



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into 2020 ACT Election and the Electoral Act](#))

Members:

**MR J HANSON (Chair)
DR M PATERSON (Deputy Chair)
MS J CLAY**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 26 MAY 2021

**Secretary to the committee:
Ms B McGill (Ph: 620 70524)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 9 am.

MOORE, MR JARRYD, Organiser, ACT Labor
VAN DIJK, MR ASH, Secretary, ACT Labor

THE CHAIR: Good morning. This is the second of two planned public hearings by the Standing Committee on Justice and Community Safety in its inquiry into the 2020 ACT election and the Electoral Act. This was referred to us, as is the normal process. Normally, it is a select committee inquiry; this time it is a standing committee inquiry.

Today we are hearing from Labor, the Greens, Liberals, Liberal Democrats, Canberra Progressives, Mr Bruce Paine and finally the ACT government. Can I make sure that you are aware of the privilege card that is in front of you? That is great.

As I said, I welcome the Labor Party. Thanks very much for appearing, and thank you very much for your submission. You have acknowledged that you have seen the pink card. Would you like to make an opening statement?

Mr van Dijk: Thank you, Chair. I acknowledge the privilege statement. I would like to start by acknowledging that we meet on the lands of the Ngunnawal people, and pay my respects to their Elders, past, present and emerging.

I think it was the most overused word in 2020, but I will start by saying that COVID presented many challenges in what was a very unprecedented year. I think these challenges were well managed in many ways by the officials at Elections ACT, the candidates themselves and their parties.

I would particularly like to acknowledge ACT Labor staff, who worked really hard to ensure everyone knew how we could continue to campaign safely. I expect the same could be said for each party, in respect of the communication with their volunteers and their candidates about how we volunteered through such an unprecedented time.

There was a time when campaigning was suspended. It was really good that all parties came together on that and stopped doing anything in the community that might be seen as unsafe. We stood up to be the leaders in the community about what was appropriate and not appropriate during that time.

Our submission covers a few things, and I am happy to go to questions. Broadly, we tried to stick to improvements to ACT's reporting and disclosure regime, protection of voter intention from increasing attempts to confuse electors when casting a vote, enforcement of existing regulations when they are not adhered to, the review of the election timetable to protect the electoral process, increasing public transparency to maintain public confidence, and reviewing the regulation of corflutes.

I acknowledge that our submission did not necessarily go to lowering of the voting age. I am happy to talk to that in addition to the 100-metre exclusion zone, both of which I understand that the committee is very interested in. I would be happy to discuss that. I am happy to leave it at that and go to questions.

THE CHAIR: On your recommendation 22, some entities, political parties—I think the Greens and Ms Carrick—have made a profit out of the election. In the case of the Greens, it was nearly \$200,000 by way of profiteering. You do not support that. You do not agree that that is ever the intent of public funding. You would like to see the loophole closed so that parties cannot make a profit; is that right?

Mr van Dijk: Yes. Just to clarify, it is not necessarily just our recommendation 22; it is in response to—

THE CHAIR: No, that is correct.

Mr van Dijk: Elections ACT's recommendation 22.

THE CHAIR: Yes.

Mr van Dijk: We do support that recommendation. We think that, in respect of public funding, particularly when it comes to a per-vote basis, it should be reimbursing the party for the amount of political expenditure, and not to profit as we have seen, exactly as you say.

THE CHAIR: With regard to the 100-metre rule, you did invite us to ask about that, so I will give that to you as a Dorothy Dixier.

Mr van Dijk: Sure; thank you.

THE CHAIR: What is your view on that?

Mr van Dijk: The exclusion zone presents many challenges, with it being at 100 metres, as I am sure we can all appreciate. The ACT has a comparatively low informal rate of voting, so it is not entirely clear how useful the how-to-votes actually are. In the Elections ACT submission they identified a poll that went to the fact that, of those that were polled, 88 per cent of them did not mind that they could not necessarily find a how-to-vote, or that it was easy to find.

Also, on that exclusion zone space, and in a similar poll, the knowledge about the 100-metre rule decreased from 71 per cent at the last election to 55 per cent at this election. That is quite a significant decrease in respect of people's knowledge of the exclusion zone itself. From my own experience, I was at the 100-metre exclusion zone in Dickson, and an older gentleman came up to me and got very cross because I was not outside the voting place and ready to give him his how-to-vote.

It is a little bit in two columns. The research shows that, with having six metres, voters do not hate the fact that you do not have a how-to-vote. Also, if we moved to a six-metre rule, it would be a challenge with Hare-Clark because of the fact that they will have 15 or 20 candidates at six metres, all trying to give them different how-to-votes.

THE CHAIR: My understanding is that, in Tasmania, basically there is nothing on election day.

Mr van Dijk: Yes.

THE CHAIR: That is the alternative model, I suppose.

Mr van Dijk: Have nothing at all.

THE CHAIR: The 100-metre rule is a half-stop measure that satisfies nobody, it is argued. So there is that method. I suppose the Electoral Commissioner would do more advertising to make sure that people are aware of what happens on election days.

Mr van Dijk: That is right.

THE CHAIR: Is that something you would support?

Mr van Dijk: My thinking is that, as you say, there has been a lot of discussion about having candidate statements, and we support Elections ACT playing a role there. Some of our members have talked to us about the idea of having something like candidate statements, a party-selected how-to-vote or something available on the voting site itself. We should not have a bunch of different rules. I like to think that consistency is key. With the six metres, on one side, I do not know whether it does work for Hare-Clark. The other question is whether 100 metres really works in that space.

I do not know that I have a firm view on what the best alternative would be. My thoughts are in relation to the six-metre rule being very difficult with so many candidates. Also the 100-metre rule is a challenge because people have to go searching for you. That is supplemented by Elections ACT's data on their poll that people do not necessarily feel that the how-to-vote is the be-all and end-all for them in this electorate.

DR PATERSON: Part of the submission referred to reporting time frames. Are you able to speak to that?

Mr van Dijk: Sure. I might go to Jarryd Moore, who is the ACT campaign organiser, in respect of how that works internally. As we discussed in the preamble, I am relatively new, so there are the technicalities of how that worked internally.

The point in our submission was that, in particular, often we have audits and reporting requirements that can be called on at any time in relation to past years. Our key point with the election time frame is that none of that should be happening when we have increased reporting restrictions during an election year. If Elections ACT is going to do a big audit, let us save that for outside the election period, when we are subject to incredibly tight time frames for reporting during the election period. Jarryd, do you have anything else to add to that?

Mr Moore: No, I think that is correct. During this election period we went through a routine audit, through Elections ACT, during the seven-day reporting period, which was already an increased administrative requirement on parties. Our proposal was to shift the auditing processes during that seven-day reporting to after the election, when parties have more free capacity to complete that.

DR PATERSON: Was that a random audit or do they do it every two years and it just happened—

Mr Moore: I believe it is a semi-randomised process, yes.

DR PATERSON: So we could suggest that there is no ACT election full audit during an election period?

Mr Moore: Yes.

MS CLAY: There is separate funding, isn't there, that goes to parties to cover administrative and auditing processes?

Mr van Dijk: Yes. There is public funding for administrative reasons.

MS CLAY: That is actually quite high. Another submission has suggested that that perhaps could be capped at \$115,000, which, when you run a business, certainly sounds like a generous allocation to manage your books. Would a cap of \$115,000 sound reasonable to you, if that administrative funding was capped?

Mr van Dijk: With the administrative funding, there are a bunch of different reforms that would be really useful in respect of ensuring that we are not overly relying on donations in the ACT. There is the administrative funding that we are provided; there is the per-vote amount that we are provided. If that is overlaid with the amount of transparency and reporting we have in relation to donations, I think it is a very good system to operate under, to ensure that no parties are subject to the will of anyone having to get donations from groups.

In relation to a cap, whilst I acknowledge the argument in relation to the more members you have, the more per head that the administration requirements need, I think that having it on a per-member basis is sound and appropriate, given that every single member has additional disclosure requirements, and we need to add to it. It is not necessarily one issue for all people and we just submit one party disclosure; we have to collect that from more and more members. I think the current processes and system are appropriate.

MS CLAY: I would like to hear what you think about voluntary voting for 16- and 17-year-olds. We have had a number of submissions on that, which you have probably read—for and against.

Mr van Dijk: I acknowledged that we did not strictly refer to it in our submission, but it was in our 2016 submission. I had a look at the ACT Labor policy platform that we have, which is essentially created, voted and amended each year by Labor Party members. In that we say we are open to the consideration of decreasing the voting age in itself, and that we stand by having voting as a compulsory requirement.

The ANU research that has been alluded to throughout many submissions is sound. The Elections ACT supplementary submission provided some really good arguments in respect of the thoughts around whether voluntary voting or decreasing the voting

age is possible or not, but when it comes to my—

MS CLAY: I am probably less interested in the legislative and legal arguments. I think that is for the legislators and the lawyers.

Mr van Dijk: Sure.

MS CLAY: I am probably more interested in your view on the idea and the policy.

Mr van Dijk: So getting to that, as we all know as campaigners in this room, we talk about the fact that you can give a message 10 times and maybe, if you are lucky, by the ninth or tenth time that message might start sinking in. I think it is a really good trajectory that we are on, in that people are getting more involved and more engaged in politics, but traditionally young people are a group that are less likely to vote. So if you tell a young group of voters, who are more likely not to vote or be engaged politically, that they can choose whether or not to vote—that it is voluntary—they get that message and they decide, “Okay, I might not need to vote if I don’t want to.” By 18, we try to tell them, “Actually, no, it’s compulsory now.” I think that we will see over time that people will not get that message at 18, but they may have heard the message loud and clear at 16 or 17 that voting is voluntary.

I think it is a very tricky situation to be in, in respect of public messaging. As I said ACT Labor’s position is that it is open to the consideration of lowering the voting age, accepting that there are legal arguments, but that it should be compulsory, so that we have a consistent message throughout the entire voting period.

MS CLAY: Except we have voluntary registration at 16 and 17.

Mr van Dijk: Yes, that is right.

MS CLAY: So we are already running that dual message of being allowed to register at 16, but you do not have to, and you must register at 18.

Mr van Dijk: Yes, I think that—

MS CLAY: I am not sure we have seen problems from that. I have not had them reported.

DR PATERSON: For car registration?

Mr van Dijk: For provisional—

MS CLAY: You can enrol to vote at 16—enrolment. You can enrol at 16 but you do not have to, but you must enrol at 18, so we are already running that dual message.

Mr van Dijk: Yes. The people enrolling to be provisionally put on the electoral roll as soon as they hit 18 would probably be that cohort that is very keen, engaged and probably aware that, once they hit 18, absolutely, they are going to vote. They would probably be the same cohort that would vote if it was voluntary—

MS CLAY: I would think so.

Mr van Dijk: and continue voting the entire way through. I think that, for the general 16 to 17 age cohort, there will be a challenge. I do not think any political party has nailed the question of how we talk to those people really effectively.

MS CLAY: It is only a messaging problem, in your mind?

Mr van Dijk: I think so. I think that in itself is a barrier to implementing it at this stage.

THE CHAIR: The issue of acting in concert came up when we were having discussions with the Electoral Commissioner. There was at least one example that I am aware of, and we discussed it, where a Labor candidate was distributing material that looked like Labor material, to all intents and purposes, unless you looked at the fine print and realised it was not authorised by the Labor Party or an official from the Labor Party; it was authorised by the CFMEU. They are allowed to do that, as I understand it, because the laws were changed back in 2015, but it could be argued that that is just an extension to the cap.

Mr van Dijk: Yes, sure.

THE CHAIR: Also, you have a situation where material is being distributed that looks like Labor material, but it is not actually authorised by the Labor Party, so someone else could do that.

Mr van Dijk: Yes, absolutely.

THE CHAIR: Someone who was not friendly to the Labor Party could be distributing material that looks like Labor Party material, but in the fine print it is something else.

Mr van Dijk: Yes, absolutely. I think it is a challenge that both of our parties have faced.

