26, 2003 the Australian Electoral Commission refused a request from the office of the Special Minister for State for a copy of the legal advice on which it

claims it can pursue piecemeal amalgamations of divisional offices. It's excuse? That it is an independent statutory body and it does not have to do so. Yet the legal advice in question is the sole justification of the AEC's plan for abandoning one of the two foundation principles of the electoral system put in place by the joint decision of both the framers of the constitution and the Electoral Commissioners of all states. These are linked in that the Constitution prescribes that there shall be Divisions and the Commonwealth Electoral Act that there shall be a Divisional Officer **within and for** each Division.

The AEC forgets that the people elect the parliament and therefore it is answerable to the Parliament to interpret what the people want from democracy. By refusing to consult that Parliament, which represents the people, it is saying it is not interested in what the people want from democracy only in its own 'independence'. Yet, on the other hand, it is willing to compromise the very reason why it is independent by negotiating a Workplace Agreement with its Divisional Returning Officers, which will remove many of them physically from **within** their electorates, through the Commonwealth Public Sector Union affiliated with the ACTU and therefore linked to the ALP. How? Because Commissioner Becker has made a 'one-off' offer of a pay rise to the DROS through their union but it is conditional to their agreement to sign their agreement to 'amalgamations.'

The long and short of this is that the AEC is totally inconsistent. It refuses to be answerable to Parliament by producing the document claimed to give it the right to put the gun at the head of the DROs - sign or get no pay rise - yet it is prepared to negotiate with one party which is in power in that Parliament. It rejects compromise but is compromised. The Australian Electoral Commission is not, and never was intended to be, so independent it is not answerable to both relevant parliamentary Committees and ministers.

The Commonwealth Electoral Officer until 1984 was answerable to parliament. The change from that public service appointment to an Australian Electoral Commission was approved by majority vote of a Joint Select Committee of both Houses of Parliament. The AEC, created in 1984, became answerable to a further Joint Select Committee, which issued a report on the conduct of the 1984 election and made further recommendations for further administrative and legal changes to the law and practice. This was succeeded by a Joint Standing Committee on Electoral Matters, which reported likewise on the conduct of the 1987 election and has continued to do so ever since. Thus there was no drastic severance from the established relationship between the CEO and the AEC with the latter's creation whereby each, in turn, was answerable to Parliament.

Several factors make the AEC's independence somewhat less than of some corporations -

- It is answerable to the Joint Standing Committee on Electoral Matters created especially to supervise its maintenance of the roll and its conduct of the elections.
- It is answerable to the Finance and Administrative Committee for its budget for

the cost of administration, and was answerable for the budget for habitation reviews.

- It is required to respond to public submissions sent to the JSCEM and to depute members of staff to appear as witnesses when required in public hearings.
- It is answerable to the Special Minister for State, who acts on behalf of the Cabinet, which is responsible for appointment of the Commissioners.

Byrt and Crean leave no doubt on this last point. To summarise: 'The public corporation is a body possessing various degrees of independence from the executive.' 'It does not have full and direct responsibility to Parliament.' 'It is legally subject to ministerial control' Moreover 'Parliamentary control tends to be nominal (latent rather than real) but ministerial control is real.'

Byrt and Crean elaborate further 'the modern tendency is to bring statutory corporations under tight ministerial control. In most countries the wings of statutory corporations have been clipped.' 'This tendency is the result of pressure from parliamentarians, ministers and the public service. This has been evident in the increase in the range of decisions requiring Ministerial approval, as statutory corporations cannot be allowed too much freedom in an economy where government decisions are the major decisions. It has been said that the end of *laisser-faire* is the end of the autonomous corporation.'

And most importantly: 'Certain information must be provided the minister either *ad hoc* or by reports.' Surely the most important information that should be supplied is the legal basis for 'restructuring', or what I prefer to call 'deconstructing' because the entire system in a third phase of a revolution by the back door, or one might say, by stealth.

What does the AEC have to hide from the minister - a questionable source of advice? It arguably could not have come from the Attorney General, or Commissioner Gray, during his regime, would surely have produced it when the JSCEM held a full inquiry on the same plan, then known as AEC 2000, during its sessions on the conduct of the 1996 election. How is a contrary view possible if the AEC has failed to get any such advice from several lawyers over the past 20 years?

What is plain for all to see is that the AEC is acting in an extremely undemocratic manner in refusing to produce its alleged legal sanction for 'restructuring'. It is also acting dictatorially in its present negotiations with DROs by intimidation to force them to agree to amalgamations or they will not get a pay rise under a Workplace Agreement. This contempt for democracy must be totally unacceptable in any Electoral Commission.

Moreover, by linking amalgamation to Workplace Agreements, the AEC has linked its administrative policy with the Commonwealth Public Sector Union and hence with the Australian Council of Trade Unions. Worse, union officials appear to be acting in the AEC's interests rather than that of the DROs they are supposed to represent. They travel round cajoling the DROs that they will get them a good deal if they agree to amalgamation, thus trying to pick them off one by one. It is an unconscionable

situation when the Canberra Head Office have awarded themselves unconditional, comfortable pay rises and, in some case, bonuses.

Surely it is not for the DROs to be intimidated that they will not secure a pay rise into agreeing to a pay rise, in any case lower than that awarded in comparable departments, for it is not within their competence to agree or not to agree. They are statutory appointments under Section 32. It is for the Parliament through its JSCEM, the Minister, and preferably the Parliament itself, to agree to the alteration of the entire electoral system not for the DROs. It is a subversion not only of our current electoral system, but of the very foundations of democratic parliamentary process itself.

CHAPTER 3

THE DIVIDED HOUSE SYNDROME

1984-2003

AEC - Versus Divisional Returning Officers
PART 1

The centralising policy of the AEC towards DROs is divisive

The House of the Australian Electoral Commission (AEC) embraces -

- management structure in Head Offices of Canberra, States and Territories
- Divisional Returning Officers (DROs) and staff in electorates
- 12 and a half million shareholders as electors

The AEC has pursued a policy of centralising power and responsibility away from divisional returning officers. It is not merely a policy of centralising duties, but of centralising the physical locations of DRO's in clusters, in many cases out of the neighbourhoods whose electors they serve. This electoral revolution has been pursued by stealth because its ultimate purpose has been concealed behind arguments of cost and efficiency. By whatever name it is called, 'clustering' is a policy of centralising DRO's out of their electorate offices by co-locating them in 2's or even, as planning progressed, grouping them in mega-offices of 3-6 electorates with either joint or single administrative structures under one roof. It has been resisted from the outset by the DROs and the Coalition.

To escape opposition both within and without, the AEC has re-branded the policy differently four times as -

- co-location
- regionalisation
- AEC 2000
- amalgamation

The AEC began this process under ALP governments

- with two co-locations of 2 electorates in Queensland/Tasmania post 1987 election
- new co-locations 1992. Opposed by both parties after 1994.
- offices restaffed by ministerial edict and AEC 2000 halted after the Coalition came into office. 'For the time being' according to Commissioner Gray.

Commissioner Becker continues the same policy as amalgamation, planning to cluster up to 6 electorates, ignoring a ministerial edict to stop. He has not give written directions to the DROs as the Commonwealth Electoral Act requires.

The policy was first seriously advanced in 1983 despite the fact that a Royal

Commission into the Commonwealth Public Service in 1977 emphatically warned against destroying the devolution of responsibility to the existing divisional offices, because 'traditionally hierarchically organised administration in Canberra has no inbuilt dynamic capable of reversing the trend towards centralisation. There is a continuing pressure to centralise functions and this will have to be resisted at both the political and administrative level.'

A serious rift between AEC management and DROs over this policy first became conspicuously apparent during in the 1987 election when Commissioner Dr. Hughes issued a directive under a new discretionary clause of Section 32 ordering his DROs to implement the ALP government's revolutionary changes into how the election was to be run down to the last detail of polling booth and declaration vote issue and count. Apart from a joint protest of 34 out of 39 Victorian Returning Officers, after that election, to the Joint Standing Committee on Electoral Matters, two in particular earned Dr. Hughes' wrath.

1. Mr. R. Montano DRO Kingsford Smith NSW

Mr. Montano took particular exception to the fact he had been included in the 1998 audit of 6 non-marginal electorates in the 1987 election, ordered by Dr. Hughes when under pressure from the Liberal Party in the JSCEM, without his knowledge. His office was raided for documents without warning, as if he had been guilty of some criminal offence.

'The 1987 general election was by all concerned, meaning the Divisional staff, the most difficult ever to prepare, conduct and bring to finality. Never in my 15 years of service in the Australian Electoral Commission have I witnessed such a national wide disgrace. The Commission's Central Office and Head Office in NSW were caught unprepared, arguing amongst themselves and issuing conflicting directives plus intimidating, and threatening to discharge, Divisional Returning Officers because of minor clerical errors in their 1987 General Returns.

Most disastrous of all, 9 days after the elections were announced, we were issued with a 350 page election procedures manual which the Commissioner directed us to follow without prior advice and training. The election at short notice increased the possibility of errors occurring. It was a miracle some close seats did not fail to carry the election through on time (*Sub. 01079 JSCEM Feb.2 1989).'* Mr. Montano retired from the AEC later.

2. Mr. I. Jones DRO Parramatta NSW

'It often appears to Divisional staff that the Commission gives such a high degree of importance to the manual that it is now the bible by which we are required to work, and not to the Electoral Act. In a matter of law the Act has to take precedence over an internal document. If the manual is in contradiction to the spirit of the Act the Divisional staff are in a quandary. To follow the Electoral Act would then mean that they are not following directions for which they may be charged by the Commission. To follow the manual would mean that, whilst following directions, they are not acting within the law. *(Sub. S1047 JSCEM Vol.4 Jan.13 1989).'*

Dr. Hughes dismissed this argument. 'What they may be finding was only a discrepancy between what Mr. Jones thought was the Act and the manual. Section 32 is of course subject to the Act and would be open to any legal challenge *(Hansard JSCEM p.1064).'* And as to Mr. Jones himself he dismissed him in contemptuous terms. "I would rank Mr. Jones with Mr. Montano as one of the most hostile and aggrieved Divisional Returning Officers…the fact of the matter is that some DRO's in safe seats go to seed and this is one of the things that, at last, we have been documenting.'

Senator Short, a member of the JSCEM before whom Dr. Hughes was appearing, protested that Mr. Jones' Submission 'was quite a rational submission, a mixture of criticisms of a specific nature.' Could it be that the cause of Dr. Hughes' hostility towards Ivor Jones was not so much to his submission, but the fact Mr. Jones had identified the potential for an Australian Electoral Commissioner exercising electoral dictatorship in the Act?

Senator Short concluded from his experience as a JSCEM Member that Mr. Montano and Mr. Jones were not the only DRO's targeted by Dr. Hughes' ire 'the Electoral Commissioner during the conduct of the 1987 elections has displayed intentionally a vindictive attitude towards Divisional Returning Officers. The Commissioner's negative attitude to the DRO's during the 1987 elections were the major contributory factors in the poor morale of Divisional staff **(*Hansard JSCEM p.1052*** *1988).'*

1987-1996 The JSCEM supported retention of the Divisional Network

It is important to note that this JSCEM only had 3 Coalition members on its panel of 12, and an ALP government was in office. Its Report from its Special Inquiry into Resource Sharing in the Conduct of Elections of September 1992 reported strongly for retaining the Divisional Network as is evident from the following clauses of the Report.

1.7.1 Each of the 148 (soon to be 147) federal electoral divisions is serviced by an AEC divisional office, staffed by a DRO and supported by two other staff. The divisional network has been the subject of investigation over many years. Most have focussed on whether each division needs its own office, or whether the structure can be consolidated (regionalised) and streamlined in the interest of cost-effectiveness.

1.7.2 In December 1987 the AEC published the result of its Efficiency Scrutiny into Regionalisation. This Committee reported on the AEC's Efficiency Scrutiny in its October 1988 report *Is this where I pay the electricity bill?* The AEC management, this Committee and most other observers consider that some rationalisation of the divisional network would lead to greater efficiencies. The divisional staff and their union tend to support the status quo, but the Committee was pleased to note that the Public Service Union is now prepared to consider some flexibility. Mr S. O'Loughlin, for the Union, told the Committee 'It is not the PSU's position to say that the AEC is currently operating is perfect or the ideal,' and 'I do not argue with the proposition that,

if there were changes made to the current structure to the Electoral Commission - to the divisional structure - that you would have a cheaper outcome.'

1.7.3 While not addressing the issue of cost-efficiency of the AEC's field structure, the union considers that it provides a great service to electors 'in terms of ensuring that elections are conducted properly, that rolls are maintained correctly, and that the people who do the voting get a proper service out of their officials, I think that has to be brought very much to the forefront.'

1.7.4 The union's basic attitude to the debate on the divisional structure is that the issue has been dealt with in previous reviews and should not be analysed in this inquiry.

1.7.5 The Government has deferred consideration of the matter. As Mr. B. Cox, the Australian Electoral Commissioner politely noted: '**Proposals for a regional structure, which have arisen, have been found to be unacceptable by government and, I think, by lots of Members of Parliament, too.'**

1.7.6 The Committee and several witnesses saw the network as inextricably linked to the costs of running elections and the methods and costs of maintaining the rolls. The Committee therefore agreed to admit evidence regarding the divisional network.

In the next report after the 1993 election, years later a majority of the ALP and minority parties represented on the JSCEM agreed that the divisional structure should not only be left but strengthened - viz that all divisional offices should have a permanent officer at AS02 level *(JSCEM 1993 (23))* They warned that 'regionalisation has been mooted for the past decade as the answer to the financial problems of the AEC, but we must be careful that, in attempting to solve the financial position of this organisation, we do not destroy the organisation's capability to deliver. DRO's for their part pointed out that there was no attempt by the Head Offices to curb their expenditures on buildings, salaries, or consultants or bonuses.

Despite the support of both sides of the Commonwealth Parliament for preserving the divisional structure within divisions as the statutory prescription of Section 32, the AEC conducted an autocratic revolution against their views. In anticipation of eventual approval of 'regionalisation' the budget for DROs was wound down over the years, which diminished the capacity of the DRO's to carry out their responsibilities and consequently the accuracy and honesty of the Commonwealth electoral roll.

In 1993 the ALP government diminished this capacity further by applying the Efficiency Dividend, required of all public service agencies from 1987, at their expense rather than that of central office, which increased its staff by 39 in 2 years, paid $3,000,000+ in one year on 40 consultants, and sent staff overseas to help in foreign elections. On the other hand, permanent staff in 65 of the 148 Divisional Offices around Australia were reduced to 2 or effectively one and a half with dire results. It led to increased staff stress and an alarming decline in the maintenance of

the electoral roll, while the AEC continued propagandising its record for running the best system in the world and holding fair and free elections.

The Divisional Network 1996 onwards

After 1996, when a Coalition government came into power, the Cabinet rejected a model for AEC 2000 submitted to it by the new Commissioner Mr. Bill Gray. And the JSCEM affirmed: 'Many divisional office staff choose to work in this structure as it gives them the autonomy and sense of ownership that does not exist in bureaucratic structures of other departments which emulate a regional structure. It is the commitment of these people that is an intangible asset that should not be underestimated in the contribution it makes to the successful completion of elections.'

But the JSCEM does not, to my knowledge, appear to have discussed the legal justification for this policy, whatever its name, in any public hearings. Yet it would appear that the AEC failed to secure such legitimacy; yet, knowing this, has persisted with a policy that was arguably illegitimate. It is Section 32, which is at issue, in this contretemps.

Section 32. Divisional Returning Officers

(1) There shall be a Divisional Returning Officer for each Division, **who shall be charged with the duty of giving effect to this Act within or for the Division** subject to the directions of the Electoral Commissioner and the Australian Electoral Officer for the State or, if the division is, or is part of, the Australian Capital Territory, the directions of the Electoral Commissioner.

(2) A Divisional Returning Officer for a Division may, subject to any directions given by the Electoral Commissioner and, if the Division is part of a State, the Australian Electoral Officer for the State, give written directions to officers with respect to the performance of their functions and the exercise of their powers under this Act I, in relation to, the Division.

For 20 years the AEC has sought legal advice to justify its ultimate aim of coalescing electorates and cutting the number of DROs by at least half, but have failed to produce any such advice from several lawyers to justify this plan until now. But suddenly it claims it has a contrary legal opinion which allows it to go ahead, and going ahead it is with full steam despite an angry union acting on behalf of the DROs and even angrier DROs.

If this secret legal advice, permitting amalgamation, is based on an interpretation of the phrase 'subject to the directions of the Electoral Commissioner' that the Commissioner has a discretion, one would suppose that this would be what directive implies - a direct instruction in writing to each DRO individually to conform to the amalgamation involving his particular electorate. One would not expect that the Commissioner would have to bribe each DRO into forcing him to take the initiative if he really had the power to take the initiative himself by dictatorial directive. This fact alone throws the validity of this secret legal opinion into doubt.

The DROs know this full well. Therefore they have a right to be angry. After all

the AEC is refusing to produce this magical legal opinion that allows it to abolish half their positions and uproot the offices of those that survive the slaughter - a process that co-locations have found can take months of inconvenience and disorder. Indeed it took one electorate 11 months to co-locate with the computer the last thing to be transferred. What happens to electoral roll keeping in the process?

Commissioner Becker himself has issued no written directive such as his DROs are legally required to give their own staff. He has only made a video statement. No recognition that the grave shortcomings of the Continuous Roll Update to maintain an accurate electoral roll will only be worse, as attested to in a letter by 9 Queensland DROs in January 2001 to Commissioner Becker. Mr. Becker has never replied to that letter.

This factor alone should demand that the AEC seek the approval of the Joint Standing Committee of Electoral Matters for this devastating change. It should demand that Commissioner Becker answer the DROs letter which he has failed to do. It should demand that the AEC should withdraw its current attempt to force the DROs to agree to amalgamation of their divisional offices as the condition of getting a pay rise. It should demand it explains why Canberra staff have just awarded themselves a considerable increase in pay, and spent $20,000 on 17 flat television screens for their offices - money that would have been better spent on clerks who have to carry DRO's duties when on holiday for a pittance. And why the AEC's Canberra office has just been refurbished.

A. Divisive effect of AEC administration

1. Report of Mr. P. Robson national secretary of the ACOA.

The first warning the DRO's had of the full impact of the AEC's electoral revolution was the failure of the AEC to print the statutory electoral roll between the 1984 and 1987 elections, and Commissioner Hughes' directive under Section 32 in the 1987 election. All DROs faced enormous pressures throughout that election according to Mr. P. Robson, National Secretary of the Administrative and Clerical Officers' Association in his report to the JSCEM on the difficulties that had faced them.

'One of the major problems experienced by Divisional Officers, and probably the most serious, was the hasty introduction of the election procedures after the announcement of the election. Whilst the Procedures Manual is considered to be very comprehensive, and undoubtedly of great use to Divisional staff, the late receipt meant that there was no time to train staff in its use to determine the implications on staffing resources or to ensure that interpretations were consistent. The dismal performance of the 1984 election was repeated in 1987 *(Sub. JSCEM S00162 April 29 1988)*.' Some serious problems were -

- essential forms arrived intermittently out of sequence.
- no notice of future deliveries was given.
- reference rolls were not supplied to polling places.
- no roll was issued to mark up postal voters.

• no roll was marked up with reinstatements, errors and additions etc as provisional and section votes would be freely issued in future.

'It is of concern to Divisional Returning Officers that directions by the Electoral Commissioner are eroding the accuracy of Certified Lists issued to polling places. Dr. Hughes relies on Section 32 of the CEA, which charges DRO's "with the duty of giving effect to this Act within, or for, this division subject to the directions of the Electoral Commission." **This section allows the Electoral Commissioner to issue directions which override the Act itself.'** Dr. Hughes' impractical response, was that recourse to law courts was always possible, an avenue that would be unlikely to be taken by anyone, either within or without the Commission, for obvious reasons.

Mr. Robson concluded:**'The Commissioner's centralist attitude, displayed during the 1987 general election has undermined the aptitude of some executive officers at State level.** They are afraid to use, when necessary, their intuition and talent and especially initiatives ***(Hansard JSCEM p.1062 March 17, 1989).'*** Some examples of their reactions, apart from those already recorded, are contained in a raft of submissions to the Joint Standing Committee on Electoral Matters.

2. View of Divisional Returning Officers pre-1990

1. **Victorian Divisional Returning Officers**
   34 out of 39 DRO's informed the Minister they no longer had confidence in the accuracy of the electoral roll.

2. **N.C.Pember DRO Swan, Western Australia**
   'Some aspects of our work situation leave a lot to be desired, and staff morale suffers as a result.'

3. **P. Spelman DRO Moreton, Queensland**
   'Other comments we have had from some DRO's and other members of the Commission (AEC) over some time is that morale is not good. Divisions are under very close scrutiny, feel under threat and therefore are under a different type of pressure. Under the old system DRO's were left too much alone. Under the new system they are never left alone.'

4. **Mr. Lamerton DRO McPherson, Queensland**
   'The whole thing (the 1987 election) was like a bad dream.' As to the co-location of his office with that of the Moncrieff electorate, he said '**there is a subtle difference between co-location and regionalisation but in every area where we struck problems these would probably be worse if more than two Divisions were grouped together.'**

5. **Mr. J. Raveane DRO Corio, Victoria**
   Mr. Raveane wrote a brief summary of his actions as to electors whose votes were counted although their names were not on the electoral roll for the July 11 election. 'I did not automatically reinstate electors whose votes had been allowed because we had only just completed all removal actions following finalisation of the habitation review in this Division.'

'I did not believe that there could have been that amount of misinformation handed back by review officers. The obvious way to test this theory was to write and ask those so-called electors of their correct enrolment details. Less than 10% of reinstatements could be confirmed. We would have a more accurate election by rejecting than accepting these provisional votes. It is interesting to note that if we reinstate based on these figures about 50% won't be returned.'

Reinstated votes increased after 1987 to nearly 200,000 in 1996 of which 88,808 were held to be valid. There were 500 or over of these in 88 of 149 electorates - these usually 70% in favour of the ALP and most of these of questionable origin. Given that 13 seats were won by less than 500 votes in the 1993 election, this issue could be crucial to victory for some candidate. 1105 reinstated votes were cast in Mr. Beazley's electorate of Brand WA, for example, in the 1996 election. 830 of these were declared valid, more than his winning margin. 500 of these might arguably have been for Mr. Beazley, because they tend to favour the ALP.

6. **Ms Janet Champion DRO Warringah, NSW**

Ms Champion had grave misgivings about the AEC's reinstatement policy. 'In endeavouring to accommodate electors who do not bother to change their enrolment when they move, we are distressing a number of electors to the point where they have approached their federal member about the situation. We have to take steps to remove these people by objection and they are free to use the same address again at the next election and have their vote counted and reinstated. This can go on ad infinitum *(Sub JSCEM Jan.3.1999)*.'

3. View of Returning Officers post-1990

By 1996, Mr A.P. Roberts, DRO for Sturt South Australia said the AEC had been walking a fine tightrope over recent elections with the burden on divisional staff increasing at each election.

And George Johnson, DRO for Fadden Queensland, said in his July 1996 JSCEM Submission that there had been severe stress on staff, adversely affecting their health, for 12 years due to management decisions, understaffing and computer systems. Mr. Johnson elaborated in his Submission to the JSCEM: 'The importance of the Divisional Office structure in the conduct of elections is seriously underestimated by management. Given adequate resources, Divisional Offices can effectively conduct an election with some assistance from Head and Central Office, but I do not believe Central Office and State Head offices could run an election without Divisional Offices.

'As a DRO in co-located offices since 1992, I have never been requested to provide details of the benefits and disadvantages of co-locating (regionalising) Divisional Offices. I am not aware of any study that has been conducted by management to assess the merits or deficiencies of co-location. It is as though management knows all the answers without asking the questions. If the questions are asked then they might get answers they prefer not to hear. Co-location undermines one of the reasons for the existence of Divisional Offices -

service to the community. I recall that was the motto of the Australian Electoral Office - 'Service to the Community since 1901.' When the Commission was created in 1984, the motto disappeared. With the introduction of co-location, service to electors also disappears.'

'At a post-election conference for Queensland staff a month after the March 1996 federal election, Mr. Johnson gave Commissioner Gray a copy of a memo, he had circulated to all DRO's prior to the conference, on the intolerable demands the different computer systems with which they had to cope made as a working tool for divisional staff in an election environment. Most of the DRO's to whom he spoke at the conference supported him. Some of the points he made were -

- many of the computer systems had been designed with the needs of management rather than divisional officers in mind because the programmers were not required to work with the systems after they developed them.
- they caused unnecessary stress through unlinked systems, conflicting instructions and a large number of different screens to be accessed during an election, making it virtually impossible to remember them all.
- it was necessary to access 5 different screens in 3 different systems to change polling place details at a time when staff were working 6 day weeks - on face to face training, financial monitoring spreadsheets, checking in pay, distribution of preferences- and 12 days straight across the election weekend.

'Mr. Gray requested I pass the memo, I had circulated to all DROs prior to the conference, on to an Assistant Commissioner for attention. 3 months later that official had not responded to the points raised in my memo. This lack of response indicates to me that the concerns expressed in that memo are not considered as warranting a reply or action by management. Management claims to be responsive to the needs and ideas of staff but in reality there is little response unless it coincides with management's perception of what is required.

'Management provides information through various circulars, e-mails, bulletins and publications which basically tell us what is going to happen. The emphasis is on advising of decisions that have already been made but little is said about how or why these decisions were reached. Management's attitude appears to be: 'Trust us. We know what's best for you.' I did once too often and I have been a two person office for three years with a consequent adverse effect on my health *(JSCEM July 29 1996, pp 385-6).'*

Finally George Johnston went on leave seeking compensation from a stonewalling AEC.

'In June 1996, during the post-election survey period, I walked out and went on sick leave because I could no longer cope. Fadden has been a 2 person office since October 1993 with only casuals and 'temps' to fill in during the Electoral Roll Review. During the post-election survey period there were only 2 staff running the 2 divisions instead of 6, and Head Office management expected us to do the same amount of work and stick to the same time table as divisions with a staff of 3 (Fadden is co-located with Rankin).'

'My doctor prescribed 2 months' sick leave. I was naïve enough to believe management would refer me to the Chief Medical Officer for assessment but this was not done. Eventually I submitted a claim to Comcare to force the issue. Management denied there was anything unusual about the 1996 election regarding increased stress levels in Divisional Offices. I was referred to a psychologist appointed by Comcare who assessed there was no connection between my state of mental health and work conditions. **Her report relied heavily on statements made by senior Queensland management to her during her inquiries.** My claim was denied by Comcare even though I had obtained reports from both a psychologist and psychiatrist that my problems were work induced.'

'I submitted my case to the Administrative Appeals Tribunal for determination. After preliminary hearings, at which Comcare still denied liability, a further hearing was scheduled for 19 April. In a pre-hearing conference on 23 April, Comcare finally accepted liability but did not reach a settlement until 28 April - the day before the hearing. During the course of my claim for compensation I have been examined by 7 different mental health professionals. When you consider that I offered to settle for much less, and before it became necessary to engage solicitors and a barrister, Comcare and the Commission have wasted a lot of time and money which would have been avoided if AEC management had lived up to their obligation to provide a safe workplace *(Sub.JSCEM S1984 Nov.14, 1996).'*

After the Coalition government came into office, Senator Minchin, when Special Minister for State, insisted that staffing of DRO offices should be returned to a minimum of 3-4 full time staff; and that the AEC cease to pursue clustering of divisional offices in co-locations, regionalisation or amalgamations.

B. Divisive effect of Agency and Work Place Agreements

1. The AEC's Agency Agreement 1998 - an anonymous view

Early in July 1998 Ms Wendy Caird, National Secretary of the CPSU, was involved in a laborious and aggravating interaction with the AEC on behalf of the DROs over the planned reduction in their numbers with AEC 2000, when she received an anonymous letter detailing the grave reservations of all divisional staff members, who would be affected by it.

'I am writing in regard to the above mentioned matter which is currently under negotiation. Please note that I am contacting you in the capacity of a private member of the CPSU although one who has a particular knowledge of the AEC. Whilst the negotiation of the AEC agreement 1998-2000 will have its most immediate impact on staff in the AEC, consideration must be made of the fact that any significant impact on the AEC, as the administrative agency for electoral matters in Australia, will definitely have a 'flow-on' effect to the service being delivered to the Australian people.

'If it is accepted that the Australian people have a right to a voting system, which is above reproach, then equally it must be accepted that all measures must be taken to ensure the integrity of such a system. The right to vote is naturally considered to be one of the 'cornerstones' of a democratic society. **It is my belief that the**

Workplace Agreement currently under negotiation constitutes a threat to the integrity of the electoral system for the following reasons:

'Sections 24 (1) and (2) of the Constitution dictate the basis of the divisional structure by virtue of the fact that **'The number of members chosen in the several States shall be in proportion to the numbers of their people (Cth of Australia Constitution Act).' Given the fact, therefore, that the Constitution itself enshrines the divisional structure, it then remains as to how this structure should be implemented. This has been a moot point for a number of years. The concept of Regionalisation (in which a number of divisions would be combined into one administrative structure) was proposed as far back as 1984.** A review of this proposal was undertaken by Commissioner Cox in 1994 but in the end was basically rejected.

'Regionalisation was then revived by Commissioner Gray under the auspices of AEC 2000. **This project was also rejected by the Joint Standing Committee for Electoral Matters handing down their findings into the conduct of the 1996 Federal Election, and stating that in essence the divisional structure should not only be left intact but strengthened (eg all divisional officers should have a permanent officer at AS02 level amongst other recommendations).**

'Having failed to implement reforms which AEC management felt necessary under AEC 2000, it could now be considered that these reforms could be introduced via 'the back door' with the vehicle used being the proposed AEC Agreement 1998-2000. The stripping away of electoral allowances is in keeping with the spirit of AEC 2000 which was designed to cut back on staffing costs. Naturally it must be pointed out that this proposed agreement does allow for a 'sign-on' fee of $1,500 and pay increases of 2-4%. However, after this Agreement expires there will be no more 'sign-on' fees and no more electoral allowances.

'This is interesting when juxtaposed with the fact that senior officers will still be paid their electoral allowances which can range from $2,181- $2,274 under this Agreement and will continue to be paid in the future in accordance with Workplace Relation Advices issued by the Department of Workplace Relations. It is interesting to note that senior officers will also have the option in the future of incorporating these allowances into base salary. It should also be noted that electoral allowances are only paid to divisional staff during election periods, and then out of separate funds given to the AEC by the Department of Finance for the conduct of federal elections whereas senior officers' allowances are paid annually as part of normal funding by the said department.

'It can be seen that this Agreement clearly discriminates against divisional staff and junior levels of staff in the AEC. It follows that, if this Agreement is ratified, it will lay the basis for a 'house-divided' syndrome which will be discussed later. Such a syndrome will impair the efficiency of divisional and junior levels of staff, whose ceiling will be that while they bear the brunt of electoral activities, they will see none of the benefits. By implication, this feeling will be reflected in the conduct of elections putting staff under further pressure.

'In a publication entitled *Your Guide to the AEC (*which was specifically aimed at

new staff) Commissioner Gray stated that the CPSU was recognised as the major industrial body representing the AEC staff. He encouraged staff to participate in union activities. Since that time it appears that there has been an 'about face' regarding the CPSU's representation of the staff. The first indication of this was the initial lack of inclusion of the CPSU in the changes proposed in the AEC 2000 project. The union was only included in talks after it had been pointed out that no provision had been made for the CPSU (the recognised industrial body representing staff) to take part in discussions.

'A similar situation has arisen in relation to the proposed Workplace Agreement. As far back as 13 October, Mr. George Petrovic, National Industrial Officer CPSU, had to write to Commissioner Gray requesting the inclusion of the union in matters relating to the drafting of a Workplace Agreement. It was not until a poll conducted by CPSU workplace delegates proved that 60% of staff (from those who voted) wanted (a) a certified Workplace Agreement and (b) the union to represent them as workplace negotiator that AEC management agreed to allow the CPSU to take part in discussion. This wasted valuable time and most certainly held up the ratification of the Workplace Agreement.

'Since the negotiations have 'see-sawed' back and forth with claims and counter claims - the latest being a claim by Commissioner Gray that the CPSU's signature to an '**in principle' Workplace Agreement constitutes the right of AEC management to direct staff to vote on a final draft Agreement.** The question arises as to why AEC management is so eager to have staff vote on this Agreement. If Section 14 'Workers Co-operation' is examined, it can be seen that the union is effectively removed from negotiating on behalf of their members when it comes to reform in the workplace.

'In the past the CPSU represented its members in the National and State consultative Councils. Again in Section 47 'Dispute Settlement and Residence Workplace Issues' a 'loose' reference is made to employees' representation in 47.1 (iii) where it states 'an employee 'may' choose to be guided, assisted or represented by a person of their choice eg an employee, representative.' No mention is made of the recognised industrial body representing staff. All of the forementioned is in keeping with the sentiments expressed by Assistant National Secretary of the CPSU, Doug Lilly, as far back a 5 August 1997, in a bulletin entitled '*AEC Management Keen to Exclude Your Union.'*

'Leaving aside elements of the proposed Workplace Agreement for the moment, the problem of the AEC experiencing a 'house-divided' syndrome extends back at least as far as 1993 when a staff opinion survey was conducted. This survey revealed that AEC staff had serious misgivings regarding management practices in the workplace. A **similar survey conducted in 1996 revealed that, far from the situation improving, AEC staff had a growing mistrust of their management** (copies of these surveys are held in Central Office and State Head Offices of the AEC) and even management itself admitted that there were areas where they needed to improve (bearing in mind that during this period the AEC 2000 project was in progress).

'Since this time the gulf between management and staff has widened. **The CPSU may care to investigate how many permanent, long-serving staff have left the AEC over the past two years. Similarly, it may care to investigate the number of cases which have appeared before the Administrative Appeals Tribunal in recent times (particularly that of Mr. George Johnson DRO Fadden). Furthermore the CPSU may be interested in the circumstances surrounding the suicide of Dr. David Faulkner, former DRO Hindmarsh, South Australia.**

'None of the aforementioned reflects creditably on the AEC management and yet a similar attitude can be detected in the sentiments incorporated in the draft Workplace Agreement. Section 35.5 shows clearly that senior officers are interested in preserving their own allowances, whilst being quite prepared to have union officers sacrifice theirs (see section 35.2). Sections 14.1 and 14.2 indicate that management is to keep the recognised industrial body of the AEC, the CPSU on the 'outer' of Workplace Co-operation whereas in the past this body had high profile representation. Section 47 reveals a marked reluctance on the part of management to have the CPSU representing employees in workplace disputes obviously preferring a 'one on one' approach with the involvement of management and employee (s) alone.

'Such clauses incorporated into the Workplace Agreement has done nothing but increase the division between management and staff, a division which has its roots well established in the past. It would be generally agreed that an organisation is only as efficient as those who are running it, and their efficiency is dependent on the conditions they work under. In light of what has been stated, the efficient operation of the AEC and its ability to conduct elections, which should be above reproach, must surely be questioned.'

Divisive effect of the AEC failing to observe standards they expect of others

a) The AEC rigs its own election

Regionalisation, rebranded as AEC 2000, still haunted the DRO's but now their union representatives were shut out of the planning. But if Mr. Gray expected the DRO's and their union to go quietly he made a mistake. First they exposed the fact that the AEC in Canberra was guilty of doing a spot of ballot-rigging itself. The CPSU accused the AEC of manipulating its own internal industrial election rules to elect delegates to represent them in negotiations for new agency agreements *(Canberra Times Nov.30 1997).'* It was guilty of fudging the figures to give greater weight to the votes of a small number of employees in head offices.'

b) The AEC refuses to recognise discontent, approaching rebellion, in the ranks

i. Survey of national industrial officer, George Petrovic, 1997

The CPSU's national industrial officer, Mr. George Petrovic, in 1997 conducted a survey by circular similar to one held in 1993. As he explained to the DRO's: 'In the absence of another staff opinion survey, it is a simple matter for Mr. Gray to state morale is good, but perhaps he is not discussing the problem across all levels of the

Commission and his assessment is based on a 'gut feeling' or ill-informed advice from senior management that all is OK in the Divisions. It is not OK. Another Staff Opinion survey may also reveal that the performance of the Management Board is still where it was in the last survey - bottom of the list indicating a poor performance *(CPSU Report to Management 1997).'* Mr. Gray had even refused to reveal the model submitted to, and rejected by Cabinet, that most staff were still keen to see.

The result was as expected. **80% of DRO's across Australia were protesting that they were being centralised and downgraded by stealth in an Agency Agreement they strongly opposed. Their responses burned with frustration, indignation and anger.**

- 'The size of the whitewash the AEC is trying on those at the coal face is breathtaking in its magnitude.'
- 'Frustrating and galling in the extreme to be treated with such contempt.'
- 'Some staff do not like to be treated like idiots.'
- 'Divisional staff have been sold down the river.'
- 'The real purpose is to downgrade the salaries and conditions of divisional staff.'

The survey showed a majority of staff voting wanted the CPSU to negotiate for them on the proposed Workplace Agreement as they did not have time to study the implications. In the end AEC management agreed. After an age of speculation on the contents of the AEC 2000 Restructuring, a Minute from Mr. Gray to all staff said it was shelved for the time being. 'I have been advised by the government that the proposal to regionalise the AEC, which would have included the amalgamation of many divisional offices, will not proceed at this stage. The restructure of the AEC has been put aside for another day *(Bill Gray 13.5.1997).'*

ii. Circular of CPSU to Divisional Office Statt

The CPSU circular 'the restructure you have when you're not having a restructure' emphasised the underhand way the AEC was trying to pick off staff one by one. 'Electoral Commission staff are saying management's rush to amalgamate offices is getting out of hand and it's time to fight back. Staff are angry that AEC management are ploughing ahead with a risky 'make it up as you go' strategy for Divisions and refusing to listen to their views. As a first step in bringing some balance back into this process, the CPSU is asking you to vote on a motion, which calls for proper consultation with staff and their union over what are potentially major changes to your working arrangements.

- This meeting of AEC staff condemns AEC management for trying to sneak a restructure of divisions through the back door.
- We support our representatives at the ACF and advise AEC management that this is where we wish any discussions to occur.
- We further advise management that we will not discuss any changes locally until we are advised by our representatives that it is safe to do so.

- We support our colleagues in divisional offices and condemn AEC management for their sneaky tactics.
- We call upon AEC management to recognise that the ACF is the appropriate forum for discussing any proposals in relation to structure and to act accordingly.

'We've all heard lots of stuff from the AEC about their view (based upon legal opinion) that they don't need to have a DRO for each division. That opinion has still not been made available so no-one really knows if there's much truth in it or not. We do know one thing however. If this process ploughs ahead as is, and is implemented, there will be a worse career structure in the AEC than the one that's already there.'

iii) The AEC gun at their heads

What was the reaction of DROs to Commissioner Becker's 'one-off offer' on a video. It was a pay rise agreement for a pay rise of 6.5% over 2 years from July 1, 2004 in return for their agreement to the implementation of an amalgamation. Its purpose was solely to save an estimated 15-20% in rental, 30% in rents and 15-25% in staffing costs. Smaller staffs would move into smaller standard-size offices in clusters of various sizes.

The Divisional Returning Officers have many areas of concern about amalgamation apart from the fear that any agreement by them will be seen as giving the AEC a mandate.

- There has been no proper discussion or consultation with DROs.
- Intimidation by the Commissioner on the 'agree to this or else' principle to secure their agreement to a total restructure could see many lose their jobs.
- Acceptance of a total restructure on trust is autocratic behaviour in the extreme.
- No national plan has been presented.
- No written directive from Commissioner Becker has been offered

Specifically the DRO's had personal concerns -

- The fear that, if they do not agree, they will be high on the list to lose their jobs.
- The Commissioner has not specified what the processes and effects will be.
- They will be forced into house moves and travel they cannot afford.
- They have no answers to questions about job losses, mediation, compensation.
- The benefits offered in relation to pay rises have little or no value to DROs.
- Important areas like overtime are disregarded.

The main question that has not been addressed or answered in this irascible dialogue between DROs and management is why this cost-saving drive does not address the fact that relocation of head offices would save far more money than lumping several divisions together. For example, the figures in Queensland are these:

Average rent of a Divisional Office = $35,000

Queensland Divisions = 23

Rent on head office + 4 divisions = $400,000

Rent on West End + 1 Division = $400,000

Why is the rent on 2 locations the same as the rent on 23 locations? Bad management?

Why relocate 23 locations when you can save as much by relocating one or two whilst maintaining better service to the public?

The solution is to close West End, with an immediate saving of $400,000, and relocate it from the Central Business District of Brisbane to a lower profile lower rent area such as Fortitude Valley or Chermiside with a further saving of $100,000.

c) Hearing of Senate Finance and Public Administration Committee May 28, 2003

The AEC was challenged by members of the Senate Finance and Public Administration Committee on May 28, 2003 over the funding of the AEC and how cost savings might be achieved. Commissioner Becker had written to members of parliament on September 17, 2002 requesting their views and input in relation to their own internal review established on October 31, 2002. His letter said 'the AEC is keen to seek your views on the benefits and risks for your electorate associated with a restructured model based on the rationalisation of the number of AEC offices, recognising that a key feature would be the amalgamation of divisional offices.'

Senator Faulkner: It seems to me a little unusual. In my experience - but your experience is much broader than mine - it is not often, that I can recall, that these sorts of review have been established when we have a situation where members and senators might have had an opportunity to express a view. Normally you do not really care very much what we think.

Dr. Watt: I do not believe that is necessarily the case, Senator. The review is probably best thought of as two separate things. One is what I call a more mechanical exercise to focus on what resourcing the AEC gets, what activities it undertakes and what it costs to undertake those activities and the scope for savings against those activities. That is a pretty mechanical process. It can be as little, although rarely is as simple, as this or a giant activity-based costing exercise.

The other part of the process would be looking at the pros and cons of different alternative funding models or different ways of getting the AEC's costs down. That is anything but a mechanical exercise. I imagine that the Electoral Commissioner has in mind that the input of members and senators would go into the latter part of that activity through the AEC. But I am imagining rather than being certain.

Senator Faulkner: Any changes to the funding model may well affect these things that are close to the heart of a lot of parliamentarians; not so much on the Senate side but more on the side of our colleagues, both government and opposition, in the House of Representatives.

Dr Watt: I would assume, in my simple fashion, that that point would be made in the review process by the AEC based on the input it gets from, among other things, this sort of arrangement. I assume it is getting input from members and senators in ways other than just in response to this formal letter of the Electoral Commissioner. I assume that that would also be taken into account by the government when it considers the results of the review and what it should do with it.

Senator Ray: There would be no pre-emptive action, Minister, on amalgamation of electoral officers until the Joint Standing Committee on Electoral Matters in August reports to you later this year with its views on this subject?

Senator Minchin: It is a fine committee.

Senator Ray: Have you a lot of representations on it?

Senator Minchin: They would go directly to Senator Abetz of course. Certainly there is keen interest in the issue of divisional returning officers within our ranks, and no doubt within yours. That is the issue. The Electoral Commissioner is basically saying that, with his current budget, he does not think he can sustain the current network of individual DROs. In a sense this resourcing review will test that proposition to see whether it is valid or not. Subject to the results of that review, if that claim is substantiated, the government would have to decide - and it would be very interested in the views of the Joint Standing Committee et cetera - on the question of whether or not resources should be provided to ensure it can sustain a DRO network of the kind that has been the tradition. That would be the crunch point but I think we have to test the proposition first. That is what this resourcing review is about.

Senator Ray: There is some contemplation - Senator Murray may know this well - that the Joint Committee on Electoral Matters may also look at the resourcing and efficiency of operation. We would not want to interfere with your Committee, but I am sure they can work hand in glove.

Senator Murray: There is already material in *Hansard* arising from an interchange between the Committee and the Commissioner on exactly this topic, which might be a useful additional reference point for the review committee.

Senator Minchin: **I am advised that Senator Abetz has written to the Electoral Commissioner, consonant with the independence of the commission, indicating that he would prefer that there be no further decisions taken on rationalising the divisional structure until we have completed this review and the government has had an opportunity to consider it.**

Senator Faulkner: Are you satisfied that that does not leave the AEC in a bit of a funding hole in the interregnum?

Dr. Watt: It is being closely monitored but we believe they have the cash to carry them through until the consideration of next year's budget.

Senator Faulkner: Whether they have the cash to cover that is certainly an issue.

Dr.Watt: We believe they do and I do not believe that is disputed by the AEC.

Senator Faulkner: What makes you so confident that that is the case? I am not doubting it, but I am interested in your level of confidence which seems strong.

Dr. Watt: They have the ability to monitor their receipts of expenditure insofar as you can predict these things in advance and we think we have a reasonably good level of prediction on both sides. They know their cash position, as do we. They know what their receipts and expenditures are. We believe that, until consideration in next year's budget, they actually have quite a large lump of cash which can be drawn on in the intervening period. They will run a loss. We expect that. They expect that. But the case should be there to carry that loss through until additional funding can be provided, or the government decides that the necessary equalisation is going to be achieved through savings measures and until those savings measures kick in.

Senator Ray: **You mentioned that Minister Abetz had written to the Electoral Commission in terms of guidance and in the knowledge of their independence. Did they respond? That is the part I do not know.**

Senator Minchin**: No, apparently there was no response to that.**

Senator Ray: There is a document that I have seen that outlines the proposed amalgamations over the next three years. Have you seen the same document?

Senator Minchin: Yes.

Senator Ray: We have not had a response yet. We will be able to ask tomorrow.

Senator Minchin: I anticipate that the Commissioner would be in a position to be able to agree to that, based on what Finance understands to be the financial position. We were seriously looking at the issue. But you can ask the Commissioner tomorrow

Senator Ray: Did you ever contemplate giving any drafting instructions to write legislation that ensured that the divisional offices would remain as they are for a while?

Senator Minchin: There has been discussion about the fact that the Commission has this discretion. I am not aware of any formal move to seek to amend that. Again, I think that is premature. **My sense is that the general view around parliament, on both sides, is that the DRO structure is, in principle, best kept on an electoral basis.**

Senator Ray**: Is it?**

Senator Minchin**: That is the sense I get from my House of Representatives colleagues. The Commissioner is aware of that**…We are having a serious look at the issue and we will decide on a course of action in the context of the next budget.

Senator Ray: Are you aware of the countervailing argument that in New South Wales, for instance, having 50 DROs leaves a very flat staff structure and that it is very difficult for people to get promoted. Normally in a bureaucracy - and I do not use the term 'bureaucracy' in any insulting way - there is usually a little more hierarchy and opportunity for promotion et cetera.

Senator Minchin: I understand that argument, but **we are not here to provide career paths for people who are going to work for the Electoral Commission at the electorate level. We have to have a structure that accords with those obligations.** There is a head office structure both here and in the states. I appreciate that from a management point of view one of the alleged downsides of having 150 DROs around the country is a flat structure, but you could say the same thing about electorate staff who work for members and senators, and we are not proposing to amalgamate those just to provide career paths.

Senator Ray: Or even give them a decent agreement; yes, I noticed.

Senator Minchin: I will not venture down that path either. **But it is fair to say that certainly on our side, and I understand on the Labor side, there is a prima facie preference for keeping the DROs.**

Senator Ray: **Sure, I concede that.**

Overview of the AEC's 20 year campaign to centralise the divisional structure

Senator Ray's concession that the ALP had 'a prima facie' preference for keeping the DROs was very significant in that it reaffirmed the view of the ALP majority in the 1992 special report of the JSCEM in opposition to Commissioner Cox's plan for regionalisation, as did Senator Minchin in reaffirming the Coalition's opposition to Commissioner Gray's AEC 2000.

Commissioners Hughes, Cox, and Gray might have gone, but his senior staff have not; who are as good as their ex-chiefs' word. Amalgamation is the buzz word now back in the same old creeping revolution by stealth, the same contempt for ministerial edicts, the same pursuit of their own ends knowing what is done can't easily be undone. A House even more Divided. Battle once more joined. The highly disputable banner of the AEC cost and efficiency. The indisputable banner of the DROs defence of democracy, accuracy of the electoral roll and the persistence of a system established by all the State Electoral Commissioners in concert in 1901 to found the best Commonwealth system - a decentralised system.

The AEC invited people like myself to become suspicious of their motives when the news leaked out that six Liberal party electorates were targeted as among the earliest 'cabs off the rank'. The AEC was planning to amalgamate 6 electorates in one Chatswood office - those of Bennelong (John Howard), Berowra (Philip Rudduck), Bradfield (Nelson), MacKellar (Bronwyn Bishop), North Sydney (Joe Hockey) and Warringah (Tony Abbott). An advanced plan for amalgamation of the offices of the electorates of the Prime Minister and 5 members of his cabinet. Why not six ALP seats?

I speak of this current revolution to centralise as one by stealth for two major reasons. The AEC has ignored the majority report of the Joint Standing Committee on Electoral Matters on the conduct of the 1996 requiring the AEC to refer any active plans for 'restructuring' ie. amalgamation to it for approval before proceeding. The AEC is proceeding in a piecemeal fashion, a subterfuge to conceal the fact that amalgamations will be nation-wide.

The AEC is proceeding with amalgamation although the Special Minister for State has requested it to cease during the life of the current Parliament in a letter which it has not answered. It is proceeding although an ALP Cabinet rejected it and both the Coalition parties and the ALP have opposed it in the JSCEM. It is proceeding although it has been unable to obtain a favourable legal advice to legitimise amalgamations for twenty years. It is proceeding now because it claims to have legal advice which does legitimise it, but refuses to anyone. It conveys the impression of contempt for parliament.

The AEC has refused to let the CPSU, representing the DROs and their staff, see it. The AEC has refused to let the office of the responsible minister for electoral matters, the Special Minister of State, Senator Abetz, see it. So I can only speculate as to what grounds that favourable legal advice gave for the AEC's ruthless 'restructuring of the electoral system', which everyone else, including myself, sees as a 'deconstruction' of the electoral system. It is consistently high-handed.

One source has told me they consider they have 'a discretion' under the Commonwealth Electoral Act. An ominous phrase; one that Mr. Dacey, now Deputy Commissioner, used to explain a liberal interpretation of the mandatory method of voting in the Constitutional Convention election was 'an expansion and clarification of the law' in a letter to me.

How well I remember what provoked this during the Constitutional Convention when the AEC issued its Scrutineers Handbook authorising the interpretation of the mandatory Yes/No vote in the set squares in 13 other ways by ticks and crosses (deliberately removed from referendum voting) and words even outside the squares; all because returning officers could exercise the 'discretion' of returning officers. This was what Mr. Dacey explained as an **'expansion and clarification of the law.'**

On that occasion I had lodged an objection with the Commonwealth Ombudsman on behalf of the H.S. Chapman Society, and elicited the fact that Commissioner Gray's authority rested on an advice of the Attorney-General in 1961 on an issue of 'discretion' arising not from the Referendum Act, involved in this case, but the separate Commonwealth Electoral Act.

The most controversial feature of the AEC's refusal to let anyone see the legal advice is its denial to the Special Minister of State on the grounds that it is an independent statutory authority. This, as I have argued earlier in this book, is not indisputable. The AEC is answerable to the Joint Standing Committee on Electoral Matters, which was established by the ALP government shortly after it created the AEC, specifically to enquire into the way in which the AEC conducts each election, into the way the roll is handled and into its administrative decisions. It is also answerable to the Senate Finance and Administrative Committee for its budget and,

even as I write, has been before the bar of the House answering to that Committee on amalgamation. It is answerable to its designated Minister. It is required to table an annual report in the Parliament.

Surely if ever there is a question on which Parliamentarians should have a voice it must be whether Divisional Returning Officers should be moved out of their electorate to some more remote centre without any consultation. Surely if ever there are those who should be told there is a nexus between the Constitution and the Commonwealth Electoral Act, which should not be ignored, it is the Minister who is the conduit to the Parliamentarians and the Joint Standing Committee on Electoral Matters. Surely if ever those who most deserve to be told by what power the AEC is justifying itself to force them to move homes and offices it is the members of divisional staffs, who declare: 'We are not happy to be guinea pigs and want appropriate discussion to occur with the AEC before any changes are necessary.'

CHAPTER 4

A HOUSE DIVIDED SYNDROME

The AEC versus the Divisional Returning Officers

PART 2

Division in views of effect of amalgamation on the accuracy of the electoral roll.

The AEC and the DROs hold opposing views to each other over the AEC's abandonment of habitation reviews since 1997 in favour of Continuous Roll Updating (CRU) and sole reliance on an electronic data-matching based electoral roll.

The AEC adopts the view that the electoral roll is both as honest and accurate as it can be and has improved with the exclusive adoption of CRU, which will be even more efficient with amalgamation.

Experienced Divisional Returning Officers say it not as honest and accurate as it should be and has deteriorated with Continuous Roll Updating and its inefficiency will be worse with amalgamation without supporting habitation reviews which were abolished from 1997 onwards.

The AEC's plan for amalgamation will stand or fall at the bar of public opinion on the honesty and accuracy of the electoral roll, which is now a Joint Roll for all levels of Government. If it fails the case for amalgamation will collapse. But by that time it will be too late.This topic does not appear in debates about 'restructuring', nor whether the protection of the voter's vote is being taken into account at all.

Yet if someone has corrupted the roll with false names, that are not detected, they can remain on it for years casting false votes in every election. In one electorate, a migrant who claimed she was a citizen when she was not, voted successfully through several elections. In another, an owner of a cat, who enrolled it on the roll as Curacao Cat could have voted for it. If people have not re-enrolled at their new address, when moving from a marginal seat into a safe seat, because their votes may be of more value to the party they favour, they too can stay on the roll for years. As the DRO for Geelong told the Joint Standing Committee on Electoral Matters in 1989 he found people voting in his electorate who had moved out up to 12 years before.

Opinions vary as to just how honest and accurate a roll can be. Dr. Hughes, when Commissioner, told the JSCEM airily during his term that it could never be 100% accurate because people 'rolled over' all the time at up to 20%. However, as Dr. Hughes has no known record of ever having run an election on the ground, the sceptical observation of an experienced DRO, that Australia must be experiencing the biggest real estate boom in history, may well be more reliable.

The time when the electoral roll is at its least honest and accurate is just before an election because enrolments cannot, and will not be, checked for some weeks before an election. The staff are too busy. The risk of the roll being dishonest is even greater

if any time to enrol or re-enrol is allowed after the issue of the writ. There has been a long-running battle over this in the JSCEM between the Coalition and the ALP with the former wanting to return to past practice of closing the roll on the day of the issue of the writ.

This was always the case until 1984, when the ALP allowed 7 days for enrolment after the issue of the writ. This led to a huge surge of enrolments to 750,000 in the last week before the 1987 election, to *circa* 500,000 in two succeeding elections, and a slight drop thereafter. About 2/3 of these are usually re-enrolments, which are a much more likely gateway for short-term corruption of the roll across an election than new enrolments. That is why it is a great puzzle to me that the AEC only considered new enrolments when it analysed late enrolments before the 1990 election. This nullified the stated purpose of their study, namely to determine if false enrolments were occurring. Predictably it came up with the conclusion that there was no fraud of any significance occurring.

