

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON ELECTORAL MATTERS

**INQUIRY INTO THE ADMINISTRATION OF THE 2003 STATE
ELECTION AND RELATED MATTERS**

At Sydney on Monday 23 May 2005

The Committee met at 9.30 a.m.

PRESENT

Ms M. F. Saliba (Chair)

The Hon. Dr A. Chesterfield-Evans

Mr G. Corrigan

The Hon. A. R. Fazio

The Hon. J. A. Gardiner

The Hon. D. T. Harwin

Mr P. R. Pearce

PETER EDWARD CONSTANTIN BRUN, Honorary Treasurer, H. S. Chapman Society, 60 Captain Pipers Road, Vacluse, sworn and examined:

CHAIR: Mr Brun, thank you very much for your attendance before the Committee today. I am advised that you have been issued with a copy of the Committee's terms of reference and also a copy of Legislative Assembly Standing Orders Nos 332, 333 and 334 that relate to the examination of witnesses. Is that correct?

Mr BRUN: That is correct, yes.

CHAIR: What is your occupation, and in what capacity are you appearing before the Committee?

Mr BRUN: I am retired. I am appearing before the Committee as Treasurer of the H. S. Chapman Society.

CHAIR: The Committee has received a submission from you. Is it your desire that that submission be included as part of the formal evidence?

Mr BRUN: There is one thing that I would like to leave out and that is point 8 on the first page.

The Hon. DON HARWIN: "Is the system really quicker than a manual count"?

Mr BRUN: Yes. I would like to leave out, please.

CHAIR: Very well.

Mr BRUN: And at point 9 on the second-last page, four rows from the bottom, I would like to include the word "apparent" in the phrase commencing, "Many more errors,"—"Many more apparent errors".

CHAIR: Very well. Would you care to make an opening statement?

Mr BRUN: No, I do not have anything further to add to my submission.

CHAIR: We will move on to questions. The new submission you raised concerns about the way scrutineers are informed about the counting of votes. Would you outline those concerns for the benefit of the Committee?

Mr BRUN: I just seemed to be totally haphazard. I do not know if any members of the Committee have been to the Villawood counting centre, but it is a large open space warehouse. There was a desk that we reported to when we came in and then it was like wandering off into a jungle and finding your own way around. You could see everywhere in the building and there were double rows of computers. I was scrutineering for four local council wards and I have to go through and find out just where they were being counted.

As I said in my submission, there is no indication as to which wards are being counted in any particular row. There might be more than one—in some cases three in one row—and you might have one ward that is being counted in more than one row. The first half an hour was spent trying to work out what was actually going on. You could see people entering things, but not where you really want to be. I thought that was pretty casual. I thought that ought to be tightened up.

CHAIR: Thank you.

The Hon. AMANDA FAZIO: What problems did you observe were being caused as a result of being so casual?

Mr BRUN: It made the scrutineer's task even more confusing, because if you are supposed to scrutineering for, say, one ward, that is the only ward for which you are allowed to go and watch the proceedings. There were 20 rows, and that ward may not be in the process of being counted at that time. You had to literally go around and ask people, and it was not always too clear who the supervisors or more senior staff were. They all dressed slightly casually. They had ID, of course, but you had to get fairly close to them to see exactly what that was. It was a matter of finding your own way around. That just did not seem to me to be the right way of going about it. Does that answer your question?

The Hon. AMANDA FAZIO: Yes.

CHAIR: You also raised concerns about inconsistencies in procedures used by data entry operators and supervisors. Would you outline some of the inconsistencies you saw while scrutineering?

Mr BRUN: With the supervisors you get different versions of what you are allowed to do. For example, if see a ballot paper that has not been entered correctly, what you actually do? I was told for a start that what you should do is to stop the operator and get the supervisor along. Well, in one case I did the out and I was told I was not allowed to do it. I said, "Well, what do I do?" She said, "You have got to note the number of the bundle and the number of the ballot paper in that bundle." Bear in mind there are 200-odd ballot papers in a bundle and as the data entry clerk goes through the ballot papers they are bundled in this corner and they turn them over. There is no way of knowing what the bundle number is, because it is on the top sheet; it is not on every ballot paper. So that was clearly quite impossible.

As to stopping them, on the computer screen each ballot paper is given number as it is entered. It does not go on the ballot paper itself. It is one little box, quite faint, and you would have to note that. Well, that is just possible but, as I say, you would not know what the bundle was. Then you have to find the operator. That was one particular operator. Other operators, when I stopped a clerk, did not come with any of that. I mean, they could not both the right. I raised some of these points with the more senior people and this particular woman I mentioned was definitely wrong. She must have been inadequately trained to have come up with that.

There was another one who told me that I should put an objection sticker on the ballot paper. None of the supervisors knew anything about that at all. I can only conclude that the training was inadequate. As far as the data entry clerk's go, a lot of them counted a batch and put a sticker on each twenty-fifth ballot paper—so, 25, 50, 75 and so on. That was a crosscheck as they went through. But they did not all do that, and they were not obliged to do it. I reckon that that was pretty important. That is paragraph 6.

The Hon. AMANDA FAZIO: Will you explain why you thought it was so important that the data entry operators marked them at 25, 50 and so on?

Mr BRUN: It should be a precision process. There was a woman who got out of kilter at one point and she was able to go back to the previous sticker and check what she had done; she did not have to go back to the very beginning of the bundle. There was another instance this can be a problem, and that is referred to at paragraph 9. This related to one of the verifiers. I do not know how many of you are aware of the process, but each ballot paper is entered twice and then there is a computer verification process to ensure that the entries are the same.

When the entries are not the same, a verifier goes through and checks them. In this instance, there was a significant difference between the two entries, not just a single typo, and she corrected that entry. The next ballot paper was also completely different. I called in the supervisor at that point because that seemed to me to be pretty unusual. What happened was, they were one ballot paper out. At least that was towards the end of the bundle. Once that error was corrected, all the other entries were right. If she had not stopped at that point I do not know how long she would have gone on for. She would have had to re-enter every ballot paper and one would have been missed out for some reason or she might have got to the end and found there was an extra one. So, a simple thing by going through and putting a sticker every 25 ballot papers is quite a useful cross-reference.

The Hon. AMANDA FAZIO: When that case you just told us about occurred and you called over a supervisor, did the supervisor tell you that the person doing the data entry was in error in trying to correct them like that?

Mr BRUN: No, she did not.

The Hon. AMANDA FAZIO: So she made no comment on what had gone on?

Mr BRUN: No. I think what happened, there was an extra ballot paper in there. One of the original entry clerks had failed to enter that ballot paper, and that is why they got out.

The Hon. JENNIFER GARDINER: Were any written guidelines issued to the scrutineers?

Mr BRUN: No. Well, I was not given any.

The Hon. JENNIFER GARDINER: You were pretty much operating in the dark as to what you could and could not do?

Mr BRUN: That is right. There are certain things one is told—I have done quite a bit of scrutineering—do not touch ballot papers, and so on, and you are only allowed to object or ask to check a ballot paper. You cannot engage in conversation with these people, because they are extremely busy. Those things are pretty obvious. Otherwise, no—certainly nothing written.

The Hon. JENNIFER GARDINER: You said at the beginning that you are the Treasurer of the H. S. Chapman Society?

Mr BRUN: Yes.

The Hon. JENNIFER GARDINER: Are you representing its views or just your individual views? That is an organisation with a particular interest?

Mr BRUN: It has a particular interest in it. I would not have got involved in this, in the submission, if I had not been involved in the H. S. Chapman Society. It was aware of what I was doing, and so on. We tend to have our own initiatives within the society but we keep the others informed.

The Hon. JENNIFER GARDINER: I do not think we have a submission from the society?

Mr BRUN: I do not think you would have. Normally we would put in a submission immediately after an election but in this case I put in a submission to the Local Government Association, so I had all that material which was about the same mechanisms as used in the State upper House.

Mr GEOFF CORRIGAN: That leads onto the question was going to ask. Did you scrutineer at the last upper House election and did any problems become apparent then?

Mr BRUN: No, I did not scrutineer. And I did not scrutineer at the Federal election, but that was not for want of asking. They said they had enough and they preferred me to go to the House of Representatives seats, so I did not go out there then. I did many years ago when it was at a warehouse in Alexandria or Waterloo.

Mr GEOFF CORRIGAN: Do you think the problems you have identified in your paper will be applicable to the next upper House vote unless these issues are addressed?

Mr BRUN: If the same procedures are used, I would say so, yes. Local government councils are a massive task and I would say far greater than the State upper House. Would I be correct in that?

The Hon. DON HARWIN: Not in volume, there is the same number of people, but yes in the number of different ballots. But I suppose you would have difficulty with the 93 electorates.

Mr PAUL PEARCE: I can understand there is a similar procedure between the local government ballot and the upper House ballot—obviously there is a similar procedure in double entering of the ballot paper details by the computer. There is a distinct difference, but, and that is that the local government ballots are counted initially at the polling place whereas the upper House ballot papers tend to be bundled up and just generally counted or not counted at all. So, in local government there is additional level of checking?

Mr BRUN: I do not think so. They count the above-the-line ballot papers. All the rest are just bundled and sent.

Mr PAUL PEARCE: It tended to vary from polling place to polling place as to how the clerk did it.

Mr BRUN: If that were the case, I was misinformed. For some reason or other one of the Randwick wards were all sent to Villawood.

Mr PAUL PEARCE: I know the background to that.

Mr BRUN: You would. I do not know what the background to that was.

Mr PAUL PEARCE: They did not add up.

Mr BRUN: Whereas, in the upper House they are not counted at all, is that what you are saying?

Mr PAUL PEARCE: I have never sat around at the polling place on the night.

The Hon. DON HARWIN: It is a polling place by polling place result, so they would have to be counted by polling place at some point, whether it is at the polling place, in the DRO's office or at Villawood.

Mr PAUL PEARCE: The point I am getting at, there are three tiers of checking, not just two?

Mr BRUN: In the upper House?

Mr PAUL PEARCE: Yes, and local government. The scrutineers have an opportunity to be with smaller ballot papers at the polling place before they go to Villawood.

Mr BRUN: Right.

Mr PAUL PEARCE: I understand your concern in relation to scrutineering. I found it frustrating myself and certainly out at Villawood it was without doubt a dog's breakfast. In the local government election you could not work out where the votes were being counted and people sat there hours on end and sometimes for days on end waiting to find out whether the ballot had been counted. But you have to take one step back and that is that they were originally counted and so a number of scrutineers had a fair idea of what was going on before they hit Villawood. I am not familiar with the upper House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you feel there should be much more detailed procedures available for scrutineers, for counters and for supervisors?

Mr BRUN: Yes, I do. It would clarify the position. If I went out there again, I would have the previous experience of it so I would have a better idea of how to go about it, but I think there should be clearly defined procedures.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You expressed some concern in your submission about the recruiting of people by the AEC, is that right?

Mr BRUN: Was that me? I do not think that was me. I do not remember anything about that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The recruitment of AEC people, did you mention that?

Mr BRUN: No, I do not think that is me.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you think that is the case, that advertisements for people working for the AEC and the SEC ought to be public and the assessment process should be highly transparent as well?

Mr BRUN: They should be transparent. Is not a lot of this work subcontracted? I think a lot of it is subcontracted. I think the computer operators are working for a company. I do not know what the procedures are for recruiting them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You also refer to security of the ballot papers?

Mr BRUN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In the Philippines a volunteer mob called Namfrol set up a task force that sat beside and baby-minded every ballot paper on its way to Manila to be counted. Do you think we should have a system like that?