THE CHAIR: Yes, that is right. It creates some confusion, particularly for voters, who think that this is an endorsed message from a political party. It was not; it was from a third-party organisation. Do you have a view on that? Is that a loophole that now needs to be closed? Is it not working the way that we thought?

Mr van Dijk: Broadly, in respect of the third-party campaigners, I think that in the festival of democracy, as an election is, where there are individual candidates with certain values or policy positions standing for public office, and they talk to the community about that, there will be no doubt that there are community groups with those values and that have the same policy position statements. It stands to reason that those third parties would support those candidates. That is in respect of third-party campaigners. We saw it with unions. We saw it with UnionsACT, we saw it with the Christian Lobby, Christian schools ACT, the Racing Club and those sorts of groups, where they had certain candidates or parties that they felt were good for their values and they were willing to expend their resources to try and get there.

In relation to third parties' material looking like other parties' material, there is a real challenge for us in respect of how much control we have over any one party. I am aware of some Facebook meme type things of certain people and, because it looked and sounded like it was clearly a joke, should that be attributed, because they are pretending to be someone else, to a certain party? It goes to that idea of whether Elections ACT is best placed to be the arbiter of these sorts of things.

THE CHAIR: Sure. It depends on what is in the act as well.

Mr van Dijk: Yes, absolutely.

THE CHAIR: I suppose that, with any organisation—in this case it is the CFMEU.

Mr van Dijk: Yes.

THE CHAIR: If they want to promote a particular agenda or candidate, they should make it very clear that that is the CFMEU's view, not what could be interpreted as an extension of the Labor Party's campaign.

Mr van Dijk: Yes, absolutely.

THE CHAIR: I am grappling with that. We do not want to deny those organisations—I agree with you—the ability to promote a particular party, a policy or a candidate, but they should do it in such a way that people know it is coming from the union, the Australian Christian Lobby or whoever it is, rather than—

Mr van Dijk: Yes, if it is supposed to be a party.

THE CHAIR: pretending perhaps or looking like it is from someone else.

Mr van Dijk: Yes. To be honest, I did not see the material in question. I am not sure whether Jarryd has any views on it. However, I think it all comes back to whether the Labor Party, the Liberal Party or the Greens have any control over those. I guess your question goes to: should there be some sort of limitation to—

THE CHAIR: Yes, to try and prevent—so that it is very clear who the material is coming from and that this is the view of the Australian Education Union, the CFMEU or whoever it is. That is fine; everyone is entitled. This is a democracy, as you say. But it should not be done in a way that might create an impression that this is coming from somewhere else.

Mr van Dijk: I suppose much of that comes down to the authorisation at the bottom, but some people do not read it. We have seen material in the past against some sitting candidates from certain groups where—

THE CHAIR: Indeed.

Mr van Dijk: the authorisation was so small that we had people calling us and saying, "Can you stop circulating this about yourself?" We say, "It wasn't us."

THE CHAIR: To try and make it clear, beyond the font 8 down at the bottom with a name that no-one has heard of.

Mr van Dijk: Yes, absolutely. Jarryd, do you have anything to add in respect of that?

Mr Moore: I think Ash is right. I think that, with the authorisation statement, that is intended to be its purpose, to make sure people are aware of where that is coming from. There is a recommendation from the commission, for which I think we have provided in-principle support, to provide some structure for the requirements around the authorisation statement—its size and things like that—to help improve people's ability to identify that material.

MS CLAY: Quite apart from whether parties can control other people, you could include them in electoral cap spends, couldn't you? At the moment there is no limitation on how much money a third-party associated entity spends on an election; it is outside the—

Mr Moore: No, they do have caps. They have expenditure caps as well.

THE CHAIR: There is a limit.

MS CLAY: They have caps? Okay.

Mr Moore: Yes, and they are quite low.

MS CLAY: Do you think they are the correct caps?

Mr Moore: Yes. I believe, the last time I looked, they are around the \$30,000 mark. They are not anywhere near what a party is able to spend.

Mr van Dijk: I do not think any third-party organisation has got close to that. It goes back to the fact that, regardless of how false the information is, if a third-party organisation is making material and sending it out looking like it has a certain feel, we need to keep it very separate from the parties, because it would be very easy for a nefarious organisation to send out \$30,000 worth of material that says nothing at all and it looks—

THE CHAIR: Nefarious; also, if you are acting in concert, if you have a friendly organisation you could set up an association, a business or something like that.

Mr van Dijk: Yes; have 50 of those.

THE CHAIR: Have 50 of those and, all of a sudden, the Liberal Party, Greens or Labor Party cap is doubled. It looks like they have Liberal or Labor material, but you have to go to the fine print authorisation, and not many people are doing that.

Mr van Dijk: Yes. It comes back to the appropriateness of our reporting, disclosure and transparency in respect of who is spending what in ACT elections. I think that is a good safeguard there, but it is open to the committee's consideration.

THE CHAIR: We will have a look at it.

DR PATERSON: On donations: we have had a lot of discussion around property developers and, through submissions, the gambling industry has also come up. One of the things that the Electoral Commissioner discussed was perhaps having a \$10,000 cap on any industry donations—

MS CLAY: On any individual or industry, I think.

DR PATERSON: Yes. What do you think about that?

Mr van Dijk: Industry by industry is a big challenge. I think it comes back to that transparency in reporting and disclosure stuff, so that people know and are really clear about who is donating what. Obviously, the property developer is something that has been legislated for. We have had that in our rules for some time.

In respect of restricting donations, going back to the legislative argument, I think the High Court has had some decisions in respect of a corporation's ability to be involved in the political discourse, and donate. However, it also comes back to those associated entities, whereby anyone that wanted to could potentially, if they had the means, create many different organisations, companies, firms or trusts, to be able to get around that. I do not know whether a cap on individuals or corporations would necessarily get the outcome that you are looking for.

Also, the Labor Party has a lot of organisations; we have sporting groups, community clubs and all of those sorts of things, which represent many thousands of members. Should we make a distinction between that organisation who wants to support a candidate and a party who supports those values, policy positions or whatever? Is there a distinction between 10,000 of those people giving \$1 and their giving authority to that organisation to give \$10,000 or more on their behalf? It is a challenge, but I think that the current situation works, as long as we continue to keep up the highest standards of transparency in disclosure and reporting, and that sort of thing.

MS CLAY: One suggestion is that donations should only come from people who are registered to vote in the ACT—not the states, other countries or corporations. By definition, it could be individuals who are registered to vote, that it be capped and that donations be separately accounted for in separate bank accounts. There are quite a few ideas. It is about constantly improving the transparency and accountability of our donations. Have you had some thoughts on that?

Mr van Dijk: I think that banning any organisation from providing donations is not appropriate in respect of how great a community we do have; we have great community organisations in our territory. There are many different creative accounting ways to be able to get around, essentially, what we are talking about. The position on that is for the status quo, as long as we continue to uphold the highest threshold of transparency and accountability in respect of seeing who is actually making the donations.

THE CHAIR: In your submission you see that there is some merit in restricting the

proliferation of corflutes across the territory. Do you want to expand on that?

Mr van Dijk: Sure. As I am sure we are all very aware, as I scroll to the corflute section of our submission, the community has got to a point where, as a basic principle, they are not keen on corflutes. It is great that we have the ability now to recycle corflutes, to a degree. We have entered into the parliamentary and governing agreement that we will look at the use of corflutes and restricting their unlimited use on public land.

The time has passed whereby we used to get up at 12.01, as we did last year, to go and put corflutes across the entire countryside. I think there is merit, as I said in the submission, in having the ability to have corflutes on private land. We know that, in political engagement and discussion, being able to show who you back is really important. I think that now is the time to start talking about restricting the use of corflutes on public land.

There is an additional challenge, in that, if you restrict it and you allow it for 100 square metres somewhere, you will have a sea of corflutes, if it is completely unrestricted in that regard. You probably will not be able to see anyone's faces because there will be a sea of green, blue, red and other colours there.

There are a few questions to answer in respect of how we limit the use of corflutes on public land. Do we then further limit the amount of corflutes that can be used in that space? Generally, is there a limit per candidate and that sort of thing? We are very open to having that discussion, and I think that now is the time to have it.

THE CHAIR: A limitation, but we need to investigate the balance—

Mr van Dijk: Yes, what that looks like. I know that some people love their corflutes. It is an indicator to them that the election is on. More and more, over elections, I have heard more and more public discourse about their disapproval of corflutes, as opposed to how cool this person's design is. I think it was 2016 when there were some funky designs from independents that people were keen on. Now, all of a sudden, it is less about having funky designs and more that it is annoying to look at.

THE CHAIR: Fair enough. I have never been on the funky design crew.

Mr van Dijk: That is absolutely fair. A lot of our party volunteers would be happy not to have to maintain those corflutes across the entire electorate.

DR PATERSON: If you restricted the number, how challenging would that be in terms of parties managing it, if you are only allowed 300, for example?

Mr van Dijk: I did not necessarily mean an overall cap on the amount of corflutes. But if we were limiting it to an area of a main thoroughfare—say, the parkway or something—we would not allow people to put 300 corflutes in the little space that we have allocated. We would have to have some discussion around what that looks like, to ensure that they meet the purpose that they are there for; people could see who was running and what their candidates looked like, instead of just having corflute next to corflute, so that you cannot see anything. It is a distraction more than anything else.

DR PATERSON: It would be a pretty big policing effort, though, if you restricted the number of corflutes or the distance in specific areas.

Mr van Dijk: Absolutely. That is why I have not put in there any strict recommendations, because it is something that is worth considering and giving some attention to.

DR PATERSON: If it were 300 corflutes, for example, that each candidate was allowed, as a maximum, would that be something that the party could manage?

Mr van Dijk: The beauty of Hare-Clark is that most of those things are managed by individual campaigns. It is something that we could have a conversation with candidates about. If that was what the committee decided to look at, we could work with them to figure out how to make the best use of those corflutes.

THE CHAIR: Thanks very much for your submission and for appearing.

Mr van Dijk: No problem.

THE CHAIR: Congratulations on the result, I suppose.

Mr van Dijk: Thank you; I appreciate it.

THE CHAIR: We will see what comes out of the report.

Mr van Dijk: Thank you; I look forward to it.

ROOT, MS JO, Convenor, ACT Greens

MORALES, MS FLEUR, Party Director, ACT Greens

THE CHAIR: Welcome. Just a couple of housekeeping issues. You are obviously aware that this is being transcribed and live streamed.

Ms Root: Yes.

THE CHAIR: I refer you to the pink privilege statement. You should have received a copy of that. Can you just indicate that you are aware of that?

Ms Root: Correct.

THE CHAIR: Great. I invite you to make a statement.

Ms Root: Thank you to the committee for the opportunity to be here today. I would like to acknowledge that the ACT is situated on the lands of the Ngunnawal, Ngambri and Wiradjuri people and pay respects to elders, past and present.

We have put in a detailed submission—which I do not intend to read to you; I am assuming you have read it—which was developed through consultation with our membership because we value the process of grassroots democracy in our party. Our recommendations are based on the principle that we want to enhance the democratic and participatory process of ACT elections. We want to maximise the number of people voting and ensure that they receive enough information to make an informed decision about that vote.

To do that, we want to increase enrolment and turnout and encourage political activity. It is important that we make it as easy as possible for people to participate and engage with our political system. We are recommending in our submission a number of measures to do this. We want to allow people who are on the roll to change their address on polling day, to align with the rules for new voters. We want to lower the voting age to 16 and allow 16 and 17-year-olds the option of voting on a voluntary basis.

We want to provide easier access to how-to-vote cards and other materials at the polling places by reducing the 100 metres exclusion to the six metres used in federal campaigns. This would help voters to ensure that they vote formally and that their votes reflect their intent. It is clear, when you hand out how-to-votes, that sometimes people just do not know how to make sure that what they want to do is what happens, and they often ask questions.

We want to support early voting. We think early voting should be available to all voters, so we should have a voting period, as we did through COVID. That period probably needs to be two weeks; if it is longer than two weeks, the main effort should be put into the last two weeks. Three weeks was hard work for everybody, I think.

THE CHAIR: It was.