But other AEC Commissioners and officials, and Dr. Hughes, have adopted a defensive line. They say the roll is as honest or accurate as it can be, and insist the new address system operative from 1999 will identify real not false addresses without the old-time street walk habitation reviews. How then do they explain the following story by Geoff Holt in the *Canberra Times*: 'I had occasion to access the Australian Electoral Commission's consolidated roll for NSW to trace a person that I have been trying to contact for some time. After being convinced that I had finally located that individual, I wrote to him at an address listed in the roll for one of the federal divisions in western Sydney. A few days later, I received a call from an Australia Post mail contractor for the area who assured me that the address did not exist *(March 20,2001).'*.

Regionalisation linked to reduced staffing begins to damage accuracy of the roll.

In 1984 the AEC dropped the former motto of the Commonwealth on its creation in 1901 - Service to the Community. That it was no longer a primary principle was clear from the fact that permanent staff was reduced in most electorate offices to a level where it was impossible to deliver service to the community any longer - to 2 people or less when anyone was leave. The reason - the Efficiency Dividend policy of the ALP government. But as the Public Service Union wryly said 'this is at the same time Central Office can find the funding to increase Central Office staff by 39 in two years and spend over $3,000,000 in one year on 40 consultants *(Report p.81 7.8-9).* It also objected that 'Divisional Returning Officers are currently trusted to manage the conduct of the election but not to control the resources to do so *(p.80 1990 Report evidence).'*

The frustration with management, that had seen 34 out of 40 DROs in Victoria complain about the conduct of the !987 election by the Canberra Head Office had not died away in the following election. In its report on the conduct of the 1990 election, the JSCEM reported: 'Given the problems identified throughout this inquiry, the Committee can only conclude that the 1990 election was not as well managed as it

should have been and there are serious deficiencies in the management of the AEC. The existing structure of the Divisional Office has proven to be the most efficient means of delivering the goods under less than idyllic circumstances.'

Submissions by DRO's showed that dissatisfaction had not abated. For example, G. Raveane, the DRO for Corio Victoria, wrote: 'The 1990 report admitted 'staff cuts were largely blamed for the queuing problem (in polling booths) for example at the Portarlington polling place in the Division of Corio, a polling official posted a sign saying "huge staff cuts may cause delays." The reduction overall was 11,483 staff or 17% in total polling place staff between the 1987 and 1990 elections *(ibid p.15 2.25)*. Where did this leave the ALP government, which assured its vociferous critics of division-wide voting after 1984 that one of its greatest benefits would be to abolish queuing at polling booths?' Where was the community service?

And R. Patching, the DRO for Rankin Queensland, wrote: 'The management promised that an Election Management system would be ready in time for the next election. In fact it was only ready very late in December 1992 before the March 1993 election with consequences detailed in the following report to the JSCEM: "Members in divisional officers were seriously affected by problems with the Election Electronic Management system (ELMS). This system was scheduled for completion in the AEC's Corporate Plan by June 1992. Unfortunately it was still being tested in the weeks leading up to election day. The system failed late on election night and failed to deliver much of what it promised over the two very important weeks immediately following election day.

'The limited capability that the system provided was only made possible through the extraordinary exertions of computing staff who, when faced with severe technical problems not of their own making, worked night and day to provide at least a limited level of ELMS access. The failure of these systems was more than the normal computer failure that modern day office operations have learned to live with. During the 1993 election when all states were trying to access the main frame at peak periods some terminals were only able to enter 25 enrolment cards per hour because of the inordinate response time of the computer.*'*

*'*The computers in fact not only continued to be 'seriously affected' before the election and throughout the ballot count on election night (6 separate breaks in feed of data) but collapsed for two weeks thereafter. At the time DRO's blamed the choice of unsuitable unlinked systems due to the failure of management to consult them. They did not learn for another 4 years that intrusion by a computer hacker might also have been responsible*(Sub JSCEM S0378/S0826 July 21 1993)*.'

Habitation Reviews versus Continuous Roll Update.

Habitation Reviews were abolished progressively since the first pilot experiment of abolition in Queensland in 1997. The catastrophic revelations of the Queensland electoral rolls were prophetic of what might follow in other states. But, as the CPSU circulars to its members indicate, Canberra Head Office is not in the habit of consulting its DROs in depth. They are not surprised because they hear their death knell striking in Canberra, which they believe will replace them with clerks in

amalgamated offices.

DROs are mainly very distressed because they believe that stand alone Continuous Roll Update, without the neighbourhood contact of habitation reviews supervised by local DRO's, is a recipe for disaster; that, despite what Canberra asserts, electronic centralisation by remote control - as envisaged in Chatswood for an area reaching from west of Parramatta to Palm Beach - will result in an electoral roll that is less accurate. Three of them said so when appearing before the JSCEM on December 4, 2000 and nine of them said so in a letter to the Australian Electoral Commissioner in January 2001. Commissioner Becker has not had the courtesy to reply.

Division over whether Continuous Roll Update will deliver accuracy.

The CRU was introduced two years ago as a replacement for the traditional way of doing the review.' (*Mr. Lamerton DRO McPherson JSCEM Hearing December 4, 2000)*

The justification for future amalgamation of electorates, no longer related to the close knowledge of a neighbourhood by living and working it it, rests absolutely on the proposition that electronic surveillance by CRU works efficiently and accurately without habitation reviews, or day to day contact with the living entity of an electorate its topography, buildings and people in it. If it does not enable the same neighbourhood contact, and those who have to work it say it doesn't, then the case for amalgamation of electorates collapses to the ground.

That case cannot be sustained on the grounds of cost and efficiency. Each spot-check inquiry to follow up questionable enrolments costs $25.00 each. Not to mention the cost of any other inquiries such as objections, prosecutions etc; or of postage from a system largely based on mail-outs. As to efficiency, can the AEC seriously argue that a concentrated system run by clerks in remote offices will meet the only real test of efficiency in an electoral system - an honest and accurate electoral roll. As all the DROs, who know the game which the Canberra bureaucrats do not, repeatedly say it will not be possible without working daily within the electorate they manage.

Evidence of 3 Queensland Divisional Returning Officers to the JSCEM late 2000

1. Divisional Returning Officer for electorate of McPherson Queensland 2,000. Mr. Lamerton (witness in a private capacity JSCEM December 4, 2000) Statement in Submission in writing to the JSCEM

'Despite widespread disquiet from the divisions, full doorknock reviews were abandoned in 1997 and 1998 in favour of a continuous roll review strategy (CRU). Basically it is a continuous mail review backed up with some limited fieldwork relying on information from Australia Post mail redirections, Centre Link and Residential Tenancy authorities. **New growth areas have not been looked at. New information regarding non-residential addresses such as industrial areas, parks and schools etc has not been updated, nor rural areas where many shires and**

councils have not applied rural road numbering.

'**The fundamental flaw is that this new strategy is based on the premise that the electoral roll can be maintained simply by flooding the country with letters and, if they don't respond, send some more.** I believe the national average response rate for all mailouts is less than 45%. Under CRU the Multiple Surname Report for individual addresses can identify major enrolment fraud. It should be produced at least quarterly, and in the week after roll closure the DRO should immediately instigate fieldwork for suspicious last enrolments.

'I believe there has been fraudulent enrolment but I do not know the extent. Fraudulent voting, if it does exist on a significant scale, is more likely to be clandestine by nature and the result of deliberate attempts to either add names to the roll, or to impersonate other electors, possibly including those that had recently died.'

Evidence in the December 4, 2000 hearing

Mr. Lamerton: The CRU was introduced approximately two years ago as a replacement for the traditional way of reviewing the roll…. Many of us had some concerns and since then there has been a sense of a fait accompli. "This is what we are going to do. We are not going to return to the way of doing the roll in terms of a complete doorknock. That is it. We will not enter into any other discussion apart from making improvements to the system in the way we have decided it is going to be done."

Chair: From the divisional level, you put some of these concerns to the AEC through your regular meetings and you were met with a lack of response. Is that correct?

Mr. Lamerton: Yes. It is difficult. Many people do not like the system. If an informal survey of divisional returning officers were conducted, I think it would show they are not at all happy with what is happening at the moment. We appear to be banging our heads against the wall.

Chair: What about the direction not to investigate non-citizens enrolling?… It was made very clear to all of you not to adopt the practice that Mr. Patching adopted in Rankin? *(checking enrolment applications with the Department of Immigration)*

Mr. Lamerton: There was a directive… As I recall, at a meeting that we attended around 1993, we were surprised that that decision was made.

Mr. Ferguson: (You say) you cannot rely on Centrelink because a significant number of people on their list might be cheating Social Security and when you write to them they do not respond.

M.r Lamerton: My concerns are that the CRU is not necessarily targeting all the right people. I would like to see it expanded. I am not against the CRU. I would just like to add a substantial doorknock - hopefully 100% once every election cycle. The one thing we have to try to do also is to update our address register. The

AEO for Tasmania indicated they are doing virtually a full address register updating Tasmania. The question I would ask is if they are doing it there, why isn't it being done elsewhere? Adequate funds must be made available to the AEC to effectively carry out its charter.

Mr. Ferguson: And you see the doorknock as a very crucial part of all this?

Mr. Lamerton: I believe that to be so, particularly in growth areas and new housing estates. Also in areas where we have high turnover and voter mobility like flat units and caravan parks. Why not do all of those, rather than those that are highlighted because we have picked up a match on another database?

Divisional Returning Officer for the electorate of Forde Queensland 2000

2. Graham Smith (witness in a private capacity JSCEM December 5, 2000)

Mr. Smith: 'I personally would like to see as part of the CRU, a doorknocking process which is far in expanse of what it currently is, to overcome the superfluous entries on the roll. I would be advocating that we do far more regular doorknocks in a lot broader coverage. If we are not doing those dooknocks then the potential does exist for entries to be there to be used inappropriately. I am not happy with it (CRU). There would be many other DRO's in that position as well.'

3. Divisional Returning Officer for the electorate of Rankin Queensland 2000 R. Patching (witness in a private capacity JSCEM November 5, 2000)

Senator Mason: Earlier today, Mr. Lamerton said many other DRO's are also unhappy about current procedures about maintaining the integrity of the electoral roll especially the CRU process. Would you agree with that?

Mr. Patching: Yes. One DRO rang and said that what I had to make clear in my submission was that each enrolment card in his division, that he collected through the doorknock associated with the CRU, was costing $25.00 a card.

Senator Ferris: You have no doubt read in the Hansard of our first hearing where Mr. Becker (Australian Electoral Commissioner) told us that "the federal electoral system is in very good shape, and I have no reason to dispute the conclusion reached in previous AEC submissions - that no federal election result since 1984 has been affected by widespread and organised electoral fraud." Would you agree with that?

Mr. Patching: **The honest answer, as to whether or not an election outcome in any seat has been affected by fraud, is that the Electoral Commission, truthfully, have to say they do not know - because we don't, do we?**

Senator Ferris: How optimistic are you, and some of your colleagues who have chosen to give evidence here today, or put in a submission, that in the end the Electoral Commission will listen to you people on the ground and actually make these changes, apart from if they are forced to?

Mr. Patching: **Once you take an attitude the election cannot be affected in any way, there's no need to change. They are telling you the system works perfectly.**

Chair: Following the 1996 election you said you discovered electors who were enrolled and who appeared to be ineligible for citizenship reasons. W**hat I find even more disturbing is that 4 of those electors voted in the 1997 election as well as the 1990 and 1993 elections.** It poses the question: how many more are there that remain undetected? Do you still stand by the statement "in view of the 217 that I uncovered in 20 months, I would say that there would be many thousands Australia wide."

Mr. Patching: When we send out, through the CRU, vacant house letters we are probably targeting non-citizens amongst those vacant house letters, aren't we?

Chair: In your submission to the 1996 inquiry you talked about staggering numbers being involved in non-citizens voting. You had formulated a plan about how to deal in your divisions with non-citizens voting, in order to make sure that only people who were eligible to vote could vote, but you tried not to let on to the head office that that was what you were doing because your experience in the AEC led you to believe that a negative response was almost assured.

'They then discovered that you were involved in checking citizenship through the Department of Immigration and you became a victim of much criticism for not following so-called policy (which was to accept applications at their face value). Out of the 577 applications for enrolment you received from electors born overseas at this time, but claiming to be Australian citizens, you found 215 of those electors were ineligible for enrolment. **Would you outline for the Committee whether you believe that there was a culture in the AEC that this sort of problem raised by DRO's was something they would rather have swept under the carpet?**

Mr. Patching: At one of the group meetings I was invited along as a guest. Tim Scott (DRO for Lilley) put it on the agenda. I put down my figures and we were promptly told not to do it any more by the Director of Operations (Ross MacKay).

Chair: Was that directive given to your orally and later confirmed in writing?

Mr. Patching: It was given to me again twice: once in writing and then **I got a phone call from the Director of Operations, who told me that I had to cease checking immediately and that, should I be found to be continuing, he would have no alternative but to charge me with official misconduct**…. Subsequently he rang me and said "you brought this figure up at the JSCEM hearing. We want the names, addresses and birth dates of the 215 people." "I said I can give you the enrolment card." He said "no, we don't want them. We just want the details." In 1996 I was ready to return to work (after being off sick) and to be involved in the 1996 election. The AEO, Mr Longland, refused to allow me to return to work unless I allowed him to transfer me to any part of the AEC he saw fit (in 2000

Assistant Commissioner accused Mr. Patching of producing no evidence. He found it had been hidden behind a cabinet in the store room while he was off duty).

Chair: Do you think perhaps you have been used by the AEO in Queensland as an example to other officers this will happen if you raise concerns that we, in Head Office, are not interested in being raised?

Mr. Patching: **Whether I was intentionally used as an example I do not know, but I can assure you that a lot of people do think before they put submissions to the JSCEM. There are three of us here and there are 27 DRO's who complain about systems. I quite openly say to them "if you had a backbone you'd put in a submission." I think a lot of them are frightened of the fallout (an attempt was made to dissuade them from giving evidence)**

The rest of Mr. Patching's evidence was given in a private session after 5 pm because proceedings, prolonged by certain members of the JSCEM, had occupied the allotted time. This meant, regrettably, that public were not admitted and what he had to say was neither heard by the public nor put on public record. This seems inexcusably inconsistent with the purpose of the JSCEM to ensure public exposure of bodies like the AEC to scrutiny. It is particularly inexcusable on the issue, bearing on the most central of the functions of the AEC's administration and most crucial to the honesty of the elections, the electoral roll; a point astutely made by Senator Murray.

Senator Andrew Murray: 'Who should not be on the roll because they have criminal intent? That is really the juicy side of this inquiry. My judgement has been, from what I have read, that the trust system under which the AEC operates is flawed and can be abused. **The problem is that none of us knows whether it is large enough to affect the result of an election.'**

Is the trust system under which the AEC operates flawed?

Senator Murray's observations agreed with those made by Senator the Hon. N. Minchin as member of the Senate Committee on Finance and Public Administration on July 16, 1998 - **'one of the great difficulties of this whole area of enrolment is that it is almost impossible to determine the extent to which fraudulent enrolment is taking place. We simply do not know and it is almost impossible to know.'**

But those who do it do know. Witness a *Courier Mail* reporter's account of an interview with Danny O'Connell, AWU faction ALP candidate for Pine Rivers in the 1986 Queensland State election. 'He chuckled at the holier-than-thou statements of Labor figures who keep a straight face while insisting they have never heard of vote-rigging in actual elections…. When some Labor people talk and laugh among themselves they are not talking about policy and speeches. They are talking about all the rorts and tricks that were pulled *(Courier Mail Nov. 11, 2000).'*

'Rorts and tricks' are also pulled south of the Queensland border as evidenced in one case by information from a polling official in a South Sydney polling booth in the 1984 State election in Rockdale.

- The ALP was receiving lists of people leaving the country prior to the election. If they had not returned before the election, party members went to vote for them.
- Unionists, council men and school teachers, manning polling booths for the Electoral Commission, were paid an extra $300 by the ALP or sources associated with the ALP.
- Electoral officers on tea-breaks picked up pre-initialled papers, filled them in, folded them and placed them in their pockets then, when counting commenced, they included them in the counting.
- Migrants went up to selected tables, were given ballot papers and asked if they knew how to vote. If they said 'no' they were then shown how to vote or even had their papers filled in.
- Electoral officers diverted scrutineers to the returning officer for a ruling, while others rubbed out numbers or put marks on papers to render them informal.

Senator Richardson has admitted that ballot 'rorters' had many other tricks up their sleeves than fraudulent enrolment. 'In nursing homes we believe there is a great deal of abuse of postal voting organised by officials or parties or, in some cases, staff at the homes *(JSCEM June 20, 1983 p.433)*

Divisive policy due to primacy of computerisation over other considerations

The computerised central management of the electoral roll has always been outsourced, first to the Department of Administrative Services mainframe computer and now to that of Computer Science Corporation, but it is still information-driven from 150 divisional offices. Soon, if the AEC has its way, these will be reduced to 70 or less.

The drive to develop a computerised system began as early as 1983. A team was set up in the Special Investigation Section of the Department of Social Security in 1983 by the then Commonwealth Electoral Office to create a data-matching program for management of the electoral roll. It set out to correlate data from pensions, unemployment benefits, medicare, social security, immigration *et al* on a points system. But it took over 5 years of intensive work to develop the system to the standard they set for themselves - to be able to eliminate 'fuzzy-matching' to a point where it achieved the capacity today to download information of names, which cannot be matched, every 24 hours. This service is available since 1990 only to departments registered as Agencies under the Data-Matching Program (Assistance and Tax) Act of that year.

The project to create this system initially met with a lot of opposition within the Department of Social Security for fear the department might look bad if too much fraud was found. It also met sustained opposition from the AEC, although specifically undertaken for it in the first instance, probably for the same reason - the AEC might look bad if too much fraud was found. The AEC has never abandoned that opposition to using this program although it was designed for its use and is far

superior to the home-grown version it belatedly began to adopt 15 years later in 1998.

On June 24, 1998, the then Special Minister for State, Senator Minchin, issued a Parliamentary Circular on the decision to adopt Data-Matching for the management of the national electoral roll by the Australian Electoral Commission. 'The AEC has initiated discussions with other Commonwealth agencies with a view to embarking on a program, which would not only assist in validation of names and addresses, but which would assist the AEC in identifying people eligible to enrol, or to update their enrolment. These agencies include Centrelink, the Australian Taxation Office, the Department of Foreign Affairs and Trade and the Department of Immigration and Multicultural Affairs.'

The decision to adopt CRU was based on an unjustifiably high level of confidence that it would deliver a level of accuracy in maintaining the electoral roll without any supporting habitation reviews. Consequently these were abandoned almost at once. I say unjustifiable because it was a risky experiment of a new untried Data-matching program floated by computer experts of the IT generation who are dazzled by the marvels of the IT computers. And because it was a choice of one that was evolving, when one that had already evolved to a level the AEC could never match was already available. If its justification is privacy, it is a spurious one because a mere request to link with the program on a 100 point basis, would demolish that argument. This error of judgement will eventually cost far more than any saving that may be made in amalgamations and staff-cutting.

It was easy for the AEC to make a great sales pitch for CRU as a preferential move into the electronic age that will deliver more speed, savings and efficiency in upkeep of the electoral roll than in the old foot-slogging days of habitation reviews and on a lower budget than before. The truth is that CRU is widely disliked by the Divisional Returning Officers who have to run it. They are well aware that it nowhere near delivers the coverage implied by its name. The data bases they are using are often misleading, inadequate or unsuitable. Only about 7% of enrolments are checked on the ground every 2-3 months and spot checks often made only against selected targets such as new blocks of units. Most checking is done by repeated mail-outs of letters from desk-bound staff, although two states have sought to do a roll-cleanse.

How does the RMANS (roll management) CRU program work now?

1. It is based on address, not name 'to make it much easier to match and compare information with other agencies.'
2. It identifies vacant and stable addresses and multiple surname households.
3. It issues a screen warning if there are 5 or more surnames of electors in a detached residence, or more than 2 in a flat or apartment.
4. It identifies unenrolleable addresses like Pizza Parlours, factories, golf courses etc.

What it does not yet update is parks, schools and industrial sites.

The Australian National Audit Office ran a Performance Audit on the Accuracy of the Electoral Roll (No. 42 2001-2002 April 18, 2002)

The uproar in Queensland about false enrolments on the Commonwealth electoral roll in the year 2,000, and the endless media and public exposure that followed in the course of trials and, inquiries, including the special (Pyne) inquiry into the integrity of that roll, led to the authorisation of a Performance Audit by the Australian National Audit Office (ANAO) of the AEC's conduct of the roll in 2001.

This Performance Audit was based on the Commonwealth electoral roll for the November 2001 elections. Although the AEC hailed it as giving it a gold pass on its CRU program, in fact this Audit amply demonstrated that the AEC has failed to develop a method of cleansing the roll itself in any way comparable to that offered by the Department of Social Security's Data-matching Facility as a 100 point system (not contravening privacy) under the Data-matching Act.

I found the ANA report to be not only well and clearly presented, but glib and persuasive in the onward march of its arguments and statistics through its many pages as to the thoroughness of its performance audit into the accuracy roll. Its plaudits for itself served to entrench the AEC in acclaiming through a media announcement that its administration had been praised for its competence. The general conclusion clauses were therefore -

14. We concluded that the AEC is managing the electoral roll effectively. AEC policies and procedures can provide an electoral roll that is accurate, complete, valid and secure. In particular the AEC has mechanisms in place to provide assurance that the names and addresses on the electoral roll are legitimate and valid; and that people, who are eligible to vote, are registered properly.

15. At the same time there are areas of AEC management of the roll that can be improved; in particular by better targeting and expansion of the data sources currently used to update the roll, by strengthening strategic relationships with key stakeholders, and by better identification and management of risks to the integrity of the roll.

Under the heading 'Accuracy' the Brochure warned: 'The audit found that, while the AEC does not set a target for accuracy of the roll, its CRU program is primarily focussed on ensuring the accuracy of existing enrolments. Data-matching by the ANAO of the names and dates of birth of individuals on the roll indicated that over 96% were accurate.' What, I ask, if they are false in the first place?

And under the heading 'Validity' the Brochure further warned: 'The AEC does not set performance targets for validity of enrolments although its procedures are explicitly designed to ensure that all enrolments are valid. ANAO independent data-matching of the electoral roll indicate that, of the enrolments matched to Medicare data, over 99% appeared to be valid.' Again what, I ask if they were false in the first place?

Yet any suspicions, that all is not for the best in the best of possible worlds we possess in the reign of the AEC, may be lulled, if all people read is the self-

congratulatory brochure the AEC sends out with copies of the ANAO report as it did to me. But if they persevere, they will find elsewhere in the ANAO's report a series of qualifications that are at odds with the gold pass of the Audit Conclusion. After struggling through that Audit Report, I was left to wonder just how many people in the political game would have heard of it, let alone read it or, if they have read it, would understand all the techniques of data-matching involved. Mighty few would be my guess.

The Procedure of the Audit

The ANAO audit based on the electoral roll for the November 2001 election in fact supported the argument of the DROs a year before that a stand-alone CRU is inadequate.

1. a complementary habitation review to Continuous Roll Review (CRU) is imperative.
2. the AEC has failed to develop a method of cleansing the roll compared to that offered by the Department of Social Security's Data-Matching Facility as a 100 point system (not contravening privacy) under the Data-Matching Act.

The ANAO's Performance Audit was carried out by matching 12.6 million current AEC electors with over 18.4 million current Medicare records (but not by addresses). Database managers in the AEC, Health Insurance Commission (HIC) and the Australian Bureau of Statistics (ABV) were also consulted although their data-bases were created for different purposes and grouped its records under different categories.

The Performance Audit was very incomplete because it was variously handicapped -

1. **It was not a national project because some Australian Electoral Officers of the AEC and State Commissioners would not support the initiative in their States** ***(Clause 4.63)***
2. The Medicare match, on which it was based, did not, or could not, check whether
   - electors were valid citizens or not
   - people listed had died
   - people had invented or stolen names for fraudulent reasons.
3. 1 on 1 data-matching is notoriously inaccurate.
4. Data-matching without address is notoriously inaccurate.

Innate limitations of Methodology used in the Performance Audit

- The ANAO explained its testing methodology as follows:
- those who are both on the electoral roll and enrolled in Medicare;
- those who are enrolled in Medicare but are not on the electoral roll;
- those who are on the electoral roll but not in Medicare;
- those who are neither on the electoral roll nor in Medicare.

The ANAO explained its methods in its Performance Audit as follows:

4.11 The primary aim of the data-matching was to match electoral roll records to Medicare records and to identify the first group,who were both on the electoral roll and enrolled in Medicare. Confirming the match of details of those on both data bases was the primary test of the accuracy of the roll.

4.12 Matching records from both databases also gauged the extent of the second and third groups above. Those enrolled in Medicare, but not on the roll, provided information about the completeness of the roll; those on the electoral roll, but not in Medicare, assisted in the analysis of the validity of roll data. Indicative information on the fourth group, not recorded on either database, was obtained by comparing the roll and Medicare data with ABS population figures.

4.13 In undertaking data-matching, the ANAO was aware of the limitations inherent in comparing the electoral roll to Medicare data. Eligibility criteria to enrol to vote are different from those required to obtain Medicare benefits. Most significantly Medicare data contains information on Australian *residency* status rather than '*Australian citizenship.'* Medicare data thus contain a significant proportion of people ineligible to enrol.

4.14 The ANAO noted other inherent limitations to data-matching including:

- errors in data resulting from miskeying of records at either agency;
- timing differences between the two agencies in updating their records;
- persons being known by a second name or adopting a different first name;
- legal change of name, eg through marriage, not notified to agencies;
- anglicising of foreign names;
- mismatches occurring where people had the same name and date of birth; and
- the limitations of computer data-matching methodologies particularly matching large numbers of records - the ANAO matched 12.6 million electoral roll records against 18.4 million Medicare records.

After this prelude I was not surprised to find that the AEC was not quite awarded an Oscar for its electoral roll performance as its brochure claimed when it reported that 96% of enrolments, checked by matching births with Medicare records, proved its roll was accurate and, after matching Medicare enrolments with independent databases, 99% of enrolments were valid.

The detailed findings of the ANAO's Performance Audit were not complimentary -

4.21 There was no evidence the register was accurate or consistently up-to-date across all divisions.

4.22 Where it routinely matched the address register (birth date/signature) with Australia Post, Centre Link and State data it proved to be consistently accurate and reliable.

4.24 It needs to develop a methodology for measuring and monitoring of the accuracy of the address register, for example
a) periodic, independent verification of a sample of addresses
b) records from targeted field work or other roll review

4.27 There is a variability of results, and gaps in data sources, used for CRU.

4.28 CRU response rates by themselves do not provide a complete measure of accuracy.

4.29 More needs to be done - a suite of 'performance indicators.'

4.31 To provide an objective assessment of its roll maintenance process, the AEC could undertake a statistically valid, independent and periodic audit of all habitations in a sample of walks to confirm the accuracy and completeness of enrolment information (both randomly selected and target covering special groups such as aboriginals and ethnics).

4.35 A periodic audit of the accuracy and completeness of the roll (sic) would provide valuable assurance to the AEC and its stakeholders.

4.38 ANAO data-matching of the electoral roll to Medicare records was primarily a test of the accuracy of the roll. **However, ANAO only confirmed the accuracy of the names and date of birth of individuals on the roll. The matching of roll addresses with Medicare addresses was not attempted, as the more uneven time frames of transactions with Medicare meant that would be of little value.** Medicare matching found that -

83.7% were clearly matched

11.9% were fuzzy-matched

4.0% were not matched

The fuzzy matched were -
9.1% fuzzy name: exact date of birth

2.4% fuzzy date of birth: exact name

0.4% fuzzy name and date of birth

'Fuzzy matching' refers to the ability of software to search for words or dates that are similar to the name or date being searched, and is used to compensate for errors in data entry and phonetics.

4.39 The ANAO data-matching result matched 95.6% of names and birth dates to Medicare. The matching results were of high quality with just under 84% of records matched exactly.

4.40 There are several reasons why valid enrolments might not have matched with Medicare records; these limitations were discussed at par 4.14 (see above). The ANAO further refined its analysis and overcame some of these limitations by

matching the unmatched records against a third data set.

4.41 ANAO matched the remaining 4.4% of the roll. 650,000 + unmatched Medicare records against State and Territory transport records available (Queensland/South Australia /ACT/Northern Territory). The 11.9 'fuzzy-matched' were not matched against transport data.

4.43 ANAO also compared the remaining unmatched Medicare records against motor transport data and found a significant rate of matching. This suggested that the inability to match records between the roll and Medicare might largely be the result of limitations in the matching methodology rather than suspect enrolments.

4.44 ANAO found that the AEC has procedure and controls that provide assurance on the accuracy of the roll but that current performance information, such as CRU response rates and comparisons to external data bases,

4.46 ANAO reviewed survey methodology of periodic telephone surveys to check enrolment levels, which consistently report 95% success. These did not include people

- with silent phones
- with poor English skills
- are homeless
- are Northern Territorians
- without a phone

4.47 (as to those who do not enrol) the AEC maintains a balance between encouraging enrolment in line with the requirements of legislation and with not overly intruding in the lives of individuals. As a result it is unlikely, nor indeed feasible, that the roll will achieve 100% completeness.

4.48 As there is a high risk that certain of these groups are not well represented on the roll their exclusion from the survey would tend to bias the survey result and to overstate the completeness of the roll.

4.49 Another limitation of the AEC completeness survey is that it does not identify the missing 5% (some 650,000) nor their distribution across the States. The AEC estimates 1/3 are young people not yet enrolled and 1/3 people objected off the roll.

4.56 The Centrelink database is the only national database used by the AEC for cross-matching. The AEC can match around 50% of persons on Centrelink data with the roll. Cross matching with Centrelink data has identified approximately 2.5 million individuals not on the roll in receipt of benefits. A significant proportion would be ineligible.

4.57 The AEC conducts target reviews to follow up individuals who do not respond to letters regarding enrolment. They comprise -

- enrolment of silent electors and general postal voters

- return-to-sender mail of Senators and Members of Parliament
- background reviews to confirm the continuing accuracy of the 60% of enrolments that do not appear to have changed.

4.62 Background reviews have only been undertaken in ACT and South Australia. These reviews obtained good results. The audit noted that the AEC did not have a firm timetable for following up data across all States on citizens who had never enrolled.

The Missing 4.4% of names, 560,000 in number

The most important finding of the ANAO Performance Audit was that it could not account for 4.4% of names, 560,000 in number. At first, bemused by all the elaborations, I did not give these much thought, assuming a proportion might be the usual collection of parachuted names, or names left behind in old electorates, of real people. I was jolted out of this langour by a data-matching expert, who had alerted me already to the Data Matching Facility of the Department of Social Security.

He insisted I did not understand that they were cause for real concern. They were almost certainly names of people who did not exist. If so the question of the missing 560,000 assumes far greater importance than I, or this ANAO Report, have given it for that total represents seven electorates of 80,000 in federal elections. Divided among the federal electorates it represents an average of some 3,500 per electorate but, more probably far more in some electorates and less in others.

Yet federal elections are usually decided in 8-20 marginal seats. And very often these margins are considerably less than 500 votes or even 20 votes. Single seats are often won by very small margins - 11 (Hawker SA), 44 (Bass Tas), 43 (Forde Q), 164 (Macquarie NSW), 170 (Lindsay NSW), 270 (Brand WA). And in the 1961 Queensland election the entire election was won by just 110 votes in one seat. I could give many more examples had I world enough and time.

Therefore the question of these unexplained percentages is a very serious matter particularly as the ANAO audit appears not to have covered the two largest states where electoral victories are mostly won and lost. The AEC should have been obliged to give lists of those names to all the DROs and MP's for those electorates and to check out all those mystery names after the 2001 federal election by sending a person to doorknock them.

Conclusions on Australian National Audit Office Report

- What the ANAO calls 'the missing 650,000' assumes far greater importance than this report gives it, as it represent a number that could critically affect results in many seats to judge by the 1993 federal election won by less than 500 votes in 13 seats.
- The report claims 98.6% accuracy for the Queensland roll. This finding is important as Queensland was the first state to abandon habitation walks, and where Mr. Longland found 650,000 names were wrongly enrolled in February 2001.

- 1 on 1 data-matching is notoriously inaccurate; and certainly far more inaccurate than the results from the Data-Matching Facility of the Department of Social Security.
- The Medicare data match did not, or could not, check whether electors were citizens or not, children who had died young, or names were invented or stolen.
- The data matching exercise was not repeated after the 2001 election to see if there were any substantial changes.
- Data-matching without address, which is merely 1 on 1, is useless.

Commissioner Becker says the AEC says it has no case to answer

Commissioner Becker, when testifying to the special JSCEM Inquiry on the Integrity of the Roll, expressed his extreme satisfaction with the record of the AEC. 'It is my view that the federal electoral system is in very good shape and I have no reason to dispute the conclusion reached in previous AEC submissions and JSCEM reports and the Court of Disputed Returns that no federal election result since 1984, when the AEC was established has been affected by widespread and organised fraud.

'The AEC submission of 17 October to this committee concludes that there should be no need for any radical changes to the federal electoral system, such as the early close of rolls or the introduction of voter identification or subdivisional voting. The AEC is concerned that such major changes could have negative impacts on the franchise, in particular. However, the AEC has recommended an increase in the penalties for electoral fraud offences and an upgrading of the computerised systems maintaining roll integrity.

'Needless to say, the upgrading of these computerised systems would require increased resourcing for the AEC, which would have to be accompanied by specific legislative measures enabling guaranteed and continuing access to a wider range of data sources than is currently available to us for data-matching purposes, including from the Commonwealth agencies such as the ATO and from state and territory agencies.'

Dependence on computerisation increases risk of fraud in elections

Can't you just imagine it? The whole electoral system from one giant brain. Shades of the U.K's ill-fated dome planned to be a central brain for all public schools in the land. Outsourced no doubt as the compilation of the roll already is. Who wants Divisional Returning Officers with their independence of mind and wanting more pay when they can have lower paid robots in a room full of terminals? Who wants to worry about those ants in their anthills as the AEC called them in their *Scrutiny* bulletin 38 of 1997? Who wants to worry about honesty when all those ants are obviously honest as the AEC assures you they have been for 20 years during the electoral revolution of the open/easy system.

Who wants to worry about computer hackers finding it easier to corrupt the system the more it is centralised, when all the staff of the AEC can be trusted to be scrupulously honest, as they have been without any security screening when they are

engaged? Who wants to worry about all the outsourced staff involved on software, roll compilation, printing of ballot papers, postal vote printing and issue etc?

How secure is Information Technology from intrusion within organisations

1. Are staff honest?

Mr. Patrice Rapulus, director of CSI

- CSI Director, Mr. Patrice Rapulus, said neither technologies nor policies alone were an effective defence. Intrustions and theft of trade secrets took place despite the presence of firewalls and encryption *(Australian Financial Review March 27, 2001).*

Charles Sturt University - Study of E-crime in Australia

- The first comprehensive study of E-crime in Australia by the Charles Sturt University for the ICAC covered 1,000 senior managers in state government agencies and local councils. It found only half were confident their IT systems were safe from electronic crime. Only 11% had a formal strategy to combat E-crime and E-corruption. Only 25% were confident none of their staff would be involved. Only 31% would report it. (*Daily Telegraph May 21 2001).*

Ernst and Young

- Ernst and Young warned 'in Australia, 76% of large corporate frauds are committed internally most by middle managers. **While 59% of large frauds are detected by control mechanism, a significant 42% are discovered only by chance** *(Bulletin March 25, 1997).'*

Professor M.Micco, University of Pennsylvania, USA

- Professor M. Micco lectures in a graduate program on electronic fraud in E-banking and commerce. She says 'truthfully any system can be hacked. So insider and outside hackers are possible, but actually 90% of the computer crime is done by insiders.' And as to how the hacking could be done: 'As the data file is shifted from the local to the central area I can put in a Trojan Horse program that says I am the central agency and you shift it to me. I take that file and modify it however I wish and put it back in and send it off. There is perhaps a 3 or 4 second delay in the process. But nobody is going to know that the file which arrives at the other end is not the file that was put in at the beginning. It is very common and easy to do and a well understood technology for computer people.'

2. Parliament of New South Wales

- The staff of Hon. T. Kelly, Deputy President of the NSW Legislative Council, chairman of Committees and leader of Country Labor, informed the IT staff of NSW Parliament House of a machine fault in his computer on July 24, 2001. The Hon. Meredith Burgmann, President of the NSW Legislative Council, was slow to act.
- The IT staff, finding Kelly's computer had files from the computer of Charles Lynn, secretary of the Opposition's shadow Cabinet, which carried a range of confidential Liberal Party matters, informed the Clerk of the House next day.
- Kelly said he would not know the first thing about hacking, but stepped aside. Mrs. Chikarovski, leader of the Opposition, complained they had been surprised

how ready the Government was for particular questions at question time.

- Mr. Carr's spokeswoman confirmed Mr. Carr had used a confidential hard copy Opposition memo and e-mail in question time on May 31.
- Kelly admitted training as a computer programmer in 4 languages 1974-85 while computer manager at the Wellington Council, and holding the position of chairman of the Parliament's technology advisory group; and that his son, John, had often used his computer in Parliament House.
- Kelly's son John, a top computer studies student in year 12, works for barrister Ron Hoenig, Mayor of Botany, who defended Mekong club barman ALP member, Duy Dinh in the John Newman assassination trial.
- An independent IT report by Melbourne firm eSec found a number of computer programs and games had been loaded on Kelly's computer on weekends and in the early hours; and that unauthorised 'password-sniffing' Languard software had been installed and used several times to launch computer scams. However Mr. Lynn's name and computer address had been 'accidentally put on the computer' by IT staff.
- Andrew Tuny, managing director of eSEc. said 'there has been a tremendous expansion in the number and sophistication of hacking software available on the internet (Sydney Morning Herald August 8, 2001).'
- A computer industry magazine said Parliamentary staff were warned 2 years ago hacking would occur unless security was drastically improved (ibid).
- Premier Carr delayed handing over other computers to the police Computer Crime Agency citing parliamentary privilege. Sceptics said the delay would enable anyone else to wipe out any evidence of sharp practice.
- Mrs. Chikarovski, Leader of the Opposition, and Mr. Lynn said investigations had raised more questions than they answered. The police report said 'questions remain over how opposition files got into Mr. Kelly's computer.'

CHAPTER 5
A HOUSE DIVIDED
AEC - versus POLITICIANS

PART 2

Division with the politicians over management and accuracy of the electoral roll

In the AEC's *Scrutiny* bulletin No.38 of August 1997, it at last announced its new Address Register system for the Commonwealth electoral roll with a picture of 10 cheerful staff members who had produced it for enhanced roll management. The text below gives a startling picture of just how inadequate the system was before, and how arguable the AEC's claims of accuracy over the previous 13 years had been.

'Prior to the introduction of the Address Register all that was necessary for an enrolment to occur was that the street and locality existed on the system. With an Address Register the exact address has to exist on the system before anybody can enrol for it. As to why the AEC needs an Address Register, this question is perhaps best answered with the ant hill analogy. **With the electoral roll the AEC knew who the ants were. With an Address Register the AEC will eventually be in a position to know where the ant hills are and this knowledge will enhance the integrity of the electoral roll**. *(AEC Scrutiny No.38 August 1997).'*

What the AEC is really saying is what its critics have been saying for many years - that the AEC could not identify any of those fake addresses on golf courses, vacant lots, parks, service stations, cemeteries etc that were being used for false enrolments - not unless it sent people out to check them physically. And it still cannot altogether do so, because it still has not universally listed parks, industrial and rural sites and schools.

What the AEC has not been admitting is that a lot of false enrolments may have accumulated on the roll, which it has not identified because very few full habitation reviews, of people doing physical street walks on the ground, have been done since before 1983. The separate budgets required for this 3-4 months roll cleansing were too skimpy from ALP governments 1983-1993, and standing staff was being wound down to impossible levels in anticipation of abandoning habitation reviews altogether after 1997.

One example of how inadequate the roll has been is that of a doorknocking campaign by Jillian Skinner, Liberal Party candidate during the 1988 N.S.W. State by-election for the seat of North Shore. She found many of over 3,000 names on the roll, who might no longer live in the electorate, had moved out more than five years before. In some areas entire blocks of units had been demolished, but names and addresses of former residents still appeared. 90 voters, registered as residents of Cremorne Road, North Sydney, could not be traced. Yet Mr. Ian Johnston of the N.S.W. Electoral Commission said the recent State roll review would have corrected many mistakes! *(Northern Herald 27Oct. 1988)*

This ‘dead wood’ among the ants (which is often far from dead) could include

- People establishing multiple identities for Social Security fraud, who enrol.
- People using names of those who died young for false enrolment and voting.
- Migrants, who deliberately or by mistake, affirm they are citizens when they are not.
- Ballot-riggers
  who create false names and addresses of ghost people who do not exist.
- People who have left the country but left their name on the roll.
- People who have moved interstate or into safe seats and left their names on the rolls.
- Stolen identities of people who are on the roll to use in the same or other electorates.

How many of these ants will be found, even if listed at a full address? Not all of those

- on parks, school grounds, or industrial sites unless the DRO does the spade work.
- migrants
  who were not citizens (checks with Dept of Immigration are very recent)
- in houses with less than 5 residents (RMANS will not identify less than 5)
- houses and flats that have been demolished
- new villa complexes/houses being built
- names left behind when people move because they fail to notify the AEC
- fraudulent names invented for false voting at real addresses

Open enrolment lets all these illegal ‘ants’ remain in the anthill of the roll, which makes a lot of unnecessary time-consuming work for the DRO’s in a thankless job of vigilance, for which DROs get no credit, when cost-saving could be effected by insisting on identification both on enrolment and voting. The gateway to enrol and vote, that is now wide open, should be closed to anyone who cannot prove they are who they claim to be. And those who are particularly a problem during elections are people claiming they should be on the roll when they are not after the close of the rolls for an election.

I refer particularly to people seeking provisional (section) votes when they are not on the roll, and migrants. Whether its failure to close that gate is due to the governments of the day or the AEC itself is nowhere on record that I can see, but the problem has continued through both with a corruption of the roll that may not altogether have been corrected.

The divisive policy of the AEC on provisional votes

I became interested in the problem of provisional votes after the Hon. Ralph Hunt AO told me that, when he was Minister for Interior responsible for electoral matters

in the 1970's, the Chief Electoral Officer of the day, Mr. Lee, expressed his concern that provisional votes could provide an opportunity for abuse.

Politicians like Senator Short, Michael Cobb MP and Dr. M. Woolridge MP emphasised that Mr Lee's prophecy had come to pass in their Dissenting Report to the JSCEM's Report on the 1987 election (*p.110):* 'Provisional votes have clearly become a pathway for abuse. The vast majority of such persons, who are re-admitted to the roll in this manner and who, of course, are sent an AEC acknowledgement card are actually not at the address claimed on such acknowledgement cards. **A very high percentage are returned unclaimed and stamped by Australia Post as LEFT ADDRESS.**

'One DRO found 600 of such declaration votes, which should never have been accepted, were admitted into the count. In this case he was relieved the result could not have been accepted by this factor alone. This scenario above would be repeated in every Division throughout Australia to a greater or lesser degree, while the numbers of provisional votes sought and accepted increase with every election.'

The politicians raised the matter **'because of the widespread reports of concern in the community that the electoral system is subject to abuse and manipulation and therefore to inaccurate or rigged election results.** Any long term perceptions of this nature could inevitably erode the confidence the electorate has in our democratic parliamentary system. The implications of this are obvious and of profound concern.'

In 1998, Lance Barrett, a staffer for Jim Lloyd in the central coast electorate of Robertson, NSW, speaking of the October election of that year said: 'I believe we still have a major problem with provisional votes cast by people who claim a vote although not on the roll. About 1500 people claimed provisional votes saying they should have been on the roll when they were not. If removed in the 6 months' prior to an election they were accepted as valid although, as Jim Lloyd MP pointed out, everyone of them had had at least 3 opportunities to enrol if they lived at the address for which they claimed to vote - a letter from the member and 2 letters from the AEC (of warning to remove and removal) receiving no response.

'Without concrete proof as to their identity and address, I do not believe that any of these votes should have been accepted and just over a thousand were. These votes were very heavily weighted to the ALP. Yet another voter who advised the AEC of transfer within the division and received an acknowledgement from the AEC was denied a provisional vote.'

The problem today is that the discretionary principle a DRO could exercise to grant a provisional vote was only called on for a dozen or so votes in any electorate before the early 80's, which were normally due to DRO error. After 1984 they began to increase until they amounted to 105,091 of the national vote in 1996 (some 700 average per seat) (*AEC Electoral Newsfile 58 July 1996)* and even higher in the 1998 election in certain electorates eg Kingston (SA) and Robertson (NSW) where 1100 were admitted to the count out of 1600 applications. They have become crucial in some marginal seats as happened in Eden-Monaro in the 1999 election, when Gary Nairn won his seat by less than 200 votes.

1. What are provisional or section votes?

Provisional votes are called section votes because they are issued under Section 101 (4) of the Commonwealth Electoral Act (CEA), which reads: 'every person, whose name is not upon the roll, upon the expiration of 21 days, from the date upon which the person has become so entitled, shall be guilty of an offence unless he or she proves that his or her non-enrolment is not in consequence of his or her failure to send an enrolment form.'

At every federal election many people, who now go to vote without a witness or identification, find they are not on the electoral roll for their current address because they have not bothered to complete a new enrolment card for their new address, as they are obliged by the Commonwealth Electoral Act to do in order to be entitled to vote.

They then complete a provisional declaration vote for their old address, falsely stating that is their current address where they live. This declaration vote is forwarded to the appropriate Division. A roll check reveals they are not on the roll. The DRO further checks and establishes the person was removed on the grounds of non-residence. The basis for the removal in most cases is that a habitation review officer had advised the elector had moved. Such an elector is then sent two letters by the DRO, and if no response is received, the elector is once again removed from the roll.

However the present AEC practice is that the DRO must give such people, who claim they should be on the roll when they are not, a 'provisional' declaration vote even though letters have been returned from the old address for some years past. **They must do this on the grounds the returned mail is insufficient proof the voter does not live there, or until checks are made of the enrolment details on the declaration envelope they have submitted.** The relevant Divisional Returning Officer has a discretion to decide then whether to 'reinstate' their names on a 'supplemental roll'. If he does so, their declaration votes are admitted to the scrutiny of votes and the elector is reinstated to the roll under Schedule 3.

But if the voters should not have been reinstated, because their names had already been removed from that roll, the unfortunate DRO then has to go through the whole tedious objection process involving 3 letters over 3 months all over again. A determination is made and advised. In most cases, a minimum of three letters from the AEC will have been sent to the elector at the enrolled address before he/she is removed from the roll.

I ask should any of these people be admitted to vote in the first place, when you or I would be fined up to $50.00 if we forgot to enrol in the first place, or to re-enrol within 21 days, or before the close of roll at election time, yet others could roll up on election day and 'win' a declaration vote?

Opinions on provisional votes of Divisional Returning Officers

Several Divisional Returning Officers from three states expressed their great concern at the steep rise in provisional voting in the 1987 federal election, the majority being ALP.

a) Trefor Owens, Director of Operations AEC Victoria (a former DRO)

'The AEC can no longer apply the clear principle of the 3 month question by which a person was prevented from voting if they had left a Subdivision more than 3 months ago, retained no entitlement to vote for their old address but had not enrolled at their new address (*Sub JSCEM 1988 S00149).* The 3 month question had been 'loosely based' on the sum of 103 days of the periods laid down in the CEA - 1 month at the new address, 21 days to enrol and the balance for the lead-up to the election.

'**When put to the most recent 'departees' from the place where they used to live, they usually admitted their departure but others would often prevaricate or initially lie. (Many of course lie and are not detected.) I have worked in a number of polling booths over the years and have been struck by the number of people who have left an address up to 12 years earlier. These people had voted, usually absentee, for many years for an old address.'**

Trefor Owens concluded that the effect of the elimination of the 3 month question, given lack of other investigation of declaration votes, was that electors no longer had to establish their '**real place of living**', which led to inaccurate enrolment and an increased leniency in the granting of provisional votes which were now given to -

- people who had left their address more than 3 months before and either had, or had not, been removed from the roll by objection being allowed to vote;
- all people not removed by review activity to cast an ordinary vote although they may have left an address several years earlier;
- anyone who requested a provisional vote;
- anyone removed by objection from the roll though 90% no longer lived at the address.

The result of this liberality in his view was that

- **successive Electoral roll reviews and elections could delete and reinstate an elector indefinitely;**
- the number of provisional votes granted to people, who no longer lived in the Division rose rapidly - up to 5% in some divisions;
- many ordinary votes were cast that would not have been allowed in the past;.
- voters voted at redundant addresses in marginal seats after moving to a safe seat.

He concluded that the fact that **the votes of such people 'may be able to influence an election in an electorate in which they do not live is cause for concern.'** He recommended the re-introduction of the 3 month question and an improved declaration envelope with more specific questions although **he found the AEC appears reluctant to make questions more specific.**

b) Comment of Judge Ambrose on laxity of definition of the 'real place of living'.

In Judge Ambrose's judgement in F.J.Tanti vs Queensland Electoral Commission and K.H.Davies, he made some comments on the definition of '**real place of living**' in the Commonwealth Electoral Act because identifying electoral fraud depends heavily on identifying addresses on the roll and postal voters. The issue was relevant to the servicemen, whose votes were an issue in this case, for they do not have to declare their '**real place of living**' as ordinary voters have always been expected to do.

'The current Commonwealth Electoral Act, without reference to the statutory definition section, gives no clear indication of the sense in which that term is there used. From the context in which it is often used, one might be excused for thinking that the draftsman of that Act treated the term **'place of living'** as synonymous with **'place of residence.**' Indeed those terms seem sometimes to be used interchangeably. Such a view does not altogether accord with traditional views of those essential attributes of living which constitute 'a place of living' and 'a place of residence' *(Judgement p.51).*

His comments have particular relevance to ethnic Australian citizens, who may have a token residence which would not qualify them to vote either in Commonwealth or N.S.W. law, if their **'real place of living'** is in another country for the best part of the year. Nor would it qualify any Australian citizens moving their enrolment to their holiday home as **'a place of residence'**, as a number of very reputable citizens have been known to do, when they were only qualified to vote in the electorate where their **'real place of living'** was for the greatest part of the year.'

3. Ivor Jones DRO Parramatta Sydney, N.S.W.

'The insistence in 1987, that if a person claimed a declaration vote and it could be established that the claimant had appeared on the Divisional Roll at any time in the past then the vote should be admitted, made a mockery of the compulsory enrolment provisions of the Act and the Electoral Roll Review procedures.

'A result of this is that many electors. whose votes would have been normally rejected by the Divisional Returning Officer, were admitted. This included some who gave an address that no longer existed eg the dwelling had been demolished and was now a council, caravan park or baby health centre. After these electors had been reinstated many of the acknowledgements were returned by the post office notated 'not known' 'left address' or similar….The decision as to which declaration votes to admit or reject should be with the Returning Officer charged with the conduct of the election (*Submission JSCEM S)1047-9 1989).'*

4. Janet Champion DRO for Warringah, Sydney N.S.W.

'The only procedure that troubles me is the reinstatement of electors removed by objection for non-residence, who claim for the address or subdivision from which they were removed. When the acknowledgement card is received, the present residents at these addresses come to our office and complain that they have already told us on a number of occasions that this/these people have left the address - some

as long as three years ago.

'Of the 237 voters reinstated, at least one quarter have either had their acknowledgements returned undelivered, or we have received advice that they are no longer resident; and during the forthcoming electoral roll review we expect to find that another 100 will be found to have left. 'We now have to take steps to remove these people by objection and they are free to use the same address again at the next election and have their vote counted and reinstated. This can go on ad infinitum *(Sub. JSCEM S01037 1989).*'

5. D. McPherson DRO electorate of Menzies, Victoria

'A declaration vote is accepted for further scrutiny when 'after making such inquiry his name was not on that roll by reason of an error or mistake by an officer.' 'To ensure rolls are accurate, and to remove the names of electors who no longer qualify for enrolment, there is an objection process in place which is effective. As a fail safe to make sure persons' names are not deleted incorrectly the objection process allows for not one but two notices to be sent to electors giving them the right of reply - if no reply their names are deleted.

'Unfortunately this process is completely disregarded should an elector vote for his previously deleted enrolled address because it is assumed an error or mistake by an officer has occurred when in most cases the elector has failed to provide complete information on the declaration envelope - that is his new permanent address. The onus is on the elector to respond to the objection notice and, if he fails to respond, he should be advised on both the objection and the determination he could be disenfranchised at the next election.

'The DRO must reinstate him on the roll for that address because the onus of proof that he has not made an error or mistake in removing the voter's name from the roll still falls on the DRO not the voter. Proof is not considered sufficient without a document from the voter. Clearly this is an overpowering argument for identification on enrolment from a voter.'

6. Peter Spelman DRO for Moreton Brisbane, Queensland

'A good proportion of electors have provisional votes not because they are temporarily away from their division, but because they no longer live in their enrolled division, and are not enrolled in the division in which they live for one reason or another. If the elector is no longer enrolled, and extensive checks reveal he has been removed by objection, **the elector is reinstated and the vote counted unless we have evidence in writing that he no longer lives in the division.** Many of these electors may have left the division for years with no intention of returning. *(Submission JSCEM S187-9 1990).'*

Provisional votes other than those on polling day - postal and pre-poll

As Lloyd Barrett has pointed out these have risen astronomically in 20 years, particularly in marginal electorates, until they could decide an election. But none of the politicians, that I have spoken to, seem to know that the number of provisional votes, declared in the AEC's published returns for provisional votes, does not include

a breakdown of the statistic for provisional votes in all categories. Therefore no one can analyse their origins - whether postal, pre-poll or absent - unless they are scrutineers present when the provisional declaration vote envelopes are being opened and a percentage accepted into the count.

Furthermore, the final statistics for those provisional votes cast as absent/pre-poll or postal are never isolated from all such other votes in their own categories either in the preliminary scrutiny, or on a separate list then or during the further scrutiny, or declared in the table of statistics at declaration of the poll. This has five serious outcomes.

- as scrutineers are unaware of their existence among these three categories of 'provisional' declaration votes they either would not look for them or, if they did, could not check them because they are not on any certified list.
- even if these 'provisional' votes were thought dubious they have no right of challenge.
- no separate lists of names and addresses are created, which could be used to amass evidence for a recount or challenge in the court of disputed returns.
- there is no particular umbrella word in use for all four categories of provisional votes exclusive to them, as the one now used, namely 'declaration' votes, includes other forms of such voting that do not involve re-enrolment.
- Under Section 105 (3) a Divisional Returning Officer has the discretion to alter the roll at any time if that Officer is satisfied a mistake or error in enrolment has been made.

Aside from posing the question that such a discretionary power could be abused undetected if scrutineers were as bamboozled as I was by the obscurity built into the process, I realised I had to advance a much graver question - whether the relevant clauses were unquestionably legal as they were all grounded in the presumption that subdivisions still existed as the basis of enrolment in the electoral process.

