

NOTE TO MY SUBMISSION.

Original text from the green Paper is in BLACK.

Test for my submission is in RED

Quotes from elsewhere are in BLUE

Chapter 1: INTRODUCTION TO THE AUSTRALIAN ELECTORAL SYSTEM

The role of the public: participation, support and trust

- There is also evidence that **public satisfaction** with elections as a mechanism for producing government accountability and responsiveness is strong in Australia, especially when compared with other countries. I have taken a particular interest in electoral matters and have followed and read about it with great interest. I have made submissions to the JSCEM particularly in connection with habitation reviews I carried out on behalf of candidates. I talk to people about the electoral system and have found that many have very little knowledge about it. There is **widespread view** that **lack of ID requirements** and the ability to **vote at any polling booth** make for a **very loose system**. Many think there are **too many candidates** on the ballot papers, particularly for the Senate, who have no chance of getting elected and that there should be some filter mechanism to reduce the number of candidates.
 - I question the roll of the **AEC** and its relationship with Parliament. **It has too much power** and although the JSCEM has the power to demand all information from the AEC, this is not the same as an independent audit of its functions. It is subject to an audit by the Auditor General, but this is a financial audit only. It should be subject to a **functional audit by an outside independent auditor** who should be different for each election and not selected until after the election.
 - **The functions of the AEC should be split as discussed below.**
- 1.33 One existing avenue for cooperation between jurisdictions on electoral matters is the Electoral Council of Australia (ECA). There should be **outsiders appointed to the ECA** as well as electoral officials and these should change for each election.

CHAPTER 2: STANDARDS, QUALITIES AND EXPECTATIONS

PRINCIPLES GOVERNING ELECTORAL LAW AND PRACTICE.

- **Transparency** of all aspects of elections except at the point of the marking of ballot papers.
- In a open democratic society the **functions of government should be split**, as with the executive, legislature and judiciary. This applies equally to **the AEC**.
- **The JSCEM** politicizes the electoral process. There needs to be an independent “overseer” such as **ombudsman** to receive reports and investigate complaints.
- **Changes to electoral laws and procedures should be multi-partisan.**
- The **importance of scrutineers** in ensuring the integrity of elections should be given more credence particularly by AEC officials. Whilst many electoral officials are fair and helpful, some are not. They can be **unhelpful, secretive and don’t know some of the rules.**
- It is considered desirable by both major party groups that voters should be well informed about the political process. One essential ingredient in this process is that **Divisional Offices should be located in a prominent, easily accessible position within the Division**, not hidden away in an office block and co-located or amalgamated with other Divisional Offices outside the Division.
- **The accuracy of the Electoral Roll** in an important issue. There has been a trend away from the use of habitation reviews, and the AEC has adopted **Continuous Roll Update (CRU)**. CRU is a massive computer based task, which involves sending out letters to thousands of voters. Less than 50% receive an answer; sometimes much less. Despite this massive continuous effort there are still many voters who are incorrectly enrolled. **CRU is clearly not achieving its objectives.**
- In recent years **access to the Electoral Roll has become more restricted** because some have used it for commercial purposes. Perhaps its use should be restricted, but this should not preclude voters from checking names and addresses and street listings for incorrect enrolments, Anyone should be able to inspect the electoral roll and to request the DRO to check names and addresses and report back.
- **The importance of the count in the polling stations on election night.** We read in many countries tampering with ballot boxes and ballot papers. Fortunately this is rare in Australia, but it can easily happen and that is why it is so important that ballot papers are counted in the polling stations immediately after the close of voting. However such is the impatience of the country for an election result, that the counting process is required to be done as quickly as possible resulting in errors. Counts are checked in Divisional offices over the course of the next week, but not without greater risk of tampering. The biggest problem associated with counting in the polling stations is the great number of polling staff and scrutineers required and training them adequately.
- Marked up rolls from polling stations are sent to **scanning centres** on the Monday following the election. This may be done before the result is known. At present the centres are not open to scrutineers. They should be.
- At present those who intend to challenge an election in **the Court of Disputed Returns have 40 days in which to file an application**, but do not have the right to inspect the AEC records. All information held by the AEC should be available to applicants even after they have filed an application before the case is heard.
- **Enrolment and voting should be voluntary.** Compulsory enrolment and voting are an infringement of the freedom of the individual in a democratic society.
- **Government should not fund political parties.** The present system of compulsory voting means

that voters are obliged to fund the party they vote for. Again **an infringement of the freedom of the individual in a democratic society.**

CHAPTER 3: THE LEGAL FRAMEWORK FOR ELECTIONS

- As mentioned above there should be **broad multi-partisan agreement on electoral law**. It is no place for the adversarial Westminster system.
- Such is the mobility of Australians there should be **harmonization of electoral law** by all governments across the country.
- **For the rule of law to apply electoral laws must be prescriptive**. To be otherwise opens the system to the rule of man.