Ms Root: We want people to have access to factual and truthful information about candidates and their policies, as well as information about the election process, before polling day, so we support the provision of information in multiple community languages and want to ensure that it is available at all polling places.

We want measures to ensure truth in advertising, including resourcing Elections ACT so that they can outsource their fact-checking and respond to complaints in a timely manner. We want to continue the provision of online information about candidates and put more effort into its promotion. It is really important that that information is promoted; there is no point in having it on a website if you are not going to tell people it is there and tell them how to access it.

We want to abolish or, at the very least, seriously curtail the use of roadside signs, which do not provide the community with any meaningful information about the candidate or their policies, except their name. That does not really tell anybody anything. Sometimes it is not even really clear, unless you look closely, which party they are from, and it certainly would not tell you anything about what they stand for.

The ACT Greens have a long history of trying to get transparency around political donations and funding and these are included in the submission. We would like to return to the capping of donations and we would like to exclude for-profit gambling entities from being able to make political donations.

Finally, we look at the size of the Assembly and we think it needs to increase as the population of the ACT increases. We think five electorates is good and should remain but that we should move to increase the number of members within each, as we need to increase the size of the Assembly. I am happy to take questions.

THE CHAIR: Brilliant. Thanks very much, both for your written submission and for your opening statement. Recommendation 22 of the Electoral Commissioner's submission—we have just heard from the Labor Party and they have made a submission—goes to the point, as described by the Labor Party officials, of the profit made out of the election by the Greens. The Greens have made, according to the Electoral Commissioner's report, about \$200,000 profit out of this election. There is a recommendation that parties and individuals not have the ability to make a profit out of the election. Do you support that and will you be paying that money back, which is nearly \$200,000?

Ms Root: Why are you calling it a profit?

THE CHAIR: That is the quote from the Labor Party. The reason I am is that it is in excess of the electoral expenditure and the public funding received. It is nearly \$200,000 in excess of the expenditure.

Ms Root: I think that raises an interesting issue. If you say to people that you should pay it back if you do not spend it then all you do is encourage expenditure up to that limit in future. All you are doing is actually encouraging parties to spend more money on a campaign and on an election than they do at the moment. There are direct election costs and then there are costs of, I guess, keeping a party going between the elections. I suppose we see the profit, as you have termed it, as allowing us to do that,

to keep the capacity of the party to allow it to then ramp up to a campaign and spend more on a campaign in future. So, no, we do not support it.

THE CHAIR: You do not support a cap on that that would prevent a party from receiving more public funding than they have expended on that election?

Ms Root: Well, we—

THE CHAIR: What is to stop you then using that money on other campaigns and other things not connected with that election?

Ms Root: I think you can put in place processes; you can make it that you have to spend it on ACT election-related expenditure and ACT governance issues. It is hard for a party to ramp up if it is only the campaign that is funded. We do not make a recommendation about that. We would have to take that on notice.

THE CHAIR: All right.

MS CLAY: Can I ask a follow-up question on that, in the funding realm?

THE CHAIR: Sure.

MS CLAY: There is also administrative funding. ACT Labor received \$277,000 of administrative funding, the Liberals received \$254,000 per annum of administrative funding and the Greens received \$46,000 of administrative funding. If we are looking at the idea of whether public funding is spent on the purpose for which it is directed, do you think those would be the appropriate amounts and should they be reviewed?

Ms Root: That was for the 2016 Assembly. That was because we only had two MLAs—everybody else had a lot more—and because it was funded per MLA. I think there is a case for not funding by MLA but giving each party a maximum amount of funding. I think in our submission we have said that it should be up to an amount for five MLAs, so five times whatever the amount is.

I think that would become more of an issue if you went to a bigger Assembly. The costs of running the Assembly would blossom if you had to pay seven or nine times and somebody had 20 MLAs. The other parties get the money from government through the administrative money. Smaller parties like us—or if there was an independent—get a lot less. It is more comfortable, if you like, for the ALP to say, “You should pay that money,” back because they’re dipping into a larger pool of money from the administrative funding. I think you need to look at all the funding as a package, if you like, and say, “If you fixed up the administrative funding so that we all got the same amount, we could pay it back.” Then it would be a better proposition to be paying back money that you don’t spend on the campaign.

DR PATERSON: I am interested to know whether there were any issues with donation reporting time frames. That has come up in a couple of other submissions.

Ms Root: Yes. It would be good to have more timely reporting of donations and for people to get a better feel prior to the election about how much has been spent. The

requirement to report in a short time frame, leading up to the election, puts a lot of pressure on a party to actually do that, to process it. Depending on how you get your donations through, it might take you some time. Only having one person who can be the reporting agent is problematic if you get a rush of donations. We have recommended that we should be able to have more than one person as the reporting agent, with an identified responsible person. I think it is important that donations are reported before the election, wherever possible, and that that is transparent.

MS CLAY: Thank you. There are a lot of submissions on the voting age. The Electoral Commission seemed to cover it, basically, with the idea that it would have to be mandatory for 16 and 17-year-olds to vote. I think most of the people in support of lowering the voting age are in favour of voluntary voting for 16 and 17-year-olds.

We have just heard from the Labor Party that they thought it might confuse politically motivated 17 and 16-year-olds if they were told, “You can vote at 16 or 17, but you must vote at the age of 18.” They seemed to think that was a very sophisticated communication to get across to some of our young people. I am interested in what you think about the idea of voluntary voting for 16 and 17-year-olds. Putting aside the legal barriers, which I think are a problem for legislators and lawyers, what do you think about the idea and the policy, and the communications?

Ms Root: We support voluntary voting for 16 and 17-year-olds; 16 and 17-year-olds can be in the workforce and can do almost everything else in society, apart from vote. Over the years that we have had voting, we have lowered the voting age significantly. It used to be 21; it is now 18. We pretty much accept, I think, that 16 and 17-year-olds are adults in many other spheres of life. We would say that they should have a vote. They should have a say in decisions that are going to impact on them. A 16-year-old has a much greater vested interest in the long-term future of this planet than I do, because they are going to be here way after I am not here. I think they need to have a say.

I think it is a bit patronising to say that they could not see the difference in having the option of voting and then being told, “Well, yes, it’s optional now, but at 18 you need to be registered; you need to vote.” I think that is, if you like, underselling their capacity to see that message and see the difference in that message. It is all about how it is communicated: how are people told that they can vote and how is it explained to them that it is optional now but they can do it. I do not think it is confusing. I think there are many times when requirements on you change.

It is about careful messaging, good community education and education in schools about the right to vote and what voting means. I think that if you gave 16 and 17-year-olds the option to vote and the right to vote at 16 and 17 and then had civics—for want of a better term—or some discussion in school about what it means to be able to vote, what voting is and the importance of the democratic system that we have here, it would have more meaning for them and I think they would be more likely to vote once they are 18. We know that younger people are the group that do not vote often and do not see the need, so maybe you can encourage some to do so. It is not about recruiting for a particular party; it is actually about giving people information and options.

MS CLAY: Thank you.

THE CHAIR: You mentioned the size of the Assembly.

Ms Root: Yes.

THE CHAIR: You said that you think it should increase in size. Do you have a time frame around that? Are you saying that that is something that should happen now? Do you link it to population growth?

Ms Root: I think it should be linked to population growth. We should come up with some parameters that say that, once the population gets to X, it should go up. Instead of having it at a start-stop, it should be a process that is set out once the population gets to a certain size. There is an argument that we should increase it now because we have the lowest level of representation.

Some people in the community might be happier that we have fewer politicians than other jurisdictions. I think there is an issue around people saying, “Why would you need more?” It would require a spelling out of what it means. More MLAs would provide an opportunity for the community to be more broadly represented. The fewer people you have, the less likely it is that you have diversity in your Assembly. If you have more MLAs, you have a greater opportunity to have an Assembly that is more representative of the community.

THE CHAIR: Thanks.

DR PATERSON: There was a recommendation about smartvotes. We had significant conversations, particularly with the Electoral Commission and others in the last hearings, around the information that goes out on candidates. I think the Electoral Commission was pushing back against having candidate information on its website. Other groups, I guess, feel that they should really be the holder of that information. I am interested to know what you think in relation to smartvotes and the candidate information out there.

Ms Root: I think that there should be online information about all candidates.

DR PATERSON: At the Electoral Commission?

Ms Root: I understand the Electoral Commission’s point of view. They think very few people looked at it; 8.8 per cent or something. A very small number of people looked at it, so it was probably a lot of work. Not all candidates gave enough information or gave statements. However, I think there is a role for government to put very factual information up there. If we want people to have faith in the electoral system and want to participate, we need to give them as much factual information and truthful information that you can.

Having it on the Electoral Commission website gives them that authority that this is their statement. It is up to candidates to put their statement up there. Their names should be up there as the very minimum, even if they do not give a statement, so that people know that they are standing. We believe that there is a case for the Electoral

Commission to continue it, at least for one more election, and to have a campaign to promote it. Again, there is no point if you do not promote it. Nobody knows it is there, so you cannot go and look at it. It needs to be promoted.

Regarding the smartvotes app and outsourcing the provision of that information, you have got to be really careful that there is confidence in the people who are actually running the app, because government outsourcing of information is not always seen as very trustworthy for people. We think there is a place for something like the smartvotes app. We think there is room for both, but the priority is the government information, the Electoral Commission having the information on candidates there being promoted. The smartvote app then gives people another source of information that they can use if they want to, but they are not mutually exclusive.

DR PATERSON: Going to the corflute discussion, you say that the primary thing is that we want the community to know who the candidates are and to give people as much opportunity to know who is out there and, as you said, on the Electoral Commission's page, even if it is just the name of the candidate. Corflutes are a very explicit way of seeing who the candidates are. Like you said, it is just a name, but it does provide people with a bit of a thought process to go, "Okay, this is who's running," and then they can go to the Electoral Commission's page. I am interested in exploring that further.

Ms Root: The majority of the population probably find the corflutes a nuisance and become numb to them very quickly and pay no attention.

DR PATERSON: Sure.

Ms Root: If you think that they work on a subliminal level as you drive past at 80 kilometres an hour, that is fine, but I am not sure that that is actually anything other than name recognition and a photograph. As I said, it is often not even clear which party it is, really, unless you get close up, because not all parties have a standard way of presenting their logos on the corflutes. We in the Greens do, but others do not, so it is not always clear just from the look of the corflute. Really, I am not sure that driving down Adelaide Avenue and seeing 500 pictures of you or someone else gives people any more information than your name. Ideally, the online information would have more than the name, and if it became embedded as part of our practice I think most candidates would put a statement up there, because they would see that there was a benefit in doing that.

We want people to make an informed decision. We want people to understand not just someone's name but what they stand for in their statement when they make a vote so that they can feel: "Yes, that resonates with me; I agree with that. They're going to do a good job of representing me. I'm going to vote for them." We want people to take a deliberative approach to voting, because it is a right. I have lived in countries where people do not have votes and the first time they get a democratic vote, people queue for hours; they really want to know.

We want people to make a decision by using that right in a responsible way and to get the outcome at the election that they want by making sure the intent of their vote is carried out. We think that road signs are enormously wasteful; they are very difficult

to dispose of. I am sure all of us have volunteers who go and put them up and then they get destroyed in whatever way and you go and put some more up. They are not very aesthetically pleasing, apart from anything else, but they do not add anything to people's knowledge.

THE CHAIR: Just on that, there are signs with a politician's face or a candidate's face and their name on them—and you have made that case—but there are roadside signs that have a message. Certainly, I have had some and the other parties have used them. So it is less about who the individual is and a pretty face than it is about, “We will do X.”

Ms Root: They are slogans, aren't they, rather than meaningful messages?

THE CHAIR: That is a viewpoint. It could be a simple message saying, “We will freeze the tax increases,” or “We will not build a tram.” Whether or not you agree with the message, you can actually get, “We will not build this road,” or “We will build this road.” There are things that you can put out there that are a clear policy message.

Ms Root: The majority of the corflutes are not messages, though.

THE CHAIR: No, but I suppose the act can say what we want it to say. If we change it, would you support roadside signs that are not a face and a name but that put out a message? Your argument seems to be less about decorating the city than it is about their being useless because they are just a face and a name. What is your view on those ones that put out a message?

