



COMMONWEALTH OF AUSTRALIA

# SENATE

## Hansard

**MONDAY, 23 JUNE 2003**

### CORRECTIONS

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**Monday, 30 June 2003**

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BY AUTHORITY OF THE SENATE

# PROOF

of this chamber to operate so productively, with nearly 98 per cent of all bills passed, with a vast majority of them passed unamended. That is assisted by the kinds of services we get. So I am very uncomfortable with the situation, and I am very pleased at the forceful outline and remarks made by Senator Ray with respect to all this.

Question agreed to.

### DOCUMENTS

#### Auditor-General's Reports

##### Report No. 53 and 54 of 2002-03

**The DEPUTY PRESIDENT**—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

Report No. 53—*Business Support Process Audit—Business Continuity Management Follow-on Audit*; and

Report No. 54 of 2002-03—*Business Support Process Audit—Capitalisation of Software*.

### PARLIAMENTARY ZONE

#### Proposal for Works

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (3.55 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with supporting documentation, relating to landscape and lighting works at the Treasury Building. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

**Senator IAN CAMPBELL**—I give notice that, on Wednesday, 25 June 2003, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being landscape and lighting works at the Treasury Building.

#### Proposal for Works

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (3.56 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with supporting documentation, relating to the design for the Commonwealth Place Forecourt. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

**Senator IAN CAMPBELL**—I give notice that, on Wednesday, 25 June 2003, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamen-

~~tary Zone, being the design for the Commonwealth Place Forecourt.~~

### COMMITTEES

#### Electoral Matters Committee

##### Report

**Senator MASON** (Queensland) (3.57 p.m.)—On behalf of the Joint Standing Committee on Electoral Matters, I present the report of the committee entitled *The 2001 Federal Election*, together with the *Hansard* record of proceedings, minutes of proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

**Senator MASON**—I move:

That the Senate take note of the report.

Mr Deputy President, I will make just a few very brief comments and I foreshadow that I will then seek leave to incorporate in *Hansard* the remainder of my tabling statement.

This report on the conduct of the 2001 federal election coincides with the 20th anniversary of the Joint Standing Committee on Electoral Matters and its predecessor, the Joint Select Committee on Electoral Reform. These committees have made an important contribution to the conduct of free and fair Australian federal elections by reviewing the conduct of each election since 1983 and making recommendations for improvements to electoral law and practice in this country.

It is worth noting that this report is the first unanimous post-election report the committee has produced in 13 years. I thank my colleagues on the committee and congratulate them, particularly the chair, Mr Georgiou, and deputy chair, Mr Danby, for their commitment to a consensus process.

Two of the committee's recommendations in particular would, if implemented, result in quite fundamental changes to electoral procedures. These two recommendations, and I repeat these are unanimous recommendations, are aimed at strengthening electoral roll integrity and they are very important changes: first, a streamlined proof of identity requirement for all applicants for enrolment and re-enrolment and, secondly, voters claiming a provisional vote will now be required to validate their entitlement to vote by providing proof of their name and address.

In concluding these brief introductory remarks, I again thank the chair, Mr Georgiou, and the deputy chair, Mr Danby, and my fellow committee members for all their work. I also thank the committee secretariat, in particular Trevor Rowe and Russell Chafer, for their dedication.

It is worthwhile noting that Senator Ray, who was on this original committee back in 1983, has served on the committee now for 20 years. It is the 20th anniversary of the committee.

**Senator Robert Ray**—I did have a short break.

**Senator MASON**—With a short break, I am told. I commend the report to the parliament and I seek leave to incorporate the remainder of my tabling statement in *Hansard*.

Leave granted.

*The statement read as follows—*

Australia's electoral roll is the bridge between the right to vote and the ability to exercise that right. Australian democracy depends on an electoral roll with high integrity and high inclusiveness, that maximises voting by those entitled to do so while minimising the opportunities for electoral manipulation.

