

REPORT ON PROCEEDINGS BEFORE

**JOINT STANDING COMMITTEE ON ELECTORAL
MATTERS**

ADMINISTRATION OF THE 2019 NSW STATE ELECTION

At Jubilee Room, Parliament House, Sydney, on Monday 18 November 2019

The Committee met at 10:00 am

PRESENT

Mr Lee Evans (Chair)

Legislative Council

The Hon. Robert Borsak
The Hon. Catherine Cusack
The Hon. Ben Franklin
The Hon. Peter Primrose

Legislative Assembly

Mr Christopher Gulaptis
Mr Paul Scully
Mr Nathaniel Smith
Ms Felicity Wilson (Deputy Chair)

The CHAIR: Good morning and welcome to the first public hearing for the inquiry of the Joint Standing Committee on Electoral Matters into the administration of the 2019 New South Wales election. Before we commence, I acknowledge the Gadigal people who are the traditional custodians of the land on which we are meeting here in Parliament. I also pay my respect to Elders past and present of the Eora nation and extend my respect to all other Aboriginal and Torres Strait Islander people who are either present or are viewing proceedings on the internet. I declare the hearing open.

MARK LENNON, President, Australian Labor Party (NSW Branch), sworn and examined

The CHAIR: I welcome Mr Mark Lennon, president of the Australian Labor Party (NSW Branch). Thank you for appearing before the Joint Standing Committee on Electoral Matters to give evidence today. The committee has received submissions from your organisation. Would you like the submissions to form part of your formal evidence?

Mr LENNON: Yes.

The CHAIR: Would you like to make a short opening statement?

Mr LENNON: I would. Can I thank the committee for the opportunity, on behalf of the Party, to make the submission and also to appear before you today. We are very fortunate that we live here in New South Wales, and indeed in Australia, in a very robust democracy and that our elections are considered to be—in the main—fair and free. In making that opening remark, can I also thank the hard working staff of the NSW Electoral Commission for the work that they did, in particular with regard to the election this year, but the work they continue to do over the intervening period between elections to make sure that we do have a fair and open democratic system. It is fair to say, in terms of process, that the election went very well. I cannot say the same for the result but that is not what we are here to discuss today. But as always there are areas to improve.

The modern lingo is continuous improvement and after every election there are opportunities to review and suggest ways that we can improve the process. It can be summed up in our submission that there are three broad themes about how we could improve the system. They go to a couple of key elements. Firstly, more resources for the NSW Electoral Commission. That is not unusual. I think the Commission needs more resources and I will come back to that in a moment. Secondly, there could be more effective use of the resources that the Commission has. The third theme which runs through our submission is that in the area of compliance, we believe there are areas where compliance could be increased. There are other areas where compliance is probably too strict and there could be improvements in that area.

So on those three themes if you look at more resources, we believe there needs to be more resources available to the Commission so it can properly investigate complaints as they arise, particularly during the election campaign period. We think more resources are necessary for ensuring that the disclosure system continues to work more effectively. Finally, in terms of more resources, there is no doubt there are issues with the training of staff. We believe this could be improved and that more resources should be dedicated to the issue of training. In terms of better use of resources, the Commission has to be congratulated for the use of technology. However we believe that can be used in better ways particularly with regard to the nomination of candidates.

With relation to the early voting centres, we think those resources could be used more effectively particularly in terms of location. On the issue of iVote, more resources are also needed but clearly the present resourcing—in terms of technology and its use around iVote—could be used more effectively. As to compliance, we have covered a couple of key areas in our submission. With restrictions on early voting, we now have a situation where close to 30 per cent of people voted early for the election in March this year. This was up from around 10 per cent in 2011. In our submission, we say let us just acknowledge the reality and remove any requirements for early voting, acknowledge that people are voting early and that is part of the modern world. Limit the time but allow people to vote early as they are doing now, regardless of whether they have to give some reason or not. Clearly there has to be clarity on instructions around voting, with our system of the option of just voting I or voting with preferences.

Finally, when it comes to compliance, we could enhance the time frame in terms of the reporting of donations and we mention that in our submission. The key elements—ones that keep coming up in discussions with Labor Party staff—are there needs to be more training of staff. It is a remarkable effort when you think about it. We have 93 electorates plus the upper House. To staff all those and to have people who are casuals filling all those roles, is a remarkable outcome. But there still needs to be more improvement around staff training. The one example that jumps off the page was the situation in the seat of Strathfield, where a volunteer who turned up to work as a volunteer for one of the parties ended up working for five hours on the polling booth.

I do not know if she got paid but she should have by the way, as a former union official. In my 40 years, or thereabouts, of working and being involved in State election campaigns, I have seen some errors but that is the first time I have heard of that happening. Someone who actually was not employed by the Electoral Commission ended up distributing ballot papers. The other recurring theme is technology and the increased use of technology. We welcome the increased use of technology and we believe that the present technology could be better used, particularly in terms of disclosures and not having to have duplicates where not only do you nominate online, for instance, but you also then have to sign off on a form. Things of that nature.

In terms of overall resources, it would be remiss of me not to refer to today's report that the Audit Office has been asked to look at resourcing for a number of authorities including the NSW Electoral Commission. I hope that review comes out with a finding that there needs to be more resources for the NSW Electoral Commission not less. One last theme we need to consider when looking at the electoral process, is making sure the electorate is adequately informed about what the issues are, what the policies of the respective political players are and what are the main themes that they are taking to the election?

People must understand what their rights are when it comes to vote, how they can vote and where they can vote? We have to ensure—and this is contained in our submission—that people with disabilities, those from non-English speaking backgrounds and those who are marginalised are given all the assistance they need to make sure they understand, firstly, the process and also the ability to cast their vote—given we have a system where voting is compulsory. As we go down the path of increased technology in the electoral process, it is important to ensure that electors are informed as a consequence because their avenue into the electoral process will increasingly be not through a mass-market—television, an advertisement or turning up to the polling booth—but will increasingly be through technology. We need to ensure that, firstly, they are well-informed of the issues and the issues outlined by each of the respective parties.

Another issue that has arisen is making sure you, the body politic, have the opportunity to understand how people are voting and what processes they are using and the having opportunity to make sure that you have the opportunity to put your issues before voters when they vote, by whatever means available to them at the time. This is particularly an issue with iVote—that people are voting, the body politic does not know who is voting and they do not vote fully aware of all the policies and issues that the parties are putting forward. Finally, one observation: One of the things we should consider in the context of this election was that, for the first time I can recall, it was so close to a Federal election and, to some degree, it was overshadowed by the Federal election—not that I do not think New South Wales is not important, rest assured. I think that is something that you always have to put in context.

When considering this particular election, it was often hard for people to focus on this State election because they knew there was a Federal election down the track. It would be fair to say that our Federal elections—and it seems this has always been the case at a Federal level—are always seemingly better resourced, understandably so—it is the whole nation rather than one State. As a consequence, when you try to compare what occurred in terms of the practicalities at each election, the Federal election will always seem to be better run in that sense. That is because it is a Federal Government with more resources, as opposed to a State Government, providing the funding for the election. I will leave my opening remarks there and am happy to take questions.

The Hon. CATHERINE CUSACK: Thank you very much, Mr Lennon. I want to ask some questions in relation to the operation of the polling booths and the roles of volunteers. In your submission you mentioned complaints and that those processes could be improved. I wonder if we could think in terms of complaints made by parties at a statewide level—I disagree with an aspect of a campaign—versus the local polling booth complaint. I am talking about a polling booth worker complaining about another polling booth worker going to the returning officer and the manner in which those complaints were processed at the State election—people had to ring phone numbers. Are you familiar with that?

Mr LENNON: I understand.

The Hon. CATHERINE CUSACK: Do you think that could be improved?

Mr LENNON: Yes, our submission goes to that fact and I understand yours is statewide—ours focused on individual cases but—

The Hon. CATHERINE CUSACK: I am suggesting that there are two tiers of complaints, perhaps. There is the party level one and what happens at the local polling booth. I want to focus on the logistics of the local polling booth because it does seem to take a lot of everybody's time, if there is not a proper process to address complaints.

Mr LENNON: Yes and I think we go to that in terms of power for the local returning officer to deal with those. The first item in our submission, we allude to the fact that we believe that the local returning officer—I think it is now called the district returning officer—should have more power to try to deliberate and deliver an outcome in some of those local disputes. Again, my experience is, particularly with pre-poll but at polling booths themselves, it depends on who the returning officer is at that particular poll and how well experienced they are.

The Hon. CATHERINE CUSACK: I wanted to ask about that.

Mr LENNON: That also comes back to the general question about training and how you can make sure that the training rolled out to all those officers is consistent and everybody has access to it.

The Hon. CATHERINE CUSACK: Would you say that there is inconsistency across polling booths at the moment?

Mr LENNON: There always is. That is an observation on the individuals in particular polling booths at particular times. Without naming names, the returning officer at the Homebush polling booth in the eighties was fearsome, but that was just their particular personality. I think in a modern age you should be able to roll out a system of training and compliance that allows people to understand their responsibilities more and which gives them techniques to deal with issues in a more effective way, in particular in a more calm way, to try to reach a resolution between the parties.

Ms FELICITY WILSON: I would like to talk about voter identification. Your submission talks about the fact that you do not support voter identification and one of the reasons for that is whether or not people have access to appropriate identification and that people may be disenfranchised. I want to know if you have a view about whether or not that would change in future. I understand that historically people may not have had access to identification but more and more we are required to use ID for most things in our lives. Do you have a view about whether that will change or do you think that this is a static position of the Labor Party?

Mr LENNON: This is a very static position. We do not see the need for people to prove who they are when they come to vote. They have a right to vote—actually, they are compelled to vote. They are on the roll and have taken the trouble to put themselves on the roll. Why should they have to take the further step to prove who they are when they arrive at the polling booth? It is a fundamental right of democracy to have the right to vote and to step up and say, "Here I am, I am X and I am here to vote." Why should you have to prove anything further?

Ms FELICITY WILSON: When we have individuals who may either have been seen to have voted more than once, sometimes on multiple occasions, how would you see that we should manage that on the day or during the voting period?

Mr LENNON: The law, as I understand it, if someone has been caught out voting multiple times they have to provide ID, but it is after the event, which we do not have an issue with. This issue is, if we go back to first base, what is the nature of the problem? How big is this issue, allegedly, of voter fraud? And, therefore, why do we need ID?

Ms FELICITY WILSON: The question I am asking is, if an individual shows identification and then votes multiple times, each time showing identification, then it would be clear that that individual had voted multiple times. Whereas, after the fact, if someone's name is crossed off at multiple polling places or pre-poll locations, there is no evidence to determine that that individual is the person who exercised multiple votes. If you use identification, you would be able to ascertain that it was that individual who voted on multiple occasions.

Mr LENNON: If you are saying that people vote at various booths and have their name crossed off, my understanding—and I could stand corrected here—is that they are all done by the Commission after the voting has completed. To check that sort of thing, as I understand it, people have been caught out voting multiple times in the past so there is a system to deal with that issue.

Ms FELICITY WILSON: Let me clarify. Your objection to voter identification, in your initial response to me, was not that people do not have identification, it is that you do not think people should ever be required to present identification?

Mr LENNON: I have added that to what the submission of the Party is—that we see that people would be disadvantaged, particularly the marginalised in society, by the fact that you have to turn up with ID. They may not have it because of their particular circumstances; they may not be able to produce the necessary ID.

Ms FELICITY WILSON: Most countries around the world now, most jurisdictions, require identification of some form when people vote—whether that be that the Electoral Commission's cards that are sent out to individual voters or other types of identification. You do not think that there is any form of identification that would be acceptable?

Mr LENNON: Let us go back to first principles. The first principle is: What is the alleged issue that we are trying to fix here? Allegedly, it comes to questions of voter fraud. Is that a significant issue? Is that rectified by checking after the event? Therefore, if you say yes to all those issues, then it does not warrant or necessitate some form of voter ID.

The Hon. PETER PRIMROSE: May I ask, along similar lines as voter ID, the last two Electoral Commissioners and the current Commissioner, when we have been through this, has described voter ID as a solution in search of a problem because they cannot identify it being an issue, at all, in any election. I was wondering if you could comment on whether you believe it is actually an issue.

Mr LENNON: That is the issue I am raising with Ms Wilson here—exactly that: identify the problem first. And the fact is that the problem does not seem to be of significance to warrant going down the path of people having to have a voter ID.

The Hon. PETER PRIMROSE: Do you believe that there would be any particular groups who might be disadvantaged by having to produce ID?

Mr LENNON: Yes. I think if you have seen the submission from Homelessness NSW they have identified the fact that their members or the homeless would have an issue with voter ID given their particular circumstances. It was also noted in one of the submissions and I cannot recall which exactly that women who have to use the services of a women's refuge may not have ID for obvious reasons or may not want to be carrying ID for obvious reasons.

The Hon. BEN FRANKLIN: You would then be pleased, Mr Lennon, that in its response to the inquiry into the 2015 election and related matters the Government ruled out clearly that it would be asking people to show identification at elections. You would support that position, wouldn't you?

Mr LENNON: That is the position of the Australian Labor Party.

The Hon. BEN FRANKLIN: Could I go to your submission and just go to a number of the different sections of it, if that is okay? The first is section 2.3 where you recommend the lifting of current restrictions for early voting at a State election, predominantly, as far as I can see, for ease of logistical arrangements for the Electoral Commission. I guess I would ask a couple of questions. Firstly, do you agree that this would promote a fundamental shift in the way elections are viewed? That is that the election is not held on a particular day with the possibility of voting early if you are unable to make that day but rather the election would therefore be held over a substantial period, every day being as important as the other, and could have some fundamental changes in how both the parties and candidates operate because of that. That is a question of interest more than anything else. The second question is: Do you therefore believe, noting your submission, that you should reduce the amount of time available for pre-poll if you go down the line that you are suggesting?

Mr LENNON: Yes. The answer to the first question is yes, but that is what is happening in practice now when up to 30 per cent of people are voting before the election. It has changed the nature of the election—it is now not a day; it is two weeks and a day. Ask any candidate of any political party who is standing on pre-poll polling booths for two weeks that, yes, the election is definitely on and the election day is now two weeks in effect. Secondly, we would agree if we go down this path to limit the time that the pre-poll is open. There are differing views about what that may be but certainly within the Australian Labor Party the view would be no longer than two weeks.

The Hon. BEN FRANKLIN: It is currently, I believe, two weeks for State elections.

Mr LENNON: And it was three weeks for Federal.

The Hon. BEN FRANKLIN: That is right. So would you recommend any change for State elections to the current two weeks?

Mr LENNON: As I say, there are different views. At the moment the Party's view would be no longer than two weeks.

The Hon. BEN FRANKLIN: Understood. Could I move then to section 5.1 and talk about your comments about the disclosure system? You note that as of 18 July 2018 the Act reduced the period of disclosure of donations to 28 days twice annually. My question is: Do you feel that that is an adequate amount of time? There have been some concerns raised by a number of stakeholders that that may be too short, particularly when you consider the time of year when disclosures are held—often over holiday periods and so forth. Do you have any comments about that?

Mr LENNON: Yes, we do. We also agree that that is too short and difficult, particularly for the disclosure at the end of December where it means you have got people having to work through January to meet the time line. Our view is it is too short and should be extended.

The Hon. BEN FRANKLIN: Do you have a view about how long that should be extended?

Mr LENNON: Again I would have to take that one on notice and am happy to do so, Mr Franklin.

The Hon. BEN FRANKLIN: Thank you. Could we move on to your recommendations about cash donation limits? You talk about the suggestion that membership fees could be exempted from the cash donation restriction. Could I ask, first, a question of information? What are the membership costs for the Labor Party and what would be the highest membership fee that would be paid?

Mr LENNON: I do not know if that is a matter for the public record but—

The Hon. BEN FRANKLIN: I presume it is online on the website.

Mr LENNON: It is online, yes.

Mr PAUL SCULLY: Mine is \$30 a year for affiliated membership.

Mr LENNON: Clearly we have to review the fees but for the average member the membership fee is around \$80.

The Hon. BEN FRANKLIN: What would be the highest level of membership fee that the Labor Party would charge?

Mr LENNON: I think it is around \$150.

The Hon. BEN FRANKLIN: Okay. So when you ask for an exemption for membership fees would it be up to that level of \$150? My point is that we would not want a system being created by any political party—and I am not in any way impugning the Labor Party at this point—that new membership categories could be created whereby \$950 wads of cash would come in under this guise of membership fees.

Mr LENNON: That is not the intent of this.

The Hon. BEN FRANKLIN: Great. I am just giving you the opportunity to put that on the record.

Mr LENNON: There is an issue, as you know, generally, about donations and membership fees et cetera. It is just running the ruler over that particular issue when we are talking about limiting cash donations to less than \$100. There is no intention to have some clever way of getting around membership fees or the level of membership fees.

The Hon. BEN FRANKLIN: You mentioned the extraordinary Strathfield issue, which I think we have all found breathtaking. Did you find it odd that the Electoral Commission did not identify or refer to that issue, which you have identified as potentially the most egregious that you have seen—and I would certainly agree with that, for what it is worth—in its report on the New South Wales election? Do you find that interesting?

Mr LENNON: I do but I would leave my comments in regard to that. I am particularly interested in Strathfield because that is the area I grew up in and indeed many years ago was a failed candidate. I do not know where it happened but it was very unusual and I am interested to hear that the Electoral Commission has not referred to it.

The Hon. BEN FRANKLIN: Indeed. My final comment is about online and digital marketing which obviously are significantly increasing for all political parties and candidates as we move away from traditional forms of political advertising—newspapers, television and so forth. Do you think that the current rules around authorising online and digital marketing are clear and enforceable?

Mr LENNON: No.

The Hon. BEN FRANKLIN: Could you provide some further commentary on that?

Mr LENNON: It has come up in several circumstances. We refer in our submission to the issue in Cabramatta where there were unauthorised posts on social media—they were unauthorised and they were defamatory. So it seems in that regard that the Electoral Commission has issues with being able to make a call on it, coming back to the issue about ensuring that we can get a quick response, and also with the question of enforcement.

Ms FELICITY WILSON: I have two additional questions I was seeking to ask earlier. On the issue of early voting centres, one of the submissions talks about the locations of early voting centres and whether there should be a restriction on them. One of them is a recommendation to have a single location per metropolitan electorate and additional for regional electorates. Do you have a view on that, Mr Lennon?

Mr LENNON: Yes. We would not support just having one in metropolitan electorates. Again, coming back to what I said at the outset about ensuring that the electorate is fully informed and has opportunity and access, we would continue to support that there be pre-poll centres and early voting centres in those areas where they have historically been. We refer in our submission where the issue that happened up in the Central Coast where traditionally there had been a booth at Woy Woy. It was moved to Kincumber and that caused enormous problems for people getting access by way of travel. Again, similarly in East Hills where there was a location where it was too far away from public transport and did not give people the opportunity or access they needed to that voting centre.

Ms FELICITY WILSON: When does something become historic, though? For instance, if for many, many elections there has been one early voting centre in a specific location and then a second is added for one election, does that then create the precedent that you would expect there to be two centres from then on? I am just trying to understand what the reasonable number of centres is per electorate and part of the electorate that they should be in.

Mr LENNON: That is not for us to be able to determine today. That is a matter for the Electoral Commission.

Ms FELICITY WILSON: I want to know what your opinion is, though.

Mr LENNON: Clearly, it would be based on changing demographics and changing situations with particular electorates. However, the ones that we have noted in our submission, there was no reason, for instance, up in the Central Coast for the changes with the booth from Woy Woy to Kincumber. It seemed to us that it was more a question of resources rather than changes in circumstances that led to some of these changes.

Ms FELICITY WILSON: Thank you. My last question is about the distinction between Labor and Country Labor. I assume you would have read the article in *The Australian* on 29 October which spoke in particular about the submissions made by Country Labor and Labor to this Committee's inquiry and the clear similarities between those two, if I may put it nicely. There are discussions at the moment in the Independent Commission Against Corruption about the way in which the two separate entities exist and whether they are in fact separate, whether or not they should be seen as separately registered entities when it comes to things like disclosures and donations et cetera, their submissions that were put in being very similar. Do you have any comment on that? How it came about and whether or not it reflects whether those two entities are actually separate or if they are, in fact, the same entity?

Mr LENNON: There is no doubt in the eyes of the NSW Electoral Commission that the entities are separate. That has been—I will not say argued but debated for some time. In the way we interact with the NSW Electoral Commission, there are two entities: NSW Labor and Country Labor. That is the truth of the matter and the substance of the matter at the present time. You referred to the Independent Commission Against Corruption and discussions there. Unfortunately, they are still on foot so I cannot make any reference to those particular matters before the Independent Commission Against Corruption.

Ms FELICITY WILSON: Can I ask my question about the two submissions? If, as you say, both of these entities interact very differently with the Electoral Commission, why were the two submissions close to identical? If there is two interactions occurring with the Electoral Commission, why were the submissions to this inquiry almost identical?

Mr LENNON: Because there are similar circumstances that the two entities found arose, particularly with regard to the question of early voting centres. Just because the circumstances—

Ms FELICITY WILSON: Even the formatting of the documents was identical. Were they not written by the same person?

Mr LENNON: No, they were not as a matter of fact. There are two entities. It does not mean that they cannot have a similar mindset. That has happened before. Just because their submissions are similar does not mean that they are not two separate entities and recognised by the Electoral Commission as two separate entities.

Ms FELICITY WILSON: You are telling us today that they were drafted by distinct people and the contents almost identical nature occurred because you had similar experiences.

Mr LENNON: That is correct.

Ms FELICITY WILSON: Thank you, Mr Lennon.

Mr PAUL SCULLY: Just going back to some of your comments around authorisation with respect to social media, obviously digital presentation of materials is not going to go away. In actual fact, it is becoming more influential on things. Do you or does Labor have any views given it is quite a complex regime to get right at the moment? As to how that might be simplified or what should or should not be part of that compliance regime?

Mr LENNON: Even though we have grown in social media, it is still media. It should comply with the law as mass media traditionally has. It has to be properly authorised. It has to be honest in its message. Finally, if it is breaching the law then the NSW Electoral Commission should have the powers to enforce the law and bring action against those who may have breached the law.

Mr PAUL SCULLY: In the complaints that Labor had put forward during the campaign period and during the election period, you mentioned that some of the Commission was slow to respond on some occasions.

Does the Commission find it difficult to respond to some of the online media and online advertising simply because of the speed at which it can be created, disseminated, and the speed at which the Commission can respond to these sort of things to try to work out where it is from?

Mr LENNON: I assume that is the problem, but in this digital age where these things can be put up quickly, you would hope you would be able to work to a system of enforcement and oversight—oversight in particular—where the response from the regulator—in this case the NSW Electoral Commission—could be just a swift. It is pretty easy to be able to have a quick look at these particular posts and then determine whether they are in breach of the legislation or not and make a ruling.

Mr PAUL SCULLY: For those posts that are coming from someone who is not necessarily a candidate or part of a registered party which can easily be done as well, like someone purporting to be someone else, do you think there needs to be more work done between the Commission and the platforms in how they might be able to monitor and react and respond to those sorts of things?

Mr LENNON: Yes, I agree, particularly after the circumstances that rose up in Port Stephens during the State election where there were seven false accounts or something like that. It is incumbent on Facebook and Google with the Electoral Commission to work together to make sure that this does not happen, and if it does, the Commission has access to be able to investigate the matter and then, if necessary, enforce the law.

The CHAIR: I would like to take this opportunity to welcome Mr Gulaptis.

Mr GULAPTIS: Thank you. I apologise for my lateness to the Committee.

The Hon. ROBERT BORSAK: In your submission you talk about opposing the acting in concert provisions of the Act. Do you want to explain that a little bit more clearly in terms of how you think it affects the campaign ability of Unions NSW?

Mr LENNON: I would be happy to though I am not here appearing on behalf of Unions NSW as you know.

The Hon. ROBERT BORSAK: You are appearing as President of the Australian Labor Party.

Mr LENNON: I am. Let me just say that it is the right of community organisations generally to come together if they have a common interest to be able to campaign. The provisions that were in that legislation prior to the High Court hearing would inhibit the role immensely in the ability of the union movement and other community organisations to put in place and to exercise their right of freedom of speech and work together to pursue an outcome that was in the collective interest of their members.

The Hon. ROBERT BORSAK: Talking about public funding which is something you would have to deal with on a day-to-day basis I suppose, should all administrative funding be provided in advance?

Mr LENNON: That is a matter that I note from your own submission you have put in there.

The Hon. ROBERT BORSAK: We are always putting submissions in relation to public funding.

Mr LENNON: I would have to take that one on notice. We have not considered that within our own office. I would have to give that some consideration.

The Hon. ROBERT BORSAK: Regarding restrictions on political donations, do you want to make some comment? You made some submissions in relation to further restrictions.

Mr LENNON: Yes, we believe that the restriction should go further. There has been an issue where questions around property developers and with the question of real estate agents, property developers and in some circumstances, that tends to merge. That is why we have gone down that path. We have made it clear that we believe that third-party lobbyists should not be able to make political donations. The reasons for that are self-evident.

The Hon. ROBERT BORSAK: The reason is self-evident? Okay.

The Hon. PETER PRIMROSE: Two quick questions. Some of the submissions have spoken about polling booth staff being given discretion regarding enforcement of the six metre rule. They focus on early voting centres but probably were also talking about polling booths in general. I am someone who has been rained on at a number of polling booths because I could not move one metre back to be under cover despite all those handing out being prepared to do that because the polling clerk did not have the discretion. I was wondering whether you would support the polling clerks being given the discretion under the Act to allow those booth workers and any paraphernalia they may have—signs et cetera—to move closer than the six metre rule currently allows?