CHAPTER 4: THE FRANCHISE

- **Compulsory enrolment and voting**. Voting is not compulsory, only marking off on the electoral roll is actually compulsory. Compulsory enrolment is unpoliceable. Many are removed from the roll for a variety of reasons, some incorrectly. The unenforceability of enrolment and voting make a mockery of the compulsion. The problem being that the Australian Federal Police generally do not have the resources to pursue these minor infringements.
- There will always be **some who do not wish to be enrolled** and others who are enrolled **who choose not to vote**. Politicians want as many people as possible to exercise their right to vote, but making it compulsory in a free democratic society does not respect the right of a voter to neither enroll nor vote. Politicians must realize that there are many in the community who regard politicians with disapprobation. Some voters may not be voting or may vote informally because they do not want any political party to get federal funding. Compulsory voting (or in truth “marking off”) masks voter apathy. If compulsory enrolment and voting is to continue, it would be a sanguine reminder to politicians of voters’ disregard, if ballot papers allowed voters the option to vote for “none of the above”.
- **The lower age limit** for voting is fraught with differences between individuals and groups. There is no one size fits all. It might be argued that a 16yo who is in the workforce and is paying tax is mature enough to be enfranchised, or that a 22yo still in full-time education paid for by the taxpayer should not be enfranchised. Whatever limit is chosen has to be a value judgment. Perhaps the current level of 18 is a reasonable compromise.
- **Harmonization across the country for all elections**. Such is the economic mobility of Australians, different franchises and voting requirements such as optional or compulsory preferencing cause confusion among voters. Therefore there should be harmonization uniform across Australia.
- Much time is spent on the question of **homeless voters**. The homeless have serious problems, particularly integration in mainstream society. Most these problems are outside the scope of this paper, but I have made comments in relation to ID on enrolment and at the polling station. I would question that being on the roll is going to help solve their problems.
- **Other jurisdictions**. On the question of comparisons with other countries, while it may be of interest I think it is better to stick to fundamental principles.

Chapter 5: REPRESENTATION AND VOTING SYSTEMS

- Do the current voting systems for the House of Representatives and the Senate offer an appropriate **balance between representation and responsiveness**? **Definitely not**. If not, what changes should be made to the voting systems for the House of Representatives and/or the Senate? **The current system of government is “winner takes all”**, with governments claiming a franchise for a great many policies when the real reason they were voted in is more the desire for a change party in government than a change of policy. A consensus type government with all parties represented, with elections with multi-party seats as in the Hare-Clark system in Tasmania might prove to be more representative and responsive. – The matter of citizen initiated referenda or veto is outside the scope of this paper, but should be considered in another forum.
- Should **optional preferential voting** be introduced for all lower house elections across the country? In a democratic society **forcing people to indicate preferences which they don't have is an infringement of basic democratic freedom**. Therefore if a preferential voting system is to be used it should be optional for both houses of Parliament, which would include preferential above-the-line voting be for the upper houses.
- I strongly support **harmonisation of voting systems across the country**. The existing discrepancies cause confusion and much informal voting.
- See below for my recommendation for reducing the problem of informality. XXX
- Every time there is a **by-election** in the House of Representatives there is a fuss about what it costs. However, as there is no way of the electorate getting rid of a government between general elections (as opposed to government members crossing the floor in a vote of no confidence), by-elections can be a useful indicator of voter opinion.
- The argument that there should be **penalties for members who resign** would deter some from standing makes no sense. Standing for parliament has its risks but there always seem to be plenty of candidates. If there were a few less for this reason it would really make no difference. The existing arrangement should be retained.
- In the Senate the existing system for dealing with **senators who resign or die** has proved effective in the vast majority of cases and seems fair. Therefore it too should be retained.
- Are the current arrangements governing **redistributions** satisfactory? Should redistributions be conducted according to a fixed timetable, or a ‘fairness’ criterion? **The constitution requires a balancing of numbers in the 2 houses**, but it is clear the time has come to **decouple the numbers in the Senate and in the House of Representatives**. It is the reason behind the massive **redistributions** in NSW and Queensland before the last 2 elections, where demographic shifts have caused NSW to give up seats to Queensland.
- The green paper states “The current rules regarding **redistribution processes** are widely accepted as nonpartisan and fair”. Has an opinion poll been taken to confirm this statement? When I have discussed this with fellow members of the Liberal Party most think that redistribution process is not non-partisan and fair.
- **Redistributions cause confusion** amongst voters who often don't know which electorate they live in or who represents them in parliament. The concept of “one vote, one value” also results in the need for redistributions with large regional electorates becoming geographically even larger and harder for Members to service. Some voters may find that they are in a new electorate at every election. Australia's demographic environment really demands a complete redistribution at every election, but they are complicated, time consuming and costly. There is probably no simple solution. A change to multi-member constituencies as with the Hare-Clark system should be considered.
- **The Senate**. The Senate in the USA has 2 members from each state; Australian states have 12 which seems to be quite enough.
- The **Senate ballot paper** is one of the most problematic areas in our electoral process. We must recognize that there are **far too many names on the ballot paper** and probably 50% have absolutely no chance of being elected. **This may also apply to the House of Representative ballot papers** where it is not unusual