There have been a limited number of demonstrated manipulations of the electoral roll, but there is no persuasive evidence of any widespread malpractice. However, the Committee believes that it is not sufficient to rely on the absence of such evidence. The electoral roll must be of the highest integrity and inclusiveness, and it must be publicly demonstrated to be so.

One of the keys to electoral roll integrity is ensuring that enrolments are accurate in respect of the identity and address of the enrollee. The AEC and the Electoral Act do have measures to verify this, but the reality remains that the proof of identity required to enrol to vote to determine the government of Australia, is less than that required to join a video library.

Over the past 10 years, there has been a contentious and protracted debate on proof of identity requirements for enrolment. The Committee believes that the time has come to seek to achieve a consensual, constructive resolution of this matter.

The Committee agreed on a streamlined proof of identity requirement that:

- addresses proven cases of manipulation;
- sets standards that all people entitled to vote can reasonably meet;
- is consistent with proof of identity requirements in other areas of Australian life, and
- reassures the public that barriers against roll manipulation have been strengthened.

The Committee unanimously recommends that all applicants for enrolment and re-enrolment be required to verify their name and address using their driver's licence or other documents accepted by the AEC, or where that is impossible, by providing a confirmation supplied by two people who are on the electoral roll.

It is recommended that these identification requirements be trialled with a three-year sunset clause.

Another significant issue before the Committee was concern about provisional voters and their entitlement to vote. A person whose name cannot be found on the electoral roll may cast a 'provisional' vote. In 2001, nearly

200,000 provisional votes were admitted to the count. This happens after their entitlement to vote is checked by the AEC. However, the AEC submitted that many provisional voters 'are not living at the address they claim as their enrolled address and may not have lived there for some years'.

The Committee recommends that a person who claims to still be resident within the Division of their last enrolment, but whose name does not appear on the certified list of voters, shall only be issued with a provisional vote where they can validate their entitlement by providing proof of their name and address. The Committee believes that this measure will enhance the integrity of the provisional voting, and complement the more rigorous verification of identity and address on enrolment.

The close of rolls period is the period after the issue of writs for an election – currently seven days - during which people can enrol or change their enrolment details. This has been a controversial issue since 1993. People perceived that the AEC cannot properly check the validity of enrolments made during this time, and that inappropriate enrolments could influence outcomes in marginal seats. Accordingly, there have been proposals to shorten the close of rolls period.

The Committee examined the AEC's process for checking enrolment transactions during the close of rolls period, and found that it did not differ from the processes that applied at other times. Where the checking processes indicate anomalies in enrolment applications, such applications are not added to the roll.

Given this, the Committee concluded that, particularly in light of its recommendations to strengthen proof of identity requirements for enrolment and re-enrolment, the close of rolls period should remain at seven days.

The Committee also considered submissions concerning the franchise of particular groups of electors.

Australians moving overseas may register as an Eligible Overseas Elector (EOE) three months prior to or up to two years after departure, if they intend to return to Australia within six years. Australians living overseas who are not enrolled to vote may enrol as eligible overseas electors, but only if they are overseas for their career purposes, or those of their spouse. In both cases, EOE status is terminated if the elector does not vote or apply for a postal vote at an election.

Submissions objected to the conditions for admission to EOE status, saying that they derogate from the general right to vote. The Committee sees no justification for differentiating between Australians overseas on the basis of their reasons for moving overseas, and considers that the time limit for enrolling while overseas should be extended. However, the Committee supports the 'intention to return to Australia' and the 'use it or lose it' requirements, believing it appropriate to require Australians living overseas to demonstrate a continued interest in Australian political affairs in order to retain their right to vote.

Submissions to the Committee contended that the Electoral Act restricts the ability of homeless people to enrol to vote in federal elections.

It is estimated that the Australian homeless population totalled 105,304 at the time of the 1996 census. Estimates

of the proportion of homeless people eligible to vote, but not enrolled, vary considerably; estimates for the 2001 federal election range from 29,000 to 80,000.

The Committee acknowledges the difficulties of homeless people in relation to enrolment and voting. It notes that the Electoral Act has provisions for itinerant voters – people who have no real place of living – and these may take in homeless people.