Mr LENNON: I think given what we are saying already in our submission the polling clerks maybe should be given more powers in adjudicating some disputes. Giving them a bit more power and discretion on the six-metre rule would be a good outcome. In my experience over 40 years the six metres often over time becomes three and sometimes becomes nine, you never know. It depends on how well the booth workers are getting on. I think some discretion in regard to that matter. Also the circumstances of where the booth is, as you alluded to, Mr Primrose, and where the gate is and things of that nature. Discretion there would be useful.

The Hon. PETER PRIMROSE: My other question relates to the issue of maintaining the principle we currently have in law of one vote, one value. We have at least one submission from a party suggesting that we vary the one vote, one value to enable electorates in some areas to be smaller than other electorates to allow geographical access to services and their members. That effectively means there would not be a one vote, one value across the State. I was wondering whether you would comment on whether you believe that principle should be retained?

Mr LENNON: Absolutely. One vote, one value. It is very difficult. I know in democracy it is not a perfect system of government but that is one of the key tenets of any democracy and should be retained.

The Hon. BEN FRANKLIN: I wanted to talk about the exception to aggregation for small donations at fundraising events, which is currently set at \$50. Obviously there is enormous and onerous bureaucratic impost on political parties for noting and recognising, providing all of the official receipts, for very small functions which is why that exception was made for \$50 at these events. My question is; as has been suggested by evidence we have received, as the cash limit has now been reduced to \$100 do you think it would be appropriate to increase the exception limit from \$50 to \$100 in line with the cash limit?

Mr LENNON: I would say, the Hon. Ben Franklin, there would be some in the Labor Party who would be of that view. To be quite frank that is something we have not discussed.

The Hon. BEN FRANKLIN: Your finance department?

Mr LENNON: That is right. It is difficult. We insist at all our functions, even if someone is only buying a \$20 raffle ticket, that they fill out a form. It is a disclosure form. No doubt raising it to \$100 would make it easier for many people doing the work. It is something that we have not had a robust discussion on and would have to give it due consideration before giving an answer.

The Hon. BEN FRANKLIN: If you have any further thoughts you would like to take on notice you are welcome to?

Mr LENNON: I will do that then, I will take it on notice.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence to be made public. Would you be happy to provide a written reply to any further questions?

Mr LENNON: Yes, Chair. I place on record my thanks to my staff here from the Labor Party supporting me, Mr David Dobson and Ms Jessica Malnersic, for their work with our submission.

(The witness withdrew.)

(Short adjournment)

CHRISTOPHER STONE, State Director, Liberal Party of Australia, New South Wales Division, sworn and examined

The CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters to give evidence. Can you confirm that you have been issued with the information about standing orders relating to the examination of witnesses?

Mr STONE: Yes, I have.

The CHAIR: Do you have any questions?

Mr STONE: No.

The CHAIR: The Committee has received submissions from your organisation, would you like the submissions to form part of your formal evidence?

Mr STONE: Yes.

The CHAIR: Would you like to make a short opening statement before the commencement of questions?

Mr STONE: Yes, I would. Thank you for the opportunity to appear before you today. From the outset the Liberal Party believes that the 2019 election was conducted in a satisfactory manner. We acknowledge the staff of the NSW Electoral Commission have many years of experience in the preparation of State elections and that the Commission is a professional organisation. Today I wish to briefly highlight some of the comments, suggestions and observations made in our submission. The Committee should, in our view, carefully consider the way in which New South Wales is moving to a voting period as opposed to an election day and the extent to which this is the Parliament's intent.

Clearly, a nearly threefold increase since 2011 in the number of people voting at pre-poll cannot be explained by a nearly threefold increase in the number of people who are unable to vote for one of the reasons set out in section 6 of the Electoral Act. Particularly given the decline in other forms of early voting since the 2015 election. I note in its submission the Labor Party has recommended removing restrictions on early voting altogether for the sake of convenience. However, I would make the point that general elections take place in New South Wales once every four years. The date of a general election is set out at sections 22A and 24A of the Constitution Act. We can all put it in our diaries today. For the record it is Saturday 25 March 2023.

Obviously this is a matter for the Parliament. We believe that further education about and enforcement of early voting eligibility requirements is needed. In relation to iVote it is important that the integrity and efficiency of the system be unimpeachable. However, the Party has concerns regarding the accessibility of iVote during the 2019 election. During the final 10 days of the campaign the iVote system crashed and was unavailable for extended periods of time potentially disenfranchising voters. The Party submits that the iVote system should be reviewed and upgraded to prevent similar occurrences at future elections, both to ensure voters are able to cast their votes and to ensure the integrity of the iVote system especially given the heightened concern around hacking and attempts at electoral fraud.

I have stated previously before this Committee that political parties are currently placed at a disadvantage in communicating with iVoters and my view has not changed. Electors are entitled to receive information from all candidates so they can make their own informed judgement before casting a vote. Additional attention is needed to ensure the complete iVote process permits this to occur. We believe there is too much red tape around the nomination process for candidates in New South Wales. That political parties and candidates must register and candidates must also then be nominated is absurd. As a general rule there should be as few regulatory barriers to standing as a candidate as possible.

The nomination process in New South Wales can be time consuming and confusing with multiple forms required to nominate. In contrast the Federal nomination process to date has required a single two page form with a qualification check list to demonstrate a candidate has satisfied section 44 of the constitution at this recent Federal election. We believe there is scope to further simplify and streamline the process. In our submission we draw the Committee's attention to the interaction with parliamentary entitlements and the Party submits that a process should be developed between the NSW Electoral Commission and the New South Wales Parliament to ensure transparency of the system in any instance where a member may have been found to have breached entitlement rules.

It is important that participants in the electoral process can clearly understand the rules and how they will be interpreted so as to fully comply with their obligations under relevant legislation. There were just seven weeks

between the New South Wales and Federal elections. It was apparent months beforehand that this would be the case. We believe that in this case more detailed advice should have been provided, particularly in relation to the interpretation of the rules, and much earlier than it was. We also believe that the process for claiming public funding is overly drawn out, particularly when compared with the Federal requirements. We submit that the process for claiming public funding should be streamlined to reflect the speed at which Federal public funding claims are assessed and paid.

With respect to electoral expenditure, it is not clear as to why registered political parties are required to propose and submit separate public funding and expenditure disclosure returns which contain substantially the same information. Moreover, these two substantial returns need to be submitted within a fortnight of each other, which is a considerable challenge in an election year. We would submit that combining these returns would be more efficient for both the NSW Electoral Commission and stakeholders. Moreover, the four week timeframes for disclosure of reportable political donations is a real issue for both half-year periods. We submit that six-week time frames would better reflect the disclosure demands on candidates and registered political parties.

With respect to donations, the transition to real-time disclosure of reportable political donations was manageable at this election because it was limited to single donations of \$1,000 or more. With the move to real-time disclosure for all political donations during the regulated period ahead of the 2023 general election, we acknowledge that registered political parties and candidates will need to make substantial changes to their systems in order to remain compliant. However the identification of prohibited donors, especially property developers, continues to be difficult and problematic for registered political parties. As we move closer to the implementation of real-time disclosure, we submit that a searchable database of pending development applications—including details of applicants—is required in order for registered political parties to be able to fully comply with this requirement. On that note, I am happy to answer any questions.

Mr NATHANIEL SMITH: You spoke briefly about the nomination forms for candidates. What do you believe would be the best system going forward?

Mr STONE: Naturally the Electoral Commission requires certain information to ascertain the bona fides of a person who is nominating for election. But at the moment we have a series of different forms that collect different pieces of information. As I pointed out in my opening statement, we have the requirement to register as a candidate and then also to nominate as a candidate later in the process. We believe there is scope to streamline these processes so that the Electoral Commission can get all the information it requires about the candidate without the need for multiple forms.

Mr NATHANIEL SMITH: On pre-poll, in your submission you mention it was up between 30 per cent to 40 per cent from the 2015 election. What are your views on that? Do you believe restrictions should stay in place so there is one big day for the election and we do know the date? Could you talk a bit more about that?

Mr STONE: The law as it stands puts in place certain criteria for electors in the event that they are not able to attend a polling booth on polling day. It sets out a range of different criteria which I set out in my submission. That is obviously the intent of the Parliament with the laws that are in place. I do not see any need to change. Obviously, there has been growth in the number of people attending a pre-poll over the last couple of elections as shown by the Electoral Commission data which we included in our submission. But—as I indicated in the submission—some of the language used around early voting, including in all of the media releases, it is in effect normalising the practice. The law as it stands sets out that people should attend a polling booth on polling day unless they meet one of the criteria set out in the Act. We believe better education and enforcement of those provisions is required to properly manage the flows of people during the early voting period.

The Hon. ROBERT BORSAK: Further to that, your submission talks about limiting early voting to a single place in a metropolitan electorate. Would you also consider reducing it from two weeks to one week?

Mr STONE: I think the current balance in terms of the two-week period is right. At this recent election, we had the ability to compare and contrast with the Federal requirements given that we had elections so close together. The three week period during the Federal election was too long. Whether you are a candidate trying to muster volunteers to be standing outside a pre-poll centre, or indeed a registered political party, it is difficult to be able to manage multiple locations over extended periods of time in such a situation. I think the two week period strikes the right balance in New South Wales. However, I think the issue is around enforcement and the education of the various criteria that are in place for those who cannot attend a polling booth on polling day.

The Hon. CATHERINE CUSACK: Can I ask about prohibited donors? How challenging is it for the Party to assess whether someone is a prohibited donor and whether the donor themselves can self assess if they are a prohibited donor?

Mr STONE: It is extraordinarily difficult. The Electoral Funding Act definition is better than that of the previous Act. There is some proscription around the definition of a property developer now. However, it does require parties to really cross-examine potential donors around business interests they have. Indeed, given the requirement to include spouses as well—asking people whether they are married or in a relationship with a prohibited donor—all of these questions take time and resources particularly when it comes to related companies. Often extensive company searches need to be undertaken to ascertain whether someone fits the category or not. Given the requirement to check whether there is either a current application before council or whether a potential donor has had three applications determined within the last seven years, it is now very difficult. That is why we suggest in our submission that there ought to be a searchable database across all of the 129 councils so we can—with some certainty—ascertain the bona fides of a prospective donor.

The Hon. CATHERINE CUSACK: For people just trying to do the right thing, would it assist if the Electoral Funding Authority could provide some help to members of the public wanting to work out if they are property developers or not?

Mr STONE: Indeed. Ultimately, you find situations sometimes where people believe they are not a prohibited donor when, in fact, they are and—after some questioning—we point that out to them. This is a process, in terms of education, that needs to be ongoing because at the moment the provisions largely discourage people from participating in the electoral process. The definitions are complex and the penalties are severe for getting it wrong. Many people probably think it is too hard and they refrain from donating to a candidate or a political party for that reason. It is an ongoing education process and the extent to which the Commission assists people who inquire as to their position, that is important.

The Hon. ROBERT BORSAK: Can I raise the issue of iVote with you? I have been on this Committee for a long time and iVote—and its failings—seem to come up after every election. After every election the Commissioner promises us with various presentations—both the old Commissioner and the current one—that everything is going to be fine. Are you not being a little bit kind after another major crash of iVote? You should be calling for its abolition and we should be looking for a whole new computer system. How much money have we wasted on this over numerous electoral cycles? Surely we should be dumping it and asking the Commissioner to find another solution that might work? That is not a question, that is a statement in frustration.

Mr STONE: I would make the observation that during an election campaign, voters are contacting candidates and political parties. We took inquiries from voters and people expressing frustration that they had intended iVoting but that the system had either crashed or they had difficulties with it and found another way of voting. I had intended iVoting on election day and—for various reasons—was not able to. So I had to go and attend a polling booth to cast my vote on election day.

The Hon. ROBERT BORSAK: Our Party has always experienced complaints from people in the bush seeking to use mobile devices and other devices. In our view, the system is fundamentally flawed and not reliable. For it to fail yet again, this Committee needs to have a very close look. At least after the last two elections, and the Hon. Ben Franklin would confirm this, we have had promises and good presentations from the Commissioner. We have been promised the world and yet again we have another event of fundamentally ten days outage at an important time. It is something that I do not think we should even be entertaining any more. I think we should just dump it. That is my view.

The CHAIR: We will have further discussions within the Committee on that.

Mr CHRISTOPHER GULAPTIS: I go back to donations. You were talking about councils disclosing their register of developments. How can you reconcile that when most of the applicants would be companies, rather than individuals? Generally, you get a donation from individual, rather than from a company.

Mr STONE: In the context of suggesting a searchable database, one would assume that individuals and companies are making development applications from time to time, depending on the nature of either their personal or business interests. In that context I still believe that that would be a useful tool for candidates or political parties to assess whether someone is potentially a prohibited donor or not.

Mr CHRISTOPHER GULAPTIS: It is very complex and takes a lot of time to deal with. Would you support full public funding for State elections?

Mr STONE: I am not personally supportive of that notion. I believe that in a healthy democracy people ought to have the ability to participate in the electoral process, but obviously with stringent rules in place to ensure that it is a fair and even playing field. Here in New South Wales there are particular categories of prohibited donors and, if the legislation is to continue having those sorts of prohibitions in place, then participants in the process need to have the ability to ascertain whether they fit the category or not. That is why we are suggesting that there ought to be tools in place to allow that to occur.

Mr CHRISTOPHER GULAPTIS: Good luck with those tools.

The Hon. BEN FRANKLIN: Would you agree that particularly over the past 10 years the administrative burden on political parties has increased substantially, in terms of compliance with all the constantly changing rules, particularly around the electoral funding system?

Mr STONE: Overwhelmingly, yes.

The Hon. BEN FRANKLIN: I therefore go to a couple of your suggestions, which I think would be in the interests of all political parties, to potentially streamline that burden in a way that does not in any way compromise the integrity of the system. One of your suggestions is looking at vouching for expenditure of only \$100 or more and potentially randomly sampling expenditure that is \$100 or less. Could you speak to that a little bit more and tell us the potential proportion of time, if you can, that would be taken, or proportion of receipts that are taken by expenditure below \$100?

Mr STONE: I think that the compliance burden across the board is enormous, given the requirement for vouching of donations and items of expenditure. In my submission I used the particular example of social media. Obviously social media is increasingly becoming an ever more important tool in the toolkit during an election campaign. At the moment, where you put any money behind a social media post, you need to provide a copy of the invoice and receipt and a copy of the post. For the purposes of disclosure, we need to provide hard copies of that to the Commission. I made the point in my submission about the numbers of folders that we had to deliver to the Commission.

The Hon. BEN FRANKLIN: That can be down to only a few cents, yes?

Mr STONE: Exactly. I make the point that naturally candidates in political parties still have to keep all of those records. Even in a system where there was random sampling of material for audit purposes by the Commission, we would still need to have those records on file. The exercise of compiling, reconciling, attaching and then putting into folders all those pieces of material for disclosure, is time-consuming and, in our view, bureaucratic red tape. If there are ways of streamlining that process—and that was one example, there may be other ideas that are out there. Certainly, there would still be the requirement to keep those records and to be able to be expected at any point by the Electoral Commission to provide them, without having to go through the enormous process after an election of compiling it all for submission.

The Hon. BEN FRANKLIN: The second issue that would save an enormous amount of time for political parties, but not undermine the integrity of the system, is combining public funding and the expenditure disclosure returns into one. Can you speak to that a little bit more?

Mr STONE: Again, I made this point in our submission—within a two-week period we had to provide our public funding claim, vouching for that, and then a fortnight later provide in many cases substantially the same information for the purposes of our electoral expenditure return. It is bureaucratic red tape and the extent to which we can streamline that would be useful. I did make the point of comparing and contrasting the State and the Federal system, given the proximity of the two elections. We had put in our public funding claim and received the funding for the Federal campaign and that election took place seven weeks after the State election. We had put in our claim and received the funding before we had submitted the public funding claim for the New South Wales election. Obviously, in that period, parties accumulate interest costs and various other things on lending facilities and it seems absurd to us that in this day and age we are producing volumes of paper for no clear purpose.

The Hon. BEN FRANKLIN: That is obviously partly ameliorated by a partial upfront payment—but not entirely.

Mr STONE: Sure, exactly.

The Hon. BEN FRANKLIN: The final point I want to make on this issue is something I raised with the Labor Party, as well. The National Party submission talks about the provision of the exception to aggregation for small donations at functions, which is currently \$50. With the introduction of the ban on cash donations above \$100, would you support that limit being raised to \$100?

Mr STONE: I have no objection to that. I think in practical terms, in terms of administering such a system at a branch and a conference level within our organisation, that would certainly make life a little easier. Given everything I have just spoken about about—the compliance burden and the like—I think it would be a commonsense approach.

Mr PAUL SCULLY: I asked Mr Lennon from the Labor Party about this, as well: Digital campaigning is obviously increasing and increasing its influence and its costs of production and ease of production. Do you

have any views, or does the Liberal party have any views, about the authorisation regime that currently exists with respect to digital campaigning and whether that is too complex, just right or should be amended in some way?

Mr STONE: Again, there is probably a bit of a compare and contrast here with the Federal regime. In the context of authorising social media posts, when you have material for those being posted by either a candidate or a political party, the information on that platform includes an authorisation on it. It seems as if we are multiplying the requirements of disclosure to require individual posts to also be authorised. As a matter of practice, we have always sought to authorise: When in doubt, always authorise. The requirement to potentially authorise the information of a page of a platform, plus on a tile, plus on a post, is ridiculous. Under the Federal regime, authorisation is now required throughout the electoral cycle, but it is not required on social media tiles; it is only required for information that is available on the platform via Facebook, Instagram or the like. That is a commonsense approach. You can see that any material that is posted on this page has been authorised by someone who is taking legal responsibility for it and I think that is the commonsense approach.

Mr PAUL SCULLY: Do you have any thoughts on what the Commission might be able to do with respect to non-candidates or non-political parties, given it is easy enough for other individuals, or those purporting to be other individuals, to produce or interact on those platforms, and how that might be best addressed?

Mr STONE: That is always difficult. We have come a step forward at this election with the various registers of third-party campaigners and the like being online, so there is an element of transparency that people can understand who the registered participants are in the electoral process. The challenge is always in situations where perhaps grassroots organisations or individuals who are obviously running a campaign of sorts are posting material that is not properly authorised. I think that is a bit of a vexed issue, in a way, and how to police it. But obviously it has to be done in the same way that registered political parties and third party campaigners and the like are regulated.

If you are going to engage in the political process, you need to abide by the rules. It is a matter for the Commission as to how they do that but we have certainly encountered instances in the past where individuals or groups have conducted campaign activities where they have not authorised material or the like and where the Commission has made efforts to try to police it but that has obviously been very difficult. It is an area that we need to think about more carefully. But as a principle, participants in the electoral process need to all comply by the same rules. If you are an interest group or the like that intends to express views during an election campaign then you need to go through the proper processes of registering.

The Hon. PETER PRIMROSE: We have received one submission which proposes changing the one vote, one value rule in New South Wales. The Liberal Party would support the retention of that, I presume. Is that the case?

Mr STONE: We support the retention of one vote, one value.

The Hon. PETER PRIMROSE: This one is for those of us, as I mentioned to Mr Lennon, who have been rained on consistently in various elections and that is allowing greater flexibility in applying the six-metre rule so as polling booth staff could make that decision locally. Would you support allowing them to have greater flexibility in applying that rule?

Mr STONE: I think the issue here is consistency. If you are a participant in the electoral process and indeed registered political parties that run candidates in multiple electorates have to be mindful of the rules that are in place. Just as we seek to abide by the rules, we need to properly understand the rules and the way in which they are going to be applied. I have made reference to that on a different issue in my submission. We need to understand how the rules are going to be applied. The issue here is consistency. Yes, local polling officials that are managing individual booths need to be given the authority to make those sorts of decisions but they need to be consistent with the rules that are in place. Unfortunately at virtually every election there are examples where the interpretation of the six-metre rule applied in one place is different from the application in another place, often in the same electorate. My point would be consistency is the key issue here. Local officials need to be mindful of the individual circumstances of a booth—how it is laid out et cetera—but they need to apply the rules consistently.

The Hon. PETER PRIMROSE: Good point—thank you.

Ms FELICITY WILSON: Mr Stone, I have a question about early voting centres and the counts that follow early voting. The Labor Party in its submission suggested that the vote counting could start at 4.00 p.m. on election day. Do you have a view on that suggestion?

Mr STONE: I think vote counting should start when polling has concluded.

Ms FELICITY WILSON: You would not support introducing the counting of early votes starting from 4.00 p.m. on election day.

Mr STONE: No.

Ms FELICITY WILSON: I also want to ask a bit more about iVote. I had been hoping that we could hear a bit from some of the iVote academics in that space. One of the key areas for iVote historically—it may not be seen as the predominance of people using the system now—was about accessibility, so using the phone et cetera for people with mobility issues, sight issues, hearing loss et cetera, people who need additional support or technology to do that. Do you know of any systems in other jurisdictions that would enable that through a digital platform or, for an alternative, if we are continuing to see an issue with iVote? I ask that specifically because, although I think it is an accessibility tool for people who meet the criteria under the Act not to vote on election day, the greater need is for those who will struggle to vote at all without that technology or support.

Mr STONE: I am not personally aware of platforms in other jurisdictions. I am aware that iVote has been used in other jurisdictions around Australia where the New South Wales Commission has provided that service to other Electoral Commissions here in Australia. I have to say I am not aware of other similar platforms in other jurisdictions so it is difficult to answer that question.

Ms FELICITY WILSON: Well, thank you for trying. On iVote and early voting and the increasing use of both of them, you spoke about trying to increase education of people to understand the current restrictions around access to early voting. Is it your view that that restriction should be retained or is your view that if the restriction is retained then it should be imposed?

Mr STONE: Just to clarify the first part of your question there, I think you will find, and our submission includes figures that are from the Electoral Commission—we have taken them from the Electoral Commission's website, iVote numbers actually decreased at this election. It is pre-poll numbers that have increased substantially. My view is that if the intent of the Parliament is to have an election day and with certain criteria for those who are not able to attend a polling booth on election day to be able to vote early then the community should be educated, informed and indeed policed at the point at which people attend a polling booth. I do not see any reason to change the current arrangements.

We have had parliamentary democracy in this country for over 120 years. It has always been based on an electoral event occurring on a single day. It provides the community with a snapshot of the community's views at a point in time and I think it fundamentally changes the democratic process when you move to an electoral period across which people are expressing views. I fundamentally believe that an election day should be kept in place and, bearing that in mind, that there ought to be better education of voters around the preconditions for not voting on election day.

Ms FELICITY WILSON: On early voting, quite a few of the comments in submissions have been about the resourcing of the Electoral Commission. Do you have a view on whether the increase in early voting is having a disproportionate effect on the resources of the Electoral Commission, noting that every eligible voter has a right to vote and a requirement, in fact, to vote, so would have to do so at some point at some polling place and would have to have staff overseeing that et cetera? Do you think that the early voting increase is having a disproportionate effect on resourcing and do you have a view on that?

Mr STONE: Ultimately, ahead of an election the Commission determines the locations for early voting in individual electorates. They then need to staff them and they need to do that within a budget, presumably, for the electoral process. But by the same token, given that the law as it stands today sets out that there is an election on a single day, they need to make provision for the vast majority of voters to be attending polling votes on a single day. Ultimately the resourcing of the Commission and how they use those resources is really a matter for the Commissioner. But in our submission we make the point that in a metropolitan area, particularly given the size of State districts, there really is not a need for any more than one pre-poll centre in any metropolitan electorate. Naturally there is a need to have more than one location in regional electorates. But, as I said, the law as it stands today sets out that there is an election day and that is where one would presume the bulk of the resources needs to be dedicated because that is when the vast majority of people are voting.

Ms FELICITY WILSON: I asked the President of the Australian Labor Party about that suggestion that you had made to have one early voting centre per metropolitan electorate. One of the comments in response was that there might be historic locations or communities might then feel disenfranchised—that is my language—if they could not access an early voting centre that had previously existed. Not to presume that you know every early voting centre historically across every metropolitan district, but has there been, in your understanding, across metropolitan areas a fair amount of consistency historically in those locations? Do you think anything has been changing in recent years with the number and location of those centres per district?

Mr STONE: I would make the observation that there are often changes between elections of the location of either pre-poll centres or polling day voting booths. I appreciate that will come down to availability of venues.

There will be a whole range of factors that come into play. You do tend to see across elections that there will be locations that will be the same each time but at every election there are changes in various places and it is no doubt due to availability, appropriateness and accessibility. There are probably a range of factors that the Electoral Commission takes into account. While on one hand I would say, yes, in many places those locations have been used across a number of elections, it is not unusual for polling places to change.

To give one particular example—again the contrast between the State and the Federal campaigns—Town Hall has historically been the venue in Sydney for early voting from across the State, or indeed nationally at a Federal election. You can vote there if you are in any electoral division in the country. At the Federal election, for the first time in living memory, decided not to use the Sydney Town Hall. Naturally, it is a location that people get used to attending and when it was not available they then had to find the other locations in the Sydney CBD. It is just a demonstration that from time to time changes in locations do take place. As political parties or indeed voters we have to, given the information that is available on the internet and the like, do a bit of homework and understand where the locations are I am sure you will not have a problem.

Mr CHRISTOPHER GULAPTIS: I gather your distaste for the pre-poll period as the "polling period", as it is described, given that it is becoming very popular and seems to be integrated into our polling day, do you think that our election advertising blackout should be extended to include that pre-poll period?

Mr STONE: The blackout period is a matter for the Commonwealth.

Mr CHRISTOPHER GULAPTIS: It would save a lot of money.