Mr BRUN: I think there should be some procedure whereby people can follow it through. You occasionally hear about votes being lost in Australian elections. I do not know whether any real hard evidence exists. I know people who have requested to go with the packaged-up ballot papers from the polling booth to the electoral office—this is in the case of Federal elections—and that was refused. It is a massive task. I suppose I would say I think it ought to be available but I hesitate to think what would happen if everyone wanted to do it. It would be pretty chaotic.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you think this material is more significant than the other complaints? I do not know whether you are familiar with the book about voter fraud in Australia—I cannot think of the exact title of it—which talks about the procedure for checking electoral details and registration of voters, the suboptimal nature of that?

Mr BRUN: Certain things are in process at the moment, I believe, with regard to ID on enrolment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That is about checking addresses and things?

Mr BRUN: Well, the Federal Government wants to bring it in. The Victorian Government was quite interested in doing it and then it backed off. I think the Western Australian Government may be similar. There is a Federal-State agreement about the management of the electoral roll. Although legislation for ID was passed unanimously last year, it could not come into effect until the States had agreed to it. As I understand it, they are now in the process of trying to hammer out some agreement about this. I do not know where they are at.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are principally concerned in this submission about the mechanics of the accounting process rather than the functioning of the electoral office?

Mr BRUN: Yes. This is purely directed to my observations at Villawood.

(The witness withdrew)

GEOFFREY ROY ASH, Deputy Registered Officer, the Greens, 19 Eve Street, Erskineville, affirmed and examined:

CHAIR: I am advised that you have received a copy of the Committee's terms of reference and a copy of the Legislative Assembly's Standing Orders 332, 333 and 334 in relation to the examination of witnesses, is that correct?

Mr ASH: Yes.

CHAIR: In what capacity are you appearing before the Committee?

Mr ASH: I am appearing before the Committee as the Deputy Registered Officer of the Greens. I am a bush regenerator.

CHAIR: We have received your submission. Is it your desire that that submission form part of your evidence?

Mr ASH: Yes, I would like it to be tabled and recorded.

CHAIR: Would you like to make an opening statement?

Mr ASH: I would like to make a few brief comments. I do not have much to add to what appears in my submission, which contains eight points. I lodged the submission some time ago, and the party and I are still supportive of that. We are seeking reform of Legislative Assembly elections regarding the method of elections. We would like the number of entrances to polling booths to be provided by the State Electoral Office [SEO]; simplification of Legislative Council election returns; reform of electoral funding to bring it into line with Federal funding, which would simplify it and reduce the work of the SEO; a change to the composition of the election funding authority—at the moment it is inappropriate to have party-political appointments to that body—tightening up of postal vote applications so that applicants simply send the application to the returning officer rather than a political party or candidate; and strengthening the legislation with regard to false statements, which are quite common in elections.

I am sure most of you have had some experience with that. We also believe that the SEO needs greater resourcing. I have not gone into the legislative detail as to how to bring about these changes; it involves quite a bit of work and it could be left to Parliamentary Counsel. I did not see a lot of point in doing all that work if the ideas and proposals we are putting forward were not accepted. So it is really just the bare bones of the ideas that we have put forward. I am happy to answer questions; I think the submission speaks for itself. I do not know whether all members of the Committee have had an opportunity to read the submission. If necessary, I happy to run through any sections of it.

CHAIR: In your submission it is noted that many parties experience difficulties in compiling their election returns for Legislative Council elections. Would you outline these difficulties for the Committee?

Mr ASH: The Legislative Council return spans a period of four years from the previous election. Everyone would know that a one-year accounting job is a fair bit for a significant-size organisation, but a four-year accounting job is huge, particularly if the information is not all computerised. Even when it is computerised, it is still a big job because you must have physical receipts to present to the SEO, et cetera. So it is extremely time-consuming. Fortunately, most parties have volunteers who can pull it all together, but if you are paying someone it would certainly take a lot of work. I know that our party had several people working on it, and I know from anecdotal evidence that other political parties had difficulties completing the return. Obviously they all completed it, but it was very time-consuming.

I am sure that if each of you spoke to members in your party who had to compile that return, they would roll their eyes and affirm that it was a nightmare. While our party is capable of doing it,

we do not think it is necessary when there is another way around it, when all parties that are of a significant size forward an annual return to the Australian Electoral Commission. We could not see any reason why parties could not rely on that annual return for the three preceding years, and only the expenditure and income that related to the State election needed to be declared, or anything that was not declared in previous Australian Electoral Commission returns for disclosure of income and expenditure.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would it not be adequate to simply transfer those annual accounts across for the three previous years, and then you would only have to do the electoral return in the year of the election in any event?

Mr ASH: It is not a bad point. But sometimes it is not all computerised and you need to have special receipt books for the State Electoral Office as well, and the returns are not identical. I am not familiar enough, without reading through the legislation, to show how a State return and an Australian Electoral Commission return differ, but they would need to be brought into line.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You would suggest that the Australian Electoral Commission annual returns and the electoral returns be brought into the same format and the Australian Electoral Commission annual returns would then simply be compiled underneath with the year in which the election occurred as an addition, if you like, cutting off at the end of the election date? In other words, they would be available from that date, rather than the end of the next financial year?

Mr ASH: In essence, yes.

The Hon. AMANDA FAZIO: Which other parties, so far as you are aware, have had problems compiling their 2003 Legislative Council election returns?

Mr ASH: It is anecdotal; just what I have heard. I have had no official communication, but I know that it is problematic. It has been problematic for a long time, for many elections. But I cannot give you specific examples; it is just what I hear in conversations with other people who are active in politics.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: People may not be willing to talk about this freely anyway.

Mr ASH: Exactly. Not many parties are willing to reveal, "Gee, it's an accounting headache for us." They want to give the impression that they are very much on top of their finances.

Mr PAUL PEARCE: You have made a number of comments regarding your concern about the methodology used in relation to postal vote applications. What are your specific concerns?

Mr ASH: Our party has not engaged very much at all in postal voting, so we are far from expert on it. My concern is twofold: first, if voters are returning the application to a candidate rather than to the State Electoral Office's returning officer, there is the possibility—and I am sure it has happened, although I do not have any proof—that it has been sent and the candidate's campaign in some way has stuffed up and failed to get it to the returning officer in time. Because there was a third party involved, the voter has missed out on a vote—which would not have happened if it had been sent directly to the returning officer.

The other area of concern is that candidates can accumulate postal vote applications. They say, "We are not going to run down to the returning officer every day and lodge the one or two postal vote applications we have received following letter boxing of the electorate. We will wait until they build up a bit and then we will take them down." What happens is that, as I understand it, the State Electoral Office returning officer receives a big bundle on the last day, because they have been building up in the campaign office of one or more of the candidates. This puts the State Electoral Office under unnecessary pressure, whereas those applications would have been coming in steadily rather than being all lumped in on the one day.

Mr PAUL PEARCE: In order to overcome this, you would have the State Electoral Office canvassing for postal votes, or putting out documents for postal votes?

Mr ASH: No, it is fine for the parties and candidates to be encouraging it, but the application should be returned to the returning officer.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you not think the fact that the candidates are canvassing for these things means there is a huge favouritism to incumbents and to large parties that are able to send their propaganda, if you like, with the returning officer, whereas the smaller parties are not able to do that and non-incumbents, of course, have less budget for that?

Mr ASH: It is true. If candidates have a big campaign budget, good luck to them. I doubt that incumbents can use their electoral resources to encourage postal votes. I am not sure, I just do not have the experience in that area.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That would come under communicating with electors, would it not?

Mr GEOFF CORRIGAN: They clearly cannot. I think it is illegal.

The Hon. AMANDA FAZIO: You make the comment in your submission that the current system is open to rorting, especially when information distributed to voters encouraging a postal vote is designed to appear as if it is official SEO material. What information do you have to back up that sort of statement, which is basically accusing the major parties, who do send out this sort of information, of some sort of corruption.

Mr ASH: I do not have it physically so I cannot lay my hands on it, but I have seen cards letterboxed and received which looked very much like official material from the SEO. Maybe I am confusing it with the federal election. I am aware that people receive material encouraging them to apply for a postal vote and the perception of the voter is that this is official material from an electoral commission. That is what I am not happy about. No party material should be able to masquerade as official material.

The Hon. AMANDA FAZIO: That is what you call rorting?

Mr ASH: Yes, I suppose so. Perhaps it was not the best use of words. I acknowledge that.

Mr PAUL PEARCE: Rorting is a fairly known term with a different connotation from that.

Mr ASH: Right. I am happy for that to be clarified. That is the essence of my concern.

The Hon. DON HARWIN: In effect you are arguing there should be an extra step in the process with the parties being able to canvass for postal votes, but not on a form that looks like the official SEO form?

Mr ASH: Mm.

The Hon. DON HARWIN: And when that is received back by the parties –

Mr ASH: I do not want it to be received back by the parties.

The Hon. DON HARWIN: But you are saying you do not want the form to look like an official application form. There is a bit of an inconsistency.

Mr ASH: No. It is true they can enclose application forms.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you see the parties sending out a form saying, "Please send this form to the SEO. Please register to vote for a postal vote. This is an SEO form and the address is on the back."

Mr ASH: That is right. Yes.

CHAIR: It would be an official SEO document, sent out by political parties. As I see it, in the way just described, that could be inappropriate because political candidates would be sending out official SEO documentation, asking people to sign it and send it back to the SEO.

Mr ASH: If they are eligible.

CHAIR: That would be a bigger barrier than candidates sending out material with their faces and names plastered all over it.

Mr ASH: The covering letter or leaflet needs to be clear, stating that it is from this candidate or that candidate. We all give out electoral commission enrolment forms, because that is the only way you can get on the roll. I do not have a problem with electoral commission applications for postal voting being given out.

The Hon. DON HARWIN: Effectively, whatever form it takes, you just do not want them to go back through the parties?

Mr ASH: Yes.

The Hon. AMANDA FAZIO: Are you not really complaining about this process simply because your party does not have the resources to participate in this practice?

Mr ASH: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would that be a bad thing to say? Effectively implicit in Hon Amanda Fazio's question is that if you do not have the resources, tough luck! In other words, the race is to the rich.

The Hon. AMANDA FAZIO: Do not put words in my mouth, particularly with your confusion.

Mr ASH: Our party can do postal voting where we think it is important enough to do so. It is important everywhere but we do not have the resources to do it everywhere. In a tight seat where we think we have some faint chance of winning, we are capable of doing it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you agree with the general principle – my words with regard to Hon Amanda Fazio stand on their own merits – with regard to the ability to get registered. Surely that should be irrespective of the resources of the parties. That is the essence of a free vote, is it not? Would you support that position?

Mr ASH: Are you talking about getting on the roll or about postal votes?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In any electoral procedure that is being facilitated by a party, the electoral system should minimise the advantage of having a lot of money in that party, should it not?

Mr ASH: I have not addressed that in my submission, but I think there are certainly arguments for capping expenditure on an election by all parties and candidates. I do not think I should go there today. I have some sympathy with what you are saying.

Mr PAUL PEARCE: On the issue of postal votes, the process you have suggested here would eliminate the voter receiving voter information from a political party or a multiplicity of political parties. Will that not inevitably lead to an increased informal vote?

Mr ASH: I do not understand why you say they would not receive information from political parties. Political parties would still be keen to get their material in the hands of voters before the other parties did so and the voter went and cast a postal vote application. I do not see a problem with parties giving the voter information.