The Committee recommends that the itinerant elector provisions be amended to elucidate their applicability to homeless persons. The AEC should continue its efforts to simplify and clarify the itinerant elector application form, and should target homeless persons in its next public awareness campaign.

It is necessary to balance the right to privacy against the principle that the electoral roll should be open and accessible to all citizens, to facilitate the verification of their own enrolment and that of others. The Committee recommends that access be enhanced by providing an internet enquiry facility to allow electors to verify their own enrolment details, and to confirm as much of another elector's details as they are able to provide. Conversely, in light of modern technology enabling electoral roll information to be extracted for commercial purposes, the Committee recommends that the electoral roll no longer be available for sale.

Finally, the Committee believes that the time has come for a focussed inquiry into the administration and funding of the AEC. The Committee will now seek a reference to conduct such an inquiry. Pending this, the Committee has recommended that there be no further co-locations of AEC divisional offices and that the AEC be provided with funding which ensures a minimum of 3 full time electoral staff in each House of Representatives division

In conclusion, the Committee thanks all who made submissions to this inquiry and appeared at public hearings. Participation in such inquiries is an important contribution to the work of the Australian Parliament. I extend my thanks to the Deputy Chair, Mr Michael Danby, and to our fellow Committee members for their work throughout this inquiry and to the Committee Secretariat for their dedication. It is Mr President, worthwhile noting that Senator Robert Ray who was on the original electoral reform Committee in 1983 is also now a member of the Committee on its 20<sup>th</sup> anniversary. I commend the report to the Parliament.

**Senator ROBERT RAY** (Victoria) (4.00 p.m.)—I join with Senator Mason in thanking the secretariat for the very good job they did in helping to hold the various hearings and in drafting this report. It is very difficult to do it without good staff and committee work, and they exceeded themselves on this occasion. I would also like to place on record my gratitude to Mr Georgiou for the way in which he has chaired the committee in the time since I have rejoined it, in the last 18 months. He has done it by fostering teamwork and by negotiating his way through a variety of difficult areas, and I think he has performed with exceptional ability and grace in the position. I would also like to thank other members of the committee for their commitment.

This committee is now 20 years old; it has been going for over two decades. It was established in 1983 because Australia had lost its way in terms of electoral law. We led the world back at the start of the 20th century in terms of reforms and institutions and the reinforcement of democracy but, between 1949 and 1983, there were very few changes to the Electoral Act. We even had redistributions knocked over that left us with electorates of 140,000 compared to 29,000 in the same state. In 1983 there was a revolution; the whole Electoral Act was rewritten. What has happened ever since is that this committee has been given the task of looking at the way the previous election functioned and making suggestions for the future. What you have seen is a process through which, after every federal election, more and more improvements are made. We have now probably reached the point where there are very few frontiers to conquer with regard to electoral matters.

Compare us with the United States of America, which does not have real federal electoral laws apart from a couple of funding ones, where local authorities run the election so that within one state you can have a variety of different ballot papers and voting methods. I hope—and I hope Senator Mason will agree with me—that 'Florida' is not possible in Australia. The United Kingdom have just set up an electoral commission. Ninety per cent of their electoral organisation is done by local government. I had the opportunity, two years ago, of watching a count of an election in Islington. It took them seven hours to count the ballot. Put three Australians in there and you would have had your result in half an hour. It is unbelievable, the amateurism with which other countries approach what is a fundamental protection of democracy. I think we have done it fairly well and we now only need to tinker around the edges.