Ms Root: They are still wasteful in terms of what they are made of; they cannot be easily recyclable. If you put hundreds of them out, what do you do with them? They just go to landfill. There is a waste element in them, regardless of what they say, which means we would not support them.

THE CHAIR: If you do not support things that are wasteful, will the Greens be putting out letterboxing material at the next election?

Ms Root: We put out how-to-votes at the last election—we tried to get a how-to-vote card into every letterbox—because of the 100-metre rule. The 100-metre rule makes it very difficult to get a how-to-vote card to the electorate. If we had a six-metre rule, it would probably reduce the need for letterboxing.

Letterboxing is debated hotly in the Greens in terms of whether or not we should do it. As long as it has some policy material on the back of it and its main intent is not just to give names—even our how-to-votes had our five main policies on as well—it is seen as an information circle. But if we got rid of the 100-metre rule and moved to a six-metre rule, we could then reduce the amount of material that had to be given out through letterboxing. It is a system of getting information out there.

DR PATERSON: If you restrict corflutes and letterboxing and your focus is on online information, a lot of the population do not actually access online information, particularly older people. I would view it as having many avenues to get the

candidates' names out there; the information, any which way, would meet your end goal. What you are suggesting seems quite restrictive.

Ms Root: There are other ways to get information out to people. We have stalls, as I am sure you all do, where we give people a flyer if they want it. That is not wasteful. That is somebody getting some information. I guess we focus our attention, in campaigning, on having meaningful interactions with voters. We do lots of doorknocking; we do stalls. We try to have a conversation with people rather than just putting something in their letterbox or just having a photograph on the side of the road. If you put your emphasis on meaningful interaction then that is not online; it is actually face-to-face conversations. That is what we think works with people. It gives people the chance to ask questions and to question you about your policies. It actually gives them a lot more information.

I used to work for the Council on the Ageing. I think it is wrong if you think that older people do not go online. There is quite a lot of evidence now that older people have the biggest uptake of online processes; they use tablets, PCs and laptops. Go to any coffee shop and you will see people in the older age group all with their phones and their laptops looking at things and showing each other things. There has been a big uptake, so I think it is wrong to think that that group would miss out. There are groups who are influenced by the digital divide and do not have access, which is why we use face-to-face and having a meaningful interaction with people.

MS CLAY: I will be brief; we are nearly out of time. Regarding truth in political advertising, the Electoral Commission gave evidence last week, and they are obviously deeply uncomfortable with their role as an arbiter of truth. They feel that it somehow infringes on their impartiality. You have got some content in your submission about the South Australian system, in which the research is outsourced to an external body but the decision sits with the commission. Is that correct?

Ms Root: That is right.

MS CLAY: Yes. How do you see that working in the ACT?

Ms Root: We think that they could be funded to outsource the fact-checking. There are organisations that can do fact-checking for you, so you are not doing the fact-checking. I think the Electoral Commission have to be the final decider on whether it is or it is not, because it is actually their role to say yes, it is or no, it is not. I understand their concern about that, but if someone else has done the checking then they are just using that information to make a call, so I think that gets over that problem.

MS CLAY: Which bodies do you think might be good to outsource that to?

Ms Root: We have not really looked at it. It could be the same people that the South Australian government use. There is no reason why it has to be in the ACT. There may also be others in the ACT who would want to do it and who have the qualifications. Once you decide to do it, you can go out to tender. You can go out and find people and commission them to do it. I do not think there is a shortage.

MS CLAY: Great; thanks.

THE CHAIR: We might leave it there. Thank you very much for your submission and for attending today; we appreciate it.

Ms Root: Thanks for the opportunity.

MANUATU, MR JOSH, former Divisional Director, Canberra Liberals

THE CHAIR: Mr Manuatu, welcome. While you are taking your seat, we will just go through a few admin matters. Can you indicate that you are aware of the pink privilege statement and its content?

Mr Manuatu: Yes.

THE CHAIR: I remind you that these proceedings are being transcribed and are being live streamed. Thank you very much for your submission and for attending today. I invite you to make an opening statement.

Mr Manuatu: Thank you, Chair. I am appearing today on behalf of the Canberra Liberals. I was until earlier this month the director of the Canberra Liberals, including being the campaign director of our 2020 effort. I left early this month to take a role at our federal secretariat, but they asked that I come and fulfill this obligation. I obviously speak on behalf of the organisation, with our party, which is separate to the parliamentary wing and which is led in this place by Elizabeth Lee.

At the outset, I just wanted to note that I have taken the time to read Labor's submission and I wanted to place on record our support for a number of their recommendations: in particular, on removing the double reporting of some contributions; the removal of annual audits when seven-day disclosures come into effect; the consideration of how the communications allowance is dealt with at the moment; the registration of parties that confuse voters—and I should note that the Canberra Liberals, as is the Liberal Party more broadly, are a signatory to the matter that was referenced in their submission around the New Liberals, as they call themselves, that is currently before the Electoral Commission federally—limiting pre-polls to two weeks; and including the electorate of voters on roll extracts. They all seem to us to be very sound recommendations that they have put forward.

Finally, I want to thank the Commissioner and the Deputy Commissioner of the Electoral Commission for their support and professionalism through the campaign. There were no complaints from us at all about the way that they went about their work. I also want to recognise Mel James and Clancy Barnard, my counterparts in the Labor and Greens parties. It is fair to say that we had a fairly good working relationship and we were able to work through a whole lot of issues between us, which is, I think, the way that it should be. Finally, I thank all Liberal MLAs, Liberal candidates and Liberal volunteers for their help and support over the last year.

THE CHAIR: Thanks very much. I notice that in your submission you raise an issue that we have had some discussion about here, which is described as acting in concert, where material is distributed and it looks like it is from a political party. You raise an example here that I was unaware of—that is, support for a candidate to make it look like it is the Labor Party supporting that candidate, whereas in actual fact it is a third-party organisation. It then has the effect, it could be argued, of increasing the cap of the political party.

Mr Manuatu: That is right.

THE CHAIR: You have concerns with that in elections.

Mr Manuatu: Yes. Third parties obviously have a role to play in campaigns. What I and the Liberal Party have a problem with is third parties that are directly affiliated and constitutionally aligned to a political party accessing that third-party cap, which effectively increases the cap for a particular candidate. The example I used in my submission was that the president of UnionsACT was a Labor candidate, but UnionsACT were using their third-party cap in support of Labor candidates, I believe, wholly in support of Labor Party candidates, which effectively increased that cap.

We did not have third-party campaigners that were directly linked to the Liberal Party advocating for us, putting out material in concert with us et cetera. I think it is something that is worthwhile looking at because it is important that the cap has full and proper integrity, otherwise there is nothing to stop the Liberal Party, the Labor Party or the Greens setting up all sorts of offshoot organisations that are not really third parties and trying to increase that cap by, I think, \$13,000 a pop. I think both the Labor Party and the Liberal Party were very close to hitting the cap. It all started to become an incentive for parties to do things like that if they wanted to spend extra money, which I do not think should be what is in place.

THE CHAIR: Thanks for that.

DR PATERSON: The naming of parties issue—what kind of solution to that problem would you propose?

Mr Manuatu: I think it is something that needs to be properly looked at. For our part, the New Liberals party affiliation federally is something that has only just come up. It is still working its way through the system. I would hope that the commissioner would find that that is something that should not happen, but it may well be something that they find is permitted. That is something that would need to be addressed at law if that were to happen.

It is difficult at the moment, as we are not at a point where that has happened. Our submission that we made to that process is on the public record, which I might provide, on notice, to the committee. It has a lot of interesting information in there about whether, when Liberal Democrats appear to the left of the Liberal Party in a Senate race, they get a higher proportion of the vote than if they appear to the right of the Liberal Party. I think that is also true of the Democratic Labor Party and the Labor Party; there is obvious voter confusion where voters wish to express a vote in a particular way. That is something that should be addressed in one way or another, I think.

THE CHAIR: Okay.

MS CLAY: On the voting age, you have made one comment in here that you are opposed to allowing 16 and 17- year-olds a voluntary vote. You have based that on a 2012 comment made by somebody else that it might or might not increase political participation, but you have not actually engaged with the issue of whether you think it would be a good idea to allow 16 and 17-year-olds who wish to vote to have the right

to vote, and you have not really engaged with the age; you have simply endorsed somebody else's comment made a decade ago. I would really like to hear a bit more about your views on whether we should allow 16 and 17-year-olds the right to vote.

Mr Manuatu: Sure. I did not engage in great detail on this because I think in 2016 I appeared before the Senate JSCEM on this very question. It had an inquiry into that. I encourage the committee to look at that inquiry in its whole. I think it was on Senator Steele-John's bill to lower the voting age at a federal level. I made a detailed submission to that in my then capacity as the federal Young Liberals president.

The Liberal Party, both in that formal role and in an ACT context, is not supportive of lowering the voting age. In short, there does need to be an age at which we decide people can vote. Some advocate for that to be 16. We believe that the balance is right at 18. Eighteen is the age at which a number of other things in society come into force. It is when we recognise that children become adults, generally—there are different parts of different laws that handle that differently—and we believe that the balance is right at 18. We would advocate for that to remain where it is.

MS CLAY: It is just purely that we have it right at the moment? As you have said, there are a number of different ages; there are a lot of things you can do at 16 already.

Mr Manuatu: Yes.

MS CLAY: You can work—there are a number of things—and you can drive a car. There are a lot of things that kick in at that earlier age. So it is purely that the Liberal Party have decided that 18 is the right age?

Mr Manuatu: That is right; organisationally, I should stress, as I said earlier.

MS CLAY: Out of interest—and I was giggling a bit—when you were representing the Young Libs you appeared in a political process opposing lowering the voting age.

Mr Manuatu: That is right. The Young Liberal movement, which—

MS CLAY: That is wonderful.

Mr Manuatu: Yes.

MS CLAY: It is interesting.

Mr Manuatu: I should say that, at the time—and I am sure it is still the case—we were the largest youth political movement in the country, which I was very proud of when I led it. It was established policy not just at a federal Young Liberal level but in each state division. Yes, it is an interesting point.

MS CLAY: It somewhat undermines the comment in the submission that “there is no evidence that lowering the voting age would increase political participation” when the political participation in your own party of 16 and 17-year-olds and young people is really quite high. That does not quite match up, though, does it?

Mr Manuatu: There is, I would say, a healthy level of participation in the political process in Australia, certainly within the Liberal Party, of which I am a member. The quote in my submission was from Professor McAllister from the ANU, which we supported. We would like to see more people across the board being engaged in the political process. I think that would be a great thing. Would lowering the voting age increase participation from young people? The evidence from Professor McAllister was no, at that time. I am not sure whether it would or it would not, but I do think that we have got the balance right at the moment.

MS CLAY: Thank you.

THE CHAIR: I refer to the Electoral Commission's submission and their recommendation 22. We heard evidence this morning from the Labor Party. There are a number of entities, including the Greens and Fiona Carrick—and, I think, the ALP—that essentially, in the words of the Labor Party, made a profit out of the election because they received more money in public funding than they expended on the election in terms of electoral matters. For the Greens, that was about \$200,000 in profit. The Electoral Commission recommendation 22 essentially wants that loophole closed so that parties, entities and individuals do not run in the election to make a profit out of it that they can then expend on other things. Would you support that or not?

Mr Manuatu: Yes. I think it is egregious that a party would make a profit off an election in that way. I know that federally there are moves that have now come into force to ensure that parties can only recruit through public funding—funds that were actually expended. I think that is a very sensible thing to do. I think all parties went to the election claiming to be fiscally cautious. Then to happily take an additional \$200,000 or thereabouts from ratepayers, I think, is completely inappropriate and something that should be seriously considered, moving forward.

I would have thought and hoped that the political party that was in that position would not accept an amount that would get to a point where they were turning a profit. Certainly, as the ACT director, if we had been fortunate enough to be in a position where we had turned a significant profit from taxpayers at the last election, I would have had no qualms about returning that money.