Mr STONE: I have heard suggestions that perhaps the media blackout should no longer be in place. I have certainly heard these suggestions since the Federal election. That is a matter for the Commonwealth. I think it has now been a standard practice for many years. Everyone is used to it and I expect voters are probably relieved that for the final couple of days before election day they can reflect on the information they have and decide how they are going to vote.

The Hon. ROBERT BORSAK: I take what Mr Gulaptis says, it is quite interesting. On the more mundane issue of membership fees, do you have a view on that in relation to how it is treated as opposed to a campaign account as opposed to administration money?

Mr STONE: As in membership fees for political parties? I would not really have a view one way or another. Obviously they are considered administration at the moment. I do not see any need to change that, personally.

The Hon. ROBERT BORSAK: You do not?

Mr STONE: I do not. I do not see any compelling reason.

The Hon. ROBERT BORSAK: Why would Liberal Party members be paying membership fees to pay for the administration of your party rather than campaigning?

Mr STONE: Well, in many cases members of the Liberal Party also donate to our campaigns as well. I would make the point that obviously with the compliance responsibilities that we have in place and the need to administer an organisation, we have around 12,000 financial members in New South Wales.

The Hon. ROBERT BORSAK: That is a pretty good cash flow you could put into the campaign if you could get it?

Mr STONE: I do not disagree with that but certainly there are costs associated with running a political party and there are compliance costs and the like. I do not see any compelling reason to change that at this point but I do accept the point you are making.

The CHAIR: Mr Stone, if you could cast your mind forward 12 years, what do you think an election period would look like in New South Wales?

Mr STONE: I would hope it would still be an election day. I accept that with every election obviously technical innovation occurs and obviously here in New South Wales we have had iVote for a period of time and we have spoken about that quite a bit this morning. As the community changes and our use of technology only increases I expect that in subsequent years the use of technology around election campaigns and, indeed, in terms of the conduct of elections will only increase. I think we have to be careful to ensure that there are proper safeguards in place, that the systems are robust, that they are fail-safe and people can have confidence in the integrity of the system.

The Hon. BEN FRANKLIN: Could you speak to us about your views of the electronic lodgement of disclosure forms?

Mr STONE: I would certainly be supportive of moves to use electronic means to submit our disclosures. I talk in my submission about the numbers of folders with hard copies of invoices that we had to submit. I would be supportive of a move to a more electronic approach to the submission of documents like that. We certainly have been using them for nominations; obviously, the registration of electoral material for polling day; it would seem natural to extend the use of it in that space as well.

The Hon. BEN FRANKLIN: One final quick question on party agents. There is a requirement that the party agent must personally sign a range of documents, as you would be aware, that have to then be lodged very quickly. The problem is sometimes the party agent might want to have a holiday or some life but the turnaround time is often very short. Would you be supportive of a system wherein the party agent, if they were taking leave, could apply to the Electoral Commission and potentially nominate somebody who could sign on their behalf for a finite period of time until they return to ameliorate that issue?

Mr STONE: I would certainly be supportive of that. I make the observation that political parties obviously have a party agent and they have a registered officer and a deputy registered officer. In the event that a party agent wants to take leave, I make the point in our submission around the turnaround times with the half yearly disclosure periods. And, particularly at the end of the financial year there is a tight timeframe during which we are preparing annual returns for the Party.

The financial documents related to the Party as well as our disclosure at the tail end of the year is, obviously, over the Christmas period where naturally there are public holidays that are in place and people want to take time off and enjoy time with their families. There needs to be a level of flexibility there to be able to properly comply with our obligations. That is why we make the suggestion of extending the period for lodgement to six weeks rather than four weeks to better manage workflows during that period. As I said, we have registered officers and deputy registered officers who have similar obligations under the Act. I see no issue with what you suggest there.

Mr PAUL SCULLY: There has been a suggestion in a number of submissions about a greater alignment between some of the Federal rules and New South Wales rules. One in particular was the inclusion of party logos on ballot papers as is done federally and in Victoria. Do you have a view?

Mr STONE: I would support that. I think for electors who are attending a polling booth, particularly in electorates where perhaps there are large numbers of candidates or on the upper House ballot paper, if that makes the job easier for an elector to identify the candidate of their choice I very much support that.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing the replies to which will form part of your evidence to be made public, would you be happy to provide written responses to any further questions?

Mr STONE: Yes, I would.

(The witness withdrew.)

ROSS PHILIP CADELL, State Director, National Party of Australia - NSW, affirmed and examined

BRADLEY VERMEER, Operations Director, National Party of Australia - NSW, sworn and examined

OLIVIA ELIZABETH KERR, Administration Officer, National Party of Australia - NSW, affirmed and examined

KATHLEEN MARGARET CHALMERS, Finance Director, National Party of Australia - NSW, affirmed and examined

The CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters today to give evidence. Can you please confirm that you have been issued with the information about standing orders in relation to the examination of witnesses?

Mr CADELL: I have, Mr Chair.

The CHAIR: Do you have any questions on that information?

Mr CADELL: No, Mr Chair.

The CHAIR: Would any of you like to make a very short statement before the commencement of questions?

Mr CADELL: As to our written submission into evidence I note that we have made a slight amendment apologising to one of your Committee members for some errors regarding that electorate. I thank the Committee for having us today. We agree with the Labor and Liberal parties that the election operated reasonably well. Our position as a party is that of a regional party. We have no view as to what the significant issues are in cities and what happens there in pre-poll, but we do speak entirely for things that happen in the regions that are often quite different to what happens in metropolitan centres.

Our focus on regional voters means that we take a very big interest in the postal pre-poll and iVote system and how they worked or did not work. Procedurally we agree with both witnesses before us. We were concerned about the dispute resolution mechanisms of the New South Wales Electrical Commission and it has been raised by others here. We want to look at the representation of the regions and how that affects this Parliament. It is not just the conduct of the election, it is the format of that election. We fundamentally believe an electorate of 350,000 square kilometres, no matter who it is held by, is an unfair situation. It eliminates a community of interest and puts people at a disadvantage getting representation that they may require.

Subsequent to the written submission a question was asked by the Hon. Ben Franklin about the secondary person to an agent for a form, the requirement of a party administration fund: That is something we would like to put in writing to you later. There will be some questions regarding the funding claims, there were some concerns. New South Wales elections did a good job. There were a couple of standout issues especially around postal votes. We had situations where postal votes that had two applications on them that were sent into New South Wales elections only one of the voters was sent a postal vote in the end. We know they processed the form because they have processed one of them but they have not got the second one. What was more concerning is approximately three months post the New South Wales election we got a lot of notifications via email that batch emails we had sent electronically of postal vote applications to New South Wales elections had been deleted without reading. That was a concern for us and we would like to see greater transparency around that.

The CHAIR: The Committee has received submissions from your organisation, would you like the submission to form part of your formal evidence?

Mr CADELL: With the supplementary change, yes.

The Hon. BEN FRANKLIN: Starting at the beginning I note you talk about the effect of expenditure in regional electorates. The first point is quite clear, in terms of differentiation between regional electorates and city ones, is the impact of travel. Could you talk to that and if being under the expenditure cap has an unfair impediment on regional electorates rather than city electorates?

Mr VERMEER: I thank the Hon. Ben Franklin for the question. That is something that affects the National Party which represents rural and regional areas, which is our core base. When you consider an electorate the size of Barwon, which is over 356,000 square kilometres the travel time to get from one end of that electorate to the other is nine hours. Compare that to the inner city electorate of Newtown and it takes you 15 minutes to get from one end to the other. The amount of travel involved in making sure a candidate or campaign staffer can effectively get around that electorate and meet all of the constituents is substantial and often it cannot be limited to car travel. There may be flights involved and also substantial costs in accommodation.

The cost of campaigning in regional electorates is disproportionately higher than it is for candidates in inner city electorates. Other examples that indicate campaigning in regional electorates is substantially more expensive is the cost of distributing electoral material. Often within regional electorates the only way to get material to constituents is via Australia Post and that is increasingly expensive in comparison to city electorates where you can often get volunteers to letter box them or there are other distribution companies available. They are not available in a number of regional electorates. The cost of distributing that information is high. We also work as a party within a number of media markets in comparison to a number of inner city electorates which would be within the Sydney media market.

Media markets do not follow electoral boundaries unfortunately, it would make our jobs much easier if they did but they simply do not. It requires us to produce a larger amount of material which is relevant to the electorate. Then there can be quite a substantial amount of broadcast wastage. The cost of producing that material and the cost of broadcasting that material into electorates can be substantially higher than for a party that may do a more generic campaign in inner city Sydney or Newcastle or Wollongong when we are producing individualised content for broadcast. There are a number of items that contribute substantially to increased costs within the regions and are not necessarily taken into consideration with the electoral spending caps that apply across the board.

The Hon. BEN FRANKLIN: I am not sure how we could recommend that some of the latter points you make be taken out of electorate expenditure for the country but not for the city but potentially would you support the recommendation that travel and accommodation be taken out across all electorates?

Mr VERMEER: Absolutely. As I said it does make a substantial contribution to the electoral spending cap and it is something in a number of regional electorates, particularly out in the west, that does have a disproportionate impact on those candidates compared to candidates in other electorates.

Mr CADELL: To that point, we have a duty of care which I think the Hon. Robert Borsak would have with his party too in these seats, that we do not run our candidates ragged. It is a hard time for every candidate but to put hours and hours of drive on top of someone at the end of a function is not a fair risk.

The Hon. BEN FRANKLIN: Can I move to some of the other issues I have raised about the onerous level of compliance currently on all political parties and the way we can lessen that without undermining the integrity of the regulatory and legislative system? Firstly, in terms of small donations particularly your suggestion in your submission about increasing the limit from \$50 to \$100 in terms of the aggregation. Could you speak to that a little?

Mr CADELL: I will take the initial point. The aggregation is not currently working as it should. Mrs Chalmers might speak more about the legislation. Even though the \$50 is not aggregatable, we still have to do prohibited donor checks on every donation. So you have a small branch function in West Wyalong that charges \$35 per head. We have a person, Lachlan Beach, sitting there all day just processing the RSVPs. It costs us more to hold the function because he is processing that. We do not get many prohibited donors so it is like installing blinkers at a BMW factory, lots of work for little result. He works all day and rarely finds one but we have to do it. So increasing that aggregatability to \$100 and removing the process—. Mrs Chalmers can talk about prohibited donors and the legislation change.

Mrs CHALMERS: In the Electoral Funding Act 2018, sections 46 and 52 are still valid for under \$50. These are checking that the donor is on the electoral roll and that they are not a prohibited donor. The trouble with the \$50 rule is, if it is a small get-together at a local branch and the ticket might be \$30 just to cover lunch, generally a husband or a wife would buy a ticket as a couple, which is \$60 therefore that no longer meets the under \$50 rule because that is a one-time donation of under \$50. If we upped it to \$100, there would be more ability to use that rule. If we amended the Act so that it said "reportable political donation" not "political donation", we would not have the onerous task of checking whether all these people were either on the electoral roll or a prohibited donor.

The Hon. BEN FRANKLIN: On a couple of other of these issues in terms of the lodgement of disclosures, I note your submission talks about the four-week period being an onerous one. The Liberal Party suggests that could be raised to six weeks. Is that something you would support?

Mrs CHALMERS: Yes, most definitely. The issue with the 28-day is that both half years are at times of the year when the 28 January people are on leave for a certain amount of time. The one in June—it is not just the 28 days. With that disclosure you have to provide all your trial balance, general ledger, all your books and it is not feasible for an organisation to have closed off their books by 28 July. Some of the dates they have amended in this Act are much better. The financial audited statements are now on 21 October but that is quite possibly

going to be different to what you have submitted on 28 July. I think that having the donations and the expenditure separate has alleviated some work.

But the 28-day is not feasible and there is too much work. The other thing I would point out is the 28 days is also for donors. In the previous Act, donors did not have to disclose until after the parties had to disclose. So coupled with having to have all this work in 28 days, we also have donors asking what they have donated for the financial year so we have to have staff to respond to that. By the time the Electoral Commission have got our disclosure and we respond to donors that we have disclosed, to say you have to disclose, they have already broken the law in getting their disclosure in on time. I would suggest that, as with previous Act, the donor disclosure was a date after the date that the party disclosure is due.

The Hon. BEN FRANKLIN: Finally, the Liberal Party has suggested one way to help ameliorate the enormous amounts of material you have to provide to the Electoral Commission in terms of vouching for everything—even social media posts costing a few cents—would be to only have a compulsory vouching for items of over \$100, with a random selection of items below that. Is that something you would support?

Mrs CHALMERS: Yes, most definitely.

The Hon. PETER PRIMROSE: Just two quick questions. The first relates to your recommendation, number 15, about one vote, one value and abolishing that. What mechanisms would be required—legislatively and legally? I presume you have taken advice on this? How would it actually work?

Mr CADELL: Yes, sir. Recommendation 15 is not necessarily one vote, one value. It is about geographical size and one vote malapportionment is one way of achieving that—only one. That would require a referendum of the people at the next State election.

The Hon. PETER PRIMROSE: How otherwise could it be achieved?

Mr CADELL: The initial step would be to increase the number of seats in New South Wales. That is something we strongly support in the interim. In 1988 there were 109 seats in New South Wales, with an average enrolment of 31,000 voters. We now have 55,000 voters, which is 10,000 higher than the next highest state which is Victoria. If you return to 109, we would still be at 47,000 voters. We would still be the highest number in the country. In regional areas—and even in cities—what we have is communities of interest that do not exist. So a seat held by the Labor Party in Lismore, Tenterfield has no community of interest and the Great Dividing Range between it and Lismore but it is part of the same seat.

We go back to Barwon again, where Cobar and Narrabri do not feel anything with Broken Hill. Geographically making seats smaller—just by increasing the number of seats and we would advocate a big number—would be the first step. Political parties look at an election process in a very black and white way. We want to win and we look for advantage in any way we see fit. From representing 31,000 people in 1988, there is no way that at 55,000 people we are giving the same level of representation that people want and they need. We should look at lowering that number as much as we can.

The Hon. PETER PRIMROSE: So you think it was a mistake in 1991 when the Greiner Government changed that number?

Mr CADELL: I do.

The Hon. PETER PRIMROSE: For personal reasons I probably tend to agree. What do you believe would be an appropriate number of members?

Mr CADELL: I would immediately go back to 109. That is still 47,000 people per electorate so would still be bigger than Victoria at 45,000. I would like to see a high number but whether this place can handle that, I am not sure. We need to look beyond the cost although I am aware we are a Parliament and it is unpopular to say that the cost of representation is so high. If you had a corporation that had 55,000 customers, would you have a CEO and three staff in a complaints department? You simply would not. You would have far better coverage of that. In a time of uncertainty where government now—not the brand of government but the entity—is doing so much more and in so many more areas, having the ability to advocate far more with stronger staff and stronger members would be a good thing. I think people would see better value for their Government.

The Hon. PETER PRIMROSE: Secondly, you talk in recommendation 13 about basically allowing early voting centre managers which I think means the ability to have discretion in terms of placement of posters and whatever. My question relates to not only early voting centres but polling places generally and the application of the six metre rule. Do you think that local polling staff should be given greater discretion to not rigorously apply the six metre rule?

Mr VERMEER: Absolutely. There have been examples in certain areas. In our submission we used the Lismore early voting centre, where there is a reasonably small footpath out the front and it is surrounded by other local businesses. If the six metre rule is applied strictly, the placing of signage can obstruct the footpath, other businesses and the same with volunteers. Volunteers had to stand almost out in the car park area, which creates an occupational health and safety issue. A level of common sense in these types of things would be most helpful. Another example that Mr Primrose brought up previously was standing in the rain simply because the six metre rule was drawn where the verandah was. I think a level of common sense could come into that, if all parties and candidates on said booth agreed. It would make it easier for volunteers standing on the booths and also for any surrounding businesses and pedestrians. For occupational health and safety reasons it makes sense.

Mr CADELL: If I can add to that: I would like to see an end to the arms race, especially at pre-poll. In key seats in elections we see people getting up earlier and earlier to get prime real estate—you see 3.00 a.m. setups of booths, which is ridiculous. It is not healthy for our volunteers or anything. If you are going to have the discretion I would also like to see a limit of what you can put in that zone so that people are not required to get up at 3 a.m. to do that. That is farcical.

Ms FELICITY WILSON: Are you speaking about early voting centres or polling booths on election day, as well?

Mr CADELL: Polling days are a bit more have at it. I would like to see a restriction on signage at early voting centres.

Mr NATHANIEL SMITH: Earlier Mr Franklin spoke about the expense of travel and accommodation in the cap currently and to try to have it separately in the cap in the future. As someone who comes from a regional country electorate—Wollondilly—I think one of the biggest impediments on parties in those areas is that there is no mail distribution or companies like that. Would you like to see a different classification for the cap for country areas to deal with those mail expenses? In the city you have more dense electorates, so obviously for letterboxing you have more ability to use a mail distribution company.

Mr CADELL: I think the cap has been good at limiting the arms race and what people can spend and going crazy. When we are talking about electorate expenditure, such as advertising, it makes you prioritise. I am probably against extending the cap for different expenses because you can prioritise things. Things cost more—it is more—but it is an even playing field because if we cannot spend as much, then Labor cannot spend as much. Where it is bad, is on travel. We have an obligation to keep our candidates safe and I do not feel that we did a good job of that in the last election. I do not think that is something we can be proud of, when we demand them to be everywhere at everything. Going round cap in hand to farmers asking for Cessna 152 rides to different country towns was a short-term thing. A cap is a cap and we have to work around that and prioritise differently, but travel should be treated differently.

Ms FELICITY WILSON: Thank you, Mr Cadell and The Nationals team. I have a question about early voting. We have had a bit of discussion today around early voting centres—the number of centres, the location of them and the period of time in which they should be operational. There was also a recommendation from the Labor Party about commencing the count of early voting centre ballots at 4 p.m. on election day. The Liberal Party submission suggests a maximum of one early voting centre in metropolitan areas and that that should be greater in regional areas. Do you have any comments on the number and location of early voting centres and also that recommendation from the Labor Party of early voting counting commencing at 4 p.m. on election day?

Miss KERR: Firstly, I can speak to the location of early voting centres. It is particularly hard in big electorates to access an early voting centre. It is not a matter of taking an extra 10 or 15 minute walk to the nearest early voting centre; for some electors it might be an eight or nine hour drive to get there if you have dirt roads mixed with tar roads. At the Federal level there is a requirement that towns of a certain size—of 5,000 people—have an early voting centre. That would be a good thing because as we have seen with the difficulties with accessing postal votes and the ups and downs of the iVote and phone voting systems, a lot of people are relying on getting to those early voting centres. Having them in the big regional towns would be a definite advantage for us.

Mr CADELL: Further to your point on the time they are open and the number that open: I do not believe we can have the current rules not enforced and two weeks of open. If you have open slather for two weeks it is a recipe for disaster and we are seeing delays under that. I think you have the rules around pre-poll voting either enforced in the two-week time or you allow a blind eye being turned to that, and a shorter period. At the risk of ending up in National Party purgatory, I agree with The Greens on that. They have an eight day submission—the Friday prior to the election. That would make more sense to me if you were to open the doors for pre-poll voting. I note some questions from Mr Borsak about iVote, with the options and problems of postal voting, and early voting generally for country people. Mail gets delivered once a week in some places and people were getting in a

situation where they made an application for a pre-poll vote and it was not coming—whether it was not processed or did not get there on time—so they were advised to ring up for an iVote, only to find the iVote system was down. They were advised to pre-poll vote and they had to travel four hours. This is part of the regional thing. We need to make sure that those people can vote. You asked a question about other systems' performance, was that it?

The Hon. ROBERT BORSAK: I did.

Mr CADELL: If you go online to electronic voting systems in Australia, iVote is held up as the model. I think 15 countries or constituencies have tried electronic voting in different ways. The majority have discontinued it.

The Hon. ROBERT BORSAK: That was my experience and that is why I have been hammering it all the time. It is an unreliable system.

Mr CADELL: I slightly differ in that I would rather it be there so some of our people can vote, than not vote. But around pre-poll stuff I would bring it back to eight days in advance. We also submitted that if we close nominations earlier, it allows a better timetable for New South Wales elections to have their ballots printed and distributed because they know the role, they know the draw and it gives them a slightly longer period to distribute stuff. We believe that would improve the postal vote system and compensate for some of those problems around that.

Mr VERMEER: To respond to the last part of your question, Ms Wilson, regarding the counting of pre-poll votes or absentee votes prior to the closure of polls, we support the comments of Mr Stone from the Liberal Party—that polls should close before votes are counted.

Ms FELICITY WILSON: Thank you. Can I clarify, Mr Cadell, you have suggested that there are two options. One is that you enforce the existing rules and you can retain two weeks. The other is that you have a free for all or "open slather" was your terminology, and you should be restricted to eight days. What is the National Party's view? Should we be enforcing the rules or should we be relaxing the rules?

Mr CADELL: I believe that there is fundamental difference in access to a polling booth in the metropolitan area and the country area. In an electorate that is 20 or 30 square kilometres, you should be able to get to a polling booth—there are 25 of them on the day. Therefore, the rules should be applied. In the bush, there can be no polling booth within 100 kilometres, so when you are in town, you vote. The rules apply quite strongly there so I am slightly different to the Liberal Party on this. I believe that those rules should be more loosely interpreted in the regions..

Ms FELICITY WILSON: My second question is whether you could elucidate your views on negative campaigning?

Mr CADELL: Do not get me wrong, we are great practitioners and full believers in it under the current rules and I think we enjoy it. But at a time when people are looking down on their politicians—their beliefs and stuff like that—we are our own worst enemies. We all know that—I am sure Mr Stone behind me is looking at me—negative advertising is a very successful means of driving opinion. It is more successful than the positive. People rarely believe what a politician will do for you; they will always believe what a politician has done to you. We contribute—we spend money and ads on that because it works. As long as we are driving each other down and ourselves down, we do nothing to raise the level of what you people do as public servants for Australia. I am close to the system: I see what you get paid, I see what you do and I see these committee systems that drive so much. You deserve a better rep out there in the world, except we drive that opinion down. I am not going to individually go out there and de-arm the race and lose elections because we are noble, but if there was some mechanism where we actually respected each other more, that would be a good thing.

The Hon. ROBERT BORSAK: Further to that, Mr Cadell, how would you actually measure? Who would decide what is negative and what is positive?

Mr CADELL: There have been methods before. I notice in one of the other submissions there is talk about—I think it may be The Greens again—what they do in South Australia is there needs to be a degree of truthfulness in ads. There can be an independent panel that does that. The UK has a certain message where I think they ban TV ads—I am not sure commercial television in Australia would be like that. But there are ways of doing it. It can be if it is not talking positively. It is very different—it is not line ball about truth or non-truth. You know what is a negative ad. If I am talking about one of my candidates, I am not going to say anything bad. If I am talking about one of your candidates, I am. I should not be able to advertise and say, "Mr X from X party did this," or something like that. It should be stopped.

The Hon. ROBERT BORSAK: I do not know that I would actually hold The Greens to standards in relation to who should be judging or not judging.

Mr PAUL SCULLY: As long as they are not judging.

The Hon. ROBERT BORSAK: As long as they are not judging—that is right. Do you actually think an independent panel could do things like that? After all, the Government has enough trouble with independent panels as it is, let alone at electoral time.

Mr CADELL: I just think it would be nice.

Mr PAUL SCULLY: I have one quick question, Mr Cadell. There has been some suggestion of greater alignment of a number of things between the Federal voting rules and New South Wales. One of those has included the suggestion that party logos be included on ballot papers. Does the National Party have a view?

Mr CADELL: We do and we would like that.

The Hon. BEN FRANKLIN: The submissions from the Liberal Party and the Labor Party and your submission all talk about the electronic lodgement of forms. Could you discuss that more and how you believe this would make things more efficient in terms of the system itself?

Mr CADELL: Are you talking about financial forms, Mr Franklin?

The Hon. BEN FRANKLIN: Yes, absolutely—disclosures and so forth.

Mrs CHALMERS: Yes. It would be a lot easier. With the Australian Electoral Commission we can just log on to a portal and lodge the forms that way. It could also be done anywhere where you can get internet access as well. With the Federal claim for payment, for instance, all we had to do was submit an expenditure claim form detailing the expenditure, not all the vouching that was required in the initial instance to claim the money. Then obviously they can audit it later and ask for the vouching, which we would have. Something like that would be better, State-wise. The hours for compliance are absurd and there just is not the funding to pay for extra staff to meet those obligations.

The Hon. BEN FRANKLIN: An issue I raised with the Liberal Party was about party agents and the fact that there is often a fast turnaround time for forms to be originally signed, personally signed by the party agent. The Liberal Party director suggested the possibility that a way around that might be to allow both the registered officer and the deputy registered officer to also have that power. Could you comment on whether that is something you would support or alternatively the possibility I put before in terms of nominating someone else for a finite period of time? Do you believe it is an issue and how do you think it should be solved?

Mrs CHALMERS: Thank you for that question. Yes. As a particular example, with the administration funding advance the form is not available to apply for that until the Electoral Commission release that. We do not know the date that they will release that prior to the quarter that the advance relates to. Then there is a period of only about—I cannot tell you exactly, but it is a short period of time for that to be lodged or you miss out on that advance and then you cannot claim that until the final claim is put in at the end of the year. If the party agent happens to be on leave there is no way around submitting that claim. So if the party agent could authorise another registered officer to sign on that form, that would remediate that. The forms are ongoing through the whole year, so basically the party agent cannot have a holiday.

Mr CADELL: In saying that, Mrs Chalmers did fax one back from Barcelona, I believe, earlier in the year.

Mrs CHALMERS: Yes.

The Hon. BEN FRANKLIN: I move on to online and digital marketing and the authorisations thereof. There has been some discussion about that from both the Liberal Party and the Labor Party this morning. What are your comments particularly around the current rules?