for there to be more than 10 names. I have discussed this with friends and there is a general agreement that to get on the ballot paper candidates should be required to register a document signed by, say 1000 voters in the electorate and a \$2000 deposit.

- I have indicated elsewhere that in House of Representative elections **I support the adoption of optional preferential voting**. I think that this should apply equally to the Senate, with both above and below the line voting.
- On the question of **ticks or crosses, harmonization at elections for all levels of governments** would reduce inadvertent informal votes, especially for new Australian citizens who may come from countries where ticks and crosses are accepted, probably in “first past the post” voting. One solution for this is to stipulate that a single tick or cross be taken as a one. Obviously more than one tick or cross would be informal.
- In the discussion on **proportional representation (PR)** for the House of Representatives, the question is raised that “...PR that it may not be conducive to the formation of stable governments and coherent policy formation...” and that “... individuals or small parties holding the balance of power may exercise a degree of influence over decisions of the government and the legislature that is out of proportion to their levels of support in the electorate...”
- I would have thought that the **question of influence on the decision making process** of parliament was outside the scope of this paper, but since it is discussed here, I make the following point. When a vote is taken in Parliament on legislation, a 50% plus one result may pass that legislation but does not reflect support for it among voters. Furthermore, as mentioned elsewhere in my submission, governments claim a mandate for their political platform which may not even be supported by a small majority of voters. They may have been elected just to get rid of the previous government because voters wanted a change. There should be a far reaching debate on **whether a 60% “for” vote be required for passing legislation**.
- Under the Westminster system, the power of government lies with the majority party or coalition in the lower house. With **proportion representation** there are often multi-party coalitions and a greater risk of unstable governments. With the wider spread of political representation with proportional representation in the upper house (or house of review), Australia probably has a good balance, so I see no reason to change our existing system, but **still some groups consider themselves under-represented. Use of the Hare-Clark system might redress this**.
- On the subject of the “**savings clause**” there is no logical or moral basis for a single ONE vote to be treated as formal, while a ONE – TWO vote would be informal. There should be full optional preferencing.
- The current system of parties’ **how-to-vote cards** means that voters may indicate preferences, which they would not, if they had greater knowledge of the candidates. However they may know some of them and wish to vote to exclude one of them. **Optional preferential voting allows this**.
- There is no logic in the idea that **optional preferential voting may result in a ‘de facto first past the post** system. If that is what voters want then they should be free to vote for that way. A voter may particularly not wish for his/her vote to go to one of the major parties. Of course they can indicate that with full preferencing, but a voter who wishes to particularly exclude more than one candidate should be free to do so.
- In my experience as a scrutineer there are always **some ballots ruled formal** because the **voter’s intention is clear**. For example a tick instead of a ONE with all other preferences indicated correctly. At present that vote may not be formal. It should be. (See above on ticks and crosses).
- The concept of an extra box on the ballot paper to allowing vote for ‘**none of the above**’ candidates would quantify the extent of voter disapprobation. It would be unrealistic to avoid this option on the grounds that

some might be encouraged not to vote as they think.

