

REPORT OF PROCEEDINGS BEFORE

**JOINT STANDING COMMITTEE ON ELECTORAL
MATTERS**

INQUIRY INTO 2012 LOCAL GOVERNMENT ELECTIONS

At Sydney on Monday 26 August 2013

The Committee met at 10.40 a.m.

PRESENT

Mr G. J. Ward (Chair)

Legislative Council

The Hon. R. Borsak
The Hon. Dr P. R. Phelps
The Hon. P. T. Primrose

Legislative Assembly

Mr A. R. G. Fraser
Mr. P. G. Lynch
Mr D. W. Maguire
Mr J. T. Rowell

CHAIR: Good morning and thank you for attending this public hearing of the Joint Standing Committee on Electoral Matters. The Committee is holding a hearing this morning on the current inquiry into the 2012 local government elections. Today we will hear from parties largely responsible for conducting the elections, firstly from the Australian Election Company and then from the NSW Electoral Commissioner. Before the proceedings commence, I remind everyone to switch off their mobile phones. For the benefit of those in the gallery, I note the Committee has resolved to authorise the media to broadcast sound and vision excerpts of its public proceedings. Copies of the guidelines governing the coverage of proceedings are available. I now declare the hearing open.

RICHARD LLOYD RAYMOND KIDD, Australian Election Company, sworn and examined:

CHAIR: I draw attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal and administrative action that might otherwise result in action in relation to the information you provide. I also note that any deliberate misleading of the Committee may constitute contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Did you have any opening statement that you may wish to provide to the Committee?

Mr KIDD: I was just thinking that I could maybe provide a very brief exposé of my experience, but one of the chief things that I wanted to achieve this morning was perhaps to respond to some submission points that were raised by a few people. Yes, I will start with a little bit of background. Richard Lloyd Raymond Kidd, I have had 41 years of electoral experience so far and counting. I worked for the Australian Electoral Commission for 26 years, 20 years in senior executive posts. In 1998 I took a voluntary redundancy from the commission and commenced running elections on a private basis.

First of all, I had a consultancy that I was using to run elections and ballots. Subsequently that was purchased and I became a general manager of elections for a company called election.com. That was in 2000. Election.com brought Internet voting to Australia. In time we ran NRMA elections by postal voting and Internet voting as well as a whole host of other events. I was the returning officer for the 2001, 2003 and 2005 NRMA elections. We conducted 42 shire council elections in Queensland—10 significant shires plus 32, what were then called DATSIP community council elections for Aboriginal and Torres Strait Islander councils.

In 2007 I decided I would part ways with the private election company that I was then with, which was called Secure Vote—Secure Vote had purchased election.com in 2003—and set about organising to run local government elections in Queensland for the 2008 elections. There was a change of government at the time and we had a number of contracts all ready to go with councils to conduct elections in that State but with a change of legislation Queensland councils were amalgamated and a decision was taken in legislation that Electoral Commission Queensland would run the 2008 elections.

I was hired as a consultant for the Electoral Commission Queensland to assist in the conduct of those 2008 elections. I reviewed all the materials and processes on behalf of Electoral Commission Queensland and also managed the conduct of all the Aboriginal and Torres Strait Islander council elections in Queensland. The opportunity arose in 2011 to provide quotations to councils for the conduct of elections for local government in New South Wales for the September 2012 elections. We were overwhelmed with the response, quite frankly, and there were 65 councils that approached us. We provided detailed quotations to those councils and that ultimately derived assistance with 13 councils, basically outright running 10 of them.

We believe that we performed creditably in these elections. We were professional, we were legally compliant, we provided a cost-effective service delivery to councils and although in sometimes difficult circumstances we plan to apply the experiences and lessons we have learnt, translating these into improved initiatives and enhancements in the future, if we are lucky enough to be able to continue to assist in the management and conduct of New South Wales local government elections. As I said at the outset, if there is an opportunity subsequently, I would not mind commenting on some of the points that have been raised in relation to our company.

CHAIR: Would you like to do that now?

Mr KIDD: Okay. Thank you very much for the opportunity. The submissions in question are Nos 15, 22, 60 and 63. Submission 15 was from a Mr Keith Woodley in Port Stephens. He mentions that there was apparently inadequate vetting of candidates. I have no idea what that comment means, quite frankly. Our role was not to vet candidates. We accept nominations from candidates and process but it is certainly not our role to advise electors in regard to candidates or anything of that nature, so I am not too sure what that comment really means.

He also indicates that the ballot papers were printed too late. He was talking about postal voting but I checked the records and printed ballot papers were dispatched, probably on 13 August, to the Port Stephens returning officer and they would have received them on 14 August. I noted that by 22 August and after we had received the authorised rolls from the NSW Electoral Commission, there had been 500 issues of postal votes and we did achieve a daily turnaround of postal vote issues after that date anyway. I also noted that we issued 1,517

postal votes in response to 1,517 applications; so again, 500 were issued by 22 August as soon as the ballot papers effectively were there and we had the rolls too, so again I am not sure of the context of the request there. It is also up to people to respond to the postal vote material once they receive it and to get it in on time.

Submission 22 from the Christian Democratic Party makes some comments about election statistics availability and presentation. Yes, we have learned some lessons from the election night and we will apply more definitive report titles at future elections if given the opportunity. We looked very closely at the Electoral Commission New South Wales statistical reports that had been made available for the 2008 elections—at least the headings of them—and we deemed that a lot of those were perhaps a little beyond what would normally be required and essentially once we have election night figures by polling place and ultimately by pre-poll, postal et cetera and we have rechecked figures of those and we have final results, we cannot see that you need a lot more reports for the basic pundit out in the boondocks, but next time we will have an enhanced system—a much improved one—with returning officers entering directly.

There was a problem this time with caching, which was unforeseen. It became evident that some visitors to the website experienced difficulties in accessing updated pages. There were comments that the results did not flow through. The results were there but unfortunately when they clicked a number of times on the website page if their browser was Internet Explorer 9, even if they tried to refresh their computer or turned it off and back on again, it is likely that they may have seen the same page again. There was a fix to that, which we did not know at the time, but it is simply F12-control-D and if you press that on your computer it will refresh it and bring the updated page up. By the morning of 10 September—the election was on 8 September—we had included a refresh button on the site for people so the results would have updated quickly and there were no further problems. Next time we will utilise a system that is going to be quick and direct and there will not be any caching problem.

We applied the policy that we would only post final results on our website and the council website after a declaration of the poll. We only wanted to ensure that the final and correct results were posted on any website once that had occurred. We made it a clear policy and a determination not to place final results until that happened. There are comments about how-to-vote formats: He said that he had to jump through hoops. We did ensure that there was great attention to compliance with the regulations about the how-to-vote material. It is a very difficult and complex area for anyone to administer. We used a barrister to look at any difficult ones that we deemed dubious. Any how-to-vote material that fell into that category we passed on to our barrister so that one person reviewed all the material and came back with comments to us. I do not believe that we should be criticised or penalised for ensuring compliance, if anything we should be applauded. The particular person that was referring to this was a candidate for the Christian Democratic Party in Newcastle. We understood that the returning officer had a good relationship with that candidate, but again the candidate did make these comments.

There were further comments made about Newcastle council by the Christian Democrats, that the advertising of the office was not correct for some time. What happened there was that Telstra botched the installation of the phones in the temporary office that we had in Newcastle. That was the only office where Telstra went astray. All the other connections were fine. It was something outside of our control and outside the control of the Newcastle City Council. Returning officer training: He mentioned that the returning officer could have done with more training. The original returning officer became ill and had a coronary issue soon after he commenced and we had to replace him. The replacement returning officer did a sterling job but he would have benefited from enhanced training. What we plan to do next time—and hopefully there is a next time—is that we will recruit and train extra reserve returning officers.