MS CLAY: If we are reviewing the idea of public money being spent on the purpose for which it was given, I note that the administrative funding caps have a strange application in our system. We have Labor, which received \$277,000 per annum in administrative funding. We have the Liberals, which received \$254,000 per annum in administrative funding. And we have the Greens, which received \$46,000 in administrative funding. That funding was meant to help with the books and the auditing and accounting. Having run businesses myself, I understand that you need a resource, a human resource, to do that work, but you do not actually need five times more resources to do that work if the work slightly increases.

If you thought it was a good idea to review the way that we are publicly funding elections, do you think perhaps we should have a look at the administrative funding caps as well?

Mr Manuatu: Those figures that you quoted were probably the administrative funding amounts prior to the last election.

MS CLAY: That is correct.

Mr Manuatu: That would be different now, and it is directly proportionate to the number of members of the Assembly that a party has. There is a huge administrative burden for parties that is over and above what a normal business has. The Canberra Liberals have had—and I know that other parties are probably in the same boat—very regular audits from the Electoral Commission that require a lot of work from both our paid staff but also external lawyers, accountants and the rest. That is what the administrative funding is there for, recognising that a political party operates in a different regulatory atmosphere than most other businesses in the country do.

The way that that is set up, I think, recognises that there is a different level, depending on the size and scope of the party and the level and scope of administration that has to be done. For a party with nine members, as we have now, which runs 25 candidates in an election—the Labor Party has a number of members in the Assembly but also runs 25 candidates—I think that there are clearly additional administrative burdens to running 25 candidates than there are to running the lesser amount. I am not sure, off the top of my head, what the number was in the last election for the Greens, but there is a vastly increased administrative burden to administering effectively 25 party units versus a lesser amount.

MS CLAY: Did you account for the \$1.1 million that you received to do that bookwork, and would you be happy to refund it if you did not spend that amount?

Mr Manuatu: As to the \$1.1 million cap, we, I think, scraped in just under that cap by maybe \$5,000 or \$10,000. The public funding that we received was far less than that. I think the public funding was in the order of \$600,000 or \$700,00, off the top of my head.

THE CHAIR: \$784,000.

Mr Manuatu: \$784,000.

MS CLAY: I am just reading from a submission here: \$277,000 per annum for the accounting by four years.

THE CHAIR: I think there is a bit of confusion here between—

Mr Manuatu: Yes; that is the administrative funding.

MS CLAY: Did you account for the administrative funding?

Mr Manuatu: As a part of our election cap? No, we did not.

MS CLAY: We were walking about accounting for money and refunding it. I am wondering if you accounted for it and then refunded it.

Mr Manuatu: The administrative funding can only be spent on administrative purposes. We cannot spend any of that money on anything remotely political. We have very clear systems in place to ensure that there is a very firm line there. Even with things like the photocopier in the office, we have got to keep a very close tab on what is being used for administrative purposes and what is being used for political purposes. So legally we could not include—

MS CLAY: It is accounted for?

Mr Manuatu: The administrative? Yes, and that is regularly audited by the Electoral Commissioner as well.

DR PATERSON: I would like to have a chat about the MLA communications allowance.

Mr Manuatu: Sure.

DR PATERSON: As you stated, the Labor Party, in their submission, talked about the lack of transparency for that communications allowance now that it is within the salary, the burden that it places on parties for reporting and also that the communications allowance, when you use it in the election period, has to go towards your cap. I am interested in the Liberal Party's views on this and what you would like to see happen.

Mr Manuatu: The suggestion, I think, in the Labor submission, which I do not have in front of me, was that it is something that needs to be looked at. I would agree. I know that the Labor Party collects all those—what is effectively part of the salary—and it comes through to the party. We do not have a similar system. We try and encourage members to ensure that they are spending that proportion of their salary on communications. From my point of view, I would just like to have a system where I could be confident that it was all being spent on communicating with the electorate and not being spent in any other way.

I really think it is something that the Assembly would need to properly consider as to how you work it, but I think there is room for improvement to ensure that it is being done properly. I think most states and territories, and federally now, do not have a system like this; so it is probably worthwhile looking at what states and territories and the commonwealth have and looking through that.

But it is important that member expenditure that is genuine member expenditure is not counted in the cap. It is important for members of parliament from all sides to be able to put out or respond to correspondence, advertise, have a genuine mobile office and it not be a part of the cap, whereas in the last election there were things that I would say are genuine member responsibilities that were being caught up, which I do not think is worthwhile.

My starting point would be trying to effectively find a system that gets the balance right between ensuring that members can represent their electorates between 1 January of an election year and D-Day, rather than the current system, where you are effectively treated as if you are not a member of parliament.

THE CHAIR: But would you go as far as thinking it is appropriate that an allowance provided to MLAs to communicate with their electorate is then controlled by a political party? Surely an MLA has their own responsibilities as an elected member, and to have that controlled by a political party—

DR PATERSON: We have a compulsory levy; so ours gets taken.

Mr Manuatu: Yes. As a former campaign director, I think that the party should have absolute control there, but the reality is that members do need to be able to communicate with their electorate in such a way as befits them. We in the Liberal Party pride ourselves on being able to have conscience issues and views. I do not think it should be up to a political party to stifle, necessarily, a member wanting to communicate to their electorate something that they feel very strongly and passionately about. I submit that it is important that a member is able to do that without impediment.

In practice, political party directors are always talking to their members of parliament about the best ways to communicate with their electorate, but I would agree that it is important that you do not have that kind of barrier potentially being there, or an awkward situation, as we have seen in some states. The one that springs to mind is, having worked in Tasmania, former Senator Lisa Singh, who was a senator and was dropped to number five, I think, on the Senate ticket. She ran a very successful campaign to get herself re-elected above other Labor candidates. I am not saying that because it is a Labor example; it could happen in any party.

If you were to have a situation where the party was effectively controlling your funds then they could potentially stifle an individual wanting to do it that way, especially when you are talking about a member with, effectively, taxpayer resources being given to them to exercise their duties as a member of the Assembly.

THE CHAIR: Rather than as a candidate?

Mr Manuatu: Yes.

MS CLAY: On donations, you have got some comments in here about property developer donations and the difficulty you see in determining whether somebody is a property developer.

Mr Manuatu: Yes.

MS CLAY: There have been some comments that reasonable steps might be, for instance, asking someone if they are a property developer. Do you see any sorts of overwhelming barriers? We have not heard too many other comments from anybody else labelling this a problem, so I am just interested in why it is causing difficulty.

Mr Manuatu: For me, the great concern is criminal sanctions that fall on party registered officers, added to not having complete clarity about what you can accept as a reasonable step and at what level you accept that. Do we need to go and get a declaration from everyone who buys a \$3 raffle ticket at a branch event? I would say

no-one would genuinely think that any influence is being bought with a raffle ticket. But once you start to get up to, say, a \$500-a-head dinner or higher, then yes, absolutely there should be a very clear statement that someone is not a property developer.

In the law that was passed just before the election, we successfully discussed—and I think it is now in there—what those reasonable steps might include, be it a check box on the website or on a donation form. I think it is important that we are all really clear on what that audit step is. If I can see a donation report come through that shows in the last day 10 people donated on the website and they have all affirmed that they are not property developers then I can see that none of their email addresses happen to be affiliated with a property developer. Can I just take that at face value? I think I should be able to, but it is about getting that balance right as to where the onus should be.

MS CLAY: If there were more reform on donations, on who could donate, on perhaps restricting it to people only within the ACT or people who can vote, or if there were further reforms, presumably you would just want to have some clear guidance on what reasonable steps would be and perhaps that might come from the Electoral Commission?

Mr Manuatu: Yes. The Liberal Party's view has always been that all people, organisations and the rest should be able to donate and there should not be a barrier to participation in that process. This is the starting point. But if there were to be further reforms we would be very, very eager to ensure that there was complete clarity about what we needed to do and how to do it.

It is fair to say, and I think I said this in the submission, political parties will always—and we certainly in the Liberal Party will always—comply with the law and seek to comply with the law. It is just about making sure that the law is clear so that we know what we are doing right from the outset. The period that we have at the moment, where the developer ban came into effect in a soft way straight after the election—and after that we still have not had clear guidance on exactly how that law is being interpreted—makes it very difficult to ensure that you are fully complying with what you need to do.

If we can take a check box on a website or what someone is declaring to us, then great, that would make life easier for us. It is very difficult as well when, say, a political party gets audited and we do not know that Joe Bloggs is an associate of a property developer, and the audit commission do know. That makes it very difficult for us. It is important to recognise, as well, the level of information that is available.

There is not a list of property developers or close associates or anything like that that we can just check across. All we have access to is effectively the electoral roll and a Google search. If it is not coming up there, then it is very difficult for us to say that we are completely compliant.

For us, I guess the biggest concern is those criminal sanctions, as the overlapping bit. If you were talking about a civil sanction where you use best endeavours and it is recognised that you did try to do everything that you could possibly do, I think we

would be a bit more relaxed. But where you have the criminal sanction, where it is very black and white, that makes me extremely paranoid about all these things.

THE CHAIR: As a recommendation for a way forward, would you want to see that reduced from a criminal sanction to a civil sanction or do we need a register of property developers?

Mr Manuatu: Yes.

THE CHAIR: If it is linked to submitting DAs or something and the government are involved in that process, are they able to have a process where it is clear who a property developer is so that there is a register you can check, rather than relying on Google?

Mr Manuatu: Yes. The commonwealth has a prohibition on foreign donations, where all foreign donations, all known foreign donations, are banned. But there is a certain threshold, which I think is about \$250 or \$500, where you do not get a requirement to actively check and do things below that certain threshold. I think a threshold amount would make a lot of sense. I am not sure what that threshold ought to be, but I would say that for most political parties everything under, say, \$250 is not seeking to influence anything. That will get one chair at your rubber chicken dinners or your \$50 cocktail events. It is just about striking that right balance between where things are at.

THE CHAIR: Anyone that has donated above a certain threshold, that then triggers further inquiry?

Mr Manuatu: Yes. Where the party then actively and proactively has to—

THE CHAIR: You do not have to account for every raffle ticket then?

Mr Manuatu: Yes. But what we are told with the foreign donations is that you can never receive a foreign donation. You have systems in place to ensure that the credit card facility on the website does not accept foreign cards and all those kinds of things, or if you see something come through that you are not quite sure about you check it out. You do not have an active legal, proactive obligation to be asking the question above a certain amount. In practice, we ask everyone that donates through our website, for instance, “Are you a foreign donor?” Effectively, that would be a good way to do it so that it would not be a huge administrative burden.

I should say as well, going back to the earlier points about administration, that all political party secretariats are very small operations; so if you do require a staff member dedicated to basically researching every person who puts \$10 through a website, it starts to be a very big and onerous task, especially where we do not have a central register of property developers.

There are also a whole lot of things that get quite difficult. For instance a number of hotels in this city are owned by organisations which also happen to develop apartments. If you were to get a gift-in-kind room hire amount from said hotel, which they basically give to everybody, is that a prohibited donation? I do not think it should be, but these are just some of the threshold questions that need to be worked through.

THE CHAIR: The Labor clubs, if they do a development perhaps, where is that line?

Mr Manuatu: There are a number of community clubs that would technically be developers by virtue of the fact that they have had multiple DAs over the last couple of years. I do not think anyone would genuinely think of them as a developer in what we are trying to prohibit here. It is just about getting that balance right. As the laws come into effect and there are examples, I think it is worthwhile firmly establishing some of those rules. This committee and the Assembly have a pretty open mind to ensuring that we get the balance right.

THE CHAIR: So that it can be practically implemented?

Mr Manuatu: That is right.

THE CHAIR: I know that you have had a lot of experience with Tasmanian elections and obviously with Hare-Clark and some of the similar functions. One of the issues that we have been discussing is the election day six-metre rule versus the 100-metre rule—versus what I understand they have in Tasmania, which is no rule at all. People have different views, but the 100-metre rule seems to be the worst of both worlds, in that you are neither one nor the other.

Mr Manuatu: Yes.

THE CHAIR: We have heard about the six-metre rule and some of the issues there with Hare-Clark. You will have 40 people all at the same booth. Is the Tasmanian option something that you think is better than what we have got currently?