Mr PAUL PEARCE: Postal votes applications are sent out irregularly by the electoral office. They go out as and when they are received and as and when the district returning officer gets his or her act together to send them out, after ballot papers have been prepared, and one thing or another. That would mean, inevitably, ballot papers arriving without necessary voter information being supplied by any party to the assistance of the voter. Most political parties put out information about applying for postal votes in the first few days after an election is called, long before candidates are nominated and the rolls are closed. It is not possible to give out voter information at that point.

Mr ASH: I think they could and I think they probably still would.

Mr PAUL PEARCE: How can you put out a how-to-vote card when you do not know who the candidates are?

Mr ASH: How could you apply before the fields were closed?

Mr PAUL PEARCE: Most political parties put out their postal vote card in the first days after the announcement of the election.

Mr ASH: Right.

CHAIR: So nominations are not closed and you do not know who is on the ballot paper and what positions they have drawn. It is purely a courtesy to the community to apply, if need be.

Mr ASH: I think the parties would know when nominations closed and they could letterbox accordingly. The voter cannot vote until nominations close, so I do not actually see a problem.

Mr PAUL PEARCE: In that situation you would potentially make the State Electoral Office's position that much more difficult, with applications arriving in a bloc much closer to election day. Ballot papers have to be returned, I think, by five o'clock the night before, and arrive at a particular point on the Monday after the count. If you compress that timetable and the applications come in, the capacity of the State Electoral Office to deal with those applications, I believe, will be lessened. Part of the complaint I have received in relation to postal voting is that the electoral office failed to get the necessary ballot papers to the voters, when to our certain knowledge the applications had gone in well before time.

Mr ASH: I am not aware of that problem. A number of you are lower House members and obviously have some experience with postal voting applications. The point we make in our submission is that we do not think the parties should be receiving the application. It is a simple point and I do not really want to go further into postal voting. I am not experienced enough.

The Hon. DON HARWIN: We are looking at a number of other matters, which you have not covered in your submission. Are you happy to answer questions or offer views on behalf of the Greens on those issues?

Mr ASH: I will certainly consider it.

The Hon. DON HARWIN: Do you have any comments on the length of what is sometimes called the formal election campaign in New South Wales? Despite the fact we have a fixed term, the writs are issued effectively in the last three weeks before election day and nominations do not close until the Thursday after the closing of the writs, leaving a very short time to polling day. Do you have a view on that?

Mr ASH: I do, and if I had thought about it a bit more I might have included it in my submission. It is a very short nomination period, it is true. It is rushed, particularly when parties are running candidates in every seat. I favour a longer nomination period. I think the nomination period for federal elections is close to two weeks, and that is more reasonable.

The Hon. DON HARWIN: A random sampling occurs in the counting of the Legislative Council ballot. Are you familiar with that?

Mr ASH: I am. It is complex, but I have some understanding of it.

The Hon. DON HARWIN: There is a hang-over as a result of the entrenchment of the provisions. Do you have a view on that?

Mr ASH: In the age of computers, the count should be done exactly rather than through a random sampling, where there is a small scope for error. We favour, if it could be managed logistically, the use of computers by the SEO and the scrapping of random sampling. In that way we would have a real count.

The Hon. JENNIFER GARDINER: You mentioned in your submission the basic information provided by the Australian Electoral Commission in relation to the number of gates at polling booths. Is it fair to say the standard of professionalism in the Australian Electoral Commission is generally higher than that at the State Electoral Office? Is it fair to say the AEC could be a benchmark in terms of the basic information that goes to political parties, particularly their volunteers, and that is what the SEO should aspire to, generally speaking? Would that be fair comment?

Mr ASH: I think so. The staff of the SEO are just as capable and do a very good job. The final point in this submission is that our party believes the SEO is under-resourced, and the area you mentioned bears that out. I have mentioned this before and tried to find out the number of entrances to booths beforehand and the response was, "On, no, that is too much." Apparently it cannot be done. On the other hand, I put in a submission prior to the last federal election and the AEC was able to provide that information. I am sure it is because the AEC has additional resources. It has significantly more staff per voter, as I understand it, than the State Electoral Office. I believe if you compare electoral offices around the country, the NSW State Electoral Office has a lower staff ratio per voter than Victoria and others.

The Hon. JENNIFER GARDINER: In New South Wales we have a four-year term, so the State Electoral Office has longer to prepare for such basic logistical organisation than the AEC.

Mr ASH: It is true. I do not know what other electoral commissions have to do, but there are a whole series of other elections the State Electoral Office has to run as well: ATSIC, unions, all sorts of things. They probably have a bigger burden than the Federal one in that regard, maybe not. I am no expert on the full range of tasks, but I think extra resources would help overcome quite a few problems.

The Hon. AMANDA FAZIO: I think the AEC conducts all of the union elections. The SEO does not have a role in that. I want to ask you about some information in your submission relating to the reform of electoral funding. Would you explain why you believe that the current system encourages overspending?

Mr ASH: There is a definite answer; I have just got to recall it. Because if you estimate what votes you are going to get, you can roughly estimate the amount of funding that you are going to receive. But if you can only produce invoices for \$100 say, that is the only amount of funding you will receive if your vote entitles you to funding. Therefore, candidates have a tendency to say, "Well, we have got to spend more or we will not be able to claim it because we have not spent it, even though we think we are going to get 45 per cent of the vote." So I think there is a tendency to spend more.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you talk about funding and accountability you advocate a Federal system where if you get X per cent of the vote you get X times dollars per vote. If you were to relax the reporting requirements, that would be less hassle but you would then have two problems: the government might give money to investors, if you like, who ran very cheap campaigns and got more votes, therefore they can claim more than they spend—

The Hon. DON HARWIN: The Pauline Hanson problem.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: —or there are the big parties that get 10 times more money in donations than they could ever get in public funding—and we are trying to

put a cap on it or at least see who is giving them the money. So the problem of giving a fixed amount of money does not really get rid of the accounting problem.

Mr ASH: It does for the State Electoral Office. They have to go through and check every invoice and see that the amount of expenditure has been incurred and be satisfied. But if the funding is paid purely on the level of vote, as it is with Federal elections, they do not have to do that, they just have to do a quick mathematical calculation and pay the funding. The Federal model encourages savings in a way because you think, "Well, if we are going to spend all this money and get electoral funding we are not going to accumulate any money." So for some candidates there would be some incentive not to overspend and be more cautious.

The Hon. DON HARWIN: To run campaigns at a profit.

Mr ASH: Yes, possibly, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We do not want people to run campaigns at a profit in the sense that a well-known local businessman thinks he will not get elected but he might get 20 per cent of the vote just on his name and so he will cash in on it. We do not want public funding to be another form of speculative investment.

Mr ASH: That is true. I do not think it happens much. Certainly you could argue in the Hanson case perhaps she would make a profit. I know the Greens have recovered more money in funding than we have spent in a Federal campaign, for example. That is true.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: One has to be cautious when one is doing one's budget.

Mr ASH: Certainly. For serious political campaigners is public funding such a bad thing? No, it means the necessity to accept donations from unacceptable sources are less likely to happen and less necessary. We all know political parties need money to run their elections. Is it such a bad thing?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am not being critical of public funding in the slightest.

Mr ASH: I am addressing that for the record.

Mr GEOFF CORRIGAN: Some of your views about what people spend are quite unique. You spend what you need to win the seat. I personally find the reporting requirements of the AEC, if you are looking to see whether an individual seat has received a certain amount of funding, is a lot less than the State requirements. In the State if a developer, for example, makes a donation over a certain amount to a State seat you can find that out, but you cannot in the Federal returns.

Mr ASH: No. It is because with the Federal you do an annual party return. That can be expenditure on a lower House seat and income relating to it can be disclosed in that party annual return rather than in the candidate's return, whereas I do not think that happens so much at State elections. Is that the point you are getting at?

Mr GEOFF CORRIGAN: Yes.

Mr ASH: It is still disclosed; it is just in a different return.

Mr GEOFF CORRIGAN: For example, if I go to my local Federal member, the Hon. Pat Farmer, and look at his return, he remarkably received no donations except for one from the Liberal Party, whereas my return clearly shows besides the function who donated.

Mr ASH: That is something that perhaps is more problematic for the AEC in that it does allow the disclosure to be included in the party's return rather than the candidate's return.

The Hon. DON HARWIN: The obvious question then is which model do you prefer?

Mr ASH: A combination, I suppose. Getting back to the earlier point, the annual returns are a good idea. It is probably fair enough that the candidates actually disclose at that level of candidate's return what they have received and what they have spent rather than bundling it all up in the party return.

The Hon. DON HARWIN: Would that then involve an annual return for candidates?

Mr ASH: For the Australian Electoral Commission, do you mean? I am getting myself confused. No, they would just be required when Federal elections happen to do their candidate return, but disclosing those things that have been shifted to the party's return.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are obviously in favour of proportional representation?

Mr ASH: Yes, very strongly. We do think it is fairer. I make a couple of extra points on this in relation to the electoral system. Most parties that I know of, and I think the big parties do it too, within their own ranks have proportional representation for Cabinet positions, committees, whatever. They do that because it is fair.

The Hon. AMANDA FAZIO: In the ALP we do it because it was imposed in the seventies from the Burns report.

Mr PAUL PEARCE: No, we do it because it is fairer.

Mr ASH: Otherwise there would be strong arguments if it was a winner take all situation, which the Legislative Assembly elections are very much like, there would be all sorts of tensions within political parties. I think there is tacit acknowledgement it is a fairer system. I recently heard, although I cannot name the Canadian province, that under a system similar to our Legislative Assembly one of the big parties had a very poor election and the other party won almost every seat all bar two seats. It was under a very similar system to our Legislative Assembly. Although it was a very strong vote, they did not warrant winning all bar two seats in the Legislature. That party acknowledged that the system had produced a significant problem. Of course, the Parliament was effectively just a rubberstamp because there were two members of the Opposition only. There is a rough balance of votes between the two major parties, so it has not happened here. Why should we wait till it does happen until it becomes very much apparent that this system can produce an anomaly?

The Hon. AMANDA FAZIO: Is it truly an anomaly if it reflects the will of the people, the voters?

Mr ASH: But it does not reflect the will of the people.

The Hon. DON HARWIN: The result you are referring to, I think, is the national result in Canada which in the general election of, I think, 1997, or it could have been 1998, they were effectively single-member constituencies with first past the post—which is what they have in Britain and previously in New Zealand. You are not referring to the one last week, the British Columbia election?

The Hon. JENNIFER GARDINER: No, the last BC elections produced two members of the Opposition and a couple of crossbenchers.

Mr ASH: I was not aware it was first past the post. The same principle applies. This system does give the larger party a higher proportion of seats than their vote actually warrants. You can read the figures there. It is pretty obvious that it is not a fair system.

The Hon. DON HARWIN: My point, which I did not quite get to because we were debating which election it was, is that a lack of preferential voting allows those sorts of disproportionalities to emerge, not so much the fact you had single member constituencies.

Mr ASH: I think it is exacerbated. The first-past-the-post system makes it worse, but you can see from the figures that our current system tends towards that sort of outcome.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you argue that the lower House is effectively a rubberstamp?

Mr ASH: You could argue that. I will not go into the details.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you have a position on optional preferential voting?

Mr ASH: No, we are currently having a debate about that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You have said that first past the post exacerbates that. An optional preferential is one step down from first past the post. So I suppose first past the post would be encouraged as an option and that effectively exacerbates the situation. The Federal system has compulsory preferential. The Greens do not have a position on that situation?