He makes a comment about Fairfield City Council and recruitment of polling staff and pre-poll voting. Fairfield City Council recruited and paid for their staff. We had zero involvement with that council for that. We did provide them with training material but again Fairfield trained their own polling officials. He makes a comment about pre-poll voting being chaotic. I visited there just a few days prior to the election and everything was running perfectly smoothly, so again I cannot comment on that. Submission 60 refers to Vision Australia. We had no applications for Braille ballots received by our company for any of the councils. Vision Australia provide the ballot formats for these. Whatever happens in the future with that—again if we are involved—Vision Australia is the main player in that area.

CHAIR: But you could provide them if you were asked to?

Mr KIDD: Absolutely. You get them from Vision Australia. They provide the formats, you actually purchase them.

CHAIR: I think there were only 16 applied for across the State.

Mr KIDD: We were all set for that but it did not eventuate. Vision Australia is the key player there. The Greens submission 63 is pretty critical. The first thing they say is they refer to us as the AEC. I have to point out to the Committee that we never ever have and never ever will refer to ourselves as the AEC. That is a trademark of the Australian Electoral Commission. They have just picked that up. It is something they have done and we never do. They say the election was "riddled" with errors and there was a "litany" of errors but nothing is defined there. None of the results declared by our returning officers were appealed and that speaks for itself. If there had been any serious problems about the elections our company conducted then those candidates affected would certainly have appealed. The fact that they did not is the best possible indication that there were no material defects in the conduct of the elections that we managed.

It says here The Greens found it difficult to get information on how these elections would be run differently from that of the commission. Well, the elections are not really run any differently from the commission because we all have to run them under the Act and the regulations. I am not really sure what difference they were referring to. They also say that many of these councils would not provide information on how to nominate, where polling booths would be located and information about pre-polling and so on. We established our offices on 24 July. I think the commission may have established theirs a fraction earlier. Nominations opened on the 30 August and they closed at 12 noon on 8 September.

The Electoral Commission, the Division of Local Government, and the Funding Authority conducted a single roadshow session for their intending candidates between May and July and that roadshow approach would have been required because they had to traverse all the councils in New South Wales. There would be no other way that could be done unless it was started earlier. We did not open our offices until 24 July. That is fine. We did not have any forms until early April and the regulations were still being changed in June. I think what we offered was fine and we did offer councils that we were working with a pre-nomination session on 2 August, which was adequate time before the close of nominations. We also provided to our councils a post-nomination session on 14 August. The commission was probably not in a position to do that.

All our forms and materials complied with the regulations. All councils were provided generic website information to post on their website site by 15 May. All notices of contested elections, which included details of candidate pre-poll venues and polling place venues, were posted by or after 18 August. We undertook specialised information advertising in newspapers to advise the times and locations for pre-poll venues and we advertised polling places from 29 August until 6 September. Pre-poll voting is enunciated in the regulations as to when it is commenced, there is no secret there, and it was commenced on 29 August. They made comments about a registered party nomination issue. They are saying the particular candidate nominated on one form, a Form 3, but that was turned back by the returning officer.

I must say I was not aware of this particular issue until I read it in The Greens submission. I knew nothing about it. I still know nothing about it, but if it did occur it should not have occurred. Clearly a candidate who is properly nominated on a Form 3 by an approved registered officer would have the party affiliation shown on the ballot. Again it has to be an isolated occurrence. I do not know about it. There was a problem with deposit fees and nominations in Fairfield. On page 83 of our returning officer's manual it clearly advises returning officers how to deal with the situation of multiple nominees presenting just prior to the close of nominations. Obviously they are supposed to receive the nominations and take the deposits.

People offered their deposits but apparently he did not physically take them. Some left them there and other staff received the funds. The returning officer erred, obviously, in not physically taking those deposits prior to 12 noon. He should have known better because he was an experienced Australian Electoral Commission returning officer from the past. We sought legal advice about that. The advice supported the fact that all or any of the nominations in question should be accepted. There is a principle called "constructive payment", and that is the basis upon which they were accepted.

There was a comment in The Greens submission about council nominee details. They reckoned it was a bit of a mishmash of presentation and the like. Again, we provided the information that was in compliance with regulations 294 and 295 and all returning officers were provided with particular pro forma documents to post on the internet for the councils. I imagine records of draws AEF219 also may have been posted in some instances. Some of those might have had some handwriting on them. The returning officers should not have been putting hand written material to go on the website under AEF209 and 210. But according to the regulations, the

statutory declaration parts of those statements have to be displayed on the internet; they are handwritten, in many cases, by the candidate.

In any potentially dubious cases how-to-vote materials were referred to our legal counsel for advice. The same barrister advised on all cases submitted. We consider the advice provided was consistent, but it is inevitable that some returning officers might make different rulings, depending on precise circumstances that are operating at the time as to the design, layout or the wording of particular how-to-vote cards. One of the cards that The Greens are talking about is a Cessnock card, where they had portions of ballot papers shown but left off some of the candidate names and group names from those portions. Just in Cessnock there were 10 mayoral candidates, and on some of The Greens documentation they showed nine candidates but on another they showed the whole 10. The returning officer believed that it was potentially misleading that they did not show the full number of candidates. I fully supported the returning officer in ensuring that The Greens complied with regulation 356, because the cards cannot be misleading.

Finally, it was said that following election day privatised returning officers were much slower at posting results, barely any figures were posted on polling night. We had a bad night with the results, and we were disappointed with the slow uptake of the results. That was aggravated by that caching problem with Internet Explorer 9. But that cannot happen again. It will not happen again, because we will use a specially developed system with the returning officers entering direct. The caching will be a thing of the past.

All of our scanning for council elections was completed by 19 September. We scanned over 700,000 ballot papers with five scanners. There were about 20 people there doing quality control work. All polls were declared by 25 September. We are considering whether to scan above-the-line ballot papers in the future. We understand that the NSW Electoral Commission effectively block the above-the-line ones. We may do something similar, but we scanned every ballot paper last time, except some of the informals. There was some suggestion that at times that we were running slow. We do not believe this is a race. We want to finish these things as quickly as we can but the important thing is that we comply, and that the results we provide are accurate. We certainly did not post any final results until after the declaration of any poll. Those were the points that I wanted to allude to in relation to those submissions.

CHAIR: We might just take a few questions. I will lead off, if I could. Are there any changes that, having run this last local government election in selected councils that would make your work easier in administering elections?

Mr KIDD: Any legislative changes?

CHAIR: Yes, any changes that might assist.

Mr KIDD: As I pointed out in my submission, I think the regulations are quite complex in the way that they are structured. There are bits and pieces of material in the Act and in the regulations that relate, for instance, to formality and informality provisions of ballot papers. If they could all be brought together it would be helpful.

CHAIR: Some of the submissions said the same things.

Mr KIDD: Some of the submissions from the public were talking about the above-and-below-the-line voting, and that it is too complex for the people. The only thing that we would note—and we only ran a couple of Western Sydney shires or council seats: Fairfield and Penrith—was that there was a very high informal vote in those two councils. People seemingly marked their "1" for the candidate in the column below the line. For the groups on the above-and-below-the-line ballot paper there seemed to be a propensity for people—where they were informal they were all informal in the same way—to mark their "1" below the line for the particular group they wanted instead of above the line. I am not sure why that happens but we probably all need to think about that.

I have also said in our submission that postal voting could be offered more generally. The step beyond postal voting is to scan the returns and the ballot papers to derive quick results. Small councils would, perhaps, benefit from having postal voting. As soon as the election nominations are closed the ballot papers are printed. The electors are sent ballot material to enable them to vote by post. That would be a lot cheaper for councils.

CHAIR: So it might be worth considering that as an option, perhaps.

Mr KIDD: Absolutely.

CHAIR: Each council could decide, potentially.

Mr KIDD: Yes. I do not know that there are too many other issues. Largely, we could get the regulations sorted, and the Act. Formality and informality is really quite complex compared to a lot of the other elections that we run. I take my hat off to the commission for all the material that it has produced over time, during the elections they have conducted, because they have obviously done a good job of this. They are quite complex provisions. These elections are definitely more complex than those run, for instance, in Queensland Government or local government elections.