In fact they vanished as a working concept when an ALP government abolished subdivisional rolls in 1984 but failed to amend the ambiguities of the CEA. This was roundly criticised in the High Court judgement of October 1996 in Snowdon vs Dondas, and so nonsensically exemplified in the Section 105 central to the problem I am discussing.

Conclusion

The most important question to be answered by the AEC, out of all those that remain unanswered on reinstatement of provisional voters, is why it has not amended the act to close this gateway to fraud. Why it is so negative in response to the complaints of its own experienced DROs who thought, and still do think, that provisional voters were abusing the voting process? Moreover why it is so negative to the fact provisional voters found it easier to abuse the process since cancellation of the 3 question test as to 'real place of living' in 1987, when such votes might be enough to affect the result in a marginal seat.'

A new class of voters, who can re-enrol without penalty, under conditions inconsistent with the principle of the Electoral Act which governs the vast majority

of voters, has grown considerably since 1983. They are given a more privileged vote than ordinary voters without any demand for proof, witness or penalty and the majority of those votes are usually for one party - the ALP.

AEC policy only allows scrutiny of such votes for the very brief period of 'preliminary scrutiny', at a time of the greatest pressure to deliver results, when the only 'provisional votes' that can be distinguished easily from the rest of the declaration votes are those cast on polling day. In any case DROs and staff are so busy delivering the Senate count, with computer response halved by national overload, they would be hard put to it to run adequate checks through the multiphase system of such votes.

It is arguable the existence of such votes at all is indefensible as inconsistent with the Commonwealth Electoral Act 1918; or should only exist on these conditions:

- those claiming them provide indisputable proof that the address for which they claim a vote is their 'real place of living' (their main residence)
- provisional votes, cast as pre-poll votes, are the only such votes issued as declaration votes and on a distinctive coloured paper - the rest cast as ordinary after being marked off on the roll to be used on polling day
- provisional votes, cast as absent and postal, also issued each on distinctive coloured paper and inserted in distinctive coloured envelopes

The continued existence of muddled definitions, omissions and ambiguities in the issue of provisional declaration votes by the AEC is indefensible. If the Coalition's 1999 legislation had been approved by the State under Joint Roll Agreements, it would have gone a long way to making fraudulent use of this loophole more difficult not only in provisional declaration voting but all declaration voting as well. But alas it has been rejected.

2. Illegitimate enrolments of migrants on the electoral roll

When Mr. Patching's staff in 1990 continually expressed their concern that a number of Vietnamese, lodging enrolment forms attesting they were citizens, were probably not citizens and therefore not eligible to enrol he found, after checking with the Department of Immigration over 9 months, that 215 enrolees appeared to be ineligible. Other Queensland DROs had found likewise. This finding had a serious implication - that large numbers of migrants Australia-wide were already on the roll who were not entitled to be there and might remain undetected.

Senior management directed all the DROs by letter to stop checking such enrolments. As Paul Dacey, then Assistant Commissioner Development and Research, told the JSCEM later, **'we take them at face value.'** Mr. Patching much later condemned AEC policy on this issue when questioned by the JSCEM. 'Although I was told I was to cease because of the privacy implications, I still find it hard to comprehend that a responsible management would be aware of such inadequacies in our enrolment policy and not take steps to rectify it. Unfortunately the policy has never changed and it is still possible for a non-Australian citizen to enrol merely by ticking a box that indicates that they are an Australian citizen and

leaving the box for citizenship number blank.' (This has now belatedly changed)

In 1996, Mr. Cox's successor as Electoral Commissioner, Mr. Gray, defended the AEC's pro-negative policy by suggesting Mr. Patching had no proof that any migrants were, in fact, breaking the law. 'The Divisional Officer in Rankin, who made the claim, was unable to produce supporting evidence to my predecessor *(Sydney Morning Herald, March 3, 1996).* The existence of this proof is mentioned earlier in this book.

Mr. Patching's angry reply was 'I was most annoyed by the statement made by Mr. Gray in his letter to the *Sydney Morning Herald* and believe I am entitled to an apology and retraction. It is not difficult to envisage what your career prospects are if your employer is making public statements that question your integrity. In view of the evidence provided by Mr. Floyd and Mrs. Mehrens (his staff members) I believe the voting public of Australia is entitled to an explanation.'

Mr. Longland also attacked Mr. Patching in that 2001 JSCEM hearing for 'breaking the law.' **No mention of the fact that the Vietnamese were 'breaking the law' in the first place, that no investigation of the fact they were doing so was ever made, and that the solution to the problem, now being advanced, could have been adopted then.**

This unwarranted attack of Mr. Longland in 2001 could be construed as intended to back up the unsolicited destructive attack of Assistant Commissioner Cunliffe on Mr. Patching in an inimical letter sent to the 3 Queensland DROS who had made submissions to the JSCEM's Special Inquiry on the Queensland electoral scandals, and to the JSCEM members who would be hearing them when they gave evidence.

That Mr. Cunliffe's letter was improper in the circumstances is obvious from the comment on Mr. Patching: 'Mr. Patching seeks to convey an overall impression that he is a misunderstood and persecuted electoral expert striving alone for excellence but constantly frustrated by a conspiracy of corrupt and/or incompetent bureaucrats.'

Mr. Patching's response was amazingly dignified when Senator Brett Mason (Queensland) asked him what he thought of this defamatory comment: 'I would prefer to ignore it. It is a personal attack. I think they would be better off dealing with the facts than destroying my credibility. Destroying my credibility does not destroy the facts, does it?'

During the same hearing the Chairman, Mr Pyne, queried Mr.Patching: 'Do you think that this harassment that you have outlined in your submission was as a direct result of your raising unpalatable concerns which you and other DROs had with head office (over checking migrant enrolments)?'

To which Mr. Patching replied 'I think that was a major part of it. The fact that I brought it up in 1993 in front of the JSCEM really inflamed the situation.'

As to Mr. Patching's expertise he is among the most experienced and able DROs in the country. He assisted Mr. Lionel Sampford in preparing the Divisional Officers Procedures Manual before the 1987 election, and in the audit of the six electorates after that election - both for Dr. Hughes. As well he assisted John Curtis in the investigation of the Liquor Trades and Hospitality Union in the Cooke Inquiry 1990-1991 in Queensland.

CHAPTER 6

A HOUSE DIVIDED

AEC versus Politicians

PART 2 – POLITICIANS

Division from shareholders over lack of transparency and scrutiny of the roll

Most of us think of the electoral roll only as we see it in the polling booths on polling day - a telephone book style printed document crowded with names in alphabetical order in very small print. In fact there are several manifestations..

The Master Roll

I quote from submission No.26 of the AEC to the special JSCEM inquiry June 15, 2001-

'The Commonwealth Electoral Roll is maintained by the AEC on the computerised roll management system (RMANS) which contains publicly available name and addresses information on some (12.47) million electors. It also contains the birth date, gender and occupation of electors. This has been considered private enrolment information, subject to the Privacy Act 1988 and to exemptions in the Freedom of Information Act 1982, in recent years but is under review. In that context it is controlled by penalties for misuse contained in the Electoral Act. Private enrolment information is made available to other departments and agencies only under strict conditions (currently under legislative review) for purposes such as law enforcement and medical research and to registered political parties and to Members of Parliament for constituency purposes.

The Electoral Roll is produced in a number of forms -

- the computerised roll used for internal cross-checking purposes. It contains private enrolment information on electors, as provided by them at the point of enrolment such as gender and date of birth information.
- the hard-copy roll printed by statutory requirement mid-term between elections, but no later than 2 years after any election available in Head Offices(none in 1986)
- the microfiche state-wide roll of names and addresses in alphabetical order by names
- the internet roll of names and addresses in alphabetical order by names
- the monthly roll updates in CD format to political parties and members of parliament
- the monthly roll updates in microfiche form to divisional offices for public reference

- the CD Rom roll at close of writs for elections to candidates and parties in name order
- the computerised roll on terminals in DROs as enrolment changes occur
- magnetic tapes in the past
- certified lists with clock marks used in polling places.

To detail further, the AEC defined the key rolls to the Channel 9 Sunday program, when the researcher was pursuing the riddle why the 1987 statutory roll was never produced -

- the 'official roll' which details the surname, Christian or given names and place of living of each elector is available at all AEC offices (section 90 (1) of the Commonwealth Electoral Act 1918 (CEA) refers). This is the most recent copy of the roll, on microfiche, together with the additions and deletions of electors that have accrued since the last print of the microfiche. The microfiche roll, which is produced bi-annually is not sold to the public;
- the 'official bound roll' which is printed by division once within the life of a Parliament and within 2 years after the commencement of the first session (section 89 of the CEA refers). It is distributed to libraries, members of Parliament and Political Parties and is available for sale to the public. (Copies are no longer distributed to police stations, law courts, post offices and a larger number of libraries).
- The certified list of voters is the copy of the roll as at the close of rolls for an election, which is certified by the Electoral Commissioner. It is provided to candidates before an election, and to Members and Senators immediately after an election. It is available for public inspection at Divisional Offices during the election period. These lists detail the name and address of each person who is entitled to vote (including electors who will turn 18 on or before polling day). They are printed by division (sections 91C 91D 91E CEA). (nb this barcoded roll was once a bound document but is now loose leaf in a binder)
- The AEC produces a version of the Certified List containing "clock marks" for the marking-off of electors' names and information in the form of "bar codes" for the identification of division, polling place and list number for use in polling booths. It is scanned after the election to identify voters, apparent non-voters, multiple marks, apparent multiple voters and other elector information.
- The AEC regards the Certified List used in polling places as protected documents. It considers this necessary to uphold the secrecy of the ballot i.e. where electors voted and the integrity of the roll markback system e.g. apparent non-voters, multiple marks and apparent multiple voters. The AEC has also prevented the supply of Consolidated Lists (a list consolidating the marks made on all lists for a division) and tables of list allocations (a list which states where a particular list was used) to outside parties because it believes these could be used to infer how someone voted, particularly in small polling places.

Who collects enrolments and who processes them on to the Electoral Roll?

The basic collection and input of enrolments into the computerised system occurs through Divisional Returning Officers who are appointed, one to each of the 150 electorates, to work within and for that electorate. They process both enrolments, and re-enrolments as electors move house - the latter being twice as great as the former in the rush-hour just before elections. It is still almost exclusively a decentralised system, but there are other points of entry as, for example, when the computer hacker intruded into the system through telephone lines of AEC employees who were not DROs.

The computerised system is managed by two means, inhouse and outsourced. The AEC, like other bodies in Cluster 3, whose services depend on corporate knowledge to support their "core competencies", keeps broadly four services in-house. These are planning, applications development (programming), database administration and importantly, security. Some of the problems involved with this are outsourced.

The AEC, however, has always outsourced the electronic processing to other bodies, as the sheer size of maintaining a roll of 12.5 million voters changing daily demands a very large mainframe. This task initially was handled by the Social Security mainframe of the Department of Administrative Services. The supply of information technology is now outsourced to Computer Science Corporation (CSC). This is a 100% US owned firm (which bought out AMP) which originated in Salt Lake City..

CSC is one of several international firms that specialise in outsourcing for the scale demanded by government departments involved in Cluster 3. The others were Department of Immigration, the National Crime Authority, the Department of Finance and Administration, and the scientific sections of the Department of Industry, Science and Tourism. The choice of whether to outsource or not was left to the Cabinet Ministers of the last two authorities in concert at the time. These contracts are handled by an Office of Asset Sales and Information Technology Outsourcing (OASITO).

The outsourcing of these contracts was strongly opposed by some heads of agencies involved at the time, believing the programs did not provide sufficient protection for sensitive government data or take privacy issues fully into account.

The head of the Australian Stock Exchange, Mr. Richard Humphrey, recently declared the whole program had been 'bungled'. Agencies had been 'bundled together'. This proved an 'inflexible, centrally driven and controlled approach to outsourcing that ignored, or overrode, the requirements and special needs of individual departments and agencies. This paid inadequate regard to the highly sensitive risks and complex processes of the transition to the process *(Courier Mail January 17, 2001).'*

Mr. Humphrey said further that keeping IT business on shore would help to maintain security for information. This criticism is relevant to the fact the AEC's electoral roll is managed by Computer Science Corporation, a subsidiary of a large Californian firm.

Assessment of Dr. Ed. Lewis, a co-developer of AEC's outsourced program to CSC.

As most people in politics have very limited understanding of what this all means, I have turned to the summary of Dr. Ed Lewis, School of Computer Science, Australian Defence Academy, on *The Risks and Remedies of Outsourcing Technology of the Australian Electoral Commission* read to the HS Chapman Society in 1997 because Dr. Lewis helped develop the program used by CSC in the first instance.

According to Dr. Lewis: 'What the Ministers had to determine after appropriate market-testing was whether the risks of outsourcing were outweighed by the advantages of outsourcing. The advantages included

- possible cost savings
- encouragement of Australian industry
- use of high-quality staff free from public service constraints
- access to international resources (these firms have 90,000-100,000 IT professionals as employed), and
- freedom of the managers to concentrate upon their "core business" and "core competencies" without being distracted by detailed technical issues.

In particular for the AEC the risks of outsourcing were:

- wrong choice of supplier leading to difficulties in managing the account leading to poor quality of service;
- inadequate contractual control leading to an inability to prevent poor quality of service
- inability of the supplier to attract staff with suitable skills and knowledge of the business, leading to poor service or disruption to business.

Dr. Lewis answered his own question 'to what extent are these risks both likely and of high impact upon the electoral system?'

- inadequate service from a poorly-chosen supplier could result in disruption to AEC operations through loss of data or slow service.
- **poor management or practices could enable unauthorised alterations to voter rolls (with dead names added at computer speed) or even alterations to voter counts.**
- **rolls could be altered at times when manual checking cannot be carried out in time, such as after the declaration of an election.**
- a new system to support the Senate count has the potential for mischief or malice.

As to the likelihood of risk to the operations of the AEC arising from the use of an outsourcer **Dr Lewis made a distinction between unauthorised external or internal access.** Dr. Lewis thought the risk of unauthorised external access was low because outsourcers

- with banks and defence as clients pay attention to such vulnerability
- protect data from attack or loss more effectively than in-house staff
- have the resources and experience public service organisations under tight constraint do not have

However, said Dr Lewis, **the risk of unauthorised internal access is much higher -**

- most 'alteration' is done by inhouse staff able to make changes but poorly supervised.
- most errors come from internal users able to make changes but not well-trained.
- most violation of security policy comes from senior managers, able to make changes but unwilling to abide by the rules made to govern the 'little people.'

Real alarm bells sound in Dr. Lewis' conclusion. 'There are remedies to these risks and they are in the hands of the Contract Manager of Cluster 3.' At the time this was a senior partner in the Department of Immigration and Multicultural Affairs. The Contract Manager provided contractual control over CSC. Dr. Lewis warned 'this situation could change. The Contract Manager can leave. The senior managers of the Cluster agencies, including the AEC, could fall into bad habits because of inadequate advice about sound Information Management practice. Risks could increase over time as people move on.

'So it is not outsourcing that could lead to risk to the electoral system but what is unleashed by outsourcing. I do not think that there are risks to AEC responsibilities that arise because the IT services are provided by a large professional firm. I do think that insufficient staff skills within the AEC could lead to inappropriate information behaviour one day. When organisations, such as the AEC, lose key technical staff to outsourcers then they could lose the ability to prepare and police sound information management policy, so allowing the internally-sourced risks to occur.'

The fact the AEC embraced the IT revolution has obviously allowed the AEC to produce electoral rolls faster and more efficiently in forms that are far easier to handle, which was a desirable change from manual procedures. But it also created a risk that the AEC would forget the dangers to the quality of that service which could result from a policy of smaller and cheaper is better in the shape of less people, less qualified, less-well paid, in smaller offices further away from those ants of electors they serve. Risks that are largely unexpected and difficult to deal with.

Risks inherent in electronic systems of the electronic process

What a merry-go-round of 'break-ins' politics has been in Australia - into premises of MP's or Senators, into police station cells (by collusion) or parliamentary stores where marked-up rolls and postal vote registers were kept, into electorate and Electoral Commission officers, into packages of ballot papers or ballot boxes, even into garages to firebomb cars and security premises where ballot papers are kept during counting. Today we have break-ins and reversals of result in computer systems.

1. Robbery of computers in NSW Electoral Commission

A theft in 1988 of computers and software from the N.S.W. Electoral Commission was serious. They were found later in a vacant house in an adjoining lane in Australia Post sacks. The official view was the theft was by 'alkies' who slept in the house, and there was no electoral data of value on these computers anyway, but others have questioned this. They were not reassured by the fact 2 detectives were strangely brought in from distant Liverpool, who later lost their notebooks, or the fact the computers were in mailbags of Australia Post, which had a deplorable record of organised fraud.

2. Firebombing of bags of votes in 2 electorate offices

Immediately after the count of votes in the 1995 NSW State election, bags of votes were firebombed in the electorate offices of the marginal seats of Badgery's Creek and Gladesville won by the ALP with just 107 and 250 votes respectively. This only concerned the AEC insofar as a petition into this disputable election, which may have disclosed corruption of the Commonwealth electoral rolls to achieve the result, now became very unlikely.

In Badgery's Creek a plate glass window at street level was smashed and a firebomb thrown in, starting a blaze that forced the security police out the back and round to the front of the building in a futile chase. In Gladesville, an arsonist climbed onto the roof by a ladder which he brought with him, jemmied open a clerestory window then threw the fire bomb down into the office. Security guards damped the fires in both cases but an unknown number of voting papers for candidates and the referendum were destroyed or damaged.

Concern? Outrage? Media headlines? Nothing anywhere but brief items in the local western suburban press. The N.S.W. Electoral Commissioner, Mr. I. Dickson, protested but his protest only reached the *Illawarra Mercury (April 8, 1995)*. 'It is a bit serious when you get a petrol bomb thrown through an office window at 3 am. They must have known what they were after. **It is unprecedented to have attacks on electoral offices. I am not aware of any in Australia in the past 20 years and it should be a matter of concern.'**

But these break-ins were physical, leaving a trail more important for the 'cover-up' that followed than the offence itself. Now we are experiencing invisible electronic break-ins in Australia, two of them stumbled on by chance, that must also be judged by the 'cover-ups' they have provoked rather than the enormity of the offences involved.

3. Examples of risks of electronic systems

a) Queensland computer hacker into the AEC computer network 1993-6

From December 17 - January 10, 1993, Tim Cooper, a young Brisbane IT student at the University of Technology intruded into the computer network of the Australian Electoral Commission (AEC) at the highest level of the root account just before the 1993 election. This enabled him to instal or alter the ballot count. He had begun 'hacking' into the AEC's computer system from December 17, 1992 onwards through a telephone in the home of Peter Spellman, the computer specialist in the

Brisbane office of the AEC, of which only Spellman and 2 other employees of that office, had the number. Peter Spelman discovered the hacking when he found his phone engaged for long intervals on January 7, 1993.

The AEC's own 'Statement of Facts' to the Brisbane District Court on December 20, 1996, when Cooper pleaded guilty and was sentenced there almost 4 years later, admitted that **his hacking 'had resulted in the AEC network being seriously disrupted, and the computer systems and communication facilities attached to it having to be disconnected and shut down. This further meant that members of the AEC were unable to carry out their lawful duties and required diversion of AEC staff to investigate incidents and ratify problems.'**

Not a word of Cooper's hacking was heard from the AEC over the 4 years before his case reached court although he had repeatedly re-offended during those years. Nor had the AEC told its own Divisional Returning Officers, who had a chaotic time trying to enter late enrolments and ballot counts in the weeks before, during and after, the election when they were only permitted one and a half hours on their computers daily for the ballot count. Nor had the AEC told the ABC analyst, Anthony Green, who had protested vehemently at the two hour long interruptions and lesser breakdowns in transmission to the tally room at critical times during the count on polling night. Not a word either to the JSCEM of the Commonwealth Parliament to which it was accountable.

Not a word was offered by the AEC either when Cooper was first charged on November 3, 1995 or when he was found guilty and sentenced on December 20, 1996, not indeed until the Chairman of the JSCEM sought comments from Commissioner Gray, on an article of December 29, 1996 in the Brisbane *Sunday Mail* saying 'this is a matter of concern to members of the Committee, especially as it may impact on the issue of electoral integrity. The Chairman is also surprised that this matter had not been brought to the Committee's attention by the AEC *(Hansard January 24, 1997)*.'

The AEC offered an extraordinary excuse, which was inexcusable given that total transparency should always be at the heart of anything touching our democratic process. 'The AEC did not raise the eventual conviction of the offender with the 1996 JSCEM because the events leading up to his conviction did not relate to the 1996 federal election. In addition, the investigation of the matter during 1993 and 1994 by the AFP and the AEC, under tight confidentiality, precluded any reporting of the matter to the 1993 JSCEM. The AEC was advised at the time that any publicity about the investigation could make the AEC a possible target for other intruders. Further it was clear that the 1993 federal election was not in any way affected by this security breach. Nonetheless, the then Minister for Administrative Services and his successor after the 1993 election, were both briefed on the incident *(both ALP ministers).'*

The *Yes Minister* soothing assurances flowed - full testing, no material damage, no access to electoral roll data, counter measures conducted in consultation with the Defence Signals Directorate (DSD), the Australian Federal Police (AFP), Telecom, the Australian National Audit Office (ANAO) and the AEC computer suppliers. All

these people in the know. Yet the last people to know were the people most affected - the MP's and Senators who stood to win or lose by such computer fraud in that 1993 election. And it was an election won by margins of less than 500 in 13 seats, with a total overall winning total margin of just 1500 votes and, unusually, 55,000 less ballot papers for the House of Representatives than the Senate.

Questions remained in the wake of the AEC's uncharacteristically brief apologia.

- Why did Tim Cooper begin his hacking immediately after the AEC's Elms management system had been finalised in December 1995?
- How did he know the secret home telephone numbers of 2 of 3 AEC Brisbane office members which gave access to the system particularly as they were not Divisional Returning Officers and should not have such access normally exclusive to DROs?
- How did he know passwords of 3 AEC employees changed each fortnight?
- Why did he choose to 'hack' one of the most boring systems on offer, if only for fun?
- Why did he intrude into the ballot count as the AEC consultant, Michael Lightfoot, admitted *(Australian National review October 1997)*?'
- Did he hack into the AEC's computer again when caught operating in a very much more sophisticated way through university computer systems in 1995 shortly before the next election?
- Were any of the passwords he subsequently used those of outside computer consultants and programmers or from within the AEC? Could Cooper have done untraceable damage?

Tim Cooper blocked off any chance we might find out the whole story. On legal advice he refused to answer questions at all times and, having pleaded guilty, was not cross-examined in court on December 10, 1996 when Judge Skoien released him on bond, with a suspended sentence on psychological grounds, praising him for having spared the Crown a long trial owing to the fact he had continued offending numerous times over the four years.

But the AEC's own Divisional Returning Officers were not soothed. 'Many DRO's are hurt and angry that even today they have never been advised of the fact that an unknown number of unknown people could obviously access their Divisional Rolls and manipulate data after hours in their own homes. Why were Messrs Spelman and Brockman, who were not DROs given access to their system by telephone lines in their private homes? Who gave authorisation for this procedure? What security was in place?

'Why were the DROs, with their on-the-ground responsibility for the election not told before, during or after the election that a hacker had gained such access to the system at the highest level when it enabled him to instal or alter existing programs, including that of the ballot counting facilities crucial in an election?

Why were the DROs not asked to act as auxiliary policemen to the computer gurus in Canberra for any signs of aberration in the system when it occurred? Why did they

not hear about it until 4 years after the 1993 election and 9 months after the 1996 election, and then only by a tiny chance news report at the most obscure time in only one State?

One answer, however, by an AEC consultant, Mr. Charnwood, in response to a digest of my article in the *Australian National Review* was devastatingly revealing - that Cooper had intruded into the ballot count. This in an election won by 1500 votes overall when the swing was less than 2% in 19 marginal seats, and 13 electorates had margins of less than 500 votes.

The AEC presumed the right to secrecy in electoral process extended to senior management. This small band presumed the sole right to judge whether the 1993 election had been affected in any way, despite conceding the intrusion of the computer hacker was serious enough to have compromised the entire election. The computer system collapsed throughout election night for nearly an hour from both 7.30 and 10.45 pm and Australia-wide for 2 weeks thereafter when DRO's were virtually barred from using it. Furthermore it perceives such secrecy will act as a deterrent to intruders. The US Pentagon and UK Defence Departments believe the reverse - that publicising exposure of a 'hacker' will discourage others.

'Computer fraud is full of difficulties and technicalities not easy for the layman to understand. A person, who had a knowledge of the computer system probably has the greatest opportunity for committing fraud. The disgruntled employee is the greatest danger still to his employers. Other categories of workers, by virtue of their knowledge can pose the threat of fraud to the computer-based organisation. Ex-employees re-employed as agents or consultants, contract programmers and outside software experts *(Fraud and Abuse of IT Systems R. Doswell and G.L.Simmons p. 26).'* Has the AEC told us the whole story? Can its assurances, that its systems are 100% secure from hacking fraud, be believed? Experts in the US and our media constantly say no. Peter Neumann, a U.S. computer expert warns us: '.In the election system the vulnerabilities are enormous. You have to trust the entire staff of the corporation producing the software.' That is clearly what the AEC is asking the politicians and the voters they represent, to do.

b) Transmission of results to the internet

I first became concerned about the fact scrutineers were not allowed to observe the input of election results in divisional offices in transit from polling booths to the internet when I discovered that a revolutionary concept of a 'virtual tallyroom' was to be trialled on the internet during the ballot count of the 'republican' referendum.

Whether any of the political parties were ever alerted to the implications of such a revolutionary change from the hurly burly of the national public tally-room I do not know. I certainly was very alarmed to think this was one more diminution in the basic principle that all proceedings should be open to scrutiny by candidates. When I learned that it was to be trialled for the first time in the Aston by-election I protested to the Australian Electoral Commissioner -

- the process will proceed much faster than scrutineers can pursue by phoning results into headquarters of candidates or parties for assessment.

- scrutineers will not be allowed in the premises of Divisional Returning Officers to oversee that results from the polling booths are the same as those entered into the computers for transmission direct onto the internet. Results were reversed in transit during the referendum.
- as scrutineers are excluded they will be unable to detect whether the results have been reversed or tampered with in any way except by combining separate sources.
- any tampering with the count will be more difficult to detect owing to the practice of converting straight figures into 2 party preferred estimates.

The reason for the strong concern expressed in this letter was that we had noticed several results from booths reversed from 'No' to 'Yes' in transit to the internet during the referendum count, the most notable being those from the Young Town Hall where the vote for 'No' in the polling booth had been twice that for 'Yes". The AEC only checked and corrected this after pressure from the psephologist, Professor Malcolm McKerras.

c) Outside examples sound alarm bells viz stolen car racket in the RTA

On November 9, 2000 Lisa Allen reported in the *Australian Financial Review:* 'Staff from the NSW Government's Roads and Traffic (RTA) authority were involved in a multi-million dollar criminal racket involving "rebirthing" about 100 prestige cars, according to the State's corruption watchdog. An Independent Commission Against Corruption report released yesterday said 29 officials were involved in removing original engine numbers on stolen vehicles and replacing them with new identifiers.

RTA staff manipulated the roads authority's main computer while other staff were influenced by criminal elements into ignoring correct reporting procedures. Ten of the staff are now under criminal investigation. Commissioner Ms Irene Moss said yesterday: 'Our investigation has exposed what is potentially just the tip of the iceberg. Without concerted action, the criminals will continue to have an interest in corrupting public sector employees.'

Concerns of politicians about the accuracy of the electoral roll

1. Liberal Party Federal Director, Tony Eggleton 1987

There was a general outcry after the 1987 election which ALP had won with a minority of votes and unusually high margins in marginal seats. Dr. Hughes defended the AEC's performance saying it was going through a period of 'unparalleled change in an organisation that has experienced minimal changes since about 1914.'

Mr. Tony Eggleton, federal director of the Liberal Party, expressed the strong concerns of many, about the potential for electoral malpractice created by this 'unparalleled change' in a submission to the JSCEM. He explained that, in recent weeks, there had been constant speculation and concern expressed over serious instances of electoral malpractice in three specific aspects of the election.

a) Provisional 17 year olds on the roll - NSW State election 1988

In the case of provisional 17 year olds, some thousands of names were not excluded from the master rolls prepared for the NSW election, as reported in the *Sunday Telegraph* for March 3, 1988 "**A spokesman for the NSW Electoral Commission said that it seemed that instructions to delete the names of 17 year-olds were not included in a computer program used by The Australian Electoral Commission.** As a result the Commission last week hurriedly wrote to returning officers throughout NSW and instructed them to delete the names."

On the same day an account of apparent fraud in the NSW election appeared: '**Federal authorities have admitted that there could be a large number of phantom voters on official rolls**. They included 17 year-olds who claimed they were 18 so they could get official papers. An Australian Electoral Commission spokesman told the Sunday Telegraph that it was also possible for non-existent electors to be enrolled using false names and addresses.'

These reports pose the question whether these faulty enrolments had existed on the rolls for the federal election 9 months before on July 11, 1987, and been utilised? It is the same question Bob Bottom asked in his foreword to the reprint of *Frauding of Votes* when a raft of false enrolments was found in the roll for Bribie Island for the 1989 Queensland state election.

b) Dead people on the roll - Castlereagh (NSW) by-election

Tony Eggleton went on to say: '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. The *Sunday Telegraph* reported Senator Ray as saying that: 'The pressures on the Australian Electoral Commission and the State Electoral office are always heavy but, as this election has shown, public confidence in the electoral process is a fragile thing. **The kinds of errors that occurred during preparation of the rolls after the latest electoral distribution, not just in Bligh but in at least 11 electorates in NSW, simply cannot be permitted.**'

c) The incorrect allocation of electors' names from one electorate to the neighbouring electorate (NSW)

Tony Eggleton concluded: 'The Australian Electoral Commission can take no pride from its record over recent times on these examples of apparent electoral malpractice…..There is considerable anecdotal evidence around to make us concerned that rorts - including multiple voting, electorate stacking, and incorrect statistical information being provided, in order that certain electorates remain well under the quota, while other and coalition electorates are given growth areas - may be occurring at the present time. To reiterate, these are matters where anecdotal evidence is constant but proof is missing.'

Response of Commissioner Hughes

The scornful response of Dr. Hughes to Mr. Eggleton's concerns to the JSCEM

provoked Liberal Senator Short to castigate him when he appeared before the JSCEM as witness in 1989. 'It is regrettable to see the Commission (AEC) engage in its October submission in an aggressive attitude towards a major political party…The submission has attempted to denigrate the Liberal Party's submission by resort to ridicule and sarcasm. The suggestions of electoral malpractice were ridiculed and attacked with scant logic using examples such as newspapers around 200 miles away from an electorate as proof of a lack of obituary notices in the region (re the 1980 NSW Castleragh by-election).

'I am surprised and disappointed that you would allow this unprofessional document to be released. If you do not like the fact that a major party, whichever party it is, has deep reservations about the administration of a vital part of our democracy I would expect an objective and constructive response of the type we know the Commission is capable of making *(Hansard JSCEM March 17, 1989 pp 1074-5)."*

2. Joan Chambers in Ballarat South in 1988 Victorian State election

The 1998 Victorian State election for the seat of Ballarat South, the most marginal seat for the past four elections, was based on the Commonwealth electoral roll. The Liberal Party candidate, Mrs. Joan Chambers, was defeated by just 104 votes. During the campaign she and her campaign director had serious concerns that the electoral rolls (Commonwealth) were not in a proper state as there were 5,000 more citizens on the roll in September 1988 than at the census for June 1986 and a considerable volume of letters posted before the election were returned as 'left address' or 'not known at this address.'

A large team of supporters analysed 'return mail' in a mail-out of some 2,500 letters.

- 1,506 were dubious enrolments.
- 1081 people, living outside the electorate, had voted.
- 343 of these voted absent.
- 24 postal voters declared a current address outside the electorate.
- 106 people voted twice.
- numbers of apparent non-voters claimed votes.
- one of a couple were given votes, the other not, due to confusion over boundaries.
- 1,101 had left the electorate more than 3 months before. Over 700 were given votes.
- several dead people had voted.

Joan Chambers lodged objections to all 1,506 names with the Victorian AEO of the AEC, Denis Reynolds, with the requisite $2.00 fee for each one. She asked him to fulfil the AEC's legal obligation to send a letter to each person she was challenging so she could receive either a negative or positive response within 20 days, as the Electoral Act prescribed, to furnish evidence for her petition. Most of her objections were later upheld.

Joan Chamber's account of what came next is alarming for those who resort to the AEC: 'My electorate chairman and I went to the electoral office during January and enquired whether the objections had been sent out and whether results would be available within the prescribed time. The electoral officer said 'yes'. On February 3 I talked to a representative of the State Electoral Office about whether they were going to be ready. In my hearing, he rang the Australian Electoral Commission and I heard him say "how can you say there's no hurry when they're wanted for the Court of Disputed Returns?"

'After withdrawing, I received a letter from Denis Reynolds, Victorian AEO of the AEC, dated February 9, indicating objections were now ready to be sent out. On March 12, I rang in to Michael Schilberger, who the next day spoke to Denis Reynolds and he said objections would go out next week, that they had not been sent out straight away as people were on holidays and wouldn't have answered. He also stated that some of our objections were frivolous and would not be sent out, but that they would be sending out 1081 of the objections (the rest had been removed in the meantime).

As it transpired, Commissioner Dr. Hughes had precluded the possibility of these letters being sent out in time, by seeking legal advice from the Attorney General despite the fact there was a straightforward procedure laid down in the Commonwealth Electoral Act. By the time objection notices were finally sent out by the AEC, it was far too late for Joan Chambers to have evidence to validate her petition, so she was forced to withdraw it. Eventually over 1,000 of her objections were sustained.

Later Dr. Hughes gave his version of Mrs. Chambers' case to the local ***Ballarat Courier.*** 'On February 2 she withdrew her petition, and costs in the case were awarded against her by the Victorian Court of Disputed Returns. Mrs. Chambers' allegations about the electoral rolls, the basis of her petition, were given detailed media coverage and, if the petition had not been withdrawn, would have had to withstand the scrutiny of a court.' His defence for the AEC's delay to the JSCEM was that 'this use of the roll objection process to try to gather evidence in support of an election petition was a new development *(Sub.S01195 JSCEM Vol.5 February 21, 1989).'* To her it was that he had sought legal advice from the Attorney General because 'you will appreciate that privately initiated objections is a new phenomenon.' No apologies for wasting her $3,000 and causing her to be too late to lodge a petition which, on the facts, she was very likely to have won.

Mrs. Chambers wrote an irate letter to the *Ballarat Courtier* in reply. 'The letter from the Australian Electoral Commissioner, Colin Hughes, should be seen for what it is - an attempt by a public servant to cover up both inefficiencies in the department under his control, and the reasons why it failed to carry out its statutory obligations in time for the results to be used by me in the court. Fancy him having the gall to bemoan the fact that I did not put my allegations under the scrutiny of the court by going ahead with my petition! Mr. Hughes carefully spells out that costs were awarded against me when I did not proceed - which seems to me an attempt to insinuate that the court believed I had no case. Why could he not have stated that the

State Electoral Office claimed no costs from me which, to my mind, meant that I was justified in asking to see the records *(Sub.S01196 JSCEM Vol5 letter Feb 7 1989)?'*

Moreover 'publicly the Premier John Cain, Frank Sheehan, the member for Ballarat, the ALP Secretary Peter Batchelor, Senator Ray and the Australian Electoral Commissioner, Dr. Hughes, have denigrated me in the media and claimed I found nothing, and made mischievous and badly supported allegations, 'misused the objections process' and impugned Frank Sheehan *(Sub. 01202 JSCEM).'* The Ballarat Returning Office, Graeme Long, rubbed further salt in her wounds by telling her 'the trouble with you, Joan, is that you can't accept losing.' I ask who would want to dispute an election if they have to go through such coals of fire to do it?

3. Senator Baume in Gilmore Electorate, south coast NSW 1993 election

Senator Baume sent a direct mail-out to electors in the Federal seat of Gilmore shortly before the mid-March 1993 federal election. He asked the AEC to investigate 1,400 envelopes returned 'not known at this address' or 'left address'. The AEC informed Senator Baume that it had deducted 342 names of people, who had moved during February or died, and checked the balance of 1,058 names. 934 of these had voted, 608 of them casting an ordinary vote in the same town as that for which the elector was enrolled or in a nearby town, the rest by declaration votes. But the AEC did not tell him whether these voters were, or were not, at the addresses given on the roll.

To quote Senator Baume: 'The illogical conclusion the AEC then drew was that "given the rural nature of this Division this would tend to indicate these electors were still living at, or near, the address for which they appeared on the certified list for this election." Bunkum! It may also well 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 *(Hansard Sep 20 1995 Electoral and Referendum Amendment Bill).'*

Senator Baume enlarged on specific points.

- The investigation by the AEC concentrated on the fact that, because I had used the end January list rather than the February 22 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.
- The absent vote figure is 2½ times the proportion for the division as a whole.
- The AEC says very few envelopes were returned, stating that the elector was not known in the area. 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.
- The AEC report says the volume of mail returned unclaimed was less than the number of persons likely to have changed address since the compilation of the end of December roll data. That is a most nonsensical comment from the AEC. It is acceptable, normal procedure that you have a forwarding address for a while.'

'The AEC claimed its study had '**uncovered no evidence of organised fraudulent enrolment or voting'** but 'tended to reinforce a finding that the system operated with integrity.' The Senator disagreed. 'The conclusion is a pretty 'smart alec' way of saying that, as I used the end-January list it was massively incorrect and therefore wasted its time.

'Clearly the AEC could not adequately demonstrate 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. 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.'**

'What particularly annoys me is this recommendation that "in future the AEC will not consider undertaking any 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." I have provided all that.' The real issue was that a lot of people had voted who had not received mail as they were not at that address.

4. Experience of Frank Tanti in the Queensland seat of Mundingburra

On July 15, 1995 Wayne Goss won government for the ALP in Queensland by just one seat. The candidate in Mundingburra, Townsville Councillor Frank Tanti, had lost by just 16 votes to ALP candidate, K. Davies. His challenge to the election in the Queensland Court of Disputed Returns attracted enormous national media and public attention because it would overturn the ALP government if he won the case. The petition cited the fact that only 21 of 187 'Return to Sender' envelopes from a mail-out had an innocent explanation. And a number of other names listed at those addresses had disappeared from their given addresses soon after polling day. **This was a cause for concern as rumours abounded that a number of people from southern states were said to have been paid to come to Queensland on polling day** *(Sunday Mail October 1, 1995).*

Judge Ambrose ruled on December 8 1995 that a by-election be held which Frank Tanti won by 1084 votes, delivering government to the Liberal Party. While in Parliament he was the first to expose the enrolment frauds in Townsville on a large scale, although the AEC later claimed sole credit before the JSCEM on December 15, 2001 with its exposure of multiple enrolments in a one bedroom house. However this came at a price. Tanti was assaulted in public and threatened. After losing his seat in the next election he was forced to migrate to Brisbane after he and his children suffered persecution.

5. Experience of Don Greene in Richmond electorate NSW

The National Party campaign manager, Mr. Don Greene, claimed the 1990 federal election in Richmond, N.S.W., won by the ALP by 684 votes, was corrupted. His list of questionable double enrolments in two different electorates was checked and confirmed by both the AEC Divisional Returning Officer and the Canberra official who replaced him.

- Enrolments rose by 3,103 in 1 month February 25 - March 24, 1990
- 1,038 names on the roll were untraceable.
- 432 voters enrolled in Richmond were enrolled in other electorates.
- 42 dead people were still on the roll.
- 474 of 2,701 letters sent by the AEC to non-voters were 'return to sender'.
- 100's of late enrolments on 1987 roll at false addresses in creeks/along rural roads
- 554 of 3,255 apparent non-voters, checked by AEC officials did not exist.

Other points of interest were -

- 138 dual voters were confirmed by an AEC report of April 26, 1990
- 222 more votes were cast than valid ballot papers issued (70.93 & 70.751)
- a group of 15 at Nimbin compared numbers of booths they had visited.
- a Brisbane girl, when challenged admitted voting at most of the booths.
- 42 dead people were marked off as voting (many at Goolmangar).
- voters at Nimbin booth increased 33% in 18 months - 612 to 813

In the National Party Submission to the JSCEM on July 30, 1990 **t**he Party Director, Paul Davey, complained about the obstruction that Don Greene had experienced in seeking information from the AEC relevant to the election: **'All of the information he had sought through the AEC, much of which has been simple statistical information, had had to be obtained through the Freedom of Information Act.'**

NB Richmond electorate was under investigation by the federal police in 1996.

6. Experience of Mr. Dondas in the Northern Territory, 1996 Election

The ALP candidate, Mr. Snowdon, who lost the election of March 2 1996 for the Division of the Northern Territory by 627 votes to Mr. Dondas, challenged the election in the High Court sitting as a Court of Disputed Returns. He claimed that 1,594 votes were improperly excluded. His challenge, heard by 5 judges, failed (*order October 11, 1996).*

Mr. Snowdon had argued that, on a proper construction of the Commonwealth Electoral Act, there is but one electoral roll for the Division of the Northern Territory (NT), although NT still had Districts which were technically subdivisions, whereas the latter were no longer recognised in all other electorates although still intrinsic to all electoral process in the CEA. His case was that an elector who moves from one District to another should not be disenfranchised.

Mr. Snowdon claimed the DRO had made a mistake of fact in not having on that Roll the 1,594 persons who, at the time they cast provisional votes, were residents of the territory. Mr. Dondas argued in response the Divisional Returning Officer had not made any error. 'These people gave current addresses on their declaration envelopes, which were different from the addresses which previously appeared beside their names when they were last on

the Roll. Each person had changed his or her address in the Northern Territory without transferring his or her enrolment; and that, in those circumstances, the DRO could not be satisfied that the person was entitled to be enrolled for the District of the new address because the person had not lodged a claim to transfer his or her enrolment to the new address.'

The recital of details summarised the contentious claims by those who attended to vote-

- the recital of those names not found on the certified list of voters for the Division; or
- whose names, but not their addresses, appeared on the list; or
- for whom a mark on the list indicated they had already voted at the polling place.

'In accordance with section 235 (2), each of those persons was invited to sign a declaration in the approved form of an envelope addressed to the Divisional Returning Officer. Each person, who did so, was entitled to cast a provisional vote. On the day of the election, a total of 3,768 provisional votes was cast at polling places in the Division in accordance with Section 235.'

'During the scrutiny 1,017 names could not be found on the electoral roll:

- 162 of the names of 2,991 postal voters
- 855 of the names of 7,029 pre-poll voters

There were other problems:

- 1,071 were omitted 'due to an error made by an officer or a mistake of fact.'
- 698 had a current address, or last address, on the roll outside the Division
- 2,587 names remained of people claiming they had an address in the Division of which 1,594 were at issue. The judgement declared these the heart of the matter.

The High Court concluded 'the Divisional Returning Officer was not bound to have been satisfied that any of the 1,594 persons, who cast provisional votes, was entitled to be enrolled for the Division of the Northern Territory. Accordingly the first part of the question asked of the Court should be answered 'No'. The second part of the question does not fail to be answered.' ***(Judgement High Court p.17)***

7. Experience of the whistleblower Fisher Electorate 1987 election

ALP 'foot soldiers' in elections are not necessarily unionists but many of them are, and unions certainly pre-select the candidates in Queensland as the pre-selection ballot scandals of 2000 have shown. The *Courier Mail* threw a bomb into those scandals with an admission by an anonymous whistleblower (with bonafides) that **he and a team of 'rorters' had been involved in what the AEC terms 'widespread and organised' fraud, not only in the Fisher electorate but in numerous state and federal elections;** thus blowing out of the water the AEC's persistent denial any

such ‘conspiracy’ to rort elections ever happened or if, it did, they would know about it. The latter seems unlikely in view of the fact the whistleblower explained that often the candidates themselves were not aware of it, while fellow campaign workers even less so. The only reason he ‘blew the whistle’ because he was angry that the ALP had sacrificed Karen Ehrmann when other more towering figures were more culpable.

The whistleblower described the ‘rorting’ process in Fisher electorate in the 1987 election in detail. Campaign workers, doorknocking with street-address rolls, identified rental properties, caravan parks and dwellings where people had moved elsewhere but their names were still on the roll at their old address, then fanned out in teams to impersonate them in the 60 or so booths on election day. 10 of them were certainly seen dashing round in 4 cars to vote in tiny rural booths leaving 40 ALP votes behind them.

The whistleblower said ‘in a marginal seat the potential to swing a result is obvious. If just a handful of workers out of a campaign team of 100 are in on it, the rorting can be significant. Some zealots would quietly compete to get the most names. If 8 workers had each come up with 45 names in Fisher, it could have been enough to rort it…. the odds of being caught are small *(Courier Mail Nov. 4 2000).’* Certainly the result in Fisher according to the winner, Mr. Lavarch, was among the closest in Australia. ‘It took 3 days of recounting’ he said. He won by 703 votes.

The whistleblower also said ‘it is a system that flows from a subculture which condones rorting because it is better than losing. It is orchestrated with a wink and a nudge - nothing on paper. **And the names of the people, who get a vote without knowing it, are transferred between state and federal elections.** It’s endemic It’s how you get a good reputation.’

Owing to these revelations in 2000 the then Premier Beattie referred the matter to the Australian Federal Police (AFP) in what could only be a token gesture of public relations value. For documents are now required to be destroyed six months after an election or, in the case of a disputed election, when the case is concluded despite the fact most major corporations usually hold their documents for at least 7 years. Therefore, the trail had long gone cold or wary - that is, until 5 other whistleblowers were reported by the *Courier Mail* as willing to support the whistleblower’s story. Regrettably the AFP closed down such investigations the same day as the Shepherdson inquiry finished. This was extremely unfortunate in view of the fact their admissions would undoubtedly have revealed ‘widespread and organised’ fraud by a team of ‘rorters’ in numerous state and federal parliamentary elections.

The Fisher National Party electorate secretary, C.G.Smith, in a submission to the JSCEM said that a number of factors in that 1987 election were a cause for concern, and could indicate a ‘scam’ may have taken place. ‘The voting across Australia showed the National-Liberal Party vote increased significantly yet their representation actually decreased. The ALP vote was unusually high, comparatively, in the marginal seats.

- large numbers of new voters were put on the roll in the marginal seats.
- certain booths showed most peculiar and explicable voting trends which were historically inconsistent and out of character.

• copies of the electoral roll were not available for study.'*(except by FOI by Premier Ahearn)*

No one reading the transcripts of such cases knowing fraud and irregularities are rife in Australian unions; knowing how intimidation, threat, character assassination and violence are commonplace in union elections; knowing how many union officials and organisers are heavily involved in campaigning in state and federal parliamentary electorates; knowing that some unionists were involved in the rorting of Fisher and assisting in the later election of Dickson, an offshoot of Fisher, can possibly believe that corrupt practices are not common knowledge throughout these unions. And those who are most likely to know, or should know, that it exists are the senior managers of the AEC who deal with both all year round.

8. Six petitions to Court of Disputed Returns after the WA 1988 State Election

The best-investigated election carried out on behalf of defeated candidates was that of the Western Australian State election of 1988. It is of importance because the court found valid grounds for proceeding with the case.

In 1989, a Perth firm of solicitors – Malleson, Stephen Jaques – filed 6 petitions in the electorates of the W.A. Legislative Assembly to declare their elections void and to pray for other inquiries in respect of each of these Elections. The electorates involved were Swan Hills, Murray, Dianella, Perth, Whitfords, and Wanneroo.

The prime mover in this was the defeated candidate for the electorate of Swan Hills, Legislative Councillor Neil Oliver. He found the principal quantity of 2,000 letters, which were mailed our during the election and returned undelivered, were in those areas where he had lost the polling of votes. 700 of them had been returned 3-4 times. Also 1,200 of those names had been added between September and January 1989, and the Electoral Office had failed to act on information given to them to this effect in November. The petitioners also sought, but were refused, permission to scrutinise postal and absent votes to see if they were genuine, or to see a copy of the consolidated list of electors who voted.

Mr. Oliver assembled a team of 30 workers, some full time. Four teams of two visited 2000 addresses of suspect enrolments against which votes had been claimed on March 19, 1989. Almost in every residence there were different people living there than were listed on the roll. In many cases they advised that the suspect enrollees had once lived there but left longer than 3 months before, or alternatively had never lived there.The petition advanced two major arguments

As the solicitor, acting for Malleson, Stephen Jaques said in his brief to the barrister – 'Further investigation showed that some of these people had left the district up to 10 years before. We considered, and still consider, that an anomaly such as that, if it existed, would carry with it a strong implication of massive electoral fraud. Whereas it is possible for people to leave their names on the roll inadvertently for year after year, and for this to occur over a large number of people without there being any implication that they acted in concert or that there was any overt fraud, this can hardly apply where a name is added to the roll between September and January and where this happens in large numbers. **Furthermore if it happens in Swan Hills,**

there is also a considerable chance of it happening in more marginal seats.'

The petition advanced two major grounds for argument –

1. failure to put the question required by sec.119 (1) and voter not entitled to vote
2. bribery

The minor grounds reinforced the case for argument that the election should be set aside but counsel thought they 'were probably insufficient in themselves to carry the argument.' But the first ground of argument on 'failure to put the question', was highly relevant. The Electoral Act required that certain questions be put to intending voters, some relating to their place of residence, to ascertain whether they were entitled to vote before they were given a ballot paper.

What the petitioners were claiming was that the issue, as to whether their petition should be admitted to argument, went beyond the question of whether a person was properly enrolled to the question whether such a person should be given a vote, if they were not properly enrolled, for their numbers could be considerable enough to affect the result of an election.

Chamber summonses, issued on behalf of the winning candidates, argued that sec.163 was a complete answer, namely the court shall deem the roll conclusive evidence that the persons enrolled were, at the date of completion of the roll, entitled to be enrolled. Judge Pidgeon, sitting as a Court of Disputed Returns, stated that it went to the question of whether an enrolled person ought to have been given a ballot paper.

He said it could still be argued, and the first respondents (the winning candidates) do argue, that by reason of section 163 sub-section (2) the court cannot declare the election void, 'because all that would have been established is that a person who actually voted was not qualified to be enrolled. **The aim of the petitioners is to show that there was such a serious omission of procedure that it prevented a final screening of the right of persons to receive ballot papers and that, if it is established, then it would be a ground to vitiate the election and it would not be saved by section 163.'**

Moreover the petitioners argued '**that their scrutineers were not admitted during part of the scrutiny of postal and absent votes, and that there are some documents in respect of these that they have not seen, and they are unable to make an assessment whether this material would have affected the ultimate result**. **It is the petitioner's submission that the court has an inquisitorial role if those facts were established.** It is submitted it can conduct an inquiry into whether any proved defective procedure would have ultimately have affected the result (*Sec.166 CEA Kean & Kerby (1920) 27 CLLR 449 (rules of pleading).'*

Judge Pidgeon handed down a decision of some significance, which has not become as well known as it should be: 'The facts, if proved, would it is submitted go beyond subsection (2). **I consider the petitioners have an argument of sufficient strength to enable the matter to proceed in the event of their being able to establish the facts. The final proposition would be a question of law for the court to determine.**

'I consider the remaining grounds set out sufficient facts which, if proved, would provide arguable grounds for relief. I consider that they (the grounds) do set out in an intelligible form some grounds whereby it could be argued that, if established, it would be a ground for the court granting relief.' Unfortunately the petitioners did not pursue the case further as the person financing the inquiry died.

This decision of Judge Pidgeon is, in my view, of considerable consequence in that it extends the argument whether one can challenge an election beyond whether a person ought to be enrolled to whether they ought to be given a vote, and the right of scrutineers for candidates to have access to documents to determine whether those names they have identified, as having been wrongly enrolled, can be shown to have been given a vote.

Judge Pidgeon's argument was also one for stiffening up the rights and powers of scrutineers to have readier access to such documents as are necessary to mount challenges in Courts of Disputed Returns. Such documents are certified rolls, supplementary lists of declaration voters, lists of approved provisional voters before they are aggregated with postal, absent and pre-poll voters. Electoral bodies, such as the AEC, alone hold all such documents and information necessary for recount or challenge in a Court of Disputed Returns. No one can access it without approval.

9. Experience of Alisdair Webster, Macquarie Electorate NSW 1993

When Alisdair Webster, the sitting Liberal Party member for Macquarie for 11 years, lost his seat in the 1993 federal election to ALP's Maggie Deahm by 164 votes, the noted psephologist, Professor MacKerras, prophesied that the judgement of Justice Slattery in the State seat of Entrance in a prior NSW State election was indicative of a high probability that he would win any challenge in the court of disputed returns as a number of his votes had been misdirected to Prime Minister Keating's seat named Blaxland. Justice Slattery had overturned that election on the ground that **it was the electoral officer's responsibility to see the voter received the correct paper and envelope**

However, when Webster was preparing his petition to the High Court, he had no idea that as many as 415 absent votes had been misdirected, a number sufficient to have affected the result of the election. If he had, he would not have grounded his petition on the much more unwinnable grounds of false enrolments and impersonation. His team had identified 300 names on the roll related to sites that were vacant land, service stations, golf courses

The AEO of the AEC in NSW, Mr. Brian Nugent, should have informed Mr. Webster of the misdirected votes. He did not. But worse, according to a staff member, when he and five other witnesses were checking the certified lists in Sydney Head Office by permission of the High Court, "you had a lay down misere case but we couldn't tell you." The staff member later denied this.

Couldn't tell him? Who said they could not tell him? Mr. Nugent or someone higher up? Somebody should be required to answer for withholding this information from Mr. Webster. Somebody even today should be required to pay him compensation for the fact a decade later he is still paying the costs of the ALP for

that case. No wonder losing candidates are unwilling to pursue cases disputing elections.

As to Webster's list of dubious enrolments, Mr. Nugent later claimed he had investigated the team's list of 300 names and found it wanting. 'I was very closely involved in the investigation that followed the allegations made in the Court of Disputed Returns about the 170 people, who supposedly did not exist but were on the electoral roll. At my behest we did a very thorough field investigation of that and found that was not correct.' All very well but his findings, as to how 300 odd names had been culled to 120, were not available to the plaintiff to verify for himself.

The AEC had sought, and been given a privacy order, by Justice Gaudron preventing Mr. Webster's counsel from taking notes, making copies of the AEC list or disclosing what they saw to Mr. Webster himself. Has secrecy gone mad? Or were they seeking to protect the fact that a candidate's staff member had been enrolled in the Blue Mountains in that candidate's house where she did not genuinely live?

A recent AEC submission to the JSCEM asserted the 'Webster v Deahm case has been raised repeatedly by critics of the federal electoral system as evidence of widespread and organised electoral fraud, despite the fact that Mr. Webster's petition was dismissed by the Court and costs were awarded against him.' This statement is wrong in three respects.