Mr ASH: We do not have an official position. There are some solid arguments both ways, but we have not concluded those arguments. As to compulsory preferential, why should you force the voter to choose on paper between two parties they just do not want to know about? Then there is the argument you have alluded to that if it is optional preferential it is analogous or part way towards first past the post. So we have not concluded. I think it is an interesting debate.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If a party or a group of individuals put in what you might call dummy candidates to bulk up the number of candidates, that would push the argument towards optional preferential for voter convenience, would it not?

Mr ASH: It would certainly help the frontrunner. If they were going to be the front-runner, then for a lot of candidates, optional preferential would probably help them stay in front because the preferences would not flow very well.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it would be in interests of the major parties to put in dummy candidates?

Mr ASH: If they thought they are going to be a frontrunner in a particular seat perhaps, but it depends on the names and policies of the candidates. If it is someone that has similar policies or a similar party name, it could have the opposite effect.

The Hon. AMANDA FAZIO: What is the basis for you saying that it would always assist the frontrunner?

Mr ASH: I am not say that it would always. If I did, I retract that. It would have a tendency to do that.

The Hon. AMANDA FAZIO: Why?

Mr ASH: Because the preferences do not flow very well. There is always some exhaustion and a candidate running second or third on the primary vote count needs preferences to flow well to catch the frontrunner on the primary vote. If you did a statistical analysis over lots of elections, I think you would find the frontrunner in an optional preferential count would emerge the winner more often than in a compulsory preferential count.

The Hon. DON HARWIN: I want to go to the section of your submission No. 7 on legislation to stop false statements. If my memory serves me correctly, you are the only individual who has put in a submission on this area. Can you amplify a little on what you see as the better approach to this area in terms of stopping false statements?

Mr ASH: I did only touch on it; I acknowledge that. I think we are all well aware that false statements happen and unless there is a lot of money floating around, it is very difficult to stop candidates and even then in the time constraints of an election, it is difficult to stop a media outlet or a rival candidate making these sorts of statements. There is no teeth, as far as we can see, in the State

Electoral Office stopping false statements—certainly no disincentive—so we would argue that it be toughened up. In that section I was suggesting that there would be an independent body formed that could actually adjudicate on the truth of the matter fairly quickly prior to election day and put out some statements. We all know of dirty tricks in the last week of a campaign and dirt sheets, for example.

The Hon. AMANDA FAZIO: No.

Mr ASH: Let me assure you it happens. It is almost impossible to counteract that, but if there was some sort of independent body, it would be very embarrassing for a campaign or a media outlet that it made false assertions in the final week of a campaign to have this independent body, which could have some judicial members or other independent members, to come out and say publicly that those statements were false. It would be better for the public. The public would be more informed in terms of voting and they could dismiss malicious accusations, and if they were not malicious, they would stand and the public could judge accordingly. It would not be the perfect scenario. We all know that sometimes things happen, even at polling booths on election day, but it would be an improvement, otherwise we are just going to have rampant false claims, probably increasingly so in future elections.

The Hon. DON HARWIN: That leads into my following question because you mentioned material at polling booths. We have at a State level registration of material handed out on election day. Do you have any comments on that issue generally and specifically in relation to false statements?

Mr ASH: Yes, on balance I think it is a good idea. It is certainly onerous getting all your material registered for 93 electorates, et cetera, but it does stop material being handed out. I imagine there is more false material handed out at Federal elections because of the lack of requirement to register "how to votes" than there is at State elections so, on balance, we would favour it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you not mind "how to votes" being registered by third parties? Would that not favour people with lots of money?

Mr ASH: That is a good point. I do not want to give a definitive answer on that because I have not thought about it enough. I can think of situations where it is very good for a third party to be handing out material and enlightening the public and I can think of situations where it would not be very good, and I think you are referring to those. At the moment they can at State elections but I think it is only with support of a particular party, which I assume, would not be that hard to get if the material favoured that party.

The Hon. DON HARWIN: So you do not have a concluded view on that; you reserve judgment?

Mr ASH: I think that is right. It does not take that much money to hand it out for particular electorates, but it takes a lot of money to hand it out statewide.

CHAIR: Would the Greens be supportive of moves to register the "how to vote" material with the district returning officer rather than the electoral commissioner, as is currently required?

Mr ASH: That is a good question. If you register at the one place you get consistency in the rulings or more likely to be consistent, although in the local government elections we had some slightly different rulings at times on what we thought was essentially the same material. It might be slightly more convenient for candidates to register it locally. No, I do not have a strong view on that at the moment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you support the lodged upper House tickets, as they used to be, in the sense that the optional preferential above the line that we now has clearly favoured the major parties and changed the difference between the percentage vote they got and the percentage seats they got in the last election?

Mr ASH: I do not know that it did that much. The registering group voting tickets in upper House elections—I think it is good that it has been abolished in State elections.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You think it is good that it has been abolished?

Mr ASH: Yes, I do. It has removed the incentive to create front parties. We all remember what happened in the 1999 upper House election where there were 81 parties and the motivation to create all those parties was because they were able to register group voting tickets and channel preferences back to the original party or mother party, if you like.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would it not be enough to stop bogus parties? Then you would solve that problem without having to gerrymander towards the first-past-the-post system?

Mr ASH: It is difficult to stop bogus parties. What is a bogus party and how do you prove it?

The Hon. AMANDA FAZIO: You support the changes that were introduced after 1999 where parties have to be registered 12 months out, so that there is a greater check on people who are claiming to be members and that someone who signed a petition cannot claim to be a member of a political party. Do think that has brought more honesty into the system?

Mr ASH: It has brought more honesty. Perhaps the monetary component is a bit of discriminatory against some little parties that would like to get registered. I think you need \$5,000 upfront and so on, but it definitely has got rid of all the parties that were not genuine parties. I think the vote in the Legislative Council more accurately reflected the percentage of vote obtained by the parties than it did in the 1999 election where you had the Outdoor Recreation Party getting a seat with 0.2 per cent of the vote or something absurd. No party got a seat polling anything like that, including the last of the additional seats won by Labor, which had quite a strong election. They would have at least got 2 per cent of that vote; that was the minimum vote that won an upper House seat, whereas in the previous election, 0.2 per cent was perceived to be just too small.

The Hon. AMANDA FAZIO: Do you support the concept of a threshold so that you could not get elected into the Legislative Council unless you got guaranteed 2 per cent, 3 per cent or 4 per cent—some figure like that—to stop microparties doing those preference swaps?

Mr ASH: I think effectively the removal of registered upper House tickets has done that. The threshold might vary a little bit from election to election but preferences do not flow anything like the amount they do on a registered voting ticket, where the voter is simply putting a number in box and in many instances has absolutely no idea where the preferences are flowing in the upper House and often they are flowing contrary to what the voter might anticipate their favoured party would be doing.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is not that a problem of their lack of knowledge of the parties when parties could choose names inconsistent with their objective? Is it not your real objection that when there was this so-called tablecloth ballot paper, many of the parties with trendy names were actually owned by people and there was one against the Greens or which appeared to be a green party where the preference flows were against the position that the Greens would take?

Mr ASH: Yes, that is right.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Though in that case the primary problem was that the registration of the party allowed the primary vote to be cast in the wrong direction deliberately; in other words, the voter was deceived?

Mr ASH: I agree with that assertion.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If that position were corrected by party registrations, would you not then say that there should be voter tickets so that the flow of the smaller parties collected to one, until it stopped at one that had a similar philosophical stance, which is the intention?

The Hon. DON HARWIN: I have a related point that it would be convenient for the witness to comment on as well. I recall that the Greens were particularly keen to ensure that you cast preferences above the line to cut down that difficulty?

Mr ASH: Yes.

The Hon. DON HARWIN: So you could put a "1" for the party box of your choice and then a "2" in the second party box of your choice. Do the Greens feel that that innovation is satisfactorily taking account of the wish of people to actually cast preferences beyond their own party?

Mr ASH: Yes, we do and I think in time we will find that more voters exercise their option to direct preferences above the line. We have only had one election—perhaps a local government election—where that has happened and that will increase as voters become more aware of how the new voting system works. But, no, as a party, the Greens do not favour group voting tickets at the Federal level or at a State level. One, it encourages front parties and, two, it encourages parties to behave unethically in that it is tempting for candidates to do deals with parties that they actually ideologically and in terms of policies are poles apart. In order to garner votes they will compromise their position, which often is misleading in terms of what their own voters would expect them to do. The system of a registered group voting ticket provides incentives for parties and candidates to do wrong things.

CHAIR: Is this still relating to the question that we are dealing with at the moment, because I know that the honourable member for Coogee would like to ask a question also?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, it is. Is not your position without lodged voting tickets effectively giving an optional preferential, which effectively is the first past the post system, which is going to favour the majors in the end? Is it not inconsistent with your stance against first past the post?

Mr ASH: We do not support first past the post. It is proportional representation. Certainly the worst aspects of first past the post are removed.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But it is a distorting feature, is it not, towards first past the post to?

Mr ASH: There might be grains of that there, but I think the argument I have been giving over the last five minutes far outweighs that point that you make.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can you make that point statistically? Do the numbers support you? My contention would be that if you look at the primary vote of the majors versus the number of seats of the majors, in fact it is quite a significant distorting feature. It is not grains, as you put it.

Mr PAUL PEARCE: You are not seriously arguing to go back to the 1999 model?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I would be happy to.

Mr ASH: I would like to see the figures. As I understand it, Labor won 10 seats in the upper House. I forget the percentage of their primary vote.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It was considerably less.

Mr ASH: It could not have been that much less—10 times 4.55. It could not have been more than 2 per cent less.

The Hon. DON HARWIN: By definition it could not have been more than 2 per cent less.

Mr ASH: Which is not much when you compare it to what happened in 1999 when you had a candidate winning with 0.2 when the quota was 4.66. Maybe both major parties happened to benefit this time. I do not know how many the Coalition won, whether they won—

The Hon. DON HARWIN: I think we had about 7.5 quotas and got seven, and I think the ALP had 9.5 quotas and got 10. That is basically how it happened.

Mr ASH: But it could easily have gone the other way. A few votes less and they would have had more votes than the percentage of seats they obtained. It just happened to be that way. It will not always favour the major parties. Look at the Shooters and the Christian Democrats. You could argue the same. They are minor parties. Collectively the percentage of seats won compared to the vote was higher and they were minor parties.

The Hon. DON HARWIN: It probably was the crossbench that got too many seats if you are really being honest about it.

Mr GEOFF CORRIGAN: I was interested in your statement about a strengthening legislation to stop false statements, but I thought it was directed mainly at the metropolitan area rather than the country. A lot of the problems we face, even major parties, are people making statements in the last week in a local suburban newspaper. Unless the editors can fix it up there is no remedy for that because the paper does not come out until the next week. Even in major dailies, unless the Press Council direct them to make a retraction there is no body that the State could set up that could force a newspaper, particularly someone with a mind to be opposed to the current government, to make a retraction of a statement.

Mr ASH: It is a good point. Whatever system is introduced there will be weaknesses. But I suggest that there could be a significant improvement. Maybe there is not a retraction in the newspaper or a statement at a public meeting, but there is also radio as well where it could be included.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you advocate the SEO have the power to make that statement?

Mr ASH: Or some independent body.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: For that purpose?

Mr ASH: Yes, and if it were newsworthy enough it might get picked up, particularly in a tight marginal seat. We had a rural candidate who was called all sorts of names at a public meeting, which were just simply untrue. It was unfair for that candidate and damaging for his reputation. He really did not have any redress. An independent body might have been able to say, "That is wrong, and here is our statement to the local press." It cannot get printed if it is a weekly paper. If it cannot get printed the radio station might be able to do it.