Mr DARYL MAGUIRE: You made a comment in your submission that some local government elections in Australia are already conducted using direct postal voting.

Mr KIDD: Yes, that is right.

Mr DARYL MAGUIRE: Can you enlighten us a little more on that, please. Which councils?

Mr KIDD: I am not absolutely sure but I believe that most, or perhaps all—the commission might be able to help you—Victorian local government elections are now conducted by direct postal voting.

CHAIR: And South Australia.

Mr KIDD: And in Queensland at the moment there are mainly rural and remote shires that have direct postal voting, but there is a trend—it has been particularly evident in the conduct of by-elections in Queensland—for councils that have previously mandated attendance pre-poll and postal voting, are now having their by-elections conducted, under special approval, by postal voting. It saves them money. Polling officials, and all the material, are incredibly resource intensive and expensive. There are efficiencies to be utilised through bulk processing, and the like, in postal voting—just as we did with the NRMA elections.

CHAIR: What were some of the results of the postal voting?

Mr KIDD: In terms of turnout?

CHAIR: Yes.

Mr KIDD: I think they are very similar. Some of them are higher; some of them are lower. I think most of them are on par. We ran the 2010 Mackay city council election. It had special dispensation for postal voting. They had the same turn-out as in the public election—the main election.

CHAIR: Are those elections not voluntary?

Mr KIDD: No; not in Queensland. I am not sure about Victoria.

CHAIR: I thought Victoria was, and so was South Australia.

Mr KIDD: They are compulsory votes. In the local government in Queensland there is typically an 80 per cent turn-out. They are a little lower than in New South Wales. Typically an 85 per cent turnout would be high in Queensland for a local government election.

Mr ANDREW FRASER: In your submission you say,

Critically, and unfortunately, actual soft copy Electoral Roll data was not provided by ECNSW to Australian Election Company ...

Were you given reasons as to why that was not provided?

Mr KIDD: I think the major reasons were around privacy provisions and security. We have to live with that every day. We have very significant security-conscious clients that we run all sorts of elections and ballots for, and we do not have any difficulties with those. We certainly have not had any difficulties in running

Queensland local government elections or by-elections, because we would simply go the Electoral Commission for Queensland on a formal basis and put to them our request for roll products. Then those requests would be priced by the commission, they would put the roll request to the Australian Electoral Commission, and the data would be sent to me personally by the Australian Electoral Commission.

I guess we anticipated that a similar process might have applied for these. It made things difficult for us because we did not have access to the data, and we could not use our laptop computers to be loaded in any way with NSW Electoral Commission data. The laptops that we provided to all our returning officers, staff and employees in the returning offices were not networked or linked in any way. That made it very difficult, particularly for returning officers checking nominations. Some people had to walk half a kilometre down the street to check nominations, which is, of course, most unsatisfactory.

As well, we were unable to deal with inquiries management in the way that we are accustomed. We could not easily issue postal votes in the way that we are accustomed. That makes vote validation more difficult. So, we were a little disappointed with that but we lived with the circumstances. We would hope that in the future—if there is a future; we hope there is—that some sort of dispensation will be made so that real providers who are serious about this can access the data. We only want to use the data for the operation for election purposes. We are not interested in the data for any other reasons. We would be prepared to sign a deed of secrecy and confidentiality to that effect. Again, it would make the elections a lot more efficient.

In many ways it might have stopped a lot of inquiries between some of our employees—returning office staff—and the commission. It might make the commission's life easier. It would probably make council's life easier. It really was an impediment, unfortunately. We got by—we survived—but it would be better if we had it the other way.

The Hon. Dr PETER PHELPS: You just talked about the economic efficiency of postal votes for smaller councils. What do you see as the tipping point? How big or small does a council have to be before it becomes grossly economically inefficient to run a walk-up ballot?

Mr KIDD: I do not have a particular figure in mind. I just hit upon the smaller councils because I thought that most smaller councils are in rural and remote areas, and a lot of those people might not be able to get to polling booths, or it would be more difficult for them. So it is probably a better, more appropriate and more relevant system for them. But large councils could also utilise postal voting. I am talking about significantly sized councils—90,000 electors and the like.

The only difficulty, I suppose, is that there are a limited number of mail houses around the place that can deal with the volume. It would have to be shared around by different companies. Obviously, strong controls are required when you are dealing with this. Unfortunately some mail houses have the tendency to think that a piece of paper is just like a brochure that the kids are supposed to deliver to your letter box but put in the bin down the road. So you have to have stringent quality control and quality assurance within the mail house to ensure that all these things happen properly.

It can be done. The NRMA has two million members. We had to send out all that material to them, and it worked. We got around 350,000 postal votes back. That is a lot to deal with. You set the accommodation, train the people, set the systems and do it.

The Hon. Dr PETER PHELPS: Could you just outline for the committee the dealings of your staff with Electoral Commission staff and how would you categorise those dealings? Were they friendly, were they businesslike?

Mr KIDD: I believe there were certain dedicated employees within the commission that the people were to deal with, and I do not know their names particularly. If you want it is recorded in detail in the file I do not know the lady's name but she was very helpful to our staff. I do not think any of them had any particular difficulties like that; it is just that those overarching arrangements, particularly in relation to the roll and the data, made it difficult for councils and for our people generally. But the individual employees that were dealing with particularly our returning officers I am sure there were no issues at all; they found the person or persons helpful and courteous. I do not believe there were any issues like that.

The Hon. Dr PETER PHELPS: Aside from the data issues, you are not aware of any problems in dealing with Electoral Commission employees?

Mr KIDD: No, I do not believe so.

The Hon. PETER PRIMROSE: You may wish to take this on notice but I also would like to pursue the issue of postal voting. Could you come back with a suggested model, somewhere in Australia, for example, where it has worked very effectively and maybe even suggest other models where there have been some difficulties? What I am thinking is if you could make those suggestions we could then pursue that and maybe get a representative of that, the good approach, and maybe even where it did not work, and we could pursue it and ask more questions.

Mr KIDD: I could do what I can. For instance, the domain of the Victorian Electoral Commission might be more appropriate, because I know they are well versed in this, and it may be more appropriate for the New South Wales Commission to approach them. But I have good contacts in Queensland and I am happy to do it there. I just do not want to cut across the other folks' boundaries or anything. We also can relate our experiences from the likes of the NRMA—we can certainly do that, because they are big elections, they are bigger than some State elections, but they can be effectively conducted and controlled.

The Hon. PETER PRIMROSE: It would seem to me when we talk about postal voting, that is a generic term and within that there are a whole range of administrative regulatory aspects that we need to look at. I am looking at which models tend to work well and which do not. If you could take it on notice and think about it and come back to us?

CHAIR: Would you mind taking that question on notice?

Mr KIDD: That is fine.

CHAIR: Just a few minor questions. I know that one of the things that the Electoral Commission did for this local government election, and did exceptionally well, was engage in social media. There were, I think, around 90 posts and tweets from the Electoral Commission encouraging the younger generation to get out and vote. Did your organisation play any similar role in that respect?

Mr KIDD: Not the Australian Election Company directly, but we have to wear a few different hats because the councils have their election manager, who in most cases was the general manager, and then we have our returning officer and under the legislation and the regulations they have different responsibilities. I think most of the councils that we dealt with have Facebook and Twitter access through their own websites and they largely would be dealing with those sorts of things themselves. We had different arrangements with councils as to advertising. Some of the councils we did the entire advertising for them; we developed all the material in accordance with the regulations and the Act. So we had statutory advertising and we also had what we called information advertising, which is a bit like the advertising in the polling booths, the pre-poll voting, queries about the election, contact us, all those sorts of things.