1. Critics raise this case as evidence of 'widespread and organised electoral fraud (the AEC's favourite mantra) because it is a classic example of the difficulty and perils of mounting a challenge to the Court of Disputed Returns.
   - The AEC does not act as *amicus curiae,* the neutral friend of the court. The process is too restrictive.
   - It costs too much.
   - Names on the electoral roll cannot be challenged.
   - Petitioners are at the mercy of the court for access to certified lists to check whether 'electors' in doubt have voted.
2. Mr. Webster's petition was dismissed by the Court. Mr. Webster's petition was not dismissed by the Court. He withdrew the case when it was still open to argument. The reason? Not merely escalating costs, and the fact the AEC itself was adversarial, but also the fact that counsel told him that if he persevered the High Court would be told he had asked a police officer, who happened to the the President of a Liberal Party branch, to check some names on the police computer; an offence for which the unfortunate officer was discharged from the force. Rumour also abounded that Mr. Webster had been 'disendorsed by the Liberal Party and it had refused to fund him.' In fact the Liberal Party told its solicitor to look at it but, like all parties after elections, it was short of funds.
3. Costs were awarded against Mr. Webster. This is only a half truth. Justice Gaudron ordered the AEC to bear its own costs on the significant grounds that 'errors were made by the Commission in the marking of the certified lists in a close election and the Commission was required to investigate and answer for these errors.' And as to

dragging the question of how costs were awarded into the argument, the response of Joan Chambers to Commissioner Hughes' derogatory remarks over her petition to dispute the Ballarat South State election spring to mind - **'Dr. Hughes carefully spells out that costs were awarded against me when I did not proceed. It's as if my case somehow did not have merit.'** The AEC report conveys the same impression that Webster's petition was vexatious and dismissed for want of validity. What did prove vexatious, in that it added insult to injury, was the fact that Mr. Webster has been obliged to pay the ALP a large sum of money in costs.

4. The AEC submission to the JSCEM also claimed that the DRO for Macquarie, Robyn Adelberg, was satisfied that there was only one case of multiple voting. If she was honest she would have said "only one case of multiple voting in the same name." For at that very same time, an AEC report to the JSCEM on identification for enrolment and voting admitted that there were 10 ways of multiple voting and it could only detect one of them through scanning the certified lists. If any voters had voted in Macquarie in the name of someone who did not exist, or altered the address or initials of a voter who did exist, or added voters with the same surname and different initials in any address, then that fraudulent voter would never have been picked up.

On December 20, 2000, I wrote to Mrs. Forbes, Secretary of the JSCEM, to ask if I could see a full copy of the AEC's investigation on Macquarie. I never had a reply.

10. Analysis of high numbers of misdirected absentee votes in the 1993 election

Mr. Peet, a Sydney analyst of the 1993 federal election, produced a study of the number of absentee voters, who were given the wrong ballot paper in every division, compared to the winning margin to determine if that number exceeded the winning margin in any of them. It did so in 5 divisions - Macquarie, Dickson, Page, Bendigo and Bass. A further 5 seats came within 100 or so - namely Gilmore, McMillan, Hinckler, Canning and Swan. Mr Peet urged that his findings were a warning.

Mr. Peet concluded: 'This issue of wrong ballot papers being given to voters was the very reason that the Court of Disputed Returns upheld the challenge to the result in the Entrance in !991 resulting in a by-election in that seat. It must now be obvious to all of you, that Australia could be faced in future elections with somewhere between five and ten seats being challenged based on this ruling *(Sub.JSCEM S0766 Ict,14 1993).'* When Justice Slattery declared the Entrance seat in the NSW 1991 State election void, one of the considerations in his judgement was that 116 ballot papers had been 'wrongly issued' because it was the electoral officer's responsibility to see the voter received the correct paper and envelope.

11. Unusual incidence of votes of religious conscientious objectors usurped

In 1997, I obtained written and vocal evidence from the President of Watchtower (Jehovah's Witnesses) of more votes of their congregation in the Blue Mountains in Macquarie electorate in the 1993 election being usurped (they were non-voters) than the number by which Alisdair Webster lost his seat. The same was true of some 50 Plymouth Brethren. The President also expressed concern on the same issue in

respect of the same election in the electorates of Swan WA, and Dickson Queensland.

12. Inquiry into 7 electorates in the 1996 federal election

In a *Sydney Morning Herald* article of July 11, 1996, Trudy Harris reported that 'the Australian Federal Police is probing allegations of multiple voting at the last federal election following information supplied by the Australian Electoral Commission. The voting scams allegedly occurred in at least 7 country and city electorates in N.S.W. An AFP spokesman also confirmed the AEC had also referred information concerning voting irregularities to federal police in Victoria.

'The head of the NSW investigation, federal agent Nick McTaggart, said the AEC discovered irregularities last month and referred information to the AFP for investigation. About 30 agents are investigating the possible voting breaches and have spent the last two days interviewing 55 people from towns and suburbs in the electorates of Richmond, Gilmore, Calare, Parkes, Mackellar, Bradfield and Greenway.

'McTaggart said methods used by voters involved people voting more than twice in different electorate booths. Others voted under the names of friends, relatives or neighbours who had non-current addresses registered with the AEC or were known not to vote in State and federal elections. Federal police are expected to lay charges over the voting scams which carry a maximum penalty of six months' gaol.

NB In an earlier 1988 NSW State election there were numerous complaints of irregularities in the voting. **Some were so serious that it looked as though the poll in two seats, Bligh and Batman, might have to be conducted again.** The Committee of Inquiry established by the Government found that multiple voting occurred in nearly all of the State's 109 electorates. **In 3 electorates, Macquarie Fields, Smithfield and Port Stephens, multiple voting on a large scale was uncovered.** In Balmain one voter was suspected of having voted at least 15 times. However although the voter was identified there was not enough hard evidence to charge him. In other words he was not caught in the act.

13. Experience of the Communist author, Frank Hardy, of ALP tradition

In 1988 after the 1987 federal election Brian Wilshire, 2GB nightime talk-back radio host, argued that talk back radio provided a unique opportunity to assess people's beliefs and voting patterns. Therefore they had been able to predict the results of every election. Prior to 1987 he, and other talk back persons, were able to predict the results. In 1987 there was a marked divergence between what they thought would be the result of the election and the actual result.

Concurrently the committed Communist author, Frank Hardy, offered an astounding explanation for Brian Wilshire's scepticism when he declared to Alan Jones' vast morning radio audience on 2UE that the result of the 1987 federal election had been manipulated; and said how it was manipulated in his weekly *Hard Yarns* column in *People* magazine of April 28, 1988 in the form of an allegory entitled *The Wizard of Oz: A Fairytale.* In that he quoted an old left-wing political trouper as saying 'it was the Sugar Roberts factor coming alive again.' This 'Sugar'

Roberts had been Mayor of Collingwood and a key player in Wren's political machine *(The Real John Wren H. Buggy p.231).'*

'The Wizard voiced concern to the Apostle about 'Labor-dee' winning the next election from Liber-dum.

The Apostle replied: "Verily I say unto you: there are many in the land who will not cast their vote and you know the ways of casting votes for such people."

The Wizard spoke thus: "Some of us who do not vote shall vote. Yes, and the lame and the dead shall also vote, though they never leave their sick beds or their graves.

Replieth the Apostle: 'But only in the seats where we may lose, numbering scarcely more than 20. Seek ye the help of the Wizard Kid of numbers…."

'And so it came to pass that the people cast their votes, save one in 20, who cared not who ruled the Land of Oz…..But in 22 seats, the people who vote Liber-dum and Labor-dee were almost equal in number, and here strange events came to pass. Voting ceased when the sun sank in the East, but in the hour before sunset **many men known as scrutineers, and a few other men called electoral officers did speak in divers tongues; and so procured the pieces of paper of the recently dead, the mortally sick, even for some people from foreign lands not yet registered to vote. Pieces of paper were placed in the ballot boxes, names crossed from lists of voters and all these papers were marked for Labor-dee.**

'Now, at that time, in the land of Oz, was a custom called talk-back radio, which gave the citizens of Oz, their only chance to talk back. And behold on the first day of the week after the ballot, many citizens rang to say when they went to vote they found that their names had already been struck off the list of voters, and these people dwelt in the swinging seats.

'There dwelt in Oz **a scribe, who had long ago written that the Labor-dee numbers men had often voted for the halt, the lame, the dead and the absent**… Not all the Labor-dee men he had known in his youth had yet gone to the Land of Nod and one of them did speak to him secretly saying: "It is the Sugar Roberts factor brought back to life by the Wizard of Oz. And he did in detail reveal to the scribe exactly how the result of the ballot was reversed. **For the scribe, the mention of the Sugar Roberts factor meant that the lame, the dead and the absent would 'vote often and late'.**

'The scribe was like a voice crying out in the wilderness. And the citizens of Oz lived happily ever after – except the 600,000 who were fined 100 shekels for not using their pieces of paper. **Especially unhappy were the thousands of voters in the swinging seats whose pieces of paper had been used by the Wizard of Oz and the Wizard Kid; or were very ill, or very dead or very late or had no intention of voting at all.** But he ended that the scribe had been forgotten, and no one in the Land of Oz gave 'a tinker's curse' for what he had told them *(Hansard NSW Parliament December 7, 1995).'*

In case readers should draw conclusions from transparent resemblances to living people, Hardy added a disclaimer that 'all characters and.events are fictitious.' It proved an unnecessary defence, as the article made no stir in the media. Frank Hardy's motive for this sensational exposure of the ALP may best be understood by

those in left politics.

Professor Cooray has put the exposure in context. ‘Marginal seats are generally unpredictable. But what was curious about the 1987 election was the consistency with which all the marginals defied the national swing. The recent NSW elections demonstrated a wide swing in many areas. The ALP however did very well by comparison in marginal seats. There appeared to be an unreal consistency in the marginal seats where the ALP holds its ground or the swing is less than elsewhere. The allegation, made by Brian Wilshire, was that the result of the 1987 election was manipulated.’

14. Mundingburra Electorate, North Queensland State Election July 1995

The story of the July 1987 federal election, according to Frank Hardy, was one of an entire government being manipulated into office. The story of the July 1995 state election in Mundingburra and challenge thereafter, according to Liberal campaign workers and scrutineers, was one of an entire government being evicted from office - a catastrophe for the ALP which attracted enormous national and media and public attention..

The election had begun like any typical election with the usual campaign hue and cry for weak points in the enemy, and rackets if any; but it had ended in an immense drama rivetting political interest in other states to a degree almost unknown in interstate politics. At the centre of this drama was the Mundingburra electorate, one of four state electorates in the Townsville area. The two rival candidates for the seat were Frank Tanti, a Townsville Councillor, and the ALP incumbent who was expected to retain his seat. He was Ken Davies, Minister for Emergency Services and Consumer Affairs in the former ALP Gosse government, who had won the election by a small margin.

Dismayed by irregularities in the whole process, including the sudden discovery of a pile of 50 uncounted extra votes for Davies found in an envelope in the Currajon polling booth, the Liberal Party set out to assure itself there were no more. In a mail-out to 14,000 households, it asked voters to furnish complaints which the ALP derided as a ‘fishing expedition’.

This mail-out produced 500 ‘return to sender’ envelopes of which 187 suggested impersonation because of the circumstances of the address. Only 21 were found to have innocent explanations. 1,269 people had enrolled in the last week before the close of roll. A number disappeared soon after polling day. 25 itinerants were listed at one address in Mango Avenue, others at post boxes. Rumours were abroad that a number of people from southern states were said to have been paid to come to Queensland on polling day *(Sunday Mail Oct.1 1995)*. .

Both the ALP and the Queensland Electoral Commissioner, Des O’Shea, investigated. The ALP rejected all claims of fraud and irregularity , but the Electoral Commissioner conceded there were 11 votes counted even though the returning officer could not find the names on the roll. He excused this as ‘in terms of errors (it) compares well with any other electorate in Australia’ and the disappearance of voters after the election from addresses, for which they were enrolled, as the high rate of mobility in the population.

Such explanations did not satisfy the Queensland Liberal Party. It lodged a petition, supported by affidavits, in the Court of Disputed Returns, claiming fraud and irregularities in the election. It cited 21 cases of multiple voting or of someone voting in another's name; 39 cases of impersonation; 15 votes that were not counted but should have been; 8 people denied votes due to error by Electoral Commission staff; and 30 to 40 other ballot papers which were either informal or counted on the wrong side. The ALP claimed to have answers to all the allegations of multiple voting and impersonation, and argued that the 15 votes that were not counted should be.

Much of the time at the hearing was taken up with detailed argument as to whether there was double voting; whether there was a reasonable explanation for the same name being crossed out on the rolls twice; whether people were denied a vote in error; whether a person who sought a postal vote was actually in a position to vote; and whether the real meaning of a residential address, given on enrolment, was 'the real place of living' which required one month's residence to be entitled to vote according to the Electoral Act.

Judge Ambrose rejected the argument of J. Jerrard QC for the ALP that the Court should only order a new election where the election had failed as a result of a breach of the law, or where official error by the staff of the Electoral Commission had affected the result. He set the verdict aside. A by-election was held. In Karen Ehrmann's affidavit, when she later came to trial, she declared: 'When I was asked to take part in a situation in the Mundingburra by-election where people voted, using forged enrolments, I refused.'

CHAPTER 7
A HOUSE DIVIDED
THE AEC Versus THE ELECTORS

PART 3

1. Stacking the roll for ALP preselections in New South Wales

Stacking branches for pre-selections means enrolling on the Commonwealth electoral roll in most States. As Graham Richardson wrote in the *Bulletin*, those involved 'rush to get them on the electoral roll' with a clear intent of accumulating votes in parliamentary elections; and some of those involved in the Queensland electoral scandals said the same of Queensland politics. At the very least it exposes many people, particularly migrants, to a culture of corruption, which they may assume is the norm. Therefore the practice of branch stacking is relevant to the question of fraudulent elections.

a) *Bulletin* article of Graham Richardson June 1998

After Graham Richardson retired from life as a member of the Commonwealth Parliament, he admitted in the *Bulletin* in June 1998 that rampant branch-stacking was done equally by left and right labor factions for pre-selections in Sydney's south-western suburbs, '**both of which are involved and always have been.'** However the right wing operations **'have not received much publicity although on a much grander scale in both Sydney and Melbourne.'**

'The mass recruitment of Party members, known as branch stacking, is not a new phenomenon and dates back to the beginnings of the Party. It is the practice of recruiting large numbers of Party members into branches to influence the outcome of rank and file pre-selection ballots in certain electorates. 9 out of 10 were concessional – students, unemployed or pensioners. 2,329 genuine members were driven out. Meetings hardly achieved their quorum. **There was a disturbing use of the electoral roll as a pool for mass recruitment. Some promised favours in return.**

'In branch stacking a due regard for electoral laws is difficult to maintain. Once the stacker finds some willing cannon fodder for his plans, the first task is to get the person enrolled in the electorate. Usually a 'soldier' will be found who is prepared to allow his residence to be used to enrol 4 or 5 preselection voters who do not live there. This is a clear breach of the Commonwealth Electoral Act. It involves swearing a false declaration. That is a criminal offence. Such shenanigans were often ignored by the police *(Bulletin June 2 1998).'*

NB. Competition for Federal seats, and jitters over the redistribution of State seats, has sparked a round of stacking in ALP branch memberships. ALP membership in the western Sydney federal seat of Fowler has swollen to about 2,500 – about 1/10

of Labor's total membership. In the federal western seat of Chifley, the introduction of 270 new members has increased the membership by half. Stacking is also continuing around Wollongong, Penrith and Punchbowl.

Former leading left-wing minister, Rod. Cavalier, said 'this stacking is different to anything in the 1970's and 1980's. One month's effort in Fowler is proving to be the equivalent of what took about five years in all the inner city electorates combined. ALP branch stacking is potent in N.S.W. because, unlike other states, rank and file members decide preselection of candidates except in exceptional circumstances *(D. Humphries Sydney Morning Herald November 27, 1996).* The ALP tried to exclude the seats of Fowler and Throsby from the rank-and-file pre-selection rule. 460 members at the formation of the Parklea branch at its initial meeting was 'a total rort'. Two sums totalling $13,000 were paid for new members. 3,371 new members joined the ALP in the Cabramatta electorate.

b) *Bulletin* article by Fred Brenchley

An article called *'Stacks of Trouble'*, by an independent journalist, Fred Brenchley, confirmed Graham Richardson's revelations. 'Fowler has emerged as the 'rotten borough' of Australian politics, a stack so bad that it casts a blot on the Nation's democratic principles. Fowler has 2,329 members, compared to surrounding electorates in the 500-700 range. About 90% of these 'members' claim to be concessionals – students, unemployed and the like – signed up for a $10.00 rather than a $20.00 joining fee.

As usual, the stackers have concentrated on local ethnic communities. Fowler has pioneered 'stack and counter-stack' warfare as members and factions battled each other…..The left, quite reasonably, points out that it was the right's machine man, John Della Bosca, now Special Minister for State in the Carr government, who personally moved that 1,902 members be admitted to Fowler branches, including the possible world record stack of 497 in one night for a Liverpool branch.

c) Fowler Branch Inquiry by N.S.W. ALP – Dissenting Report to the Secret Report

'The real purpose of this inquiry was to find a basis on which to suspend rank and file pre-selections in the federal seats of Fowler and Werriwa. It continues the fine tradition of the N.S.W. Right taking 'decisive' measures to solve stacking in areas where they perceive they have lost the battle, while ignoring areas where they have the upper hand. The Inquiry has covered up the central role of the Administrative Committee in allowing this stacking to proceed.

'The proposal for a system of branch 'caps' for Fowler and future stacked areas totally lacks credibility in face of the oft-quoted claim that the N.S.W. ALP has 'the toughest anti-stacking rules in the country.' These 'caps' are in fact a frontal attack on the rank-and-file pre-selection system in this state, dressed up as an anti-stacking measure. This dissenting report exposes this scam for what it is.

'The inquiry has covered up the central role of the Administrative Committee and the Party officers in allowing stacking to take place in N.S.W. The anti-

stacking veto – instituted by consensus at the 1995 conference, and abolished in 1996 amidst divisive debate, needs to be reintroduced and extended.

'Stackings peaked late 1996, early 1997, in rank and file ballots for Liverpool, Cabramatta and Fairfield. Of all areas affected by stacking in the second half of the 1990's no area was more prominent than the Illawarra with particular focus on the federal seat of Throsby and the associated state seats.' These were the branches of Throsby, Dapto, Albion Park and Warilla late 1996-1997. At the time of the December 1997 stacks, Throsby branch membership stood at about 350, creating a percentage increase in Throsby branch membership of about 45% in one decision. **Many of these people retained pre-selection votes and had their membership backdated by 18 months at the June 1999 Administrative Committee.**

'While the numbers were lower than in Fowler, the membership base in this area was also much lower, so that these influxes caused greater instability here than anywhere else in N.S.W. **Constant media publicity compounded the problem, not least involving the calling of police to branch meetings, mass recruitment through ethnic organisations and the processing of assault charges.'**

2. Stacking the rolls for Branch stacking in South Australia

Fred Brenchley also accused the ALP in South Australia of even more arrant branch stacking: 'For sale. A State political party. Control selection of MP's and hence influence cabinet when in government. Excellent potential to swing contracts and other lucrative government favours - $50,000 or near offer. That advertisement did not appear but it is effectively what happened in South Australia last year when the state ALP was convulsed by a branch-stacking scandal. The wash-up of that scandal – a court case that has set a precedent for legal oversight of parties – could be the turning point in democratic reform of the internal working of Australian political parties.

'Not before time. Branch stacking has reached epidemic levels, particularly in the ALP. The next step is a government with a price tag. Ralph Clarke, the South Australian Labor MP who blew the whistle on the state's stacking scandal – and has since suffered the payback of losing his preselections says that in effect, the South Australian Labor Party was for sale.

'**If organised crime was serious, criminals could buy an Australian political party state branch for about $50,000.** 'Why $50,000? In South Australia, eight to ten unidentified people used cheques, cash and credit cards to pay $41,037 to sign up about 2,000 people to stack the state branch, influencing candidate preselection. The ploy was so cynical it is said that some of the stackers used credit cards to also gain frequent flyer points. It is not just open to criminals to buy a party branch. In New South Wales, one senior party figure estimates that it would probably cost a developer about $8,000-$10,000 to buy a local council by arranging to stack selection for the Labor candidates.'

3. Stacking the rolls for branch stacking in Victoria

In Victoria, Lyle Allan, a former president of the Victorian ALP's disputes tribunal, has documented active ethnic branch-stacking across numerous federal and

state electorates in Victoria. Writing in Monash University's *People and Place* journal, Allan said stacking was prevalent in at least 9 Victorian electorates. 'It is so endemic it has achieved its own lexicon. Recruits are known as 'stacks', stackers are known as 'warlords'. Party dues are usually paid by the warlord even though this is in breach of party rules. Stacks owe their primary responsibility to the war lord creating a kind of Tammany Hall politics in Australia outside of the party itself.'

Tammany Hall was the name of the headquarters of the Democratic Party in America from mid-nineteenth century, which organised voting blocs among ethnic migrants to Australia by promising to look after them, and then marshalled their votes on polling day. Hence the name to describe all such politics of undue partisan influence.

Lyle Allan continued: 'Branch stacking is the recruitment of a sufficiently large number of party members to influence internal party elections. It is a badge of honour, not a derogatory term, to refer to someone in the ALP as a branch stacker. If you are a good stacker you are a good political operator. In particular, stacking aims to influence the result of party preselection for parliamentary candidates. Not all stacking is ethnically or religiously based. But it is the most successful.

'Ethnic branch stacking involves recruitment from, but not exclusively by, members of particular ethnic groups. Stacking has as it sole purpose that of influencing party votes. It is not about policy or ideology or vision. It is purely about numbers. Almost all known current stackers are first-generation immigrants to Australia. Stackers are able to promise potential recruits that they will most likely share in many benefits if they join the party. This can include access to parliamentarians or municipal councillors, and assistance in dealings with the bureaucracy and help in finding employment. Many stackers find paid employment themselves in party or party related activities. Some are elected to municipal or parliamentary positions.

'Party members recruited by a stacker are known as stacks. Stacks are largely (but not totally) recruited from within a particular community. Increasingly stackers are being referred to as 'ethnic warlords.' Members, who join as stacks, frequently do so because they owe some allegiance to a particular warlord. Stacks may be members of a church, a soccer club or an ethnic brotherhood. Some are clients of an ethnic businessman. Stackers are almost always male. There are only two female recruiters known to the writer - in the Calwell and Batman electorates.

'Stacks, then, owe primary loyalty to the warlord. The warlord will look after the interests of his or her stacks and must ensure that their party membership fees are paid by the required date to ensure that they retain eligibility to vote in internal party elections. Frequently stacks will find that a stacker has arranged for payment of their membership fees if they have been tardy responding to party requests that they pay their dues on time. **This practice is now a breach of party rules but new rules will not change party culture. Rules in the ALP are never an obstacle to the maintenance of such traditional party practices.**

'It is a popular view that seats in parliament can be bought by recruiting ALP members. Pre-selection success, then, is the justification for stacking. If a stacker has enough influence with the party, a Victorian lower house parliamentary seat can be

bought by paying sufficient Victorian ALP annual membership dues. The minimum rate for these dues is $23.00 (plus 10% for GST) - the concessional rate payable by pensioners and low income earners. That would represent payment of $2,300 per 100 stacks, a figure that is not tax deductible.

'The popular view is generally unfounded. **Mere stacking will never be sufficient by itself. A stacker must have support from, or be part of, a major faction.** Factions can have its rewards and the factions of course know this. All factions are involved in rounding up numbers to vote at pre-selections and stacking will always have a place while membership ballots are part of any pre-selection process. As picturesquely put by Ian Baker, former Minister for Agriculture in the Kirner Labor government and former Member for Sunshine in the Victorian Legislative Assembly, **people who engage in ethnic stackings are 'numbers thugs' (*Vol.8 No.1 April 2000).'***

4. Bulletin article on branch stacking in Western Australia

An article *Anatomy of a Labor Scandal* by Tony Wright appeared in *The Bulletin* on January 16, 2001. It began 'Kim Beazley's hopes that the ALP's electoral rorts scandal could be contained to Queensland have been dashed in a spectacular manner - and right under his nose. Allegations that taxpayers have been paying for 'ghost' ALP memberships in Beazley's old Perth seat of Swan have left the party floundering.

'Late last year a staff member of West Australian backbencher, Kim Wilkie, surreptitiously copied the hard drive of a fellow staff member's computer. She took the copy to a friend, a young man who is a senior official of the Labor Party's West Australian Left faction. The copied computer drive revealed a puzzling array of figures and references to the private use of cars.

'An ex-worker in that office pieced together from others a bizarre tale of bogus travel claims that had been used to pay for hundreds of Labor Party memberships over the past two years…. Discovery of the files led to a series of events that may expose an alleged systematic electoral rorting scam. And this time it wasn't in Queensland. It was in the electorate of Swan, Western Australia; the seat that was for many years held by Kim Beazley, leader of the federal opposition. There is no evidence that Beazley had a clue about what was going on in Swan through 1999 and 2000 but there was no getting away from it - the rorts scandal was now on his geographic front doorstep and this time it involved the alleged misuse of federal government money.

'Swan also covers the state electorate occupied by the leader of the West Australian Opposition, Geoff Gallop, who is about to face a state election. Indeed, Gallop relies on the support of the very faction that is linked to the alleged rort, an outfit known officially as the New Right and more colourfully, among its detractors, as the Righteous. The New Right, or the Righteous, is led by one of Beazley's right-hand men, the federal Opposition's communications spokesman, Stephen Smith, backed by the left wing AMWU.

'The bogus private vehicle usage claims (for cars) added up to an astonishing

$9,000, enough for several hundred memberships. As Wilkie's inner metropolitan Perth electorate covered just 142 square kilometres of suburban streets, for that cost they would have driven their private vehicles about 18,000 kilometres around those suburban streets.

'Mr Wilkie was in real trouble. He had to go public in Parliament in Canberra. He had discovered 3 cases of apparent fraud in his own office. His signature on the reimbursement claims had been stamped on the forms by machine before they were faxed to Canberra. He had been post-authorising stamps. He offered to repay.

But his office administrator , a worried Raelene Murray, began to tell her former colleagues 'the real story'. She, Karmelich and Walker (Wilkie's staffers) had been using the travel reimbursements to pay for Labor Party memberships in the Swan branches. **"We just sat around a table and picked out names,"** she told one staffer. Rumours circulating widely within the ALP have it that some of these memberships are in the name of ghosts, people who are dead, don't exist or have been signed up without their knowledge.

'Allegations arising from Murray's distraught phone calls suggest the money, or some of it, formed a slush fund that was used to pay for memberships of the Labor Party. **These are similar to some of the allegations that have caused such damage to the ALP in Queensland, but they take the matter further because the suggestion is that taxpayers' money has been used this time.**'

NB. Shades of the AWU's mysterious accounts (two of them in Manuka Canberra) thought to be slush funds, that Marshall Cooke QC was investigating in Queensland, when the ALP Goss government came into power and closed it down. They are mentioned in his report.

5. Branch Stacking in Queensland

In an affidavit in the course of her trial, Karen Ehrmann declared: 'Branches were stacked all over Queensland. It is well known throughout Labor circles that every politician stacked branches one way or another. They approached supporters, people they had helped in their electorate, friends or relatives to join the ALP and give support. Mothers, fathers, sons, daughters and wives were members for support only. This has always been common practice in the history of politics. It is well known that a prominent local State politician had family members, sons and daughter registered at this house for 10 years after they had left home. He and his wife lived alone. This particular member paid for membership and re-enrolled the membership of a friend for 2 years after the friend died.

Another prominent State Member had his son registered at his house years after he left home. The federal electoral rolls were checked many times but his son was declared as residing with his family. His son's vote in plebiscites had to be faxed to polling booths because he was always somewhere else. **This particular member was known as the king of stackers in Townsville for the Australian Workers Union in the 1980's. He was stacking branches and paying for membership tickets in his file in his office.**

On one occasion during a pre-selection battle for a (Townsville) Council position,

membership tickets had to be requested from the files of this State member so that the members from his branch could cast a vote. He won the right to be member for his seat in Townsville by stacking 100 members into his branch at a meeting that was supposed to have been held New Year's Day. It is well known by prominent Labor Party officials, and often joked about, that no such meeting was ever held. The same branch and the same prominent ex-member stacked members for his faction in the 1996 Townsville plebiscite. Records were falsified and complaints were made to party officials. Another party member forged enrolments in the names of members of the popular local basketball club. The basketball players were registered as members of an ex-State member's branch, recorded as financial, and as having attended meetings.

A candidate for preselection in a nearby State seat, who encouraged his brother, sister and brother-in-law to join the party to support him, forgot to tell his brother not to accept lifts from his opposing candidate and friends. Having had a few drinks he directed them to his residential address in Mundingburra not the address in Thuringowa where he was registered, and voted in the preselection. Two other people voting for this same candidate had long since moved from their registered address. Their enrolments were kept at old addresses so that they could vote for their candidate.

Affidavit of Karen Ehrmann' solicitor Townsville District Court, August 11, 2000

The affidavit of Karen Ehrmann's solicitor, Mark Day, declared: 'The Defendant provided the names of certain people whom she had actually witnessed forge documents relevant to the outcome of the Mundingburra by-election in 1996. She also advised of having witnessed the forging of electoral enrolment forms for people in the seat of Thurowinga and she provided names of some of the people who were involved in relation to that. That information was provided so that those forms and documents could be accessed in the same way as had been achieved in the investigations of this matter and the charges against Foster. Some of the people the Defendant specifically implicated are directly linked to one of the more prominent political figures in Townsville at the moment. The same applies in relation to false enrolments which were undertaken with respect to the Mundingburra By-election in 1996 and false applications for Postal Votes. She also provided direct information concerning fraudulent activity in relation to the pre-selection for the seat of Townsville in 1996.

'She also advised of attempts by others who she named to have her falsely witness enrolment forms and other documents which she refused to do. She indicated that by her refusal to do so, she alienated herself from this faction which indirectly led to a campaign by members of this faction against her which, in turn, led to information being passed on about her to her other political opponents. This led to these initial investigations. She indicated that she was in fear of them and that they had told her that they would destroy her politically and publicly.'

Scandals of fraudulent enrolment in Queensland 1997-2001

The public exposure of electoral scandals of fraudulent enrolment on the Commonwealth electoral roll gained considerable momentum with the trials and convictions, not only of Karen Ehrmann but of two other ALP members, who were convicted of forging and uttering false enrolments – one of them being given a 3 year gaol sentence. It intensified to engulf a number of others, ruin or sully several careers of ALP party officials and members of Parliament, and precipitate two major State and Commonwealth inquiries – intensively and brilliantly reported to the full in all its mind-blowing scurrilous disgrace in the *Courier Mail* and *Sunday Mail* of Queensland.

Some of such false enrolments had occurred because anyone voting in ALP preselections for parliamentary seats had to be enrolled on the Commonwealth electoral roll, but others were directly for stacking rolls in political elections. The atmosphere, that was engendered in this circus of plotting, was aptly summarised by Stefanie Balogh. 'It reads like a plot lifted from a bargain bin paperback – two ambitious men and a cluster of renegade middle-level political operatives intent on winning. Intrigue dominated Labor Party politics, Townsville-style. In the deep North Queensland coastal city, players bandy around such words as hate, rivalry and payback *(Australian November 20, 2000).'*

'There are tales of suburban mail boxes being guarded from theft, of surreptitious membership drives in the Bingo Hall, bribery, broken promises and prawns left to rot in the air-conditioners. **Then there are darker allegations of people unaware they have become ALP members or that they are eligible to vote in electorates – and therefore internal party ballots – in areas where they do not live. There are also loyal members who agreed to 'parachute' their names, meaning they allow themselves to be enrolled at 'safe house' addresses they had never been to.**

Kerry Anne Walsh had been scathing about the rampant fraud in the *Sunday Telegraph* ten days earlier. 'A great political saying among the comrades at election time is 'vote early, vote often.' The trouble for the Labor Party in Queensland is that this tongue-in-cheek call-to-arms is more reality than political humour. **For the past few months, Queenslanders have been treated to an insight into Sunshine State democracy Labour-style: vote-rigging, bovver boy and stand over tactics by unions and dirty political vendettas.** Weeping witnesses have appeared before the Criminal Justice Commission into State Labor Party electoral rorting, an inquiry spawned by evidence given in the trial some months ago of an ALP candidate accused of electoral fraud.

'It looked like netting more culprits in what one prominent ALP member has described as a widespread scam to doctor electoral rolls to favour certain candidates. **What's more, senior Left faction identity, Jim O'Donnell, says 'the practice of rorting hasn't been confined to a few seats. It goes right into the party at the State, federal and municipal levels. It really is quite sickening what's going on in the party.'**

The earliest of the most publicised victims, Karen Erhamm, endorsed this view when she told the Australian Federal Police that the practice of electoral

enrolment fraud 'was being used and that it was known about, understood and encouraged within some factions of the Labor Party at the highest level *(Media release Senator the Hon. C. Ellison, Special Minister for State 23.8. 2000)*. Karen Ehrman was, of course, speaking primarily of the Australian Workers Union (AWU) faction which had dominated the ALP in Queensland for some years, and had nurtured her own career. But when she went to gaol, as the price of her compliance with its *mores,* 'thrown to the wolves' as some said, she turned on her betrayers.

The AWU Queensland secretary and national player, Bill Ludwig, grey eminence of AWU politics in Queensland, fumed that Karen Ehrmann's 'attack was an outrageous slur. Unfounded and untested allegations, made by a person who has pleaded guilty to electoral fraud and cheating, have no credibility.' That was the unkindest cut of all, given she was the unfortunate victim of the AWU political culture.

But Mr. Ludwig's own credibility was at issue when the *Courier Mail,* at the height of the electoral scandals destroying bigger game in the AWU parliamentary faction than Karen Ehrmann, recalled that Commissioner Cooke QC had investigated the AWU as one of the 7 unions nominated for inquiry by his Commission appointed by the conservative Ahearn Queensland government in 1990, and found that union seriously wanting.

Before the ALP Goss government closed his inquiry down abruptly midway through examination of the AWU, immediately it came into office – removing his staff and furniture, sending in painters, and leaving him to type his own report himself – he had established that the AWU had practiced massive enrolment and voting fraud in one of its own union elections by forging votes for ethnic voters in larger work places like Dairy Farmers and Qantas. He reported: 'We had a number of Vietnamese people who worked at Queensland Dairy Foods, a little factory on the south side of Brisbane, who said "that is not our signature (on the declarations with ballot papers)." 17 witnesses gave evidence, paralleled by the evidence of handwriting experts…. When you look at the statistics, normally 17% of the Queensland members of the AWU voted. But when you had migrant voters, 40% voted – particularly in places like the hospitals where they were unskilled and not too bright, 50% of them voted, and in the metropolitan areas like the Airport where there were 200 to 300 employees, the voting was up to 50% and 60%. **These were the areas in which we have votes that were fraudulent and that was an election conducted by the Australian Electoral Commission.'**

As to the AWU's influence in the parliamentary politics of Queensland ALP, Dr. Paul Reynolds, University of Queensland lecturer on political sociology and state politics, said that the evidence of witnesses in the Shepherdson Inquiry demonstrated the reason for the strength of the AWU faction. 'It is fairly clear that the AWU has had a long-standing policy of catching them young, providing mentors and skilling them up in the folklore of the party. They induct neophytes into the group who, if they stay, have to do the group's bidding and learn its ways. These recruits are starry eyed and wanting to know the ways of the world. Those with potential are blooded by being permitted to run as candidates.'

Indeed, in his report to the Government, Commissioner Cooke QC reported that such practices had probably spread to state and federal elections because the AEC had shown 'a complete lack of vigilance' in stamping out malpractice. On January 1 2,000, he told the *Courier Mail* from his experience he would be very suspicious about three of the Hawke elections and perhaps one of the Keating elections *(Chris Griffths & Robert Reid Courier Mail Jan 3. 2000)*.'

The ALP state secretary, Mike Kaiser, said Kahren Ehrmann's accusations 'were the bitter remarks of someone found guilty of electoral fraud.' But Terry Gillman, CEPU state organiser, undermined his remark by saying 'local officials say the ALP knew what Ehrmann was up to and turned a blind eye. They claim the rorting is not restricted to internal ballots.'

The leader of the Liberal Party, the Hon. R. Borbidge, accused the Parliamentary Secretary to ALP Premier Beattie, Mike Reynolds MP, of being the major beneficiary of Ehrmann's fraud and declared he should step aside. The Queensland Liberal Senator Brandis told the Commonwealth Senate that an ALP Townsville Councillor, Jennifer Hill, had been involved in similar activities during her preselection for the seat of Herbert to those which saw Karen Ehrmann in prison.

The Origin of the Queensland Electoral Scandals 1997-2001

The Queensland electoral scandals of 1997-2001 began with a federal police investigation of some 'high-profile ALP members and their branches in their pre-selection plebiscites for candidates for the June 13, 1998 state election' in 1996.

Two years later an editorial in that democratically vigilant and astute Queensland newspaper, the *Townsville Bulletin* observed it is remarkable that no one has been charged until now in Queensland for such enrolment for political purposes – though some have been for multiple social security payments – given that **rumours of this practice in parliamentary elections have been rife for many years, and evidence has been glaring in many union elections.'**

This federal police investigation grew from the anger of some members of the Socialist Left Labor Party factional group about a meeting of their Heatley/Vincent branch in the Queensland State seat of Townsville held on June 4, 1996 in the home of Beverley Lauder, vice-president of the ALP Townsville branch. She recorded their anger in a document, tabled in the Queensland Parliament by Frank Tanti, Liberal member for Mundingburra, on March 5, 1998 with supporting affidavits. It condemned 'the immense degree of fraud and corruption that encompassed the outcome of the Thuringowa plebiscite.'

It was this document that guaranteed the explosion of these scandals into the public arena, and the revelation of the full scale of deliberately organised false enrolment on the electoral roll, rather than the observation by a staff member of the office of the AEC's Divisional Returning Officer for Herbert of 6 adults enrolled in a one-bedroom house and subsequently similarities in a number of other enrolments.

Karen Ehrmann, a member of the AWU faction, had tried to 'buy' the support of the rival Socialist Left faction in her pre-selection for the State Seat of Thurowinga in exchange for her support for the pre-selection of their Socialist Left candidate,

Mike Reynolds for the State Seat of Townsville. This was untoward as she had been expected to support the AWU candidate from her own faction - her Townsville Council colleague, Mayor Tony Mooney. In doing so, she asked the Socialist Left to 'advance voter support' in return for 'loyal Ehrmann votes' (copy of document in the author's possession).

Their anger was also over the fact that the branch secretary, Simon Finn, had stated 'the precise number of votes they could deliver' and that Mike Reynolds, 'their newfound captain and navigator expounded in some depth on the profitability of having the loyalty of the Ehrmann votes in his seat.' The document claimed Mike Reynolds desperately needed their votes to win against Mooney, who had the electoral college votes.

What Karen Ehrmann was volunteering, to help Mike Reynolds gain his preselection, was to guarantee the **'relocation'** of the real or phantom addresses she had **'stockpiled'** to different addresses in Reynold's territory. In other words to **'parachute'** them - in the parlance of corrupt enrolment - into the adjoining electorate on his behalf. But why she should volunteer to do so was inexplicable as she already had enough names 'stockpiled' to ensure her own pre-selection without any return help from Mike Reynolds. She had paid dues on 49 memberships, phantom or otherwise. Further she '**would have had to traverse a significant amount of terrain on Friday November 11, 1996 (to collect them all) the day the ballot papers arrived in the mail.'** Her accusers could not explain what was in it for her.

A curious feature of this compilation of nearly 52 false enrolments to ensure not only her own pre-selection but that of Mike Reynolds was that she had always opposed the Socialist Left to which he belonged. Had she merely become a scapegoat as her loyal friends suggested? Or was it because she and Shane Foster, who was committed for trial at the same time as herself, had fallen out with her fellow Townsville Councillor, Mooney, on Townsville affairs?

What is beyond question is that the uproar over those fraudulent enrolments which sent her to prison four years later did not die down when the prison doors closed behind her. It was destined to bring down both loyalists who had protected Karen during the four years before she was tried. – Jim Elder, Deputy Premier of Queensland, who gave her a job in his Cappala electorate office and Joan Budd, electorate secretary to Jim Elder and returning officer for Queensland ALP, who had recommended that he should do so and invited her to stay in her Brisbane home.

The Trial of Andrew Kehoe July 1997

Andrew Kehoe, a former policeman who had become an AWU faction party official, was tried in July 1997 on 10 counts of forging enrolment forms. The prosecution claimed that he 'moved' voters into electoral divisions in order to support the pre-selection of a candidate who promised him a seat on the Townsville Council in return if he won both that preselection for the seat of Thurowinga and a seat in the Queensland Parliament, which he did *(Townsville Bulletin July 11, 1997).*

Kehoe did this by setting up post office boxes and false addresses, then forging the

requisite ballot forms. Sentencing Andrew Kehoe to a 3 month suspended jail term and two year good behaviour bond, the magistrate stated: **'It required a good deal of planning. It was a case of a deliberate scheme which struck at the heart of the democratic process. Your conduct undermines public confidence in our electoral system.'**

Premier Beattie denied that Kehoe had been acting on behalf of the ALP with the scurrilous accusation that '**there is a real possibility that the Liberal Party is waging a dirty tricks campaign *(ibid)***.' The Premier's denial enraged the defeated candidate in that pre-selection, the CEPU organiser Terry Gillman, who believed Karen Ehrmann had cheated him out of his right to win that pre-selection by vote rigging, ballot theft, branch stacking and altering branch records. He complained to the state secretary, Mike Kaiser.

The result was predictable. Denial was the name of the game. An ALP Disputes Tribunal, set up by the State Executive of the ALP, cleared both Karen Ehrmann and Shane Foster of any 'rorting.' The ALP State President, Don Brown, declared Townsville now '**clean**'. Peter Beattie, changing his tune, announced there would be **'no repeat of the sort of electoral fraud wracking Townsville'** (*Townsville Bulletin May 16 1998)* because the ALP had devised new rules. What Peter Beattie left unsaid was that the ALP's new rules could only deal with internal matters. Therefore he was in no position to guarantee that false enrolment had ended, as the ALP had no control over the electoral roll which was kept by the Commonwealth.

An aggrieved Terry Gilman protested the culture remained. 'There were grave concerns that general elections, not just party ballots, were rigged.' Jim O'Donnell, the Federated Clerks Union organiser for Northern Queensland warned 'if anyone thinks this is going to be swept under the carpet and going to disappear, they are fooling themselves.' As he prophesied, efforts by the ALP 'to sweep it under the carpet' were doomed to fail. These were threats by senior officials to expel or discipline anyone who discussed internal party details or commented to the media. The ALP vessel was beginning to leak.

On August 26, 1997, Premier Borbidge tabled 150 pages of minutes, records, letters and affidavits in the Queensland Parliament as proof that '**the ALP Tribunal's decision was decided before the hearing.** A very senior Labor Party identity had advice the factions had done a deal and Karen Ehrmann would be exonerated. There is a strong obligation on Mr. Beattie to assure people no senior members of the Labor Party were involved.'

On June 2, 1997, a month before Andrew Kehoe's trial, the Townsville Bulletin complained: '**We have had occasion to take the Australian Federal Police to task over their tardiness. Still more unfortunate is the veil of secrecy which appears to have been thrown over the details of their charges.**' It was another 10 months before Karen Ehrmann and Shane Foster were formally charged before Townsville Magistrate John Brennan on May 27, 1988, although their charges were distinct except for one charge under the Queensland Criminal Code concerning forgery of a 'tear-off' slip and accompanying ALP ballot paper in the name of Doris Searle on a date unknown in May 1994. Shane Foster's case proceeded at once, but Karen

Ehrmann's case was adjourned as the Crown Prosecutor expected to call up to 70 witnesses, and was not heard until 2 years later.

Trial of Shane Foster

Shane Foster was charged with forging and uttering 30 enrolment claims in the name of 10 people which were delivered to the AEC between September 27, 1993 and July 25, 1996. He was sentenced to a $500.00 good behaviour bond in the Townsville Magistrates Court and a 3 months' jail term suspended for 5 years, because he pleaded guilty before committal and had agreed to give evidence against his co-accused, Karen Ehrmann, in her trial which was still to be set down for hearing. His defence barrister had also pleaded he had not benefited financially from the plan and that he had an excellent work history including 9 years as a Townsville City Councillor, a career now over as he had been obliged to resign. Moreover 'his reputation was now mud and his marriage under tremendous strain.'

Trial of Karen Ehrmann

On August 1, 2000, 4 years after Karen Ehrmann was charged, she pleaded guilty to 47 of the original 52 offences of forging and uttering enrolment claims delivered to the AEC in the Townsville District Court, and was sentenced by Judge Patsy Wolfe to a 3 year jail sentence with a non-parole period of 9 months as **'she had made a concerted and persistent effort to interfere with the electoral system and her crimes affected the confidence of Australian citizens.'**

Karen Ehrmann's counsel, Robert Greenwood QC, pleaded she had been under pressure to take part 'in a well-known scheme which has been carried out by the AWU long before she was involved. **She was a 'bit player' in a grand scheme. She was bullied and badgered by the AWU into wrongdoing.'** The **'grand scheme'** was an art form known to many, who have seen it in action in the hurly burly of the less scrupulous realms of politics. As Robert Greenwood QC explained **'the broad plan was to stack the electorate with voters in a number of ways.'** The signatures were then forged on an ALP branch meeting attendance form to show they were active members and therefore eligible to vote in pre-selection plebiscites.

- some people permitted their names to be used at false addresses.
- others were persuaded to leave signing their address blank that was then filled up with an address in the electorate.
- some applicants were totally unaware they were re-enrolled elsewhere.
- some thought they were joining a Bingo Club.

A procession of witnesses gave examples of such enrolments –

- her brother, Robert Fawkes, while living in Perth
- her sister, Janelle Fawkes, while living overseas
- Kevin Court, while living in Brisbane
- Sarah Atkinson, a non-voter acquaintance at the Bingo Club
- other friends who were living in Melbourne, Adelaide and Darwin

Some of these people were listed at the same address, for example

- 5 people in a flat in Cay St., Saunders Beach in the Thuringowa electorate
- 6 people in a one-bedroom house in Eura Court, Mount Louisa – her brother, sister, children and two acquaintances.
- 3 in a flat in Mill Drive, Heatley
- Rodney McLaughlan received mail for 3 people who did not live there.
- One supporter had agreed to **'move'** to a flat at Saunders Beach, despite the fact she had never lived there, so she could vote for Ehrmann, who witnessed the tenancy agreement for the flat and paid the bond and rent. She was no longer an ALP member but her membership had been paid by Ehrmann's credit card. Others were also falsely listed there.
- She also rented a post office box and a house in her own name.

Judge Patsy Wolfe sentenced Karen Ehrmann to 3 years gaol but, unlike Andrew Kehoe, she was not granted a non-parole period for giving evidence against a colleague. She had to serve 9 months of her sentence in gaol. However her revelations effectively punished others as savagely as if they had shared her fate. Jim Elder, the Deputy Premier and trusted lieutenant of the AWU secretary, Bill Ludwig, was forced to resign as was Joan Budd, the ALP's returning officer and the most powerful woman in the State.

Joan Budd was doomed when Karen Ehrmann testified that she knew that

- people in different parts of Brisbane were asked for names to be enrolled in Mundingburra by-election which Frank Tanti won.
- Australian Electoral Commission cards were forged to prove members were enrolled.
- ineligible Vietnamese were enrolled as party members.
- malpractice occurred in the Brisbane East Council election of 1996
- 54 names were added to a list of 140 for preselection of Ms Birmingham in the East Brisbane ward for the Brisbane Council election.
- addresses were altered. Phone numbers were the same. 9 in one house, 7 in another.

As Judge Patsy Wolfe remarked '**we seem to have a floating population of people who can be put into any one electorate in Queensland. It is outrageous.'**

Five Special Inquiries arising from Queensland revelations of fraudulent enrolment

a) Queensland Criminal Justice Commission (CJC) August 22, 2000

The ALP government decided to refer the questions that had caused such uproar and heated debate to the Queensland CJC for investigation. These were -

- whether any official misconduct had occurred in the 1996 ALP preselection of a candidate for the seat of Townsville or any others between 1993 and 1997;

- whether any tampering with the electoral roll for the Mundingburra election in 1996; or for the ALP preselection for the East Brisbane and Morningside wards of the Brisbane City Council in 1993 had occurred.
- The CJC agreed to assess these allegations of electoral fraud on August 22, 2000 and duly appointed Mr Justice Shepherdson.

Both the Hon. R. Borbidge, leader of the Opposition, and the Hon. R. Cooper, expressed their distrust of the outcome. The former said he had 'no confidence in the pathetic and woefully inadequate CJC. The CJC had pursued his government relentlessly on issues between 1996 and 1998.' The latter said 'if it's coalition they throw the book at them. If it's Labour they sweep it under the carpet.'

b) The Shepherdson Inquiry

The terms of reference of this inquiry, which became popularly known as 'the Shepherdson Inquiry', did not give Mr. Justice Shepherdson jurisdiction to investigate electoral fraud generally or to make any formal recommendations for electoral reform. However, after many sensational days of hearings, he did make 'several suggestions for remedying weaknesses to the Australian electoral system *(p.X111 pp.167/172/178)*.

They included the following procedures -

- to identify people when they initially apply for enrolment and to change enrolment.
- to establish proof of residency when a person applies for enrolment in a particular electorate and desirable changes to the law.
- to introduce the doctrine of electoral agency to make candidates accountable for any illegal conduct of their electoral agents, that is campaign managers, and to provide sanctions under the criminal law.
- to make consensual false enrolments and other electoral offences indictable offences and therefore not subject to a time limit for prosecution or, if there is a time limit, increasing that time.

Unfortunately this 12 months' time limit made it impossible for Mr. Justice Shepherdson himself to 'consider many prosecutions', a grave situation which he condemned in the most cogent terms. 'One matter, that is very clear from the proceedings before this Inquiry, is that the Inquiry has been extremely limited in what prosecution action it can recommend, solely because of the time limits for prosecution that apply to the relevant legislation that has been transgressed. **In most cases that legislation was the Commonwealth Electoral Act. If the offences committed had been indictable and therefore not subject to a time limitation for prosecution – a time limit that has long expired – I would have been able to consider many prosecutions.**

'It has been difficult to understand why the Commonwealth offence of making a false claim affecting the electoral roll is not an indictable offence: vide section 339 (1) (k) of the CEA by which prosecution of that offence after one year is barred.

'After all, the integrity of the electoral roll is fundamental to the legitimacy of our democratic system. That the electoral laws, operating in Queensland, also need revision and tightening to prevent, as far as possible, electoral fraud should not be in doubt.'

NB. Mr. Justice Shepherdson trenchantly complained of the Queensland electoral law, which set a 12 months' limitation for prosecution, as it prevented him considering a number of prosecutions. It had been adopted on the recommendation of the Electoral and Administrative Review Committee (EARC) of the ALP government of Premier Goss in 1992, chaired by the former Australian Electoral Commissioner, Dr Colin Hughes (1984-9), whose advice to that Committee doubtless strongly influenced their deliberations.

c) Special Commonwealth Inquiry, Joint Standing Committee on Electoral Matters

On August 23, 2000 the Coalition's Special Minister for State, Senator the Hon. C. Ellison, referred allegations of electoral fraud in the Queensland electoral roll to a special inquiry of the JSCEM with the brief to make recommendations about the adequacy of the Commonwealth Electoral Act to prevent fraud. He appointed Chris Pyne MP from South Australia as Chairman of the Special Inquiry, empowered to hold public hearings, subpoena witnesses and make recommendations.

His media release said 'in an affidavit tendered to the District Court by her solicitor, Ms Ehrmann provided information to the Australian Federal Police that the practice of electoral fraud was **'being used and it was known about, understood, and encouraged within some factions of the Labor Party at the highest level.'**

Hearings began on November 15, 2000. Nothing emerged from the evidence of AEC officials to contradict the assessment of a *Courier Mail* editorial of November 4, 2000- 'The (Australian Electoral) Commission's official stance on electoral fraud is that it is not going on in a widespread and organised way, and that most fraudulent enrolment that does occur is for purposes other than conspiring to rig an election. **The Commission has even gone so far as to accuse those, who question its view, of undermining public confidence in the electoral process. This is an unhealthy attitude and, as more evidence comes to light about electoral rorting, perhaps also a foolish one.' T**he AEC's attitude did prove very foolish indeed with 5 state and federal MP's of the ALP named in the Queensland CJC inquiry; and the downfall of an ALP Deputy Premier and returning officer of Queensland.

d) Commonwealth Ombudsman

The AEC asked the Commonwealth Ombudsman to investigate a claim that an 'insider' in the AEC's Brisbane office had supplied 'white cards' (acknowledgement cards of enrolment) as part of an ALP voting fraud scam. These were tendered to ALP head office to show members were enrolled and qualified to vote in ALP preselection ballots. But this was not the only accusation against the AEC to surface during the sensational exposes of these Queensland electoral scandals.

The *Courier Mail* reported 'it is also understood Commission employees will air

long-held concerns about some Queensland AEC practices to the Ombudsman. **One concerns boasts by a senior staff member of involvement in voting rorts before working with the AEC**. It may also look at claims made by current and former AEC staff in submissions to the Commonwealth's JSCEM (*Courier Mail March 11, 2000).'*

e) Legal, Constitutional and Administrative Review Committee (LCAR) – Qld.

On August 28, 2000 the Queensland Cabinet responded to the evidence of wholesale organised fraudulent enrolment on the Commonwealth electoral roll in all Queensland elections. It announced that, in November next, the LCAR Committee would recommend the introduction of compulsory identification, for which the Commonwealth government had already passed the necessary legislation. This would put an end to the practice that had been proved to be rampant not only in pre-selections but in parliamentary elections in Queensland, as Commonwealth legislation would require anyone seeking to enrol in future to produce evidence they were who they claimed to be.

But the Cabinet was wrong. The LCAR Committee refused to recommend ID on enrolment. Its decision was cynical and reprehensible in its denial of all the evidence that had emerged in courts, inquiries and the media. Instead it chose to endorse the belief of the ALP National Secretariat and the Australian Electoral Commission that **'the current system of enrolment has worked well for many years. It should not be altered in the absence of clear evidence that problems with the enrolment system have led to widespread fraudulent enrolment or major problems *(JSCEM Hansard Oct.13, 2000)'.***

The fact that the LCAR Committee was running dead on any reform to the enrolment procedures was even more astonishing in that the Australian Federal Police (AFP) was currently investigating 3 seats in south-east Queensland – Bowman (enrolment in name of a dead person), Ryan and Moncrieff (suspected fraudulent enrolment and attempts to submit duplicate voter enrolment forms) and four others concerning the 1987 federal election – Petrie, Ford, Hinkler and Fisher – Fisher being the most spectacular with a 'whistleblower' confessing at length to organised 'rorting' not only of that 1987 election but 'numerous state and federal elections.'

What became of these investigations I have no idea, nor with further investigations that were scheduled with another five 'whistleblowers', who could testify to the truth of what the first whistleblower had said. No one appears to know why the Federal Police, according to the *Courier Mail,* decided not to pursue any cross-examination of them after they were willing to come forward on a guarantee of anonymity.