- The **threshold system** determines that a candidate will not be elected because he/she is the less disliked than a candidate who received above-the-threshold primary support. This is a philosophical point with which I agree.
- The **ticket system** arose because the Senate ballot paper, particularly, is so large, but voters can still indicate their preferences. It is a system which offers voters a simplified way to vote. The other option is to reduce the number of candidates and allow optional preferential voting which I have covered elsewhere.

CHAPTER 6: ELECTORAL MANAGEMENT BODIES – STRUCTURE, FUNCTIONS AND INDEPENDENCE

The functions for the AEC should be split as follows:

1. to manage the Commonwealth electoral roll which is used by all levels of government.
2. to conduct elections and referendums, including fees for service and industrial elections;
3. to support electoral redistributions, to register political parties and to administer election funding and financial disclosure requirements
4. to educate and inform the community about participating in the electoral process; to undertake research, provide information, publish material, and provide reports on electoral matters; and to provide assistance in overseas elections and referendums.

Need for transparency and independent third party audit.

- The AEC has **too many functions and is not sufficiently transparent**. As its functions are at the core of our democracy transparency is vital. Like it or not too much power allows corrupt practices to develop. Corruption can take very subtle forms like failure to balance the ballot paper count, losing declaration votes, substituting ballot papers kept in storage before a count has been completed.
- Whilst officers-in-charge have generally been very fair, in my experience as a scrutineer I have observed the body language and side remarks made by **polling staff indicating a leaning always to the same one of the major parties**.
- There is no question that the AEC functions should be split and those separate organizations should be **subject to an audit of their functions**. This would be a functional audit, not a financial audit as at present conducted by the Auditor General.
- **Maintenance of the Electoral Roll** should be the responsibility of the DROs who would coordinate their systems through a forum, called the DRO Commission, which would appoint temporary working parties to carry out particular tasks, including coordinating reports on elections from the DROs to the Electoral Ombudsman, (see below). Local Participation in maintaining the Roll should be encouraged.
- There should be an **Electoral Ombudsman** to whom the DROs would report and to whom all electoral complaints would be directed and who would have the power and responsibility to investigate all matters relating to elections. After each election the Ombudsman would publish a report on his findings. He would work with aggrieved parties who sought to have take the election to the Court of Disputed Returns, rather than secretly and against such parties as at present with the AEC. (In this respect I refer to the case of Alasdair Webster who was the losing candidate in the seat of Macquarie in the 1993 federal election). If the Ombudsman chose not to refer the election to the Court of Disputed Returns, the losing candidate would still be able to take the case to the Court. In his report the Ombudsman could recommend changes to the electoral laws to Parliament.
- As **politicians have a vested interest in election outcomes** and reforms tend to be biased by politics, **none of the organizations** carrying out the various electoral functions nor the DRO Commission **should be answerable to the parliament but to the Ombudsman**.
- **When changes are made to electoral laws they should be by overwhelming consensus in Parliament**.

- **If the AEC were to continue in its current form:**
- There should be **more non-executive commissioners**. Three is too few. No other body as important as this has so few. It must appoint its commissioners from a wide sphere of the community, and the appointment of all commissioners should be approved unanimously by a committee of representatives of all parties in Parliament.
- **It is right that the AEC be independent of politicians**. Why then does it have an office in the Parliament building?
- In the interests of transparency the **names of all AEC staff should be published on its website**, and the names of temporary staff in polling stations on election day should be displayed in the stations.
- The AEC provides a service to the community. It is subject to the Freedom of Information Act but in my experience that it can be unhelpful and secretive. **Complaints about its activities should be handled by the Electoral Ombudsman** (who at present handles some matters including privacy issues). People who were not satisfied with their answers should be free to take the matter to the Court of Disputed Returns, but **NO IN CASE should the AEC be open to legal action** as such. In the past it has acted as the respondent in cases before the CDR. This is quite wrong. In its function of providing the community with a service, **it should openly assist the court and the plaintiff** and provide them with all the information that is requested.
- Under current law the JSCEM has power to demand information from the AEC. This is not broad enough. The functions of the **AEC should be independently audited by a third party** after each election. **There should be a different auditor after each election.**