Mr VERMEER: Thank you, Mr Franklin. Can I say from the outset that what Mr Stone from the Liberal Party said in his earlier contributions was entirely correct. The requirements by the NSW Electoral Commission as far as authorisations are concerned are quite onerous and also very difficult to enforce. We have found even when highlighting to the Electoral Commission breaches by other candidates that it was difficult to find any level of enforcement of these provisions. Within the Federal system, authorisation of the actual social media platform that you are talking about, so Facebook, Twitter—the site that you are using—is sufficient. We have always taken the approach of when in doubt, authorise, so we authorise almost everything. But authorising individual posts and then going as far as, with photographs that have been taken at an event, having to then take that photograph and add a digital authorisation down the bottom of it before it can be posted is, I think, an overly onerous expectation.

A level of common sense should be applied to these. Certainly bringing the authorisation requirements for digital marketing into line with those required by Federal elections would be a move in the right direction.

The Hon. BEN FRANKLIN: My final question is about the party administration fund. I note you talk about the desire for annualisation, not of course precluding quarterly payments but looking at the issue of annualisation. You have also raised a couple of other issues so I wonder if you want to talk to that a little more and if there are any other issues about the administration fund. Certainly Mr Borsak and I have had a number of discussions about the importance of this, particularly for smaller parties and those in regional areas.

Mr CADELL: The annualisation is the reverse of what it used to be. At the end of the year you used to work out what you had spent versus what you could and you could almost top up. Now it is a reverse onus where if you do not spend it, you can never catch up. So quarter one, where generally people are on leave or might be away, if you are not spending your entitlement you can never catch that up in the claims system from quarter one. It is a bad way of doing it. It should be annualised on a quarterly basis. We think that is the right way of doing it. The claims go in all the time. They can see that there is some ability to give money back if it is not required. We would prefer more up-front, something that I think was a question Mr Borsak was talking about.

The Hon. ROBERT BORSAK: That was actually in the previous Act. Before it was amended, that was the situation. And in Victoria, of course, they get 100 per cent up-front and refund what they do not spend.

Mr CADELL: Yes. And that would be better. But the whole fact that it is quarter by quarter with no recourse—so if we are having a conference in the second quarter or the third quarter and that might be a \$200,000 event, you either have to prepay all the expenses or you do not get any money—

The Hon. ROBERT BORSAK: Or if you make a decision at the wrong point in time.

Mr CADELL: Correct.

The Hon. ROBERT BORSAK: Actually squeezing down your capability to spend the allowance.

Mr CADELL: That is exactly right. So we would like to see just the calculation annualised, with the ability to claim it quarterly but have the calculation of what you are entitled to done annually. Separately on the party administration fund [PAF], you raised questions about membership funds going into campaigning before—

The Hon. ROBERT BORSAK: Yes.

Mr CADELL: Part of the reason for that is there are still party administration expenses that do not fall under the PAF category. So we are given this public funding for administering the Party but there are other expenses that do not qualify under that.

The Hon. BEN FRANKLIN: Like what, for example?

Mr CADELL: Like things that may be of a semi-campaign nature. I am on my way tomorrow to an advocacy seminar and conference but because there is a potential for a slight campaign aspect of it, because we are talking about technology, I cannot claim that under PAF, so that becomes an admin fee. I am aware the Labor Party and certainly the Liberal Party are out there using donations and some of this stuff for non-party administration fund expenses. If we were to get rid of that onus and be able to put that on—you cannot keep going and asking the public for more money, but potentially to remove the donations from the administration of parties and then free up so your membership funds can be spent on campaigns, which your members would expect in advocacy, there would have to be a separate funding mechanism for those funds that is not the same rules as PAF.

The Hon. ROBERT BORSAK: Yes. I agree with that.

The CHAIR: There being no further questions, thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr CADELL: Yes, Mr Chair.

The CHAIR: Thank you so much for appearing today.

Mr CADELL: Thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

SEAMUS MYLES LEE, Deputy Registered Officer, The Greens NSW, affirmed and examined

MARINA EUGSTER, State Manager, The Greens NSW, affirmed and examined

CHRISTOPHER HENRY MALTBY, Registered Officer, The Greens NSW, affirmed and examined

The CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters to give evidence. Can you confirm that you have been issued with the information about standing orders related to the examination of witnesses?

Mr MALTBY: We have, yes.

Ms EUGSTER: Yes.

Mr LEE: Yes.

The CHAIR: Do you have any questions about that information?

Ms EUGSTER: No.

Mr LEE: No.

Mr MALTBY: No.

The CHAIR: Would any of you like to make a short opening statement before commencement of questions?

Ms EUGSTER: Yes. We thank this Committee on electoral matters for the opportunity to comment into the conduct of the State election and particularly thank the New South Wales Electoral Commission for the support that it provides to political parties. Before going further The Greens have a minor change to its submission on page 14, item 16, with the removal of the third paragraph and recommendation 16 (b). The Greens would like to start by saying that they were happy with the conduct of this election. The Greens NSW has long advocated for robust legislation that maintains the integrity of elections and democratic processes that are free from corruption. Firstly, consistent with the other parties today The Greens submit that in ensuring that the New South Wales Electoral Commission is able to fulfil this fundamental role it must continue to be well funded and, in fact, receive additional funding.

Secondly, further to our submissions we wish to support the submissions of the Ethnic Communities Council, Blind Citizens Australia, Vision Australia, Homelessness Australia, and the Multicultural Disability Advocacy Association. We submit that the New South Wales Electoral Commission should be provided with increased funding to continue and further develop partnerships and education for diverse communities and those who have issues accessing the electoral system. Thirdly, it is noted that many of the submissions from all political parties, whilst all in support of the best practice electoral funding legislation and welcoming of the new nominations online system, submit that significant further investment in information technology is required. Later in my submissions we will comment on the changing world in which we operate.

A number of parties highlight the heavy compliance burden associated with the current high manual and time consuming reporting process. The Greens NSW strongly proposes that online solutions for electoral disclosures, reporting incidents, and complaints management, be introduced. It would also suggest that clever tools to reduce social media compliance burdens are investigated such as Facebook plug-ins, which provide the New South Wales Electoral Commission with real time reporting while still providing detailed disclosure of campaign expenditure. We submit that more democratic proportional models of electoral representation are implemented to strengthen the integrity and trust in our electoral and political systems with the coming younger generation of voters.

We submit that the mining interests are included in the definition of prohibited donors. It is obvious that this is necessary, that mining interests represent the same class of concern as the prohibited donors list. We also submit that concerns around online voting be carefully noted by the Parliament with a view to ensuring that risks can be audited and governance approaches be to the standard of critical sovereign infrastructure systems, as noted in one of the other submissions. This is of great import considering the wider, yet very relevant, context of the Australian official Information Commissioner who reported that 60 per cent of notifiable data breaches were caused by malicious or criminal attacks for the reporting period to 13 May 2019, including by State actors. The potential for the erosion of public trust in our electoral system is great should a major cyber security incident occur.

We also submit that the trend of growing social media usage, which is replacing traditional media outlets for some generations, be carefully considered and there be legislative development for the elections in 2023. Social media has both positive and negative effects: On the one hand increasing transparency and on the other hand the potential to seriously mislead voters in a six-second news bite. We also submit that the exponentially changing and growing online environment needs to be adequately resourced. Accessible, expeditious and cost effective resolution of allegations of misleading and false conduct: this is urgently required to ensure that our electoral system maintains integrity consistent with the primary purposes enshrined in our electoral legislation. Following on from that we submit that Parliament should consider a separate inquiry into the implications and evolving landscape of online security and social media campaigning on electoral integrity in New South Wales.

Mr PAUL SCULLY: The comments with respect to social media, this has been asked of others who have appeared before the Committee today, what is The Greens view on the current authorisation requirements? Should they be amended? Should they be changed in any way, shape or form?

Mr MALTBY: We understand it is potentially problematic to determine what those requirements actually are related to the definition of what is electoral communication, therefore, whether it needs to be authorised. Ms Eugster was telling me earlier that many of the other presenters to this hearing today have said that the Australian Electoral Commission model might be one more readily adopted and that is something we would support. We do not want to lose sight of the fact that when someone is looking at social media of any kind around the election that the person and those scrutinising the process be able to determine in some way who paid for it and who authorised it. That is a practical matter rather than having the words "authorised by" on there, which may not be the best way to achieve that outcome, especially when there is a character limit on tweets. Twitter has now banned political advertising, as we understand.

Mr PAUL SCULLY: You can still make political commentary. Arguably that is all it exists for.

Mr MALTBY: The important thing is to know if it is being paid for and what influence is paying for that communication.

Mr PAUL SCULLY: How do you think the enforcement provisions or the compliance provisions should extend to smaller organisations who, at a local level, may seek to provide their group with information on particular candidates at a very local level as opposed to what could be more broadly described as larger third-party campaigners?

Mr MALTBY: This is a very complex area. This is partly why we think a larger scale inquiry into these matters should be conducted by the Committee and by the Parliament. There have been significant allegations around State actors being involved in supporting various campaigns. We do not know where those things are coming from. It is easy for someone to pretend on the Internet where—as they say—nobody knows you are a dog. If somebody is putting up a \$20 advertisement, is that really who they are? Those are aspects that might need to be considered. Part of that involves regulating the Internet giants and that may be a problem for this Parliament. Generally speaking, we do not want to drown out small voices in democracy as that is an important part of our freedom but we need to be guarded against people masquerading as small interests, trolling and things like that or even automatic posting with the appearance of being some random person who lives down the street from you.

Mr LEE: Also I see in the United States that Elizabeth Warren was running a deliberate campaign, deliberately running false Facebook advertisements and no stance was being taken against that because they do not see their role as regulating content of political advertising. It would be great to have a large inquiry into the role social media is playing—

Mr PAUL SCULLY: You are not suggesting that the platform should be the arbiter of truth?

Mr LEE: No, not at all.

Mr MALTBY: It would be nice though, would it not?

Mr PAUL SCULLY: On a slightly different tack, there have been suggestions about alignment with some of the Federal laws. One in particular was the inclusion of party logos on ballot papers for both the Legislative Assembly and Legislative Council. Do you have a view?

Ms EUGSTER: We absolutely support that.

Mr MALTBY: We support that.

The Hon. BEN FRANKLIN: Could I take you to page 11 of your submission, specifically part 10? You look at the potential for electoral funding plans being made within weeks through the allocation of the vote amount, does this mean you are asking to do away entirely with the claim and with the vouching required? How would that actually work?

Mr MALTBY: It has been raised about essentially moving to what used to be the Federal system. We support that for a variety of reasons.

The Hon. BEN FRANKLIN: You support getting rid of the claim and the vouching required?

Mr MALTBY: We do not want to reduce the disclosure but there is a lot of bureaucracy involved in substantiating that. The Federal system worked pretty well although it has now also moved to a vouching and claim system which we did not think was a good approach. The Australian Electoral Commission [AEC] has a 20-day response time on the claim that you make and payments are made on anything not invalidated in that period but that does not remove the opportunity for the AEC to come back later on and question a particular item of claim and request a repayment. But the response time is much quicker. All political parties are potentially experiencing cash flow issues because it takes a long time to go through the extensive claims in New South Wales—

The Hon. BEN FRANKLIN: I am sympathetic to what you say. I am just wondering how it would actually work?

Mr MALTBY: The disclosure requirement should remain in place but we do not necessarily see that it needs to be linked to the payment. We do have a position about the generosity of the payments.

The Hon. BEN FRANKLIN: So potentially you could get the payment up-front and still put your disclosure in months later. If you are found to have over claimed, you would need to pay back or whatever.

Mr MALTBY: Or there would be appropriate court action taken against people who breached the legislation if that was necessary.

The Hon. BEN FRANKLIN: Understood. One of the other political parties today suggested that when putting in this claim, the only thing you should need to vouch for are those items worth over \$100. Anything below \$100 could potentially be randomly sampled or whatever. It particularly noted these tiny social media bills of only a few cents sometimes. Is that something that you would support?

Ms EUGSTER: It is a complex situation because The Greens are in support of full disclosure and visibility over electoral expenditure, campaigning and fundraising. We also note the compliance burden and it is something we need to consider properly as a party. We would like to provide a written submission to the Committee further to that.

The Hon. BEN FRANKLIN: Sure. If you would like to take that on notice that is no problem.

Ms EUGSTER: Thank you.

Mr MALTBY: That wraps into our earlier statement because it is largely on social media that these very small expenditures are being incurred. The more you closely target individual online advertisements, the larger the number of items that you have to disclose. If you are doing a targeted advertisement in a small area on a particular issue, you might spend \$20 on it. The more of those you do, the larger the compliance burden becomes. But we do not want to lose the visibility into that stuff.

The Hon. BEN FRANKLIN: My other question is about the pre-poll timing and your suggestion that it opens on the Friday before the Friday before the election. I do not have a strong view on this but I am interested in your view. Do you think that is enough time? I know that in larger electorates where the centres are more sporadic, often people are coming into town less regularly so I wonder whether eight days is enough? I am keen to hear your comments on that.

Mr MALTBY: It is a good question. I had not directly considered the implications for the rural areas and whether that was convenient there. Certainly in metropolitan areas—and maybe there is not a one size fits all here—now that we have two and a half weeks of pre-poll as we had in the 2019 election, the early period is generally very slow but parties are obliged to staff those booths. The number of booths at the Federal level—and now also the State—is expanding so the demands on parties are significantly harder to manage. I do not think we disadvantage a large number of people by restricting it to a shorter period. It also has the benefit of expanding the time in which materials can be authorised.

The Greens—because of our size—cannot afford to do two print runs of our electoral material. So if it is not authorised, we have the problem that if pre-poll starts a couple of days after nominations close, we have got to prepare and print all of our material, get it authorised and all the rest of it. That is just not physically possible in the time available so we end up either paying a lot of money for a short print run or doing photocopies for the first week of the pre-poll. Our experience is that very few people turn up anyway so there are a lot of logistical burdens. I think it would address some of the concerns others have raised in their submissions about the amount of work required between the close of nominations and the opening of voting.

The Hon. BEN FRANKLIN: In a regional sense, that problem is exacerbated even more. Getting it from the printer—which is often 300 kilometres away—to where you are handing material out.

Mr LEE: I think another party might have made the point about the delaying of the postal votes as well. If pre-poll was opening later, the Commission might be able to prioritise the postal votes. There are obviously issues, especially in regional electorates, where people might only be coming into town once a week because they are coming in to do their weekly shop or whatever. It is something that the Committee should be mindful of and hopefully the Electoral Commission is mindful. We are very thankful for the Electoral Commission staff that worked over the weekend and helped get our materials registered. That is something they do not have to do but it was very useful so we were able to get stuff to the printers on time.

Mr MALTBY: One of the features of the online registration, though, was that they appeared to be processed in submission order. So, if your party was very quick in submitting all of its material, you got your authorisations back a lot quicker as well. Partly because of our structure and the fact that we were maybe not in the first rank of submissions for authorisation, we had to wait that much longer while the Commission got around to issuing its authorisations.

The Hon. BEN FRANKLIN: You would be arguing for less democracy in The Greens and more authoritarian control from the top?

Mr MALTBY: That would not be the interpretation I would place on it, no.

Ms FELICITY WILSON: Thank you very much for being here today. On early voting, I want to understand your perspective on locations and number of locations. There has been a recommendation by the Liberal Party to have a maximum of one early voting centre in a metropolitan location and more than that in regional areas, per district. I asked the question of the Labor Party as well, which thought you should not have a restriction of one in an electorate. Do you have a view on the number of early voting centres in electorates?

Mr MALTBY: Not explicitly. I think it is probably too restrictive to say that it should be just one. I am thinking of a number of electorates where you have a commercial area, for example Bondi Junction, which is on the border between two electorates. If you have a pre-poll centre there, it makes sense for it to cover the two electorates. A significant proportion of either of those electorates may be at the other end, and there might be another commercial centre there that could take a pair or three of them. It is more about what is convenient for the voters. Generally, our view is that you can go too far with this. In the Federal election this year the number of pre-poll centres for some of the inner city electorates was enormous—I think there were four or five of them for electorates such as Grayndler, Wentworth and Sydney, and so forth. They run even longer in the Federal sphere so the staffing for that was a nightmare for all parties, I understand. In our view that is not very helpful to the democratic system. There is a balance and the smallest number that is convenient for the most people is probably the answer.

Ms FELICITY WILSON: On early voting and the enforcement of the rules, presently we have a circumstance where we are seeing an increasing number of people who are early voting and it is generally viewed that that is because more people are choosing to early vote without the actual restrictions of early voting applying to them—it is seen as an extension of polling day for two weeks. Do you have a view as to whether or not there should be greater enforcement of the existing rules of the limitations on those who can early vote or whether you think that we should be looking at expanding who should be able to access early voting?

Mr MALTBY: Again, it is complex. The de facto situation, as I am sure everyone is aware, is that people access early voting without meeting all the requirements, which the Commission tends to ignore. They ask the question of whether a voter is entitled to it and, if the voter says yes, they issue them with a paper. That is the limit of scrutiny involved in deciding whether there is an authorisation. Whether it is a good thing—there has been a de facto encouragement of early voting, or at least to facilitate early voting, because it is convenient for voters and voters are obviously voting with their feet by doing it. We would not like to see access to early voting become too onerous many people need it, but we also do not want to de-emphasise the importance of election day because we think election day is an important part of the theatre of democracy and part of what binds us together as a society—that people turn out, go to the local school, have a sausage and vote. To spread that out across a longer period is, in our view, undesirable because it also has implications for the way campaigns are conducted, which we think is undesirable. I do not think that is really an answer to your question.

Ms FELICITY WILSON: Not explicitly.

Mr MALTBY: There are pros and cons. I think Labor was suggesting that the test should be abandoned because it was effectively not being enforced and we can understand that point of view.

Ms FELICITY WILSON: One of the other suggestions that the Labor Party submission made was to commence counting those early vote pre-poll ballots at 4 p.m. on election day itself. Do The Greens have a view on that proposal?

Mr LEE: We would be supportive of that, especially when you look at the Wentworth by-election, where we saw quite a disparity between the election day results and the pre-poll results. Whilst keeping the secrecy of it until 6 p.m. so that there is no chance of influencing the results and voter intention, the earlier we can see those results come in and the better analysis that can happen on election night, that would be of assistance.

Mr MALTBY: One observation in recent elections, both Federal and State, is that the evening rush has disappeared. It used to be that there was a stream of people arriving at five o'clock, thinking that the polls were going to close. By mid-afternoon there are hardly any voters at all so the ability to influence the result by some leakage of some preliminary counting has probably been reduced by that phenomenon. I think that is related to many of those people choosing to vote early now, as well. The pre-poll booths are gigantic, of course. If you are looking at 25 per cent of the vote in a pre-poll box, it is now taking much longer to get it counted. Those are very influential on the final numbers so it means that election night can potentially go on much later before we have a result.

The Hon. ROBERT BORSAK: Mr Maltby or Ms Eugster, do you want to talk about your submission in relation to iVote?

Mr MALTBY: I am happy to do that. We share the concerns raised by Dr Teague and the two from the University of New South Wales about the nature of the technology. Generally speaking, this is a professional area I had in my career. There is no safe way to do online voting: it cannot be both anonymous and secure at the same time. It is a physical limitation on the nature of the beast. We support it because it allows participation, particularly for people overseas and people with impairments who are unable to access other forms of voting, but we do not think it should be particularly encouraged. There are flaws in the design that need to be addressed.

The Hon. ROBERT BORSAK: I see that you recommend that it should be open source, but you know that you will never get that.

Mr MALTBY: The Australian Capital Territory has open source for the election system that they use in Canberra, so they have an online voting system—

The Hon. ROBERT BORSAK: Who owns the source?

Mr MALTBY: It is not that it is not owned by someone, it is that the license requires that it be disclosed in the public sphere—it is the fact that iVote software has been made available to researchers. I received a communication from Dr Teague this week, where she had taken advantage of that disclosure to identify a flaw in the signature of one of the technical components of it.

The Hon. ROBERT BORSAK: Yes, I read her report on it.

Mr MALTBY: She had followed the protocol that allowed her to submit that concern to the Commission and allow them to work on any fix ups—there are no elections happening so it is not an issue. That source code is accessible to researchers but it is very narrow. The information security world has moved on, there is a lot of source code for complex things available in the public domain where people—and there are many experts—can identify flaws in it. It is better because there is no such thing as security by obscurity. Having it out in the open is the best way to make sure that it is safe.

The Hon. ROBERT BORSAK: I see that your first recommendation talks about Hare-Clark system and proportional representation and what happens in Tasmania. I note that with interest, of course. But in Tasmania you do not have an election day as such, where people get out and do the barbie and all that sort of stuff, do you?

Mr MALTBY: That is true.

The Hon. ROBERT BORSAK: It is all very informal.

Mr MALTBY: The lack of canvassing is not an integral part of that system.

The Hon. ROBERT BORSAK: That is right. If we had a Hare-Clark system in New South Wales, what would our system look like?

Mr MALTBY: The key features of the Tasmanian system that are attractive are of course the multiple-member electorates. One of the other submitters to the inquiry noted that something like 40 per cent of the people who voted in the lower House ended up not getting their vote represented by a member and that similarly the number of people who did vote who were represented by a member was still also below 50 per cent of the total

electorate. As we said and as he mentioned, in the Upper House that number is much smaller, of the number of unrepresented people, so the Hare-Clark system or having multiple-member electorates would reduce the number of electors who do not have a direct representative, someone that they voted for, representing them in Parliament. And the rotation of the ballot papers, of course, would eliminate the donkey vote effect.

The Hon. ROBERT BORSAK: I see in your recommendation 8 that you talk about pre-poll effectively going eight days, yes, but one week before polling day. I note that other parties do not seem to support that. I actually support it. I think the effort for pre-polling is extreme. Are you, perhaps as the Liberals were, talking about only have one pre-poll location in metropolitan seats?

Mr MALTBY: As mentioned to Ms Wilson, we do not have a hard and fast position on that, but obviously the smallest number that is appropriate with convenience for the maximum number of voters is something we would like to put out, rather than overproviding. We think it is possible to overprovide pre-poll votes.

The Hon. ROBERT BORSAK: I think that probably characterises it correctly. We are overproviding pre-poll. Just going by the statistics it is pretty obvious.

The Hon. BEN FRANKLIN: I want to go to your final recommendation, No. 17, about minimising the administrative burden of compliance. This is something I have been focusing on for the first three parties appearing today. I take and appreciate your support for investing in an online system but I wonder if you could discuss either that and/or any other procedures that you think could ease the burden of compliance for political parties while still maintaining the integrity of the system.

Ms EUGSTER: As we heard from the finance manager from the previous party that was here, it is a very paper-based system that we currently use. We need to type in every single detail and then we need to provide all the vouching that goes with it and that is a substantial amount of work for our party. Further to that there are many sorts of government departments—for example, the NDIS—where you can do everything by secure FilePoint access and those work very efficiently as well. It essentially operates as a Dropbox with very safe security aspects to it. I think there are many other models where you can do online signatures on forms.

Currently the form has to be printed off, scanned, sent to the party agent, then it comes back from the party agent, then it goes off again. So we have this circular process where everybody is filling in forms and chasing them around until they end up with the NSW Electoral Commission in the appropriate form. We have talked about the compliance burden on fundraising events, which we will come back to the Committee on, and those processes. We also noted with interest the submissions in relation to prohibited donors and what the NSW Electoral Commission could do to help parties comply with those. We would be amenable to such solutions and suggestions.

Mr LEE: With the prohibited donors, following *Unions NSW v New South Wales* [No. 1], a section in the Act was added that allowed for anybody who was not on the roll to identify themselves to the NSW Electoral Commission so then they were an acceptable donor. At the moment, as far as I am aware, there is no searchable database or anything like that from a political party's point of view. So if we receive a donation from someone who is not on the roll it is not immediately clear unless we send an email to the Electoral Commission or do something. It is not easy for us to know whether or not they have been identified to the Electoral Commission as an acceptable person for donating. Obviously there is a number of people out there who are permanent residents who are not on the roll who may want to contribute to the political process.

The Hon. BEN FRANKLIN: I apologise if I have raised this before about raising the threshold of exception for aggregation for small donations, which I have raised with other witnesses. I do not think I have raised it with you yet, but if you would like to make a response to it now about whether you think that suggestion about raising that aggregation level from \$50 to \$100 is acceptable and something The Greens would support or if you would like to take that on notice and address that in your other concerns as well, that would be fine.

Ms EUGSTER: Thank you, Mr Franklin. We will take that on notice but I guess we point to our earlier submissions that there is a balance to be had between compliance, which we submit is absolutely critical to the integrity of this system and also the administrative burden on our finance and compliance teams. We particularly make the point that for small parties that are not well heeled, such as us, it is a significant compliance burden that is higher than what the other parties experience.

The Hon. BEN FRANKLIN: I guess that is the specific question I am asking on notice: Where is that balance for The Greens?

Ms EUGSTER: Yes. Thank you.

The Hon. PETER PRIMROSE: Do The Greens support the retention of the principle of one vote, one value in New South Wales?

Mr MALTBY: Absolutely. I understand there are some submissions about geographical size limits or weighting of electorates on the basis of their geographical area. We would not support that. You could address some of those concerns with moving towards a proportional system. I think as much as anything it is obviously a burden to service a very large electorate as an MP, but having some fellow MPs in your electorate might help make that a bit easier.

The CHAIR: As there are no further questions, thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of today's evidence. Would you be happy to provide written replies to any further questions?

Ms EUGSTER: Absolutely. Thank you, Mr Chair.

The CHAIR: Thank you so much for coming along today and giving us some valuable time.

Mr MALTBY: Thank you.

Mr LEE: Thank you very much.

(The witnesses withdrew.)