Mr Manuatu: Yes. I think you hit the nail on the head. I think that the 100-metre rule is the worst of both worlds. It was extremely frustrating to me, on a daily basis, knowing that there were five candidates in each electorate, five volunteer teams standing a hundred metres away from a polling booth. It was just madness to me. Ironically, most of the people that were elected, both from our party and others, were the ones that were not standing a hundred metres away but were actually out directly engaging with voters.

I think the 100-metre rule is not working. A six-metre rule, I think, in a Hare-Clark situation would be very difficult. You would have five times however many parties standing at each polling booth. If you think a federal election day is bad, multiply it by probably five. It would just be a—

THE CHAIR: It is just unworkable?

Mr Manuatu: It is completely unworkable. The 100-metre rule—instinctively I did not like it when I was working in Tasmania, but of the three options that is probably the better option than a Hare-Clark scenario. But you need to—

DR PATERSON: What do you say? That scenario in Tasmania?

Mr Manuatu: Yes. Their scenario was—

THE CHAIR: Tasmania?

Mr Manuatu: Yes, they have got no handing out on polling day.

DR PATERSON: But that is just on polling day? What about the pre-poll?

Mr Manuatu: My understanding is that they cannot hand out how-to-vote cards basically at all around pre-poll locations, but I am not sure of the—

DR PATERSON: So there is a full exclusion?

Mr Manuatu: That is right, yes.

THE CHAIR: We can look it up. In your submission you want a shorter pre-poll as well; is that right?

Mr Manuatu: Yes.

THE CHAIR: Two weeks?

Mr Manuatu: A two-week pre-poll. We had a five-week campaign period. Three weeks of that was, in this case, a very full-on voting period. I do not think any party that was involved in that thought it was the way that things should be done. I think there is a general desire around the country now to move back towards two-week voting periods. I think we need to get back to respecting that elections are meant to be a snapshot of public opinion at a particular point in time, that being a day—voting day—and that pre-poll is available as a convenience option if you are unavailable to vote on that day. I think that is what we need to get back to.

THE CHAIR: The exception rather than the rule?

Mr Manuatu: That is right, yes, with the majority of people voting on—

THE CHAIR: Unfortunately, we have run out of time, Mr Manuatu, but thank you very much for your submission.

Mr Manuatu: My pleasure.

THE CHAIR: And thank you for the evidence that you have provided today.

Mr Manuatu: Thank you.

THE CHAIR: We will take a 20-minute break and then we will reappear with the Liberal Democrats, I think it is.

Hearing suspended from 10.30 to 10.47 am.

GOWOR, MR JACOB, President, ACT Branch, Liberal Democratic Party
CLIVELY, MR STEPHEN, Branch Executive, ACT Branch, Liberal Democratic Party

THE CHAIR: Welcome. Thanks for coming today. Administratively, I just want to make sure that you have made yourselves aware of the pink privilege statement that is before you. Just indicate that you have seen that and that you are aware of its contents.

Mr Gowor: Yes.

THE CHAIR: I remind you that this is being recorded by Hansard and also live streamed. We have got about 20 minutes, so it is going to be reasonably brief. I invite you to make an opening statement.

Mr Gowor: Thanks, Chair and committee members, for having us here today and for being able to provide evidence. My remarks will be very brief. I only want to highlight a few points in our submission. Firstly, we are very pleased that in the four years since our last appearance the Legislative Assembly has adopted the suggestion that before election day a resident is able to pre-poll without having to provide a reason. We consider this to have worked really well, so much so that we would like the committee to consider making this a permanent change. The AEC is to be congratulated on its engagement with homeless and displaced persons that felt the effects of the pandemic most acutely.

Two related matters that we would like the committee to consider are the need for the 100-metre rule if people can indeed pre-poll for a longer period. Again, similar to four years ago, we would like to raise the safety concerns in relation to the period within which corflutes can be removed. In our view, 48 hours is simply too short, given the level of activity immediately prior to the election and the election date. Having all the exhausted volunteers walking along roads in the twilight hours does concern me.

Consistent with our previous submissions, we still object to prohibitions and donations from certain groups. Beyond them being unnecessary, we believe that they are undemocratic. Notwithstanding our position, and in the absence of voluntary voting, I would like the committee to seriously consider a none-of-the-above option on the ballot paper. \$8.62 per vote is the highest level of public funding anywhere in the Commonwealth of Australia. We believe that the measures proposed to dictate fonts, formats and colours on political materials are solutions in search of a problem and an unnecessary burden to minor parties and independents.

Mandating constitutions represents a further barrier. On this point, I object to our constitution mandating an objective of getting people elected to the Legislative Assembly. That is not always our goal. Our primary goal is to advance libertarianism in Australia. We do this in a number of ways, including making submissions to committees, responding to government inquiries and engaging in consultative processes, both formal and informal. We do not need to have a seat in the Legislative Assembly to represent the interests of our members. We suggest, in our submission, going the other way: to increase democracy by automatically recognising political parties that are registered in other jurisdictions in which they have an elected

representative.

Finally, I just want to express to you our very strong opposition to the truth in political advertising legislation. Our submission goes into some detail as to why we think this will not work and that the answer to bad speech is more speech. We are very concerned that this will be weaponised. We support the AEC's view. We think that it is entirely untenable to have an arbiter on what are inherently subjective political communications.

In short, and consistent with our submission and my introductory remarks, we believe that Canberrans can be trusted to make good and informed decisions. I am happy to take questions.

THE CHAIR: Thank you very much. I noticed in your submission that you do not support changing the age of voting.

Mr Gowor: That is correct.

THE CHAIR: It should remain at 18. Do you want to explain why you have come to that conclusion?

Mr Gowor: I might bring in our policy director, Mr Stephen Clively.

Mr Clively: It is not shown that the benefits of lowering the voting age are there, really. There is lots of evidence that suggests that it does not increase participation. There is evidence that it does not necessarily increase the knowledge of politics in 16 and 17-year-olds. As has been rehearsed in many other hearings, there is the fundamental problem of compulsory voting and the risk of criminalising minors. That is something that the ACT Electoral Commission have alluded to many times. They have also pointed out that the legislative changes would be very complex.

In short, we do not think that the adult population of Australia, or indeed the ACT, supports lowering the voting age. It has been shown in a number of opinion polls conducted by Essential over the last six or so years. We just do not think it would assist. It runs the risk of criminalising minors. I do not think people really want it. Further to that response, insofar as youth policy for the government is concerned, there are a number of other more relevant and salient policies that are probably more important than voting—for example, training younger people, addressing youth unemployment and addressing youth mental health. In our opinion, they would surely have priority over an electoral reform.

MS CLAY: A lot of your response was about making voting mandatory for 16 and 17-year-olds. I note that the Electoral Commission also responded on that basis. Most of the proponents for lowering the voting age—in fact, I think every proponent I have seen for lowering the voting age—only talk about voluntary voting for 16 and 17-year-olds. I do not think anybody thinks it is a good idea to criminalise not voting for 16 and 17-year-olds. I understand the legislative and the legal complications there, but that is a matter for legislators and lawyers to deal with. I am really more interested in talking about the option of voluntary voting for 16 and 17-year-olds, not mandatory.

The other part of what you said was whether or not it would increase political participation. Again, most of the proponents for lowering the age are not exclusively concerned with purely raising participation in democracy. Most of them talk about the fact that young people are going to be here for longer, that they have a greater stake in our future, that we are making these massive decisions in politics that will affect—

THE CHAIR: Ms Clay, is this a question or a speech?

MS CLAY: Sorry, a question. You are right. Thank you. I think it is probably not purely about whether it will increase participation but about whether they should have a right to have a say in that.

Mr Clively: On the issue of compulsory voting, we do not support any compulsory voting for anybody.

MS CLAY: Yes, I know.

Mr Clively: If you look at the report from the inquiry into the 2016 election, a lot of the submissions were couched in terms of not wanting to touch compulsory voting. There may be submissions this time around that say 16 and 17-year-olds can have voluntary voting, but the majority of the submissions last time, and in the report, were all about preserving compulsory voting.

You might have a snapshot in time right now where the submissions are saying, “Let’s make it voluntary.” We would like it to be voluntary for everyone. Even if it was not, I think there is an important point about adults making decisions, and 16 and 17-year-olds are not adults. There is a lot of research that suggests that in those countries that have trialled it 16 and 17-year-olds do not have a better understanding than previous generations and so on. I do not really accept that it is the right that you are painting it to be.

DR PATERSON: I am interested in your party’s recommendation that, in the ACT, registration in other states should be accepted. Three of the recommendations from the Electoral Commission were around the lack of good governance in the smaller parties and improving that. You seem to be wanting to go that way, whereas the Electoral Commission wants to go another way. I am interested in your thoughts.

Mr Gowor: I will talk about the Liberal Democrats. We consider that our party governance is good and robust. We are registered in many jurisdictions and our constitution does have, for example, procedural matters on AGMs—who can vote, under what circumstances, and dispute resolution clauses and things like that. On mandating that for independents and really minor parties, we think that there should be good governance. In the absence of their willingness and, at a practical level, if you wanted to set up a small, bespoke party to run in one election, over a three-month period and have a single-issue matter considered by the electorate, adding an additional burden by having to write up a constitution and getting that reviewed by the AEC adds to a bureaucratic process and does not necessarily yield the benefits that you would be after in good governance.

Further to that, the ACT Liberal Democrats, by way of example, did not have to, I

think, re-register in 2016. One of the main reasons for that was that we had a sitting senator at the time in the federal parliament, and the ACT Electoral Act allows for that to occur. We think that it should occur beyond state borders. For example, they should not have to go through the regulatory burden in the ACT when there is a registered party and they are elected to the New South Wales parliament.

The last point that I would make, because we just had a conversation outside the committee room in regard to independents and when they are able to start campaigning, is that a lot of independents with limited budgets and everything else do not necessarily want to commit to an election until they know that they are going to be on the ballot paper. That shortens the amount of time that they can campaign. If we are looking at reforms in this area then the argument would be: give them a longer period to register, make the registration process easier and that way you will get a greater diversity of views and a greater diversity of ideas being presented to the electorate.

MS CLAY: We often hear from independents and minor parties that it is difficult to campaign against major parties. I am sympathetic to that view. Quite a lot of practical suggestions have come out. People talk about roadside corflutes, advertising space, carousels of how-to-votes. There are quite a lot of different ideas. What do you think are some of the ways that we could make that system easier and fairer?

Mr Gowor: Some of the ways? We are a supporter of corflutes. Yes, I understand that there are some negative views around the eyesore factor and their annoyance. In my view, that is a small price to pay for democracy. Corflutes are an effective method of advertising. As I said previously, the removal of the corflutes after the election, within that 48-hour period, I think, can be lengthened—for example, to a week.

With regard to printed materials, printed materials are also very, very useful. I think that in the hands of an elector, a person voting, one can quite easily see whether it is on recycled paper or whether it is on a piece of plastic. They will make their judgements accordingly as to whether that particular party should be printing that material, and they will make that voice known in the ballot box.

As to the area of cyber and Facebook advertising and so on, I think that that is an area that is very, very difficult to regulate and probably outside anything meaningful that the ACT Legislative Assembly could do insofar as forcing truth, for lack of a better term, on social media and communication platforms. Fundamentally, I think that having billboards and things like that in designated spaces could be an idea. But my concern there is that, once again, it will be the major parties that will have the money to purchase billboards, and the minor parties will not necessarily have that.

One of the suggestions that we made four years ago was, in the absence of having the how-to-vote cards within 100 metres, to perhaps have the AEC allocate a brochure within the polling place, absent of a person. Political parties and independents would be able to provide them with materials. As people passed through the polling place, if they wanted a how-to-vote card, they could pick one up. There would not necessarily be a person there. They could just grab the ones that they are interested in. Of course, you would have to have some sort of mechanism where that printed material is provided well in advance, is in accordance with all the rules and is in a specified

format. For example, it cannot be more than a third of an A4 page or something like that. Those are the sorts of ideas that were canvassed at the previous committee hearing in 2016.