CHAPTER 7: ENROLMENT AND PARTICIPATION

7.111 Submissions are invited on the extent to which current enrolment processes should be changed, if at all. In particular, comments are invited on the following questions:

- How can enrolment processes best ensure maximum participation in Australia's elections? The Electoral Act requires **Divisional Offices be located geographically within the Division** (Electorate).
- For spurious "efficiency" reasons **Divisional Offices have been co-located and then combined** with clerks being responsible for individual tasks across the combined electorates. I refer to the report of the **JSCEM following the 2004 Federal Election**, where current and ex staff of the combined Divisional Offices located at Chatswood in NSW made submissions to the JSCEM, in which they told the Committee they found the **work environment stressful** from repetitive work, and poor promotion opportunities because of limited skills, and difficulty filling in for colleagues on other tasks who are on sick leave and holiday. They also complained of longer travel times to work.
- This is not to mention the **opportunity for corrupt staff to collude on fraudulent enrolments**. The Electoral Act should spell out that **co-location and amalgamation of Divisional Offices are expressly prohibited**. Divisional Offices must **be located in popular shopping areas and be highly visible and at street level**.
- Automatic enrolment and online enrolment? **Automatic enrolment** completely begs the questions of the **accuracy and completeness of the databases** from which the roll is compiled. For example the NSW RTA is regarded as very inaccurate. The Australian Taxation Department probably has the most complete

database but its accuracy would have to be checked. **Automatic enrolment sets up a bureaucratic empire linking computers** in many government and non-government offices to match data in those different databases. The power of such an empire in the wrong hands is frightening.

- Under the Electoral Act the **Electoral Roll is based on residence**, so **Habitation Reviews** must be part of the process.
- If automatic or online enrolment and/or updating were introduced, what processes do you think would ensure the integrity of the electoral roll? **I advise against such practices.**
- Should the legislation governing enrolment be designed to guide the AEC on the basis of principles, rather than prescribing the process steps for enrolment? **The legislation should be prescriptive.** Allowing the AEC to work on the basis of principles opens opportunity for the “**rule of man**”.
- What changes could be made to the **proof of identity requirements** to improve the enrolment process, while continuing to protect the integrity of the roll? **A voter’s card with photo ID should be adopted.** - The argument for a voter’s ID card is overwhelming but the ALP thinks that it is an onerous imposition on voters. However few would argue that Photographic ID for drivers is an onerous imposition. Indeed driving licences have proved to be a de facto “Australia Card”.
- A voter’s **ID card would speed up** the marking off process in the polling booth and deter multiple voters or people voting “for” others. The photo ID cards could be made in the DO or at the traffic authority in the respective state, as they are at many clubs, fitness centres etc.
- At the JSCEM hearings after the last few elections there has been much talk about ID on enrolment and at voting and how this would disadvantage the **homeless and other underprivileged groups and be inconvenient for voters generally.**
- I make 2 points about this. **(1)** People don’t forget their money/credit cards/medicare cards when they go shopping/claim refunds. Why then should it be such an imposition to take a voter card when voting, or ID when enrolling? **(2)** The homeless have serious problems, one of which is nowhere to keep valuable items. There are organizations, government and non-government, that work to help the homeless. I suggest that helping them with valuable items be added to the help they provide (if that is not already done), but **not requiring ID on enrolment or at the polling booth for the whole nation in order to make life easier for the homeless and forgetful, is an extreme measure.**
- What changes (if any) should be made to the residence requirements for enrolment? **None**
- What changes (if any) should be made to the special enrolment arrangements for silent electors, homeless persons, and youth? **None.**
- What ‘close of rolls’ period do you think is appropriate?
 - Should the roll close date be set later in the election period? **Elsewhere I have recommended an Enrolment Cutoff Date** as in the UK. This removes the question of the close of rolls.
 - Should enrolment on polling day be permitted? **No. It would require many extra staff and cause delays.**
- Should there be further limitations placed on access to information on the electoral roll? If so, what limits would you suggest? **I have commented on this elsewhere.**
- **Habitation Reviews.** Full habitation reviews used to be conducted but the AEC has adopted “Continuous Roll Update” with limited habitation reviews which are conducted as considered necessary.
- **I have done habitation reviews** for candidates and a lot of ground can be covered by teams of 2 people, one driving and the other hopping out and door-knocking. I have reported on the results of these reviews to the JSCEM after the last 2 federal elections. (For example one Sunday in Lithgow and Bathurst we checked

residences with 4 or more different surnames and uncovered over 40 voters who were no longer living at the enrolled address. On another day we checked for voters enrolled at unlikely addresses. I estimate we covered about 20% on the electorate). A habitation review also offers the opportunity to question neighbours which may be useful in finding where voters have moved to. (We did not request this information, but an electoral officer would have the power to do so). We also uncovered new residents who have not yet re-enrolled.