Notabilities in denial of 'rorting'

a) The Australian Electoral Commission in denial

What emerges, as unconscionable, from the 3 trials and five inquiries of considerable gravity into widespread and organised false enrolment on the electoral

roll, in an entrenched culture of corruption to affect the results of elections, is the fact that the AEC can repeatedly deny a number of people have been playing havoc with that roll.

How could the AEC possibly justify telling the *Courier Mail* as it did on November 4, 2000, after all the damning revelations already made, **'that most fraudulent enrolment, that does occur, is for purposes other than conspiring to rig an election?**'

How could the AEC maintain the attitude reported in the *Courier Mail's* editorial that its **'official stance is that it is not going on in a widespread and organised way?**' How could the AEC, who stand accused in the dock of massive failure to protect our democracy, have the audacity to compound their denial by denouncing their accusers as the real criminals because they are 'undermining public confidence in the electoral process?' Did the AEC mean that Mr. Justice Shepherdson had 'undermined public confidence'?

b) Mike Seccombe, senior journalist *Sydney Morning Herald '* in denial

Unfortunately, journalists can sometimes be influenced. Even so, it is hard to see how a senior journalist, like Mike Seccombe of the *Sydney Morning Herald,* could have been when he advanced the AEC's claim, nearly 3 weeks later, that 'allegations of systematic electoral rorting… invariably prove to be baseless' and that 'no case has ever pointed to a conspiracy to commit fraud to steal an election (*Sydney Morning Herald November 22, 2000).*' To exculpate Mike Seccombe, it may be argued that the fraud in Queensland was not blazoned very much in the southern states, being largely contained to Queensland so that southerners never fully appreciated the ramifications and implications of all the revelations.

It is even more incomprehensible that Mike Seccombe would offer the same view as Premier Beattie who advanced the view that such allegations derive from 'conservatives' and 'the Liberal Party and its fellow travellers' when confronted with the whistleblower's startling revelations that had been blazoned abroad in the media. These were that organised conspiracy had affected the result in the federal electorate of Fisher in 1987, where the Liberal Party had lost the seat to the ALP. In fact a leading accusation had come from a member of the National Party while all the others came from a range of members of the ALP itself.

c) ALP Premier Beattie in denial

At the height of the revelations about an entrenched culture of fraud in the ALP for years, Premier Beattie, when questioned on the ABC's prime TV 7.30 Report program, said he was ignorant of any 'rorting'. Peter Beattie's denial is amazing given that he had been involved for 19 years in all levels of that ALP culture and admitted, in his autobiography *In the Arena,* he found a potential pre-selection voter 'not at home on the vacant block of land where she lived.'

He had been a trade union secretary of a small union covering such railway officials as station masters. He had been the protégé of the Queensland academic, Denis Murphy, of the Centre Left (now Labor Unity) assisting him in reform of the Queensland ALP constitution which was partly a faction fight to constrain the power

of the AWU. Denis Murphy emerged as President of the Queensland ALP, and Peter Beattie as secretary of the ALP Queensland Branch from 1981-8 after which he stood for the Queensland Parliament. During this period he ran 16 elections. He was also an ALP National Executive member and delegate to ALP National Conferences.

The following details are of particular relevance.

- Peter Beattie's close friend and mentor, Denis Murphy, stood for election in the seat of Stafford in 1983 against its incumbent since 1974, Terry Gygar. The latter referred a complaint about the conduct of that election to the Federal Police who launched an investigation. The accusation was that Murphy's workers had visited voters, registered as home voters under Queensland's electoral visitor scheme, with application forms and how-to-vote cards two days before the issue of the writs for the election. There were also rumours about postal voting. All this halted when Denis Murphy died shortly after the election.
- Peter Beattie was ALP campaign director in the 1987 federal election, investigated by Federal Police in 4 electorates during the Queensland electoral scandals, which he targeted, according to his autobiography *In the Arena,* achieving higher results than elsewhere. One was the electorate of Fisher, where the whistleblower's team used street-address rolls he said they had been given for the first time. Such street-address rolls were not available at the time to anyone else according to three key people - the ALP campaign manager for Fisher, the National ALP manager, Gary Gray, and the National Party electorate secretary, the computer lecturer, C. Smith in their statements to the media. So where did they come from? Peter Beattie, the State campaign director who boasts in his autobiography of installing state-of-the-art computer technology in Queensland ALP headquarters, has been silent.
- In 1989, Peter Beattie stood as candidate for ALP pre-selection for the State seat of Brisbane Central. He accepted the support of the Building Workers Industrial Union and two Labor Unity faction unions – the Waterside Workers Federation (Ron McLean) and the Electrical Trades Union (Ken Vaughan). His formidable candidate was Tim Carberry, solicitor of the Liquor Trades and Hospitality Union, which no doubt supported him in the contest with Peter Beattie. That union's 1986 Queensland Branch election had been frozen for blatant organised fraud in favour of the sitting Socialist Left officials, the rorting referred to Federal Police for prosecution and two of those officials sent to gaol. Faced with an opposition of that nature, it is intriguing that Peter Beattie nevertheless won that pre-selection.
- Peter Beattie would also have known that sitting members for the State seats of Salisbury and Stafford, Ian Henderson and Terry Gygar, were complaining in the Queensland Parliament in October 1989 of major 'roll stuffing' after an AEC roll cleanse both in their electorates and eight others.
- The MP for Stafford, Ian Henderson, found 2,965 names of 20,161 electors could not be matched and 608 had left the address for which they were still enrolled.

- The MP for Salisbury, Terry Gygar, found 17 at fake addresses in a cemetery, creeks and in creeks and vacant lots. 50 had left their addresses. 2,801 could not be matched by surname on the roll. 1,131 were still enrolled although they had paid their final electricity account. Among new enrolments he found 10 living in one house and 8,9 or more in small 2 bedroom flats. *(Queensland Hansard pp.1026-8 October 3, 1989)*
- The MP for Currumbin, Mr. Catley testified 'I have been checking the Currumbin roll and have found the same rorts, described by him, occurring in my electorate.'
- During the years 1990-2, Peter Beattie would have heard, or read, in the media the reports of the hearings of the Commissioner Cooke inquiry into 7 Queensland unions which exposed entrenched organised ballot-rigging on a scale sufficient to change the results of union elections.
- Peter Beattie would certainly have known details of false enrolments in Mundingburra given the fierce national spotlight on the contest in that electorate, which ended in the ALP government losing office in 1996. Liberal Party campaign workers had found people enrolled at vacant blocks, parks, creek beds and numerous other non-residential addresses. They had also found multiple families registered at the same address or at caravan parks and hotels who had never heard of them *(Qld Hansard August 22, 2000).*
- False enrolments in hundreds on Bribie Island, before the 1989 state election in the Glasshouse electorate, may already have been on the roll for the 1987 federal election as the controversial Fisher electorate at that time encompassed Bribie Island.

The 'whistleblowers' not in denial

A long-standing ALP member had contacted the *Courier Mail* in October, 2000 to admit that he, and other trusted party members, had cast illegal votes in numerous state and federal elections by using names on the roll of electors, who no longer lived at the addresses listed on the electoral roll as their place of residence. They identified them by door-knocking with street address rolls. They then, with the help of others, voted in those names across the electorate. He said he was one of those who had done this in the 60 or so booths of Fisher electorate in the 1987 federal election to ensure the election of the ALP candidate. Consequently Michael Lavarch won the seat from the Liberal Party incumbent, Peter Slipper, by 703 votes. One 16 year old girl had voted 14 times.

The 'insider', as the *Courier Mail* dubbed him, said 'vote-rorting' was something workers did willingly and frequently. It was endemic across the board, and had been going on for years. He admitted that '**in a marginal seat the potential to swing a result is obvious. If just a handful of workers out of a total campaign team of 100 are in on it, the rorting can be significant. If eight workers had each come up with 45 names in Fisher, it could have been enough to rort it. The odds of being caught are small**.'

The insider explained that he was telling his story because he, and a lot of other members of the ALP (who began afterwards to contact the *Courier Mail),* were angry that Karen Ehrmann had gone to jail because she had been abandoned by 'Labor heavyweights and thrown to the wolves. The real people were not going to jail.'

Danny O'Connell, a candidate in Queensland in the 1985 and 1986 elections, confirmed the insider's statements. 'When some Labor people talk and laugh among themselves they're not talking about policy and speeches. **They're talking about all the rorts and tricks that were pulled. There are a few song birds in the Labor Party now, but let me tell you they all did it. And there's a lot of disillusioned (former members) out there now.'** Danny O'Connell believed '**any successful investigations into electoral fraud would need to revolve around campaign managers** *(Hedley Thomas Courier Mail November 4, 2000).*

CHAPTER 8

AEC versus ELECTORS

PART 2

The Mystery of False Enrolments on Bribie Island

Among those to give evidence to this inquiry was the former Australian Electoral Commissioner Professor Hughes (1984-9) who, surprisingly, told its members that the one remaining issue in the electoral scandal furore, that had not been resolved, was that of Bribie Island. That was the discovery of hundreds of false enrolments on a 1989 electoral roll along the seaward side of Bribie Island in Pumicestone Passage and round the green side of Clayton's Park on the island itself.

I daresay that when Dr. Hughes (now Professor Hughes) told the JSCEM in November 2000, that the one remaining issue that had never been resolved was Bribie Island, he did not expect that anyone of Bob Bottom's brilliant investigative bent would spring up in that seemingly innocent paradise with a resolution that inevitably, with his remarkable skills, delivered an extraordinary story although he had no special interest in elections before the Queensland electoral scandals broke out. The story has already appeared at length in a foreword to a reprint of my book *Frauding of Votes* in 2001. But it is vital to the argumentation of this book to quote excerpts from that foreword.

'Towards the end of 2,000, following revelations in Queensland's *Courier Mail* and parliamentary concern over electoral rorting within ALP branches in Queensland, Premier Peter Beattie's Queensland government instituted a judicial inquiry through the Queensland Criminal Justice Commission. Presided over by Mr. Justice T. Shepherdson, the inquiry laid bare a plethora of material about ALP identities falsely enrolling for party preselection ballots and party plebiscites.

'Aside from reading about proceedings through the *Courier Mail* and continuing exposes by the *Courier Mail* in its own right, the inquiry to me was simply another matter of public interest. Then, during proceedings in November, 2000, a reference was made to alleged happenings on Bribie Island, about one hour's drive north of Brisbane where my wife, Judy, and I happen to own a weekly newspaper, *Island and Mainland News.* Out of local interest, we published the following small item on the front page of our Wednesday edition, 29 November.

"The Shepherdson inquiry has heard a claim of false enrolments in the State seat of Glasshouse in 1989. Counsel assisting the inquiry, Mr. Russell Hanson QC, said there was a suggestion people were moved in from Sydney and Melbourne and put into caravan parks in Glasshouse. The seat of Glasshouse covered Bribie Island as well as the neighbouring mainland. The seat was won in 1989 by Jon Sullivan, who held it under its renamed status as the seat of Caboolture until his defeat in 1998 by Mr. Bill Feldman. There has been no suggestion that Mr. Feldman knew of any rorting."

That day two people came into my office at the newspaper and related an extraordinary story. They recalled that, prior to the 1989 Queensland state election, they had been contracted to deliver letters addressed to electors throughout Bribie Island, then with a population of about 12,000. It involved delivery to about 4,600 homes and unit complexes. What they found was that many of the letters were addressed to people at addresses that simply did not exist. Well, what's new? Members of parliaments, federal and state, have long complained about mailing out letters to constituents and sometimes having large numbers returned. And, yes, from time to time subsequent inquiries have found that some people have been wrongly enrolled, or dead people left on the rolls.

'But the Bribie Island episode was unprecedented. That delivery was not by Australia :Post, whereby letters, churned out from party headquarters or electorate offices, are supplied to post offices and various mail sorters place them in street order for delivery by individual postmen. On Bribie Island, this singular mail out was contracted to private deliverers, with all of the letters already pre-sorted into street address order. Not only was it illegal, with Australia Post having a strict monopoly over the delivery of personally addressed mail, but it was vastly cheaper, especially in campaign funding terms. For such a delivery the cost was less than one eighth of what Australia Post would have charged. **More interesting still, at that time not even electoral authorities could assemble voter registrations in street order. Their computer capacity at that time was limited to assembling voter registrations in alphabetical order.**

'Out of a sense of duty, I immediately contacted staff assisting the Shepherdson Inquiry. As much as they might have tried, they got nowhere – and it might have remained that way except that more than two months later I happened to talk to Jon Sullivan. To me he readily recalled the 1989 mail out and, among other things, acknowledged that he was aware of letters that could not be delivered because of addresses that did not exist, and regarded it as an embarrassment not of his doing.

'Again I immediately contacted the Shepherdson Inquiry, but by then the inquiry was winding down and staff, I had previously dealt with, had been transferred back to other duties with the CJC. When it became obvious later that day 9 February, 2001, that it was unlikely that the inquiry could or would pursue the matter further, I was prompted to initiate my own action, much as I had done before on organised crime issues, especially since I had begun pulling together other material indicating the need for a much wider inquiry into electoral fraud allegations involving both state and federal jurisdictions.

'On Sunday, 11 February, I therefore issued the following press release: "Amid new allegations of false electoral enrolments on a massive scale, a call has been made for a federal-state royal commission into organised electoral fraud. The call has been made by former investigative journalist, Mr. Bob Bottom, who has previously been involved in forcing numerous Royal Commissions and judicial and parliamentary inquiries at federal and state levels into organised crime and corruption. Mr. Bottom said: Evidence had surfaced of false enrolments of hundreds of people at Bribie Island, north of Brisbane, his base for a small group of

independent newspapers.

‘ “He said the evidence relating to Bribie Island served to add credence to long-standing allegations that thousands of people may have been falsely enrolled in marginal electorates. The names of bogus voters were on an electoral roll used for a mass letterbox delivery to homes in the lead up to the 1989 Queensland state election for the seat of Glasshouse. There is no disputing that it happened. The delivery was made independent of Australia Post and the then ALP candidate, Jon Sullivan, has confirmed that it was carried out on his behalf using a roll obtained from the Electoral Commission.

‘ “Mr. Bottom said: Mr. Sullivan himself had told him that he was embarrassed when boxes and boxes of envelopes addressed to voters were returned to him. The mail-out had revealed false enrolment on an organised scale, not ad-hoc false enrolments that had become a familiar feature of perennial election complaints.

‘ “At Bribie Island, names from the electoral roll were listed one after another along kilometre after kilometre of vacant waterfront land along Pumicestone Passage and around an area, perhaps appropriately named Clayton’s Park, as well as other one-sided streets on the island which then had a population of about 12,000. Prior to Mr. Sullivan confirming details of the mail-out last week, the Queensland Criminal Justice Commission’s Shepherdson inquiry had investigated the matter without result.

‘ “In a letter of Mr. Bottom, dated 13 December, 2000, the Commission had advised that it had obtained an 1989 electoral roll for the seat of Glasshouse, containing approximately 28,000 names. Officers of the Commission had conducted an examination of approximately 25% of the roll and could not locate any street numbers which were consistent with the allegations made. ‘Accordingly,’ the Commission concluded ‘no further examination of the roll is warranted. In these circumstances, unless your source can provide specific details of names and addresses, the Commission does not consider that the investigation can be productively advanced.’

‘ “Mr. Bottom said: notwithstanding the good work of the Shepherdson inquiry, its inquiries had been largely confined to false enrolments involving party pre-selection ballots which, though serious, might not have ever affected general election results. Significantly, allegations of massive false enrolments had been raised in the Queensland Parliament in October 1989 about the very time the mail-out was being carried out at Bribie Island –two months before the 1989 Queensland election.

‘ “These allegations had included claims that 2,965 names on the roll for the state seat of Stafford could not be matched and that 608 voters had left the addresses for which they had remained registered. In the seat of Salisbury, it was claimed that another 2,801 voters could not be matched with 17 at fake addresses including vacant lost, and 1,131 remained enrolled although their final electricity bills had been paid.

‘ “Mr. Bottom said: Just as Fitzgerald concentrated on vice and gambling and failed to investigate drugs, Shepherdson appears to have concentrated on pre-selections and plebiscites without having time to pursue allegations of rorting of general elections. As things stand, as far as the Bribie Island episode is concerned,

Jon Sullivan appears to have been a hapless victim. Anybody could have been responsible for corrupting the roll he used – Labor, National or Liberal, or somebody else.

‘ “As Jon Sullivan has surmised to me, if the Shepherdson inquiry has been able to unearth original copies of enrolment cards signed by so-called ALP rorters for as far back as 1983, surely the cards still exist for the corrupted roll supplied by the Electoral Commission for the mail-out on Bribie Island. In response the Commission had advised that it had ‘no jurisdiction’ in relation to federal electoral matters and, accordingly, the Commission could not investigate the allegations.

‘ “**The evidence of mass false enrolments, relating to Bribie Island and, by implication, other areas, reveals a pattern of electoral rorting striking at the very heart of the democratic process of Australia.** As the *Courier Mail’s* chief reporter, Tony Koch, observed on Saturday in his weekly column, millions of people lost their lives fighting in wars for us to have the right to vote.

‘ **“**Since Commonwealth and State rolls are now combined for all elections, including for local government, a Joint Royal Commission should be set up, as was done on a number of occasions for organised crime, to investigate all forms of electoral fraud to ensure the future integrity of the whole electoral process.”

‘Curiously the release did not rate in the print media of Queensland, preoccupied as it was then in a conspicuous pro-Labor campaign for the Queensland state election then only a week away, but it resulted in a number of interviews on ABC radio and significant radio, as well as television interviews, from Sydney. In Queensland the response was akin to a conspiracy of silence. It was not an auspicious time for stirring the possum.

‘In November, 2000 when talk was in the air about the possibility of an early election more than 3 months before it was eventually held, Peter Beattie consulted Bob Longland, Queensland director for the AEC, and issued a fax to all media outlets advising that he had been assured by Longland that the rolls would be ‘clean for an election in 2001.’ Surprisingly on January 22, 2001, Mr. Bob Longland, Queensland AEO for the AEC, approved a mail-out of more than 600,000 letters to people throughout Queensland, believed to be wrongly enrolled. The very next day, Premier Beattie announced the election for 17 February. By the time of closing of the rolls for the election, only an estimated 80,000 returned letters had been processed, leaving more than half a million names on the rolls deemed by the AEC itself to be wrongly enrolled. Anyone with access to those names could have voted for any of them.

‘Just before the election, it was discovered that, in the electorate of Pumicestone (a newly named seat including Bribie Island) whole streets of voters had been mysteriously removed from the roll. When complaints were lodged, electoral officials, with less than two hours before polling, arranged for letters to be delivered by courier to individual voters that they would be assured of a vote when they turned up at the booths. As it turned out, John Sullivan’s wife, Carryn, won the seat fair and square with a sizeable majority.

‘With the election out of the way, an officer of the Criminal Justice Commission

(CJC) contacted me, querying what I had said in radio and television interviews about electoral fraud on Bribie Island. Appropriately I suggested the CJC should interview Jon Sullivan, who had got hold of a copy of my press release and, in conversations with me, had not disagreed with any point except the number of letters returned.

'In a letter, dated 7 March, from the CJC I was advised that, when interviewed Mr. Sullivan had "stated that the mail-out, to which you refer, consisted of personally addressed envelopes from ALP headquarters. He stated that he sorted them into streets himself, probably with the assistance of his wife and other campaign helpers. He stated that there were no envelopes returned to him in any great numbers that he can recall. He also suggested they may have been returned to ALP state headquarters rather than to himself. He stated that, as far as he was aware, the exercise was a straightforward mail-out with nothing out of the ordinary. He stated that he was not aware of any irregularities regarding the mail-out. He indicated that, as he personally sorted the envelopes into street order, he would have become suspicious had there been letters addressed to even numbers in a street where in fact there were no even numbers. He denied telling you that a substantial number of envelopes were returned to him after the mail-out….. In these circumstances the CJC is not in a position to advance the investigation and therefore intends to take no further action concerning it."

'As outlined earlier in reference to the Shepherdson inquiry, the CJC had no jurisdiction any way to investigate general electoral fraud and Sullivan did not fall within any of the terms of reference of Shepherdson who had to concentrate on plebiscites and pre-selections. An AWU faction member, Sullivan, had originally been endorsed without having to go through a pre-selection contest. Had the CJC troubled to examine statistical evidence from voting results of the 1989 election it might have been more inclined to conduct a more thorough inquiry.

'Bribie Island is an island some 40 kilometres long, with residential areas concentrated at the south-eastern end where the island is connected to the mainland by a bridge. In 1989 voting booths were located at each of 3 suburbs – Woorim on the ocean side and Bongaree and Bellara along Pumicestone Passage. Below, voting records in the 1987 federal election for the seat of Fisher are compared with those for the 1989 state election for the seat of Glasshouse at the three Bribie Island booths:

Poll Booth	**1987**	**1989**	**Change**
Worrim	626	683	+67
Bongaree	2275	2202	-73
Bellara	1515	2394	+879

'In the state election of 1989, an increase of 9.1% of votes was cast at Woorim, a decrease of 3.2% at Bongaree and an extraordinary increase of 58% at Bellara! On those figures, Bellara would have had to have the greatest population boom in Australian history.

'Such a discrepancy at Bribie Island is consistent with various question marks about the 1989 Queensland election. The election was held within months of the

release of the final report of the historic Commission of Inquiry presided over by GE (Tony) Fitzgerald, in which it recommended establishment of an Electoral and Administrative Review Commission, largely to correct notorious gerrymandering of electoral boundaries under previous National-Liberal administrations as well as Labor administrations.

'But Fitzgerald also was concerned about electoral fraud generally. As he put it, "a fundamental tenet of the established system of parliamentary democracy is that public opinion is given effect by regular, free, fair elections following open debate." **In particular, Fitzgerald recommended that the state electoral act be reviewed in an impartial manner to ensure that more effective means are developed to guarantee the accuracy of electoral rolls to prevent fraudulent practices.'**

'An Electoral and Administrative Review Commission was established and then, as a result of its recommendations, an Electoral Commission Queensland (ECQ). Without the resources of a CJC, judicial inquiry or Royal Commission, electoral roll discrepancies are especially difficult to investigate fully using one's own resources. As an exercise, however, I did seek to check the state rolls leading up to the 1989 state election.

'One of the first tasks of the newly established Electoral and Administrative Review Commission (EARC) was to examine the state of the (Queensland) state rolls, which resulted in a special report released less than a year after the 1989 state election. Unlike other states Queensland had, since Federation, continued to maintain its rolls separate to those of the Commonwealth, whereas other states had opted for state-federal rolls. Despite long-standing recommendations to do so, Queensland resisted and, as late as 1988, the then Queensland Minister for Justice and Attorney-General, who was responsible for electoral matters, prepared a recommendation to go to Cabinet.

'But these were the heady dying days of Joh Bjelke-Petersen's National Party government and, according to EARC's report "while the Minister was still personally in favour of such an arrangement, he had reservations about taking it to Cabinet". EARC surmised: "the most plausible explanation is suspicion at the political level that use of the Commonwealth roll would be disadvantageous in some way to the governing party of the day, and this view prevailed under Labor and non-Labor governments alike."

'On the recommendation of EARC, Queensland opted to adopt a joint federal-state roll and that was achieved by January 1992, along with the establishment of the Electoral Commission Queensland (ECQ). Under the old regime, administration of electoral matters was handled as a phantom unit of the Justice Department with its director-general, an obvious political appointment, assuming the mantle of chief returning officer with other returning officers appointed throughout the state only at election time on a temporary basis. It was a situation ripe for pure political appointments and, indeed, many returning officers in those days conducted elections from their own homes.

'Not surprisingly, in its 1990 report, EARC acknowledged public concern over electoral rolls, citing 57 items published in the Brisbane metropolitan media between

November 1986 to March 1990, all but four of which related to the Queensland rolls. Inquiries by EARC disclosed extraordinary discrepancies between the number of electors on Queensland rolls when compared with Commonwealth rolls.

It was discovered that, when the Queensland election was held on 1 November 1986, there were 1,563,294 voters on the Queensland rolls - 45,732 fewer than the 1,618,358 gazetted by the Commonwealth for Queensland the day before. Then when the next Queensland election was held on 2 December 1987, there were 1,780,785 voters on the Queensland roll - 46,580 more than the 1,752,405 gazetted by the Commonwealth for Queensland the day before. If a fair proportion of those 46,580 extra votes had been enrolled in marginal seats, it would have been enough to swing an election.

'To find out more about what EARC had disclosed, I sought to get access to any working papers, submissions or exhibits EARC might have used. I have rarely had difficulty tracking down such back-up paperwork from similar bodies or judicial inquiries. I telephoned David Solomon, now editorial writer for the *Courier Mail,* who had been the chairman of EARC when it finished its work and disbanded in the mid-1990's. As far as he was concerned, except for 3 or 4 pieces of paper that were designated secret or confidential, he remembered directing all paperwork from EARC to the Queensland State Archives for public access and historical research. However, when I contacted State Archives to arrange access, a friendly assistant faithfully logged-on to the computerised references to EARC to identify what was in storage only to advise, in a tone of embarrassment, that I could not have access after all - for all of it had been placed under a 30 year secrecy rule. Governments of various persuasions may come and go for another couple of decades and more before anybody will know what EARC knew.

'Unbeknown to most people, by the time an electoral roll is printed it is already out of date. So, with the assistance of the Queensland State Archives, I tracked down computer print outs for voter registration transactions for the relevant period. Thousands upon thousands of names were listed for various dates either going on or going off the roll.

A search of as many names as possible by both myself and my wife at the State Archives complex at Runcorn in outer Brisbane did not disclose any names with addresses nominated on the 1989 electoral roll – much as the Shepherdson check of the roll had found. What our examination of computer printouts did indicate was an extraordinary number of transactions recording enrolments for caravan parks on Bribie Island. If the Shepherdson inquiry had pursued its own allegation relating to stacking of caravan parks in the state seat of Glasshouse in 1989 it might have had a field day.

'When I spoke to Jon Sullivan he said, and probably assumed, that the addresses for the Bribie Island mail-out had come from the state electoral roll and, if that had been so, they would have had to have been from a previous roll, used as it was before a supplementary roll was declared for the actual 1989 election. When Jon Sullivan spoke to the CJC, he is quoted as saying the addressed envelopes had come from ALP headquarters. At the time of the 1989 Queensland election, according to

EARC's published report of 1990, there was no provision in the then current Queensland electoral act "for political parties to purchase electronic rolls," although it did add that the fact that there were no restrictions on use of electronic information by MLA's, which however had given political parties 'de facto' access to electronic roll data.

'Which raises the question: were the addresses used for the Bribie Island mail-out from a Queensland State roll or a Commonwealth roll? In other words, could they have come from whatever roll that happened to be available on a computer at the time at ALP headquarters, as long as it could be used to mail out a political message to Bribie Island voters? Political parties did have legal access to Commonwealth rolls. Which raised another question: could the roll used have been the one used for the previous federal election in 1987 for the electorate of Fisher. Bribie Island was a key component of the Fisher electorate at the time.

Federal electorate of Fisher in the 1987 election

'Allegations about electoral irregularities surrounding the 1987 election in Fisher electorate are now legendary – more so than in any other electorate in Australia. Again I sought to get access to a copy of that particular roll. First I tried usual sources such as local libraries and political campaign sources. Nobody had one. Through contacts in Canberra I tried to get one at a federal level. No, again, no copy could be found. I was advised that an "official" copy was always preserved by the State Library of Queensland. 'Yes', I was advised when I telephoned, a copy was available for public access.

'When I went to the library, a helpful assistant arranged a seat for me to view the roll on microfiche. Then she went to get it from the archives. Embarrassed, she returned and told me red-faced that she could not find it. I must have looked quizzical for she then went back to the archives and came out with a box of microfiche records to convince me. She displayed the contents of the box and nominated microfiche copies of every roll for 1987 for every electorate in Queensland except Fisher. She explained that not only was it embarrassing but it was obvious somebody had removed it without authority. She then checked the indices and could find no record of when or how it had disappeared.

'It was a matter of some consequence for the State Library, which prides itself on having preserved every roll for Queensland since 1860. It may be one thing for a roll to disappear 14 years after an election but, in retrospect, it was just as difficult in the immediate wake of the 1987 election for anybody to get one's hands on a copy of the roll for Fisher. One person who was desperate to examine it at the time of the 1987 election was a man named Colin Graham Smith, who wrote a contemporaneous report on alleged electoral fraud in Fisher.

'Dated 5 April, 1988, the report was in the form of a submission to the then JSCEM. In the report he complained about not being able to get access to a copy of the roll (although National Party secretary for that electorate). Later he did get a copy, but only through the intervention of the then National Party Premier of Queensland, Mike Ahern, who had to exercise the full powers of his office to get one (under

Freedom for Information) and then only in loose-leaf form. Unfortunately later it too went missing. Graham Smith's submission was ignored by the JSCEM, a member of which was the newly elected Labor member for Fisher.

'According to Smith 'there is a considerable body of opinion in the electorates that the last federal election (1987) was rigged from beginning to end. This has been said to have been achieved by persons unknown putting 100,000 dummy voters on the rolls in the twelve marginal seats. Even if the 100,000 were an exaggeration, and the number was only half that, it has to be agreed that a fraud of such a magnitude could change the outcome of the election. In the seat of Fisher, it has been stated by some that 5,000 names were added in the period just prior to the closing of the roll. In the rush to get the rolls printed, there was insufficient time to exhaustively check the validity of all such enrolments.

'In his 6 page submission, Smith detailed various ways in which he maintained a fraud could be perpetrated without trace, indicators of the likelihood that such a fraud did take place and grounds for suspecting a cover up. Graham Smith wrote 'perhaps I have disturbed some sacred cows, and my comments may be given the Australian short shrift – if you cannot win the argument discredit the presenter. Whether the JSCEM takes such action is in its hands. If it is so short-sighted, then Australia will be the poorer. In defence, I must say that, as a Fellow of the Australian Computer Society, I was a Senior Lecturer at the Queensland Institute of Technology for some eight and a half years. **I have been involved with computers since 1961 and am fully aware of the potential of computer systems for abuse as well as good.'**

'Nearly 14 years later, Graham Smith was to prove hauntingly prophetic. A major expose in the *Courier Mail* on November 4, 2000 alleged that rorted voting contributed to the 1987 election victory of Labor candidate, Michael Lavarch, in the Fisher electorate. Written by investigative journalists, Hedley Thomas and Chris Griffith, the exposure relied largely upon information from a party insider. The insider was quoted as saying that he and other party supporters had cast numerous votes for Lavarch and other ALP candidates at state and federal elections by illegally impersonating people. His claims, emphatically rejected as nonsense by Lavarch and his then campaign manager, Barry Large, raised serious questions about the result of a number of elections for marginal seats since the 1980's.

'For its investigation the *Courier Mail* inspected documentation verifying the source's close involvement in the 1987 campaign. Thomas and Griffith wrote that the claims also broadened concern about electoral fraud beyond ALP internal preselections, as revealed at the then current Shepherdson inquiry, to the subversion of public elections. As they reported, the insider, a member of the 1987 ALP campaign team, said the voting rort involved at first compiling the names of voters who had left the Fisher electorate but were still listed as enrolled there. Supporters then cast votes in those names on polling day. Some supporters, including a girl too young to vote, cast ballots more than a dozen times. The insider, who did not suggest 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.

"We got one girl of 18 from Young Labor who thought it was quite exciting. She

voted 14 times," the insider told the Co*urier Mail* . The rorting had been orchestrated with 'a nudge and a wink' and there had been competition to see who could compile the largest list of departed voters. The names of people they impersonated on polling day were compiled by a trusted inner circle among campaign workers trudging the streets of Fisher to canvass support for Lavarch.

'Those involved in rorting the votes had carried lists of enrolled voters whose names were sorted by address. As they doorknocked the campaigners would cross-check who lived at the address with the listed names. They underlined names of people still enrolled at addresses they had left and whom they felt would not vote inside the electorate. They then voted for them because no identification was required. A high number of caravans in parks in the electorate, as well as rental properties with tenants coming and going, enhance the rort.

'The insider told the *Courier Mail* that 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. In response, Lavarch was quoted by the *Courier Mail* as saying that there was not "any truth whatsoever in what the person is saying." Campaign manager, Barry Large, was quoted as saying "I can say quite categorically that not only was that never talked about, it was never thought about by the people in that or any campaign I have been involved in."

'A separate ALP insider, who later contacted me also talked of similar happenings as those disclosed by the *Courier Mail* but on the south side of Brisbane. **According to him, a clique of volunteer campaign workers used manila folders with printouts of electors' names to lodge votes at nominated booths, along with names of certain school teachers working at booths who were supposedly on side. The names of electors listed were referred to as "pets".** Queensland's ALP Premier Peter Beattie reacted to the *Courier Mail* exposure by calling on the Prime Minister, John Howard, to institute an Australian Federal Police investigation into the *Courier Mail* allegations.

'For a follow-up exposure on 9 November, the by-lines of Hedley Thomas and Chris Griffith were joined by Dennis Atkins, one of Queensland's most knowledgeable political journalists who had graduated to federal politics as the *Courier Mail's* Canberra correspondent. **In that article, the journalistic trio revealed that the voting rort used to Labor advantage in the 1987 federal election was perfected at a seat in the 1986 state election.** Of all places, it was the seat of Caboolture. Again quoting a Labor insider, the story stated that some ALP supporters in the 1986 Caboolture election had also used computer print-outs of voters' names listed in street order to compile lists of people enrolled at addresses they had left. ALP supporters had then voted at the 1986 election using those names.

'Labor's 1986 candidate for Caboolture, Ken Hayward, and his long-time campaign director, Ian Burgett, rejected the claims of rorting but confirmed that street lists in the form of computer print-outs were used in the 1986 Caboolture campaign. Mr. Hayward was quoted as saying that Burgett had not used a commercial ALP computer program to produce the street lists but had organised it using a Queensland Institute of Technology computer. Mr. Burgett, a union organiser,

and later an ALP candidate in Fisher, said he got the idea of re-formatting the rolls in street order, but there was no scam. Hayward won the Caboolture seat by 1,386 votes. Burgett was quoted by Craig Johnstone of the *Courier Mail* as saying he used the lists to legally add 1,400 people to the state roll.

'Curiously, Gary Gray, the Labor Party's former national campaign director, who ran Labor's 1987 marginal seats campaigns, sought to dismiss the claims as 'implausible and impossible' maintaining that it was highly unlikely anyone involved in the Fisher campaign that year had access to an electoral roll listing voters in residential street order. In a separate article in the same 9 November edition of the *Courier Mail* Craig Johnstone wrote: "However Ian Burgett's recollections about the use of computer-assisted campaign tactics in those days appear to put into question the insistence by senior Labor figures that no such technology existed at the time. Fisher as it happens," Johnstone wrote, "was also one of six federal seats that Labor specifically targeted in the 1987 federal campaign, an election Labor campaigners say was notable for its use of sophisticated campaign technology."

'Which Labor campaigners? Well one of them was State Labor's campaign director at the time, Peter Beattie. In his book *In the Arena* Beattie says he made a point of installing state-of-the-art technology at Labor headquarters after he became Labor Party secretary in 1981. By the end of the 1980's, according to Beattie, the Queensland branch of the ALP had a computer system "superior to that owned by any political party in Australia." Of the 1987 federal campaign he wrote: "this time around my job was much easier. The 1986 state election had given us experience with the latest computer technology. It was no longer a novelty with which we felt uncomfortable. We were able to mobilise it and utilise it to maximum advantage."

'On March 20, 2002, Bob Bottom gave the Prime Minister, John Howard, a letter when he visited the Pine Rivers area north of Brisbane, which had been part of the Fisher Electorate in 1987. In this he said: "As part of my investigation, I have been researching all electoral matters that may relate to fraud, past and present. What has become obvious is that so-called 'democratic reforms' implemented nationally under Labor in the early 1980's (and likewise under Labor in Queensland in the early 1990's) have paved the way for not only rorting for party plebiscite and pre-selections but for fraudulent enrolments for general elections. No current authority, AEC or AFP, has any effective measures in place to prevent it. In the transcripts of the Pyne Inquiry (of the JSCEM) and elsewhere, they belatedly admit it – with even Professor Colin Hughes *(Australian Electoral Commissioner 1984-9)* now conceding the effect of changes since 1983."

'Seven days later, on 27 March, the Pyne Inquiry ended on an interesting note with the following final comment by a witness before the committee, Lynton Crosby (Federal Director, Liberal Party): "I also know that Bob Bottom, someone who is well known as an investigative journalist, cited very serious concerns in relation to enrolments on Bribie Island which I do not think have been fully or clearly investigated. His allegations, which received some media coverage in Queensland, certainly pointed to potentially some widespread incidents of illegal or dubious enrolments. So the point that we made at the very start is the point with which I

would conclude my response – that is you need a system that has such a standard that things are not only done properly, but you also have confidence that they are being done properly. **The confidence can only be re-established if there are improved enrolment procedures applied to the Commonwealth Electoral Act. It is unfortunate that the Labor Party totally rejects those in its submission. But we strongly support them and we believe the overwhelming majority of Australian people support them too in order to rebuild and sustain confidence in the electoral roll and the operations of the Australian Electoral Commission."**

Mystery of the street-addressed rolls used in Fisher electorate 1987 Election

Exactly what advantage did the street-addressed rolls give the whistleblower, who said it was 'a major advance' as he had not had them before – 'major advance' of course meaning it was easier to carry out his intention of organising serious fraudulent voting in that electorate. It meant they could be sorted by computer into 'street walks' which is how they were used by habitation reviewers of the AEC itself when checking enrolments. The street walk rolls of the habitation reviewers were based roughly on 250 street walks; and these based on the census. They were still being used by the habitation reviewers in 1987 as habitation reviews were not abolished in Australia until 13 years later. They were not available to political parties and candidates in 1986 and 1987, unless by special access.

The whistleblower's assertion to a *Courier Mail* reporter that he had them in 1987 has led to the puzzling debate, related by Bob Bottom, as to whether or not computer technology was available to the ALP for him to have received the street-addressed rolls in time; puzzling because the election was called on very short notice, no hard copy roll had been printed mid-term and no one received any up-to-date rolls until the very last minute. It was also puzzling because it evoked such emphatic denials from four sources.

1. **Barry Large, Lavarch's campaign manager**

   'Such a facility was 'computer crap and we never had anything like it.' He believed such technology only became widely available in the 1990's *(Courier Mail Nov.9 2000).*

2. **Gary Gray, former ALP national secretary**

   Gary Gray and other senior ALP figures have suggested that the only technology the ALP utilised, that would have been capable of such manipulation, a programme called Pollfile, was only used for direct mail campaigns and was not used in Fisher electorate *(ibid)*.

3. **Michael Lavarch, ALP member who won the election for Fisher 1987-93**

   'If this bloke is saying that in 1987 he had a list of some names he is lying to you. We had no such capacity, no such list. It could not physically have happened *(ibid).'*

4. **Mike Seccombe, Sydney Morning Herald Reporter**

'The anonymous person, who made the claims, alleged the rort was using computerised election data Labor denies existed at the time *(SMH. Nov. 11, 2000).'*

The intriguing feature of these four vehement statements is that the statement of Gary Gray, the most senior ALP official in Australia, contradicts what the other three had to say. The ALP did have a computer program called Pollfile used for direct mail campaigning, which obviously could have been used for the contentious mail-out to Bribie Island analysed in detail by Bob Bottom. The only other organisations that had moved into computer technology were the Australian Electoral Commission and the Queensland Electoral Commission.

So who did give the insider the street-walk rolls in 1987? Was it the ALP's campaign director, Peter Beattie? He was acquiring the skills and equipment, according to his own testimony in his autobiography *In the Arena* and stated that the campaign in Caboolture in the 1986 Queensland state election had been a model for the later campaign in Fisher.

The campaign manager for the ALP candidate, Ken Hayward, in that campaign in Caboolture certainly admitted he gave a magnetic tape from the Queensland Electoral Office to the Queensland Institute of Technology **to reformat it into street address rolls to enrol new voters for the State election,** but claimed these rolls were, to the best of his knowledge, not used in the federal election in Fisher. But, if they were used in Fisher, Ken Hayward, a bit player in one electorate in the grand drama of Queensland politics, would have been highly unlikely to have been privy to any connivance to give them to the whistleblower to have them, given that no one else in political parties or candidates had them at the time.

What is most extraordinary about this confession in the year 2000 is not merely that a magnetic tape of any electoral roll had been made available by the Queensland Electoral Office to just one campaign manager when no candidates or parties, either at state or federal level, had been provided with such a magnetic tape. It is that no one, either in its successor, Electoral Commission Queensland, or the AEC appear to have initiated any inquiry whatsoever in the year 2000 after public revelations that left so much unexplained that went to the heart not only of the integrity of the roll, but the integrity of both Electoral Commissions.

Why should there be an inquiry? Someone in either of those offices, the AEC or the Queensland Electoral Office of the day, gave one political party an advantage over another by giving the magnetic tape to an ALP campaign manager in one electorate. Was it the Electoral Officer himself or one of his staff? Did the person give it to the ALP campaign manager for Queensland, Peter Beattie, who admitted the ALP was using Caboolture as a test case for the coming federal election, or did that person give it direct to Ken Hayward? Were the street addressed rolls Ken Hayward created the same as those used by the whistleblower and his team in the federal election? If not, who gave them to the whistleblower? If they were not the same did they get another magnetic tape for somewhere else and sort them into street

address all over again?

There has been no conclusion to the federal police inquiry on this *contretemps* of the whistleblower, and the other 5 potential whistleblowers who were prepared to give evidence if their anonymity was preserved. No prosecutions have been sought. No hearings by the Queensland Parliament or otherwise have been initiated. The AEC did ask that the chief whistleblower be subpoenaed to appear before the JSCEM to give evidence, but one would expect a similar answer to the one given by Senator Short to the JSCEM in 1988 concerning ALP whistleblowers, who knew of 'safe houses' where multiple names could be falsely enrolled: 'They don't want to get their throats cut.' The issue has fallen politically into a black hole.

The Missing electoral roll for the 1987 federal election

But the issue did not fall into a community black hole, as is clear from the foregoing extracts of Bob Bottom's journey of discovery down a perplexing trail awakened by the incredible, escalating electoral scandals in Queensland. One of the strangest facts to emerge was how, in an enthralling piece of detective work, Bob Bottom exposed the mystery of a missing statutory hard copy print of the federal electoral roll for 1986.

It was a twist of fate for me that our work in the H.S. Chapman Society came to his notice in the process. The consequence was that he gave me the benefit of his intimate knowledge of the neighbourhoods where his local newspapers ran and Queensland politics, as I followed his journey down that perplexing trail, and gave some small help.

I had already wondered whether certified rolls available in polling booths on polling day could ever be different from those scrutineers sighted or printed rolls in archives. This arose from the fact C.Graham Smith, electorate secretary for the National Party in Fisher, had already raised this question. Moreover he had not been the only person to do so. A private citizen, Mervyn Draper, had made the same complaint in the electorate of Dobell in an affidavit to the Joint Standing Committee on Electoral Matters. Both these men were forced to secure copies of the roll through Freedom of Information, which involved months of delay; Graham Smith only through Premier Ahearn. Both said the rolls the AEC ultimately gave them were not the same as those used in the election.

The affidavit of John Mervyn Draper

John Mervyn Draper of RMB 2100 Great Road, Kulnura do solemnly and sincerely declare, that on Saturday 11 July 1987, I attended at the Kunura polling place in order to vote at the federal election being held. **When I attempted to claim my vote, I was told my name was not on the roll. I asked to see the roll as I had been on it for many years.** Upon seeing the roll for myself I could see that I was not on it nor was my wife, Jean Nina Draper, nor my son Peter John Draper.

At the same time I noticed many other entries on the roll that had addresses recorded against them that clearly were outside the electorate of Dobell. I remember specifically seeing Hexham and Queensland addresses on the roll.

I claimed a provisional vote from the presiding officer as did my son, as I knew I

had been on the roll at the 1984 federal election. **The polling official to whom I had spoken, when I claimed my provisional vote, said that persons, who had been enrolled for many years, had also claimed provisional votes when they found they had been removed from the roll to the point that the booth was about to run out of forms.**

I have since seen a copy of a printed roll purporting to be the 1987 electoral roll for Dobell that was used at the 1987 federal election at which I attempted to vote. **There was no sign on that roll of the non-local addresses I saw on the roll used on election day. I was subsequently notified by the Australian Electoral Commission that my provisional vote had been disallowed because no evidence could be found that my name should have been on a roll for the district** ***(Affidavit declared on February 15 and submitted to the JSCEM),'***

Mr. Draper's affidavit did not raise a ripple in the JSCEM but it should have. Here is an elector swearing on oath that he saw two different rolls for the 1987 election pertaining to Dobell, and another elector saying that he only secured one with great difficulty at all long after the election. None of the alarm bells, AEC Commissioner Dr. Hughes, told the JSCEM in 1988 would start ringing at any hint of irregularities. In any case, no records would have been available as the new regime now destroyed them within 6 months unless a petition had been lodged in a court of disputed returns,

Nothing to trouble the surface of a supposed JSCEM committee of the Commonwealth Parliament until 18 years later when the Queensland electoral scandals unexpectedly exposed the AEC's sin of total omission when Bob Bottom went looking for a copy of the hardcopy 1987 electoral roll.

What was the real story about the 1987 electoral roll?

Now the sequel to the above story is very strange, because it transpired, in the course of production of a Channel 9 Sunday program, that the AEC was obliged to admit that no statutory printed roll was ever produced for the whole of Australia for that election; a fact that presenter Ross Coulthardt mentioned when the program went to air.

By a curious twist of fate, Channel 9 Sunday TV program had stepped into the picture and unravelled the mystery, but not at once. They had obviously had their weather eye on the sensational disclosures, betrayals, and paybacks of the Queensland electoral scandals to pluck a story from the ruins of so many careers. They were doubtless further intrigued by a summons from so powerful a voice as that of Bob Bottom for a national Royal Commission. But to be intrigued is obviously not enough for the most important political program in Australia. There had to be an integrated story to pose the leading question. Could fraudulent enrolment affect parliamentary elections or not?

I was privileged to meet these highly skilled professionals who, as ever, are up against very short-term deadlines to produce compact stories on complex subjects in a short time frame – in this case senior researcher, Nick Rushworth, and researcher and presenter, Ross Coulthardt. In any case stories on elections are difficult, because

the very fact they are conducted by secret ballots makes electoral fraud one of the most invisible of all crimes.

However the research of Bob Bottom had uncovered splendid visual material with the 1989 stories of all those false enrolments on the beach of Pumicestone Passage and round the green side of Clayton's Park of Bribie Island; and my own research had located Terry Gygar with his story of those false enrolments in cemeteries and creekbeds in Stafford state electorate in 1989 when he was the member.

But the researches of Ross Coulthardt were destined to uncover the not so visual story in the mystery of the missing file for the 1987 election, which we had not resolved. Suspected, yes, for different reasons. Bob Bottom because he could not find one, but only suspicion because C.J. Smith had been given one under Freedom of Information. I had doubts myself, whether there ever was one in the first place, because I had vaguely remembered accusations in submissions to the JSCEM that parties and candidates were forced to use a 1984 hard copy roll for the federal 1987 election, because none had been printed in 1986. But suspicion and doubts are one thing. Ross Coulthardt unravelled the truth – there never had been a hard copy roll for the 1987 election in the first place.

The Saga of how Ross Coulthardt unravelled the truth

Section 89 of the Commonwealth Electoral Act 1918 (relating to Printing of Rolls) dictates that 'rolls shall be printed whenever the Electoral Commission so directs but so that the Rolls are printed at least once during the period of 2 years after the commencement of the first session of the Parliament after a general election.' Because Ross Coulthardt is an astute researcher, who speedily grasps the core issues in public debates, he posed a number of searching questions to the Australian Electoral Commission on June 8, 2001, including the specific question 'were there ever printed rolls for Fisher (electorate)?' Ross Coulthardt referred particularly to the mid-term printed bound roll

Ann Bright of the AEC Information Section was assigned to respond. She particularised this roll for him on June 6, 2001 as the one **printed by division, once within the life of a Parliament, and within 2 years after the commencement of the first session. It is distributed to libraries, Members of Parliament and Political Parties and is available for sale to the public.'**

But she evaded a direct answer as to whether the AEC had in fact printed one: 'An investigation reveals that the print of a bound roll, in accordance with section 89 of the CEA, **may** not have occurred in 1987.' My explanation for the evasive 'may' is that the most senior AEC officials, who would certainly have been advising her, knew it had not been printed but were unwilling to admit that to Channel 9 if they could avoid it. They were equally unwilling to lie by saying it had been printed. They could not have expected Ross Coulthardt to pursue the point to the bitter end and feature it on the program.

Ann Bright further suggested the roll print '**may** not have occurred, as the snap election, called Saturday 1 July 1989, would have been just on the two year time limit for printing this roll.' This statement was incorrect, and pinned down as such

by Sunday's senior researcher, Nick Rushworth, by June 14, eight days later in an internal memorandum.

The Dates of the two elections are:

Election, 1 December 1984

First sitting day of first session for the House of Representatives and the (Half-) Senate of the 34th Parliament, 21 February 1985 (I have checked and confirmed this date with the Chamber Research Office of the Department of the House of Representatives)

Election, 11 July 1987

House of Representatives (35th Parliament) + Senate (Simultaneous Dissolution) Senators' terms (other than those representing the Territories) are taken to have begun on 1 July 1987. For Senators representing the Territories see the Senate (Representation of Territories) Act 1973

The Definitions: a Session

'A session commences upon the first sitting day following a general election and concludes either by prorogation (the formal ending of a session), dissolution or at the expiration of three years from the first meeting of the House. A further session commences upon the first sitting day following a prorogation and concludes in the same manner.'

'The 1987 election is clearly more than 2 years (in fact 2.5 years) beyond the date of the first session of the 34th Parliament and the AEC indicates that their interpretation of Section 89 of the CEA takes "Rolls to mean the print of the bound roll in accordance with Section 89 of the CEA?" But, was an "official" roll (the first of the three 'differentiated printed formats') ever PRINTED in those two years? If it was, does it cover the AEC under Section 89 of the CEA (even though the AEC's understanding of that section takes "rolls" to be "the print of the bound roll)?." **Bearing that in mind, the AEC breached the CEA in 1987."**

Response of the Australian Electoral Commission

Ross Coulthardt immediately faxed Ann Bright: '**Does the AEC agree that it was in breach of Section 89 of the CEA because it failed to print the official bound roll before the July 1987 election? If not, why not?'** Predictably Ann Bright ignored answering the first question directly by saying the AEC was in breach of the act, but only tacitly by saying 'note that section 89 of the Electoral Act is not a penalty provision.' What on earth did she mean by that? That if the AEC made a decision in breach of Section 89 of the CEA, it was free to do so because it would not be penalised if it was?

Justification of Ministerial Consent

But worse was to come. She declared Section 89 had often been ignored before. **'On a number of occasions in the past, the Section 89 roll print has been delayed by Ministerial consent, so that the final product was up-to-date at the**

conclusion of Electoral Roll Reviews (this is no longer necessary with CRU). This did not result in denial of public access as they were always available in Divisional Offices.' But it did deny access to the parties and candidates who relied on that Section 89 roll print for its mid-term roll cleansing, and law courts and police stations, who relied on it for reference.

On what occasions in the past had the roll been delayed by Ministerial consent? By whose Ministerial consent? Ann Bright gave no details of those 'number of occasions in the past.' She gave no chapter and verse as she should have done, if she is really saying Ministers had often overridden Section 89's requirement of a roll within 2 years after the commencement of a parliamentary term before 1984. She ignored the fact that the acts of the administrative authority of the AEC, an independent statutory corporation, could not be compared with those of an electoral officer in the Department of Home Affairs.

Ann Bright also made it clear that 'delaying' the roll print was the AEC's decision in the first place by saying print of the roll was 'delayed by Ministerial **consent**' rather than 'delayed by Ministerial **directive.**' And her use of the word **'delayed**' was less than honest as it was an attempt to fudge the issue with Channel by creating the impression that other later versions of the roll were legally acceptable substitutes.

Furthermore the fact the AEC was a consenting party is clear from her statement that 'at the time of the 1987 federal election, the AEC was nearing completion of an electoral roll review. **The AEC had the option of printing the electoral rolls early so that they could be readily available for the election but it chose not to on the basis that 'the printed rolls would have been substantially out of date and inaccurate by the time they were printed.'**

She added triumphantly that 'before the close of rolls for the election some 215,000 names were added to the rolls. The resulting rolls were then printed as the certified lists of voters and used at polling places all over the country. **What rolls were these? For in the next sentence she talks of few copies of 'reference rolls' being produced for polling places but available at divisional offices and other designated places.**

The Special Minister for State in question.

Who was the current Special Minister for State at the time who obviously had given 'his consent'? I set out to investigate. There had been two ministers with that portfolio over the period of almost 2 and a half years before the 1987 election - Mick Young and Michael Tate. Mick Young was Minister until February 16, 1987 and Michael Tate for the next 5 months. I could not ask Mick Young, who was no more. I could ask Michael Tate, now Father Tate, who said he knew nothing about any decision not to print the official bound roll. I also asked Tom Uren, Senior Minister for Administrative Services at the time, who also said he knew nothing. Yet surely both these men, as members of the lower house, would have known they had not received their statutory copy of the hardprint roll by the cusp of 1986-7.

These denials and the fact Mick Young was minister up to the time limit by which the CEA required the printed bound roll to be ready, put the decision squarely in the

domain of Mick Young. This was not surprising as he had been one of the main architects of the drastic changes to the administration of elections in 1983-4, and the format of the roll introduced among chaotic conditions in the 1987 election.

Ann Bright's answer to Ross Coulthardt's second question on this issue **'has the apparent breach of the Electoral Act ever been disclosed to any Parliamentary Committee,** was that the JSCEM had recorded this decision, as quoted above, in its May 1989 Report on the 1987 federal election. But that was a report from a committee with an ALP majority, which did not exist at the time of that 1987 election nearly 2 years afterwards. It was not evidence that the new Federal Parliament 'well understood' the AEC's action. With an ALP majority, it was unlikely to call one of its Titans, Mick Young, to account.

As late as 2001, the Deputy Electoral Commissioner Paul Dacey, in a letter of August 24, 2001 to Mr. P. Gibson claimed that **'the decision not to print at that time was a practical decision, relating to the early announcement of the election, as explained in the May 1989 JSCEM report.'** The fact that the JSCEM ALP majority accepted this explanation is strange, as those serving on it would have known that the 'snap election' was only called when the ALP government was almost 2 and a half years into a 3 year term, and no one would have been aware there was to be what Ann Bright called 'a snap election' at the time the decision not to print was made.

Prevarication on the roll issue

Only the then Joint Select Committee of the Parliament should have debated any change as significant as omitting production of this roll. It never did so. Ann Bright reiterated that the 'rolls and monthly updates of the rolls (the additions and deletions) available in Divisional Offices on computer printout and microfiche provide more accurate information.' It was nonsense to suggest such rolls are a comparable substitute.