THE CHAIR: You have got an issue with pre-poll. You have made the observation that you should not have a reason to pre-poll. There have been some countering views put forward that, at the end of the day, it is meant to be an election day, a snapshot in time where people vote. I guess the arguments for that are that a lot can happen in the course of an election campaign. With the three-week pre-poll, as it was this time, there are policies that get released; there are things that happen. Regardless of whether you should perhaps give a reason to pre-poll or not, do you not see that the extended pre-poll now creates an election period rather than an election day, if you think that is the way to go, and can you explain why?

Mr Gowor: Fundamentally we do not elect governments for a day. We elect governments for a four-year period. Yes, views might change from one day to the next, but at a really fundamental level having a longer period will not necessarily change adults' views. Generally speaking, in Australia it has arguably been the case that governments have been voted out rather than being voted in. I think that the convenience of being able to vote and the right of the individual to make up their own mind in their own time should have precedence over an arbitrary: "We have chosen this date." Stephen, would you like to add to that?

Mr Clively: There is also the element of fairness in all this, because a lot of the people who are in more disadvantaged groups in society find it hard to turn up on one day. The term "convenience voting" is thrown around in relation to this early voting. What is wrong with convenience, especially if it helps poorer people get to the poll and they do not have to make up a reason?

THE CHAIR: That being the case, do you have a view on how long pre-poll should be? Should it be two weeks, three weeks or six months?

Mr Gowor: I think six months would be extraordinarily administratively burdensome and probably not practical.

THE CHAIR: Based on the principles you are arguing? It was three weeks for this election. It has been put by others that it should be two weeks. At what point is this convenience factor no longer a factor?

Mr Clively: Line drawing is always tough. Whatever you are going to pick is going to be arbitrary. It should not be one day. It should not be six months. There must be something sensible in between.

Mr Gowor: Yes.

THE CHAIR: I was just wondering if you had a view of what that sensible number was. But if you do not, that is fine.

Mr Gowor: Not one based on evidence. Intuitively, one would think that over a two-week period that would probably be reasonable, especially for people that are

shiftworkers, night workers, have families. For them to find a period on their rotating roster and be able to actually attend the polling place on a day that buses may not necessarily be running, for them to have a sufficient amount of time to vote, I think a two-week period would probably be appropriate.

DR PATERSON: Reporting on electoral expenditure has come up as a recurring issue, the seven-day reporting in the ACT. Do you want to speak to that, in two minutes?

THE CHAIR: Very briefly.

Mr Clively: We will manage to do it. We are big fans of reporting, rather than more intrusive regulations.

Mr Gowor: Yes.

Mr Clively: We should just bear in mind that it is a bit difficult for smaller parties. The number of days varies across jurisdictions. It can be a couple of weeks—three weeks in various places. Yes, we are big on reporting. It may become burdensome. We do commend the Electoral Commission for working very positively with people who make unintentional mistakes. I do not know if there is anything to add on that.

Mr Gowor: Perhaps, in the absence of a change to the reporting within seven days, the committee might consider what is reported within those seven days and provide a tool or something that is more useful than a spreadsheet that is sent through to the commission—an online portal or maybe, eventually, down the track, getting to a real-time kind of reporting system. If it was seamless and easy, similar to the ATO myGov website or the Single Touch Payroll—things that the federal government is doing—building those sorts of tools would reduce the administrative burden. We would then potentially have an argument that you maintain the seven-day period because it is so easy; the burden is actually quite low. As it stands, it is a burden and it is an acute burden for small parties and independents.

THE CHAIR: Thank you for your submission. Thank you for appearing today.

Mr Gowor: Thank you.

THE CHAIR: We will see you at the next election, I suppose.

Mr Gowor: Thank you very much.

Mr Clively: Definitely. Thank you.

FAULKNER, MS THERESE, Executive Committee Member, Canberra Progressives

THE CHAIR: Welcome. I want to make sure that you are aware of the pink privilege statement that should have been sent to you. Have you read that?

Ms Faulkner: I have been sent it and I have read it.

THE CHAIR: These proceedings are being recorded and transcribed, and are being live streamed. We have only a short amount of time, so I will start by inviting you to make an opening statement.

Ms Faulkner: Thanks very much for the opportunity to present a submission and to come here today. Canberra Progressives are a relatively new party, as you would have seen from our submission. With regard to the terms of reference per se, we have no major issues with the way that the ACT election was conducted. We definitely understand the restrictions imposed because of COVID-19. We think that Elections ACT did very well in addressing those restrictions.

Our issues, in terms of the conduct of the election, are minor. As per the recommendations, we would like to see further restrictions on roadside signage, for example. Our bigger, and more fundamental, points go to “any other relevant matter”, which is about providing new entrants into the political space with an opportunity to have information about ourselves publicly available, rather than relying on the funding and resources available to a party to become known in the ACT.

That is why we are very keen on point 8, about increasing voter turnout, participation in elections and encouraging political activity; we think that is relevant to us. In our recommendations we strongly advocate for increasing the amount of civics education available to the people of the ACT. We would strongly recommend funding for Elections ACT to produce something like a voter information booklet, which would have information about every party contesting the election and about every candidate contesting the election. A publicly funded booklet would be available in people’s letterboxes, rather than the marketing material that crowds people’s letterboxes during the campaign period.

We have also made a recommendation about the impact of division 14.3 of the Electoral Act, which is the electoral funding available. As mentioned in our submission, we are very grateful to have been refunded our \$22,000 but note that parties that are already in place and have lots of votes end up perpetuating their own ability to promote themselves and increase votes.

That is the fundamental approach of the Progressives to this inquiry. That is why we wanted to put in a submission and have an opportunity to have a chat about that today.

THE CHAIR: Noting your desire for the Electoral Commission to be distributing information, whether that happens or not, I guess we will see. You say that you want smaller parties to have the ability to get their message out, their faces out, the branding out—whatever it might be—but to then argue against roadside signs seems

counterintuitive. What is your reason for not wanting roadside signs? You could argue about whether they are seen as litter or not. In arguing on one side that you need more ability to get your message out, and arguing on the other that you want to get rid of this ability for smaller parties to campaign, can you explain your rationale?

Ms Faulkner: Absolutely. The rationale is that roadside signage does cost money. For a small party with very limited resources, our candidates, for example, funded their own signs. Some of us were able to buy 20; some were able to buy 10. Noting the proclivity of roadside signage for major parties, and perhaps many thousands of signs, I think that is a bit of an unfair advantage because of parties having more financial resources.

THE CHAIR: One of the views that has been put forward is that the roadside signage gives the smaller parties or independents the ability to get their message out. But you are saying that that is not case because of the proliferation of the Liberal and Labor signage, and previously the Greens signage, because they get swamped amongst that. So it is actually not an advantage.

Ms Faulkner: That is correct, yes. We have done our research. We know that having facial recognition by way of signage is effective, in terms of swaying voters. We think that it should be a level playing field. If we were all allowed 20 signs per party, that might be a solution. But when it is commensurate with the amount of funding you have available to produce the roadside signage, that is where there is some unfairness that creeps in.

DR PATERSON: I am interested in some of the recommendations from the Electoral Commissioner around the governance and reporting of governance of parties. I am interested to know your thoughts around that.

Ms Faulkner: Around?

DR PATERSON: Improving the governance in terms of the constitution; ensuring that it has particular aspects in the constitution. When they reviewed registered parties in the ACT, some of the smaller parties did not have what is required for good governance in their constitution. Also, with having a nominated party secretary, those contact details need to be updated, as well as names and addresses for the 100 members.

Ms Faulkner: We strongly agree that strong, good governance is necessary. Many of us in the Canberra Progressives have been members of other incorporated associations, for example, and understand the need for a strong constitution. To be honest and frank, we went through a bit of a learning process when we drafted our first constitution earlier last year. We were really appreciative of the feedback we received from Elections ACT on the areas that they recommended we address before it went through this process. I think strong governance is absolutely necessary for a well-functioning party, and for a party to be taken seriously in any jurisdiction.

MS CLAY: I note that in your submission you said that the Progressives are supportive of lowering the voting age to 16.

Ms Faulkner: Yes.

MS CLAY: There are a lot of submissions about mandatory voting. With most of the proponents of lowering the age, it is about allowing 16 and 17-year-olds to vote but not requiring them to vote. Do you have any comments on whether 16 and 17-year-olds should be allowed to vote?

Ms Faulkner: I probably cannot speak about this on behalf of the party, because we have not had that discussion in our party room. I would say that we are supportive of lowering the age to 16, because 16 is often when you are starting to become interested in civics, how the world works and how your community, your neighbourhood, your city and your country all hang together. The idea of making it not compulsory has some appeal. We would remain open to either of those, but we would be happy to hear more debate on the issue.

MS CLAY: I appreciated a lot of the practical suggestions made in your submission about levelling the playing field; you have spoken about that a lot already. Could you highlight some of the ways that the Electoral Commission, or the system, could be made fairer, to give voters a genuine chance to see every single candidate, every single party, in every single platform?

Ms Faulkner: As set out in our submission, we think letterboxing is one thing. A booklet for everyone in the ACT that is distributed to every household would be one way. The other is to divide it into the five electorates and do a booklet per electorate. That would be another way of doing it.

Another is to have, perhaps at the polling places, rather than the handing out of how-to-vote cards, albeit 100 metres away et cetera, a publicly provided pamphlet carousel, so that people can take their own pamphlets, and things are not thrust into voters' faces as they approach the booth. We think a couple of things like that would work.

The more vexed issue is electoral funding. We absolutely understand that funding of the democratic process is valuable and useful. To be honest, the reason we put in our submission a recommendation that there be a separate inquiry into electoral funding is because there are so many complex and vexed issues there. We do not have a solution to that. I do not think the solution is to just abolish all funding to parties, but we think there must be a better way of doing it.

DR PATERSON: Looking at your recommendations, out of the six, four are about resourcing Elections ACT to have candidate content, letterboxing, online forums and that type of thing. When we discussed this with the Electoral Commissioner, he pushed back very hard on this. It compromises their integrity, potentially, and they are not seen as impartial, the more they get involved in this.

As a new party, what thoughts do you have outside resourcing and funding the Electoral Commission to do this? What other avenues do you think that small parties may have, or should have, to improve their visibility and improve democracy?

Ms Faulkner: That is a tough question. As a person who has worked in the public

service for a long time, as well as in the private sector for quite a while, I would have thought that, with the role of an elections body, an electoral commission at the federal level or Elections ACT at the local level, part of their mandate is to inform voters of the process, at least.

In terms of informing voters of the process, it would then follow that they would inform voters, “Here are the parties and here are the candidates.” I do not think that is an unreasonable ask for Elections ACT. I think we are getting into more difficult territory if we let the major parties do their own thing, with their own funding, but let the minor parties do something else. I think it needs to be the same. That is why I think the electoral body, Elections ACT, is the logical choice.

Outside that, it would be much more difficult, but a separate kind of authority could be established within the ACT government. It could be a small, six-person authority that would take responsibility for that part of an election; that could be possible. They could be set up with separate powers from Elections ACT. That would perhaps be a bit out of the ordinary.

THE CHAIR: In your submission, you say that you support the current restrictions on campaigning outside polling places. That is the 100-metre rule.

Ms Faulkner: Yes.

THE CHAIR: We have heard evidence from other witnesses that trying to police where 100 metres is, and where it is not, is a bit problematic, and a bit of a halfway measure. In Tasmania, on election day, there is no campaigning. That is one of the options that could be considered. Would you see that as a more viable way? We would say that, on election day—we are not quite sure what we would do about pre-poll, but on election day—all activity would cease. Is that something you would support?

Ms Faulkner: Absolutely, yes; we would support that. The 100-metre restriction is fine, but having been through both a federal campaign and an ACT one, people have made up their minds by the time they get there. I think it is more of a nuisance. For small parties, it is difficult to get people to go to every booth, anyway. We would be totally supportive of having no people at polling places on the day, but we could live with the current situation.

THE CHAIR: It then extends to polling day and the six-metre rule, in that if you were to allow everybody to be at those pre-polls, I assume you would think that would be an advantage to the major parties.