We provided some councils with the format of the ads and the material so that they could do this themselves, others we placed all the ads and we paid for them. We did not do anything particularly with the social media ourselves but certain councils picked up on that themselves. So, again, I am just not sure. It is something that we can do in the future and build into the relationships with councils if they so decide to go with us, but we did not do it this time. But individual councils did have certain input.

The Hon. Dr PETER PHELPS: I have got a question for the Chairman. How many people under the age of 25, apart from you and Adam Marshall, are actually friends with their local council, to make social media effective?

CHAIR: It was not just about that. It is also about posting information as well. I am sorry that you do not have friends on your Twitter posts.

Mr JAI ROWELL: Some of the evidence that we have received was in relation to quotes being able to be reduced. On what basis did that occur?

Mr KIDD: Quotes being able to be reduced?

Mr JAI ROWELL: For councils. Councils said that you have quoted them X amount and they said that maybe that might be too much for them and they were able to negotiate to reduce the price. Was that a reduction in services that you were able to offer or how did that work?

Mr KIDD: I think what they are probably referring to is what we call total outsourcing and partial outsourcing. Sixty-five councils overwhelmed us, quite frankly, and came to us asking us for quotations and we responded to those as quickly as we could and we provided very, very detailed totally outsourced quotations but we also identified certain items within the material that we were prepared to, as it were, offer up to councils, because they may have better buying power; it could be in relation to returning officer accommodation—they may very well have suitable accommodation within council or owned by council that can be utilised by them. There is no point hiring and paying a premium for a short-term tenancy if a council has something available that can be used—they might have spare computers and furniture.

Advertising: We offered that up to the extent that we would provide them with the material they would need but then they would have to place that material. They did not have the opportunity to vary from that. There were all those sorts of issues. Where there may have been some council purchasing benefit we provided them the wherewithal to sign up that way. So we ended up with, I think, four councils that were absolutely totally outsourced—I might be wrong there; about four—and the rest were partially outsourced to varying degrees. One of the problems we did face was with costing payroll tax though, and that is an impost that we have to bear as a private company, that is not borne by councils or, I understand, by government.

So we are disadvantaged in the sense that our polling staff, our returning officers, our casual staff, cost 5.45 per cent more than they do for a council that hires and pays their own people or for the Commission. We speculated there might have been an opportunity to try and avoid the payment of the tax, but we were advised legally that that was not going to work for us. So we would hope that in the future maybe there could be some exemption for a company that is just involved merely in the conduct of a public election, that they would not have to pay payroll tax, because it does seem an unfair impost upon business, and then the councils end up having to pay extra money as well, so it is an impost on them too, whereas, by comparison with government-run elections, that does not happen.

I hope I answered your question. I think it is to do with outsourcing. We did not cut services for anybody or anything like that. Every service we offered was really the same in terms of compliance and the like. There are absolutely no degrees of compliance: you are either compliant or you are not. What we want to ensure is that the elections we run are absolutely defensible. We still believe that any of the elections we conducted would stand up if they had been challenged. We have no problems with any of that. Indeed, they were not challenged anyway. But all our forms and material and our procedures were built to withstand legal challenge. No election is ever perfect. It does not matter who you are or where you are or what you are, there is always something that occurs in any process—even if it is a club for 25 people; sometimes they can be the most difficult elections to run compared with one with 250,000 people. But it is really amazing that no election is absolutely perfect the way we would want it to be. We strive for perfection but we probably never achieve it.

The Hon. Dr PETER PHELPS: Did you have any difficulties in the recruiting of people to fill the positions either of booth workers or returning officers?

Mr KIDD: Recruitment was interesting because the Australian Electoral Commission were directed, apparently, not to talk to any of our people. So a lot of the people we used were ex Australian Electoral Commission divisional returning officers. They still had contacts there but they were all politely told that there would be no assistance provided in any shape or form.

The Hon. Dr PETER PHELPS: The Australian Electoral Commission?

Mr KIDD: Yes, the Australian Electoral Commission.

The Hon. Dr PETER PHELPS: In a non-election year?

Mr KIDD: Because a lot of our people were Australian Electoral Commission historically; so they still have friends and associates there. Any Electoral Commission has people on its books and once you get your foot in the door, unless you are hopeless, you tend to stay there, and that is fine. So what we had to do was obviously advertise for folk. We advertised in certain newspapers and we did get responses, but people then became confused also because at the same time the New South Wales Electoral Commission set about seeking their

recruitment as well and they were sending SMS messages, which were obviously received by some people who were in councils that were going to be administered by us in terms of their elections.

So people were a bit confused as to who they were dealing with: Were they going to work for the New South Wales Electoral Commission? Were they working for a council? Were they working for us? Or were they working for the Australian Electoral Commission? The general electorate does not often understand what election they are voting in anyway—it is a tragedy. So that caused a little bit of confusion with some of the staff. But, again, we survived and we have a pool of people on our books, and some of those people were probably not as good as we would want them to be. There was an element of competition about it all at the time, but I think the best thing we can do, again, is just in the future simply advertise in the press and go through a formal process of recruiting and appointing people and getting them on the books.

Mr JAI ROWELL: Just following up on those comments: You said you had 65 inquiries that often related to 10 elections that you run and were perhaps involved with a few others. Would you have been confident, had all 65 taken up your services, you would have been able to have enough staff to run that many elections?

Mr KIDD: We would have been grappling but we would have done it. Failure is not a word in my vocabulary. We do not really want to run 65 elections and we did not expect that we would, but we would be happy to run a lesser number. But if we got 65 we would run them and we would run them properly, as well as we possibly could. We ramp up and ramp down as we need to, but recruitment is a little bit of a problem.

CHAIR: Thank you very much, Mr Kidd. The committee may wish to send some supplementary questions in writing, the replies to which will form part of the evidence and may be made public. Would you be satisfied to provide a written reply to any further questions?

Mr KIDD: Absolutely.

CHAIR: That concludes our questions for you today. Thank you for appearing before the committee.

(The witness withdrew)

(Short adjournment)

COLIN BARRY, Commissioner, NSW Electoral Commission,

PAUL BEEREN, Director, Enrolment, NSW Electoral Commission, and

TREVOR FOLLETT, Director, Finance, NSW Electoral Commission, affirmed and examined:

BRIAN DE CELIS, Director, Funding and Disclosure, NSW Electoral Commission, sworn and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and that you are protected from legal or administrative action that might otherwise result in action in relation to the information you provide. I also note that any deliberate misleading of the Committee may constitute contempt of the Parliament and an offence under the Parliamentary Evidence Act. I have advised the lower House members that there will be no questions about the redistribution today.

Mr BARRY: They have already asked them.

The Hon. Dr PETER PHELPS: But lower House members cannot control themselves.

CHAIR: Do you wish to make an opening statement?

Mr BARRY: I will start by quoting John F. Kennedy, who stated, "Change is the law of life. And those who look only to the past or present are certain to miss the future." I want to emphasise and submit to the Committee that this inquiry needs to look to the future. Because I know that there are some new members on the Committee I will spend a couple of moments talking a little about the past, a little about the present and hopefully a lot about the future.

I remind the Committee that the Electoral Commission assumed responsibility for the conduct of local government elections in 1987. Prior to that, the conduct of elections was the responsibility of town clerks and shire clerks. In 1995 there were further amendments to provide greater independence to returning officers. Nevertheless, there were still issues associated with the conduct of local government elections during that period, primarily about the true independence of decision-making. There was also an issue about concealment of the real costs. When I became Electoral Commissioner in 2004 I requested that the Government conduct a health check or review of the then State Electoral Office. The Government agreed that the Council on the Cost and Quality of Government would undertake such a review. One of the things that became very apparent during the review was that we had no clear handle on the real cost to both councils and the Government. That was primarily because many services provided by councils were provided without the real cost being identified.