JANAKI CHELLAM-RAJENDRA, Manager, Campaigns and Communication, New South Wales Nurses and Midwives' Association, affirmed and examined

BRETT HOWARD HOLMES, General Secretary, New South Wales Nurses and Midwives' Association, affirmed examined

TROY WRIGHT, Acting General Secretary, Public Service Association of New South Wales, affirmed and examined

LAURA MOSS, Industrial Officer, Public Service Association of New South Wales, affirmed and examined

MARK MOREY, Secretary, Unions NSW, affirmed and examined

The CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters today. Can you confirm that you have been issued with information about the standing orders in relation to the examination of witnesses today?

Ms CHELLAM-RAJENDRA: Yes.

Mr HOLMES: Yes.

Mr WRIGHT: Yes.

Ms MOSS: Yes.

Mr MOREY: Yes.

The CHAIR: Do you have any questions about that information?

Ms CHELLAM-RAJENDRA: No.

Mr HOLMES: No.

Mr WRIGHT: No.

Ms MOSS: No.

Mr MOREY: No.

The CHAIR: The Committee has received a submission from each of your organisations. Would you like your submission to form part of your formal evidence?

Mr HOLMES: Yes.

Mr WRIGHT: Yes.

Mr MOREY: Yes.

The CHAIR: Would any of you like to make a short opening statement before the commencement of questions?

Mr HOLMES: Yes. Thank you for the opportunity to address the Committee. I am here representing over 66,000 members of the New South Wales Nurses and Midwives' Association; a proudly democratic union. We are a registered third party campaigner in order to have the voices of our members heard in political discussion and debate as well as in our communities. Our members are committed to achieving nurse to patient ratios for safe patient care in all health and aged care settings. Our campaign for ratios was democratically and unanimously voted for by our membership. Last year the Electoral Funding Act 2018 attempted to silence us and other campaigners via a significant reduction in the net cap on electoral expenditure set at \$500,000, coupled with the broadening of the "electoral expenditure" definition and "acting in concert" provisions.

This cap severely curtailed our ability to campaign using paid media. It left minimal radio advertising as the main option. The cap was deliberately undemocratic toward third party campaigners and was no doubt aimed at unions. As outlined in our submission we consider a cap of \$2 million to be more appropriate for a nominated expenditure period subject to annual indexation. Given the health portfolio absorbs around one third of the State budget it is no surprise any issues-based campaigning linked to the health sector eventually falls within electoral expenditure and is subsequently captured under any cap, especially if you are successful in gaining the attention of a political party.

We agree that advertising should rightly be disclosed as electoral expenditure, but business as usual activities such as working with our members to advance their interests should not be captured. Broadening of the

electoral expenditure definition away from the communications expenditure prior to the 2019 election resulted in our association having to disclose sundry expenses, such as member meeting costs, to the Electoral Commission. We met with and called members to discuss their key workplace issue: Nurse to patient ratios. Surely capturing that is beyond reasonable.

We work with peak bodies including Unions NSW and other affiliate unions, as well as civil society organisations, on issues of concern to our members. Section 35 of the Electoral Funding Act 2018 also introduced acting in concert provisions which prohibit third party campaigners from acting together. This would have resulted in those combined parties being capped to a single amount. Alarming, informal discussions between unions could be defined as acting in concert and force one union's campaign spending to be included into the expenditure cap of another union. Again, we believe this is beyond any commonsense approach and is undemocratic.

In the interests of democracy, there should be no impediment to running joint campaigns. Third party campaigners should not be prohibited from discussing their respective campaigns or from advocating together on social justice issues—like family violence or climate change—just in case it is likely to be captured within an expenditure cap. As a result of the High Court judgment on 29 January, this expenditure cap and acting in concert provisions were lifted in the last weeks of the 2019 State election. The damage to our campaign capacity had already been done.

Our members are astutely aware that the electoral laws I have raised today may change again. Nurses and midwives are required to professionally advocate in the interests of their patients. They must not be silenced at any level lest patients' lives are needlessly lost. The industrial environment in New South Wales shuts them down. Politicians have done that. These electoral laws have attempted to silence them. Politicians have done that. In July this year, delegates at our annual conference proposed, debated and endorsed a motion for our association to investigate the formation of a political party to progress their interests and those of their patients.

Faced with unjust electoral and industrial laws, our members are forced to consider alternative ways of being involved in public discourse and being heard in political debates. As frontline workers, nurses and midwives across New South Wales have a legitimate voice on issues of health. The argument that we drown out the voice of political parties who can spend up to \$11 million on campaigning simply defies logic. Our Association is committed to a fair and transparent electoral system where third party campaigners are able to highlight members' issues democratically. I commend the eight recommendations outlined in our submission to the Committee.

The CHAIR: Thank you Mr Holmes. Are there any other statements?

Mr MOREY: Thank you for the opportunity to appear before the inquiry today. Unions NSW believes the process of evaluating the conduct of elections is important and provides an opportunity to reflect on the effectiveness of our system to both uphold democratic processes and ensure community confidence in the system. The Unions NSW submission focused on the important role of third party campaigners in elections. In recent years, third party campaigners have experienced sustained attacks in relation to their participation in the electoral process. Most recently this has been seen in the Electoral Funding Act 2018 which halved election expenditure for third party campaigners and restricted third party campaigners from collectivising their campaigns.

In January this year the High Court rejected the Government's restrictive expenditure caps. The High Court found expenditure caps impermissibly burdened the implied right to freedom of political communication contained within the Australian Constitution. Unions NSW believes this implied right must be taken into consideration if further attempts are made to restrict the ability of third party campaigners to participate in electoral campaigns. Unions NSW makes several recommendations to the Committee. Firstly, that the acting in concert provisions be removed from the Electoral Funding Act; that expenditure caps in the Act be set at a level that allows third party campaigners to generally participate in elections; the definition of electoral communication expenditure be redefined and the definition should not be so broad that it captures the daily business activities and everyday staff and travel costs of the third party campaigning organisations particularly those that are membership-based.

Mr WRIGHT: Good afternoon and thank you to the Committee for the opportunity to speak today. The Public Service Association of NSW [PSA] is a State-registered public sector union this year celebrating its 120th year of participating in the industrial and political environments of New South Wales. We represent more than 38,000 members across a range of public sector agencies including education, corrections, justice, child protection, the environment, transport and primary industries. Our submission lays out what we see as the threefold challenges of the current and proposed legislative regimes. Firstly as Mr Morey has already informed the Committee, we are concerned at the acting in concert provisions.

An example for the Committee was our campaign around the election time regarding TAFE. We are committed to a funded and non-voucher-based but block-funded TAFE system and Vocational Education and

Training [VET] education sector in this State. Unfortunately in TAFE NSW there are currently two unions. We represent non-teaching staff and the NSW Teachers Federation represents teaching staff. What the overruled legislation in regard to acting in concert required us to do was actually to have an absurd separation between our unions and our campaigns.

We were forced to run two separate campaigns as two separate unions and two separate third parties around the same agency. Rather than achieving a simplification of the electoral campaign, it became a complicated and cluttered field. The second issue we want to highlight to the Committee is the difficulty we have experienced during the State election campaign this year in campaigning concurrently around State and Federal electoral issues. The Australian Council of Trade Unions [ACTU] was requiring or asking its affiliates to support its Change the Rules campaign associated with Federal industrial relations legislation reform.

Unfortunately for us, we found it extremely complicated to carry out that campaign during a State election and possibly attract the State electoral funding provisions with regard to activities in the Change the Rules campaign and we were forced to drop that. Thirdly and most importantly—as Mr Holmes outlined in regard to the nurses federation—the greatest difficulty we had with the current regime is the impossibility as a State trade union of separating our core business of promoting our members' interests in a viable, resourced and recognised public sector from election campaigning.

I want to give the Committee a couple of examples occurring since the election campaign. The union has been strongly advocating for reform in the youth justice sector. We had two riots in June and July. We were on the front foot about that, promoting our members' interests for a safer workplace both for them and for the detainees. Had that occurred during the State election campaign—had those riots occurred in January or February—that core business activity would arguably have attracted the Electoral Funding Laws. The same goes right now with some of your colleagues in this building. We are currently engaged in a campaign regarding Special Constables who we believe are horrifically underpaid. Again, that is core business for our union. Our union exists to represent our members' interests. The legislative scheme in place prior to the State election would have meant it would have been impossible to unscramble that activity from electoral campaigning.

More recently last week—and this is a relevant issue for many regional members currently in this room—we were heavily engaged promoting our members' work in the NSW National Parks and Wildlife Service, fighting fires in regional areas and who attracted unfair and uninformed criticism from some members of the House for their work leading up to this fire season. This union unapologetically represents those members and we advocated for their interests in a better funded and resourced NSW National Parks and Wildlife Service. Had that occurred during the election campaign, separating that activity from election campaigning would have been virtually impossible and it would have attracted the cap.

Our position is that any cap would be insufficient unless there is a very clear distinction between our core activities as a trade union representing public sector workers in this State, and electoral campaigning. The previous regime and the current regime fail to do that adequately in our view. We would also ask the Committee that where electoral reform is proposed, that this be done this time in good time and with adequate consultation rather than quickly before a State election campaign which left many third parties—the PSA included—in an enormous difficulty leading up to that election trying to work out what was attracting the regime and what was not. I thank the Committee once again for its time.

Ms FELICITY WILSON: Thank you for joining us today. You have spoken quite a bit in your submissions and today about the importance and effectiveness of your role as third party campaigners. Given your status as third party campaigners, why should you also be allowed to donate enormous sums to the Australian Labor Party? I would ask that of each of you.

Mr WRIGHT: I will take that. From our perspective, we do not donate to the Labor Party. We are unaffiliated with the Labor Party; we are unaffiliated with any political party.

The Hon. ROBERT BORSAK: How does that work?

Mr WRIGHT: You are welcome to look at our electoral returns and any other document that we have submitted to the State Electoral Commission.

The Hon. ROBERT BORSAK: Point of order: The Deputy Chair should know that donations, even if they are made, are capped. They are not enormous—only \$5,500 per annum. I cannot see how that question is possibly right or even relevant.

Ms FELICITY WILSON: You may have an opinion on relevance, Mr Borsak, but I am entitled to ask my question.

The Hon. ROBERT BORSAK: It is not an opinion, it is a fact. The cap is a fact, Ms Wilson.

Ms FELICITY WILSON: I am entitled to ask my questions.

The Hon. ROBERT BORSAK: It is a fact. You should know that, you are an MP.

Ms FELICITY WILSON: If you are a third party campaigner able to spend money on your own campaigns, why should you also be allowed to donate sums to the Australian Labor Party [ALP]?

Mr MOREY: As the peak body, we have around 60 different unions and trades and labour councils affiliated to us. I would say roughly one-third of those are members of the ALP, the rest are unaffiliated to the ALP and do not provide donations to the ALP. The vast number of unions in this State do not donate to the ALP. In relation to donations, they are capped per seat. They are very small—I think it is a roundabout \$6,200 to the party. It is a small amount of money. It is nowhere near as much for one organisation, such as the Minerals Council, who provided about \$1.9 million in participating in campaigning, and that was just before the election period in October last year. There are many entities that support business, particularly mining companies, that donate even larger amounts of money to public campaigning, than the union movement.

Ms FELICITY WILSON: Can you also tell me how often any of your unions or affiliated members lend money to the Australian Labor Party? What benchmark you set for the interest rate that you would apply if you lend money to the Australian Labor Party?

Mr MOREY: I do not think any organisations here under the current leadership lent money to the Australian Labor Party.

Ms FELICITY WILSON: Is that applicable across all—

Mr WRIGHT: For the record, we have not lent any money to the ALP or any other political party.

Mr HOLMES: For the record, the NSW Nurses & Midwives' Association is not affiliated to any political party and our donation is as per the declaration and under the cap. It mainly pertains to our delegates attending fundraising dinners and there have been no loans.

Ms FELICITY WILSON: Mr Morey, you are speaking on behalf of all the members of Unions NSW in saying that no loans have been made?

Mr MOREY: I am talking about my administration and the control I have over the organisation.

Ms FELICITY WILSON: Do you have any oversight over whether any of the other unions within your umbrella have made such loans?

Mr MOREY: I would have to go and ask them.

Ms FELICITY WILSON: Maybe you can take that on notice?

Mr MOREY: Sure.

Ms FELICITY WILSON: When you do take that question on notice could you seek from them the benchmark that they use to set an interest rate, if they are giving loans to the Australian Labor Party?

Mr MOREY: I think what you will find is that most of the organisations—and I am happy take the question on notice—are governed by the Registered Organisations Commission [ROC]—the Federal commission that oversees unions. I think you will find that unions are more tightly governed than most organisations and most businesses. I will check that out for you. I do not know what this has to do with campaigning and elections. I understand that it is a cheap political shot—you have to do that; that is fine. I will take that on notice and come back to you.

Ms FELICITY WILSON: If unions believe that they have a right to be third-party campaigners and to expend a large amount of money in doing so, which are the submissions that you have made on behalf of your members, the question is whether or not you should have secondary ways of influencing political communication through political parties, as well. That is the fundamental basis of my question.

Mr MOREY: What do you mean by secondary ways?

Ms FELICITY WILSON: Through political parties. By either financing those political parties or lending money to those political parties for their campaigns. That was the premise of my initial question. I said, "If you are third-party campaigners, do you think you should also be allowed to donate money?" I specified to the ALP, but it really is to any political party, because if you are fundamentally undertaking your own third-party campaigning, why would you be paying other people to undertake campaigning, as well, on your behalf?

Mr MOREY: We do not pay other people to campaign on our issues, on our behalf. The union movement does not have large sums of money, like the Commonwealth Bank, the Minerals Council or BHP. We

pool the resources of our members to fight political campaigns. For example, electricity privatisation—the commitments that were given by the Government that electricity would be cheaper and that they would have a more secure network have not come to fruition. Our members pool their money to point out that the Government lied about why it privatised the electricity network. That is how we operate. We do not have big bucks; we pool our money and work as a collective.

The Hon. CATHERINE CUSACK: Can I perhaps asked the question a bit differently? There is a perception that the Australian Labor Party was formed by the union movement to be their political voice.

The Hon. ROBERT BORSAK: It is not a perception, it is a fact.

The Hon. CATHERINE CUSACK: Can you hear me out? The suggestion that the core business of the union is political campaigning in elections is confusing because my understanding is that was the whole point of forming the Australian Labor Party. The industrial activities of the union—I get that and I get industrial campaigning. It is just that the concept of the Australian Labor Party being the political voice of the union movement means that there are two bites of the cherry, which is the point that my colleague is trying to make, in terms of the separation—

Mr MOREY: The example in 2007, when what you perceive as "our voice" of the union movement sought to privatise electricity in the State, the union movement, affiliated and non-affiliated, ran a campaign against that sitting Labor Government. I believe we lost a leader over it; we lost a treasurer over it. The ALP lost a leader; the ALP lost a treasurer. The union movement is not afraid of campaigning on its issues, regardless of who is in power.

The Hon. CATHERINE CUSACK: Sure. Can I clarify that that was an industrial campaign, not a campaign that you ran during the State election?

Mr MOREY: We would have run it through the State election, as well. In fact—

The Hon. CATHERINE CUSACK: Did you run a campaign—

Mr MOREY: No, I am saying we would have—

The Hon. CATHERINE CUSACK: —against the Labor Party in the State election?

Mr MOREY: Hang on, you want me to answer the question, right? If it had been during the election period, I can guarantee that the unions affected by electricity privatisation would have run a political campaign against the sitting government in that election period.

The Hon. CATHERINE CUSACK: Have the unions ever run an election campaign against the Labor Party?

Mr MOREY: I think it is fair to say that we have had different stages where we have significantly disagreed on policy issues—

The Hon. CATHERINE CUSACK: I know that.

Mr MOREY: —and unions have run campaigns or sought not to run campaigns supporting the government, if it be a Labor Government. We are not one and the same. We do not all turn up at work, go in different doors and end up in the same office. We are actually very different organisations with very different—

The Hon. CATHERINE CUSACK: That is why it comes back to my initial question. The suggestion is that the Labor Party was formed by the unions to be your political voice.

Mr MOREY: Yes.

The Hon. CATHERINE CUSACK: But you seem to step back from that when you argue your right to campaign in elections. In which case, if you want to be players in election campaigns, why are you not running your own candidates?

Mr MOREY: Because a number of unions support different political parties. In fact, I would say that in the broad church that is the New South Wales union movement, we have people who support Labor, people who support The Greens, people who support The Nationals and we have people who support the Liberals.

The Hon. CATHERINE CUSACK: But your donations and support of political parties do not reflect that diversity, do they?

Mr MOREY: They are not our donations. There are different entities—

The Hon. CATHERINE CUSACK: I acknowledge—

Mr MOREY: You cannot say that it is a collective position when it is not.

The Hon. PETER PRIMROSE: Point of order: I do not want to stop people but these matters were canvassed by the High Court. The High Court made its determination and, as much as I am happy to hear and for members to continue asking these questions, they are now matters of settled law, in Australian law, by the highest court in the land.

The Hon. CATHERINE CUSACK: To the point of order: The central thesis here is that campaigning in a political election is core business of these organisations and that is the issue I am trying to explore—how an industrial organisation, which has a political party representing it, considers its core business to be running election campaigns.

Mr MOREY: No, we did not say that. We said our core business is campaigning—

The Hon. PETER PRIMROSE: My point of order simply is that this matter has been settled.

The Hon. CATHERINE CUSACK: I think it is legitimate because it is absolutely central to their whole argument—that caps should not apply to them.

The CHAIR: Order!

Mr MOREY: Our core business is campaigning on industrial issues, no matter what time. That is why I made the point that the day-to-day activities of unions should not be caught up in the Electoral Funding Act. We do a lot of advocacy all the time. A small part of that advocacy is political advocacy but by and large it is industrial advocacy and that is the main role of the union movement in New South Wales.

The Hon. CATHERINE CUSACK: And if you stuck to that you would not be having all these problems.

Mr MOREY: If the Minerals Council and BHP stuck to just digging up the earth we would not have problems with them either. But they seek to change the industrial system. They politically lobby in Canberra and here to make sure you have an industrial relations system that exploits workers. That is their choice. But that is not their primary idea.

The Hon. CATHERINE CUSACK: In terms of industrial relations, what was the campaign they ran in the last State election?

Mr MOREY: They ran one in the Federal. They put in—

The Hon. CATHERINE CUSACK: I am talking about the New South Wales election. What was their industrial relations campaign?

Mr MOREY: I was worried about what I was doing.

The CHAIR: Members, shall we go into a deliberative meeting to sort this out?

The Hon. CATHERINE CUSACK: Sort what out?

The Hon. PETER PRIMROSE: Seriously? Have a deliberative about—

The Hon. ROBERT BORSAK: Chair, I suggest that this Committee spend its time asking straight questions and getting straight answers on issues relating to elections—not election strategies, not election campaigns.

The CHAIR: Agreed, Mr Borsak. Let's get back to the submissions.

The Hon. ROBERT BORSAK: That is why we are here.

The Hon. PETER PRIMROSE: Mr Morey, in subsections 37 to 39 of your submission you talk about the need to simplify the reporting format. For example, it surprised me that you said Unions NSW was not able to lodge a disclosure by email. That is because copies of the electoral material are too large to be sent by email. Was that because of a problem at your end or was that because the Electoral Commission's system was not large enough to accept it?

Mr MOREY: Firstly it is about the amount of material that you have to provide. You have to put copies of everything in. And their system was not set up to actually accept it all electronically in a file, so there were difficulties putting that through. The other issue we have is the ability for small community-based organisations to comply with the legislation and the amount you have to spend to ensure that you do comply can make it prohibitive for many third party campaigners to even participate.

The Hon. PETER PRIMROSE: Are there any things in particular? And please feel free to take this on notice. I doubt that there would be any member here who would not believe that if possible the system should be simplified. Are there any things particularly that Unions NSW, NSW Nurses and Midwives' Association or the Public Service Association [PSA] could recommend to this Committee that it may include in its report that would lead the process to be simplified in terms of the reporting format?

Ms MOSS: The PSA does have some suggestions, so we will take that on notice.

Mr HOLMES: In our submission we have made a couple of suggestions about how the information could be supplied in a different format. We too could not email the Electoral Commission. It bounced back and we had to mail it to them in a USB, so that caused a difficulty. But there were seven full days of work in compiling that information for our accountants. So while ever that is happening—accountants and compliance officers—it is very burdensome in terms of the definition that was used in this most recent election, which captured everything from a pizza at a meeting to travel to the costs of calling our members. The breadth of that definition of expenditure went to the nth degree and as a result massive amounts of information have been supplied to the Electoral Commission in trying to be compliant. We certainly made suggestions about the ability to transfer that information in a much more professional way rather than individual copies of receipts when we undertake a major accounting activity over it.

The Hon. BEN FRANKLIN: This is an issue that has come up again and again, quite regularly. I will pick up the exact issue that you were just talking about, which is the receipts for, for example, travel and accommodation. You suggest in your submission, Mr Holmes, that that should be taken out of the definition of expenditure that you would like to see—we have had evidence to that effect from others before, by the way. Is that the position of Unions NSW and the PSA as well? Do you have any comments on that? I will then go to another issue with your submission, if I may, Mr Holmes. I am happy for you to make any further comments if you wish, of course, as well.

Mr HOLMES: One of the problems with the expanded definition was trying to differentiate between what was normal business of our officers travelling to meetings and whether that was the primary purpose or whether there was a secondary purpose, where after hours there may have been other meetings, or whether our officers were going to facilitate and support volunteerism of our members. So we have been very cautious and have recorded every possible activity on the basis that the law is untested and it seems rather broad and ill-defined.

The Hon. BEN FRANKLIN: But you make the utterly appropriate point that this seems ridiculous, not only for your organisation to have to itemise each coffee that is bought but for the Electoral Commission then to have to read every one of those receipts.

Mr HOLMES: Absolutely.

The Hon. BEN FRANKLIN: Mr Morey?

Mr MOREY: We have a number of affiliates when they are involved in the election period ringing our office for advice on what they should and should not declare. We try to give the appropriate advice as we understand the Act. It is often difficult to get information from the Electoral Commission, though they do try to help. But the breadth of activities that people are involved in—and that was my original point about our day-to-day activities and then trying to separate out if you travel to Gosford to do a delegates meeting and then you go on and say there is a meeting of different unions around a campaign issue, how do you apportion what to where? That becomes very difficult.

And also in the context of moving into social media and social media posts, having to keep all of those—what is and what is not political in the terms of the Electoral Act?—in the electoral period. What do you keep and what do you not keep? A number of our affiliates would put in more information than is necessary as a means of making sure that they are not being caught out by not disclosing something that they are doing. I do not know but anecdotally I would suspect the Electoral Commission is getting a hell of a lot of information that has nothing to do with the activities of the Electoral Act just because people are trying to make sure that they are not stuffing up or inappropriately disclosing or not disclosing information they should have.

The Hon. BEN FRANKLIN: I will come to the social media and the vouching issue which you have also addressed, Mr Holmes, in a moment. But, Mr Wright, would either of you like to comment?

Mr WRIGHT: Exactly the same experience. If we were handing out, for example, we did a lot of activity around the State election campaign handing out even at metropolitan train stations—our campaign material, nothing to do with any political party but our campaign material, trying to raise the issues of the public sector. Some staff volunteered to do that from 6.00 a.m. Some said they wanted to do it on paid time. So our return is littered with different staff who were paid at that time and some that were not. We had to go detail by detail for

six weeks about which staff were paid for that two-hour window, and the same goes for their travel. For some of them it is down to the train ticket they used to get to Penrith and return. But then if they went to Penrith and they did some other activities and went out to, say, the rowing centre and saw some members, do we only do one way or do we do both ways? Which purpose were they there for? Again, things like advertising and printing are very easy for us to say, "Yes, that's how much we spent." But once you get into the day-to-day activities and the travel and accommodation and even further than that the primary purpose rule, it became extremely difficult for us.

The Hon. BEN FRANKLIN: The train ticket idea dovetails nicely into another point in Mr Holmes' submission, which is that potentially consideration should be given to only needing to vouch for expenditure over \$500 but only needing to disclose expenditure over \$100, which of course would then ameliorate the need to do that. I wonder if you would like to speak to that a bit more, Mr Holmes, and what the other two unions present might feel about that?

Mr HOLMES: We can talk about Facebook as an example of that, social media.

The Hon. BEN FRANKLIN: You do not need to labour it, because I think everyone is on the same page on this. I am just trying to get the evidence on record.

Ms CHELLAM-RAJENDRA: For social media, with Facebook if you boost a post you can do it anywhere between \$50 and \$100. If we are boosting a post, our members are talking about the issues. Then to have to capture that as a video and download that as a video file and declare that I think does not make sense at all. It is sort of the normal activity that we do year-round anyway.

The Hon. BEN FRANKLIN: Mr Morey, in terms of the quantum that has been suggested, \$500 as a starting limit for vouching and \$100 for it to be able to be disclosed at all—do you think that sounds reasonable?

Mr MOREY: I have not done a full consultation with the affiliates, but I think that is in the ballpark of what is practical, yes.

Mr WRIGHT: I support that as well. Just looking at our return, we have four cars at the PSA. We have 15-odd vehicles that are used for day-to-day use. We had to pick through the logs of those vehicles and work out if a voyage was made. Our return includes \$51 spent on one day and \$40—that \$40 was 153 kilometres to travel, so someone drove somewhere and came back, we would include that on our return. It was that level of detail that was extremely difficult.

The Hon. BEN FRANKLIN: Would it be fair to say, in terms of some other evidence that we have heard, that you may support taking out travel and accommodation from what should be captured as—

Mr WRIGHT: We would be in support of that submission, yes.