A few issues came out of this inquiry. The most important has been mentioned by Senator Mason, and that is that we have looked very carefully at the issue of proof of identity going onto the electoral roll. It has been contentious in the past; it has also been a partisan issue in the past. Most of us now have form. It is probably helpful to the Labor Party that the Liberal Party in Victoria and elsewhere has had a bit of form too, so we can have a more balanced look at these things. We have recommended that you need your drivers licence as the proof of identity and eventually we hope that, with data matching access, you will not even have to send in a photostat of that because the number alone will be sufficient. But, in the meantime, you will have to send in a photostat. For those who cannot do that—because 10 per cent of people do not have a drivers licence—we need another form of proof. For the very minor group that cannot provide any of that, we need two other people with drivers licences who will attest to the truth on

the application form—not to the truth of witnessing it but to the truth of the material facts contained within it. At some point we also recommend an upping of penalties for anyone who signs something they know not to be true. Having fixed that problem into the future, we no longer believe that the electoral rolls have to close early after the issue of the writs. If you have a convenient proof of identity, you will be able to process all those new applications or changes of address that come in in that seven days before the rolls close. The committee has achieved a balance and a way of taking matters forward.

There are just two or three other things I might mention, and I commend the rest of the report for people to read. We have tackled the area of provisional votes, which is always a contentious area and is always an area that may take us into the realm of the Court of Disputed Returns and other things. We have made some explicit reform suggestions in a non-partisan way to try to clean up that area. I want to mention two other issues. One is the placing of computers into those polling booths with the highest absentee voting record, just as an experiment. So many mistakes are made, yet you could have computer access to tell people which electorate they are in and to make sure they get the right ballot papers. That is only a pilot scheme we intend to run at the next federal election to see what happens.

The final issue I want to mention is the amalgamation of AEC divisional offices. This is probably the most controversial issue running at the moment. The Electoral Commission's evidence and cooperation on this, I have to say, in my view, has been varied. Maybe I am looking at it in the wrong way but, at both estimates committee and at the hearings, I do not believe that initially there was enough transparency on this issue. It is one that many members of the House of Representatives feel deeply about and that most senators are indifferent to because it does not impact at all on our own self-interest. The concept and view held by local members that you have to have a divisional office in every division is a little quaint in some ways but, nevertheless, there is an overwhelming desire that I detect in the parliament not to amalgamate the offices. A government cannot direct an electoral commission in that way but I note that the Electoral Commission has put a freeze on these sorts of amalgamations or collocations until all budgetary issues are settled.

On the other side of that particular argument, we do have a problem with the electoral system in terms of promotion. It is very difficult to set up a decent hierarchical system, where people who go on sick leave can be replaced and where there are opportunities for promotion through the ranks that do not exist at the moment. It is going to be a difficult issue to

tackle. This whole budget issue of the AEC and the collocation of offices is going to be quite a difficult issue. In the end, it will probably be resolved legislatively rather than administratively. I notice the heavies from the joint foreign affairs and defence committee are gathering, so I had better leave Senator Murray to say a few words. I commend the report of the committee to the House.

**Senator MURRAY** (Western Australia) (4.07 p.m.)—I rise to commend this report of the Joint Standing Committee on Electoral Matters, *The 2001 Federal Election*. It is a unanimous report. In my view it will advance electoral law and the functioning of our federal democracy. The importance of the committee should not be understated because of the contribution it makes to Australian democracy. We should always remember that the Australian Electoral Act is the linchpin of our democracy. It puts into practical effect the constitutional requirements of our country. I would almost make a footy analogy. You cannot have a good footy game without good rules and good umpires and, frankly, what this act does is allow good rules to be developed so that the integrity of our electoral system is world class.

I also want to acknowledge the status and the respect we should show to those who commenced the committee in 1983. Not only did the committee kick off then but of course they rewrote the act. We are fortunate to have on the committee a prime mover at that time, Senator Ray, whose great depth and interest in this area is of great help, and that has been so with his predecessors. In the chair, who I might say was a very effective chair, we had the benefit of a former state secretary of Victoria. That is invaluable experience. In Senator Minchin, now a minister, who was a previous member of the committee, you had a similar level of experience. And it is that level of practical experience and the understanding wrought by long competition that enables practical advances to be made in this area.