I made the decision—brave in all as it was—that elections would be held on a full cost-recovery basis in a transparent environment, and that is what happened with the 2008 elections. I acknowledge that that was a significant jolt to councils, primarily because they had not prepared for a budget where all of the costs would be on the table. There have been further changes to the conduct of local government elections. The Local Government Amendment (Elections) Act commenced in June 2011 and transferred the responsibility for the conduct of elections to the general manager of each council. Whereas in the past the responsibility rested with the Electoral Commissioner, that Act transferred the responsibility to each of the general managers, unless, of course, the council resolved that the Electoral Commission would conduct its election. In that case, the responsibility transferred to the commissioner.

These amendments delivered on the Government's commitment to return the conduct of local government elections to the councils. As previously mentioned, the 2012 local government elections were the first conducted under these new provisions. However, it is very important to note that they were conducted under transitional arrangements, which required councils to resolve that the Electoral Commissioner would conduct the election, not enter into a contract with the commission. Therefore, they were the first conducted under these new transitional arrangements. That is a bit of history.

Subsequently, 136 councils, or 92 per cent, resolved that the commission would conduct their elections. Of course, we were required to provide a number of services to those councils. We provided enrolment advertising, composite rolls, a copy of the roll for candidates, and a raft of other services that the councils needed to conduct their elections. Of course, what we saw as necessary and provided was not necessarily what the councils wanted. I provided them with the wherewithal that they needed to run their elections. A number of

initiatives were introduced at the 2012 elections, and it is easy to lose sight of them when reading the submissions. It is important for the Committee to be mindful of them. First, the information on each ballot paper for all the council elections that we conducted was entered into the computer system. For the first time there were no manual counts. We also for the first time conducted computer counts—if I can call them that—both centrally for metropolitan councils and locally for non-metropolitan councils. In the past the ballot papers were all brought to Sydney.

For the very first time we were able to do local counts using a computer system. We had a major initiative for the first time at local government elections by running the Town Hall as a service to electors who were out of their council area. As you are aware there is no absentee voting at local government elections. We got very good feedback with 93 per cent of people who used the service saying that it was very good.

The Committee, following the 2008 local government elections, recommended that we develop a service charter for the 2012 elections, setting out for the councils the service that we provide and some targets so we could be measured, and we did that. We established two independent surveys of electors, one for general electoral issues and the other one was Sydney Town Hall. Overall the satisfaction with voting services was high. Of the general managers who were surveyed, 89.6 per cent felt that the standards in the charter were appropriate, 85.2 per cent felt the standards were met, 91.9 per cent felt the commission provided capable, informed and competent officials and 87.9 per cent felt the returning officer was up to the task.

I want to talk a little bit about councils that conducted their own election. A number of complaints have been made concerning the commission, and I will respond to a couple of them. A common misconceived complaint was that the commission did not provide a soft copy of the electoral roll data to councils that conducted their own elections. It is important to note that the commission only refused to provide councils with a soft copy of the entire New South Wales roll. As well, we would not provide the councils with i-rolls, with PDAs that we use, all of which do not belong to us but belong to other States, as they contain the entire New South Wales roll.

I have a responsibility under the Parliamentary Electorates and Elections Act in providing roll information to another organisation and councils have no status under that Act. I am required to weigh up the public interest in providing the roll, as distinct from protecting the privacy, can I say, of nearly five million New South Wales electors. I made the decision that, of course, I would provide the roll for councils, I would provide it in a form that enabled to run their elections. When I read through their submission to this Committee, I think I provided appropriate roll information because, on their own evidence, they did a very good job. They could not have done that without the roll that I provided them. In some cases, they wanted more but I would not provide it because I am the one who has to be responsible for the privacy of five million New South Wales electors.

Another common complaint was that we were unhelpful, isolated and arrogant even in terms of how we helped councils who ran their own elections. It is very disappointing that such allegations are unfounded, unjust and wrong in law but yet they proliferate. I have no legal power to enter into consulting arrangements with any organisation, let alone a council. Let me state for the record, and not for the first time I have stated this, the commission is not legally empowered to partnership with councils. We visited each and every council prior to them making a decision whether they wanted the commission to run their election or do it themselves. Yes, I spoke personally to about 50 per cent of those councils and I said unequivocally, "If you choose to run the election yourself, you are on your own. You are an owner-builder. You can't come to me and ask me for the tools of trade. I will not partnership with you." If that is perceived as arrogance, I am sorry, but it is the law. I have no power to partnership with council.

This Committee can hold me accountable for the conduct of elections that I run. I think that is in the public interest. It is not in the public interest to have me sitting here, with a general manager, or a private election service provider, about an obfuscation as to who is really accountable if something goes wrong because I take my accountability seriously. Once a council resolved that it wanted the commission to run the election then the Electoral Commissioner assumed all of the powers to run the election. If the council resolved that the general manager was to run the election then the general manager assumed all of the powers to run the election. How the general managers went about running their elections, where they were required to, is not a matter for me. I think that there would be a real risk in distorting the lines of accountability between the commission and general managers if the Committee recommended that the commission should engage in providing consultancy services to councils or a partnership with councils.

I will make one final comment about what has been since 2008 but yet I think is starting to die. I would like to put a stake in the heart of this dragon if I can, that is, that the commission does not conduct elections for a profit. The commission does not derive a profit from administering local government elections. We operate on a cost-recovery basis in a very narrow band. The legislation itself does not allow the commission to operate local government elections at a profit. Many councils, groups, individuals and even some members of Parliament are under the mistaken belief that despite my attempts to quell this misrepresentation in the past, that we operate under a profit, I have been unsuccessful. I note that the previous Committee tried to make it very clear that the commission did not gouge councils for the conduct of the election. I would submit that this Committee once again try to deal with that issue and for all time put a stake in the ground that we do not run elections at a profit.

What I also want to say about costs is that they are not arbitrarily imposed, as some councils would have you believe. It is stated that we should be more transparent in the way we determine and provide our costs. How that can be achieved I do not know. We provide councils with enormous information about how the budget is being built up. With the indulgence of the Committee, I will hand up a copy of the material that each council received prior to making a decision about whether it wanted the commission to run its election. It is a detailed, line-by-line explanation of how the budget was built up. Yet we are still being told that we do not provide enough information. The sad and disturbing part to note is that when my staff recently visited councils to talk about the future some of the people who were making complaints about our lack of transparency acknowledged they never read the documents that we provided.

I want to also comment on a further view that giving councils a choice to conduct their own elections is a good thing. In 2011 when the proposal to allow councils to conduct their own elections was first raised I expressed my concern as to the possible public interest implications of this proposal. Primarily I was concerned that a hybrid system would result in inconsistency in council elections, variations in services, questioning the integrity of elections and increased logistical procedural requirements.

I am not too proud to admit that I have changed my view. As with any change—and this is a significant change—there were bound to be teething issues. From the perspective of the commission the experience of councils who have conducted their own elections varied. However, in reading their submissions they all have said that they have done a satisfactory or good job and in reading evidence from their recent roundtable here they will all do it again. I think that is good. Choice is terrific. Councils will be able to decide on the most appropriate administrator for their elections. New players who come into the process will revitalise the election procedures and more attention will lead to further innovation within the industry. I think that is good.

That is the past, that is the present, and now the future. I want to talk about a number of recommendations to improve the administration of council elections in New South Wales. First of all, you will note I have provided the Committee with a detailed report on the conduct of those elections. One of the things I would like to recommend is the removal of groups from local government elections. I think you have received some submissions from councils about this issue. I share that view and I note that one only has to review the smorgasbord, the variety of ballot papers that appear in local government elections in New South Wales, the constructions of those ballot papers, the number of candidates on ballot papers as evidence of the very complex system we have created.

I would be happy to provide the Committee with some samples of each of these ballot papers if you are not already aware of them. I raised this issue in my report on the local government elections. I submit that removing the group voting squares and removing above the line voting would achieve three outcomes. First, it would reduce the number of candidates as a large proportion of candidates are only there to make up the group. It would simplify the appearance of the ballot papers. All ballot papers would look the same. They might be longer but they would basically look the same. It would make for consistent messages in how to cast a formal vote.