The Hon. BEN FRANKLIN: You too, Mr Morey?

Mr MOREY: Yes.

Mr PAUL SCULLY: Thank you for the efforts that each of your organisations go to in defending those whose livelihoods are often directly affected by State campaigns but do not necessarily have their own voice. The advice you get from the NSW Electoral Commission with respect to what should and should not be included and how that might be best determined between your ordinary duties as a union representing your members' interests and what is election campaigning during the campaign period: How have you found that information?

Mr HOLMES: Our experience in 2015 found that it was non-existent. Based upon that we took, I suppose, independent legal advice as much as we could this time around. The Electoral Commission attended a couple of forums and made a better attempt this time around, but it still left some unanswered questions because it is quite untested and intricate in terms of trying to determine the fine line between, for instance, declaring our expenditure on *The Lamp*—that is the journal that we send to all our members, but all of you have the opportunity to read it should you pick it up. Does that make that electoral expenditure? So we declared that—almost \$90,000 worth of our expenditure was on our journal—because there was content in there.

Mr PAUL SCULLY: You are not given a dedicated officer at the Electoral Commission where, as a large, registered third-party campaigner you can contact one person to give you a sound and consistent set of advice?

Mr HOLMES: No. We have not asked one.

Mr PAUL SCULLY: Yes, sure. But I would have thought with something that can be as complex as what you are talking about, where you have got 150 kilometres of travel or one way or return train tickets might be incorporated, but that might be something the Electoral Commission can see, but it has not.

Mr WRIGHT: In the interests of transparency, if you pick up *Red Tape*—which is an even better read than *The Lamp*, our magazine—we did not declare that.

Ms MOSS : We did include the one about the election.

Mr WRIGHT: Did we?

Ms MOSS: I think so.

Mr WRIGHT: I am not sure if we did or did not—again, we have not had guidance on that from the Electoral Commission.

Mr MOREY: I think that comes back to the point that people take a really conservative view of what they are actually putting in and so they will put more in rather than less so they do not fall foul of the laws.

Mr PAUL SCULLY: There has been no accusation from the Commission that any of you have fallen foul of any of those laws?

Mr WRIGHT: No.

Mr MOREY: We try to comply with the law.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence that will be made public. Would you be happy to provide written replies to any further questions?

Mr MOREY: Yes, as long as it has to do with this matter.

The CHAIR: The Committee will now break for afternoon tea. Thank you very much for your attendance.

(The witnesses withdrew.)

(Short adjournment)

GRANT LAYLAND, State Treasurer, Shooters, Fishers and Farmers Party NSW, sworn and examined

FILIP DESPOTOSKI, State Director, Shooters, Fishers and Farmers Party NSW, sworn and examined

The CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters today and giving evidence. Can you please confirm that you have been issued with the information about the standing orders that relate to the examination of witnesses?

Mr LAYLAND: Yes, I have.

Mr DESPOTOSKI: Yes.

The CHAIR: Do you have any questions about that information?

Mr LAYLAND: No.

Mr DESPOTOSKI: No.

The CHAIR: The Committee has received a submission from your organisation. Would you like the submission to form a part of your formal evidence?

Mr DESPOTOSKI: Yes, please.

The CHAIR: Would you like to make a short opening statement before the commencement of questions?

Mr DESPOTOSKI: First and foremost, we thank the Committee for the opportunity to appear before it today and present our submission with respect to the administration of the 2019 New South Wales State election. Political parties do indeed form the backbone of our democratic system. In this sense, the Shooters, Fishers and Farmers Party has welcomed many of the reforms over the last five years to 10 years regarding the administration and particularly the public funding of political parties in New South Wales. With paid and professional staff, we would argue, we can meet our electoral obligations and ensure trust is upheld in our political system.

While we are slowly growing in size and maturity we are still largely a volunteer-run organisation. We submit that as a minor party we cannot meet our compliance and reporting measures as quickly or effortlessly as the major parties. Increases in the complexity and frequency of compliance obligations have an inequitable effect on minor parties, as we do not possess the means or resources of our major-party counterparts. To this end, we submit a one-size-fits-all approach cannot apply to political parties with respect to matters of compliance, funding and resource allocation. Adjustments must be made to compensate for the size of political parties. For instance, should the Government or, indeed, this Committee resolve to increase and grow compliance by political parties, we argue this will need to be met with adequate funding to a base level. We would argue that this is critical to ensure the proper functioning of our democracy.

The 2019 State election presented many challenges and opportunities for the Shooters, Fishers and Farmers Party. It was the first State election in which we contested Lower House seats. In total, the Party contested 25 Lower House seats and fielded a full Upper House ticket as usual. From a compliance and funding perspective, this meant we were entering into unknown territory. We have made submissions to this effect with this Committee. The NSW Electoral Commission were great in its briefings, training and various seminars held in the lead-up to election day. We know it faces similar pressures and deadlines as all political actors do, including other political parties. Having to administer a State election in the most populous and regulated State in the country is no easy task. We commend the Electoral Commissioner and all his staff members for their efforts and support during the election.

Mr NATHANIEL SMITH: We have spoken to several other parties today. One of the issues that came up, especially for regional areas such as mine and such as members in the Lower House who represent your party, was that travel and accommodation is in the cap and that this should be excluded from the cap. That was the opinion of The Nationals and others, who seem to be in agreement, as are a lot of the people on this Committee. In terms of the cap, which is for every seat, some people may argue one size does not fit all. Also, in terms of postage in regional areas you do not have the same ability as metropolitan areas to use mail distribution or letterboxing in higher density seats and things like that to try to keep costs down. Do you have any opinion on that?

Mr DESPOTOSKI: Certainly it is more difficult to campaign in regional areas due to the size of some of those seats. We are talking seats that are bigger than most European countries. With respect to travel and accommodation and the funding around that, we would support looking into that. We would need to see some detail around that before we would give unequivocal support to that. I think Mr Layland can talk more about that.

Certainly it is a lot easier and less expensive for candidates to get around in seats like Newtown, Sydney or any seat in the metropolitan areas than it is in a seat like Barwon, Wollondilly, Murray, Orange or Clarence. Often the candidates themselves take on a lot of that cost. I think to that end it is perfectly sound to look into that, definitely.

Mr LAYLAND: I agree about the costs and obviously the logistics of moving people around electorates of that size. We do notice it through the wear and tear on motor vehicles and that sort of stuff, yes.

The Hon. BEN FRANKLIN: I have a number of questions.

Mr DESPOTOSKI: You always do.

The Hon. BEN FRANKLIN: We will pick up from where we just were, which is the inequitable disparity between large regional seats and smaller urban seats. There has been some proposal and discussion about looking at potentially assisting with that by looking at a number of things: possibly increasing the number of seats in Parliament or possibly lowering the quota for regional seats. Are those the sorts of things that you will be prepared to consider?

Mr DESPOTOSKI: We would certainly be prepared to consider them, yes. We would have to see the full detail, of course, and we would have to see that proposal. I know that we do not need to go into the many ways that that would even be achieved in this current term or before the next State election, but we would certainly be prepared to consider that.

The Hon. BEN FRANKLIN: You made the point yourself that some of these seats are larger than many countries in Europe. Obviously there is an unfairness. Well, do you believe that there is unfairness there when you look at a seat like Barwon, which is bigger than Victoria and Tasmania combined, compared to Coogee, which is 10 square kilometres or something, in terms of representation?

Mr LAYLAND: Certainly I think it is very, very fair prima facie that every seat has roughly the same population aggregated to 55,000 people. To your point, we would be in a position to support this once we have seen a proposal of perhaps lowering the quota in certain areas, which would be in regional New South Wales, to ensure greater representation for a number of those seats. It all comes down to the specific proposal for us.

The Hon. BEN FRANKLIN: I will go to the specifics about trying to reduce the burden of compliance on all parties but I think it will actually have even more benefit for smaller parties who, as you rightly say, probably do not have the administrative infrastructures as some other parties, but, of course, while reducing that compliance burden while not undermining the integrity of the system. There have been a number of things that have been suggested that other parties think would be worth considering. I would like to run a couple of them past you to see if they are things that the Shooters would be happy to support. The first is in terms of vouching. When you put in your returns, your disclosures, you obviously have to vouch for every single piece of expenditure, right down to things that are only a few cents.

Mr LAYLAND: I do a lot of photocopying.

The Hon. BEN FRANKLIN: A lot of photocopying, indeed. There has been a suggestion that the level at which you need to start vouching for expenditure be higher than, for example, \$0. Some have suggested that it could be \$100, others have suggested \$500, so that you do not catch all of these tiny little expenditure items. Is that something that you would support?

Mr LAYLAND: I would and I think the Party would on my recommendation.

Mr DESPOTOSKI: I would too.

The Hon. BEN FRANKLIN: There has been a lot of discussion about the need for doing this manually. A number of parties and organisations have supported electronic lodgement of these sorts of disclosures. Is that something the Shooters would support?

Mr LAYLAND: Yes, we would be interested in that. I know there are a few items in our submission comparing New South Wales with Victoria and the new Federal funding and how they acquit things. It was quite interesting going through the Federal one for the first time. They basically accepted lists of the expenditure and if they wanted to know information about expenditure they would just ask. That was an easy way to do it.

The Hon. BEN FRANKLIN: Yes, others have presented similar evidence today. Another issue that has been raised a few times has been the period that parties have to lodge their half-year disclosure—well, their disclosure every six months, which is currently four weeks. But that time for each period is either over the end of the financial year, which is obviously a nightmare, or, alternatively, over the Christmas period, which potentially cuts into leave and people going away for Christmas. There have been some suggestions that the four week period

should be extended—for example, a suggestion has been six weeks. Is that something that the Shooters would support?

Mr LAYLAND: Yes, we would support that. If you went to six weeks, if it was June, you would take it out of closing off the end of July, for instance. We would be able to close off the month of June and then work on. Often you are working on live numbers when you are doing those disclosures as well. The problem is that you have not finalised your books before you have to put the disclosures in because it is that quick to turn around in four weeks.

The Hon. BEN FRANKLIN: I will move to one of the items in your submission now, the party membership subscriptions issue. You would like membership subscriptions to potentially be used in the campaigning account, which is something I have enormous sympathy for. But if you are using membership subscriptions, how do you get around the prohibited donors issue? Does that mean that you would stop prohibited donors being able to become members of the party, which they currently are at the moment? Or would you seek to quarantine those membership subscriptions so they could not be used for campaigning? You understand what I am saying: it does potentially subvert the intent of the prohibited donors. I understand that you also have a position on those prohibited donors, which is something for which I am sympathetic, but, in terms of the law as it currently stands, how would you address that?

Mr LAYLAND: One way is to quarantine. If you give the party the choice of where they put their membership funds, then if it was a prohibited donor becoming a member that could still go into the administration account. You leave it to the party to direct the membership so that it is not forced into administration, like it is now.

The Hon. BEN FRANKLIN: We will move to specifics in terms of election campaigning issues now. The first is the issue around pre-poll. There has been some discussion in a range of evidence given today about the suggestion that returning officers particularly at pre-poll should have some level of discretion over the implementation of some rules, particularly things like the six metre rule outside of the entrances to polling booths. The example the Hon. Peter Primrose raised is that there was an undercover area that was within six metres which everybody wanted to stand under when it started raining, but the local returning officer would not allow that to happen so they all got wet. Do you believe that some discretion should be able to be exercised by local returning officers to ensure that that sort of decision can be made?

Mr DESPOTOSKI: Certainly you are not going to expect people to stand out in the rain, although we had to do it. You are talking about thousands of polling day centres and hundreds of pre-polling centres across the State. At the moment it is sort of who you get on the day, or depending on how lenient the returning officer is. That is no reflection on any returning officers that I have dealt with or that the Party has dealt with. Look, there are some very clear circumstances where I think we could all agree on that you could waive that six-metre rule. It is raining, it is dangerous to stand outside, the footpath does not really permit it. There are some very clear, commonsense examples of where we could all agree as political parties.

But you would have to consider that in the context of not obstructing people and ensuring that political staff and volunteers do not breach the entrance to that particular venue. There is also disability access. So, yes, certainly there are some circumstances which we would support giving that local returning officer some discretion whether to enforce it or not. It is I think more of a point of ensuring that the discretion is made openly and that everyone knows about it, because you have got different people coming on different days, so perhaps some sort of declaration or a sign saying we have waived this rule. That would be important to us too.

The Hon. BEN FRANKLIN: How did you find the postal vote application system worked for you during the 2019 campaign?

Mr DESPOTOSKI: We did a postal vote application—when you say system, what exactly are you referring to?

The Hon. BEN FRANKLIN: Did you have any concerns about it? Do you think it worked well? Do you think that everyone who applied for their postal votes received them in good time? Did you put out a postal vote application?

Mr DESPOTOSKI: Yes.

The Hon. BEN FRANKLIN: Did you find any concerns with it, or were you on the whole happy?

Mr DESPOTOSKI: On the whole we were happy. We did a postal vote mail out, if you would, in Orange and we found, certainly I found when we were going through that process with the returning officer and with the scrutineers after the event, there were no issues there on our end. I did not hear about any issues with

other parties, but we found that, again, everything just takes more time in regional New South Wales, including the post. We would say on the whole that we were happy in the 2019 election with that system.

The Hon. BEN FRANKLIN: The National Party has suggested that an online portal could be developed for the submission and receipt of postal vote applications to promote accountability through the process so you know that each postal vote has been received and accounted for. They raised some examples.

Mr DESPOTOSKI: If the internet is working that would be good. I would not go as far as to say that we would support that, because we need to see the detail first before we would support a proposal in those terms. I am not suggesting that we would be outright against that. It would certainly help in very remote communities that we campaign in, and obviously the National Party campaign in too. Just because of our apprehensions around previous electronic systems with iVote, we would need to see the detail and ensure that there are redundancies in place and that could be done effectively as such.

The Hon. ROBERT BORSAK: We have had quite a lot of evidence today from other parties around the issues of authorisation and social media, and accountability subsequent. Do you want to talk about that?

Mr DESPOTOSKI: Sure. This is our submission, this is also my submission in managing the campaign, if you have got the authorisation at the top of the particular social media page or website, that should be enough. To have to authorise specifically and then be potentially liable for a breach of the Act if you did not frame the authorisation on every single individual post—of which there are thousands and thousands in an election campaign—is (1) I think nonsensical and (2) almost unenforceable. It would take a team as big as this room just to keep monitoring the posts of every political party, every registered third party campaigner. I stand to be corrected on what the Act exactly says, I would have to refresh my memory.

But I remember receiving guidance that if the "about" section of a Facebook page, for example—as there are similar things in Twitter, Instagram and You Tube—as long as that has "authorised by", in our case it would be "Filip Despotski" et cetera, et cetera, then that would have been sufficient. However, when you would seek guidelines from, perhaps another individual, they would say you have to put it on every single post. Our position is that as long as it is prominent in the "about" section of these social media channels, that should be sufficient. Otherwise it just becomes a hair splitting exercise. The first thing that someone sees when they go onto a landing page is usually the "about" section, or if you go on a website you see the declaration there. So there is no confusion as to who is authorising it.

The Hon. ROBERT BORSAK: Mr Layland, do you have anything to say in relation to subsequent claims on social media expenditure?

Mr LAYLAND: It is difficult to make those claims.

Mr DESPOTOSKI: Very difficult.

Mr LAYLAND: Because of the volume. Because you are being charged in very small amounts. It is time consuming doing that.

Mr DESPOTOSKI: The way it works with—I could speak about Facebook, for example. You could put a \$100 boost in a particular geographical area for the campaign of the Hon. Ben Franklin.

The Hon. ROBERT BORSAK: That didn't work.

The Hon. BEN FRANKLIN: Money badly spent.

Mr DESPOTOSKI: I may be preaching to the choir here, but to put on the record on that point, because it is a very, very difficult exercise. That money can be apportioned to a certain geographical area for a certain amount of time. It is not as if it is spent all at once, it gets spent in dribs and drabs. You are talking about—depending on how many users there are at time—sometimes in terms of dollars. When you get the invoice from Facebook, when you go in the background you have a \$100 commitment to boost that particular person's post or page, and there are various ways you can do that, split up in up to 100 different transactions. Then you have to find all those transactions. Sometimes they are on the same list, sometimes they are not, and then return that to the Electoral Commission. When you are spending tens of thousands of dollars, you are talking hundreds, if not thousands of different transactions. The whole thing just becomes a painstaking exercise.

Mr LAYLAND: There was a process of summarising that into one page, splitting by electorate.

The Hon. BEN FRANKLIN: I raised before the issue about vouching only for things that are over a certain amount of money, something that you supported. Another suggestion from evidence we have taken today was that for an amount of money below a certain level, potentially \$100, you should not be required to disclose that at all. That would mean that you would not have to disclose it.

Mr LAYLAND: It would cut out a lot.

The Hon. BEN FRANKLIN: Is that something that you would support as well?

Mr LAYLAND: Yes.

Mr DESPOTOSKI: Yes.

Mr LAYLAND: Disclosing it, as opposed to claiming it as well, because they are different things.

The Hon. ROBERT BORSAK: You refer in your submission to the difficulties around disendorsement of candidates. We obviously had a few of them during the campaign and the subsequent reaction or the way the Commissioner dealt with them after the event. Can you elucidate on that a bit more?

Mr DESPOTOSKI: Yes, sure.

The Hon. ROBERT BORSAK: I have not heard the other parties talk about it, but it would be affecting everybody the same way, I would think.

Mr DESPOTOSKI: You do not plan to disendorse a candidate but sometimes the reality of a political campaign necessitates it. It has happened to every single political party and it will continue to happen. Around 99 times out of a 100 it is not an issue with a candidate. That person stays endorsed until they are successful or not. Every party has its own processes with endorsement and disendorsement and we are not really concerned about that here. As long as those processes are met, we argue that a very simple fix—not suggesting there is a problem as such—to disendorsing that person from the Electoral Commission perspective is a form completed by the Deputy Registered Officer and the Registered Officer, which in this case is myself and Grant, just letting the Electoral Commission know that this person is no longer a candidate of ours and we will meet their disclosure requirements up until that date. Beyond that, they are not a candidate so it does not need to go beyond that.

We had a situation with a candidate where we were being asked to submit information on their behalf—and Grant can talk a little bit more about it—almost nine months after the fact. Of course we did what we were asked to do. We made representations to the Electoral Commission and said, "look, this person is no longer a candidate and has not been so, as we have said a few times now." So there is that issue for us and, I suspect, for other parties in the future.

The Hon. ROBERT BORSAK: The Commissioner waits for the candidate to advise—

Mr LAYLAND: That is correct.

The Hon. ROBERT BORSAK: When they are disendorsed they are not particularly enamoured with cooperating with the party, are they?

Mr LAYLAND: There are different aspects of it. We may disendorse them, they might resign as well. But they do not go back and tell the Commissioner that they are not a candidate any more. Sometimes when they are disendorsed or they resign as a candidate, they may still be a member or they may not be a member.

Mr DESPOTOSKI: We endorse them so we should be able to disendorse them.

The Hon. ROBERT BORSAK: Just turning to the complaint processes and the resolution of complaints. The National Party quite rightly made a submission that when complaints are made, considering the short period of the election, the response times from the Commission are unacceptable and—in many cases—the decisions are unacceptable as well. Would it be right to say that The Shooters, Fishers and Farmers Party NSW found similar problems especially when each was complaining about the other?

Mr DESPOTOSKI: Certainly. I think we can agree on one thing with The National Party. When we both made complaints about one another in those similar circumstances, we were not happy with the resolution of those complaints and how quickly they were done. I say that fully appreciating the constraints and the resource constraints on the Electoral Commissioner and his staff. It is not a perfect world. It is not a perfect system. I do not have the answers on that and I am not sure who does but, yes, we would stand by that submission that the complaints process could definitely be improved.

The Hon. ROBERT BORSAK: Country Labor in its submission stated it lodged 15 complaints on a range of issues prior to the election but not all complaints received a response from the Electoral Commission.

Mr DESPOTOSKI: We made from memory two complaints. I can take this on notice and get back to the Committee. But from memory, one was over the phone that remained unresolved to this day. We made a complaint via email and I did receive a response to that within 36 to 48 hours from memory. Again, I would have to take that on notice.

The Hon. ROBERT BORSAK: The National Party made a submission that negative advertising should be eliminated and they made a couple of suggestions in relation to how that may be done. Do you want to make a verbal submission in relation to that?

Mr DESPOTOSKI: Our position is that we would in principle not support that until we have seen a detailed proposal around that. We received negative advertising and we dished it out just as well as we got it, we would think. I think it is negative to frame negative advertising in that sense. We view it as holding other parties and the Government of the day to account. It is in our submission a bit of a slippery slope when you absolve any party, be it a party that can form Government or not, from criticism. At the end of the day it is an election. We are competing for the same votes. Who is the arbiter of truth? Who is the arbiter of what is negative or not in those circumstances? We would like to think it is the voter. In that sense, we would not support political parties being restricted in what they can or cannot say in that context. We would want to see what was proposed first. In our experience, particularly with television advertisements, we had to substantiate any claims we made—sometimes these were positive advertisements not negative advertisements—with media articles, with *Hansard* and with other documentary evidence. So I think there—

The Hon. ROBERT BORSAK: Who did that justification go to?

Mr DESPOTOSKI: We had to do justification to the television broadcaster.

The Hon. ROBERT BORSAK: Based on the Liberal Party submission, the New South Wales Division argued there should be no requirement to submit separate public funding and expenditure disclosure returns, saying combining the returns would be more efficient. You are the one who gets stuck doing these things, Grant. Do you have any comment to make in the area?

Mr LAYLAND: I could see that it would be more efficient but they are two different things. Claiming expenditure might not necessarily be the same as disclosing because you may not claim everything that you disclose. You may have hit as much as you can claim so you just stop. You do not put in additional items to claim funding when there is no point as that would be creating more work. I can see that you could put it all in the one document but the timing is different as well for the lodgements.

The Hon. ROBERT BORSAK: So you do not think there is scope there for bringing them together?

Mr LAYLAND: They could be brought together.

The Hon. ROBERT BORSAK: Regarding time frames for public funding, do you want to comment on that?

Mr LAYLAND: Sure. We put in some comments about that. There are two different aspects. The campaign funding and we had a comment in there about how that is claimed at the moment. There was one claim and that is it and there is a deadline for the claim. Obviously it was in our interests and the other parties' interests to hold back the claim until the due date because then you capture all the expenditure. But then you get to a situation where you may be carrying debt all through that period for a smaller amount that you are waiting to come in, in expenditure. You are waiting on invoices and so forth. Log books and all that sort of stuff.

The Hon. ROBERT BORSAK: So you could get into a situation where you finally make that drop-dead claim and then, as we have seen in the past, get late invoices which are then dead money.

Mr LAYLAND: Yes. So you end up with a situation where you could have dead money. Plus you are holding back the claim until right at the death. The Electoral Commission gets all the claims all at once. The way the timing of that works is that it had 14 days to make payment which gave it three days to check the claims, from what it told me.

The Hon. ROBERT BORSAK: Do you want to talk about administration funding and the effect on the Party in relation to how it currently is done compared to what it was under the previous Act before it was changed?

Mr LAYLAND: Sure. We put a submission in on that. Under the old Act, the administration funding was basically all received by the end of the calendar year the way they worked it out mathematically. Under the new system it is all half in front and half in arrears on acquittal. So the cash flow is later under the current system. Additionally, under the current system you can only carry forward over-expenditure and you cannot take back expenditure. So if you do not spend it, you cannot claim it. Under the old system you could. It forces you to, I suppose, make sure that you spend the money in the quarter. I saw another submission somewhere about that as well: that it does not help manage our cash flows. You might end up saying, "We haven't spent the money. We need to go out and spend it on something we may not have necessarily spent it on."

The Hon. BEN FRANKLIN: To pick up on that, would you still support the payment of such funding from the party administration fund quarterly? But you would prefer an annualised system whereby the load could be spread across the entire year?

Mr LAYLAND: Yes.

The Hon. ROBERT BORSAK: In other words, if you do not spend something in the quarter it still accumulates to the account of the party so that you can spend it on an annualised basis.

Mr LAYLAND: Yes. January is a slow month for everyone. Everything is shut down but you have to spend the money.

Mr DESPOTOSKI: The third quarter is always the busiest.

Mr LAYLAND: Yes, we find the third quarter is the busiest so we spend more in that quarter.

The Hon. ROBERT BORSAK: Yes, so you are shuffling things over. Turning to donations and disclosure of donations, what do you think the effect to the Party will be with the upgrading of the online real-time donations regime?

Mr DESPOTOSKI: With respect to what we need to provide, or just generally?

The Hon. ROBERT BORSAK: In respect of the Party staying up to date with the requirements of the law.

Mr DESPOTOSKI: Again, that would be—I use the word "onerous", in the sense that it is quite difficult for a small party with limited administrative infrastructure, as I think it was referred to before, in comparison to the major parties to keep up to date with something like that. Twenty-one days was difficult during the campaign, and that is three weeks. You might think that it should be easy enough for a political party to account for donations, but when you are talking about a lot of sums of money that you need to get right and you need to check against an electoral role of millions of people, and you are using a system from 2003—we are not exactly up to date with that, so it is a manual process.

Even if we were—which we are not—constantly updating our software systems to do that, some of these processes still require a manual checking. I cannot see how it would be easy at all. I cannot see how it would be a smooth, straightforward process for any political party to check in real time any and all donations it gets and have that uploaded on a system. Let's be honest: the people who will be checking that are in the political parties. I think 21 days is onerous enough. Anything more, we would need to look at increased funding and some sort of support because it basically becomes a full-time job in a campaign.

Mr LAYLAND: We have difficulties, too, with the donations in regional areas. You have different addresses and they may not match up to electoral rolls. You have got all sorts of strange things in the country with where someone lives and matching it up to records.