Mr PAUL PEARCE: I can see where you are coming from. The reality is that if you set up such a body it would be flooded with so many objections because every candidate would think anything said about them was false and misleading. I do not know how you will get this resolved prior to an election and what the consequences often are if it is resolved post-election. My experience is that dirt sheets that go out tend to be unauthorised, they tend to arrive a couple of days immediately before the poll. I do not see how you are going to stop that.

Mr ASH: They are both good points. It would be complex and I did not have the time to go into the detail of the mechanisms of how such a body would work. I agree, it might get flooded until such time as there are a few rulings as to what were misleading statements and people would not waste their time when someone had pointed out their policies rather than given actual misinformation about a candidate or a party. That is the flooding of it. Anonymous dirt sheets, when it is anonymous I do not know what you can do. But statements in media, statements in public meetings and sometimes people find out who has crafted the anonymous dirt sheet and perhaps there are even heavier penalties for that. Certainly there will be some who get away with it. There is no doubt that will happen. It is not going to be perfect, but it could improve it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Should the SEO have more of the political education funding as opposed to it going to political parties so that there is education, for

example, about how the upper House voting system works, whether there is optional preferential or what the voting record of people is in the Parliament?

Mr ASH: That is a good point. Without having talked to my colleagues I think there is certainly is some argument that that is a more reasonable thing to do.

(The witness withdrew)

ROBERT LESLIE BROWN, Chairman, The Shooters Party, PO Box 376, Baulkham Hills, 1755, sworn and examined:

CHAIR: Thank you very much, Mr Brown, for appearing before the Joint Standing Committee on Electoral Matters today. The Committee is pleased to hear your evidence. I am advised that you have been issued with a copy of the Committee's terms of reference and the Legislative Assembly's standing orders 332, 333 and 334 that relate to the examination of witnesses.

Mr BROWN: That is correct.

CHAIR: Would you please state your occupation and in what capacity you are appearing before the Committee?

Mr BROWN: My occupation is company director and I am appearing before the Committee as the Chairman of the Shooters Party.

CHAIR: Thank you. We have received a submission from your organisation. Is it your desire that that submission be included as part of your formal evidence?

Mr BROWN: Yes, it is.

CHAIR: Would you like to make an opening statement?

Mr BROWN: The only opening statement I care to make is that I really do not have anything to add to our formal submission, except to say that, in reviewing the other submissions, several of the submissions made the point that they felt that the State Electoral Office was under-resourced. Given the two points that the Shooters Party made in evidence, we would support that concern and would perhaps add that as a suggested solution to both of our submission points.

CHAIR: The submission raised concerns about the way in which nomination forms are required to be completed, particularly the single group claim form, which confirms each member of the group and the order in which they are to appear on the ballot paper. Can you outline the party's concerns about this process and the difficulties that have been encountered?

Mr BROWN: Okay. We see no difficulty with the single nomination form. It is with the group nomination form that we feel there is a problem. I suggest the same problem may occur with any similarly structured party. We are only running for the Legislative Council and our candidates are spread all over the State. In order to get them to economically and in a short period of time sign the multiple declaration form we are required to do it by fax. The form, in its final form, is almost illegible. In fact, we had some of our signatures questioned by the State Electoral Office on the basis that they were barely legible.

One recommendation is that perhaps the single nomination forms could be modified to indicate the information required on the multiple nomination forms. We may be wrong, but we believe the information on the multiple nomination form merely confirms the order in which the candidates are to be put onto the how-to-votes et cetera. We suggest that if the single forms had the availability on them for the candidates to so nominate and sign that would achieve the same result. Yes, it would result in more documents for the same purpose but at least the documents would be capable of being used for the purpose for which they are intended—that is, to confirm and define that each individual is happy to sign under the requirements.

CHAIR: The submission notes that the State Electoral Office was unable to process in a timely fashion applications for the registration of how-to-vote cards. Is this something that occurs at each general election or was it an experience specific to 2003?

Mr BROWN: No, it is something that happens that each general election and appears to be defined by the time constraints of the writs and the election taking place. We probably agree here with the other respondents who have made the point that one of the problems is the shortage of resources

within the State Electoral Office to handle such a large volume of documentation all at the same time. It was terrible in 1999 with the tablecloth because there was such a volume of people and parties nominating. It was not much better in this last election. All groups—major parties, small parties and individuals—are compressed into a very tiny time frame and the answer is either to change the approval system. We have suggested changing the approval system. We have suggested adopting the Federal approval system, but I note that some of the submissions probably would not agree with that because it may open the documentation to interpretation on the day, and of course that is a problem.

Again, perhaps the answer to the problem is to increase the resources of the State Electoral Office to the point where they can handle that volume of documents and data such that the parties, the Independents and other people who are standing have a bit more time to be able to get those documents into the printed form, distributed around the State for whatever purposes they need—such as how-to-vote cards et cetera—without having to resort to having printing presses idle, waiting for the documents to be authorised. It is a very compressed time frame.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you happy with the fact that you cannot lodge group preference forms?

Mr BROWN: We did not make any comment on that so I will not make any comment now.

The Hon. DON HARWIN: Is that your general view: You do not want to answer any questions on things that you have not put in the submission?

Mr BROWN: Generally speaking. The previous Chairman put in the submission. I was on the committee that discussed it but I would have to say that I would prefer that we leave it to the two points we have made. They are fairly strong points. There are a lot of points that we agree with in other submissions but there is not much point talking about those because I am not au fait with the background documentation.

The Hon. DON HARWIN: Yes, I understand that. It is just that it is useful to us to try to get a general sweep of views on the issues that we are principally concerned about, that is all—a number of them pop up in several submissions.

Mr BROWN: I understand that. Primarily, the two points that we have made, I guess, reflect the general overall feeling that the election is conducted in a fashion that does not help or may hinder small parties and Independents because of the organisational structure and the resources those groups have to be able to meet very, very tight time frames. Perhaps in regard to both the issues that we raised, for example, I would imagine that larger, more well-funded organisations would be able to apply the resources in the time frame. Of course, once it gets into the State Electoral Office nobody is different, I guess—it is all done fairly. There the problem is just a very short period of time and the large administrative and mechanical process that has to take place—the production of hundreds of thousands or millions of pieces of paper and documents—in a compressed time frame. Printers probably love it but it does not help smaller organisations. So what I am trying to say is that the Shooters Party's view is that it would be better for all, and certainly fairer for all, if some of these time pressures were relieved.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you favour proportional representation voting?

Mr BROWN: I will not comment on that.

The Hon. JENNIFER GARDINER: In relation to the misleading electoral information issue, you have said that the registration provision should be abolished and replaced with a general prohibition on the distribution of electoral material that is false or misleading or likely to be false or misleading. How do you see that being policed? The previous witness suggested the establishment of some truth commission. How would it actually work?

Mr BROWN: That is the one weakness in the Shooters Party submission. We would have to agree that that could open the process on the day, or before the day, to, I will not say corruption but it could certainly greatly open the gates to disrupt the process on polling day by challenging

documentation. However, having said that—I do not have the evidence to back this up; it is just anecdotal—that does not seem to be a problem in Federal elections. I would say that somewhere there must be someone who could cast a qualified opinion on whether there are more problems with Federal elections in regard to the prevalence of unauthorised documentation versus State elections. I do not know.

I note the views of some of the proponents. The Australian Labor Party in point 6 of their submission, item 5, is of the view that all this documentation should be given to the electoral officer at the point on the day and that that could be confiscated if it was found to be in non-compliance. At the last election in 2003 we actually had some of our material challenged by one of the major parties on one of the booths. It turned out to be a furphy. It disrupted our polling process for probably a couple of hours but, given some of these provisions, it could take you out of a polling place altogether without necessarily being valid after the event. So I will say that, in making that submission, the Shooters Party does not really have any answers as to how that could then be properly policed. I am sorry.

CHAIR: Under the current arrangements the how-to-vote cards cannot be distributed if they recommend votes for both Houses unless the candidates are from the same party. What is your view if this ban were modified to enable candidates to recommend votes for the other House so long as the candidate for whom the vote is recommended agrees to be included on that how-to-vote material?

Mr BROWN: Not in favour of it.

CHAIR: There is also a ban on third-party how-to-vote cards, whereby interested groups are unable to inform voters of the opinion of the candidates and parties. Would the Shooters Party have an issue if such material were regulated and allowed to be distributed if registered?

Mr BROWN: No, we would prefer it to be the way it is now.

CHAIR: Okay. Would the Shooters Party support moves to register how-to-vote material with district returning officers rather than the electoral commissioner, as currently required?

Mr BROWN: Without knowing whether that would be more efficient or less efficient, I could not offer an opinion. We addressed the current situation because that is the one we know that we have problems with. I would imagine that, particularly for the Legislative Council, spread across a whole range of individuals that could present problems. So we would probably say that I would rather see the existing system fixed rather than distribute the responsibility.

CHAIR: Would you have any difficulties if registered how-to-vote material were made public?

Mr BROWN: No—in fact, we would support it.

The Hon. AMANDA FAZIO: With regard to the experience of your candidates at the local level, have they found there to be inconsistencies in the advice that they have been given by the local returning officers?

Mr BROWN: Yes, there have, particularly in terms of what I would call—I will not say "minor" rules, but rules such as the placement of material and issues like that. As I said, at the last election we had some of our material challenged because it was claimed it had not been authorised. It had been authorised. It did not take us long to sort it out internally and get the correct outcome, but the advice given to that particular polling booth group was different to advice given somewhere else. There does seem to be a bit of an inconsistency, perhaps a lack of updated edicts or training, whatever you want to call it. A common set of rules, so to speak. It did not affect our results, I do not think, but there was some inconsistency. Again, it depended upon the aggressiveness and cleverness of some of the workers from some of the major parties, perhaps.

The Hon. AMANDA FAZIO: Do you believe that the information that is given out by the State Electoral Office to candidates and to parties prior to election day actually gives them enough information to adequately train up their booth workers?

Mr BROWN: It is of a nature that is designed to inform the executives organisations, not necessarily rank and file booth workers. I feel it could perhaps be simplified in the language sometimes. That would be my only comment.

The Hon. JENNIFER GARDINER: Following up on your answer to the question regarding how-to-vote cards, the suggestion has been made that the rules should be modified to enable candidates to recommend votes for the other House, so long as the candidate for whom the vote is recommended agrees to be included in that how-to-vote material. You said you did not support that. Will you tell the Committee why you do not support it?

Mr BROWN: The Shooters Party recently has been involved in a situation with some of our Executive and some members wanting to support another party in the Federal Election, when the party had decided not to run. Our concern would be that members of the other House, and endorsements for such by the party, might not necessarily be all that easy to control, and there may then be some question down the track as to whether those other parties—bearing mind that right up until an election you probably do not know who is going to be standing for which party when, and the structure of most small organisations such as the Shooters Party is that it is only the Executive that can decide those matters, we would be concerned that a decision taken by the Executive under those circumstances could perhaps contravene the wishes of what I would call the conference, the broad membership; whereas, if it is the way it is now you are very limited in what you can do. That is probably a bit safer, shall we say, for the process of the Executive making sure that it adheres to the wishes of conference or the party.

The Hon. JENNIFER GARDINER: So that there would be insufficient time to really check out the memberships view on such an important issue?