I also recommend that we change the requirement on how to cast a formal vote. Currently the requirement to cast a formal vote at local government elections is modelled on the requirements that apply in the Legislative Council. The voting requirement should be modelled, in my view, on the requirements that apply in the Legislative Assembly, in other words, introduce optional preferential voting and this will greatly improve the formal vote. Presently at council elections in order to cast a formal vote electors must vote for at least half the number of councillors to be elected. That is consistent with the Legislative Council. In my view there is nothing magical about voting for half the number of councillors. This is really a hybrid of the full preferential voting system. I do not think there is anything magical in saying, "Well, you have to vote for half". If optional preferential voting is introduced, this will result in more votes being included in the count. This requirement,

coupled with the removal of the group voting squares, will greatly simplify the voting and streamline the appearance of ballot papers and the instructions.

Another innovation that I would like to turn to and that I have previously recommended to the Committee is that the Government give councils a chance to choose to conduct their elections entirely as postal elections. This will save on the cost of the elections and be one solution to the inability to vote absentee as everybody on the roll will receive their ballot papers. I submit that the Committee consider this option and recommend that the legislation be amended to provide councils again with the choice, not mandating it, but give them the choice. There are a number of models around Australia for universal postal voting at local government elections.

It cannot be denied that electronic voting is the future of elections. I recommend that where a council election is conducted as an attendance election electronic voting be made available to the same category of electors as for State elections as well as a number of selected locations in Sydney to provide an absentee voting service. Members of the Committee are well aware that it is logistically impossible to provide absentee voting at every polling place in local government elections like we do at State and Federal elections. A system that provides for both attendance and electronic voting will be complex but will, I hope, solve an important missing link, and that is the inability to cast an absent vote. The question will arise naturally: Who is going to fund electronic voting? Who will fund the set-up costs? It would be inequitable, in my view, to charge councils at the same rate for providing an electronic voting system. This is an area where policy development is clearly needed.

I want also talk about the removal of official agents. I recommend that in the area of funding and disclosure that the campaign finance scheme be remodelled to remove official agents. I think candidates should be required to manage their own campaign finances and not be required to appoint an official agent to manage their affairs. If they want to appoint somebody to help them that is fine, but in my view candidates should be able to be accountable for their own financial affairs. Lastly, I submit to the Committee that you recommend to the Government that the election provisions relating to local government elections be transferred to a new piece of legislation which consolidates the parliamentary elections, local government elections and campaign finance reforms. Thank you.

CHAIR: I will start off with a couple of questions and then give other members of the Committee a chance to comment. Thank you for addressing the questions about cost. I note in your opening statement in this report you talk about the cost of elections in 2008 costing around \$25.7 million. That fell in 2012. But in the evidence we have received from councils there is an indication across the board that the costs actually increased significantly. A lot of those costs were well above what the Australian Election Company was charging. The Australian Election Company attests that it has certain costs that are not incumbent with the commission, such as payroll tax. Given the statement that your costs fell and given the evidence from the councils that their costs are actually increasing, would you agree that it might be worth the commission providing a quote to those councils so that they are aware of their costs upfront?

Mr BARRY: I will ask Mr Follett to comment on that?

CHAIR: Certainly.

Mr FOLLETT: Our costs actually increased by 13.8 per cent between 2008 and 2012 if you look at it by the number of electors we serviced. We serviced 136 councils compared to 2008 where we were running the elections for all councils. Between those two election events we had four years of inflation and four years of wage increases. We lost some economy of scale out of only running 136 councils. We had a tendency to lose some of the bigger councils so again there was an economy of scale loss out of that. At the end, if you take it globally across the State, it was a 13.8 per cent increase but we were fairly comfortable with that when you look at inflation and wage increases across that period. It has been mentioned that we do not pay payroll tax. That is not correct. We do pay payroll tax and in fact compared to other organisations would probably pay a little more in that we do not have a threshold benefit of \$750,000 tax free before the 5.45 comes in.

CHAIR: If I could just stay on this point. There were increases that were considerable, in some cases around 30 per cent from the previous election yet there is a claim there has been a reduction. How do you correlate the two when there is a claim that the overall costs of running elections went down—and I take your point about economies of scale; I understand that—but there is a significant increase over and above what the competitor in the market was charging? How do you correlate the two?

Mr FOLLETT: There may be significant differences with the competitor in the market. I do not think we have ever claimed to be a low-cost provider. We provide services that are probably a little different to the competitor. We start planning for an election process 18 months ahead. We have a lot of costs that are imposts on us in that we are a State government department. For instance, we run an audit and risk committee and there will be six reviews done by an external accounting firm during the year so we would probably meet \$200,000 additional cost just through our governance of having an audit and risk committee, for instance. A portion of those costs are recovered against the local government election in the year that the election is conducted.

CHAIR: Commissioner, I think iVote has been a wonderful initiative that you have pioneered and it is a great credit to you and your team. Is it your view that iVote should be something that should be rolled out in local government elections in the future?

Mr BARRY: If the legislation is changed to enable councils to have universal postal voting in councils to have attendance voting I think it should be available to councils who have attendance voting, yes. The short answer is yes.

CHAIR: I have one final question and perhaps it might be best answered by Mr De Celis, but I will leave that to you, commissioner. Evidence was heard in last week's hearing which suggests that the Election Funding Authority conducted information sessions for councils across the State but in those areas that had not chosen the commission there was no advertising in local papers about those particular information sessions. Can you respond to that suggestion?

Mr De CELIS: Yes, I can, and in fact, it is quite the contrary. We did take a decision not to advertise council elections which we were not conducting in the major press, being the *Sydney Morning Herald* and the *Telegraph*. The reason we did that was to avoid candidates coming from other council areas and being confused about messages about the way in which the election was being conducted. So for those councils conducting their own elections the authority conducted a seminar at each of those. We advertised widely in all of the local papers in each local council area. We advertised on our website. The council advertised on their website and we invited councils to advertise as widely and as far as they chose to do themselves, being their own election, so it is quite the contrary. We did advertise in local papers for each of those.

CHAIR: Feel free to take this question on notice. Both Shoalhaven and Sutherland councils utilised the services of the Australian Election Company. Would you perhaps be able to clarify if the Election Funding Authority advertised in the *St George and Sutherland Shire Leader* and the *South Coast Register* about those information sessions? One of the things that is sticking in my mind from my point of view, feel free to correct me if I am wrong, is that the Election Funding Authority is separate from the commission and regardless of who utilises the services of the commission the funding authority should be providing its services.

Mr De CELIS: We take the same view. That is why on our initiative we approached every council indicating that with their agreement or not we would be conducting a seminar in their council area—for that very reason. Not only are their candidates entitled to know but they are obliged to know what their obligations and responsibilities are. We have no problems with councils. Each of them was quite agreeable to it occurring and my recollection is that each of them hosted it. On each occasion we were accompanied by a speaker from the Division of Local Government and a speaker from the Local Government Women's Association but only at some of those did the councils choose to participate and give their own presentation.

CHAIR: Just for clarity, I was not disputing the fact that you conducted the seminars, the question concerned advertising.

Mr De CELIS: We advertised them all in the local papers. I am happy to give you a copy for each council area and which papers we advertised in.

CHAIR: That is not necessary. I wanted to clarify what had been raised with the Committee previously.

Mr DARYL MAGUIRE: In your submission you state that 92 per cent of councils chose your organisation to conduct their elections with the remaining councils opting for another provider. You then stated that there was a background cost for operating one particular area of your administration of some \$200,000 that has to be apportioned in an election year. The question is; if the private providers increase their market share in a competitive world, and you have said that competition is good, would it be correct to suggest that your prices

for those background costs would have to increase at a greater pace for the diminishing number of councils that you would be providing services for?