- **I recommend that no person be removed from the Electoral Roll without a habitation review.**
- It is worth noting that in **Northern Ireland the Roll** is compiled by a HABITATION REVIEW and the Roll is considered by other organizations to be **so accurate** that they use it as check on their own databases. Habitation reviews are of course not the complete answer as there are many voters who are living temporarily elsewhere because of their work, but information about such voters is better obtained by people living at the address or by telephone than sending out letters.
- **Should it be the AEC who should devote resources to encourage people to enrol and vote?** Or should it be the political parties as in the USA? – Location of Divisional Offices in a prominent position with the Division as mentioned earlier would give electoral matters more publicity without having to use extensive publicity campaigns.
- These are commendable activities but they do not achieve the objective of getting many to enrol and re-enrol. **Maybe the AEC is chasing a “moonbeam”.** It is a “Nanny State” attitude for the government to use resources to get people to enrol.

CHAPTER 8: REGISTRATION OF PARTIES, AND CANDIDATE NOMINATIONS

- Is the current system for candidate nominations appropriate? My recommendations here are related to reducing the number of candidates on the ballot paper by eliminating those who have no chance of getting elected. I would raise the nomination requirement to 1000 persons entitled to vote at the election, and the deposit per candidate to \$2000.

Chapter 11: POLLING

- Should any actions be taken in response to the rise in early voting? **There should be an Electoral Fortnight, with say 8-10 polling stations per electorate. Voters would enrol or re-enrol and select their preferred station ahead of the Enrolment Cutoff Date, or at a later date if they move or have the choice of registering as a postal voter. See below.**
- What changes, if any, are needed to the current postal vote processes for federal elections? - **The intention to vote by post should be made on enrolment or prior to the Enrolment Cutoff Date. This would be a freely available option. A voter wishing to register as a postal voter at other times must give a valid reason for doing so. e.g. ill health, travel, temporarily residing away from home.**
- Should **electronic voting** be utilised to a greater extent in Australia? - **No. There are too many possibilities for fraudulent voting and counting.**
- Are additional mechanisms required to reduce the possibility for multiple voting?
 - If so, what mechanism/s should be introduced? - **ID at voting. See earlier comments about the “inconvenience” and the homeless. ID and electronic mark-off would render unnecessary the use of indelible marking to prevent multiple voting.**
 - Do you think the current rules surrounding the casting of provisional votes should be changed? If so, how? - **Provisional votes are for people taken off the roll incorrectly. The current arrangements with the ID requirements introduced in 2007 are practical and sound.**
- Should a requirement for voters to provide identification on election day be introduced?
 - If so, what form/s of identification should be required? - **There should be photographic ID as mentioned above.**
- Do you have any suggestions for the future location of polling places within Australia?
 - In particular, do you have any suggestions about the location of polling places for homeless persons or those in Indigenous communities? **See comments on Voting Fortnight. Indigenous communities and hospitals and aged-care establishments need special consideration.**
- Do you think it is appropriate for federal and state or territory elections to be held on the same day? **No. The different levels of government are subject to very different issues. If elections were synchronized local issues might be overridden by national issues or vice versa.**
- The green paper canvasses some common-sense points on the **case “FOR” a photographic voter ID card.**
- The same cannot be said for the **“AGAINST”** arguments, as follows.
- It is at the enrolment stage that issues surrounding a **person’s entitlement to vote should be resolved**, which enables the polling process to proceed smoothly as the certified lists can be taken as ‘conclusive of a person’s right to vote’. **This is rubbish. There is no guarantee that a voter is who he/she claims to be without ID at the polling booth. People have often told me how they vote for family members and friends. A bar-coded photographic voter’s card would speed up the electoral process. (This system has been used very successfully in South Africa). Long lists of voters, unusual names and difficulty hearing voters’ voices all slow down the process. A card would avoid those problems.**
- **A requirement to produce a photographic identity card** or passport might operate in a discriminatory way against persons who do not have any photographic identity documents (as discussed in chapter 7 relating to proof of identity documents). **All would be in possession of a voter’s card. Sporting and other clubs issue photographic membership cards. The process is quick and easy. Initially it would be a major task for DROs but contractors could be used to handle the huge volume the first time round.**
- Even with a substantial publicity campaign, it would be possible that a **number of voters would be unable to, or would forget to, bring the appropriate documents** with them, which would be likely to lead to a