Was the question of whether the AEC should print the roll 'early' - ie within the statutory 2 years - really an 'option' to printing outside the statutory limit or, as it turned out, to not printing it at all? Surely it is a simple decision whether to break the law or not, which does not allow of any qualification. The answer is no. The production of the 'public print' was a statutory requirement under Section 89 and the AEC had no 'option' to entitle it to say it 'chose not to' print the roll whether the minister gave his consent or not. And it was very important for political parties and candidates, as a tool of research mid-term when they had more time to analyse it than close to an election.

The AEC also told Ross Coulthardt that 'legal advice indicated the six-monthly microfiche rolls available in divisional offices met all requirements.' This was an outrageous quibble to peddle to Channel 9. The microfiche roll certainly did not meet all requirements in public availability, as intended by Section 89. Ann Bright had already made this plain when she defined the 3 different formats of the electoral roll for Channel 9.

The printed bound roll and the microfiche rolls were absolutely different in the

requirement of the public at large. The first was distributed to legal courts, libraries, members of Parliament, and political parties and was available for sale to the public. The second was available only to divisional offices and not available for sale to the public. This statutory printed roll was not only a document of reference used in elections but by governments, law courts, police, and social organisations like Red Cross and Salvation Army searching for missing persons etc. Supplemental rolls merely maintained additions.

1. Inaccuracy of the roll due to lack of a roll cleanse

Ann Bright also gave the lack of a 'roll-cleanse' as another reason why the 'official bound roll' could not be printed; a fact affirmed by Mr. Booth MHR when he told the House of Representatives on May 28, 1987, six weeks before the July 11 election, that there had been no roll cleanse during those 3 years since the AEC was established. This he explained, was 'because of cuts to the federal budget.' A year later Senator Ray, who was involved in the 1983-4 'democratic reforms', admitted there had been no updated electoral roll available for the 1987 federal election *(letter July 26, 1988).*

Because the requirement that voters vote within their subdivision, or vote absentee had been dropped for the 1984 election, internal movements within electorates had not been picked up at the 1984 federal election. This had caused major problems with the accuracy of the rolls (*Hansard House of Reps p. 13,3082).* 'We ought,' Mr. Booth said, 'to be moving towards a system of smaller subdivisions within one single voting point in each subdivision.' This had created a situation that the 1983 Joint Select Committee feared when its September 1983 Report recognised the potential for electoral fraud in the change *(p.123 par 6.30).*

In a media release of May 2, 1989 the Hon Wal Fife, Deputy Leader of the Liberal Party, complained that 'in some electorates it appears that many electors have addresses which are now parks or condemned properties….. checks have also revealed that people who do not live at their registered addresses, or are no longer residing in the electorate where they are registered, voted in that electorate or for a candidate in that electorate.'

2. Link with division wide voting

The AEC's senior officials knew the truth of the link between division-wide voting and the failure to print 'the official bound roll' would be a time bomb, because very few people knew that the electoral rolls for the 1987 election would be totally different; they would be monster rolls of 80,000 names necessary for division-wide voting. The bad news would reawaken the kind of prophesy that both the Joint Select Committee of 1983 and Mr. Booth had made. 'It will be possible under this legislation for some considerable degree of rorting of the system to happen because people will be able to vote at any polling booth within their electorate.'

Another effect of this changeover was that no copies of the 1984 electoral roll were available for the 1987 election either; the last Commonwealth roll print to have been printed by subdivisions in accordance with the provisions of both State and Commonwealth Acts – provisions which still exist in the CEA. David Patton

objected: 'The Australian Electoral Commissioner issued a notice explaining why rolls were not printed in 1987 in accordance with the Act but that does not explain why the 1984 rolls were not used as a base and supplemental rolls printed, on a subdivisional basis for the 1987 election. It is not as if the rolls are not maintained by subdivision. They are. It is no longer possible to compare the old roll with the new roll and/or the supplemental roll, to identify the most likely areas in which enrolment irregularities may be occurring. That roll format constituted a safety mechanism against roll-based electoral fraud. **Why was there such a deliberate departure from both established practice and legal requirement? (*Some Consequences of some Amendments to NSW Electoral Act June 16, 1987).'***

The Hon Wal Fife, Deputy Leader of the Liberal Party, in a second reading speech on December 22, 1989 declared that 'in recent years the printed electoral rolls have not been freely available for individual or party workers to use or to scrutinise for accuracy. The practice of producing printouts a few weeks before the election is a bad one, frustrating access to the ordinary electoral process.'

'This situation of producing a roll a few weeks beforehand, which in 1987 was the only roll available as the normal mid-term roll had not been printed, proved extremely controversial. As I have said over 750,000 electors enrolled in the last 7 days after the issue of the writs, probably 2/3 of them re-enrolments. '**At its very best, and most innocent, it indicates the gross inaccuracies of the rolls prior to the announcement. At its less innocent interpretation, it raises the question of false enrolments.** This whole question was highlighted by the report that in December, 1987, six months after the rolls closed for the election, there was a decline of 48,000 in the total enrolments in N.S.W. and some 60,000 or more in Victoria.

'The electoral rolls have been notoriously inaccurate when they do get them. The Electoral Commission has frequently indicated there was an insufficiency of funds to do full habitation checks at regular intervals. The very unevenness of these checks can in itself distort a whole State. An error of, say, 200 enrolments in any one electorate (a more common occurrence) inevitably causes a ripple effect through every electorate.'

NB. The chief problem, ensuing from this massive electoral revolution of the 1983-7 years was one that is seldom discussed. With the only rolls readily available to the public, state wide rolls with over 4 million names in alphabetical order or rolls of 80,000 names per electorate in alphabetical order, it has become almost impossible for any candidate, let alone any member of the public to investigate any fraud in enrolments.

CHAPTER 9

THE HOUSE DIVIDED

The AEC versus The Electors

PART 3

Identification on enrolment

Identification on enrolment disappeared before the electoral revolution. It was abandoned in 1949 under a Chifley ALP government. However conditions on enrolling were vastly different. In my day one had to turn up at a Divisional Office to enrol and have someone reputable to witness the form when you signed it. And you could not enrol until you were 21. Since 1984 Rafferty's rules have proliferated - enrolling by post, fax, internet and getting any Tom, Dick and Harry to witness the enrolment form without giving any address for anyone to check that the witness is a real person and not the electors witnessing themselves under a false name.

Once upon a time, all witnesses had to come from people, who took an oath before they took office, or were reputable people like doctors or JP's. When this went out the window, anyone who was an elector could witness your enrolment form. Now a recent change allows anyone who is merely eligible to be an elector to be a witness. It's a case of the user-friendly electoral system gone mad. The end result of this is a loss of respect for enrolment as a great privilege for which so many men died; and an open invitation for ballot-riggers to treat bulk enrolment as some sort of blood-sport or game as has been the case in Queensland.

Deadlock between the Coalition and the ALP on restoring ID on enrolment

A deadlock exists between political parties for or against identification on enrolment (ID) on the federal electoral roll which is also used by all states and territories under Joint Roll Agreements through an Electoral Council. The Coalition precipitated this deadlock when it joined battle with the opposition parties to introduce identification on enrolment.

The federal Coalition amended the CEA Act to restore ID on enrolment on 13.10.1999. All ALP governments in the States and Territories rejected the amendments 2000 - 2001

The federal coalition passed enabling regulations 13.9.2001. The federal Opposition disallowed the enabling regulation 14 on 15.5.2002.

Argument against ID on enrolment

1. The Australian Electoral Commission 1988

The AEC opposed identification on enrolment from the first, as in its 1988 submission to the JSCEM when an ALP government was in office. 'The need to

provide documentary evidence would have a positive effect in minimising electoral fraud, but it would also be a major discouragement to many people taking part in the electoral process.'

In 1993, the AEC was even more firmly opposed to identification on enrolment in its conclusion to a lengthy review of the pros and cons of methods of identification in a submission to the JSCEM when an ALP government was still in office: 'In the light of their demonstrated disadvantages, and in the absence of any evidence they are required, the AEC does not at this time support the introduction, for the purpose of eliminating the potential for fraud, of any substantial changes to enrolment or voting.'

2. Dissenting Minority Report of ALP members on the JSCEM

ALP members on the JSCEM under the then Coalition government of 1997 opposed the package of 'minimum standards' for reform of the electoral system, including ID on enrolment as 'premised upon unsubstantiated and, in many cases, discredited claims of electoral fraud. The AEC has effectively countered the statistical, legal and practical bases of these assertions. The use of wildly exaggerated allegations of fraudulent conduct must further undermine respect for the integrity of our political system.'

3. March 2000 Report of the Queensland ALP government's Legal, Constitutional and Administrative Review Committee (LCAR)

This LCAR committee chiefly relied on the evidence of Professor Hughes, former Australian Electoral Commissioner 1984-9 and a member of the EARC Committee Roll Review inquiry in 1990, to reject identification on enrolment. Professor Hughes was still as firmly in support of a 'user-friendly' open system of enrolment, as in 1988, until proof that it was so 'abuser-friendly' as to affect the result of an election should be forthcoming to the AEC.

Professor Hughes argued: 'Rather than resting on proven evidence of electoral malpractice, the amendments (of the federal coalition government for ID on enrolment) rested merely on disquiet in sections of the community, very small sections who kept coming back with their disquiet until they finally got a committee prepared to agree with them. To the extent those individuals have ever produced what they allege to be evidence, it has been shown to be nonsense. The right question to ask is whether the mischief occurs, then whether the remedy recommended produces greater harm to democratic, representative government than the abuse did.'

4. October 2000 National Secretariat of the Australian Labor Party

The National Secretary, Mr. G. Walsh, also chiefly relied on the evidence of Professor Hughes, cited in the LCAR Committee March 2000 report, in the ALP submission to the special JSCEM inquiry set up by the federal government in 2001, to oppose identification on enrolment. 'The current system of enrolment has worked well for many years. It should not be altered in the absence of clear evidence that problems with the enrolment system itself have led to widespread fraudulent enrolment or major problems.

'Enrolment should be simple and accessible to use.' A sceptic might argue that this makes it simple and accessible to abuse. Mr. Walsh claimed the JSCEM had never received substantive evidence of fraud. He plainly has not heard of the report of a National Party investigation aided by the DRO of the Richmond electorate himself after the 1990 election, which was submitted to the JSCEM.

Argument for identification on enrolment

1. Judge Kay Western Australian Commissioner 1975

In reporting to the West Australian government in 1975, Judge Kay rejected open enrolment without any identification in relation to the Western Australian electoral roll: 'Ease alone should not be the sole consideration in the witnessing of a claim form. I think the other factor, of making sure that everything is correct, far outweighs the question of ease. I am of the opinion, and most witnesses before the Inquiry, that the provisions of the Act relating to witnesses of enrolment claims provide avenues for abuse, and enrolment claims can contain false or incorrect information which causes unnecessary work later on for the Electoral Department.

'At the present time, anyone can enrol a fictitious person and witness the claim card himself. This procedure, in my opinion, should be tightened up. Any reasonable method which would overcome or lessen manipulation should be adopted *(WA Parl. V & P. 1975)*.'

Judge Kay also reported: 'The enrolment card is a very important document by which the elector becomes entitled to vote. **It is important that, not only should the details on the card be correct, but also that the person enrolling should know what he is doing and what his responsibilities are under the Electoral Act**. One would imagine that, at present, on very few occasions would the witness check with the claimant the details on the card or advise him or her of what his or her responsibilities were *(ibid).'*

2. Two Electoral Commissioners of N.S.W. Messrs Cundy and Dickson

In 1989 when Mr. Ian Dickson was still in office as NSW Electoral Commissioner, he and his predecessor, Mr. Ron Cundy, were commissioned by the NSW government to report on the integrity of the 1988 state election after a vehement public outcry. The reputation of the AEC was necessarily involved as the NSW government had for many years been using the Commonwealth electoral roll. The Cundy/Dickson report was most emphatic about their reservations about open enrolment:

'The committee notes with regret that, in its submission of October 1988 to the Joint Standing Committee on Electoral Matters, the AEC saw fit to cast serious doubts on the value of requiring a person to produce documentary evidence of identity. It suggests that most documentary evidence would be easily forged, and even goes so far as to make reference to the possibility of Division staff doing title searches, or visiting premises to check the accuracy of documents.

'Doubts must be cast on the relevancy of that statement owing to the types of documents, cards etc, which are available at, and normally carried by, members of

the public. The only really effective method of eliminating fraudulent enrolment is to require each applicant to appear in person at the office of the Electoral Registrar with appropriate identification.'

3. The Australian Electoral Officer (AEO) for the AEC for Western Australia

The AEO for the AEC in Western Australia told the JSCEM in 1993 that more rigorous proof of the identity of enrolees was required. 'At some stage it will become necessary to introduce some form of identity confirmation both for enrolment purposes, and again on polling day, in order to demonstrate that we are serious about the protection of the integrity of the electoral roll *(Hansard JSCEM November 12, 1993).'*

4. 1993 Professor D. Rumley, University of Western Australia

Professor Rumley investigated four levels of the WA electoral system - procedures for enrolment and re-enrolment, checking enrolment, voter turnout, and counting of pre-poll and postal votes. 'The present rules of conduct for each of these sets of procedures are not sufficiently rigorous at all levels, and thus allow the possibility, however remote of manipulation and even of malpractice. The extent to which either or both of these possibilities is systematised before and/or during an election could even lead to a change of government. This is a highly undesirable set of circumstances and should be dealt with by federal and state parliaments as a matter of high priority *(JSCEM Hansard 1993 p.388)*.'

5. 1996 Senator the Hon. N. Minchin, Parliamentary secretary to PM

Senator Minchin deplored Australia's very open system when launching the HS Chapman Society at the University of NSW November 9, 1996. 'Our system relies almost entirely on the honesty of applicants. Any prospective applicant needs only to be at least 18 years old, an Australian citizen, and to have been at his or her current address for one month. Applicants are not required to provide any evidence that they meet these requirements, or that they are who they say they are. Of great concern is the extent to which the system is wide open to fraudulent enrolment. **Fraudulent enrolment goes hand in hand with fraudulent voting.**

'One can only conclude that Australia must have one of the most open electoral systems in the world. The current system is to a great degree the residue of 13 years of federal Labour Governments. Labor deliberately pursued a policy of making it as easy as possible to enrol, to vote and to cast a formal vote. It pursued an electoral policy driven entirely by a user-friendly philosophy with no regard to the security or integrity of the roll.'

6. Report of Q. Legal, Constitutional, & Administrative Committee (LCARC)

The decision of the dissenting report of 3 non-ALP members of Queensland's LCARC Committee, tabled in 2001, was summarised in a briefing paper for the NSW Parliament by R. Johns of May that year: 'They supported higher penalties for electoral offences, identification requirements at the time of both enrolment and voting, closing electoral rolls on the date of calling an election and statewide re-

enrolment to cleanse the roll. They opposed the concepts of developing a computer system that combined data from numerous State agencies.'

DOES FRAUD EXIST? Organised? Widespread? Conspiracy?

1. The Australian Electoral Commission, Commissioner. A. Becker

Commissioner Mr. Becker did not mention the issue of fraud in single electorates in his conclusions: 'The enrolment fraud cases investigated by the AEC, the AFP and the Director of Public Prosecutions over the past decade, and already reported to this committee (JSCEM), do not reveal any underlying organised conspiracy against federal elections. The AEC is willing to assert once again that there is no evidence that any federal election, since the establishment of the AEC in 1984, has been subjected to any widespread and organised conspiracy that would have affected the results of those federal election.'

The AEC submission of 17 October, 2000 to this Committee was unqualified in that **there should be no need for any radical changes to the federal electoral system such as the early close of rolls or the introduction of voter identification or subdivisional voting.** The AEC is concerned that such major changes would have negative impact on the franchise in particular *(Hansard JSCEM November 15, 2000).'*

These changes could not truthfully be described as radical. They had been basic principles of our federal and state electoral systems for most of their history. At federal level 'early close of rolls' (ie on issue of writs) and subdivisional voting existed until 1984, and voter ID until 1949 (changed by ALP Chifley government).

Mr. Becker denied fraud of any consequence had occurred since 1984 such as:

- underlying organised conspiracy against (entire) federal elections
- widespread organised conspiracy affecting results of those elections

2. 2000 Hedley Thomas & Chris Griffith Courier Mail November 4, 2000

'A Labour foot soldier veteran's claims that he and others helped to rort the 1987 election in the federal seat of Fisher (Queensland) as well as several other state and federal elections, raises an ugly spectre.'

3. 1987 C.G. Smith secretary National Party Electorate Council, Fisher Electorate

The Liberal Party incumbent of the seat of Fisher, Peter Slipper, was defeated by ALP's Michael Lavarch by 700 odd votes. 5,000 names were added to the roll just before the election. 'On election day groups of people visited the booths and voted under different names. A person may be given 30 different booths (Fisher had 60) and use a different name in each. Through this method there would be no record of duplicated voting and the electoral office would not be aware of any untoward action (*Sub. JSCEM 1988).'*

4. Bob Bottom OAM highly respected author and investigative journalist

a) On the Australian Federal Police Inquiry Fisher Queensland 1987 in 2001

'Chris Griffith revealed that the *Courier Mail* had contacted Australian Federal Police agent, Paul Jevtovic, to advise that the ALP insider, relied upon by the *Courier Mail,* had named a handful of others from the Fisher campaign and agent Jevtovic had been told the insider no longer objected to those names being passed on to police. Hedley Thomas, who has spoken to agent Jevtovic, was quoted as saying. "The police were offered a golden opportunity to interview several people specifically named by the insider for involvement in what he insists was a covert effort to rort the election. Mr. Jevtovic told me his police inquiry was continuing and he would call back the following week to receive the names to discuss the matter further. He did not get back in contact and appears to have ended the investigation without even speaking to **these people, several of them union officials, alleged to have secured illegal votes *(p.xvi Frauding of Votes?).*'**

The AFP Inquiry ended the day after the JSCEM inquiry did. An AFP spokesman claimed that examination of AEC procedures, policies and electoral records had yielded no tangible evidence for any of the allegations. Investigations had not been able to identify any witnesses who could corroborate the alleged vote rorting or nominate any persons involved in the activity *(Sunday Mail April 11 2001).'*

b) On Australian Federal Police Inquiries in General

In a letter to the Prime Minister *(March 21, 2001)* Mr. Bottom urged him 'to update and push forward your current legislative plans for voter identification and to fund the AFP for priority to investigations of electoral fraud. 'Unless directed by the Minister, at present AFP self-determined priorities result in the automatic rejection of any instances of multiple voting involving the casting of less than 12 votes. In those cases of investigation involving more than 12 votes, police simply call upon the address of the person nominated. If that person denies any involvement no further action is taken. There is no action at all either to deter or detect false enrolments.

'I have been researching all electoral matters that may relate to fraud, past and present. What has become obvious is that the so-called democratic reforms implemented nationally under Labor in the early 1980's (and likewise under Labor in Queensland in the early 1990's) have paved the way for not only rorting for party plebiscites and pre-selections but for fraudulent enrolment for general elections.'

Arguments of the ALP opposing identification on enrolment

1. It alleges certain groups would lack means of identification

a) young people

b) low income earners

c) indigenous communities

d) people living in isolated areas

e) homeless people

These arguments are no longer as credible as they were in 1987.

a) low income earners/aboriginals have ID for welfare/pension benefits.

b) special cards for people without ID or isolated people can be issued.

c) young people today have travel and credit cards, social security ID, driving licences, mobile phones, Pin numbers, student discount cards etc.

d) young people readily produce them to buy cigarettes from Coles or enter hotels etc

2. Some eligible electors, put off enrolling by trouble and cost, are disenfranchised of their right to vote. This argument gives no statistics and ignores 3 questions.

a) whether the responsibility of pursuing that right to franchise should rest with those who value the right to participate in the process which guarantees we are a valid democracy; or should rest on a Nanny State principle in favour of lazy or politically indifferent people who do not value it at all.

b) whether that right, said to be a privilege, would not be valued more by those seeking enrolment if they did not have to take the trouble of presenting themselves before authorised witnesses with proper identification.

c) whether producing an ID would really cost more as almost all of those seeking enrolment would know a teacher, doctor, cleric or elder or have a passport or pension card. Provision could me made for those who don't, as in Northern Ireland.

3. Some electors are inherently disenfranchised if they have to produce ID.

a) All 18 year olds are automatically 'provisionally' enrolled on the electoral roll when they are 18. If any of these fail to validate that enrolment, when they turn 18, they are disenfranchising themselves.

b) As to any other adults who have never enrolled, allowed enrolment to lapse, or failed to re-enrol after they have moved, they are all clearly breaking the law and should not be given a vote.

The ALP solution is to have a 'simple and accessible' system that only requires one person merely **eligible to be an elector** to witness the electoral claim form.

The ALP solution did not work in one major example. A day before the issue of the writs for the 2001 election, the then AEC Queensland officer, Mr. Bob Longland, was obliged to announce the despatch of 250,000 notices to citizens in the younger age group who had failed to enrol. The 'simple and accessible' system of open enrolment had only succeeded in enrolling 35% of those under 35 who were eligible, and therefore was a spectacular failure.

The AEC is dismissive, adversarial even abusive to those who investigate fraud

In my submission to the JSCEM *(April 4 1999)* on fraud and irregularities, I argued that the AEC, as the body responsible for elections, has been lax in enforcement.' It has not become pro-active in seeking proof of fraud itself because it is able to interpret that responsibility at its absolute minimum. Its stance is to ask the public 'to bring us proof of electoral fraud and we will investigate it'. This is grossly unfair as the AEC alone holds all the necessary documents. Members of the public

are unwilling to do the AEC's work for them, as the AEC had proved dismissive, adversarial, even abusive to those who do.

The AEC is inconsistent. It has constantly denied fraud exists, but it admitted in 1993 that it could not possibly detect nine out of ten ways of committing fraud, which it listed in a lengthy summary of the pros and cons of identification on enrolment and voting, it could only detect one - that was multiple enrolment in the same name. That is still true.

The AEC has no policy for investigating manipulation of, and fraud in, elections.

The truth is that the AEC has no policy for investigation of manipulation and fraud. It has no manual to tell its own Divisional Returning Officers how to investigate fraud although it has manuals on virtually everything else. Moreover, if I asked DRO's, prepared to give an honest answer, if they knew if fraud existed, they would probably admit they would be highly unlikely to be able to identify it if people were intent on committing it. Indeed the AEC itself admitted this in a report to the Joint Standing Committee on Electoral Matters after the 1993 election in that **it knew of ten ways of committing fraud by multiple voting but could identify only one, multiple voting in the same name (by optical scanning of the rolls).**

The AEC's list of 9 ways of multiple voting, which it would **fail to detect,** should be printed under every list of multiple voting that it tenders the Parliament after every election. Or at the very least it should head that list with a statement that those multiple votes are only of people voting in the same name. It never does. Any number of people might have voted in any of the other 9 ways and no one would ever know.

Nor has it in the past given any breakdown of the multiple voters in the same name other than those that have been explained and those that have no explanation. And even these have been surprisingly numerous. Certainly it does not state how many reach the figure of 12 multiple votes before the Australian Federal Police will investigate such cases.

Among the 9 most common ways of multiple voting the AEC **fails to detect** are**:**

- a fictional name
- the name of someone who was never entitled to the enrolment in question
- the name of someone once properly enrolled which should no longer be on the roll
- the name of a person still properly enrolled
- the voter previously enrolled, who has remained enrolled for the electoral Division for which he or she is no longer qualified to enrol at election time, for which he or she claims a vote
- the voter has never been qualified to enrol and vote for the electoral Division for which he or she claims a vote.

Is the AEC concerned with protecting honest electors from electoral fraud?

The AEC's policies are aimed at protecting its own interests rather than those of electors.

Three issues need to be urgently addressed as crucial to establishing common ground in any debates of the JSCEM or elsewhere on electoral fraud and irregularities.

- The precise definition of the words 'frauds' and 'irregularities'
- The policy of the AEC in investigating fraud and irregularities whether by management or Divisional Returning Officers
- The relevance of union elections to parliamentary elections
- The appointment of a Commonwealth Electoral Ombudsman, experienced in electoral practice as a watchdog on corrupt practices and irregularities.

With all the words spent on the subject by both sides in the debate whether fraud of any consequence exists in our elections, I expected, when I first entered the fray on electoral corruption in 1996, to find the words *'fraud'* and '*irregularity*' had been defined adequately in application to electoral law, practice and procedure. But I could find no definition of '*fraud'* in the dictionary of the Commonwealth Electoral Act.

Now the subject has become so controversial, and the subject moved out of what the AEC derides and dismisses as anecdote and hearsay into the 'hard evidence' in Queensland the AEC said was utterly wanting, I would have expected the AEC to be first off the starting blocks with a definition, a policy and recommendations for amendments to the Commonwealth Electoral Act. Not a word of any such plans is to be found in any of the AEC's manifold publications, submissions to the JSCEM, directives to the DROs or responses to my submission on the subject.

A definition of fraud is obviously extremely important for any valid dialogue on electoral practice and process, whether for members of the JSCEM or for those wishing to make submissions to it. Many people are too uncertain to step forward. They recoil from the lack of clear principle which, makes it easy for the AEC to dismiss them in a flurry of verbal shadow boxing with statistics, costs, false history etc.

To be fair, the AEC said it has clear principles, as to what constitutes fraud, in the offences which attract criminal proceedings in the Commonwealth Electoral Act when it responded to my submission. But the specific clauses in the CEA primarily consider only interference with enrolment, and the issue and count of ballot papers. In parliamentary elections it does not consider irregularities, which affect the honesty of the management of the process and can cumulatively affect the result of an election, because it has no obligation to do so.

The AEC's official stance varies from saying '*there is little* fraud' to *'there is no significant* fraud' to there is '*not enough to affect the result.'* As to how the AEC

decides what level of fraud is of *'no significance'* is not clear, as the AEC has never produced a procedures manual for procedures for investigation of fraud even for it own DROs, nor guidelines for parties or candidates although they are expected to find evidence within days or weeks of polling day to justify a request to the AEC for a recount of votes if the result is close, or to lodge a petition to a Court of Disputed Returns for a hearing.

Importance of definition of fraud

In the JSCEM since inception in 1984, the Coalition has adopted the historical view of our electoral system that built-in safeguards to that system must be maximised so that *'circumstances in which fraud could occur'* will be minimised.

The Australian Labor Party (supported by minority parties on the whole) has insisted that safeguards are unnecessary until '*widespread and organised fraud'* had been proven. The latter view prevailed in 1983-4 with the creation of a '*user-friendly*' system, which became entrenched during the 13 subsequent years of ALP government from 1983-1996.

That the two camps in the JSCEM remain intractably deadlocked on this key principle of management of our democracy is indisputable. The Coalition Majority Report of the JSCEM 1996 declared that the '*user-friendly'* system, put in place by the AEC in 1984, had become *'abuser-friendly'*. It recommended reintroduction of former safeguards such as identification on enrolment and voting.

An ALP Minority report by Senator Conroy and 2 MP's, L. Ferguson and Robert McClelland MP dissented: 'The Committee has not been presented with any substantive material indicating the existence of **electoral fraud.** It has been limited to anecdote and hearsay. Despite a dearth of evidence that alleged loopholes are being abused there are, in the Majority Report, serious new moves to complicate enrolment.

'This is a general operational recommendation for a series of specific proposals that would collectively undermine the participation of millions of Australians in our electoral process. It is premised upon unsubstantiated and, in many cases, discredited claims of **electoral fraud.** The AEC has effectively countered the statistical, legal and practical bases of these assertions. The use of wildly exaggerated allegations of **fraudulent conduct** must further undermine respect for the integrity of our political system.'

'In the absence of a modicum of evidence that the current situation (on witnesses) is characterised by **any fraud**, this change is a major encumbrance upon citizens…There was no evidence that there has been abuse of the provisions (of the CEA) or extensive prosecutions. The thrust of the claimed reason for the move is to counter **fraud.** The emphatic conclusion (re close of rolls) is that under the guise of outlandish unsubstantiated claims about the feasibility of **fraud,** vast numbers of Australian citizens will be deprived of a vote.'

'There has been no evidence of organised multiple voting during this inquiry. In the absence of pointers towards a **subterranean, unrevealed plot**, some reliance must be placed on ascertained statistics.'

The compilation of the above quotations is sufficient to reveal the chameleon use of the word **fraud** to colour and dismiss various arguments. New move from **'*existence of fraud'*** to **'*fraudulent conduct'*, '*discredited claims of fraud'*, '*outlandish, unsubstantiated claims of fraud'*, '*feasibility of fraud'*** to **'*subterranean, unrevealed plot'*.**

The hyperbole of these arguments does nothing to advance the dignity or intellectual reputation of the JSCEM and hence of the Parliament. Let me advance my objection as one who made extensive submissions to the post 1996 election review of the JSCEM and therefore was exposed to the greatest damage by the defamatory import of the above ludicrous generalisations.

Messrs Conroy, Ferguson and McClell do not agree with my submissions which are replete with quotes from reputable sources verifying the existence of both random and organised fraud and endemic irregularities in union and parliamentary elections. They only hear the siren voice of the AEC which trumpets it has 'made numerous submissions to the JSCEM over the years on all aspects of electoral fraud, many in response to specific allegations that were demonstrably false, and many in response to proposals for "reform" that would in fact be highly retrogressive *(AEC sub.JSCEM May 5 2001 p.31.'*

Verification of corrupt practice, however, can take so long that it is impossible to redress any wrong caused by it because, in that time, another election has been held, and another JSCEM report on that particular election completed. In two cases, where I had direct involvement, four years had passed before documentary confirmation became available.

a) I obtained evidence from the President of Watchtower (Jehovah's Witnesses) of more votes of their non-voting congregation in the Blue Mountains in Macquarie electorate in the 1993 election and 50 likewise of the Plymouth Brethren than the winning margin of Maggie Deahm. The President also expressed concern the same had happened in the simultaneous elections in electorates of Swan in Western Australia and Dickson in Queensland.

b) I discovered the fact that a computer hacker had intruded into the root account of the AEC computer system with potential access to the ballot count just before the issue of writs for the 1993 election resulting in disruption before, during and after that election; and had done so through telephone lines in private homes of officials of the Queensland office of the AEC. I only obtained this story, which was still unknown to the Commonwealth Parliament or its JSCEM four years later although the hacker continued to offend, as the AEC kept silent.

The pro-negative policy of the AEC in investigating fraud

Parliamentary elections

The AEC, as the body responsible for federal elections, has been '**lax in enforcement.'** It has not become pro-active in seeking proof of fraud itself because it is able to interpret that responsibility at its absolute minimum.

The AEC rarely investigates fraud, let alone irregularities, in parliamentary

elections having no obligation to do so. Details of those that they do carry out are hard to come by. It has such an obligation under Section 215 of the Commonwealth Industrial Relations Act. However its inertia in carrying this out is almost as great in parliamentary elections. Marshall Cooke QC in his 1991 inquiry into 7 Queensland unions castigated the AEC for prosecuting in only 3 out of countless examples of '*ballot irregularity*' in almost every union saying '**with such law enforcement it is no wonder election irregularities continue to be perpetrated.'**

Can we really believe the same fraud that occurs in almost every union election does not occur in parliamentary elections or is the truth, as asserted by Marshall Cooke QC in his speech at the foundation Forum of the H.S.Chapman Society on November 9, 1996, that **'it is simply seldom detected?'**

If fraud is '**seldom detected**' what are the reasons for such failure? They arise partly from AEC management policy of '**lax enforcement'** and partly from the inherent difficulty of scrutiny by parties, politicians and the public of the AEC's management. These two factors converge in some areas but not others.

The AEC would be more honest if it admitted more often that it is not possible to say categorically that fraud in the electoral process does not exist because it is a difficult question to answer. That it can answer it was proved when it ran an audit of six non-marginal electorates in 1987 after it was unable to supply a member of the JSCEM, Senator Short, with statistics. This was carried out by DRO Sampford, assisted by DRO Patching, and found there were irregularities in all of them sufficient to have overturned the result of each election. However it did not determine the issue of whether false enrolments existed or, if they did, whether votes had been cast in those false names.

Industrial elections

As one who learnt how flagrant fraud in union elections could be by the time I was 21, and in parliamentary elections not long after (in the seats of Bligh and East Sydney), I have been astonished and appalled that fraud in union elections is not seen in conservative political circles to be relevant to parliamentary elections but it should be.

The Australian Electoral Commission runs both and the Australian Federal Police prosecutes on its behalf in both. Officers from the AEC's industrial section help to oversee both Senate counts and N.S.W. Legislative Council counts, and no doubt those of upper houses in the other states that have them. Union officials and organisers are directly involved in campaigns in both, often providing paid staff in parliamentary elections - particularly in Senate and Legislative Council counts.

There is one major difference between AEC management of parliamentary and union elections which should be removed. The Commonwealth Electoral Act does not require the AEC to investigate irregularities in parliamentary elections. But the Commonwealth Industrial Relations Act, which governs the AEC's conduct of industrial elections does.

Section 4 (1) of the Commonwealth Industrial Relations Act reads: *"irregularity" in relation to an election or ballot, includes:*

a) a breach of the rules of an organisation or branch of an organisation

b) an act or omission by means of which the full and free recording of votes by all persons entitled to record votes and no other persons; and a correct ascertainment or declaration of the results of the voting is, or is attempted to be, prevented or hindered.

Section 223 (1) Inquiry into "*irregularity"* reads: 'At an inquiry, the Court shall inquire into and determine the question whether an irregularity has happened in relation to the election and such further questions concerning the conduct and result of the election may have been affected, or may be affected, by irregularities.'

Fitzgerald J., in his landmark judgement in Penhallurick & others vs the TWU Queensland Branch (*ALR 1983 p.590)*, which overturned the election, saw Section 4 (1)(bii) as a 'qualification' into the definition of irregularity, which **'effected a serious limitation upon the control of union elections to ensure a fair and democratic result.'**

'Irrespective of any limitation to be found in the definition of 'irregularity' a breach of the rules will only be an irregularity, which is of present consequence, if it may be, or may have been, of significance in connection with the election *(op cit. pp596-7).'*

He resolved the problem constructively thus: 'In part at least, the solution seems to me to be found in a recognition that, as was pointed out in Huxtables *(LTU 199979 40 FLR 418)* **the definition of 'irregularity in the Act is not exhaustive but expansive *(FLR at 425)***. Thus any breach of the rules will be an irregularity, as will be any act, omission or other step which prevents or hinders the full and free recording of votes by all persons entitled to record votes or the correct ascertainment or declaration of the results of the voting.*'*

'But conduct which may not meet either description may also be an irregularity. For example, it seems to me that it may well be that conduct which misleads voters and thereby causes them to alter their votes, but not to refrain from voting may not properly be described as conduct which prevents or hinders the full and free recording of votes.'

A fact that is of the utmost importance concerning parliamentary elections is that three other judges overturned elections in 1981, 1987 and 1989 by interpreting Section 223 Subsection (3) of the Commonwealth Industrial Relations Act as allowing them to do so if they formed the opinion, having regard to the relevant factors, that an election could be set aside if the result **may as a real and distinct possibility, have been affected** not that the result of the election **was affected.**

These judgements were of Sheppard J. in Kelly vs Amalgamated Metal Workers and Shipwrights Union 1981 (*56 FLR 124 p.148)* Brophy vs Federated Clerks Union of Australia 1987 *(ALR 561 p.565)* and Wilcox J. in L. Johnston vs the APSA N.S.W. Branch 1989 *(ALR 134 1989).*

A similar view was expressed by Moore J. in N. Battese vs the CPEWU when he set aside the 1994 N.S.W. Branch election. 994 votes were made out by only 3 or 4 people.

'The inquiry proceeded on the basis there was proven and widespread electoral fraud, and that irregularities had arisen in the course of the election. **These would only have affected the result of the election by creating the circumstances in which fraud could occur.** There is a real, and not theoretical possibility, that the electoral fraud, compounded by the other matters I have referred to, affected the result of the elections *(NI 594 1994 Reasons for Judgement May 10, 1996 p.2)*'

The AEC is unaccountable in parliamentary elections

Failing such an approach, an independent ombudsman for parliamentary elections in Australia is an urgent necessity. Why? Because the AEC is not accountable to anyone but the Governor-General once he issues the writ which authorises it to hold an election or referendum. At other times its very independence, as an 'independent' statutory corporation from 1984, means electoral management has become effectively unaccountable either to the Commonwealth Parliament or the responsible minister. It could be accountable in two ways. First, if it policed itself which it rarely, if ever, does; second, if others did by legal challenge which seldom happens because the law is heavily weighted against success.

Difficulty of challenge in a court of disputed returns.

The AEC's Deputy Commissioner, Paul Dacey, recently declared that there has been no case challenging a result since 1920 (in federal elections). To suggest this means there is no "fraud" is nonsense given that the Commonwealth Electoral Act imposes such absurdly harsh conditions as to deter any challenge.

1. Liability for costs

Anyone rash enough to mount a challenge against an election result in a particular electorate in a court of disputed returns, not only faces a likely flagfall of $100,000 but also liability for all the costs of the challenge if it fails, even costs of the AEC itself.

2. Adversarial stance

The risk of failure is enhanced by the fact that the AEC, which should remain neutral as *amicus curia (*friend of the court), adopts a defensive role.

3. 40 day time limit for gathering evidence

It allows just 40 days for a defeated candidate to accumulate the necessary evidence to dispute an election before a court of disputed returns. Marshall Cooke QC, who analysed 7 union elections in 1990-1 for the Queensland government points out: 'This does not allow sufficient time to investigate the facts or analyse the voting statistics to identify possible fraud. As a result only blatant irregularities, usually of a technical sort, will be detected in time. *(Address Chapman Society Aug. 13 1999)*'

4. Difficulty of checking the roll

Anyone attempting to investigate an election would need to check the electoral

roll of voters, for any election is only as honest as the honesty of that roll. In a federal election that means checking a roll of some 80,000 names, knowing that some 10,000 or more names of new enrolments or re-enrolments have been flooded on in the last week before it is closed. Why 10,000? Because up to some 500,000 names will have been flooded on in that last week. Given 149 electorates, an average would be some 10,000 but are they averaged? The rise in extra enrolments could be greater in marginal electorates and may shift back to other electorates after an election. Has any study of this been done?

One thing is certain is that any check after an election is an impossible 'ask' of any supporters of a defeated candidate. Who wants to go doorknocking, right after an exhausting election, to see if people are living where they say they are? It has only been seriously done in the last 15 years to my knowledge by four large teams in various electorates in Western Australia, Victoria and Queensland. In the latter, Dickson electorate in outer Brisbane, the Citizens Electoral Council found 4,000 dubious names on the roll for golf courses, vacant lots in caravan parks, people no longer living at addresses, multiple voters in small houses etc. and identified four times as many as the number by which the disputed election was won.

5. Time delay in emergence of evidence

Problems after an election must be specified in 40 days to mount a challenge to a disputed election. But, as Marshall Cooke QC says 'in most cases it is only some time after the election that discrepancies in the roll are detected. It is too late then to do anything about the election result. Complaints to the AEC fall on deaf ears. The whole thing is shrugged off as insignificant *(ibid).'*

6. Shortcomings in AEC roll-check before elections.

Sometimes dubious names on the roll are discovered before an election as in the electorate of Gosford, where the local member found 4,000 names on the roll that should not have been there, and had to persist before a sceptical AEC agreed to check only to find him right. If they had remained, he may have lost the election.

7. Prohibition against checking the roll in a court of disputed returns.

Sadly any enquiry, such as those cited, is futile as the accuracy of the electoral roll cannot be challenged in any court of disputed returns. This is ridiculous, given a level of inaccuracy as high as that exposed in various electorates over the years. Given that roll-padding, or roll-stuffing as some call it, is notoriously one of the chief ploys by those bent on corrupting an election, it is outrageous that the law specifically prohibits calling any evidence that it occurs, unless it is made easier for candidates to check the marked-up rolls to see if any votes have been cast in names of suspect enrolments.

Role of the Australian Electoral Commission in policing its own system

1. It can question its own roll at any time except during an election

You and I may not be able to question the electoral roll except by objection, which

costs $2.00 per objection, but the AEC can, and its Divisional Returning Officers (DROS) do so as an ongoing process until an election looms. They constantly remove names by objection until an election looms, although they become too busy to do so close to an election; and even issue provisional enrolment during an election, subject to objection after the election.

2. The AEC has all the resources to investigate election results after elections

There are no restrictions on the AEC investigating the actual validity of the voter or the process conducted by the DROs. If it wished to do so, it has all the necessary resources. It holds all the ballot papers in store for six months (it used to be longer), all the certified lists (marked-up rolls), all the statistics. But it never does investigate results after elections. Why not? Because it persistently claims fraud is so slight as to be of no account. But the only tests ever run in recent times, none on its own initiative, seriously contradict that view.

3. A 1988 audit of 6 safe electorates by the AEC proved the need for policing results.

In one instance, two experienced DROs were assigned to make a detailed examination of six non-marginal electorates when it could not supply Senator Short with statistics on the 1987 election. They found irregularities sufficient to have changed the result in all of them. Surely one would suppose this finding would lead the AEC to run checks of close results other than recounts regularly. No way.

4. The AEC is only obliged to investigate irregularities under the Commonwealth Industrial Act.

The Commonwealth Electoral Act does not require the AEC to investigate irregularities in parliamentary elections. But as there is a specific requirement in the Industrial Act, it occasionally does in union elections. One outstanding instance was in the case of the 1986 election in the Queensland branch of the Liquor and Hospitality Trades Union, which one of the AEC's own returning officers for industrial elections in Queensland, John Curtis, halted after he found ballot papers being collected from hotels and bars, and filled in en masse by sitting union officials for their own benefit.

5. Limitations of AEC investigation of irregularities.

AEC policy is that it will pursue nothing but 'hard evidence' of fraud and multiple voting (through optical scanning of the rolls). 'Hard evidence?' Ask any lawyer what that means. Catching the criminal redhanded in the act. But the very secrecy of the secret ballot makes this almost impossible. Multiple voting? The AEC can only identify multiple voting in the same name not different or phantom names.

6. Limitations of audit of the AEC

The AEC may claim it is audited by the National Audit Office. But it is not audited on whether recent initiatives in key procedures in management and running elections are breaching, or diverging from, key principles of the Commonwealth

Electoral and Referendum (Machinery Provisions) Act, built on the need for transparency, simplicity and security. Many of these initiatives are made without reference to Parliament. Over time they may add up to a major change of principle.

Let me exemplify. Section 90 of the Electoral Act reads 'all proceedings shall be open to scrutineers.' In theory this could mean all proceedings from printing of the ballot papers to the final storage of the counted votes. In fact only proceedings in the polling booths and counting centres are open to scrutineers. But not pre-polling booths or DRO's offices on polling night when they enter vote tallies from polling booths for the national tally room. Let alone, the printing, holding or transit of ballot papers or electronic operations either of outsourced unknown companies or the AEC itself.

7. The AEC alone holds all evidence necessary for investigations.

Some people believe the AEC does hold evidence of fraud in every election but the manner in which the evidence is interpreted and presented is part of the problem. For example in the case of multiple voting, the question to be asked is how many electors are recorded on Line C6 (d) for the whole of Australia. The figures might be rather different from those routinely published. The AEC accepts a multiple voter's answer (in the same name) on face value if that voters says he or she did not vote twice. As to any prosecution, the Federal Police give it a low priority.

8. The negative role of the AEC in policing elections

The AEC does not police its own elections. Rather, it seeks to persuade the Commonwealth Parliament no policing is needed on the grounds that 'there is no fraud', 'little fraud', 'no significant fraud or 'no fraud that will overturn an election.' This view, that honesty prevails in elections, makes it harder to achieve safeguards in the Commonwealth Parliament and thereby easier to be dishonest.

The AEC cannot assert that no fraud will affect elections

I have emphasised the pro-negative policy of the AEC administration to investigate fraud, because it says there is no fraud that would have sufficient impact on election results to warrant investigation. But if DROs, the policemen within electorates, were asked they might disagree with the desk-bound bureaucrats of management, and say they would probably not know if there is any fraud because they honestly would not know. Yet they are the only ones that hold undisclosed evidence of fraud.

- no resources are devoted to the actual investigation of fraud.
- no opportunity exists to conduct the task of investigation in a short time frame.
- a divisional office will have only 2 or 3 permanent officers trained in electoral procedures and, even for a period in recent years, between only one or two.
- the balance of divisional staff are casual employees operating under the direction

of the permanent officers.

- polling officials are given 3-4 hours' instruction and employed for only one day.
- such officials are highly unlikely to have the required knowledge to readily identify fraud or persons intent on perpetrating 'fraudulent conduct.'
- occasionally officers may lack zeal or competence.
- no complete habitation review has been held in many years.

Existence of undisclosed evidence

i. **Multiple voters.** Immediately after the election all certified lists of electors voting on polling day are scanned and lists of multiple voters in the same name, and non-voters, supplied to each DRO as a result. The DRO's then send letters to these electors asking for explanations. The letter, which goes to multiple voters after an election, seeks an explanation as to why that elector is marked as voting more than once, and provides just two lines for a reply along with a signature. **The letter almost begs denial as no witness is required and indeed it is in the recipient's best interest to do so as no witness is required *(hence it is not a declaration on oath)* nor is there a penalty for a false declaration.**

   Once all these replies are received, the DRO does check for what is called '**clerical error**'. In most cases it is possible to identify **clerical error** by associating replies of non-voters with replies of multi-voters and list the names under the elector-denial match with non-voter on Line C8c in the **No Further Action Report**. On line C6d in that same section, the AEC records evidence that is not properly investigated because it is inconclusive. The question that needs to be asked of the AEC is how many electors were recorded on Line C6d for the whole of Australia because the evidence held by it indicates they voted more than once.

ii. **Australian Federal Police** In the above cases an elector's reply, denying voting more than once, can be referred to the Australian Federal Police (AFP) but experience shows it is a waste of time because they are given a low priority. For if a policeman challenges a voter with voting three times, as happened in one electorate, and he denies it, the case dies on that voter's doorstep. Furthermore the AFP, being generalists these day, no longer have specialists in electoral process among their ranks.

iii. **Australian Electoral Commission policy** Because the AFP give a low priority to prosecution, the AEC policy is to accept an elector's answer at face value. It takes no further action against a voter even though that voter's name has been marked off the certified lists as a dual or plural voter and there is no evidence of clerical error to support his/her denial. **The AEC readily accepts the mere plea of 'not guilty' as the only basis on which it dismisses the evidence.** The AEC's rationale for this is its reluctance to persecute innocent people but the same reluctance is not shown in regard to sending people to jail for failing to vote.

This policy of the AEC is clearly indefensible. Imagine if the system for detecting drunken drivers was based on the AEC's methods for seeking out multiple voters. The driver is stopped at the road block by the police officer. The police officer asks 'have you been drinking?' The motorist replies 'no.' The officer accepts the motorist's plea of 'not guilty' and the motorist drives on. There is no other legal system that operates that way. A more official notice, requiring the elector to make a declaration rather than just provide an answer like the one forwarded to non-voters, should be sent to such multiple voters.

The AEC cannot assert little electoral fraud affects industrial elections

The Cooke Inquiry Queensland 1990-1

Commissioner Cooke QC found much was the case with union elections as with parliamentary elections, when he made detailed case studies of the electoral and financial affairs of 4 unions over 22 months before the incoming ALP government of Premier Goss closed his inquiry down. They were the Liquor and Hospitality Trades Union, the Clerks Union, the Miscellaneous Workers Union, and the Australian Workers Union.

His in-depth study of those unions was enhanced by 'allegations and information received in relation to additional unions, elsewhere in Australia *(1.2/217 Report 6)*.' He thought they formed a factual foundation upon which to base arguments for reform as they provided 'a sample from the spectrum of the union movement from which general conclusions may be drawn' although he emphasised he was impressed by the obvious integrity of many union officials.

Among those general conclusions were:

- investigations into allegations of ballot rigging are given a very low administrative priority with the result that few allegations are determined conclusively.
- security measures to ensure the integrity of the ballot are presently totally inadequate and in the majority of cases completely non-existent.
- a private individual is at a great disadvantage in trying to investigate ballot fraud.
- witnesses to ballot rigging rarely come forward, either through apathy or fear of intimidation and/or victimisation. In most cases then, although there may be strong rumours about what happened, no direct evidence of it can be produced.

Report of senior journalist, Paul Sheehan, on the CEPU NSW branch election 1994

Paul Sheehan, senior journalist of the *Sydney Morning Herald (Nov. 9 1996)* condemned the AEC after an in-depth investigation of the Court challenge by N. Battese to the 1994 (NSW Branch) election, declared void by Moore J. and re-run in October 1996.

'A variety of agencies failed to even notice the activities of Mr. Blue (the chief 'fixer') and other fixers. These agencies are the Three Wise Monkeys of the federal justice system – the agencies that see no evil, hear no evil and speak no evil about

union elections – the Australian Electoral Commission, the office of the Commonwealth Director of Public Prosecutions and the office of the Australian Government Solicitor. Combined these agencies did not manage to prosecute successfully a single union fixer during the entire 13 years of Hawke-Keating government. It was not as if they had a shortage of issues.'

After contrasting this with the zeal with which prosecution of the Victorian magnate, John Elliott, was pursued, Paul Sheehan quoted from a discussion paper circulated among senior Federal police after the March 1996 election, expressing concern about the ineffectiveness and ineptitude of the Australian Government Solicitor and the Commonwealth DPP.

'As for the third Wise Monkey, the AEC, it certainly saw no evil in 1994 when it failed to notice that Mr. Blue, together with a CEPU official named Jalal Natour together with a group of Vietnamese vote-gatherers and others variously sought, obtained, intimidated or otherwise manipulated the votes of more than 1,000 postal employees, especially Asian workers.

'The AEC also spoke no evil. When the election rort was uncovered during the inquiry conducted by Justice Moore, the AEC did not notify the AFP that at least 930 ballot papers had been identified as forged or tampered with. The police had asked in writing to be informed of any such development. No action had been taken by the AEC by the time the Statute of Limitations had expired for starting proceedings under the Industrial Relations Act.

'And the AEC heard no evil. When it received a suggestion that federal police be allowed to go into the mail centres to warn against vote-gathering and smearing sheet distribution in the recent CEPU election (the re-run) it reacted with outrage rushing to one of the other Wise Monkeys, the AGS, which fired off a letter stating in part: "The Court's orders did not deal with prevention by means of educational visits by AFP officers to Australia Post mail centres but rather by the use of multi-lingual pamphlets.Would you please advise why the AEC should take the steps suggested by you in the absence of credible information suggesting fraud is taking place in Australia Post mail centres in the present election?"

'A question in the House of Representatives whether any action had been taken in respect of exposure of extensive fraud, forgery and manipulation in the CEPU, elicited the answer 'I am advised that the AFP in its investigations did not obtain evidence to support the laying of charges against anyone…The AFP has advised me that the signatures on the (tampered-with) envelopes were unsuitable for comparison purposes and that other forensic examinations were unlikely to identify specific persons who might have been responsible for manipulating the result of the election.

'The AFP further advises that there is a time limitation of 12 months for the commencement of proceedings under the Industrial Relations Act. Accordingly, offences that might have been committed in respect of the June 1994 election are now out of time. I am also informed that to reopen the investigation would, in the circumstances, be contrary to the Prosecution Policy of the Commonwealth.'

As Paul Sheehan points out in quoting the above 'the subsequent election of the Howard government' and 'the *Herald's* front page pursuit of this case have seen a

dramatic sea change in Canberra.' The AFP reopened the case. However, they were handicapped by the refusal of the defendants to give handwriting samples to experts and the death of Jalal Natour. So ended the extraordinary saga of a proven fraud with culprits openly suspected emerging scot free, and the old officials re-elected in a re-run election by another round of manipulation of rules and tactics to facilitate their campaign.

The Australian Public Service Association election (APSA) October 1988

This election in the N.S.W. Branch of the APSA was declared void by Justice Wilcox in 1989 *(No.1 34 1989).* He found that the evidence had clearly established irregularities, namely **the improper diversion of ballot papers from electors and the introduction into the ballot of fraudulent votes.** Two candidates, Messrs Harty (Secretary/Treasurer) and Harrison consistently picked up undelivered electoral envelopes from the post office, where a considerable number of members were employed by Telecom. Their actions were clearly a criminal offence, and the two most responsible officers of the AEC concerned would have been well aware of the requirement of the industrial relations act that they should notify the AFP so that these two officials would be charged for committing criminal offences under the Act.

Yet The National Director, Ms K. Rehn, claimed '**insufficient evidence was available to lay charges within the statutory time limit.'** And an officer in industrial elections, Neil Kean, unabashedly said **'we forgot that charges under this section of the Act had to be laid within 12 months from the date of the offence.'**

The Transport Workers Union election 1995

In contrast to Moore J.'s detailed inquiry into the CEPU election, Madgwick J. in the same court in Procopis v Transport Workers Union chose to terminate the inquiry describing 'irregularities' of an astonishing kind as 'improprieties'. One example was the lack of phone numbers for 60% of 6,280 new members in a union, the members of which depended on telephones.

Madgwick J. elected to act under Section 223 (5) which allowed termination of the inquiry rather than to allow counsel for Mr. B. Procopis to pursue a preferred opening argument for irregularities under Section 223 (3) and did so on these disturbing grounds – 'There is certainly some very suspicious material about, but in the real world, in relation to an organisation of this kind with the necessary lack of controls over voting, life suggests that there is an unacceptably high proportion of cases in which some people will not be prepared to allow nature to take its course. Now the fact that there has been some, or may have been some, improprieties is not going to cause me to fall off my chair.

'I am reluctant to foist a position of uncertainty, expense and anxiety on the duly elected people unless it looks like there is a fair chance that they might be tipped out. There is disturbing material here, there is no question of that. It is just a question of the extent to which it can be put beyond 'disturbing' into proof *(Transcript p.5 May 16, 1996)*.' I have seen what Madgwick J. calls 'disturbing material' on the conduct of that election and found it so outrageous it is absolutely inexplicable that he

terminated the inquiry without hearing the plaintiff's case.

Joint responsibility of AEC for both union and parliamentary elections

The experience of Mr. Curtis is quoted as a reminder that the AEC conducts union elections all the time as well as parliamentary elections. There is no gap in administration between the two responsibilities. The AEC oversees both. Those in charge of parliamentary elections share the same building as those in charge of parliamentary elections, and each of these arms of the AEC knows what the other is doing. Information flows to all sections through daily bulletins, copies of correspondence and in-house gossip. Senior managers would have known, from both internal bulletins and court proceedings, that corruption and irregularities in union elections were happening all the time, and that exactly the same culture of fraudulent voting practices might also occur in parliamentary elections.

As Commissioner Cooke QC said, after a 21/1 inquiry into 7 Queensland unions, 'the guidelines issued by the AEC to returning officers, were really a hands-off job. **They were simply regarded as the people who should do the counting at the end of the day. They were not to be pro-active in ensuring there were no ballot irregularities** *Corrupt Elections HS Chapman Society p.45)***.'** When they were pro-active in Queensland in 1986, they met with nothing but hostility from Head Office.