Mr BROWN: I think so, yes. Bearing in mind that some people seem to think the Shooters Party is right wing and other seem to think it is left wing, the Shooters Party is a fairly broad church. We have a lot of people with a lot of different views about—shall I say that once you take the Shooters Party's single or of issues aside—other things, and I believe that could lead us to some problems because there would not be sufficient time for us to get sufficient feedback from the membership as to how they wished asked to conduct ourselves in that regard.

The Hon. AMANDA FAZIO: Did the Shooters Party send scrutineers to the last Legislative Council count?

Mr BROWN: Yes, we did.

The Hon. AMANDA FAZIO: Did they have any comments that were fed back to the party about how they viewed the effectiveness or efficiency of that count?

Mr BROWN: Generally speaking they felt it was a waste of time. The complexity of the count is such that it is very difficult to predict how things are going from point to point. Generally speaking our scrutineers felt that there was not a great deal that could be done to suborn the process, therefore the process was going to be reasonably fair no matter what happened. Therefore, what is the point of wasting our time, was the attitude.

The Hon. AMANDA FAZIO: You know that as part of that count every vote was data entried. Do you believe that, because they are doing that, they ought to get rid of random sampling and actually do a full distribution of preferences?

Mr BROWN: I am probably not qualified to comment. It does not really matter what happens through the course of the counting; it is the end count that counts, so to speak. It does not really make any difference in the end. All it does is perhaps make people feel more involved as the count goes on. So, no. I do not think there would be any advantage either way.

The Hon. AMANDA FAZIO: Do you have any comment to make on the financial returns that political parties have to make to the State Electoral Office? The Committee heard from the Greens earlier that they found it a bit complex and a bit hard to complete those returns.

Mr BROWN: No, we have no problems at all. We have fairly professional staff that do it. People who make donations to the Shooters Party are fairly concise groups of people. It is generally the same people each year. Our returns do not seem to be a problem. I have certainly had no complaints from the officers who do it, at all.

The Hon. AMANDA FAZIO: There is another issue in relation to the political neutrality of staff of the State Electoral Office. Have you ever had any cause for concern about that?

Mr BROWN: Not personally. I would have to say that the matter has never been raised by any officer of the party.

(The witness withdrew)

JOHN TEBBUTT WEBBER, President of the New South Wales Branch of the Proportional Representation Society of Australia, GPO Box 3058, Sydney, sworn and examined:

CHAIR: Thank you for appearing before the Joint Standing Committee on Electoral Matters today. The Committee is pleased to hear your evidence. I am advised that you have been issued with a copy of the Committee's terms of reference, and also of Legislative Assembly Standing Order Nos 332, 333 and 334 that relate to the examination of witnesses. Is that correct?

Mr WEBBER: That is correct.

CHAIR: What is your occupation, and in what capacity are you appearing before the Committee today?

Mr WEBBER: I am now retired. I am still a surveyor emeritus and belong to the Institute of Surveyors. I am appearing as the President of the New South Wales Branch of the Proportional Representation Society of Australia.

CHAIR: The committee has received a submission from the organisation you represent. That original submission was dated March. Today the Committee has been given a substantial amount of additional material. Is it your wish that this submission form part of your formal evidence?

Mr WEBBER: It is. Yes, indeed, please.

CHAIR: I would normally ask if you would like to make a brief opening statement but, bearing in mind the amount of additional material, in order to give Committee members an opportunity to digest some of this material would you perhaps begin by giving us a briefing on the material that you have presented.

Mr WEBBER: Yes. I will start by pointing out that the Proportional Representation Society exists to promote one aspect of a democratic society by promoting the best voting system, which we believe is the Hare-Clark, also known as the single transferable vote system, using multimember electorates of five, seven or nine members. The Legislative Council uses Hare-Clark. In 1978 the upper House elected 15, with mandatory marking of 10 preferences. Later changes, we believe, have been retrograde steps, which increased the number to be elected to 21, with a marking of 15 preferences rather than the five, seven or nine preferences which our society would primarily advocate.

Also, a backward step was taken when above-the-line voting was introduced. That created perverse incentives to clutter the ballot paper, including the need to nominate 15 candidates. Priorities on a list are determined by the party, rather than the voters in letting the voters choose their own priorities in the choice of candidates. A high priority of the society is to give voters full control and eliminate above-the-line voting. If that occurred it would allow the introduction of non-compulsory marking of preferences. It would also allow the introduction of the Weighted Inclusive Gregory Transfer when dealing with a surplus. It would also abolish the sampling process and counting of all votes would be carried out when dealing with a surplus, instead of just samples.

In addition, to give all candidates within a group equal exposure to the most favoured positions on the ballot paper, we advocate the introduction of Robson Rotation, this is just within a group, where all the names of the group on a ballot paper are rotated such that everybody has a fair share of the most preferred positions, which is normally the top positions. This procedure has been used in Tasmania for 26 years. I will, if you wish, I refer later to appendix E in Tasmania, which lays out how this is randomly done. Also, rather than appointing to a vacancy that occurs during a parliamentary term, we recommend a count back of votes from the prior election, which again would give voters a great choice of candidates. In that instance, the quota of votes for the outgoing candidate is re-examined and transferred to the next choice of voters. This is dealing with the Legislative Council.

For the Legislative Assembly we recommend—which was not in the earlier submission—both the Robson rotation and the count back. However, because the terms of reference of the standing

committee exclude our society from recommending Hare-Clark for the Legislative Assembly we are not really able to advocate the other objectives that we would like, being Hare-Clark for the Legislative Assembly.

There is recent news from Canada. Right across Canada, first past the post is universally used. Last year a citizens' assembly of the province of British Columbia looked at voting methods across the province. After looking at all the systems it recommended Hare-Clark. Counting is still in progress from a province-wide referendum that took place on the 18th of this month to use Hare-Clark for the House of Commons, and early counting shows 57 per cent to 58 per cent of citizens support Hare-Clark. That referendum includes all the features that this society recommends for the Legislative Council, which includes a prohibition on above-the-line voting and fully optional preferential voting, so you only need to mark one preference rather than having to vote one to 15 below the line. It includes weighted inclusive Gregory transfer of preferences and Robson rotation.

I conclude by saying that Australia has a worldwide reputation for voting reform. This includes the first secret ballot, votes for women, Hare-Clark voting for nearly a century in Tasmania, Robson rotation and the Gregory transfer. Therefore, the society recommends that the legislature adopts the reforms recommended in this submission. The second submission really elaborates the points in more detail than the first submission in March.

Mr PAUL PEARCE: I am not going to get into a discussion about the merits or demerits of the Hare-Clark system of voting, but if voters are so inclined they are able now, under the existing rules, to vote below the line and to vote for the individuals they choose. The voting below the line and the Gregorian rotation, and so on, all essentially relate to individuals rather than parties. That is what this is essentially predicated on?

Mr WEBBER: Yes. Well, we see it as a benefit to parties too, not only individual voters. We believe the voters themselves should choose the candidates in the order they wish, not vote for a list up top that the party chooses. We see a benefit for parties in this.

Mr PAUL PEARCE: The point I was getting at is that voters can do that now, if they so choose.

Mr WEBBER: If they so choose, yes. However, they have to vote for 15 rather than one, which we disagree with. We certainly encourage voters, and we believe it should be encouraged, to vote for as many preferences as they wish, but we feel they need only be obliged to vote for one candidate if they do not know any other candidates and only wish to vote for one.

Mr PAUL PEARCE: In encouraging this approach rather than voting for a party as a block, is that not going to disadvantage the less knowledgeable voter? The less knowledgeable voter is more likely to vote 1, as you see quite frequently on ballot papers, as opposed to the intent to vote for a party block. They will put 1 at the top of the party block as they perceive them, in which case it will disadvantage those less knowledgeable voters.

Mr WEBBER: I do not quite agree with you, because I think in general most voters will vote generally for one party. There are exceptions, such as when Pauline Hanson's party came in and the voters from other parties voted for that body, but generally speaking voters vote for the party of their choice, whatever the party is, and they stick with that party.

Mr PAUL PEARCE: But if you are also favouring a rotation in the ballot paper, that makes it well nigh impossible for a party to put out a how-to-vote card?

Mr WEBBER: No, it does not. It still allows a party to put out a how-to-vote card and it says the vote for these candidates in whatever number they are, and the party itself can promote that. Perhaps you missed my point. The purpose of the Robson rotation is not to force voters to vote for one candidate in a party as opposed to another. It is to give everyone a fair share when they vote.

Mr PAUL PEARCE: It is to pick up the donkey vote.

Mr WEBBER: It is to pick up the donkey vote. We are only talking about the donkey vote. The majority of voters—who, hopefully, are not donkey voters—can decide in what order they wish to choose the candidates. We believe if that is the case it encourages each of the candidates within the party, who have been preselected by the party to be on that list, to promote and get votes not only from their own party but from other groups. So, it is up to the voter to decide.

The Hon. DON HARWIN: So in the Robson rotation, on the Legislative Council ballot paper, you would not only be rotating the groups but would be rotating the names within the groups? So you would be doing two rotations?

Mr WEBBER: No.

The Hon. DON HARWIN: Well, what would you be doing?

Mr WEBBER: We would only be rotating the names within the group.

The Hon. DON HARWIN: In other words, you would not rotate group A, group B, group C?

Mr WEBBER: No. Whichever one came out of the hat on the left-hand side of the ballot paper, those groups would remain in the same order across the ballot paper.

The Hon. DON HARWIN: But surely if there is any donkey vote effect at all in the Legislative Council, it is based on who gets group A? I remember in 1999, group B, with a small number of votes, ended up getting elected.

Mr WEBBER: Yes.

The Hon. DON HARWIN: It just seems to be enormously inconsistent with your philosophy that you would just require within the groups that names be rotated but not rotate group A, group B, group C, group D.

Mr WEBBER: What you are suggesting is the ideal answer. We totally agree with that if it is achievable with a realistic number of rotations. But there is a difficulty. If you rotate groups across the page as well as the names within the groups, it creates an extraordinarily large number of options. The way Tasmania has used the Robson rotation is the candidates within each individual group and even that creates quite a number of variations and combinations. However, if you look at the ACT, it went a step further.

The Hon. DON HARWIN: I am sorry to interrupt, but it strikes me that what you are suggesting is not trying to address the donkey vote at all but is simply aimed at stopping the parties from running a ticket?

Mr WEBBER: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, choosing who is on it.

Mr WEBBER: The party can still decide what the ticket is but it stops the party from deciding in which order a party places those on the ticket.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that not a worry? Nobody has heard of the major party people in the upper House, so you are relying on the preselection of the parties to guide them? They cannot make a distinction between all those people they have never heard of. You would make votes for the major parties meaningless because no-one has heard of the candidates?

Mr WEBBER: We promote the education of voters. We hope that the voters, when they have a choice, would make their own decisions as to who they vote for within a particular party. One of the concerns with the upper House is that you are voting for 21 right across the State. As I mentioned, our society promotes five, seven or nine member electorates. In other words, you would

cut up the State into several groups and you can judge them altogether and elect the whole 42 at once and have six or eight or whatever electorates. However, I am not allowed to talk about that here but that is what we would prefer.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are being pushed into a kind of absurd situation in that you are asking people to know the members and candidates from the major parties and their respective merits when their voting records are identical? You are saying that is because you would not have that voting system anyway?

Mr WEBBER: Yes, we would reduce the area of the States to a small number of areas. That would be our preferred position

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you have a single House with that? If you had Robson rotation there is no point in having an upper and a lower House, is there?