further increase in declaration voting. I have answered this argument earlier.

- Internet enrolment and voting seem an obvious development, but it would be wide open to identity fraud.
- **Enrolment on Election Day** (or in the Election Fortnight as I recommended) is a nice idea but the problems are well covered in the Green Paper, but one point not covered is that **it would render unnecessary all other programs to get people enrolled.**
- One problem raised is that enrolments could not be adequately checked. However this could be overcome voters names being recorded on **the counterfoil of ballot paper serial numbers.** Checking afterwards would only be done if so ordered by the Court of Disputed Returns. This measure was included in the first electoral system used in colonial Victoria.
- Postal voting is widely used but must now be deeply questioned in the light of substantial fraud cases in the UK in **six seats in local council elections in Birmingham**, and also in Slough. Richard Mawrey QC presiding said **"there were no realistic systems in place to detect or prevent postal voting fraud at the general election. "Until there are, fraud will continue unabated".** – Mawrey will be visiting Australia in February 2010 and will be speaking widely on those cases.

CHAPTER 12: SCRUTINY OF BALLOTS

- Which forms of **electronic vote counting** should be used at federal elections? It is the **party scrutineers** that ensure the integrity of the election process. However scrutineers are often not present and are inadequately trained. I have scrutineered at three elections where the issue of ballot papers has not been balanced to within an acceptable error (there are always a few ballot papers lost or removed) nor has it been possible to tally the number of upper and lower house ballot papers.
- Are there any additional measures or initiatives that could improve decision-making as to the formality of votes? I recommend the use of a **stand alone screen-activated printer** to produce the completed ballot paper which would warn voters if they were about to vote informally so that the vote could be corrected. The ballot paper would provide a box for those who wished to intentionally vote informally and for “none of the above”. This would mean no unintentional informal votes, and the ballot paper would be completely legible. The voter would place the completed ballot paper in the ballot box. The stand alone screen-activated printer could also count the votes, which would speed up counting on election night, while the hard copy ballot papers would be available for further scrutiny and recounts.
- Should **recounts be automatically conducted** in the case of close election results? There are rarely more than 5 or 6 seats where the margin is less even than 300. In view of the numbers in McEwan I would advocate 300 or less for an automatic recount. What matters is that the voters have confidence in the result, not how long it takes to arrive at it or what it costs. The outcome of the whole election could depend on it. The consequences of an overturned election in the Queensland seat of Mundingburra caused a change of government.
- In my experience the rule that the **voter's intention is clear** is adequate. However scrutineers for the candidate not benefiting from the ruling often demand clarification from a higher AEC officer.
- The case over the **seat of McEwan** in the 2007 Federal Election demonstrated that the Court of Disputed Returns is effective. Some were dissatisfied with the result. Perhaps they did not get the result they wanted, but if the Court is not the arbiter who then should be?
- **Preference distributions** are conducted manually by divisional offices for each House of Representatives division, while Senate preference distributions are performed electronically. All Senate ballot papers marked ‘below-the-line’ are manually entered into a **computerised Central Senate Scrutiny** database by electoral officials. Once data entry is complete, the computer application performs the complex preference distribution and identifies the elected candidates. In my view this is highly unsatisfactory. Sight is mankind's most important sense. **We cannot see the counting process inside a computer.** There can never be a complete guarantee that the count is not intentionally manipulated. This has happened often enough in the USA. I have **scrutineered at the NSW counting centre**, first at Villawood and then at Riverwood. **Scrutineering in the normal sense of the word is impossible**, and there is ample opportunity for corrupt officials to do what they like. I have previously made submissions on this process and in view of the close political balance in the Senate, I recommend a complete review the computer counting process.