Failings of present mechanisms of complaint

Where does John Doe go to complain about such matters at present? From Caesar to Caesar, that is to the AEC to sit in judgement on itself? To the Joint Standing Committee on Electoral Matters (JSCEM) with a submission, and if he is dead lucky to a hearing? To the busy responsible Minister? But what does he find when he appears before them? No continuity whatsoever. Members of the JSCEM constantly changing. Sometimes less than half present during a hearing. Most of its 10 members are on other committees. All dashing from pillar to post with debates, lobbyists, petitioners, and attending debates and question time in the house itself. All distracted by the procession of legislative new bills, amendments and regulations crowding the short sessions of parliament. Ministers and their staffers constantly changing and learning on the job.

The JSCEM has far too great a load of complex issues to deal with during any term of parliament for it ever to do little more than accept submissions and conduct brief hearings in such cases. But for the AEC to translate that into a triumphal statement that the JSCEM has concluded that there has been no fraud in 6 successive elections casts a huge shadow of doubt as to how such a conclusion could possibly be justified. For those few like myself, who have ploughed through the weighty volumes of submissions to the JSCEM, are well aware that they are loaded with complaints of fraud, malpractice and irregularities – and not only from outsiders but the AEC's own Divisional Returning Officers.

However the JSCEM does provide a valuable forum for anyone, outside or inside the system, to advance their views under parliamentary privilege, as I have found. I have gained immensely valuable knowledge and experience by appearing before the JSCEM and by attracting responses of the AEC. Even those responses from the AEC

via the JSCEM, which are arguments of abuse to denigrate me, have been valuable because they challenge me.

Need for an electoral ombudsman

Australia does not yet have an equivalent to the Complaints Investigation Officer of Elections Canada, who is assisted by 2 staff lawyers and 25 special investigators in locations across the country *(AEC Submission JSCEM S1771 1999)*.

Even that roving academic guru, revered by some for his on-hands experience of electoral matters, Emeritus Professor Colin Hughes, says the idea of an Ombudsman has merit, though he leans towards an Inspector General in preference. The AEC and the ALP oppose it on the grounds it would mean the extra cost of creating a new office. But I had already established that it would be possible to establish such an office within the framework of the present Commonwealth Ombudsman's office desirably with special powers to act like the Defence Ombudsman.

Clearly if the AEC will not police itself in its own conduct of elections, an independent 'policeman' is necessary. This should be an electoral ombudsman to do so on behalf of the voters, party workers and officials or candidates who have nowhere to go with their many 'grassroots' complaints during elections. In my experience these, if aggregated, would amount to a very disturbing level of concern about the integrity of the process in certain electorates or *in toto*.

Such an ombudsman would lift the responsibility from those citizens who detect serious deficiencies in the AEC's administration, but are reluctant to go public with their concerns to the parliament or the AEC itself knowing, if they do so, they will face a hostile reception and inadequate replies from the AEC and possible threats, character assassination and intimidation from elsewhere.

Support for an Electoral Ombudsman from a Sydney Morning Herald editorial

An editorial in the Sydney Morning Herald *(July 12, 2000),* expressed support for my case for an Electoral Ombudsman describing it as 'persuasive'. 'The AEC argues that, since 1984 when the AEC was set up, the Standing Committee has investigated all allegations of electoral fraud and has not found evidence of it being widespread and organised. The AEC does, however, concede that at each election "there are instances of multiple voting". It claims that these are "easily detected, and prosecuted as necessary." But this explanation glosses over the difficulties of exposing frauds when they are suspected. Individuals who uncover fraudulent names on the roll, for instance, have to pay the AEC $2 to examine each name. This is costly if hundreds of names are involved.

'Dr. Amy McGrath, the president of the H.S.Chapman Society, in a paper called "The Case for an Ombudsman for Parliamentary Elections" claims that "the AEC has no policy for the investigation of manipulation and fraud." She says that the Electoral Act does not require the AEC to investigate irregularities. "AEC policy is that it will pursue nothing but 'hard evidence' of fraud or multiple voting through optical scanning of the rolls." She then makes the point that the very secrecy of the secret

ballot makes it “almost impossible” for hard evidence to be collected.

‘Dr. McGrath’s conclusion is that the AEC has created a circular defence that may not reflect the reality of electoral honesty or dishonesty. The AEC says that the fraud it detects has not changed election results, that there is no widespread electoral fraud and these outcomes justify its low-key approach to the matter. According to Dr. McGrath, however, “the only tests run in recent times …seriously contradict this view.” The case presented by the H.S.Chapman Society is persuasive. The political parties should set up an office of Electoral Ombudsman to ensure accountability in the electoral process.’.

Conclusion

Michael Warren of Telstra (an arm of the CEPWU) deserves the last word as one of those, who has been in the bull-ring during elections; ‘Why has the AEC not been as successful in detecting fraud as Marshall Cooke has been. Is it because our electoral policeman, the AEC, remains in its bunker, leaving it to the sheepdog electors to round up the wolves themselves before they deign to look at the scene of the crime? *(Sub.11 JSCEM 1993).*

CHAPTER 10

THE AEC versus THE SHAREHOLDERS

The AEC is divisive in failing to secure the votes of those of its shareholders who value their votes and want that value protected to guarantee one vote is one value.

The AEC does not adequately secure electioneering process from unions.

In Australia there is a culture of close participation of unions in parliamentary elections. Liberal party candidate, Dr. Flegg, made a detailed protest about union involvement during the ALP campaign in the 1993 by-election for the Queensland seat of Dickson when Wayne Swan was ALP campaign director for the ALP candidate, Michael Lavarch.

This was the campaign when Prime Minister Keating, before election day, announced that Mr. Lavarch would be his next Attorney-General. 'Trade unions organised a massive doorknock and letterbox campaign on behalf of the Labor candidate in Dickson, his Liberal Party opponent, Dr. Bruce Flegg, said yesterday. Dr. Flegg said documents he had obtained revealed **a massive union-funded push for Labor candidate, Michael Lavarch. Dr. Flegg said the Trades and Labor Council's federal election report also revealed that Labor candidates in marginal seats had their campaign offices manned by paid union officials.'**

Dr. Flegg said other union-funded activities included advertising, daily press releases, fund-raising and direct mail letters. 'By using the trade union movement in this way, Labor candidates are able to give the impression of wide community support. I think trade union members would be upset to hear their officials on salary packages over $50,000 per year were highly paid letter box droppers (*Courier Mail April 1, 1993).*" There is no record of the AEC ever having investigated these startling disclosures to establish whether the ALP had disclosed these funds and the value of labour.

Does the AEC adequately protect its shareholders in their own union elections?

The Cooke Inquiry report of 1991 into union elections condemned 'the failure of the AEC and the AFP to prosecute more than 3 cases in 50 years, despite countless examples of ballot irregularity cases in almost every union, as a public scandal.' It said the lack of cases, which the AEC claimed was proof there was no fraud '**does not indicate a strong record for the AEC but a strong propensity for the AEC to omit facts…It is quite clear that ballot rigging is going on in almost every union but is very seldom detected. The detection of ballot fraud is very difficult. Those directly involved will rarely come forward and admit their guilt, and then only when other events compel them to do so.**

Witnesses to ballot rigging will seldom come forward either because of general apathy or because of fear of victimisation; a very real fear as events recorded in this report demonstrate. *(Cooke Report V.1 p.310)*

The AEC does not adequately secure votes from interference in union elections

1. CEPWU elections 1979-85

Postal voting is a notorious gateway to robbery of shareholders' votes; so much so it was banned in Commonwealth elections by the ALP in 1909 and only restored for servicemen in 1918. It was restricted in NSW to limited conditions by the ALP in 1949 for the same reason.

There is little space in this book for tales of union elections as nurseries for training ballot-riggers, as well as branch stacking in pre-selections, but one has particular significance. That is the story of Graham Richardson's connection with the Postal Workers Union. For let us not forget that union elections are wholly postal vote elections, while parliamentary elections may stand or fall on postal votes, witness one of Kim Beazley's elections in the WA electorate of Swan when postal votes just put him over the line.

In Marian Wilkinson's biography of Graham Richardson, *Whatever It Takes*, she tells a strange tale of a 'crisis' in Graham Richardson's life when a blow up occurred in the NSW Postal Workers' Union, run by his father until his death. But before summarising it, I must emphasise that any reference to the 'Australian Electoral Commission' before 1984 should read the 'Commonwealth Electoral Office'.

Marian Wilkinson wrote: 'The Postal Workers Union was not just important to Richardson for sentimental reasons. As this saga reveals, the union was also strategically important. It had 15 delegates to the Labor Party's state conference. But far more significantly, back in the later 1970's, it was feared that some Postal Workers Union *apparatchiks* had worked out how to steal unmarked union ballot papers from the AEC when they came into Sydney's central mail exchange at Redfern for distribution. This sent a chill up the spine of all union officials in NSW on both the Left and the Right. They realised, if this was true, it could lead to unprecedented opportunities for ballot-rigging in a wide range of union elections. Control of the Post Workers Union, always desirable, suddenly became vital.'

The 1979 election, officially run by the AEC, was an explosive power struggle in more senses than one. Bombs went off under the cars of the Left Wing President and Secretary in the dark of the night, setting fire to their houses. Joe Kanan was recruited to see the Right won that election. He was a Lebanese migrant who 'had a powerful base in the old central mail exchange at Redfern, where hundreds of migrant workers, many of them Lebanese, took their political direction from him.'

During the 1979 election the returning officer, Mick Whinfield, became suspicious about ballot fraud. The returns were much higher than average, and many ballot papers came in envelopes that had no postmark. Soon after the election he began hearing stories that a postbag from the AEC with hundreds of unmarked union ballot papers, which had been intercepted on the floor of the Redfern mail exchange

and sent on to Gosford, had disappeared. Other papers had been stolen from post offices around Sydney. For the time being, with a federal election pending, he decided not 'to rock the boat' beforehand.

On Richardson's motive in forming a temporary alliance with Joe Kanan Marian Wilkinson had this to say: 'While much has been written over the years about Bob Hawke's political ties with the Australian Jewish community, little is ever discussed about the NSW Labor Party's extensive relationship with the Australian Lebanese community. Both the Left and Right had close ties with the community and heavily recruited Lebanese migrants into the Labor Party's branches in western Sydney. Richardson and Sussex Street built their relationship among Sydney's Lebanese population through several leading Lebanese business men and through men like Joe Kanan, who wielded influence in the Postal Workers Union. In return, apart from joining the Labor Party's branches, many Lebanese community leaders also raised funds for the party, helped bring out the vote at election time and provided critical support in the ethnic media for Labor.'

'However Joe Kanan had not won the whole battle for the Right Wing in 1979. The two key jobs in the NSW Branch of the union - of secretary and president - remained with the Left. 'The most prestigious industrial law firm in Sydney, McClellands, was consulted although, of course, by now 'Diamond' Jim McClelland was long retired.' The firm besieged the Left wing officials in the Industrial Court.

'The Left Wing decided to retaliate in the Federal Parliament through the Left's most senior federal Senator, Arthur Gietzelt. In June 1981 he rose to throw his own bombshell into the Senate by exposing the allegations of a 'serious conspiracy' against his left-wing colleagues and 'a manipulation of the postal ballot in the 1979 Postal Workers Union election.' He told the Senate there was: 'firstly a conspiracy against officers of (the) union; secondly, interference in Commonwealth electoral ballots for union elections; thirdly, the availability of large sums of money to defeat sitting union officials; and, fourthly, interference in the internal affairs of selected unions by unauthorised persons.' The money, it was said, came from an ALP 'slush fund'.

Senator Gietzelt claimed to be supported by stories in the *Age* and *Sunday Telegraph* of mail withheld, stolen, misdirected or rerouted in mail centres by union officials or members of their network. He then declared that nobody from the Commonwealth Electoral Office, the Federal Police, the Department of Administrative Services or the Attorney-General had sought to have any discussions with him about the matter.

In June 1981, the Left Wing decided to act when the secretary and president were soundly beaten. They went to the Federal Court for an inquiry into the 1981 election and to the Federal Police with allegations about ballot fraud in the 1979 election. The Federal Court inquiry dragged on for a year. 'Three witnesses took the stand to testify that Joe Kanan had told them he had access to large numbers of unmarked ballot papers in the 1981 ballot as well. Joe Kanan denied it on oath. But one union organiser gave damning evidence that Kanan had spoken to him before the ballot and offered to help him get elected if he split from the left-wing leadership. **In return,**

Kanan guaranteed him that some 600 to 800 ballot papers would have his name marked on them. He would only have to pick up the telephone to have those papers marked in that manner *(M. Wilkinson Whatever It Takes pp.17-23)*. '

'Mr. Justice St. John found some disturbing irregularities in the 1981 Post Workers Union ballot. A large number of members had never received their ballot papers, and security measures at Australia Post were not adequate to ensure the safe delivery of all ballot papers to union members. Mr Justice St. John asked the union, the AEC and Australia Post to find ways of tightening up the security at the mail exchange when union ballot papers were being delivered. He decided not to overturn the result of the 1981 union election, as fresh elections were due anyway.'

As an ALP government had safely won power in Canberra early 1983 and the workers in the Redfern Mail Exchange were being dispersed to other centres, Mick Whinfield decided to 'blow the whistle'. He wrote an anonymous letter to the new Minister for Industrial Relations, Ralph Willis: "The *modus operandi* of J. Kanan, as exposed in the statutory declarations, will inevitably bring discredit on Australia Post, the Australian Electoral Commission and the Australian Labor Party so that one does not have to be an intellectual giant to realise the resultant damage that would be caused by the disclosure of the contents prior to the forthcoming Federal election."

After the Federal Police traced the letter back to Whinfield, his evidence was enough for them to renewed their investigation into the PWU. They arrested Joe Kanan for perjury in the Industrial Court and receiving stolen ballot papers from the Gosford mail exchange. Joe Kanan threatened to expose Sussex St (and Richardson). He threw all the blame on his ally, Frank King, who pleaded guilty that he had, in fact, stolen a bag with hundreds of unmarked ballot papers from the mail bin in Gosford but at Kanan's instigation. Their excessive budget of $20,000 had come from an ALP 'slush fund' in Sussex Street headquarters. After agreeing to be a key witness in the police case, King was convicted but given a bond.

When Kanan went to trial in July 1985, King was as good as his word. He told the court how Kanan had instructed him to steal the papers from the Gosford post office, and then start filling them out according to the ticket. Marian Wilkinson observed: 'These extraordinary hearings were not reported in the media despite two bomb scares during the case that cleared the court room, including one in the middle of Frank King's evidence.' Shortly after Kanan had a heart attack demanding a heart by-pass operation. Some months later Kanan was committed for trial, pleading 'not guilty'.

But, as Marian Wilkinson reported: 'Kanan never went to trial. The case was 'no-billed' on the grounds that Kanan had been caught lying under oath to the earlier inquiry in the Federal Court.' Kanan retired from both Australia Post and the union, while Mick Whinfield was given honourary life membership of the ALP. Such is union politics.

The CEPWU NSW branch election 1994

In the meantime the 1994 NSW branch election of the postal and telecommunications section of the now much enlarged CEPWU had been held. Noel

Batisse, the former President 1977-9, known as 'Concrete Head', was one of the candidates on the Clean Team challenging the Right Wing, which had survived all those court battles in that election. When I met him in 1996, he told me that he was eligible to be on that team because he had seen the errors of his ways as a 'militant left' having realised they could not organise their own back yard. The Right Wing faction once more prevailed.

The result was challenged by Quentin Cook in the Federal Industrial Court and the election overturned for arrant fraud and irregularities. The solicitor was Victor Dominello of Paul Etherington & Associates. In a paper he read at the H.S.Chapman Society launch on November 1996, he underlined the point made in the 2 previous elections, the vulnerability of Australia Post to fraud if the AEC was not extremely vigilant in three particulars - security, anonymity of the envelopes and out-of-course postings.

He emphasised: 'In traversing some of the irregularities that were found by Justice Moore in the election inquiry, it is imperative to remember that the AEC, as custodian of the electoral process, must conduct union elections not only in accordance with the Industrial Relations Act, but also with the Rule Book of the particular union involved.

1. For example, rule 69 (d)4(a)(20) states that the 'envelope that contains the ballot material must have as few distinctive characteristics as possible.' Now the *rationale* behind that is quite obvious, namely, that there are a large number of members that vote in that election, and a lot of these are postal workers engaged in the postal process. If a postal worker can identify an envelope coming through the postal system, that worker can easily siphon it out. For example, if the envelope is a red envelope as opposed to an ordinary envelope, and had 'Return AEC' on it, there are at least two separate and different stages in the process where a mail officer can quickly pull the ballot out. The Court found that the envelopes were sufficiently distinctive for the postal workers, that regularly handled the mail, to be aware they were postal ballot envelopes. Although this was a technical breach of the union rule it did not constitute an irregularity.'

2. Another irregularity was apparent in out-of-course postings. 1009 ballots were shown to be out-of-course. 'Out-of-course simply means that if I live in Sydney and work in Parramatta, you would safely assume that I would post my ballot in the precincts of Sydney or Parramatta. If, however, my ballot paper was channelled through, and posted in, Melbourne, then I would be asking why. The Court found 1009 cases where ballot papers mysteriously drifted off well outside the domain of residence and employment *(HS Chapman Society Corrupt Elections 74-5)*.

The AEC does not adequately guarantee postal votes in transit

1. Experience of the national secretary of the AMWU

In 1985, the national secretary of the Australian Metal Workers Union, Mr. Jack Kidd, called for a major upgrading of postal security in Australia Post *(Sunday*

Telegraph July 7, 1985) saying that union vote rigging through post offices extended throughout Australia. He knew of APTU members, who had been transferred to post offices out of N.S.W., strategically placed to withhold mail containing ballot papers or to re-route it to a suburban post office where the union official, or his helpers, could pick them up for the express purpose of 'rigging' the ballots concerned.

Police at this time concurred with these informants regarding access to the mails via APTU members to sabotage postal ballots in other unions and with Jack Kidd when he stated – 'We've no doubts over a long period of time that there is a capability for fiddling of elections through post offices and not just in N.S.W. In recent years we've gone to Australia Post and demanded extra precautions. We've tried to get scrutineers into the postal system in elections in all States, but were told it is a departmental rule to allow no one in the postal system.'

Experience in the Constitutional Convention Election

During the Constitutional Convention election in 1997 I became gravely concerned with the total lack of security in the transit of electoral mail as it was being uniquely run as a full postal ballot as union elections were. Being a candidate for Australians for Constitutional Monarchy I applied to the AEC to be allowed to inspect the arrangements made with Australia Post to satisfy ourselves that adequate security was being adopted.

Paul Dacey, then an Assistant Commissioner of the AEC, replied saying Australia Post would not permit any inspection on the basis of a right to 'scrutiny' as it would set a precedent. In any case 'the JSCEM as recently as last month concluded that the handling of ballots by Australia Post was at least as secure as could reasonably be expected.'

The JSCEM conclusion, to which Mr. Dacey referred, was based on a visit by a JSCEM delegation to the Turella Mail Exchange where they were assured that television cameras, and automated assembly lines, had increased security. What a 'Potemkin' (Communist Russia's show village for tourists) job Australia Post must have done on that JSCEM inspection party. Shown the video cameras and the flow of mail on the automated assembly line, no doubt.

Did the Australia Post manager tell them the TV spy cameras are often turned off, unmanned or inoperable? Did they show them how it is possible to press a few buttons to divert mail on the conveyor belt if you know what you are doing? Did they inspect the stage when mail is sorted through before it goes on the conveyor belt, when staff are busy raking through mail to see it is faced up the right way? Or that it is dead easy to divert groups of such letters by post codes far away, or to hold them back until the election is over. Is that system, full of loopholes, what Australia Post means by 'security is as good as can be expected?'

If I dwell on this it is for a very good reason. The AEC and Australia Post are both involved with all three tiers of government – Commonwealth, State and local Councils, all of which run postal voting at levels which decide elections - wholly in union elections and now some council elections.

Mr. Dacey's answer raised two serious questions:

- whether Australia Post should be obliged to define exactly what they consider is a standard of security for handling of ballot papers in their system that is '**as secure as could reasonably expected'** if they are not willing to let people see for themselves.
- whether the AEC should explain why it was '**satisfied that appropriate security arrangements are in place'** and precisely what they mean by '**appropriate'.**

In fact, postal votes were reported as sailing through Australia Post in open, poorly secured boxes to Divisional Offices; while all 'return to sender' mail was diverted from being sent to those offices to other centres specially engaged for the purpose. When I tracked this separate centre down to an industrial site in the Mascot, Sydney region, I was able to sight one of these trays although a formidable man straddled the doorway, barring my entrance as though I was a terrorist having been alerted because I went to an AEC store first instead.

The AEC did not adequately secure anonymity of postal votes in the 2001 election.

The danger of interference with postal votes, in transit in industrial elections, is clearly so manifest the AEC's policy has been unequivocally to make these envelopes as nondescript as possible. Why then has the AEC suddenly decided to change both the design and style of postal envelopes without reference to the JSCEM? Why, I ask, has the AEC adopted the opposite practice by making them so absolutely obvious in the 2001 election?

Why has the AEC had its declaration vote envelopes printed with red markings back and front and the wrong size for the automated sorting line in mail exchanges? A senior AEC manager ingenuously explained to Alan Jones this was to make it easier to pick out of AEC mail. It would obviously also make it easier for any employee of criminal intent to divert, delay, open, alter, substitute or destroy them. The following details explain why.

The Envelope:	• Colour bright red triangle, nearly the size of the envelope
	• on left hand side and red symbol on the back
	• easily identified at a distance
Size:	• over-sized envelope not post office preferred
	• requires sorting by hand
Security:	• not a good security type envelope, not tamper proof
	• stick down type - easily opened
	• not handled by conveyor belt
	• no stamp required. Admitted on date of witness signature only
	• handled many times for charges to AEC reply paid

- post code not for suburb but for suburb retail
- posted locally for local mail exchanges
- unionists constantly handle mail
- no unionist should do so after the 1994 CEPWU case

The AEC does not adequately secure postal voting against dishonest postal voters

Divisional Returning Officers can no longer guarantee they will pick up fraudulent postal votes during processing, because directives from Canberra Head Office have changed the methods, and because the rising volume of postal votes, and the pressure to deliver final results in the shortest possible time, militates against a 100% check.

1. Directives from Canberra

- to punch the application into the computer, which issues it relying on barcoding scan of the elector's number. If signed and witnessed, it is marked on the roll as having voted. There is no known audit trail for this process.
- to issue a postal vote perforce: 'The DRO, who receives a postal vote application, **shall** action the application and post a certificate and ballot paper to the voter.' The word **shall** has displaced the word **may** by virtue of Clause 6 (Procedures Manual)**.**
- to check only each day's mail, instead of all previous mail, before issuing a duplicate vote to anyone who claims not to have received one, but to tell the person concerned they can only vote once. (one DRO received 50 duplicates from the same person in 2 days and 4 from one in a week. These will not now be readily spotted.)
- to count multiple postal votes as valid, even when only in one envelope.

These changes have made the detection of fraud in postal voting more difficult. At first after 1984, the new CEA left this to the discretion of the Divisional Returning Officers, the AEC's philosophy and approach being that the same principle, applying to section votes, should also apply to postal votes. Certain clauses in the Procedures Manual *(1.6/3/2 Part 14 Subpart 3)* were approved regulations or directives by the Commissioner under Section 32. They were not an expression of long-standing practices in our electoral history. **They were merely advisory but they could be construed by those applying them as mandatory.**

Rising volume of postal votes to levels where they can decide elections

- wholesale distribution of application forms by parties and candidates creates a volume which cannot be checked.
- divisional staff now only spot-check whether any are authentic or not.
- most of the work is done by temporary casual staff which greatly enhances the risk of clerical errors and mistakes.

AEC has not been able to prevent political parties issuing postal vote applications.

The AEC strongly opposed parties issuing vote applications to the JSCEM in 1993.

8.2.1 For many years the use of the AEC's postal vote applications by political parties for their campaigning purposes has caused concern. Prior to the 1993 election parties made costly and increasing requests for such applications. Very few of the application forms so issued were used by electors. At the 1993 election the issue surfaced in high profile when the Liberal Party copied and distributed postal vote applications on a mass scale. (The AEC had been advised by the Attorney-General's Department that nothing in the CEA would proscribe this.) The Labor Party did something similar, but on a much smaller scale. The action of the Liberal Party, in particular, resulted in public perception (and Court criticism) of possible association between the AEC and a political party. Moreover, rather than a Divisional Office address, their application forms had as their return address the Liberal Party office which then forwarded them to the AEC for processing. This two stage process poses a danger and could have resulted in some electors being disenfranchised.

8.2.2 Unless checked, this process is likely to become even more widespread and could result in increased and improper use of postal voting facilities which will add to election costs and possibly delay election results.

8.2.3 In the circumstances the AEC considers that the CEA should be amended to prevent the general reproduction and distribution of AEC postal vote application forms.

8.2.4 If the JSCEM does not agree with the proposal in par 8.2.3 the AEC believes that at the very least it should be made clear that forms must be returned direct to the DRO.

8.2.5 In association with this the JSCEM is asked to endorse the AEC position that it will not provide PVA forms at a level above those prevailing in the past to individual candidates and parties for their campaign use. (The AEC's current policy is that up to 500 forms can be provided to a candidate and up to 5,000 to a party in a State on request and subject to availability for those electors with a genuine need for a postal vote.)

The AEC does not adequately secure pre-poll voting from dishonest voters.

Prepoll voting allows an elector to cast a pre-poll vote in his or her own division before polling day at advertised prepolling centres up to 3 weeks before an election. Theoretically, as with postal votes, they are only available to -

- electors who will not be within their State or Territory on polling day
- are seriously ill or infirm

• unable to leave work

• unable to attend a polling place on polling day for religious reasons.

Theoretically also they are the equivalent of statutory declarations, which is why they are called declaration votes. As such the voter, requesting a prepoll vote, is testifying, by his or her signature, effectively under oath that they are telling the truth not only they are who they claim to be but also, by ticking a box on the declaration form, that they qualify under the nominated conditions and therefore have a genuine claim. But he or she is not required to provide any proof by ID, medical certificates, travel or work documents that they are genuine voters, not just convenience voters.

Now the only people, who can guarantee that all the people who front up to claim a prepoll vote, are those manning the desks because party scrutineers are not allowed into any prepoll centres. This presumably is based on the theory that, being declaration votes, their authenticity will be checked. This is dubious in the extreme.

After I became aware of the astounding laxity in management of prepoll centres, I wrote a letter to Commissioner Becker on November 6, 2001 advising him of it: 'Some members have checked the administration of the booths issuing prepoll votes for the November 10, 2001 in various electorates. On 4 occasions members have been advised they can cast a vote even after they have read the notice and told the polling clerk they do not qualify under the conditions listed in the notice 50. These occasions were in booths in Rockdale, Hurstville, Bondi Junction and Campbell St.

Rockdale: No notice 50 to be seen. I went up to the clerk servicing the public and said I was not sure if I qualified for the reasons that governed eligibility to vote. She said: "There are no reasons." I said: "There used to be." She added: "The Act was changed this year."

Hurstville: Notice 50 was displayed prominently beside the counter. I studied it then told the clerk I was not eligible to vote. She asked 'you can go to a polling booth on polling day?' I replied 'yes'. She added 'well since you're here, you can vote.' I did not.

'I would appreciate an urgent ruling as to whether your staff are entitled to advise voters they can have votes, which prescribe specific qualifications, without qualification; or to advise a voter as in Rockdale that no reasons apply. Surely, as these conditions have been laid down in the election book sent to every elector, and penalties apply to voters who do not conform, it is wrong for this advice to be given. Moreover it swells the numbers of those choosing to vote in centres where party scrutineers are not allowed to be present. What checks are made to ensure votes freely applying for votes without let or hindrance have not cast either ordinary or absent votes again on polling day?'

The extraordinary response of the Australian Electoral Commissioner, Mr. Andy Becker, to my enquiry why polling clerks could permit, even advise, voters to break the law was that the AEC accepted an elector's declaration, when requesting a pre-poll or postal vote, <u>at face value</u> without checking because the CEA

1. does not require proof that the grounds claimed are genuine.

2. does not require interrogation that the grounds claimed are genuine.

The AEC's failure to provide adequate security for an honest outcome has these results:

- A great many pre-poll votes are now issued by DRO's in breach of the CEA because they are issued to people without being cautioned or adequately warned of conditions by posters in the pre-poll centres (which are either badly placed on tables or walls, or not there at all); let alone penalties for fraudulent voting.
- Prepoll votes amount to 1/3 of the declaration votes - ranging from 3,500 to 7,000.
- They are predominantly for one party - the ALP.
- They are more difficult to check as, like all declaration votes, they take 5 times as long to issue and cast as an ordinary vote.
- The ballot boxes are more vulnerable to insider corruption over a three week period.
- Voters often walk off leaving staff to put their votes in the ballot boxes, as the boxes are behind the counter.

Furthermore scrutineers are not allowed into the pre-polling booths to monitor the process despite Section 90 of the CEA, which says **'all proceedings shall be open to inspection.'** The Divisional Operation Procedures Manual makes no mention of the role of public scrutineers or scrutiny in its instructions to Divisional Returning Officers.

On June 22, 2001 I wrote to the Director of Investigations, Commonwealth Ombudsman: 'Our Society believes the Australian Electoral Commission has a case to answer as to why it no longer conducts pre-poll and postal voting as defined in the Commonwealth Electoral Act and its own publications in the following respects, and by what authority it has ceased to do so.

1. The issue of ballot papers to voters does not always conform to conditions prescribed for such voting in Schedule 2 relating to sections 220A and 183.
   a) Proof is not always required that the voter is entitled to vote.
   b) Notice of conditions are not always displayed clearly or at all in prepoll centres.
   c) Voters have been told 'we do not bother with those any more (as in my case)'.
   d) Voters have been advised to tick boxes of eligibility although ineligible.
2. Scrutineers are not allowed into pre-poll centres despite Section 90.
3. The ballot count is hidden by merging the count of provisional votes.
4. Officers in pre-poll centres frequently put ballots in envelopes for voters and then in ballot boxes inside the counter out of reach.

The number of these votes in many electorates in the 1998 election was upwards of 7,500 and sometimes 10,000 or more in both ALP and coalition seats - an alarmingly high level given that these declaration votes are not secret ballots and are never reconciled with them in the count, but marked off on separate lists.

What should be done? Preferably to abolish them altogether. As this is unlikely then -

- Electors should be required to put their votes in envelope and ballot box themselves.
- Ballot papers should be of a different colour from ordinary votes.
- Votes should be set aside and only counted if the verdict is close.
- Scrutineers should be allowed into prepoll centres.
- Voters should provide proof of right to a prepoll vote and identification to receive one.
- Votes should be marked off against certified lists from polling day.
- Staff should be security screened.

Is the AEC's security screening for staff adequate to protect votes of shareholders?

On November 15, 2000 the Chairman of the JSCEM Special Inquiry into the integrity of the electoral roll questioned Commissioner Becker about security checks on AEC staff in light of an accusation that an AEC staff member in Brisbane had been giving out white acknowledgement cards for ballot riggers to use to validate false enrolments on the electoral roll in preselections.

Chair: What sorts of security checks are put in place for District Returning Officers?

Mr. Becker: None as such. We do not do checks with ASIO or anybody like that. I know those sorts of checks apply further up the line but they do not apply at the divisional staff level. We do require, of course, that no staff of the AEC have any connection whatsoever with any political party….Other than that, there is no direct security involvement with the staff at the time of appointment.

Chair: At the district returning officer level there is no security check other than the question: 'Are you affiliated with any political party?' I would say that no security check would obviously go for the local returning officer at each polling booth too, and for the people who work at the polling booth on the day. Is it correct that there are no security checks?

Mr. Becker: That is true, yes. Of course the people on the day have to give an undertaking that they are not connected with a political party.

Chair: But no checks are conducted into staff at any of those three levels?

Mr. Becker: No. the undertakings assigned by the staff are taken at face value. I would imagine that it probably would not take too long before somebody's connection with a candidate or a party would come to light. But there are penalties, of which I have just been reminded, which are $1,000 or six months or both, for a person who does breach that undertaking not to be connected with a

political party or candidate.

Chair: So we have established that there are no security checks at the local level. What about the Queensland state office level? Are there security checks at the state office level for people who work in Queensland or South Australia or whatever state?

Mr. Becker: No there are not.

Mr. Dacey: All staff are required to sign the secrecy undertaking with regard to information held by the AEC and those (staff) under that penalty (of $1,000 or six months).

Chair: What about trade union membership at the local level? Are people who work at the polling booths, or the DRO, or the local returning officers required to indicate whether they are active members or even members of a trade union?

Mr. Becker: No they are not. Our own staff, of course, are members of unions and the CPSU in particular. Not all of them; some are and some are not, but there is no restriction on their membership of the CPSU.

Chair: Now could you answer the question about the state office and security checks: we have dealt with the secrecy provisions but what about security checks for state office officers of the AEC?

Mr. Becker: There are no security checks that I am aware of unless of their own volition someone like ASIO was doing it.

Chair: What about in Canberra at the federal level?

Mr. Becker: None at all. It is the same thing.

Chair: There are no security checks at all for any AEC staff that you are aware of through the Commonwealth, the State offices or the local set-ups.

Mr. Becker: Not today and probably never in history to my knowledge

Chair: Yet, when you get a job with a minister, or in some cases members of parliament, security checks are mandatory and are run by offices of the government, usually ASIO. But, even though the AEC holds such sensitive information, you do not feel that would be an appropriate check to be maintained at the AEC level?

Mr. Becker: The information that we hold - ok it may well be considered sensitive but it is not accessible to everybody.

Chair: Do you see that the information held by the AEC is so sensitive that it would surprise members of the committee to find out that there are zero security checks run on any officer of the AEC from Commissioner to local polling booth operator?

Mr. Becker: I suppose it may surprise them but it has not been an issue. There has been no question of needing those sorts of ASIO type checks that you are talking about.

Chair: Until now. Do you still not believe that those sorts of checks would be necessary?

Mr. Becker: They would be most unnecessary in most cases, because very few people - apart from the divisional staff - have access to the roll. In central office I imagine there would be very few people of the 140 odd people there that would need access to the roll.

Chair: And of course that fans out across Australia in terms of the number of people?

Mr. Becker: Yes, all up we are talking about 800 full-time equivalents.

Chair: All 800 have not got access to it - that is what I am saying. Only those people who need access to it, people who are working on the roll, would have access to it.

Senator Ferris: I wonder if, given the allegations by Ms Ehrmann, which I accept you are still pursuing, you would not reconsider whether or not it may be appropriate to, at some level in the Electoral Commission, implement the same sorts of security checks that are applied to other senior levels of the Public Service and, indeed, in this building.

Mr. Becker: It remains to be seen what comes out of that inquiry.

Senator Ferris: Notwithstanding that, you would not pursue that in any case as a matter of principle related to your point 10 in relation to public confidence?

Mr. Becker: Again I must admit we have not seen the need for these sorts of things. We can belt and brace the whole thing and that is going to cost us an absolute fortune. That includes precinct voting - it could include all sorts of things. We could spend an amazing amount of money - as Mexico has and as, to a significant extent, the United States has. I do not think we realise just how much money they put into their full electoral system.

Mr. Danby: They do not do as well as you.

Mr. Becker: I do not think they do, either. I think there would be a lot of people who say the same thing. You can go to the Federated States of Micronesia, where we are having some discussions at the moment and find that one-third of their budget is spent on their electoral process. Quite frankly that would be absolutely ridiculous in this country. **We do not have a culture of electoral fraud.**

Does the AEC adequately secure the printing of ballot papers for its shareholders?

I have not come across any speech in the Parliament by any politician raising the question of security in printing ballot papers for federal elections since Senator Childs of NSW in the Senate on November 2, 1983. But it is far more imperative that someone should do so now for the same reasons as motivated Senator Childs.

Senator Childs said 'I wish to speak to the Australian Electoral Office annual report for 1982-3 to express concern that there might be a lack of security in the printing of trade union ballot papers for elections. At page 12 of the report under the heading of 'other electoral activities' reference is made to industrial elections - the number of elections referred to the AEO was 356 in 1938-9, 417 in 1981-2, and 416 in 1982-3, so there is a steady increase in the number of elections referred to the Electoral Office.

'Traditionally ballot papers in trade union elections have been printed in the various government printing offices, either the Australian Government Printing office or the State government offices under tight security. In NSW, for example, there are secrecy provisions in the Crimes Act 1900, and there are Public Service regulations, particularly in section 159 which refer to secrecy. **There has been a tradition that the printing of ballot papers at the Government Printing Office is a matter on which there will be no controversy. They are very carefully checked, and counter-checked, so that all people can feel that the ballot is beyond reproach.** In addition I have been informed that ballot papers can be printed within 24 hours and that they are done in the utmost secrecy.

'Today I received a telegram from the Secretary of the NSW branch of the Printing and Kindred Industries Union (PKIU) in which he stated: "The NSW branch of the PKIU is presently having its annual ballots conducted by the Commonwealth Electoral Office and is receiving hundreds of complaints from its members in regard to the standard of the printed ballot paper and its lack of printer identification. Our inquiries have uncovered the horrifying evidence that the printer's ballot papers are produced from copy obtained from computer printout, forwarded to a leading computer manufacturer, Rank Xerox, who then print the ballot papers on government supplied paper. **We object to the non-PKIU produced arrangement and question the matter of security of such an arrangement. We request an urgent review of these unsatisfactory practices.**

'The union is particularly outraged at the insensitivity of the Electoral Office because the National Secretary of the PKIU had received an assurance from the Special Minister of State, Mr. Beazley, on 15 August that **the facilities of the Government Printing Office are not working to full capacity so that ballot papers could have been printed at the NSW Government Printing Office.** 'This raises the important question as far as the Electoral Office report in concerned that ballot papers must not only be carefully accounted for but all things to do with trade union ballots must appear to be completely above board; and **if ballot papers are to be produced in a commercial printing house there is a danger, and at least there**

will be real concern, that they will not be dealt with in the way in which they should be dealt with. We cannot afford to have this looseness. The Electoral Office must look at the matter.'

But the Electoral Office, now the AEC, does not look into the matter. As ex-Commissioner Mr. Cox declared to the JSCEM when commenting on my query as to why the Murdoch-owned company, Salmat, certain of whose directors were from Australia Post, was awarded the contract to print the ballot papers for the referendum on a republican model '**I am at an absolute loss to know what the hell who prints the ballot papers has got to do with the conduct or the result of the election.'** The only point of relevance in Salmat being awarded the contract it seemed was 'to get a better deal.'

Mr. Cox seemingly was not aware that until recently State and Federal Governments believed it imperative that the printing of ballot papers should be a public service responsibility of Government printing offices under strict security. Those governments were well aware of the notorious use of printing excess ballot papers to 'rig' union elections throughout the century as protested both in parliaments and court actions. They considered the question of who printed the papers, and how many were printed, the most crucial of all to the proper conduct of any election. He, who has extra papers, has the means to corrupt it. As Sherlock Holmes would say: 'Elementary, my dear Watson.'

Those who reported an extra 144 extra ballot papers in the count in one booth alone in Queensland in the February 2001 election met with the same scant attention from the Queensland Electoral Commission when they reported it, as I did from Mr. Cox.

Senator Child's warning and injunction are as valid today in 2003 as they were then. Divisional Returning Officers today see a danger with the rise of sophisticated photocopiers for it provides a good way for a fraudulent applicant to achieve an indistinguishable ballot paper to multiply it without fear of detection either by theft of one paper in transit from a printing plant, or by leaving the booth with the legal ballot paper issued to find a high class photocopier and return with extra ballot papers to palm into the fairly ample aperture of the ballot box. Either would be childishly easy as the colour of the paper used can be bought in any Office Works store. And, as the former NSW Electoral Commissioner, Ian Dickson, informed me he often received incomplete parcels of 100 votes from the Government Stores when he was running N.S.W. government elections.

But what about the security or water marks on ballot papers, you may ask? First, as the AEC has admitted ballot papers are only <u>mainly</u> marked. Therefore unmarked papers would go unremarked, especially as assistant returning officers are allowed to photocopy ballot papers if they run out. Secondly, ballot papers are rarely all inspected to see if they carry watermarks, or security marks, in the rush to deliver the count to the impatient media? They are all too often in stacks, Mexican bank count style, so the entire ballot paper, but for a small corner, is concealed under the counter's hand.

AEC FIGURES FOR THE 1998 Federal ELECTION

Ballot papers were printed at 14 sites throughout Australia in the recent election.

Number of voters	12.5 million
Ballot papers printed: (Senate & H. of Reps)	39.556.425
Ballot papers received in booths:	20,004,473
Declaration vote ballot papers:	1.647.050
Difference in total	17,904,902

This amounts to more than 1.5 ballot papers issued per elector.

I am told Internal Audit, AEC, now recommend 1.2 papers issued per elector.

What happens to those extra papers? No public figures are available after an election. Yet the printing of extra papers are notoriously the means of fudging union elections, and, in the Phillipines, to fiddle a presidential election. An extensive study of that election in the Philippines concluded that any figure as high as 1.5 extra ballot papers per election would arouse suspicion of fraud. I am led to believe that assistant Returning Officers in polling booths will go to considerable lengths to check if the count of voting papers is too low, but not if it is too high.

Nobody - candidates, scrutineers, or politicians - asks where ballot papers are printed.

The AEC obligingly responded to my query with the list I give below.

Ordinary ballot paper printing.

Tasmania	Printing Authority of Tasmania 2 Salamanca Place Hobart Tasmania 7000		
Victoria	Norcross Pty Ltd 1132 Nepean Highway Mornington V. 3931	SNP Ausprint 151 Forster Rd Mt. Waverley V. 3149	Print Media Group 38-40 Sheehan Rd. W. Heidelberg V. 3081
Queensland & N. Territory	Form Print Qld Pty Ltd 46 Radley St Virginia Q. 4014	Imprint Cnr Bilsen/Zillmere Rds Boondall Q.4034	PMP Print Pty Ltd 485 Zillmere Rd Zillmere Q. 4034
	HPA Archimedes Place Metroplex Estate Murarrie Estate Q. 4172	Ascott Print & Design 344 Melton Rd. Northgate Q. 4013	
W.Australia	F. Scott Print 5 Short St Perth WA 6000		
N.S.W.	J.S. McMillan Print Group 24 Carter St. Lidcombe New South Wales 2141		
S.Australia	Custom Press 19 East St. Brompton South Australia 5007		

Declaration Envelope Printing

All declaration envelopes used in Absent, Provisional and Pre-poll voting were printed by: Camerons
28 Sweetenham Road
Minto New South Wales 2566

Postal Vote Ballot-papers and Envelopes

1. Companies that printed ballot papers and envelopes.

Senate postal ballot papers for all States/Territories were printed by PMP Print

PMP Print Pty Ltd
485 Zillmere Road
Zillmere Queensland 4034

Postal Vote Certificate Envelopes with attached 'blank' for House of Representatives ballot paper were printed in flat sheet format by Go Print.

Go Print (also supplies the paper)
371 Vulcher St.
Woolloongabba Queensland 4034

Printing of division, elector details and House of Representatives ballot-paper artwork on Certificate Envelopes was done by QM Technologies, who also despatched the papers.

QM Technologies
34 Beesley St.
West End Queensland 4102

Flat sheet-format envelopes with attached House of Representatives ballot-papers were converted to envelope format by Beesley and Pike:

Beesley & Pike
1937 Ipswich Road
Rocklea Queensland 4106

The envelopes were then returned to QM Technologies for insertion of Senate ballot-papers and information pamphlet before despatch.

Facilities were also available in each divisional office to print small numbers of ballot-papers for manual issue of postal votes. Manual issue of postal votes was undertaken during the final days of polling when it was considered that there was insufficient time to have the postal voting material despatched through the automated system.

2. The code and colour of the paper on which papers for the Senate and House of Representatives were printed.

HOR ballot-papers on green paper, **mainly** watermarked or security screen-printed.

Senate ballot-papers on white watermarked paper.

3. The contractors who managed the virtual tally room on the Internet.

Computer Sciences Corporation (CSC)
212 Northbourne Avenue
Civic Centre Canberra ACT

4. The names and addresses of centres that scanned the certified lists (of marked up electoral rolls from polling day), if owned by the AEC. The names and addresses of the companies involved if not managed by the AEC.

All scanning is undertaken on AEC premises or premises hired by the AEC.

Victoria & Tasmania	Casseldon Place 2 Lonsdale St. Melbourne Victoria 3000	**W. Australia**	71 Ewing St Bentley 6102
Queensland	AEC premises 281 Montague Road West End Queensland 4101	**N.Territory & NSW**	Unit 9, 809 Botany Rd Rosebery 2018
S.Australia	Miller Andersons Arcade Hindley Street Adelaide SA 5000		

5. Companies that supplied paper used in printing ballot papers.

ACT. Australian Paper
Suite 7, 65 Canberra Avenue
Griffith Canberra ACT

The paper that was screen printed and used for Postal Vote Certificate Envelopes with House of Representatives ballot-papers attached was supplied by:

Go Print
371 Vulture Street
Woolloongabba Queensland 4102

I was surprised when I received this list from a senior AEC official for the same reasons that Senator Childs was so perturbed in 1983 that 'if ballot papers are produced in a commercial house there is a danger.' Questions leapt to my mind, viz -

1. Why are the ballot papers etc not printed by the Australian Government Printer?
2. Why is the work distributed among so many firms?
3. Why are 8 of these firms in Queensland given its recent electoral history?
4. Why does the postal vote process move between companies?
5. Do these firms have security clearance?
6. Why are postal votes issued by Q. Technologies not Divisional Returning Officers?
7. Has the Commonwealth Electoral Act been amended to sanction this?
8. What security measures are adopted by the AEC in Queensland?
9. Does the AEC have a security policy? If so what is it? Where do I find it?

I already have some answers. Costs of production of the mammoth volume of papers required for various parliamentary, union and now council elections require companies with considerable resources and sizeable plant. This is probably cheaper in Queensland. Big firms like McMillans in NSW and PMP are fully aware of the extreme importance of security and pride themselves on their security procedures. Goprint in Queensland is a government firm.

Can the AEC guarantee adequate security with centralised issue of postal votes?

My attention to the question of where postal votes were being printed and issued arose when I first learned in August 1999 that postal ballot papers for the the 'Republican Referendum' of November 6, 1999 were being issued centrally by a private contractor and not locally by Divisional Returning Officers as had always been the case in the past.

On August 26, I wrote a letter of protest to the Special Minister for State, Senator the Hon. C. Ellison: 'The decision by the AEC to issue postal ballot papers by a private contractor departs from two of the most fundamental principles of our electoral system.

1. Divisional Returning Officers, who are the only people legally responsible for elections, should directly handle all aspects of the conduct of the election, including the issue of ballot papers. They do so by filling out detailed returns as to just how many are issued and to whom, how many are subsequently returned, fail to be returned or are not issued at all.

2. That all proceedings should be open to scrutiny is written into the Electoral Act. This is obviously impossible if the issue of ballot papers is only from one place in Queensland.

In view of this innovation, and the difficulty that any approach to the AEC for answers would not alert the Parliament to these serious issues, I urge the following questions be put to the House next week.

1. What is the name of the contractor to issue postal ballot papers?
2. Under what section of the Act was it contracted to issue them?
3. Who authorised that they should issue postal ballot papers?
4. What security screening was undertaken of this body?
5. Who are the shareholders in the contracting company?
6. Is it a public or a private company?
7. What return will it be asked to fill in for management of those papers?
8. Will that return be as detailed as for Divisional Returning Officers?
9. What sort of ballot papers will it be using? From an outside body or computer produced by the company as names are recorded?

Who will be the issuing officer to initial papers as the Act requires?
What provision is made for scrutineers to inspect handling of those papers?
How will those papers be sent? By Australia Post? If not, by whom?

Does the AEC invoke security to protect itself rather than its shareholders?

A protest by Christopher Hallett, a scrutineer for the Australians for Constitutional Monarchy in the Constitutional Convention election of 1997 about AEC management of the central count, was printed in the Australian National Review of April 1998.

'Candidates have a legal right to appoint scrutineers to inspect the ballot counting system and to look for irregularities. In the recent Constitutional Convention election, the AEC used its computer ballot counting system to deny access to scrutineers to some parts of the process.

'In any election computer fraud as well as manual counting fraud can occur. To prevent it happening, scrutineering is necessary. Peter Neumann, a US computer expert, says 'even if you can look at the source code, you can't guarantee that there is not a Trojan Horse embedded somewhere in the code. Most computer systems today do not have adequate protection or audition facilities. In the election system the vulnerability is enormous. You effectively have to trust the entire staff of the corporation that is producing your software.'

'So it is a valid question to ask if fraud can and/or has occurred in the computerised count of our Australian voting system. More importantly, it must be said that computerisation must be subject to the usual practice of eternal vigilance by candidates' scrutineers. My experience as a scrutineer during the Constitutional Convention count is cause for concern. I was excluded by the Australian Electoral Commission when I was scrutineering for candidates, Doug Sutherland, Dr. Amy McGrath and Malcolm Brooks.

'The vote counting below the line was done by hand counting and computer counting, and scrutineering was allowed as it usually is. However, I was excluded by AEC officers from scrutineering the computer count, from the batching of ballot papers, and from the storing of partly counted batches.

'The Scrutineers Handbook says that 'All proceedings at the preliminary scrutiny and further scrutiny (whether undertaken manually or using a computer) are open to the inspection of scrutineers.' That rule was broken when I was not allowed scrutiny of the Batch Control Room, the Ballot Paper Storage Room and the Batch Counting Area which meant I could not follow the ballot papers from first to last. Neither I nor any other scrutineers was allowed to scrutineer in those rooms.

'Because of the seriousness of the matter, I kept a record of the incidents that occurred during the central count for New South Wales in the Constitutional Convention election. On Friday 12 December 1997 I walked into the Ballot Storing Room and Batch control room and was told by an AEC officer I could not enter those rooms. I replied that I was scrutineering for candidates and that, according to the Handbook, I should be allowed to scrutineer 'all the proceedings.'

'On Saturday 13 December, an AEC training officer said in her talk to the personal computer operators that it was possible for ballot papers to be illegally moved. But scrutineers were not allowed into either of those areas to observe what was going on there. Later that day when I attempted to enter the Ballot Storage Room I was told

by another AEC officer that there was 'no way' I would be allowed scrutiny there. On Sunday I spoke to an AEC officer about going into these areas. She said I could not scrutinise those rooms. I asked her what section of the Act was relevant to this ruling. She said she did not know but that she was acting on orders.

'On Monday, I tried again. The officer I spoke to said he had been in touch with Canberra and told that I could scrutinise 'the code' of the computer in Canberra. I asked him if by saying 'the code' did he mean the actual software program? He said 'yes' but that a letter from the candidates would be required to be able to scrutinise the logic of the software program. 'As for getting in there (indicating the Batch Control Room and Ballot Storage Room) the answer is no.'

'At the close of the shift that night, he saw me waiting to be let into the Batch Control Room and the Batch storage Room. He said I could now go into the rooms and he gave me a 15 minute introduction to the functions of the menu headings. This demonstrates that illegal exclusion does go on and that future illegal exclusion may occur. It should be prevented.

'The use of the word 'scrutiny' by the AEC in their publications is misleading and should be changed. Scrutineering is a hard fought-for democratic tradition undergirding the integrity of the voting system.'

The AEC's is divisive in denial that the electoral system is vulnerable to corruption.

The Australian Electoral Commission rests its case on its assertion 'the conduct of federal elections are now administered on a more independent, transparent and accountable basis than previously.' Five successive Australian Electoral Commissioners have repeatedly asserted there is no fraud of any significance whatsoever implying that, if there was, they could, and would, investigate it. It rests its case on the following:

1. 6 successive reports of the JSCEM have concluded 'there is no evidence to suggest that the results of 6 successive federal elections were affected by fraud.'
2. 5 successive Australian Electoral Commissioners have denied there is any significant fraud, implying that investigations are, or would be, carried out if there were.
3. Critics, such as those who are members or supporters of the H.S. Chapman Society, do not come forward with 'hard evidence' for the AEC to investigate.
4. There are very few cases disputing elections brought forward in the legal courts.
5. The AEC successfully investigates multiple voting.

I find this logic of Mr. Becker and his predecessors as Australian Electoral Commissioners, and their permanent lieutenants, extremely hard to swallow. What they are really saying is that 12 and a half million Australian electors, or at least the 96% of them that vote, are all scrupulously honest. That there might be a 'crook vote' here and there, but that's about it. That all those perpetrators, of that 'widespread and organised fraud' I describe in my first chapter, have vanished into history leaving no trace behind. That those unionists Marshall Cooke QC denounced for corrupting

union elections merrily throughout Australia, have died or seen the error of their ways.

Australia is a country world famous for its confidence men, its corporate collapses from the 19th century mining 'rorts', the bank crashes of the 1890's, the mining scams from Woolcott Forbes and Poseidon onwards. They are legion. It is equally famous for its horse thieves like Ned Kelly, cattle rustling, 'fixing' of dog and horse races, SP betting, bank robberies, and now Medicard and Social Security frauds (some 10% I was once told by an official) and credit card and identity theft.

I cannot think of one field of endeavour that has not been touched by fraud at some time, right down to house cleaners and people who cheat you of your small change. It beggars belief that one of the most tempting fields of all, for those who wish to wield power and all the supremacy that goes with it, will not be targeted to inflate votes where the winning margins are small.

It beggars belief to accept that elections, conscripting 12 and a half million electors and a vast casual army of election workers, do not give rise to serious dishonesty when the prize is a berth in the Ship of State, or even command of the bridge of that Ship. Or that union officials, who learn the art of ballot-rigging from old hands in old battles between the Left and Right in their unions, do not gaze with longing eyes at new fields to conquer. Or that members of other parties have not their ambitious careerists who turn a trick or two of their own in ballot-rigging.

Yet the AEC is constantly telling us that there is no fraud of any account. Furthermore we can rely on their management to have found it if there were, although this claim is at odds with another claim that they are upgrading their databases to do this more efficiently. Even at the height of the Queensland electoral scandals late 2,000, disclosing people playing fast and loose with the AEC's electoral roll, Commissioner Becker read a prepared statement (nervously) declaring 'there is no fraud in Australia, and the system is good shape *(Hansard JSCEM Nov.15, 2000).'*

Mr. Becker repeated this claim to Pat Bradley CBE, CEO for Northern Ireland for 20 years and international consultant and analyst in 22 countries including Timor for United Nations and IDEA (International Democracy Electoral Assessment), immediately after Mr. Bradley had said he had never seen an election in any country where there was no fraud. In other words, Australia is the only country where elections are totally innocent of fraud. Why then has no other country tried to copy it? Why have all larger democracies like Pakistan, India and Malaysia copied our old system, with the safeguards many of us want to restore, still current in the UK instead?

The views the journalist Simon Davies expressed in 1987 in the furore following that election in an article entitled *The Great Electoral Loophole* are still valid. 'One school of thought argues that Australia's ever more 'user-friendly' voting system has significantly increased the risk of widespread election fraud. Both the Australian Electoral Commission and the ALP Federal government fiercely defend the electoral system Not everyone is so confident.