At the time the new act was written in 1983 to become law in 1984, our own Senator Macklin was a leading negotiator and had a leading part to play in that new act. I wish to acknowledge and show respect to his contribution at that time and subsequently on matters of electoral law. When I listened to the introduction of this report in the House of Representatives, for a moment I took small offence when I heard the deputy chair, Mr Danby, talk about how important it was that the major parties had come to an agreement, bearing in mind of course that this was a cross-party report in which both the National Party and Democrats agreed. In fact, he was making a very important point: you cannot advance electoral law in any significant way unless the major parties do agree on the problems that need to be fixed, and their con-

tribution is considerable. Having said that, I disagree with Senator Ray about there being no new frontiers. The Democrats very much believe there are frontiers that need to be broken in this field.

The main report has 34 recommendations. The Democrats' supplementary remarks are so titled because ours is not a dissenting report, but there are areas we cover that are covered either insufficiently or not at all in the main report, and those are the areas of greatest public interest and notoriety. We have picked up in our report remarks about an insufficiently representative House of Representatives. That is an extremely topical discussion right now given that those who hold 42 per cent of the votes in the House of Representatives want to have 100 per cent of the power over the Senate. I would remind those listening that overall over 18 per cent of voters—nearly one in five—are not represented in the House of Representatives at all, having given their primary votes to political parties and independents other than the Liberal, Labor or National parties. Over and above that, you then have to look at the situation in the Senate where it is closer to five per cent of primary votes that are not represented in the Senate. The Senate is not only a much more representative house; it is also a house which exhibits more of the characteristics of proportional representation—within the states obviously; not between states—and that adds to our effect.

Another thing I would remark upon—and this is for the ears of the journalists—is that it would be nice if you stopped referring to bipartisan and two-party systems. There are nine political parties in this parliament when you count both houses, which I must say I had not realised until I counted them all up—I thought there were seven. We do have a truly plural parliament and of course the government itself is comprised of three political parties. That is a point to make.

We have a section on political governance, and if there is a frontier that has to be crossed in electoral law and constitutional change it is in the area of political governance. Political governance in this country is poor and our perfunctory performance in that area is in marked contrast to the much stronger regulation we rightly apply to corporations or unions. We have made a number of recommendations on political governance, which I would commend to the reader. You might find much in it that you actually agree with.

The next area in which we have a lot more to say than does the main report is funding and disclosure. The Australian Democrats have a long history of activism for greater accountability, transparency and disclosure in political finances. We have made a number of recommendations there which we think

would clean up some of the areas of huge controversy and public interest that to this day occupy the attention of the media and the public.

Then there is a further area that we draw attention to, and that is constitutional and franchise matters. Here there is a great deal of common ground. In fact, our recommendations seem to be supported unanimously in some respects. For instance, the Australian Democrats would support a four-year term for the House of Representatives. I noted that the Leader of the Opposition recently suggested that the prohibition at the moment on the Electoral Act preventing simultaneous elections on the same day be done away with. We have made a recommendation under section 44 on which there is widespread agreement. Really, we think that if this government is as strong as it says it is and is so confident of the next election then perhaps it will take the risk and put some constitutional changes to the people at the same time as it holds a general election, to get rid of matters on which we all agree and which it would do the country good to be addressed.

The last area we deal with is 'other matters'. In there we do place strong emphasis on the need to reform the system of government advertising so that government advertising, which is in fact political party advertising, is properly regulated. Having said that, I want to return to the report and emphasise our thoroughgoing support for its recommendations.

Question agreed to.

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**Foreign Affairs, Defence and Trade Committee:  
Joint  
Report**

**Senator SANDY MACDONALD** (New South Wales) (4.16 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report of the committee on the 2003 New Zealand Parliamentary Committee Exchange. I seek leave to move a motion in relation to the report.

Leave granted.

**Senator SANDY MACDONALD**—I move:

That the Senate take note of the report.

On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I have pleasure in presenting the committee's *Report of the 2003 New Zealand Parliamentary Committee Exchange*. Australia and New Zealand have a valued shared history and, as a result, a mutual desire to strengthen wherever possible our social, trade, defence and security interests. The parliaments of both countries recognise the merit in building on our already strong relationship by having an annual exchange of parliamentary committees.

During the period 6 to 11 April 2003 the Defence Subcommittee of the Joint Standing Committee on

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