Mr BARRY: Can I make a couple of comments about that. It is an important issue that you deal with in this inquiry, and that is that when the reforms were introduced in 2012, if you read the second reading speech, I do not think there was really any intention on the part of the Government to privatise local government elections. It was the intent of the legislation to enable councils to resolve that the Electoral Commissioner conduct the elections or the general manager, not that they be privatised. I think it is important that you deal with that because what some general managers did was privatise, outsource, whatever you want to call it, the election. I have no view on that, but I think that is something the Committee should deal with in its report as to whether you think that is a good thing.

The other comment that I would make before Mr Follett speaks about the numbers, is that Government requires the commission to return a dividend to Treasury on these local government elections. We have been around this before in 2008. That is not a decision of the commission, that is a decision of Government. We told Treasury we do not have 151 councils now, so they agreed to reduce the dividend. Your question is a good question because if the Committee thinks that opening up election services to private providers is the way to go clearly the commission will be disadvantaged because we have costs that private providers do not have.

Mr DARYL MAGUIRE: What is the dividend the Government requires from you?

Mr FOLLETT: It is approximately \$2.5 million in the year of an election.

Mr DARYL MAGUIRE: What are the operating costs of your organisation per annum?

Mr FOLLETT: About \$10 million with current operating costs.

Mr DARYL MAGUIRE: Staffing numbers?

Mr FOLLETT: About 60 permanent staff. There is a cost recovery in that year which goes on to the invoice of a council described as "administration fee" and we receive our funding from the State or from the local council. So in that year the State reduces its funding to us by approximately \$2.5 million and we put that through as a charge to the councils as a recovery of that overhead in the year we are conducting the election. When the change came about we ended up with 136 councils. We went to Treasury and said it would be unfair to charge those 136 councils with the full degree of the back-office cost and Treasury reduced the revenue expectation. The estimate at the time was a \$550,000 reduction in the estimate for revenue back to the State. There were additional costs for servicing non-client councils. The estimate at the time was \$250,000. In total it was \$870,000. Taking that argument forward if we only have half the councils in the future we would have to come back and readdress where does that funding come from. Either there is no recovery or a reduced recovery or the remaining councils end up paying a greater share.

Mr DARYL MAGUIRE: Clearly there is a problem looming out of the situation that has been created, perhaps unintentionally. The next question I have is about the commissioner's statement that he has no ability to partner with councils and that would take a legislative change?

Mr BARRY: Yes, it would.

Mr DARYL MAGUIRE: But it would allow you to be more competitive?

Mr BARRY: Not necessarily competitive. I do not think it is a competitive issue. I think it is an accountability issue. I must say that it is one that I would not be keen on because, as I explained, at the moment it is very clear when the commission runs elections I am the one that is accountable. I do not want to be put in a position where the commission is partnering with a council and there is obfuscation if something goes wrong as to who is responsible. One of the things that I am very concerned about, I know members of the Committee are too, is that the commission is an integrity agency. I do not want to see the commission's integrity damaged by being saddled with a council in some sort of partnership where it goes off the rails and something goes wrong: nobody is going to blame the council they are going to blame the commission. It is important for members to keep that in perspective.

Mr ANDREW FRASER: I have one question, commissioner, you state in your submission to us today:

It has been stated that council administered elections made a combined saving of \$1 million. If this is the case then that, of course, is a great achievement. If, however, it is not the case, the benefit to ratepayers must be questioned.

Do you have some doubts in relation to cost savings? I asked some of the councils at the last hearing whether or not employees of council had been diverted from their normal course of duties and was that cost taken into account. Could you elaborate?

Mr BARRY: I cannot.

Mr ANDREW FRASER: Are you quizzical in relation to the savings as claimed by councils?

Mr BARRY: Yes.

Mr ANDREW FRASER: Your basis is?

Mr BARRY: My basis is that the overwhelming cost of an election is 70 per cent in staff wages. The amounts of money that have been claimed to have been saved, the only way—if the Committee was so minded—you would ever know is to send the auditors in and ask how much time of person X and person Y was actually accounted for. At the end of the day that is a matter for them. They are accountable to their community for their budgets and if they want to claim they have saved a million dollars, well, terrific.

Mr ANDREW FRASER: Once again in this report on page 5 it states:

Finally, councils that conducted their own elections should have been under no misapprehension about the Commission's role in their elections. The Commission has stated from the outset that it was not empowered to provide services to those councils except for a select few.

Mr BARRY: A select few services, yes.

The Hon. Dr PETER PHELPS: Just to clarify your testimony, if a non-client council had approached you asking solely for an e-version of the roll for their council area only, would they have been able to get it and would you have provided it to them?

Mr BARRY: Can I ask Mr Beeren to comment on that because he handled those matters.

Mr BEEREN: The councils administering their own elections were provided with a web-based look-up and they had access to their own electors over a web-based look-up. They already had an e-version of the roll for their own electors. It is a slightly different story than has appeared in submissions. The service also provided for people who were not in their district by showing the name of the person and their enrolled local government area but not the address. They could tell if someone was enrolled somewhere else by looking it up on a machine.

The Hon. Dr PETER PHELPS: If I were a candidate would I not be able to get an electronic version of the roll?

Mr BEEREN: That is a different part of the Act. Yes, you are.

The Hon. Dr PETER PHELPS: It is a legislative prohibition that you cannot give it to the council?

Mr BEEREN: In the relevant portion of the Act the councils are not included as candidates, members of Parliament or parties.

The Hon. Dr PETER PHELPS: In relation to the removal of group voting squares, one of the options I put forward, I do recognise the problems which occurred, is to give everyone a group voting square above the line. There would then be no need to bulk-out the nominations with wooden duck candidates to meet the statutory requirement for an above-the-line box. Would it not be an option to give everyone a box above the line?

Mr BARRY: The ballot paper would look even more complex because you would have ungrouped candidates who also want to have a box above the line. The ballot paper would become elongated. We would end up with problems in being able to print something that wide. I do not know that it really addresses the issue. I think you have to look at this in terms of the two recommendations I have made: One is to get rid of the group voting squares and to change the formality rules.

The Hon. Dr PETER PHELPS: The final question relates to the removal of official agents. Do you not foresee that there might be a problem if candidates become involved in money-handling and the sort of things which official agents do on their behalf at the current time?

Mr BARRY: I recognise that in my submission I might have been a little bit deficient in that you may recall that at the previous inquiry I recommended that certain rules that apply to State elections apply in local government. At the moment they do not. There is nothing to stop local government candidates, through their agents, taking money. There are no caps, let me put it that way. I recommended that that be addressed. This is a package of reforms. I accept the fact that today I have probably focused on one part of it. If you are going to be a candidate, whether at a State election or local government election, these are people who are presenting themselves as lawmakers and decision-makers, why should they not be held accountable for their campaign finances? Why should they be hiding behind the veil of an agent?

Mr ANDREW FRASER: Just on that issue, surely an agent would be a buffer between the political donations from developers et cetera?

The Hon. Dr PETER PHELPS: Developer donations are prohibited.

Mr ANDREW FRASER: From a member of Parliament's perspective—a State candidate—I am really pleased not to know who donated to my campaign until such time as the whole thing is over. That way you are not in any way, shape or form tempted to give some favourable course of action to an individual. Especially in local government, when you consider delegated authority, it would be far more important to ensure that an agent is in place and that the candidate is not the sole arbiter of donations.

Mr BARRY: These are, to some extent, interesting philosophical debates. My view is that if a person is going to stand for civic office they should know who is giving money to them and that it should be transparent. I also think that the same caps that apply to the State election should apply to local government. Therefore, the whole thing is dumbed down, to some extent, about the levels of money that can be donated. At the end of the day, an elected member, whether it is at Parliament or local government, should be held accountable for their campaign finances. That is my view.