'For example, Dr. Ernie Chaples, senior lecturer at Sydney University's School of Government, says that the system is 'open to enormous abuse.' He argues that recent

alterations to simplify voting (such as dropping the requirement that a elector must vote in his or her own sub-division) have opened up loopholes in the system ‘

‘The biggest loophole lies in the creation of ‘phantom voters’ (a fraud known in the Electoral Commission as padding the rolls.) In this scheme, fictitious names can be enrolled using real addresses. The chance of detection in the immediate lead-up to an election are minimal. It is not inconceivable that one person could enrol 50 phantom voters in a marginal electorate and, travelling from booth to booth, single-handedly vote for each of them. This rort has been made easier now that an elector is permitted to vote at any polling station in his electorate rather than being confined to his sub-division.

‘The possibilities are intriguing. Assuming of course that the felons operated in an electorate where they were not known to polling officials, 10 or 20 committed people could reverse the outcome of a marginal seat. Two or three hundred across Australia could affect the outcome of a general election (*Sydney Morning Herald March 2, 1988)*.’ Simon Davies was prophetic. This is precisely what the whistleblower in the media frenzy of the year 2000 said he and others had been doing in electorates for a number of state and federal parliamentary elections.

Dr. Chaples himself described the system as “remarkably lax and full of loopholes when compared with some countries. If you had a close electorate and you wanted to put your energies into it you could organise all sorts of ‘ring-ins.’ And if you were in the know you would be aware, as the Queensland whistleblower said, the chances of being caught would be infinitesimal.’

Dr. Hughes at the time said ‘I couldn’t agree more.” However, while conceding that it was “possible in theory” to manipulate the system, he argued that “alarm bells would be pressed at the divisional level.” Senator Ray, then Minister for Home Affairs, and long-standing member of the JSCEM agreed that any such scheme to tamper with the system would risk a significant chance of detection, but argued no party would dare to do it.

Democratic Senator Andrew Murray was astute enough to be sceptical about the AEC:

‘It seems to me that the multiple voting side of it is a red herring. In other words the same person voting more than once under their name just gets nowhere. My judgement has been, from what I have read, that the trust system under which the AEC operates is flawed and can be abused. The greatest danger is in the impersonation area. The problem is that none of us knows whether it is large enough to affect the result of an election *(Hansard JSCEM p.111 December 4 2000).*

Mr. Lamerton, DRO for the federal electorate of McPherson, agreed in his evidence to the JSCEM that ‘until the revelations came out of Queensland I do not think that any of us actually considered some of these situations could arise *(Hansard JSCEM 107 Dec.12 2000).’* He also said that he had referred cases to the Australian Federal Police only to find they had not been followed up. ‘If there is a weakness in this area it is in the inability or unwillingness of the Federal Police to follow up every case referred to them. Three cases referred to the AFP after the 1998 general election

have never been finalised' *(Courier Mail Dec.5 2000).'*

No one suggests fraud is likely to occur everywhere. It is obvious unlikely to occur in safe seats for any party, unless for propaganda value of the percentage swing for a member or the party. It is most likely to occur in marginal seats where it can be predictably effective. There are between 8 to 20 of these in most federal elections out of 149. The entire 1961 federal election was won by just 110 votes in one seat, Moreton, in Queensland. The entire 1996 Queensland state election was won by a by-election in just one seat after the election. Single seats are often won by very small margins. Examples are 11 (Hawker SA) 44 (Bass Tasmania) 43 (Forde Queensland) 164 (Macquarie NSW) 170 (Lindsay NSW) 270 (Brand WA).

The Divisional Returning Officer for Ford, Mr. Smith, attested that fraud could make a difference in a JSCEM hearing in December 2000. 'From my personal experience in the electorate of Ford back in 1984, the winning margin was 43 votes and that is what makes me think there is certainly a possibility that, if matters of fraud did occur, they could in fact have a bearing on an election. If Townsville had occurred in 1984 it certainly would have had. I certainly see that, under the current system, it would be possible for such a scheme to be perpetrated. It is a matter of conjecture as to how big and how wide that scheme could be. Would it be 110 votes, or would it be 20 people voting 20 times which becomes 400 votes? That is where it gets worrying because, at the moment, the chance of that scheme actually being found out would rely on a polling official actually knowing one of the people whose names was used. I would have thought any evidence of fraud was too much *(Hansard JSCEM 998/111 Dec.4.2000)*.'

As former Chief Electoral Officer of Northern Ireland Mr. Bradley told the *Australian (September 25, 2002)* 'Handing out ballots to would-be voters without identity checks is an invitation to fraud. No matter what you do, there has to be some balance between openness and access to the public and inbuilt safeguards. Ideally you should have ID at the polling station and ID at the registration for enrolment process. If you're only going to have one ID, my preference would be ID at the polling station. That way someone can make a false enrolment or multiple enrolments but is frustrated on polling day.' Since his retirement the province has adopted a more formal ID card.

As to the need for safeguards Mr. Bradley, during his visit to Australia, constantly repeated his conviction, formed in analysing elections in 22 countries, ranging from Russia to Timor and conducting them for 20 years in his own, because he had never seen any election in any country he had visited where there was no fraud. His message was unequivocally that the price of democracy is eternal vigilance.

APPENDIX 1

by Amy McGrath

An appraisal of some activities of AEC staff and the Joint Standing Committee on Electoral Matters by Peter Brun, Treasurer and Public Officer of the HS Chapman Society, is a most welcome addition to this book as Appendix 2. Mr. Brun has made an outstanding contribution to this Society for well over 3 years.

In his contribution he makes an interesting contrast in AEC responses in two different states to the problem of a Commonwealth electoral roll which was very out-of-date and therefore inaccurate when the address-based register came into action for the first time in 1997 and, as it did, a computerised continuous roll updating system would replace the old style foot-slogging habitation reviews. The trouble was the policy was alright in theory, but not in practice as a number of highly experienced DROs warned the JSCEM; not without complementary habitation reviews.

I am delighted that Peter Brun has quoted the evidence of a very senior official of the AEC to the JSCEM in August 2002 - Mr. David Farrell, currently AEO of the AEC in NSW to the JSCEM. Mr. Farrell, who began his career as a habitation reviewer himself once, acknowledged the validity of the warnings of the senior DRO's by insisting on a wholesale habitation review of Tasmania as a trial (now called 'drive-by' reviews). What he found caused him to insist on doing the same in N.S.W. with a $1,000,000 budget for the purpose.

Mr. Farrell's purpose was to find out where the people were. His findings give pause for thought. For instance he said KFC carparks were a favourite for false addresses! Letters, received by some of my friends early this year, were clear evidence that Mr. Farrell was still fine-tuning his review. But it leaves a question that demands an answer. Why has the AEC failed to concede that stand-alone CRU is not working, and that the same drive-by reviews must be carried out in the other states before any reliance can be placed on the honesty and accuracy of their rolls before the next federal election?

Contrast in experience in Queensland with that of New South Wales
Attitude on need for vigilance
Roll cleanse in Queensland for 2001 election - doubts about CRU

In the wake of the uproar about false enrolments for preselections in the Queensland ALP branches for federal and state seats, that engulfed Queensland during the year 2,000, various media reports claimed towards the end of that year that Mr. Bob Longland, Australian Electoral Officer (AEO) for the AEC in Queensland, had promised a complete roll cleanse before the beleaguered Premier Beattie held an election - then rumoured to be in February or March 2001.

This roll cleanse for the State election depended on the Queensland AEO for the AEC, Mr. Bob Longland, because Queensland had adopted the Commonwealth roll

ten years before. It was a test case for the AEC as Queensland had been running the pilot program for managing enrolments on the electoral roll, solely by CRU, since 1997 before the AEC adopted the policy in all states.

Accordingly it had abandoned old style house-to-house habitation reviews by extra staff hired for the purpose. By 2,000 there had been no habitation review for 4 years. DRO's had to manage as best as they could, despite the faults of the data-matching program devised by the AEC. Current checks were of 'return to sender' mail- at best of 10-12% of each electorate.

Accordingly the DROs were amazed when Mr. Longland announced on December 8, 2000, just 2 months before a probable election in February 2001, that over 200,000 dwellings had been checked and the roll cleansed to a level of accuracy whereby Premier could confidently hold an election any time. What, they asked, had he done that he was not doing before to make it perfect? If he had done something different, why had he not done it before?

They were even more amazed when he found it necessary to announce on the day before the issue of the writs for the election on January 22, 2002 that he had done a mail-out of 850,000 letters because there were 600,000 dubious entries on the roll - 1/3 of the total on the Queensland roll - and 250,000 of young people, 65% of the total, had not enrolled at all. Why send these out at the last minute when only a small fraction of enrolments could be effected in the short time left 60,000 in the upshot?

More suspicious souls called the mail-out a blueprint for fraud as it asked for names of all people who no longer lived in the dwellings nominated on the forms who were still on the electoral roll. No answer will be forthcoming as he is now Queensland's Electoral Commissioner.

Observation of One Nation Senator Len Harris on Queensland election February 2001

This release of Senator Harris is of interest, because it supplies additional statistics. 'There is no doubt, after analysing the data provided by the AEC and other inquiries I have made, that the election of the State Labor government on February 17, was assisted by suspected irregular entries on the roll, whose identity the AEC could not verify.

'On January 22, 2000 the AEC did a mailout to 835,260 suspected irregular entries within the Queensland electoral roll of 2,250,175. Only 509,508 people replied representing a 61% response. Only 70% of these respondents advised they were correctly enrolled. The remaining 30% or 152,852 did not reply, meaning they either did not live at these addresses, had moved or never existed. 'The number of people on the roll at the close of roll for the February 17 state election was 2,319,481. This represented a net increase of 69,306, which seems extraordinary for a short period.

'According to AEC data there were 900,070 or 40% of entries whose names, date of birth and addresses did not match. The AEC has stated some of these anomalies could be spelling mistakes or variations in address standards. I am aware the AEC has been doing research into bogus and multiple voting but their refusal to undertake physical habitation checks, and to supply me with copies of the actual struck-off rolls

used at polling booths, makes me question their lack of activity.'

Observation of Alan Fitzgerald, when editor of Australian National Review

Queensland DRO's could not check the input of last-rush enrolments before the referendum on the republican issue, because Mr. Longland decided to trial a referendum computer program at the same time. Mr. Fitzgerald, mindful of the fact that the DRO's had been ordered not to delete 220 'gones' before the 1997 Constitution Convention election, rang Mr. Longland to ask why he was doing this.

Mr. Longland replied they ran lots of programs and this one was going on for four weeks. Mr. Fitgerald did not realise the most difficult part of their work was chiefly in the four days after the issue of the writs. **'Anyway,' he said, 'there is no fraud.'** When Mr. Fitzgerald asked what about the 54 and 34 criminal charges against two people in Townsville, in Mr. Fitzgerald's words 'he refused to accept the relevance.'

NB Mr. Fitzgerald was a leading journalist of the Canberra Press Gallery for years.

Observation of an ALP activist member inVictoria ALP (October 31 2000) (quoted anonymously with his permission)

'In your booklet you mentioned persons being enrolled at non-existent addresses. This occurs in Victoria as well. I generally letter box for a state MP. His computer generates addressed envelopes from a computer program called Pollfile and are derived from the AEC roll.

Occasionally the addresses are non-existent addresses and vacant lots. House numbers will go from, say 20 to 26 and skip 28, yet someone will be enrolled at 28. When such cases are reported the AEC should investigate. Whether they do or not I do not know. If the original enrolment form says 28 and other evidence (say a telephone directory) does not point to a data entry error the name should be struck off the roll.

NB A roll cleanse, similar to that of N.S.W. is badly overdue in Victoria.

APPENDIX 2

The Parliamentary Joint Standing Committee on Electoral Matters

A review of selected matters from The Submissions and Hearings into the 2001 Federal Election

by Peter Brun

This review is not intended to be a complete summary of all the Submissions and Hearings. At the end of this paper there is a list of the topics raised in these submissions, and a complete list of all the submissions to the JSCEM together with a few notes against the ones that I have looked at.

Those interested in further detail can access the JSCEM website:

http://www.aph.gov.au/house/committee/em/index.htm

Then click on "Committee activities (inquiries and reports)"

Then "2001 Federal election"

Then "Submissions" or "Public Hearings"

The following matters are of interest in relation to the integrity of the Electoral Roll.

1. The responsibility of the Australian Electoral Commission (AEC) to report incidents of possible electoral fraud.
2. Habitation reviews in NSW which was reported on by Mr. David Farrell, the Australian Electoral Officer for New South Wales, in the JSCEM hearing in Canberra on August 16, 2002.
3. The processing of return-to-sender (RTS) mail in the federal seat of Hindmarsh, which is held by Chris Gallus.
4. The results of doorknocking in the NSW seat of Coogee before the NSW state election in March 1999, by Bruce Kirkpatrick and myself.
5. The processing of return-to-sender (RTS) mail in certain other federal seats.

Transcript of part of Submission 165 – Australian Electoral Commission

Possible enrolment fraud

The AEC is required to report all cases of enrolment fraud detected during the previous parliament. During the 39th parliament, there were 31 incidents of possible enrolment fraud, involving potentially 51 fraudulent enrolments. These are detailed in a table included in this submission. The AEC states that the recorded incidents indicate that "there has been no widespread or organized attempt to conduct electoral fraud during the 39th parliament.

Incidents	No. of potential fraudulent enrolments
24	1
4	2
2	3
1	14 (recently reported and being investigated)

"Most of the individual instances are minor cases with a wide range of causes, such as frivolous or opportunist misconduct" or "inadvertent non-compliance with the law." Some incidents are motivated by "nominations for council elections", "internal political party pebliscites", "nomination or support for an employer candidate", "personal relationship disputes" and "creation of a false identity in order to conduct other crimes". Most incidents "are resolved administratively because they disclose nothing more than an innocent error on the part of an elector or AEC staff member."

The majority of incidents indicating a deliberate intention to defraud the electoral system, are referred to the Australian Federal Police (AFP) and the Director of Public Prosecutions for advice on prosecution.

Incidents of possible electoral fraud investigated. "The AEC has limited expertise and resources with which to investigate possible enrolment fraud, and therefore relies on the AFP for investigation"….

The following table lists the cases of possible enrolment fraud. Some of these were first raised in submissions to earlier inquiries by the JSCEM.

31 reported incidents of possible enrolment fraud during the 39th Parliament.

Case No.	Division	Year	AFP	Category	Result
NSW1	Lindsay	1999	Yes	Three council candidates allegedly made false enrolment declarations.	AFP advised that there was insufficient evidence for prosecution.
NSW2	Cook	1999	No	Enrolment for another electors' address.	Applicant removed by objection on grounds of non-residence.
NSW3	Cowper	1999	No	Elector enrolled twice for the same address with different signatures and dates of birth.	Father completed first enrolment – dual enrolment deleted.

Case No.	Division	Year	AFP	Category	Result
NSW4	Werriwa	1999	Yes	Council candidate transferred address twice for no apparent reason.	DPP advised that there was not a reasonable prospect of conviction.
NSW5	North Sydney	1999	Yes	Dual enrolment	AFP investigating
NSW6	North Sydney	1999	No	Attempted enrolment at non-residential address. Follow-up correspondence returned as 'not known'.	No further action.
NSW7	Charlton	2000	No	Candidate for internal ALP ballot attempted to enrol for vacant block	AEC warning to elector
NSW8	Chifley	2000	Yes	Elector received AEC enrolment acknow-ledgement card for unknown person.	AFP closed the matter due to lack of evidence.
NSW9	Parramatta	2000	No	Elector received MP mail for another person.	Matter closed, AEC office error.
NSW10	Throsby	2000	Yes	Multiple enrolments for different names with same date of birth and address.	AFP advised the elector had mental health problems and closed investigation.
NSW11	Warringah	2000	Yes	Two enrolments from same address with inconsistent details.	AFP advised that no offender could be identified and closed the investigation.
NSW12	Wentworth	2000	Yes	Two nursing home applications with inconsistent signatures.	AFP declined to investigate on advise from Aust Govt solicitor that there was no real evidence of fraud.
NSW13	Mackellar	2000	No	Applicant possibly not eligible for nomination to the NSW Upper House due to insufficient residence period.	Enrolled person made a statutory declaration to the NSW Electoral Commissioner attesting to their eligibility.
NSW14	Reid	2000	Yes	Application allegedly falsified by one person.	AFP declined to accept the matter for investigation. The matter was again referred, but was again rejected because it was outside the statute of limitations.

Case No.	Division	Year	AFP	Category	Result
NSW15	Robertson	2000	Yes	Elector submitted an enrolment form for an address where a residence was under construction.	AFP investigated and closed the matter.
NSW16	Fowler	2000	Yes	Elector incarcerated in goal allegedly submitted a claim for enrolment.	Elector denied submitting the enrolment form. The AFP took no further action and the matter is now closed.
NSW17	Banks	2001	Yes	Alleged fraudulent enrolment at different address.	AFP declined to investigate due to lack of resources and the matter is now closed.
NSW18	Paterson	2001	Yes	Alleged fraudulent enrolment at same address.	AFP declined to investigate due to lack of resources and the matter is now closed.
NSW19	Greenway/ Warringah	2001	Yes	Alleged fraudulent enrolment at different address. AFP found a case of identity fraud for immigration purposes.	The alleged offender is currently in detention.
VIC1	Lalor	2000	Yes	Enrolment form received for an elector that appeared to have been completed by estranged spouse.	AFP declined to investigate due to limited resources.
QLD1	Ryan	2000	Yes	Fraudulent enrolments (husband & wife) using the names of parents.	Both offenders convicted And fined $300 each on 10 November, 2000.
QLD2	Moncrieff	2000	Yes	Duplicate enrolment forms submitted.	The AFP referred this incident to the DPP. There was insufficient evidence to proceed beyond DPP
QLD3	Bowman	2000	Yes	Enrolment form containing dead person's details submitted during doorknock.	Offender convicted of forging and uttering under S344(1) of the Electoral Act, fined $350
QLD4	Longman	2000	Yes	Staff member of MP admitted to falsifying her enrolment for the 1993 federal election in order to vote for MP.	A legal opinion is being sought from the DPP as to whether an offence has been committed.

Case No.	Division	Year	AFP	Category	Result
QLD5	Herbert	2001	Yes	Alleged fraudulent enrolment referred by the AFP as part of another investigation they were conducting.	AFP investigating.
QLD6	Blair	2001	Yes	Elector advised that her ex-husband did not reside at his enrolled address.	AFP declined to investigate due to lack of resources and the matter is now closed.
QLD7	Fairfax	2001	Yes	Two alleged enrolments for an address the electors were not living at.	The investigation is ongoing.
QLD8	Petrie	2001	Yes	Fourteen suspicious enrolments received by the AEC for 3 different addresses.	The investigation is ongoing.
QLD9	Fairfax	2001	Yes	Referred to the AEC by the AFP as part of another investigation they were conducting.	The investigation is ongoing.
WA1	Stirling	2000	Yes	Fraudulent enrolment uncovered by AFP during investigations into criminal fraud.	The DPP is currently investigating prior to charges being laid. The case is expected to go to court in the next few months.
WA2	Perth	2000	Yes	Fraudulent enrolment uncovered by AFP During investigations into criminal fraud	The offender was convicted on two counts in the Perth Magistrates Court on 14 Dec 2001 and fined $400 with costs of $126.60.

H. S. Chapman Society observation: in most cases the report does not indicate what brought these incidents to the attention of the AEC.

Habitation reviews – Transcript of part of the JSCEM hearing in Canberra on August 16, 2002.

Chair: …on the other hand you have knocked off the habitation reviews. ….

Mr. Becker (AEC Commissioner): …The statement that we have knocked off habitation reviews is wrong; we have not. The thing we do today is that we target. We are not going to knock on doors at addresses where we know that the information we have on them is correct. The problem we had with the habitation review was that it was a snapshot once every two years, it took 3 to 4 months to actually get a decent roll out of that snapshot – so consequently the roll was out of date even by them the time that we corrected it – and 80% of the information we got we already had. We are now in the situation with the data-matching of being able to say that we are pretty confident that what we are getting is good data for those 80%, say, and we only have to look at the 20% directly.

Mr. Becker: ...We have just had a major habitation review of the address base in New South Wales; that was a million dollar exercise where we checked the validity of addresses. We are still doing a lot of this stuff. Our rolls are far cleaner now than they ever have been, and there is no way … that we could ever go back to that biennial doorknock and expect the same sort of clean rolls that we have now.

Chair: ...what was the outcome of that $1 million review of the accuracy of addresses in NSW ?

Mr. Farrell (Australian Electoral Officer for NSW): In the first 6 months of this calendar year a physical verification of addresses in numbered streets and areas of NSW was conducted. About 10,000 Census Collection Districts (CCD) were covered, and verging on 2 million addresses were physically checked. A whole range of things were verified, such as the addresses that were not there, the addresses that were enrollable or not enrollable and actual flat numbers. There are 2,000 CCDs that have not yet been physically verified. These are the rural and unnumbered streets in country NSW. However the outcome of that review was that we had a good, high-quality address base. But at this point in time we have discovered 82,000 addresses in NSW of which we had no record. They have been added to the address base. We review vacant houses. A major part of our CRU program is to write to houses where no one is enrolled. About 3 to 4 weeks ago we sent out well over 400,000 vacant house notices, including these 82,000 addresses that we had found.

That is not to say that the address base was not good, but in the old doorknock we used to use a card index system and the computer system at that time did not have an address register built in. Around two or three years ago, the computer system became address based. It simply took in the addresses that we had records of where people had been enrolled. There has never been a physical process to make sure that we had completeness in that address register. I am pleased to say that the outcome was very good. Not only did we add 82,000 enrollable addresses, we added towards 100,000 addresses that were not enrollable, so that we can detect fraud when people

try to enrol with their address as a phone box, a park or a Kentucky Fried Chicken car park – which is a popular one. Not only will we know that an address is enrollable, the red lights will flash if someone tries to enrol with an address which is not enrollable. There is a way to go in this, but accuracy and completeness will be fundamental to management of the roll. I am pleased to say the outcome there has been very good.

Ms Hall (committee member): With these 82,000 to 83,000 addresses that have come up where no-one is enrolled, are they in new estates ? Is there any pattern to the types of addresses that have come up ?

Mr. Farrell: Yes, there are about three types. Firstly, you have a scattering of addresses everywhere where people have never been enrolled. They fall into two subclasses: first people who have been avoiding us who have never got on the roll – there are not very many of those but there are some who do not get enrolled and we are tracking those people down – and, secondly, non-citizens who have never been enrolled and we have had no knowledge that they were at those addresses. They are the two main types that are scattered across the board.

The other areas are where we have had substantial urban infill development at a very high rate. Again, this is in two classes. The huge body corporates of inner Sydney are moving very rapidly and they are security buildings. We do not get information by going in; we actually have to talk to the bodies corporate. The flat numbering systems are not 1 to 150, there are no No. 13s, there are extra No. 8s in Chinese buildings, and there are all sorts of things that need to be done not by just thinking that we have it right but by physically knowing that there is no flat 13. There are as many ways of numbering blocks of flats as there are blocks of flats, basically. The Bennelong Apartments in Macquarie Street, Sydney is an area we are doing right now. We are not up to date in that area but it is reasonably new infill.

The other areas are the housing commission areas of New South Wales, which are very large. They are generally put in without contact with the local government areas so the street numbering is not done as formally as in other areas. We have picked up a lot of housing commission stuff – some of it quite new – that we would not otherwise have had.

Ms. Hall: What about where you have new suburbs built overnight ? How do they show up and what is the accuracy of your addresses in those areas ?

Mr. Farrell: We have good contacts with local government, which are ongoing. Most of our divisional returning officers would be meeting on a fairly regular basis with general managers or the people who handle the geography using geographic information systems et cetera. … This year we set a high-quality base and we will maintain it so that we will be ready to put in these new suburbs overnight. … The process of maintaining it now becomes easier. …we still knock doors. The proposal for New South Wales is that when we go around to target the people who have not responded to our letters saying, 'Dear Householder, why aren't you enrolled,' or 'Dear David Farrell, why aren't you enrolled,' people in the field will actually verify

the addresses that are out there where we have a new urban infill or new suburb or part suburb. That will happen simultaneously.

H.S.Chapman comment: Eligibility for enrolment is based on residence, and a residence must be a valid enrollable address. In the last few years the AEC has developed a register of enrollable and un-enrollable addresses. Unfortunately this is a grey area because of buildings like holiday homes and flats, and buildings that are commercial on the ground floor and might or might not have legal residences on higher floors. The biennial doorknock used to be the AEC's main method of checking the integrity of the roll. It has been replaced by a system known as Continuous Roll Updating (CRU) in which the AEC data-matches its records with those of other databases, such as Medicare, Social Security, Centrelink and utility service suppliers, like electricity and gas. Where data-matching reveals discrepancies, the AEC mails people and/or residences, but the response rate to CRU questionnaires is less than 50%, so it is backed up by selective doorknocks. The H.S. Chapman Society believes that the continuous movement of people about the country, and new building and redevelopment almost everywhere make maintaining an accurate up-to-date roll well-nigh impossible. However federal elections can be called at any time, so the AEC is obliged to ensure that the roll is as accurate as possible at all times. The society believes that while CRU and the register of addresses are useful, they must be backed up by good local knowledge which can only be achieved by a routine detailed habitation reviews.

Transcript of part of Submission 174 - The AEC's response to Submission 162 – the Hon. Chris Gallus, Member for Hindmarsh, Parliamentary Secretary for Foreign affairs.

"Treatment of MPs' return to sender mail"

33.1 Chris Gallus' concern about the integrity of the electoral roll stems from two sources: an alleged lack of checks to prevent electors from safe electorates enrolling in a marginal electorate to influence the result; and an alleged lack of appropriate process in AEC divisional offices.

33.2 The submission claims that the AEC maintains that although the system has few safe-guards to prevent illegal enrolments, such enrolments are not widespread, but the AEC does not provide any evidence to support such an assertion.

33.3 These claims are similar to those made by the Festival of Light in their submission no. 71, which were answered by the AEC as follows:

> 6.3 The Festival of Light appears to misunderstand the processes by which the roll is maintained and the checks that are undertaken to ensure the highest possible level of accuracy. The Commonwealth Electoral Roll is a 'continuous' document, with enrolment additions, transfers and deletions occurring as a continuous stream of changes, rather than a static

document compiled at one time for a particular electoral event. For example, in 2000-2001, the AEC processed a total of 2.3 million enrolment forms, including changes to enrolment details, transfers of enrolment and re-enrolments and new enrolments.

6.4 The AEC maintains a balance between encouraging enrolment in line with the requirements of legislation and not overly interfering in the lives of electors. It should be remembered that the majority of electors do not inform the AEC in a timely manner of changes to their electoral details. Of the 2.3 million enrolments processed during 2000-01, only around 40% resulted from the elector advising the AEC in the first instance.

6.5 To overcome the lack of prompt advice from many electors, the AEC undertakes a range of activities to obtain accurate enrolment information and update the roll. Extensive descriptions of the activities undertaken by the AEC to maintain the accuracy of the roll are contained in **submission 26 to the inquiry into the integrity of the electoral roll.**

6.6 As part of its recent audit of the accuracy of the roll, the Australian National Audit Office (ANAO) data-matched names and dates of birth from the roll with Medicare records. The results matched 95.6% of names and dates of birth to Medicare. The ANAO indicated the results were of a high quality, with just under 84% of records matched exactly. The ANAO considered from its review of AEC procedures to ensure the validity of enrolments that these procedures are generally effective and provide assurance as to the validity of the roll.

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

33.4 Chris Gallus alleges that 1,043 people were enrolled in the Division of Hindmarsh for the 2001 federal election who were not entitled to vote in Hindmarsh. She points out that the AEC is unable to determine how many of those ineligible voters actually did vote in Hindmarsh.

33.5 In order to ascertain the basis of these claims, the AEC has reviewed the correspondence and actions of the Hindmarsh divisional office and can provide the following explanation.

33.6 A letter from Chris Gallus dated 1 October 2001 was received by the DRO for Hindmarsh on 3 October 2001 attaching approximately 1,000 photocopied envelopes of RTS mail that were returned to her office. She requested the AEC investigate and remove electors from the roll where appropriate.

33.7 The DRO for Hindmarsh determined that this could not be done at the time

as subsection 118(5) of the Act prevents the removal of names from the roll by objection action after the close of the rolls. As the election was called on 5 October 2001, the objection process could not be completed before the close of rolls.

33.8 A letter from Chris Gallus dated 16 January 2002 to the DRO for Hindmarsh was received attaching approximately 500 photocopied envelopes of RTS mail. She requested the AEC investigate whether these persons voted in the Division of Hindmarsh at the 2001 federal election.

33.9 On 27 February 2002, the DRO for Hindmarsh received a letter from Chris Gallus dated 21 February 2002 attaching approximately 565 photocopied envelopes of RTS mail. Once again she requested the AEC investigate whether these persons were eligible to be on the roll and whether they voted for the Division of Hindmarsh at the 2001 federal election.

33.10 After the 2001 federal election and its aftermath, during the period between 3 December 2001 and 9 July 2002, the divisional office in Hindmarsh undertook processing of these 2,965 photocopied RTS envelopes involving some complex follow up and objection action, where applicable, in accordance with the procedures.

33.11 During this period there was no communication with Chris Gallus' office as to the progress of the work. A factor in this lack of communication was the ill health of the DRO during 2002 and his extended sick leave. In the handover between the DRO and the acting DRO for Hindmarsh, there was a breakdown in communication about what communication had taken place with Chris Gallus' office about this matter.

33.12 On 9 July 2002 the DRO for Hindmarsh, returned from sick leave, sent a letter to Chris Gallus after speaking to a member of her staff, clarifying AEC processes for dealing with RTS mail. In the letter, the DRO provided statistics on the outcome of the divisional action taken on the January and February batches of RTS mail (totalling 1,065 photocopied envelopes of RTS mail). This letter indicated that 755 of the 1,065 electors identified through the RTS mail investigation were no longer on the roll for Hindmarsh

33.13 On 22 July 2002 the DRO for Hindmarsh received a letter from Chris Gallus dated 19 July 2002 asking how many of the 755 electors no longer on the roll for Hindmarsh were on the roll for the 2001 federal election and how many had voted.

33.14 Once action is taken and original RTS mail destroyed, AEC procedures do not require that the people involved in each batch of RTS mail be able to be identified later.

33.15 Because of this, on 7 August 2002, the acting DRO for Hindmarsh sent a letter to Chris Gallus that, amongst other things, indicated that copies of RTS mail from the 755 electors had been destroyed as there was no further action required, and therefore, that it was not possible to determine whether the

electors concerned had voted for Division of Hindmarsh at the 2001 federal election.

33.16 At the 20 September 2002 JSCEM hearing, this emerged as an issue for Chris Gallus. She believes that the AEC should be able to identify such people by RTS batch, and then be able to cross check where they might have voted at previous elections. She appears to believe that these 755 electors, who re-enrolled elsewhere, may have voted in Hindmarsh at the 2001 federal election when they were not entitled so to do.

33.17 As the AEC has indicated, because the AEC followed standard procedure in relation to RTS mail, the AEC has no way of checking whether the 755 electors were legitimately on the roll for the Division of Hindmarsh at the 2001 federal election or indeed whether these 755 electors voted.

33.18 Notwithstanding this, it appears that Chris Gallus has mistakenly identified the 1,065 electors (including 755 not on the roll), for which statistics were provided in the AEC's 9 July 2002 letter, as being those sent to the AEC prior to the 2001 election. In fact, the Division of Hindmarsh received these letters from Chris Gallus in January and February 2002. Therefore no objection action by the AEC with respect to these electors could have affected the roll for the 2001 election.

33.19 Information was provided to Chris Gallus in the 7 August 2002 letter that 199 electors who did not respond to an AEC letter had objection action initiated against them, but it was not possible to determine whether they had voted for the Division of Hindmarsh at the 2001 election.

33.20 Whilst the normal objection action was initiated on RTS mail sent by the DRO, where there was no response from the 199 electors, there was no objection action taken, despite information to the contrary given to Chris Gallus in the above letter. This was caused by a misinterpretation of source documents from the objection process, due in part to an imperfect handover process between the DRO and the acting DRO for Hindmarsh.

33.21 On 20 August 2002, the acting DRO for Hindmarsh received a letter from Chris Gallus dated 12 August 2002, asking if it was possible that 954 electors (the 755 no longer on the roll, plus 199 objections) were enrolled and may have voted for the Division of Hindmarsh at the 2001 election.

33.22 On 28 August 2002 the acting DRO for Hindmarsh sent a letter to Chris Gallus re-iterating there was no information available to determine if any of the 755 electors in question voted in Hindmarsh on 10 November 2001.

33.23 To reiterate:

- For those RTS letters received from Chris Gallus prior to the election no lawful action could have been taken at the time by the Division of Hindmarsh as a result of the action of subsection 118(5) of the ACT.
- Chris Gallus believed that the 755 RTS envelopes she refers to in her

submission and at the public hearing had been sent to the AEC before the election, which was not the case. These envelopes were received in January and February 2002.

- Where mail is returned unclaimed to the Members of Parliament, it does not necessarily indicate that the electors concerned have either lost their entitlement to be on the roll at that address of their right to vote.
- The acting DRO for Hindmarsh found no evidences of illegal enrolment from the processing of the various batches of RTS mail sent by Chris Gallus' office to the divisional office.
- The lack of communications from the Hindmarsh divisional office during the investigation in the RTS mail probably contributed to Chris Gallus' misunderstanding about the outcome of her request. The AEO South Australia has instigated new procedures for communication with Members of Parliament that should rectify this problem.

H.S.Chapman comment: Many MPs pass RTS mail on to the DRO (divisional returning officer) for their seat. The above extracts, and those that follow, give an indication of the importance of checking RTS mail received by MPs. The AEC seem to be extraordinarily sensitive to any suggestion of error on their part, but as they say themselves they had problems in this case.

What does seem strange is that they destroy the RTS envelopes so quickly. Ms Gallus's concern as to whether these people voted at the preceding election, should have been of as much interest to the AEC as it was to her. If people were no longer living where they were registered, they were not entitled to vote. Another point is that several hundred thousand enrolments and re-enrolments occur in the few weeks prior to an election. As there is no time to conduct any checks on these late enrolment forms, and, under the Act, the AEC is bound to accept them, fraudulent enrolment is possible. The AEC should be very interested in any enrolments during the pre-election weeks, which are then removed from the roll in the ensuing months, but they are destroying the evidence. They should be keeping a list of such electors to see if they re-enrol elsewhere, <u>and</u> to see whether the same names come back on the register at subsequent elections.

Transcript of part of Submission 174 - The AEC's response to Submission 133 – Mr. Peter Brun.

"Treatment of MPs' return to sender mail"

Peter Brun and Bruce Kirkpatrick conducted a pilot habitation review in the NSW seat of Coogee prior to the March 1999 state election. The AEC was not surprised at the number of ineligible names, but some of these had left their addresses approximately 12 months before. CRU had not picked them up. The RTS mail information from the seat of Parramatta resulted in hundreds of people being removed from the roll. Whatever checking the AEC was doing, its method in this case

was tardy compared with the effective checking by RTS mail. If the MP's RTS mail information had not been passed on to the AEC, how long would these names have remained on the roll? And could someone who found that they were no longer living there, have voted in those names ?

20.8 Mr. Brun also alleges that in February 1999, he doorknocked the New South Wales seat of Coogee using January 1999 roll data. He indicates that he doorknocked only addresses with more than three surnames enrolled at it or two couples listed at the same address. From this review he claims to have identified 22 people who were not eligible to be on the roll for that State division. As a State seat with a high population turnover, the AEC does not regard this as an unusual number of people to identify.

20.9 Finally, Mr. Brun briefly identifies three other alleged cases of high numbers of inaccurate enrolments:

- In the Division of Parramatta at the 2001 federal election, he alleges a mail out by the sitting members resulted in 800 RTS letters;

20.10 In relation to Mr. Brun's allegations about Parramatta, on 18 January 2001 the DRO for Parramatta received 583 RTS envelopes (involving 663 electors) from the Member for Parramatta. The results of investigations into these envelopes are as follows:

Envelope insufficiently addressed for delivery:	9
Envelope was posted to an old postal address:	15
Elector claims to be still living at enrolled address:	8
Elector registered as an overseas elector:	2
Elector has never been enrolled:	1
Elector has already been deleted from roll:	359
Elector has objection pending:	24
Elector will have objection action following this investigation:	245

20.11 On 5 September 2001 the DRO received another 356 envelopes (involving 381 electors) from the Member for Parramatta. The results of investigations into these envelopes are as follows:

Envelope insufficiently addressed for delivery:	3
Envelope was posted to an old postal address:	20
Elector has already been deleted from roll:	111
Elector has objection pending:	43
Elector will have objection action following this investigation:	204

Summary of some of the matters raised

- Overseas voters delisted, relaxation of overseas voting requirements.
- Delays in arrival of postal ballots.
- AEC would prefer that distribution of postal vote application forms by parties be disallowed.
- Role of AEC, tardy or lack of response from the AEC, misleading AEC advertising. Education of voters.
- Voluntary voting, Proportional Representation, Optional preferential voting, email voting, fixed parliamentary terms, simultaneous 4 year elections,
- No by-elections and MHRs who die or resign should be replaced by person of same party as in Senate.
- Senate reform, less party based.
- Variation in number of ballot papers in packs. AEC advises issuers to check count before issue.
- Suggests electronic marking off of rolls at polling booths. AEC advises cost is prohibitive.
- Inadequate procedures for enrolment and voting prevent AEC from guaranteeing integrity of elections, calls for ID.
- Accuracy of roll, mailouts/return to sender (RTS) mail and subsequent removal of voters.
- Enrolment of Aboriginees, the young & the homeless, mobile booths at special hospitals and remote locations
- Time between issue of writs & close of roll.
- Televised debates to include minor parties.
- For independents, donations not tax-deductible & GST non-refundable as for major parties.
- Powers of presiding officers relating to "how-to-vote" cards, party adverts at polling booths, and number of entrances to polling booths.
- Push polling, Radio advertising, Newsletter difficulties,
- Registration of party names.
- Fundraising & donations. Use/misuse of parliamentary entitlements
- Media forecasts when WA booths still open.
- Funding of the AEC, reform of the AEC, reform of the Electoral Act.
- Agreement between AEC and AFP (Australian Federal Police).
- Privacy matters.
- Republic & flag, junk mail.

Joint Committee on Electoral Matters

Inquiry into the 2001 Federal Election

SUBMISSIONS

Submissions to this inquiry were received from the following individuals/ organisations and copies of some of those submissions are available on this site or from the Committee Secretariat. Further submissions will be made available on this site as original paper copies are converted to electronic documents.

To view or print the pdf document, you will require the Adobe Acrobat® PDF Reader, which can be downloaded free of charge from Adobe

No	Received from	Senate Ballot-paper
1	Mark Hurd (DOC 21KB)	Overseas voter desisted
2	Ms Lauren Taylor (DOC 20KB)	Overseas voter delisted
3	Mr Brian Bagnall (DOC 1KB)	Overseas voter delisted
4	Mr Andrew Best (DOC 2KB)	Overseas voter delisted
5	Mr Tom Brown (DOC 2KB)	Overseas voter delisted
6	Mr James David Porteous (DOC 3KB)	Overseas voter delisted
7	Mr Steve Leo (DOC 4KB)	Senate reform, less party based
8	Ms Deborah Foster (PDF 60KB)	Overseas voter delisted
9	Mr Jeff Rogers (DOC 2KB)	Non-residents not be allowed to vote
10	Mr Jason Caley (DOC 5KB)	Overseas voter delisted
11	Mr Nicholas Evangelou (DOC 6KB)	Overseas voter delisted
12	Bantwal Baliga (DOC 2KB)	Overseas voter delisted
13	Ms Judeth Tamar Newham (DOC 2KB)	Overseas voter delisted
14	Peter & Renata Singer (DOC 2KB)	Overseas voter delisted
15	Ms Pamela Gaye Clements (DOC 5KB)	
16	Ms Julie Dossey (DOC 1KB)	
17	Mr G H Schorel-Hlavka (PDF 241KB)	
18	Mr Michael Williams (DOC 1KB)	Complains of no response from the AEC to his communications
19	Mr David Combe (PDF 67KB)	Televised debates, email voting, campaign funding, simultaneous by-elections, no by-elections, republic & flag, junk mail, education
20	Mr Tom Dolling (PDF 101KB)	Optional preferential voting. Citizen initiated referenda
21	Ms Linda Reeb (DOC 7KB)	Postal ballot arrived too late
22	Ms Gaye Rochow (DOC 4KB)	Overseas voter delisted.

23	Mr Alexander Donald Zielinski (DOC 3KB)	Overseas voter delisted.
24	Wlodek Kowalik (PDF 44KB)	Not advised of 2001 election by Aus embassy in Poland, but are back in Aus in time to vote absentee
25	Mr Peter Goss (HTM 3KB)	Supports voluntary voting
26	Ms Valerie Yule (PDF 404KB)	Various electoral reforms including voluntary pref.
27	Mr Brian Gaensler (DOC 3KB)	Overseas voter delisted, delay in receipt of postal ballot
28	Ms Susie LeBlanc (DOC 2KB)	Overseas voter delisted
29	Mr Senan John Whelan (DOC 3KB)	Not delisted but wants relaxation of overseas voting requirements
30	Mr Paul McLachlan (DOC 2KB)	Not yet delisted, but concerned about prospect
31	Mr Michael Graig (DOC 2KB)	Living USA many years, never on roll, but wants to be
32	Mr Frank Miller (PDF 200KB)	Fixed terms, PR, publicly funded elections & other reforms
33	Ms Rosemary Kniepp (HTM 3KB)	Overseas person never listed
34	Ms Anne Maxwell (DOC 3KB)	Overseas voter delisted
35	Mr Stan McConnell (PDF 503KB)	MHRs who die or resign should be replaced by person of same party as in Senate.
36	Mrs Lorna Jean Graham (PDF 262KB)	Media forecasts of election result when WA booths still open
37	Mr Brendan Sheehy (PDF 159KB)	Voluntary voting
38	Mr Robert Bom (PDF 345KB) X	Concerns about senate elections. Candidates' names should have party indicated.
39	Mr & Mrs Wynn (PDF 320KB)	AEC vote issuing officer complained of variation in number of ballot papers in packs. AEC advises issuers to check count before issue.
40	Mr Eero Laurila (PDF 935KB)	
41	Mr David Findlay (PDF 41KB)	
42	Mr Simon Yencken (PDF 58KB)	
43	Mr Wayne Brabazon (PDF 159KB)	
44	Mr Anthony Feo (PDF 56KB)	
45	Ms Gina Behrens (PDF 105KB)	Why no computerized certified list at polling booths to cross off names when people vote.

46	Ms Pauline Chitty (PDF 151KB)	
47	Mrs Pitman (PDF 351KB)	
48	Mrs Pamela Sved (PDF 9KB)	
49	Mr Adrian Bye (PDF 4KB)	
50	Mr Ron Munro (PDF 190KB)	
51	Mr John Ley (PDF 4KB)	
52	Ms Stephanie Helm (PDF 4KB)	
53	Mr Karl Anthony Phillips (PDF 4KB)	
54	Mr Leigh Dwyer (PDF 6KB)	
55	Dr J Paul Robinson (PDF 41KB)	
56	Mr Kenneth Hayes (PDF 234KB)	
57	Mr Alan Jeffrey (PDF 151KB)	
58	Mr Robert Hay (PDF 249KB)	
59	Mr Ronald Delmenico (PDF 709KB)	
60	Ms Caroline Bissey (PDF 132KB)	
61	Dr Lucy Zinkiewicz (PDF 83KB)	
62	Mrs Meryl Meiklejohn (PDF 69KB)	
63	Mrs J Singleton (PDF 52KB)	
64	Mr Ian Moller (PDF 91KB)	
65	Ms Shannon Tobin (PDF 128KB)	
66	Dr Klaas Woldring (PDF 49KB)	
67	Mr Ian Bowie (PDF 322KB)	
68	Ms Antasia Azure (PDF 243KB)	
69	Ms Dawn Easton (PDF 4KB)	
70	Mr Alan Kindred (PDF 5KB)	
71	Dr David Phillips (PDF 692KB)	**FESTIVAL OF LIGHT** Inadequate procedures for enrolment and voting prevent AEC from guaranteeing integrity of elections, calls for ID
72	Rev Stefan Slucki (PDF 102KB)	How to vote cards should be in polling booths, not handed out by party workers.
73	Emeritus Professor Colin Hughes (PDF 255KB)	Time between issue of writs & close of roll
74	Mr Trevor Jacobs (PDF 75KB)	
75	Mr and Mrs Henry and Sheena Brookman (PDF 177KB)	
76	Ms Michelle Kelleher (PDF 215KB)	

77	Mr Bruce Kirkpatrick (PDF 1031KB)	Qualifications for applying for pre-poll voting not enforced
78	Mr Matthew Bye (PDF 198KB)	
79	Mr Jeff Gomes (PDF 223KB)	
80	Mr Peter Andren MP (PDF 2924KB)	Independent, donations not tax-deduct. & GST non-refundable as for major parties. Parties not be allowed to distribute postal vote appl. Misleading AEC advertising. Misuse of parliamentary entitlements and govt money at elections.
81	Hon. Robert McClelland MP (PDF 705KB)	No response to 2 letters sent to AEC. Unity party 'how to vote material' altered
82	Ms Kerrie Donlon (PDF 153KB)	
83	Mr Grant Marani (PDF 92KB)	
84	Mr DG Holmes (PDF 70KB)	
85	Ms Janet Magnin (PDF 341KB)	
86	Mr David Partlett (PDF 93KB)	
87	Ms Lisbeth Shelley (PDF 358KB)	
88	Ms Gail Gottwald (PDF 107KB)	
89	Mr David Hudson (PDF 152KB)	
90	Mr Brad Tyler-West (PDF 109KB)	
91	Ms Erin Johanson (PDF 184KB)	
92	Mr Cameron Bray (PDF 339KB)	
93	Mr Roger E Deshon (PDF 108KB)	
94	Ms Catherine Hautenauve (PDF 103KB)	
95	Ms Julia Irwin MP (PDF 22KB)	6 recommendations to reduce level of informal votes.
96	Mr James Cattlin (PDF 116KB)	
97	Mr Deane Crabb (PDF 862KB)	**Electoral Reform Society of South Australia** Suggests adoption of Hare-Clark voting system
98	Mr Eric Lockett (PDF 59KB)	
99	Mr Ron Murray (PDF 147KB)	
100	Ms Rosemarie Goonewardene (PDF 210KB)	
101	Mr David Bailin (PDF 93KB)	
102	Ms Denise Burns (PDF 165KB)	

103	Mr Denis O'Sullivan (PDF 359KB)	**Council for the National Interest** Recommends roll accuracy be checked using data from the Australian Bureau of Statistics
104	Dr Ross Mair (PDF 504KB)	Supported submission from PILCH
105	Council of Homeless Persons (PDF 49KB)	
106	Mr John Rogers (PDF 466KB)	Computer program for the Senate scrutiny not developed using appropriate "trusted computing" standards
107	Mr B Joy (PDF 101KB)	
108	Mr Barry Wakelin MP (PDF 228KB)	Concern at level of assisted voting on remote mobile booths is high and informal vote unusually low.
109	Mr Warren Grzic (PDF 898KB)	
110	Ms Anne MacGregor (PDF 49KB)	
111	Mr John Wulff (PDF 175KB)	
112	Ms Robyn Stephenson (PDF 197KB)	
113	Ms Kim Austin (PDF 90KB)	
114	Mrs Merran Loewenthal (PDF 89KB)	
115	Mr Aaron Gray-Block (PDF 163KB)	
116	Mr Marcus Brown (PDF 43KB)	
117	C Dendrowskyj (PDF 40KB)	
118	Mr Stephen Blackney (PDF 109KB)	
119	Ms Angela Ryan (PDF 405KB)	
120	Mr Philip Lillingston (PDF 508KB)	
121	Ms Christine Cunningham (PDF 174KB)	
122	Ms Jacqueline Mowbray (PDF 628KB)	
123	Ms Leah Quinn (PDF 71KB)	
124	Ms Anne Tischlinger (PDF 42KB)	
125	Ms Christine Drum (PDF 140KB)	
126	Mr Geoff Field (PDF 245KB)	Recommends establishment of hotline for polling officials for checking enrolment of voters who do not appear on roll.
127	Ms Patina Blakeney (PDF 50KB)	
128	Mr John MacGregor (PDF 480KB)	

129	The Hon Bob Katter MP (PDF 171KB)	People with enduring power of attorney are not able to sign applications for postal votes.
130	Ms Heather Small (PDF 203KB)	
131	Mr Neil Worrall (PDF 258KB)	Alleges AEC sold microfiches of roll as a result of business lobbying, which breaches Privacy Act 1988.
132	Mr Don Annear (PDF 855KB)	
133	Mr Peter Brun (PDF 203KB)	Creation of electoral roll from other government databases. Private doorknock and MP return-to-sender-mail throws up inaccurate enrolments
134	Ms Leally Chen (PDF 247KB)	
135	Mr Peter Stokes (PDF 411KB)	**Salt Shakers** Recommends adoption of electronic voting and voter ID before next election
136	Mr Eric Lockett (PDF 114KB)	
137	Ms Catherine Rawson (PDF 120KB)	
138	Ms Harriet O'Malley (PDF 40KB)	
139	Mr John Griffin (PDF 142KB)	
140	Ms Ruth Gibbs (PDF 113KB)	
141	Mr D F McAlister (PDF 373KB)	
142	Mr William Mason (PDF 71KB)	
143	Ms Margarite Frost (PDF 163KB)	
144	Mr Don Mitchell (PDF 224KB)	Recommends adoption of circular ballot paper to prevent donkey vote.
145	Homeless Persons Legal Clinic (PDF 3164KB)	Recommendations enabling homeless people to participate in federal elections.
146	H. S. Chapman Society (PDF 1059KB)	Marked envelopes for postal votes reduce secrecy. Qualifications for applying for pre-poll voting not enforced. Transcription errors in phoning results from polling booths to electoral office/virtual tally room etc. Want scrutineers to have access to divisional offices on election night. Letters to 850,000 voters in Queensland before the Feb 2001 election. Why does AEC not participate in Social Security data-match
147	Australian Electoral Commission - Submission (PDF 172KB)	

147A	Australian Electoral Commission Attachment A (PDF 14KB)	
147B	Australian Electoral Commission Attachment B (PDF 31KB)	
147C	Australian Electoral Commission Attachment C (PDF 43KB)	
147D	Australian Electoral Commission Attachment D (PDF 100KB)	
147E	Australian Electoral Commission Attachment E (PDF 359KB)	
147F	Australian Electoral Commission Attachment F (PDF 81KB)	
147G	Australian Electoral Commission Attachment G (PDF 96KB)	
147H	Australian Electoral Commission Attachment H (PDF 51KB)	
147I	Australian Electoral Commission Attachment I (PDF 16KB)	
148	The Southern Cross Group (PDF 173KB)	Rights of overseas voters. Further research into electronic voting and enrolment methods
149	Liberal Party of Australia (PDF 14KB)	Powers of presiding officers at polling booths. Accuracy of roll, mailouts/RTS mail Push polling Radio advertising Newsletter difficulties Timeliness of AEC responses Special hospitals Role of AEC
150	The Big Issue (PDF 2614KB)	
151	Mr Perry Ballard (PDF 230KB)	Regular polling place official: recommendation about customer service training.
152	Mrs Ursula Richards (PDF 226KB)	Fundraising & donations Govt advertising Enrolment of Abor, young, homeless Registration of party names Use of parliamentary entitlements
153	Australian Labor Party (PDF 3817KB)	Complete & meaningful trail of disclosure back to true source of funds received by political parties. Significant under enrolment amongst the homeless.
154	Mr Malcolm Crompton (PDF 747KB)	

155	Ms Lee-Anne Poynton (PDF 648KB)	
156	Mr AJ Beeney (PDF 385KB)	
157	Mr Jason Caley(Supplementary) (PDF 12KB)	Proportional Rep., Optional preferential voting, Fixed parliamentary terms, minor parties to be included in TV debates, no. of entrances to polling booths
158	The Greens NSW (PDF 409KB)	Endorses progressive Labour Parties submission
159	Republican Party of Australia (PDF 322KB)	Privacy concerns and problems
160	Mrs Helen Bourke (PDF 2174KB)	
161 162	Anthony & Janet Linden (PDF 6KB) The Hon Chris Gallus MP (PDF 1175KB)	AEC unwillingness to investigate Party adverts at polling booths, "return to sender" mail at 2001 election and subsequent removal of voters.
163	Mr Victor Lawther (PDF 209KB)	
164	Federal Privacy Commissioner (Supplementary) (PDF 1455KB)	Update of submission 147
165	Australian Electoral Commission (Supplementary) (PDF 954KB)	Update of submission on AEC funding
166	Australian Electoral Commission (Supplementary) (PDF 4122KB)	Seeks deregistration of Citizens Electoral Council
167	B'nai B'rith Anti-Defamation Commission Inc (PDF 3392KB)	
168	Department of Foreign Affairs and Trade (PDF 2981KB)	
169	Manly Council (PDF 65KB)	
170	H. S. Chapman Society (Supplementary) (PDF 34KB)	At Mount Gravatt East votes did not reconcile
171	Mr Barry Wakelin (Supplementary) (PDF 168KB)	
172	Office of the Federal Privacy Commissioner (Supplementary) (PDF 2157KB)	
173	Heather Small (Supplementary) (PDF 46KB)	
174	Australian Electoral Commission (Supplementary) (PDF 6524KB)	AEC responses to issues raised in submissions to, and public hearings of, JSCEM as at 1/11/03
175	Mr Scott Goodrick (PDF 9KB)	
176	Ministry for Police (PDF KB)	
177	G E Whitfield (PDF 1230KB)	

178	Liberal Party of Australia (Supplementary) (PDF 271KB)	
179	Australian Labor Party (Supplementary) (PDF 371KB)	
180	Citizens Electoral Council of Australia (PDF 670KB)	
181	Australian Electoral Commission (Supplementary) (PDF 149KB)	
182	Australian Electoral Commission (Supplementary) (PDF 146KB)	
183	Liberal Party of Australia (Supplementary) (PDF 340KB)	
184	Alex MacFarlane (PDF 185KB)	
185	The Southern Cross Group (Supplementary) (PDF 293KB)	
186	Australian Electoral Commission (Supplementary) (PDF 59KB)	
187	The Southern Cross Group (Supplementary) (PDF 223KB)	
188	Department of Foreign Affairs and Trade (Supplementary) (PDF 1376KB)	
189	Liberal Party of Australia (Supplementary) (PDF 117KB)	
190	Australian Electoral Commission (Supplementary) (PDF 453KB)	
191	AIS Support Group Australia (PDF 7KB)	
193	Department of Foreign Affairs and Trade (Supplementary) (PDF 230KB)	
194	Australian Taxation Office (PDF 3500KB)	
195	Australian Communications Authority (PDF 1364KB)	
196	Mr Jim South (PDF 11KB)	
197	Mr Gavin Stevenson (PDF 438KB)	
198	Australian Electoral Commission (Supplementary) (PDF 75KB)	