Mr WEBBER: It is not only Robson rotation. We would insist on a range of other issues as well, including the fine details of the counting process, which we detail here, and also non-compulsory marking of preferences. So there is a range of things we would advocate if there was only one House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But would you advocate one House as opposed two?

Mr WEBBER: Our society does not advocate whether it should be one or two Houses. We believe that is up to the public and Parliament to decide, but if there was one we recommend Hare-Clark voting with all the features that we promote.

Mr GEOFF CORRIGAN: On page 3 of your original submission there is an implication that people who vote above the line do not know what they are doing and those who vote below the line do know what they are doing. It is that a fair reading of your paragraph where you say:

The problem with above-the-line voting is that it creates two classes of voters—those that clearly make the voting decision themselves by voting below-the-line and those that do not and vote above-the-line.

I find that an offensive statement, quite frankly.

The Hon. AMANDA FAZIO: Me too.

Mr WEBBER: I am sorry if that is the case. I believe that a lot of people vote for a party and they are clearly voting for a particular party, and they do not know, under the current system or any system, a great deal of detail about all the individual candidates. Our society promotes the view that voters should know their preference 1 candidate at least, and they give their preference to that candidate. They may know something about others and they can make their choice as to how many or none of those other candidates in whatever priority they decide to vote for. Should their first candidate not be elected, their vote flows to the second preference, so their view is taken into account very firmly in counting the vote. So, I do not see the concern you express here.

The Hon. AMANDA FAZIO: But do you not see that a lot of people vote for policies instead of the personalities of individual candidates who will implement those policies?

Mr WEBBER: I am sure that is true, yes, but within the policies of the party some members promote some aspects of that policy more so than others. It is up to the voters, we believe, rather than the party, to decide to go in this direction or that. If a party has a particular point of view, a group of people elected by the voters nevertheless, if they decide they have a strong view on a particular issue, that may not always reflect the views of the voters. However, if the voters can choose the candidates within the party that they themselves prefer, that have perhaps an alternative view, and the majority are elected within the party promoting that view, that would be reflected in the voting system if the voters can choose. We believe that is an important part of democracy, for the voters to decide across the electorate.

Mr GEOFF CORRIGAN: If people who believe in the party system vote above the line because they know where their votes are going, clearly to a party, I do not think that makes them any less informed than those who vote below the line.

Mr WEBBER: It certainly does not make them any less informed with regard to the fact that they are going to vote for that party. But I would suggest that a lot of those voters for that party would not know a great amount of detail about the candidates within that party. For the voters who have a choice, if the voters have the choice to decide which order—

CHAIR: Which they do now, because we have below the line voting.

Mr WEBBER: Yes. But we are suggesting that because quite a lot of voters take the easy way out, which is natural, and they are required to put only one mark above the line but 15 below the line, that is a way of encouraging voters to vote above the line rather than having a choice to put just one below the line. So that is a slightly different argument, but there is an inconsistency between the requirement to vote above the line for one vote and 15 below the line.

CHAIR: You would not agree that the choice is there now? If, as an informed voter, I choose to support a political party because of its policies, and I vote number one above the line, or as an informed voter I want to vote for my candidates in the order that I know them below the line, would you agree that currently the choice is there for those who choose to do that?

Mr WEBBER: Yes, it is. However, the point I am trying to make is that the current system with above the line of voting encourages people. The statistics show that the figure is 97 or 98 per cent in New South Wales, whereas people who are familiar with proportional representation voting, as they have in Tasmania and the ACT, know that a much higher proportion vote below the line.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If you have preference flows—in other words, a deal is done and if you put a "1" above a certain party it flows according to what that party has negotiated—is that not helping the voter, who knows that the person they are voting for is a good person but they do not know about all the others? If you said, "I want to give my vote to a certain person or a certain party. I have absolute faith in them. They will put in order all the others that I do not know about," does that not suggest you would favour the preference flows as per the tickets, as worked out by either the candidates or the candidates' parties?

Mr WEBBER: No.

The Hon. DON HARWIN: It is diametrically opposed to proportional representation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are saying that the voter wants to make a choice. I am putting what you might call the devil's advocate position: this is helping the voter make a choice, because they could say, "That's the person I want. He has given me the choice." If you do not want his choice, you can go below the line and work it out for yourself. The alternative is to do the shorthand version, which is to put the "1" in the square that allows the person you have valued to help you make the decision.

Mr WEBBER: We think that decision should be clearly the choice of the voter, not individual candidates or a party. Our society, and I am sure all our members, have great faith in the ability of the commonsense of the voter to make their own decisions, rather than having that decision taken out of their hands as regards the preferences, the order of candidates or how people come up in a group in the party.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But would you concede that if you have a large ballot paper, such as the tablecloth ballot paper, where you are trying to elect 42 of some hundreds of candidates, you would have to be the most fanatical follower of politics there ever was, reading the entire Web because it would not be in the newspapers, to try to make some sort of valuation of those people, many of whom would never have issued a statement on anything, anywhere.

The Hon. DON HARWIN: Extending what the Hon. Dr Arthur Chesterfield-Evans is asking, therefore, given that many people would not know about individuals, is it not the case that you would be massively increasing the likelihood of informal voting?

Mr WEBBER: No. We advocate the need to vote for only one person. So that does away with all your concerns about a tablecloth ballot paper. It would also reduce the huge tablecloth ballot to a much more manageable size. With regard to the other reforms we are proposing, the tablecloth ballot was really promoted by the system that was imposed on the voting system; people did not just suddenly create a great range of additional parties. The provision to have 15 candidates to form a party, such that you can have a group above the line, forced a lot of smaller parties to have a large number of candidates which they knew had no hope in hell of ever being elected. So that perversely increased the number of people on the ballot paper.

CHAIR: Given that there are 42 positions and they are only numbering one, as compared with, for example, selecting one above the box where the full distribution of votes is made, does that not devalue a person's vote?

Mr WEBBER: It certainly does partly devalue their vote. But if you just had the requirement to vote for one preference, you would find that a big percentage of voters would get their first preference elected. You are quite right: a percentage of voters would lose their option to vote for the next preference. That is why we strongly encourage people to put in as many preferences as they wish. But if a voter only knows one particular candidate in a party, and only wants to vote for that candidate, it should be their choice to decide. If their vote is not effective in electing that person, it should be their choice to let it occur that their vote is wasted. That is a relatively small percentage of voters.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The questions we are asking are, in a sense, unreasonable, in that you did not support the 42 people in the State anyway; you would have smaller electorates. The ignorance that the voter might suffer in the current system has to be dealt with in other ways than arguing about the format of the upper House voting paper in its present form, is that so?

Mr WEBBER: If you accept that it is 21 members, which cannot be changed in the rotating elections, we still advocate a single preference, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your theoretical position is rendered difficult by the immense amount of information that would have to be known, and therefore you would like to simplify the number by having, say, seven, nine or five member electorates, which would make the number of candidates the voter had to know a more manageable quantum of information?

Mr WEBBER: That is correct.

Mr PAUL PEARCE: I am familiar with voting systems. Certainly the theoretical position you put forward probably would generate something that would be arguably a fair system. I think the practicalities of it are extremely doubtful, as to whether you would get a fair result. I think you would disenfranchise a number of voters by virtue of the fact that there would be a lack of voter capacity. I think it would also leave open the door for a wealthy candidate to effectively target quota voting, where you could, in multi-member electorates, or where you have a large single electorate as you have in the New South Wales upper House, have the capacity to target quota. My view on that is that it would be to the detriment, rather than benefit, of the electorate and the electoral system broadly.

Mr WEBBER: May I comment on your first point regarding the lack of capacity of the voter. If you go back to the previous system where there was no above the line voting, people voted below the line and they voted. They still do so in Tasmania, and they have done it that way for nearly a century. There is no problem with it. I believe it is a furphy; there is no difficulty there.

The Hon. AMANDA FAZIO: But there is a problem, because we already have full voting below the line and there is no option to vote above the line. The informality rate goes up massively.

Mr WEBBER: That is why we advocate that there should not be a requirement to vote for—

The Hon. AMANDA FAZIO: But you just said there was no problem with that system.

Mr WEBBER: I am sorry. There are two points here. One is voting under the current system, which we oppose, and the other—

Mr PAUL PEARCE: That is compulsory preferences, is it?

Mr WEBBER: The compulsory marking of all preferences or a certain number of preferences. It is now 15, whereas it used to be everybody. We certainly oppose that, and always have, under whatever system of voting there was. If you voted for one person but you had the choice to vote for more, there has been no problem with that.

CHAIR: In your submission you noted that consideration should be given to replacing the random sampling with the weighted, inclusive Gregory method for counting of votes in the Legislative Council. Could you outline some of the benefits that would result from replacing random sampling with that method?

Mr WEBBER: If you look at appendix A, which you are no doubt familiar with, we have a quota of votes and then there is a surplus. That surplus of votes coming to a particular candidate generally comes from a number of other candidates who also have a surplus. The candidate that was not elected initially gets a surplus number of votes from a range of other candidates, from whatever source, within that party or from some other group, and that is fairly common.

The problem with the current system is that all those votes that come to that candidate, whence ever they come from, are considered to be at the same value. So when you are working out the transfer value to go to the next candidate, you divide as if they are all of the same value that came to them. If you look at the example in appendix A, where it talks about a quota of 50,000, where preferences are transferred between candidates, you get to the stage where one particular candidate, Jones, with 35,000 first preferences, receives 100,000 ballot papers with a transfer value of point one from someone called Costa, who was elected. Finally, he also gets 25,000 ballot papers at full value when another candidate, Perez, was excluded. At that point Jones has progressed with a total of 70,000 votes with a surplus of 20,000.

Under the definition of transfer value, the value for each of the ballot papers helping to elect Jones is 20,000 divided by 116,000, which is 0.125. The 10,000 papers that were worth 10,000 when received by Costa are now worth 12,500. This can go up in value as a result of helping to elect someone. That is the concern with the way the counting works under that system. It is a technical matter that can readily be overcome by allowing the votes to be counted and multiplied by the right proportion, in effect providing the right proportionate value of all the votes coming to a continuing candidate. In that way the values that get to the continuing candidate are the right ones to help that candidate collect a quota, or in turn they will pass to another continuing candidate.

Mr PAUL PEARCE: On page four of your definition you refer to a technically flawed unweighted Gregory transfer factor. What is the difference between what you propose there and the current Senate system?

Mr WEBBER: There are a couple of differences. One is the random sampling process, which is another matter. However, if you count all the votes, you must go through this process of reduction where you create a fraction of votes. The Senate system sort of does that but it comes up, as with this example, with the wrong value. It is just like the Appendix A system, which is wrong. A vote should not increase in value.

Mr PAUL PEARCE: Is it going to come up with the wrong result?

Mr WEBBER: It can. That is the concern.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If somebody votes for a candidate that is eliminated, and even if they knew that person was “a fine chap or chapess” but was going to be

eliminated, should they not then have as much say as anybody else about who is the next person to receive the votes?

Mr WEBBER: Of course, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does that not mean the transfers have to be at full value?

The Hon. AMANDA FAZIO: Yes, because their vote has not counted yet, has it?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Exactly right, yes.

Mr WEBBER: Well, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that not the unweighted value? Once they get a preference up – they might have wanted person one, but person five got up ahead of preference six—and their vote is counted, it should be eliminated. The only votes that should be weighted are those that have not yet elected a candidate.

Mr WEBBER: The voting system counts in two different ways. Firstly, you go through a process whereby people with excess votes to a quota have their votes transferred. This is where the Gregory transfer aspect comes in. When you get to the stage where no-one has a quota and you start eliminating candidates from the bottom—the candidates with the fewest number of votes—what you are saying applies exactly. The votes go from the candidate with 8,000 votes—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are not planning to change that?