CHAIR: If a councillor has received a donation as an individual, that will give rise to a significant interest which they must declare if that matter was before the council. So, in a way, it is probably fortuitous that the councillor—elected member—is aware of that donation, because they have to declare it in a council meeting if the donor is involved in a council resolution. It is an interesting point, though.

The Hon. ROBERT BORSAK: I had a question around that area too, but it seems to have been ventilated. I was looking at your recommendations in relation to electronic voting, which I am going to call computerised voting. I have seen the presentation in relation to the iVote system. I think it all looks pretty good. Given my recent experiences with the firearms registry and the data that has got out into the public arena, what do you intend to do to convince the Committee that computer-based voting is secure?

Mr BARRY: I must say that I had not come prepared today to talk about the security of the iVote. We have recently published on our website—I am happy to resend you or the Committee members a copy; we may have already sent it to you—a strategy paper on how we propose to roll out iVote at the next State election. That paper sets out a whole raft of issues around security and so forth.

CHAIR: That is available on your website, I believe, at the moment.

Mr BARRY: Yes, it is.

CHAIR: I have seen that. Excellent. Do you want to put that question on notice?

The Hon. ROBERT BORSAK: Maybe you could take it on notice. I would like to know a little bit more from a technical point of view—because I have a bit of background in that area—about how you propose to make it secure. If you say that this is the way of the future—I am not saying it is or that it is not—I would like to understand better the technologies that are going to be deployed to guarantee that someone, somewhere is not going to be interfering with the processes.

Mr BARRY: Would you like a private briefing?

The Hon. ROBERT BORSAK: That is fine.

CHAIR: You also gave significant evidence in the review of the last State election on that particular issue.

The Hon. ROBERT BORSAK: I attended that.

Mr BARRY: Would the Committee like a private briefing?

CHAIR: What do members think? No-one disagrees. I think that would be an excellent idea. Thank you, Commissioner.

Mr BARRY: Mr Bright is going to Norway to look at their operations in the next little while, but he will be back in about six weeks.

The Hon. Dr PETER PHELPS: Is the Norwegian system the open-source software?

CHAIR: There are a few members who have expressed an interest in going on that delegation, Mr Commissioner.

Mr BARRY: I might add, for the record, that Mr Bright is going at his own expense.

CHAIR: I am delighted to hear that. That is wonderful.

Mr JAI ROWELL: A lot of the questions I wanted to raise have been touched upon. You mentioned caps. I know that we touched on that in a former inquiry, as well. I completely agree that proposed caps should be in place for local councils. I certainly agree with you on that. Do you still have the same view that you had, in terms of the State sphere, that prohibition of certain classes of donors should be removed on the basis that there are caps now? Would that still be your view at the council level?

Mr BARRY: I made a submission to the last inquiry that the policy reason for having prohibited donors—whilst there might have been a good reason for it in the past—had, with the introduction of caps, somewhat diminished, if not disappeared. I am not a supporter of having unnecessarily complex legislation just for the optics of it. However, I accept the fact that it is a challenge for any government to remove something which might appear to weaken these provisions.

Mr JAI ROWELL: I was on a council which dealt with the issue of whether to choose the NSW Electoral Commission, or otherwise. The Campbelltown City Council chose the services—

Mr BARRY: They chose very well.

Mr ANDREW FRASER: I remind you, you are under oath.

Mr JAI ROWELL: I have spoken to my general manager about this, in anticipation of today's inquiry. There was nothing but praise for the commission in relation to that. The other council in my area was Wollondilly Shire Council. They presented evidence here and I think they had a very positive experience as well. So, thank you.

Mr BARRY: Thank you. I might say that Wollondilly are very keen, coming out of the blocks; they already want to sign us up for 2016. But I note that Campbelltown have not.

The Hon. Dr PETER PHELPS: Is there an early bird discount?

The Hon. PETER PRIMROSE: You may wish to take this question on notice. You mentioned that your recommendation about universal postal voting was working well in a number of areas. Can you nominate one or two good models that we might be able to make inquiries about?

Mr BARRY: I can. Victoria have universal postal voting. South Australia do, and Western Australia. I am not 100 per cent sure about Queensland, because they seem to have dipped into and out of it. The Victorian model is very mature, and it works pretty well.

CHAIR: I would like to return to a couple of things you raised. I think the concept of postal voting is really interesting, given that South Australia, Victoria and other States have used it. I noticed you used the comparison but you are not suggesting, for a moment, that we have, like Victoria, non-compulsory voting for local government elections?

Mr BARRY: First of all, I will clarify one thing. Victoria does have compulsory voting.

CHAIR: Is it South Australia that does not?

Mr BARRY: I think it is South Australia.

CHAIR: You are not suggesting that we go down that path, of course?

Mr BARRY: No.

CHAIR: There would obviously be considerable cost savings by going down that path.

Mr BARRY: There would be cost savings. "Considerable" is in the eye of the council.

CHAIR: That is a point well made. In relation to the 16 recommendations that emanated from the last time this inquiry was conducted I notice that you have provided a comprehensive report in this document. You said that you did not go through with the requirement for a justice of the peace to sign off on an application or nomination form for a local government election. Do you think that is essential, or is that something that can be left as it is?

Mr BARRY: I do not think that is a good idea at all.

Mr ANDREW FRASER: Further on, you talked of the State optional preferential voting system. What about a system where if you have nine councillors running you get nine votes, and those with the most votes end up with the job, rather than having an optional preferential voting system, which may have one or four or whatever?

CHAIR: Are you suggesting first past the post—if had 20 candidates you might only have nine ticks, crosses, 1s or what have you?

Mr BARRY: In a sense, if you have an undivided council and there are nine councillors to be elected—if I have the question right—people just have nine votes. The question I have to put back to you is: Are you saying that that would be a requirement for a formal vote or an option?

Mr ANDREW FRASER: I would probably make it a requirement. The system as it is now, with the mayoral vote, is where they drag someone over the line who has five, 10 or 15 votes seems inherently unfair.

Mr BARRY: What you end up with under what you propose is an enormous number of informal ballot papers. Your system is modelled on the House of Representatives full preferential voting. I am using the word "preferential". You are saying that you just have to put in the boxes nine ticks, crosses, or 1s—but only nine. That system would end up having a lot more informal ballot papers in the count. I am proposing that if there are nine councillors to be elected and somebody only wants to vote for five, they only vote for five—one, two, three, four, five. At the moment they have to vote for half, which would be five if there are nine candidates. But they might wish to vote only for one person. I say that that is their choice.

CHAIR: Can I just clear up one other piece of evidence that was provided by a couple of councils last Monday? One of the things that a couple of the councils were requesting was a quote. I wanted to clarify this because my understanding was that the commission provided that information prior to an election. There was some suggestion that that tended to vacillate after the election. Do you want to clarify the process by which the commission provides the information to councils on the potential cost of their local government elections?

Mr BARRY: I have to go back to what I said earlier. For 2012 the commission was not empowered to enter into a contract with councils. If councils resolved that they wanted the commission to run the election then we ran the election on the transitional arrangements, which was basically how it had been in the past. In the future, however, the commission will give councils a quotation—and we will have to sign a contract with councils. So where, in the past, councils have said we would not give them a quote that is true; we would not give them a quote because we were not empowered to give them a quote. I did not agree with them, however, when they led the Committee to believe that the councils had no idea what the cost of the election was. We said, "To be helpful, assuming everything is the same, add this to the wages bill and add these costs to the other. That will give you a ballpark figure of what the budget should be." I think that under the circumstances that was very reasonable.

CHAIR: The Committee may wish to send some supplementary questions in writing, replies to which will form part of the evidence and may be made public. Would each of the witnesses here today be satisfied to provide a written reply to any further questions?

Mr BARRY: We will.

CHAIR: I propose that the documents which have been tendered as part of the evidence of the witnesses form part of their evidence. That concludes our questions here today. Thank you for appearing before the Committee. We appreciate your time.

(The witnesses withdrew)

The Committee adjourned at 12.43 p.m.