Mr DESPOTOSKI: And property names.

The Hon. ROBERT BORSAK: I happen to be aware that the parties recently tried to automate that checking system in the back end, and that sort of thing pops up—that you are getting just as many exceptions as if you did it manually.

Mr DESPOTOSKI: The practical reality is that every political party gets sent a file. Without going into too much of it, it is actually 93 files you get sent. Then you have to convert those files to talk to a computer and that computer has to talk to whatever systems you have, and it is going to spit out a match. Even then I found that it does not recognise me at my address sometimes. You cannot trust it 100 per cent in that sense. So you have to allow some time to correct those, because we do not want data going up online or being published that is incorrect.

The Hon. ROBERT BORSAK: We have had some good evidence today from other parties that, probably in a couple or three different areas, perhaps the pre-poll period is too long. There is definitely a flavour, I suppose, from the parties that have already made representations that we really want to try to get back a bit more to the election day as opposed to the election period that is developing now. In that sense there has been some evidence around—it is currently two weeks—maybe reducing it to eight days, from the Friday through to the polling day. Do you have a view in relation to that?

Mr DESPOTOSKI: Certainly. I echo those submissions. It is, as other parties would have submitted before you today, very difficult to properly staff and manage the pre-poll process, especially for us campaigning in regional areas. We support pre-poll. Whether it should be 14 days or eight days—we would say it should be eight days, if not seven days. Not to go over old ground, we echo all those submissions. Something of particular concern to the staff and I was the timing of the ballot draw and the registration of electoral material. It is beyond

me and beyond the Party how, given the nature of fixed elections, you can have pre-poll starting on Monday and your opportunity to get your material registered on the Thursday afternoon or Friday morning.

I do not know how people expect to print off—it might be different for major parties, but we cannot decentralise all our printing or run the risk of printing millions of pieces of paper with our authorisation on it and then correcting it by election day. We know what date the election is held on every four years; we know when pre-poll will be, whether it is seven days, eight days or 14 days. There should be a longer period for registration of electoral material in preparation for pre-poll and polling day. It is just ridiculous that there is not, because it puts a lot of pressure on party staff and the Electoral Commission, which is doing its best to get it done as quick as possible. But that is how mistakes happen.

The Hon. ROBERT BORSAK: We also got evidence that for the metropolitan electorates there should perhaps only be one pre-poll location. Does that make sense to you?

Mr DESPOTOSKI: In regional areas I do not think it makes sense.

The Hon. ROBERT BORSAK: No, I am talking about city areas.

Mr DESPOTOSKI: In city areas, potentially. You would have to look at it almost on some sort of measuring basis. In most seats in metropolitan areas, you can get to your pre-poll centre or you can drive from one end to the other within an hour or so, depending on traffic conditions. Try driving from Bourke to Broken Hill.

The Hon. ROBERT BORSAK: Let's turn to Barwon, for example, or Murray or some of the other country-based seats. There would, of necessity, be multiple pre-poll opportunities; of necessity, they should be open. We are talking about them being open for two weeks in the last campaign. I am sure The Nationals and probably in some cases the Liberal Party suffer the same thing, having so many places with pre-poll: Keeping them manned for two weeks solidly is a great difficulty and a great cost, I might add, as well. Do you have a comment to make in relation to that?

Mr DESPOTOSKI: Yes. I echo those submissions. Trying to organise volunteers—because for the most part that is what they are; you cannot have eight party staff across eight places in Barwon for two weeks straight, for example—is very difficult logistically. It becomes an expensive exercise when you cover travel or expenses of the like. You are talking about people who themselves have to travel a few hundred kilometres in some instances to get to the pre-poll venue. Those are dedicated volunteers, of course. So it is a much more expensive exercise than it would be in metropolitan seats.

The Hon. ROBERT BORSAK: So logistically, it is much more difficult compared to a city-based seat?

Mr DESPOTOSKI: Yes.

The Hon. ROBERT BORSAK: You mentioned Newtown before as an example but that can probably apply to any city-based seat?

Mr DESPOTOSKI: Yes, definitely.

The Hon. ROBERT BORSAK: Regarding voter ID, what is the Party's position in relation to that?

Mr DESPOTOSKI: We know from previous committees that that submission has been made and it has been taken back and forth a few times. We would need to see the detail of that proposal before committing ourselves to that in its entirety. We do not have a strong view either way, suffice to say that we will be happy to look into that proposal. We would need to ensure that there is fairness in redundancy in places, especially in areas in regional New South Wales where, if you forget your wallet or you forget some sort of ID and have to drive 50 kilometres or 60 kilometres down the road to get it—in some instances, more—it becomes a bit of an issue.

The Hon. ROBERT BORSAK: The Committee received concerns that at a number of locations voting centre managers delayed counting the votes for a dinner break. Did you experience anything like that?

Mr DESPOTOSKI: Not personally, but some of my staff and volunteers did. There are many ways you can go with that. I would think that the number one priority is to allocate your time and staff appropriately to get the results in the Lower House on the night. I mean, as far as individual cases of whether a dinner break was taken or not, I am not aware of those.

The Hon. ROBERT BORSAK: Turning now, perhaps to Mr Layland, some stakeholders have commented that it would be a good idea to have electronic lodgement of electoral funding claims, whether they be admin or campaign.

Mr LAYLAND: The Hon. Ben Franklin already asked that question.

The Hon. ROBERT BORSAK: Obviously, you would be supportive of that?

Mr LAYLAND: Yes.

The Hon. ROBERT BORSAK: We already see that with the Australian Taxation Office and lodgement as far as that is concerned. There is existing technology that supports all of that. Would we save money or time in relation to those things?

Mr LAYLAND: It depends how far you can get your systems to work with what you are lodging, I suppose. If you have to re-input everything then it will not save any time, but if you can lift data into the returns—we did look at trying to automate systems to do that, but then all the returns changed. Then you have to go back and pay people to do that. If you can copy and paste from ledgers and so forth, that is easy enough, but some returns would not let us do that previously. If you could copy and paste into—

The Hon. ROBERT BORSAK: Technically it is not difficult to specify a general ledger on a range of accounts to go straight in.

Mr LAYLAND: Yes, but it is not that simple in some cases, especially if you are not set up to allocate. We have costs that are split amongst things.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies of which will form part of the evidence you have given here today. Would you be happy to provide written replies to any further questions?

Mr LAYLAND: Yes.

Mr DESPOTOSKI: Yes.

(The witnesses withdrew.)

JOHN LANCE SCHMIDT, NSW Electoral Commissioner, NSW Electoral Commission, affirmed and examined

JOHN ANDREW CANT, Executive Director, Information Services, NSW Electoral Commission, affirmed and examined

SIMON SHIU FAI KWOK, Executive Director, Elections, NSW Electoral Commission, affirmed and examined

RACHEL McCALLUM, Executive Director, Funding, Disclosure & Compliance and General Counsel, NSW Electoral Commission, affirmed and examined

MATTHEW WILLIAM PHILLIPS, Executive Director, Corporate, NSW Electoral Commission, sworn and examined

The CHAIR: I welcome representatives from the NSW Electoral Commission. Thank you for appearing before the Committee. Please confirm that you have been issued the information about standing orders that relate to the examination of witnesses.

Mr CANT: Yes.

Mr KWOK: Yes.

Mr SCHMIDT: Yes.

Ms McCALLUM: Yes.

Mr PHILLIPS: Yes.

The CHAIR: Do you have any questions?

Mr CANT: No.

Mr KWOK: No.

Mr SCHMIDT: No.

Ms McCALLUM: No.

Mr PHILLIPS: No.

The CHAIR: Commissioner, the Committee has received a copy of your report on the conduct of the 2019 New South Wales election, tabled in Parliament on 24 October 2019. Would you like the report to form part of your formal evidence?

Mr SCHMIDT: Yes, I would.

The CHAIR: Would any of you like to make a short opening statement before the commencement of questions?

Mr SCHMIDT: If I could make a very brief statement. I think it is important to reflect on just how lucky we are in a place like New South Wales to be able to hold elections in the manner in which we do. I am incredibly grateful to the people of New South Wales for their participation in the election, including political participants. Again, if you look around the world, what we were able to achieve through cooperation in comparison to a number of countries is quite extraordinary. I would also like to put on the record my thanks to the temporary staff, the many thousands of members of the community who come to work for us for sometimes only a day, and the extraordinary work that they do. Finally, I thank my core staff at the Commission. I cannot speak highly enough of the effort and work that they put into the election. One of the things that people ask me is: What do you do when elections are not happening? You may have the same issues with people asking you what you do when Parliament is not sitting. The preparation for the election is a long-term hard slog and it does not finish with the close of the polls. It takes some months to complete and then we move on to the next event. With that I will close my opening statement.

The CHAIR: Thank you.

Ms FELICITY WILSON: Thank you, Commissioner, and all members of the Electoral Commission. We are all very appreciative of the work that you do, because we would not be here without it. I want to talk about a couple of matters. I will start with early voting. We have had a few submissions and some conversations about early voting and there is one specific area I would like to talk about. I welcome other Members jumping in with their questions as well. Part of the conversation we have been having with people appearing before the inquiry is

about the administration of early voting as far as flexibility in the application of the rules by returning officers et cetera. One area I am particularly interested in is the number of early voting centres in each district. I want to understand how decisions are made about the number of early voting centres and the locations of the centres in each electoral district, noting that the Liberal Party has a recommendation of restricting that to one centre per metropolitan district. Can you let us know how decisions are made about the number and location of those centres and whether you have seen an increase in those in recent years?

Mr SCHMIDT: I might pass to Mr Kwok to answer that.

Mr KWOK: In planning for early voting, we commence our data analysis some months before the elections whereby we look at voting trends in the different areas. As you all know, early voting has increased quite substantially over recent elections. The choice and location of voting centres has a number of dimensions based on the increased projections of voting trends. We know that in metropolitan areas there has been substantial growth both in the number of electors as well as uptake of early voting. We also need to take into account locations. The Electoral Commission does not have any permanent sites and we have to take into account what venues are available on a temporary basis and a combination of those. We usually would take into account venues that we have used in the past and try to reuse the venues that we have experience of. We also share the data with our colleagues at the Australian Electoral Commission. With a combination of those we make decisions on securing the sites for early voting.

Ms FELICITY WILSON: Is there a certain number of projected votes that would make you have a stand-alone centre, or maybe more than one centre in a division?

Mr KWOK: That is correct. Obviously there are different population centres where there are communities that may have a need. In some regional centres there might be some towns that have a number of electors that we identify to have a need for early voting. I should also point out that not every voting centre has the full 14-day voting period. We make decisions where, if fit for purpose, some of voting centres might have a shorter early voting period.

Ms FELICITY WILSON: Have you seen a significant increase in the total number of early voting centres in recent years? What has that done as far as resourcing and costs are concerned, if that is the case?

Mr KWOK: The total number of early voting centres probably has remained relatively similar, around the 200 mark, if my memory serves me right. I will verify that. The number has remained fairly similar, but having said that I should point out that in 2015 we increased the number of early voting centres because of the redistribution of electoral districts. We had to have a few additional early voting centres. Taking into account the growth in enrolled electors, which has increased about 5 per cent since 2015, the number of early voting centres has remained relatively similar.

Ms FELICITY WILSON: As we all know and as your submission shows, there is an increase in people undertaking early voting. We have had conversations about whether the Electoral Commission should be enforcing the existing rules for early voting more strenuously, because the perception—whether or not it is reality—is that it has become a convenience measure rather than a personal requirement for people to vote in pre-poll or postal voting. Do you have any comments on the way in which the Commission is approaching this? A witness who appeared before us today said something along the lines that it is essentially an induced demand and that by encouraging more and more people to vote early, it actually encourages them to do it outside of the letter of the law.

Mr SCHMIDT: Thank you for the question. I would like to put clearly on the record that we do not encourage early voting. When we put information out about the availability of the early voting, we make it clear that it is subject to eligibility requirements. There is suspicion that people may be turning up who are not qualified under the legislation. It raises an interesting tension in my role as Commissioner. On the one hand, obviously, the legislative requirement is something not to be treated lightly, but I also have a driving imperative to get as many people out to vote as possible. One of the factors that might drive consideration of whether there is a real problem here other than simply following the eligibility requirements would be if there was a massive incidence of multiple voting, for example, showing that people were misbehaving in that sense.

The challenge would be, if we moved to full enforcement, I could require that anybody who turns up for early voting in some way substantiates the basis of their excuse. So what do I do? The biggest source, I think, of early voting, the biggest category of people who say they will be out of the State on election day, a prospective event, do I get them to sign a statutory declaration? What evidence could a person produce on the spot to say that was the case? Would I have to have banks of JPs lined up to witness statutory declarations? What would I do after the election event? I would not be able to make inquiries in the time of the voting period itself to look at those

excuses and then determine whether that person has made a false statement—the election event would have gone and I would require significant resources then to carry out investigations to pursue those people, and to what end?

It is an interesting conundrum. I listened to much of the testimony today and it was not about this particular issue—and you will note from my report that I have said that I would welcome the Committee giving consideration to whether we should move to a voting period that some other jurisdictions have, rather than an election day and early voting. I am agnostic as to the time frame to some degree except to the point where it might impede a person who otherwise has a right to an early vote somehow not having the opportunity to exercise that. It is interesting if you look at the local government legislation; when the Regulation there talks about establishing early voting locations, I cannot remember the exact wording, but it is so that people who are entitled to vote early can do so. We do not have that same terminology in the current Electoral Act. So the focus for that legislation, and I would put forward is a primary consideration, of course, for the Electoral Act, is enabling those people who can vote early to do so.

Ms FELICITY WILSON: Thank you. I have a couple of issues I would like to discuss but I will do one more and we can come back, if there is time. I wanted to talk about the investigation of complaints that are made in general. I know that there have been a couple of references across the submissions to investigation of complaints. There are two items that I wanted to ask about that are on the public record around use of the electoral roll. In my view, one of the most sacrosanct responsibilities we have as Members of Parliament and candidates is about preserving and respecting the privacy of that electoral roll data. I know of two examples in the public domain where it has become known or suggested that candidates have misused the electoral roll. One of those was on behalf of the Port Stephens MP Kate Washington and also the failed candidate for the seat of Ryde, who is now the mayor of the City of Ryde, Jerome Laxale.

Do you know—it might be pushing you to recall off the top of your head—what the status is of the investigation that I believe was being commenced into the Port Stephens complaint or whether or not there is an investigation taking place in the case of Mr Jerome Laxale and, if so, what the status of those are, when would you expect them to be concluded and if you have any information you can update us on? I think there is a lack of understanding about whether or not outcomes actually appear following these types of complaints.

Mr SCHMIDT: It is an interesting area of law. The legislation under which I and the Commission operate gives us very limited scope for making public statements about the course of investigations. This came up last year before one of the budget estimates committees. Mr Searle was pursuing a particular matter and the advice I will give you now will be the same that I gave to him. I am not in a position and the Commission has no authority under our legislation to talk about the status of investigations, and even when they are finalised, only if there is a legislative requirement to make a public statement of some sort—the lobbyist legislation is an example, where we are required to give reasons for taking certain actions against lobbyists, or there is a court action where the thing becomes public—the legislation does not permit me to make public statements about the status, conduct and outcome of investigations other than I have received an allegation which is being examined in accordance with our normal procedural requirements and it might be in due course I would say that the matter has been concluded.

Ms FELICITY WILSON: What about the complainant? Is the complainant advised of an outcome or is that captured under the public comments?

Mr SCHMIDT: We advise complainants that the matter has concluded, but we are, again, limited in what we can actually tell them about the outcome. We are developing—and this is a matter for the Parliament ultimately—other regulatory regimes to give more scope for a regulator to say more about their investigations. We will be engaging with the Government now that we have had the first run through of both new Acts—there are issues which I have heard some people talk about today which have been identified and this is an issue we will raise as to whether there needs to be a revisiting of that perhaps to broaden the capacity for myself and the Commission to give more information.

Ms FELICITY WILSON: Around the individuals on the electoral roll whose private information may have been compromised, do you think that there should be an obligation for those individuals to be informed? In certain other pieces of legislation there is a requirement that where there is a privacy or data breach that the individual whose privacy or data has been breached should be informed of that breach and how it has been addressed.

Ms McCALLUM: I would say in response to that, that is probably a government policy question. Yes, as an agency we would have obligations in relation to data breaches, but if you are, as I think you are, talking about third parties' activities, then I would say that is a policy matter under privacy—

Ms FELICITY WILSON: You do not currently advise people if their electoral roll data has been breached?

Ms McCALLUM: You are talking about a third party?

Ms FELICITY WILSON: The individual person on the electoral roll, if that data has been breached or misused as the law requires it to be used, are people on the electoral roll informed of that or not?

Ms McCALLUM: I think it would depend on the circumstances. If we had an obligation to do so we would do so.

The Hon. ROBERT BORSAK: Commissioner, stakeholders have raised certain concerns, and I think you were here when we were talking to the Shooters, Fishers and Farmers people about the timing in relation to the start of the pre-poll and the ballot draw. Do you have any comment to make in relation to that?

Mr SCHMIDT: Yes. I think there are sound reasons and good arguments for having a longer period between the ballot draw and the commencement of early voting. I appreciate the difficulty that parties and other political participants have in getting their how-to-vote material together, the logistics of getting the ballot papers proofed and produced and out to the voting centres, so I would welcome actually if there was a broader space in between those two events.

The Hon. ROBERT BORSAK: Do you have a view in relation to two weeks for pre-poll as opposed to maybe one week?

Mr SCHMIDT: Ultimately it is a matter for the Parliament. I think, as Mr Kwok said, we do tailor some of the pre-poll early voting centres' times to suit local circumstances. I would be concerned if there was a suggestion that it would be limiting the capacity of some people who are entitled to pre-poll to be able to do it. There is a particular focus, obviously, on getting as many people through the doors as possible to vote. A shorter period? It depends—how long is that bit of string? I heard eight days being mentioned. That is a period—I would leave that to the Parliament.

The Hon. ROBERT BORSAK: I think it is pretty evident, based on the evidence we are seeing, of the number of people who are pre-polling these days. If a lot of people are pre-polling, the system was not designed to handle that. Do you have any comment in relation to that?

Mr SCHMIDT: It changes the dynamic for the personnel we put at polling places as well. I think we were criticised at the very beginning of the early voting period for queues at some of the metropolitan early voting centres, and that was because, again, there was such a significant jump of people voting through pre-poll. So there are operational issues which arise because of those movements as well. The trouble is it is very hard to predict where that is going to play out.

The Hon. ROBERT BORSAK: Turning quickly to iVote—my favourite subject. Do you want to comment about the issues around iVote and its unavailability during the campaign period in the recent election in March?

Mr SCHMIDT: Happy to do so. If you could bear with me because I have heard a lot of the testimony today. It needs to be broken up into a number of components. I will be completely honest and blunt as you would expect me to be at the outset. There were problems. There were teething problems with the new system. It was a complete rework of the previous iVote system. With the benefit of hindsight, we should have spent more time in developing and implementing that system. Having said that, it needs to be recognised that the Commission has very limited opportunities to develop major IT systems. We had the 2015 election, then the local government elections were split into two so we had 2016 and 2017. That was September, then we were leading into preparations for the State general election. We ensure we bring in extra people to work on specific projects, but the core information services people are our core people; our core subject matter experts are a limited pool of people. In an ideal world we would have started earlier and done a better job.

There were technical issues but iVote is a unique channel. It is available 24 hours a day, seven days a week. You will see in the election reports some figures about the actual percentage of time during the registration period and the voting period when it was not available or when services were degraded. I will quote from the report. From the period 11 February to 23 March—so that is registration and voting—it was available fully functional 91.7 per cent of the time, and from early voting to close of polls 89.77 per cent. That is not an excuse for those people who ran into difficulties and I apologise to those people who experienced that. We are also the victims of the tension we have with any voting system or any electronic system, about demands for enhanced security and balancing that against usability. This Committee recommended in its report on the 2015 elections that a panel be set up to look at the use of iVote; Roger Wilkins was the man who chaired that. One of the recommendations was to enhance security. We increased the size of the—

Mr KWOK: The PIN.

Mr SCHMIDT: —the PIN to 10 digits. Registration opened on 11 February. Voting did not start until 11 March. We believe a number of people forgot their 10 digit PIN number. I can understand that. That raises the question: Do you really need to have registration open so long? Because when people registered and voted during the election period, they tended to register and vote straightaway. Maybe that would not have caused such a problem. It compounded because the system, for a security reason, if a person put their PIN in and failed, they could not reset their PIN. They had to ring the call centre. We had this cascading effect: People cannot get through, start ringing the call centre, calls back up, people get frustrated. Another reform I am looking at is to put it into the system itself, as you often find with banking and other systems. You can redo your PIN number if it fails and there are various communication mechanisms to identify who you are. It delivered the service to a lot of people. I know there were problems with it but it certainly has enabled a lot of people who could not have otherwise voted to be able to do so on the day.

The Hon. BEN FRANKLIN: Could I pick up an issue for a moment? One issue that has been raised between 2015 and before 2011 as potentially assisting to address some of the problems with iVote was it potentially being open source software. Can I ask what your current position is? Obviously there is a range of people, organisations and political parties who would strongly support this. I am interested in where the Commission currently stands.

Mr SCHMIDT: There is a distinction that needs to be drawn between an open source code and release of the source code—

The Hon. BEN FRANKLIN: I am not saying this would be the panacea.

Mr SCHMIDT: Absolutely. Open source implies that there is a system developed by somebody, perhaps the Commission, which is available to the world at large and the world at large can interact with that and comment and improve. It does not work when you have a proprietary system which is bought from a commercial provider. I would never pretend that we have the capacity to develop our own internet voting system. The intelligence agents in Australia do not develop their own intelligence IT systems, they buy them from reputable providers. We would never be in a position and I am not aware of anyone else who has an open source internet voting system which would meet the requirements you would expect from a good internet voting system. Making the source code available is the next step which is what we have done. We had that out earlier this year and have received some feedback.

The Hon. BEN FRANKLIN: That is already out, is it?

Mr SCHMIDT: Yes. The source code was released a couple of months ago.

The Hon. ROBERT BORSAK: That is released for specific review for specific purposes I would assume?

Mr SCHMIDT: People had to go through a process of registering, signing—

The Hon. ROBERT BORSAK: A nondisclosure?

Mr SCHMIDT: Declarations that they would tell us things first before telling the world.

Mr CANT: It was an open release of the source code. The only requirement for somebody to register was that they actually registered so that they were an actual person. They would sign up to tell us any findings before publishing. There was 40 days—

Mr SCHMIDT: Forty-five days.

Mr CANT: Forty-five days after the notification. There was no nondisclosure agreement associated.

The Hon. ROBERT BORSAK: Suffice to say you did not give it to WikiLeaks then.

Mr SCHMIDT: We have not.

The Hon. BEN FRANKLIN: You seem to be speaking in the past tense, is it still available for people to source?

Mr CANT: Yes.

The Hon. BEN FRANKLIN: Will there be an end date?

Mr CANT: We are considering, based on the number of applications and things, when we would close the process.

The Hon. BEN FRANKLIN: You envisage there being a closure?

Mr CANT: At some point we would expect that we would.

The Hon. BEN FRANKLIN: You have a general idea of when that would be? It would be helpful for the community to have some idea is all.

Mr KWOK: It will be very soon given that the release of the software had been completed for the election for some quite time. As you know, software is continuously upgraded at all times and there were submissions that were provided.

Mr CANT: Yes.

Mr KWOK: We only have one submission that has reviewed the source code in-depth.

The Hon. ROBERT BORSAK: It is evident from your evidence right now that you have an ongoing commitment to iVote, I assume that is correct?

Mr SCHMIDT: It is a legislative channel and I will continue to provide it.

The Hon. ROBERT BORSAK: We have had evidence from yourself and past Commissioners on the intent of the rollout of iVote, has that changed?

Mr SCHMIDT: My evidence last time I appeared—maybe it was Budget Estimates or here I am not sure—I am not pushing for an expansion. Obviously it is a matter ultimately for the Parliament.

The Hon. ROBERT BORSAK: Actually, you are right. The previous Commissioner give us that evidence after 2015. That has not changed?

Mr SCHMIDT: No. The only caveat I would put there—and I raised this at budget estimates—with local government elections after the September 2020 elections, councils will have the option of moving to universal postal voting so no more attendance voting. The question I believe Government will have to address at that point is, having in mind the concerns people have raised about the reliability and availability of post, whether iVote will have to be offered alongside that channel. That is a discussion for another day.

The Hon. ROBERT BORSAK: In the past, questions were raised in relation to the external auditability by parties of the iVote system. Has that progressed at all?

Mr SCHMIDT: We engage auditors. We engage people to certify our systems. We publish reports. We were talking earlier about the release of the code for scrutiny. Professor Teague has put in to-date the only submission. Professor Teague identified a potential flaw with the system, but it was a flaw which would require trusted people within the organisation to interfere with the machinery, not an external threat. My point in the context of those concerns is people forget that elections are now electronically run, almost every facet. There is the paper, but the input of the data for the counts and the registration material and online nominations. If I was going to interfere with a New South Wales Government election, I would not do it through iVote. I am not going to say what I would do.

The Hon. ROBERT BORSAK: Maybe you should say it off the record. Let's clear the room.

Mr SCHMIDT: The point is that iVote is under such scrutiny and we do a comparison of voting behaviours with people who use iVote for outliers. We had the intelligence agencies work very closely with them during the election. They were able to give the comfort that they saw no evidence of foreign or external attempts to try to hack or interfere with the iVote system. I am always open to suggestions. One of the big challenges is the involvement of scrutineers.