Mr WEBBER: No. Those votes go to the next candidate. They build someone up. There are two processes: transferring the surpluses from elected candidates, which is where all this difficulty with the weighting comes in, and when no-one has a quota and you start eliminating people those votes go in at full value and there is no change to that. That is as it should be.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Let us say a party has one-third of a quota and its next preference goes somewhere: presumably under this new system it will not go anywhere because there are only above-the-line preferences. If there are no above-the-line preferences, the transfer will only be done from the bottom, will it not?

Mr WEBBER: No. The current system transfers preferences above or below the line.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Let us assume the major parties only vote 1. Only a small percentage of their votes will have 2 above the line in another box, so only a small number of those will be transferred. Would they not then be eliminated from the bottom like anyone else? The point you are making is about ticket flows, is it not?

Mr WEBBER: No, not only ticket flows but within the party itself. Under the current system, if someone votes for a box, a larger party might get six-and-a-half quotas, and normally that half quota of votes goes to another candidate within that party. When no-one is elected within that party, you go through this with all the other groups too, and then you start eliminating from the bottom. Those full votes go wherever they go. At the end of the day, you then have to start transferring votes in accordance with either the voters' choice or the party's choice and whatever preferences come up. Initially that may be within one party and subsequently within other parties or between individual candidates.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: How do you get fractional transfers out of that?

Mr PAUL PEARCE: You are doing a mathematical calculation.

Mr WEBBER: The principle is based on the fact that instead of taking one lump of votes and transferring them at full value, which you choose at random – in theory, if you had billions of votes a sample of full value votes would come out very close to right - you look at all the votes that initially were counted and reduce them by the transfer value. The transfer value might be 0.1 or something else.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It only exists because you have not counted the full quota. If you counted the full quota, you would not need to do this.

Mr WEBBER: No. You still count all the quota, but in the sampling process not all the surplus votes are counted. If you look at the legislation, it is clearly laid out. A sample of votes is taken. You should not just take a sample. That evolved years ago when there was no computer counting. It was an economical, practical method of getting pretty close to the right answer. Now, with computer counting, there is no need to stick with that bygone era. It can easily be done. We are saying “Do it”. It is being done in Tasmania and the ACT, and is being promoted in Western Australia and is likely to come into effect there when the new regulations are implemented.

Mr GEOFF CORRIGAN: Going back to your original supposition that people should vote for individuals, or individuals within a party, rather than parties themselves, it might be easier in Tasmania where everyone knows everyone, but what about NSW? Tasmania is a relatively small State with a small geographical area. I do not know what the newspapers are like down there or how easy it is to get information, but in NSW you might have a candidate Broken Hill or Lismore. The way local papers are structured, it is very hard to get information even in Camden about people from Liverpool. Do you agree there is an information difficulty with the basic premise of voting for individuals rather than parties?

Mr WEBBER: This is why ideally you would reduce the State from voting for 42 or 21 electorates to a smaller area, to get them to the size of Tasmania!

The Hon. DON HARWIN: It would effectively be like provinces within NSW.

Mr GEOFF CORRIGAN: Recommend the Liberal Party methods.

Mr WEBBER: We recommend it to any party member or non-party member because it gives voters justice. The idea of voting for seven, nine or 11-member electorates is, on one hand, to create an electorate of a reasonable size and, on the other hand, to get the best answer we can for voters and parties via a proportional representation system. If you take single-member electorates, 50 per cent of people elect somebody and 50 per cent are unrepresented, in the worst-case situation. In two-member electorates, 66 per cent will be represented and 33 per cent will be unrepresented. In a nine-member electorate 90 per cent get representation and 10 per cent are unrepresented. In suggesting seven, nine or 11-member electorates, we are trying to balance 90 per cent and more voters getting the candidate of their choice and only 10 per cent or less being unrepresented, instead of 50 per cent as happens in lower House elections. By so doing we keep an electorate to a manageable size so people can get to know a bit more about the candidates.

CHAIR: What extra resources and time would it take the SEO to do the count, given NSW is substantially larger than Tasmania?

Mr WEBBER: I could not answer that. With computer counting systems, once the right software is developed, I cannot see it would take much longer. I certainly think it is very important that the electoral office be given sufficient and adequate resources to do the count, whether under the current system or an improved system. While the SEO is doing it, for God’s sake let us improve it and do it right. That is our policy. It is a computing system. Once the data is fed into the computer and you have the right software, it does the job.

Mr PAUL PEARCE: I think this system would most certainly work at a local level where there is a relatively high level of knowledge in the electorate of the individual candidate. I can see that functioning on a ward basis. I suspect you might get a very bad result in terms of knowledge of individual candidates if it were to be applied on a state-wide system or a national system. Currently in single-member electorates in the lower House there is a reasonable opportunity for the electors to get

to know individual candidates. In a much larger electorate, 500,000 people or whatever it may be, the chances of people knowing someone from their local area are significantly reduced. Another aspect is that if this system were applied in the lower House, and I am drawing a distinction between upper and lower Houses, the practical outcome might be that it is not possible to form a government that is in any sense a coherent government.

The Hon. AMANDA FAZIO: You should probably just get radio DJs elected! Would that not be awful.

Mr PAUL PEARCE: You would finish up with a dog's breakfast and a new government every six months.

Mr WEBBER: It has not happened in Tasmania in a century, so why would it happen here?

Mr PAUL PEARCE: You are talking about a very small electorate in Tasmania. I would rather look at a national body such as Italy.

The Hon. DON HARWIN: Adding to what Paul Pearce was saying, if we adopted a seven-member province for the Legislative Council, which would involve six provinces and would be the smallest province on your 7-9-11 model, it would produce these figures, which I have not checked personally. A seven-member electorate would wind up with about 650,000 electors, whereas Tasmania as a whole has 330,000 electors. I wonder whether it is really viable or whether this is just a system that works well in small polities such as Tasmania.

CHAIR: In the lower House we have 93 electorates with 45,000 voters apiece.

The Hon. AMANDA FAZIO: We could get rid of the minor parties if we had seven member electorates. So it has some attraction.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, you would not, because you would not have a chance.

Mr WEBBER: May I just answer one point you made, Mr Pearce? You were referring to single-member electorates where voters get to know that person very well and, therefore, the presumption you have made is that they get serviced well by that particular member. I agree that is true on minor issues, but on major issues if your local member is of one political persuasion and you have another political persuasion and that particular member does not support a particular issue, what happens now is that people in one electorate go to another anyway to speak to a representative in some other electorate about their thoughts. We are putting a priority on voters having the opportunity to get their views expressed in Parliament through a representative who supports their point of view, not the local representative that they may—

Mr PAUL PEARCE: I agree with that. But in a bicameral parliament you have one House elected by single-member electorates and one House elected by proportional representation. I might add I agree with you essentially the argument about the sampling method—I think there is a flaw there, although I suspect the result would be pretty much the same. There is an opportunity now with that system of the upper and lower House elected by different electoral methods to get a person who properly reflects your point of view as an individual in one or other of the Houses.

Mr WEBBER: If it is the lower House, then yes.

Mr PAUL PEARCE: Or the upper House. If you are a Democrats voter you can go and see Arthur.

Mr WEBBER: Yes, true. But if I am a Democrats voter I would like to be able to see Arthur, but I would like to be able to see another Arthur in the lower House.

Mr PAUL PEARCE: You would not achieve it under your system because he would not get enough votes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your point is that the single-member electorate effectively eliminates, to a large extent, any but the major parties having control of the lower House, which then becomes a rubberstamp.

Mr WEBBER: That occurs because you can get nearly 50 per cent of voters who do not have a representative in Parliament, and that is wrong.

Mr PAUL PEARCE: In the lower House.

Mr WEBBER: Yes, in the lower House. It is wrong when you can get 90 per cent in the lower House, and you do get over 90 per cent in the upper House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you then advocate that the control of the electoral system should be taken away from the people in Parliament who have clearly vested interests and given to a commission, which is charged with getting the best results in terms of the will of the people in a mathematical formula?

Mr WEBBER: That is exactly what happened in Canada where the People's Assembly was commissioned. Hundreds of people from right around the State came up with a proposal, which was put to the people at a referendum, and the people voted for it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What an excellent idea!

Mr GEOFF CORRIGAN: I want to raise a practical point with you. As a lower House member who services an electorate, amongst the first five people who came to see me were members of the Liberal Party. I know they were members of that party because they handed out against me on the day. I represent them as a representative of the people—people who belong to the Labor Party or people who do not belong to any party at all. When you are elected to a seat you must represent everyone who comes to see you, and you bring up their issues. Their issues might not be at all party political.

They might be private or other matters, and you represent people to the best of your ability. I know you would probably agree with that anyway, but I want to make the point that lower House members do not represent just 50 per cent of the people, we represent 100 per cent of the people in our electorate. We might not always agree with their views. Strangely enough, in my seat I am a Labor Party member but in the Federal seat of Macarthur it is a Liberal Party member. People can differentiate between local, State and Federal. They can differentiate between issues. But they know that their local member generally will represent them to the best of his or her ability on any issues they might care to see them about. I want to make that point.

Mr WEBBER: I understand that, except on one particular issue which I might suggest, and you might comment on. On a major issue, would you stand up and vote in Parliament against the policy of your party if the majority of voters in your electorate said, "I don't like that"?

Mr GEOFF CORRIGAN: I would stand up here in this room in caucus and vote against it. In any party system once a decision is made—

CHAIR: In a democratic system this is where it is done.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: For the Labor Party.

The Hon. AMANDA FAZIO: How would you know? You have not got anyone to make a caucus with.

CHAIR: We would stand up and have our say and the majority—

Mr WEBBER: I understand that.

CHAIR: How can you be sure that you are representing the electorate? As you would know, it is usually a vocal minority that makes a noise and there is a silent majority whose views we do not

necessarily know. In my case I would have to canvass about 45,000 voters to find out if I were going to be expressing the views of a majority in my electorate. Or am I just representing a small vocal group who are making a noise? It is not possible for me as a member to be able to share the same views as 45,000 people. But as Geoff said, people in my electorate come into my office and say, "I didn't vote for you but—", and I say, "That is fine, I represent everybody." Our job is to represent their views, not necessarily to share them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did you enjoy the Labor propaganda at the end?

Mr WEBBER: Can I make one final comment? I understand what you are saying totally. I concede all that. But if there is proportional representation and you, as an individual candidate in a single-member electorate, promote your point of view and you get elected, that is great. But if you have proportional representation with, say, seven-member electorates, perhaps four of you with your views and policies would be elected in that electorate and three of another major party would be elected with a different point of view. The voters then can decide which one they go for and who they support. In Tasmania there have been examples where the strength of the parties has been kept the same in one election compared to the prior one but the candidates within those parties were changed at the wish of the voters. The strength of the party has remained the same but the voters, because they preferred candidate A, B and C rather than C, D and E, decided to change the particular candidates they wished to represent them in the Parliament. So it was the voters who had the decision, not the party. Rather than the party deciding the candidate we believe the voter should decide.

Mr PAUL PEARCE: My recollection, and correct me if I am wrong, is that at one stage federally in the early part of last century we had multimember electorates.

The Hon. DON HARWIN: We did in the State Parliament between 1917 and 1925.

Mr WEBBER: My history is not good on that. I cannot confirm that.

CHAIR: Thank you very much for attending.

(The witness withdrew)

(The Committee adjourned at 1.00 p.m.)