The Hon. ROBERT BORSAK: I am with you when it comes to the Russians; I do not want them involved here either. But it is common practice, especially amongst accounting firms these days, to run congruent computer programs that automatically audit and balance and spit out exception reports in relation to these things. Why could something like that not be done with iVote so the Commissioner could give confidence to the parties concerned that what went in came out and that the numbers that were placed in ended up in the right spots? Those algorithms can be developed and run side by side.

Mr SCHMIDT: We do mathematical proofs of the data. I will pass to the Chief Information Officer on that point.

Mr CANT: Some of the mathematics is beyond me as well. But if you look at the submission that Dr Vanessa Teague made, one of the principles that we try to apply is to make it so it is verifiable from the input of the vote all the way through to the count. More so than in any other voting channel, there are checks and mathematical proofs in place to prove that the data that was put into the system matches the data that comes out

the other end. We have independent auditors who audit that process. We have got a cryptographer who comes in to check all the cryptographing to ensure that all the mathematical proofs operate correctly.

The Hon. ROBERT BORSAK: I am absolutely 100 per cent sure that you are doing everything possible. But the worst possible assurance I can get from a party point of view is, "Trust me; I'm from the government."

Mr CANT: From our perspective, what we would like is to get as much engagement in the process as we can so we can demonstrate that.

The Hon. ROBERT BORSAK: That is why I am looking for third-party external verification algorithms. At the moment iVote does not provide for that sort of thing. But, as I said, it is very common in large corporate audits. And this is a very large audit process that you are engaged in.

Mr SCHMIDT: We would be happy to work with the parties to see if something could be developed that would satisfy your point.

The Hon. ROBERT BORSAK: Thank you.

The CHAIR: Commissioner, there have been a couple of submissions on this point—and I probably already know your answer but I will ask you anyway. Should there be truth in advertising legislation prohibiting negative campaigning tactics legislation in New South Wales?

Mr SCHMIDT: My answer is a simple one. If the Parliament wanted to do that, it could. I would hope and expect that they would not expect the Commission to do that. I think it would be incredibly challenging. There would be a couple of real practical problems if it was the Commission—I am agnostic about another body. First, it runs the risk of politicising the Commission or creating the perception that the Commission has been politicised if it were to take a position on a particular bit of electioneering. Second, there is an issue with the resourcing required. In the middle of the election period our people are flat out as it is. I have heard comments about dissatisfaction about the degree to which we got back to people in a timely fashion on certain things. To have this as another function on top of that is all well and good, but perhaps the Committee might invite the South Australian Electoral Commission up for a chat about its experience using it.

The Hon. ROBERT BORSAK: The last thing I would want to do is use South Australia as an example of anything.

The Hon. BEN FRANKLIN: I start by emphasising the point that you made right at the start, which is that there is bipartisan unanimity on congratulating the Commission on the work of both its permanent and casual employees. There is an enormous degree of confidence in the system in this State and I think that is in large part due to the work of you and your staff. I thank you for that. I would like to put forward some evidence from the written submissions and the verbal evidence we heard today on a number of points and ask for your response to each of them. If you have been following the evidence, there has been a range of suggestions made. It would be helpful to know if the Commission and Commissioner feel that they are things that can be implemented and are practical. I would like to start with some of the compliance issues.

My thrust—as you have probably heard—is that I have tried to look at how we can ease the compliance burden on individuals and on political parties while at the same time maintaining the integrity of the system. The first suggestion that has been put forward throughout the day and in the submissions is to increase the amount of time available for political parties to provide their biannual disclosures from 28 days, or four weeks, to six weeks. Do you have a view on that? I can go through the arguments. It is about getting away from the end of the financial year and it is about getting away from the December holidays and Christmas period and so forth. I think they are reasonable arguments, but I am wondering if there is a reason why we should not go down that line?

Mr SCHMIDT: I am not aware of any.

Ms McCALLUM: The time frames are set by the legislation. We follow that. The one exception to bear in mind—which, again, is a policy matter—is that in the year before a State election, if you extend the time period closer and closer to the March date, the job for the Commission in processing all of that and getting it published in time to be of use for the election would, no doubt, be a policy issue that would need to be considered.

The Hon. BEN FRANKLIN: Yes, I think the end of the year before an election—when an election is held three months later—would probably need to be an exception. That is an excellent point. There has been some discussion about vouching and the absurdity of needing to vouch for very, very small amounts of money. There has been a suggestion that vouching should only occur from a certain level. Some evidence has suggested \$100 in terms of expenditure and some has suggested \$500. Without talking about numbers, do you have any concern about the idea that full vouching should only occur from a particular level? You could potentially look at a random

sampling of others or, indeed, have a requirement for no vouching at all below a certain level. Do you have any comments on those issues?

Ms McCALLUM: Again, that is probably a policy matter. From an operational perspective—

The Hon. BEN FRANKLIN: By the way, I am not seeking to have you comment on policy at all in this. I am asking about implementation.

Ms McCALLUM: We request the vouching and require the vouching. That is a requirement of the framework. There would be imperatives to look at our auditing processes to ensure that it was, in fact, a better a process for the participants and the Commission. The purpose is to make it easier for participants, but we still need to audit it to be clear that the returns had integrity. If only what was being claimed was being vouched for then there would need to be some careful thought about whether a lower threshold achieved that.

The Hon. BEN FRANKLIN: The point is that none of the political parties would need to pull together reams and reams and reams of paper, which add up to a combined total of a few hundred dollars. And your staff would not need to then work their way through them. The argument is that it could potentially save everyone's time.

Ms McCALLUM: The records would need to be kept anyway. Again, I do not want to stray into policy too much. But providing paper to us may not be such a big issue if the records need to be kept in any event to vouch for the expenditure, for example.

The Hon. BEN FRANKLIN: Understood. There is currently an exception to aggregation for small donations at fundraising events for up to \$50. There has been a suggestion that that be increased to \$100. That would be in line with the new limit with cash donations. Do you have any concerns about that?

Ms McCALLUM: Not now. I might take that on notice.

The Hon. BEN FRANKLIN: Yes, you can do that for any of these questions. If you have any further thoughts you can provide them on notice.

Ms McCALLUM: Yes.

The Hon. BEN FRANKLIN: Another issue which was raised was about the party agent being the person required to sign particular documents, sometimes with a very fast turnaround and sometimes that is very difficult to happen and can mean missing deadlines and so on if they have bereavement issues, or whatever it happens to be. Do you have any concerns about either the agent nominating somebody else, potentially the registered officer or deputy registered officer as their emissary while they are away or, alternatively, even broadening it to allow registered officers and the agent to fulfil those signatory roles? Do you think that undermines potentially the integrity of the agent's position?

Ms McCALLUM: The agent has obligations under the Act and those obligations would need to be able to be enforced in relation to somebody. I think again it is not a question that you could not have a situation which the legislation might be changed in order to enable that, but it would need to take into account that whatever the obligations were on the agent either stayed with the agent or transferred to somebody else, and that it was possible for the Commission to actually enforce those obligations. I believe that there is training for agents as well so obviously there may be an issue about other people needing to be trained as well.

The Hon. BEN FRANKLIN: They are very fair points. I move to logistics around polling day or the election process itself. There has been some discussion particularly about pre-poll but this also applies to polling day, and potentially allowing localised returning officers to have discretion about things like the six-metre rule for the placement of posters and some level of discretion. Obviously there needs to be a fundamental set of rules but there are some absurd situations that have been noted. Do you have concerns about allowing localised returning officers to have a level of discretion to make their own determinations?

Mr SCHMIDT: I think it does create a risk. As far as possible when it comes to the running of the election we try to have it black and white so that there is clarity of the parties' rights. The voting centre manager has a huge task anyway running the voting centre on the day. If you were to introduce such a discretion I think you would have to bring in an extra person to actually manage that relationship, as I understand it, particularly with early voting centres, the voting centre managers tend to talk to the party workers at the start of the day. They come to an agreement about where the boundary is and talk about the relationship they are going to have for the rest of the day.

If you opened it up to discretion, it raises interesting enforcement issues because now you are having individual discussions at hundreds of voting centres across the State. If there is a subsequent dispute as to whether that gentlemen's agreement, or in the exercise of that discretion, there was a breach of that which will not be solved

until months after the election and people have moved on, that could be a problem. There is another way of looking at it, another solution, the challenge we face with a lot of these places, not so much on election day because we tend to use schools, they tend to be set back and have more facilities for people, hopefully more cover for the party workers et cetera.

It is the early voting centres which tend to be more short-term commercial leases. If we had additional funding to perhaps raise the standard of those premises and had clear guidelines or agreement about what were the other facilities that might be required to meet the needs of the party workers, such as shelter, we could certainly look at that but that would come at a cost but if it were agreed we could consider it. Ultimately too it is the convenience and comfort of the electors that has to be taken into account. If I have to err on the side of who is going to feel a bit of discomfort on the day and unfortunately I want to protect the voters going in from that discomfort. Now that is not necessarily a nice thing for a person who is standing in the rain or the hot sun to hear, but it is striking that balance. In summary, I do not like the idea of a discretion. I believe it would require to implement additional resources as well. But part of the solution might be in actually our choice of venues which we use for early voting.

The Hon. BEN FRANKLIN: That is an excellent answer. I move on to postal vote applications. I am sure it does not come as a galloping shock that we will be doing that. Obviously a number of concerns have been raised and quite specific examples of situations where two applications are sent on the one form and only one was received or batches came back and deleted in an email reply without having been read et cetera. We do not need to go into individual examples. I want to ask about a few things on a macro level. Firstly, how do you feel, and what comments would you like to make about how the postal vote system went? What lessons can be learnt for 2023?

Mr SCHMIDT: To jump to the end of the story in a sense I think we do need to develop a portal so that more could be done electronically.

The Hon. BEN FRANKLIN: That is where I was heading.

Mr SCHMIDT: Let us explore it a little bit. One of the concerns I have is we receive some thousands of emails from people relating to postal voting and it was more about "Where is my postal vote application up to?" Any system we develop or purchase hopefully these days it is quite common place to be able to track your order when you do internet commerce, and we should be able to do something like that. There is a bit of confusion out there which is generated by the way postal voting operates. We have a number of duplicate applications so we have people who are already general postal voters but then the party will put in an application for them. So we had tens of thousands of duplicates that came in. It was a problem with some of the parties printing—I think the example you gave—the two applications for husband and wife on the one application. If it came through in a paper format we had to cut it in half and it is possible that some became separated and misplaced. If they came through via email they were displayed on a screen and had to be cropped and it is possible that some fell off the system, as it were.

I heard there was a comment here about people getting advice that they received a message, I think, or words to the effect that their email had never been opened. That was a systems issue. The emails had been opened but when they were archived the system into which they were archived, if the person who had sent the email in had asked for a response, for some reason that system triggered a further message, and so we had to go out to people. The system we used had some problems. People were sending in large batches of postal vote applications through the email. We had a capacity constraint about how we could handle some of those things and so there is a lot to be learnt and improved in that space.

The Hon. BEN FRANKLIN: Do you envisage that the development of this online portal will be up and running for the 2023 elections?

Mr SCHMIDT: We will go to the Government with the proposal.

The Hon. BEN FRANKLIN: Is that what you would like to happen?

Mr SCHMIDT: Within the capacity of the organisation. This is the challenge. The Public Accountability Committee is looking at the funding arrangements for a number of integrity agencies at the moment and we have put in a submission. I encourage members to read that because it will give a flavour for some of the challenges we face. We already have in the process a number of systems being developed. We are developing an online funding and disclosure system to overcome a lot of the paper movement people have talked about today. It had to be put on hold because we were developing the online disclosure of donations in the lead-up to the elections. We are now going back to the original project which was for interaction with participants about donations and funding applications, et cetera.

We have a series of systems but we have a very small number of people who can actually make these systems changes and oversight the contract with the provider. We will look at our capability. In the narrow window we have got after September 2020 with the State local government elections leading up to SGE 23, to see what is feasible and what can be done. Of course, it will depend on the resources and budget that is given to do so.

The Hon. BEN FRANKLIN: Your point is well made. Obviously from our perspective we are trying to work out what is best practice, and obviously therefore that may require some flow on to what you say. In terms of the tracking system, have you had a look at the system used by the Australian Electoral Commission [AEC] for postal votes?

Mr KWOK: Yes, we have.

The Hon. BEN FRANKLIN: Will you be looking at that?

Mr KWOK: Yes, certainly we had a look at the AEC systems and we find that would address some of the issues that we have identified during our elections, yes.

The Hon. BEN FRANKLIN: I move on to declared institutions. This is a perennial issue that parties and candidates generally get the list of declared institutions quite late. Is it possible for parties and candidates to receive the list of declared institutions before the polls are open?

Mr SCHMIDT: I will pass over to Mr Kwok in a minute but there are two elements to that. I saw in some of the submissions suggestions that we had changed or not made some information available. We go to declared institutions. We ask permission to use in-person voting. Many institutions say they opt for postal. Just because it is not offered—because it is not apparent that there is voting there does not mean that we did not have interaction with the institution. But we do publish. We publish all the details online. When do they normally go up, Mr Kwok?

The Hon. BEN FRANKLIN: Yes, but it is the time that is the issue.

Mr KWOK: I will take that question on notice.

Mr SCHMIDT: I would be surprised because I sign off well in advance of polling opening, so I would be surprised if there is a significant delay there but we will take that on notice.

The Hon. BEN FRANKLIN: Thank you. I appreciate that. Finally, I move to complaints. Obviously, a number of issues have been raised about complaints not being ruled on. I am asking you what you need in order to be able to rule on the sorts of complaints that have been raised throughout the day and throughout all of the submissions in a timely way.

Mr SCHMIDT: There are a number of elements to that. I was not happy with our complaints system during the election. It became apparent that we had a number of mechanisms, including email accounts, that people could come through and raise issues—the public and political participants. The most significant volumes of complaints—sorry, "complaint" has a particular definition—but issues raised were to do with the timeliness of postal vote applications and the usability and problems with iVote.

When it comes to engagement with the parties, again, people have come through different channels. The matters are taken on board but the focus then immediately shifts to trying to do something about it. As I have gone through earlier, with the capacity to go back and provide any significant detail about what the outcome of that might be, if it does not lead to a public prosecution or—that is basically it, in a sense, for the Electoral Act, because we do not have a public naming provision. The chance of feedback within that very tight time frame is somewhat limited. Ms McCallum, do you want to add anything to that?

Ms McCALLUM: I am assuming when you referred to rulings you were actually referring to allegations about breaches of the law. Is that what you were referring to?

The Hon. BEN FRANKLIN: Absolutely.

Ms McCALLUM: So, as the Commissioner said before, the framework under which we operate does not authorise us to give the outcome, necessarily, to the complainant or the person who is making the allegation. So if that is what you are referring to—but if you are referring, more generally, to taking action as opposed to a written notification of what the Commissioner has found after an investigation—are you talking about on the day?

The Hon. BEN FRANKLIN: Yes, for example, in one particular area there was a case of a poster that was clearly oversized and the Commission was advised about it. There did not appear to be an instruction then given to the offending party on the ground to remove those posters, so there had to be an injunction application to the Supreme Court of New South Wales. To me, that seems an utterly absurd misuse of both parties' resources

and time. To me, the Commission should be able to say, "No, pull this down." I am giving you the opportunity to say what you need to make this happen.

The Hon. CATHERINE CUSACK: In the old days the person in the office would simply walk outside and say, "Take that down", and the matter was dealt with. Now there is a system of, "Here is the telephone number you have to ring in Sydney." You ring that number, they ask you what your email address is. They give you an email address. The person on the booth sends an email. Four days later an acknowledgement comes and then there is no outcome. In evaluating the performance of the system, I think my colleague is asking about how you are you going getting rulings made, compared to what used to happen in the old days when it was all simply sorted out on the spot? It seems very expensive to me when it was so much easier where the person would come out and say, "That poster is not authorised. Take it down." That just cannot be done now. All the volunteers are in a spin and it turns into a drama. Nothing gets done. I presume you have some system in Sydney all set up.

Mr SCHMIDT: I will not go into details but an example springs to mind where a complaint was lodged about whether a corflute had been properly authorised. We went back to the party. We asked them to make it clear that it was their material that was there. I think they stapled some business cards, in the first instance, on the bottom of that corflute. It then came back to us that people complained that that was not satisfactory. I agreed and said that we should go back to the party and that they should make it much clearer on the material. But that was done through Head Office dealing with the party—

The Hon. CATHERINE CUSACK: Can I clarify? When you said, "I agreed", are you saying that you became involved in the issue?

Mr SCHMIDT: No, I was aware. I was made aware of it.

The Hon. CATHERINE CUSACK: I find it mind-blowing that you, as the Electoral Commissioner, would become involved in whether the thing stapled on the poster was adequate or not. Can your local people not simply deal with this? It was so much better. Sorry, I should not make that value judgement. Have you got some sort of evaluation of your current complaints system? Have you benchmarked that against the outcomes and timeliness of past practice?

Mr SCHMIDT: I do not know whether we would have the data to be able to carry that out.

Ms McCALLUM: No.

The Hon. CATHERINE CUSACK: Because for the authorisation of a poster on a remote booth in the country to have to be resolved by Sydney does not make sense to anybody on the ground. So there must be a really good reason for it and we are trying to discern what that is. It would seem to me to distract a lot of your resources but not get better outcomes. That is how it appears to people on the ground.

Mr SCHMIDT: Okay. We will take it on board but I think part of the issue, too, is it varies from polling place to polling place—the demands on that particular voting centre manager at the time.

The Hon. CATHERINE CUSACK: No, it is across the board—"Go away. Here is the phone number."

The Hon. BEN FRANKLIN: Perhaps you could take on notice the question: If there needs to be legislative change in order to provide the Commission with the power to be able to dictate to the local returning officer, "Pull that down", or whatever it happens to be, that then it can be done. Is it that you are not empowered to do so? I am trying to get my head around it as well.

Ms McCALLUM: In responding to that, I will not be talking about any particular matter.

The Hon. BEN FRANKLIN: No, I do not want to talk about specifics.

Ms McCALLUM: I make the point that it depends upon what the allegation is about the noncomplying material.

The Hon. BEN FRANKLIN: That is fair.

Ms McCALLUM: There could be very simple cases in which it is just an obvious lack of authorisation of material. There could be more complex issues that do require advice to be received from Head Office in relation to whether or not a particular piece of material is, in fact, compliant. In this election there was, for the first time in a State election, compliance operation across the State so it was not as if it was everybody just in Head Office. In fact, we had a significant compliance operation across the State where a compliance investigation team from Head Office was across the regions and they were involved in, as I understand it, numerous instances of discussions around the compliance of material.

The Hon. CATHERINE CUSACK: This supplanted a role that used to be undertaken by the local person at the office. Am I correct in that understanding? That you have put in a specialist team to deal with it?

Ms McCALLUM: I would have to take on notice what the situation was in the 2015 election as I was not here.

The Hon. CATHERINE CUSACK: I will ask it differently. Are there new guidelines that you give to the local returning officers?

Ms McCALLUM: The election managers and the voting centre managers.

The Hon. CATHERINE CUSACK: Do you have written guidelines about complaints management?

Ms McCALLUM: There are. Allegations are to be referred to the investigations team.

The Hon. CATHERINE CUSACK: So that is all allegations?

Ms McCALLUM: About noncomplying material or—

The Hon. CATHERINE CUSACK: Yes, about everything.

Mr KWOK: Where there are issues to do with compliance or noncompliance, they are referred to the compliance team. As Ms McCallum has noted, it is not just at the Head Office. We do have a compliance team in operation in areas as well.

The Hon. CATHERINE CUSACK: In terms of monitoring the performance of your complaints system, was there any evaluation of that done after the State election? Do you have any performance information about it?

Mr KWOK: In terms of the compliance operation itself?

The Hon. CATHERINE CUSACK: Yes.

Mr KWOK: Yes, we have.

The Hon. CATHERINE CUSACK: How many complaints did it get? How long did it take it to process them and what were the outcomes of the complaints?

Mr KWOK: We will take that question on notice.

Ms McCALLUM: Some of that material will appear in our annual report, as well, in relation to the compliance—

The Hon. CATHERINE CUSACK: I am really interested, because this seemed very different at this election. I am hoping that you are able to benchmark it against previous practice and give us some feedback about its performance.

Mr SCHMIDT: We will have a look at that and see what we can give you.

The Hon. CATHERINE CUSACK: Thank you.

Mr KWOK: If I can also add, the previous practice is not without its issues as well. Often when it comes to authorisations, it is not always as black and white. There is the size of the text, there is—

The Hon. CATHERINE CUSACK: But that is why someone on the ground who could come out and look at it and make a decision worked really well.

Mr SCHMIDT: We will have a look at that.

The Hon. CATHERINE CUSACK: But now we are in a really massive investigation into someone's T-shirt.

The Hon. BEN FRANKLIN: To tie this up, could you consider on notice if there are any recommendations that you would make that the Parliament can do or this Committee can consider about assisting with this issue?

Mr SCHMIDT: Okay.

The Hon. ROBERT BORSAK: Mr Kwok, what arrangements are made so that polling staff issue correct instructions to voters about how to fill out a ballot paper?

Mr KWOK: Could you repeat the question, please?

The Hon. ROBERT BORSAK: What arrangements are made so that polling staff issue correct instructions to voters about how to fill out a ballot paper?

Mr KWOK: Election officials are given training. The training tools are available online. They are also given a manual that they need to follow. They are instructed to ask questions that are required to the electors.

The Hon. ROBERT BORSAK: In its submission, Labor said that it believes there was some confusion about instructions being issued across the various electorates, in terms of what actually should be said. Some were saying just vote 1, others were giving other instructions. That was especially the case in culturally and linguistically diverse communities. How good is the training in terms of all of this so that—Commissioner?

Mr SCHMIDT: There are 23,000 people who are engaged to run these elections. There are complaints received by us in this regard. In the local government elections I recall also having some similar issues. We do provide training. We require people to do the training. I think they are paid a training allowance to enable them to spend the time doing it. From time to time there will be occasions where people question—I think some of the submissions are that people are overhearing instructions being given to another voter and forming a view about that. I do not know. We are not party to those discussions. The instructions are on the ballot papers for electors as well. From time to time, I suspect, there probably are instances—

The Hon. ROBERT BORSAK: You say there are 23,000 employees; obviously it is a big endeavour. What is the lead-up time for this training process? Is it a week, is it a day?

Mr SCHMIDT: It depends on the position that a person holds. For the district managers, they are brought in for training. Mr Kwok can talk about that.

Mr KWOK: We engage Election Managers. These are what we used to call Returning Officers. Training is given face-to-face for close to a week. Then we have different election officials who require a different level of training. In terms of election officials—these are the temporary employees who we engage to work for just one day only—we are able to give them training only on an online basis. You can appreciate the scale of the staff involved. That is the extent to which we provide training.

Ms FELICITY WILSON: I want to ask a question about fines for not voting. I have heard anecdotally from a lot of people that they—well, it is not anecdotal: They have received fines—but it seems like a higher number of people who have received fines but who have actually voted. Do you know whether or not you have had an increased number of fines occurring from this election? How are you going about ascertaining who to fine? I will not name names here, but it surprises me as to some of the people who have received fines, as they would have definitely been voting.

Mr SCHMIDT: I do not believe there has been a marked increase in failure to vote. The conjunction of the Federal election with the State election has obviously caused a lot of confusion for some people, because when they come back with their reason why they should not be fined there has certainly been a significant number who have put down a polling place which we did not use, for example—it has been a Federal polling place. With the lead-up to the election, it is an electronic mark-off, so that information is available. With the polling day itself we have all the rolls scanned. We also do a quality assurance test after that; depending on how it is marked off, there could be a question mark as to whether in fact it is in one particular name or another. We go through and exclude people on that basis. I am not aware that there is any marked divergence from previous experience.

Mr KWOK: The overall turnout has only slightly decreased from 2015. The turnout was 90.16 per cent. It should be noted that we have had a growth in the number of electors enrolled, so the actual number made a slight increase—there is about a 5 per cent increase in the number of electors. But the processing of non-voters and also the manner in which we exclude the voters—for example, if a postal voter has returned the ballot papers after the close we do not fine them, of course, because they have genuinely attempted to vote. The overall figures, I think, are relatively the same.

Ms FELICITY WILSON: Can you come back to us with data on whether there has been an increase in the number of people who have successfully challenged the fine? I know some people have had those fines overturned. It is not just about the fine; it ties into that electronic mark-off system and whether or not it is actually working the way it is meant to be working.

Mr SCHMIDT: We will give you figures on people who are excused?

Ms FELICITY WILSON: Yes, excused. Thank you.

Mr SCHMIDT: We will give you the figures for the number of apparent-failure-to-vote notices that have gone out; the number who have actually paid; the number who have been excused; the number who have been court-elected—will that give you the gist of what you want?

Ms FELICITY WILSON: Yes. Thank you, Commissioner.

The Hon. CATHERINE CUSACK: I wanted to ask a question but we have run out of time. Can I put my question on notice to you?

Mr SCHMIDT: Absolutely. Mr Kwok has the answer to that question about declared institutions and when the information went up.

Mr KWOK: Yes, I have found the information and I just want to provide it to the Committee. We have listed all the declared institutions on our website, with the first version of the list available in mid-February. We made an update to the list in mid-March as well. The list of declared facilities were on the website at that time.

The CHAIR: Thank you very much for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and made public. Would you be happy to provide a written reply to any further questions?

Mr SCHMIDT: Yes.

The CHAIR: I thank you for attending today and appreciate your time. That concludes our public hearing. I place on record my thanks to the witnesses who appeared today. In addition, I thank the Committee members who are still here, Committee staff and Hansard for their assistance in the conduct of this hearing. Thank you.

(The witnesses withdrew.)

The Committee adjourned at 17:08.