Ms Faulkner: Yes.

THE CHAIR: They could swamp those polling booths with people and organisers, whereas the minor parties are at a disadvantage; is that right?

Ms Faulkner: Correct, yes.

THE CHAIR: Because they just cannot get the people to put on the ground.

Ms Faulkner: That is exactly right.

THE CHAIR: Thank you very much for your submission and for appearing today. We will see you at the next election, I imagine.

Ms Faulkner: Maybe.

THE CHAIR: Maybe or maybe not; we will see.

Ms Faulkner: Thanks for the opportunity today. I hope it all goes well, and I look forward to seeing the outcomes of this inquiry.

PAINE, MR BRUCE

THE CHAIR: Welcome; thank you for coming today. Can I confirm that you are aware of the pink privilege statement?

Mr Paine: Yes.

THE CHAIR: I invite you to make an opening statement.

Mr Paine: Thank you for inviting me. I would also like to acknowledge the Ngunnawal people, the traditional custodians, and pay respect to all of them. My submission, and my address, essentially address the “any other matters” part of your terms of reference. In this opening statement I will briefly recap the main points from my written submission before presenting some further information.

My written submission outlined several reasons why no independent candidate has been elected since 1998, and made a key recommendation that, if adopted, would allow independent and minor party candidates some chance of being elected. That recommendation is that the ACT electoral system return to three electorates, but with the same electorates that are used for federal electorates, and that the number of members per electorate be increased.

On reflection—and this differs from my submission—I think that the number should be increased to nine per electorate, essentially to reduce the possibility of a tie in the Assembly. Three nines are 27; it does not divide by two. This would still give some chance of a good independent or minor party candidate being elected.

I will now provide information comparing the percentage of the formal vote for independents and minor parties with the percentage of the seats they obtained in all state and territory jurisdictions. That is the graph that you have, that I have just provided. The footnote to that graph outlines the basis for it.

At the last ACT election, nearly 15 per cent of votes went to independents or minor parties. That puts the ACT at about the median of all states and territories. However, no independent or minor party candidate was elected in the ACT. That puts the ACT at the bottom. The ACT is the only state or territory without even one independent or minor party member. The difference is not how people in the ACT vote; the difference is in the ACT’s electoral system, which is heavily stacked in favour of the three big parties.

I will now expand on why the ACT’s current electoral system is not good when it comes to furthering the wellbeing of the general community. A key reason is that the current electoral system, in practice, results in the Labor, Greens or Liberal parties having control of all 25 members of the ACT’s Assembly. Having no independents or minor parties closes off an important channel by which matters of concern to the general community can be made public, and are made public in other states and territories. Unless an issue in the ACT is taken up by at least one of the major parties, it does not get aired in the Assembly.

This is not a theoretical concern. It is easily arguable that if the ACT had had independent members in recent years, problems with, for example, building quality would have been addressed earlier and/or an integrity commission would have been established earlier.

I recognise that members of the committee and the Assembly generally operate within the political system as it has evolved so far. However, I am inviting you, and also them, to take a broader and longer term view, and to make changes to the ACT's electoral system that will allow independent and minor parties some chance of being elected. Allowing that opportunity by making our electoral system genuinely contestable is likely to improve outcomes for the Canberra community generally. I am happy to try to answer any questions on that graph or my submission.

THE CHAIR: Thanks very much for your submission and your evidence here. You raise an interesting point, because when the Hare-Clark system was envisaged, and certainly in the early iterations of the Assembly, independents and minor parties were elected. That has not happened, as you have identified. The solution that you have is an expansion of the Assembly and a change of electoral boundaries. That may or may not happen. Beyond that, could the way that either the Electoral Act or ballot papers are constructed be changed—more tactical issues? Are there smaller things that could change that would help independents, beyond just increasing the number of candidates or members per electorate?

Mr Paine: I think there are. I do not have a long list, but, for example, there is the possibility that has been raised by the success of an independent in the Tasmanian lower house. As I understand that system, they were elected in a five-member electorate, but, at the very tactical level, and even in the minute detail, it is a bit different in Tasmania. For example, independents can get their own column. A single independent can have their own column; then they appear on the same basis as parties. I printed off a copy, but you are probably all quite cognisant of it. The single independent that was elected in Clark—I think I have it right—was Ms Johnston. She appeared in the second column. Well to the left there were the Greens, then Ms Johnston, and it went across to the other ones.

At that sort of level there are things that could be done. I am sure that, if the committee and the Assembly were interested, some questions to people who have tried to stand as independents or minor parties would soon unearth several suggestions. Basically, the whole system, to an outsider—and, with respect, perhaps, at most, only one of you was there in person when it was designed—seems to be stacked against small parties and independents.

I heard your questions before about corflutes. By way of observation, we saw in the last election campaign that various candidates had tens if not hundreds more—I am not talking about the stock, but additional ones—that were provided at very short notice. That is simply not possible for an independent.

THE CHAIR: From the independent perspective that you are presenting, you would rather see fewer corflutes than more; is that what you are saying?

Mr Paine: I think that is right, for various reasons, including the disadvantage for

independents, as well as the environmental issue. I was almost embarrassed for the community, regarding how many were out there. We could do a lot better. In my submission, I put in there, for example, the establishment of a small, limited number of sites, to allow equal access to visual advertising. For example, at each shopping centre, have a thing, and allow each candidate and each party one, or something like that.

THE CHAIR: I assume, following evidence that we got from the Canberra Progressives about polling day, that you would not want to see a federal election type system because you would not be able to get people at the polls, whereas the major parties can get somebody at every polling booth. For an independent, they could maybe get to one or two, so that is a disadvantage.

Mr Paine: I am a strong supporter of government and a strong democracy. I am not trying to undermine it; I am trying to get it to work better. I think that we should provide as much information early on, so that people can contemplate it, and encourage them to look at it and contemplate it, and take a very reasoned and considered view. I would not be keen on a federal thing, which I understand, reading between the lines, brings it to six metres. Also, what we are facing is more and more pre-polling. There are reasons for that. I do not see that that will reverse in the future.

DR PATERSON: Bruce, am I correct in saying that I did see your corflutes?

Mr Paine: Yes.

DR PATERSON: I find it interesting, similar to the Canberra Progressives, because I felt their corflutes stood out as well. I would not have known that they existed if they had not had corflutes. That is, similarly, the case with you. In trying to expand the information that is available to people about candidates, corflutes are just one piece of the puzzle, but surely they are helpful in some way—even just a few. I did not see so many of yours, but there were a few; they still stood out. My concern is: if you ban corflutes, it will quite significantly and detrimentally impact minor parties and independents, in terms of public awareness that they even exist.

Mr Paine: I think that is a possibility, but I always try to look at things from an overall view and from the community's perspective. I cannot quite recall whether I had 50 or 100, but they were quite expensive, and environmentally probably not a good thing, although I gather they can be recycled now. They were very time consuming to put up, and it was also quite irksome that probably about 50 per cent of them or more were vandalised, essentially quite quickly. There seemed to be a running battle.

Looking at it from the overall community perspective, I think the detriments outweigh the benefits, even though for an individual like me they might have been a way to get a few people to recognise me. On the other hand, if there was a general practice within the community to look at online sites—and you are aware of which ones were there—to me, that is a lot more environmentally friendly. A lot of people, not all people, are online.

If it was combined with banning them and, let's say, at each shopping centre having

three square metres or something that the government ropes off—perhaps they have to be on a stand so that everyone gets a fair go—that is probably better overall. As you would probably recall, the first time they were allowed to be displayed, within minutes all of the prime spots were taken. I think we can do a lot better for the community overall.

MS CLAY: There is a really big range of ideas to get better, more even-handed information out to the electorate, so that we can have well-informed, genuinely participatory elections, which is great. You had a suggestion about better instructions on what your one-to-five vote means. That was interesting.

You also had, which is slightly more problematic from the Electoral Commission's point of view—I know exactly what they would say, because they told us this last week—giving media training to candidates. I imagine they would find that to be a breach of their independence, but there might be other ways that they could assist to get more information out. I would love you to talk me through some of those.

Mr Paine: I thought the Elections ACT site, where we could put information up, was useful. In the fine print, I think it is in there. I said that candidates should be allowed to put stuff up there as soon as our reporting obligations are complied with. At least for independents, that stuff was up very late, in practice. Someone can check what the fine detail was.

That is not meant to be an implied criticism of Elections ACT; I think they put it up as soon as it was allowed and as quickly as they could do a reasonable check. It was more about when we could submit it. I think we are under reporting obligations from the beginning of the calendar year, or something like that. At that stage there should be a publicly funded website where candidates can put things up.

There should be some vetting to make sure there is nothing defamatory and that sort of thing. I think it should be publicly funded. It seems to be not quite proper to have that in the private sector. There was that mob, whatever they were called—I cannot quite recall their name—who put it up. That site worked. But why not have essentially one public billboard, and that is where people can go to? Were there other aspects that you were interested in?

MS CLAY: You suggested better wording on our ballot papers so that people understand what their vote means.

Mr Paine: Yes. I am challenging you a bit, but if you went out and did some research and asked people what they thought it meant, almost certainly you would find a very different understanding regarding what it actually means. In fact, with respect, perhaps not everyone in the Assembly understands how it works, and there are not very many commentators that do. Unfortunately, one passed away a few years ago.

I had a minor party that I formed in 2016, but we did not run any candidates. In discussions during that, there was a marked lack of understanding. The reason that we did not run any candidates was because we could not find anyone who we thought was suitable and willing.

I think there should be some serious work done on that instruction because it is an important matter. For the record, my clear understanding is that it is a single transferable vote, so you are really just electing one person. There is an almost total lack of understanding about that.

This is another area where the system is really stacked against independents and minor parties. I am not sure whether it is deliberate or otherwise, but all of the big parties, and some of the others, stand in five. In my mind that is meant to imply to voters that they are electing three Labor and two Liberal, or something like that; in fact, that is not the case.

DR PATERSON: You talked about increasing the number of representatives per electorate. You think that that would contribute to better representation from minor parties and independents in the Assembly. Why do you think that is the case? Maybe it would just lead to a situation where you end up with five Labor—

Mr Paine: It could, but I suspect it is a simple matter of mathematics. I think I have my maths right: if there were nine, the quota would be 10 per cent. There have been a few—not many—independents and minor parties who have got close to 4,000 or 5,000, but none of them are within cooe of 8½ thousand.

With respect—at least two of you were not there; perhaps no-one was there—it was designed very carefully by at least the two biggest parties, and it just happens that the Greens got through the thing. As I said in my written submission, they are big enough so that an independent or a minor party cannot cover the electorate. The number five was picked, in my humble opinion, very carefully.

With respect to coming up with a number, five and 25 is pragmatic; I do not think anyone would want to give up their job. In hindsight, having eight in each does lead to a tie. An alternative would be to go back to seven. I think we would be far better off with three by seven. It would be much simpler to just use the federal electorates. They may not be perfect from an ACT perspective, but they have been good enough from a federal perspective. As I said in the submission, that would allow people to campaign, write or become known on federal issues; then they would have the same essential stamping ground or whatever you want to call it when it came to the ACT election. Seven is a marked improvement on five, in terms of the quota.

MS CLAY: On a similar note, putting aside whether the system is skewed one way or another to electing a certain type of candidate or a major party candidate, the electorates that are drawn up, I understand, are drawn up based on the fact that they are trying to capture people in a similar area. They are drawn up on social, economic and geographic lines. They are trying to capture regions, so that a region can pick people that they feel represent them in that region, which is where we have those five at the moment. If there were to be any review of how many to have in each electorate, or where those electorates were, putting aside what the system leads to, what is the principle on which the system should be geared?

Mr Paine: In terms of identifying the electorates, it should be the same, or a similar, principle to what led to coming up with five. As I understand it, and I stand to be corrected, at the federal level a similar principle prevails. Those three have been

picked because of some cohesion and commonality of interest. To me they do not look grossly different to the five that we have. I do not think there would be a marked change in going from five back to three, in terms of how common the interests were, or the issues affecting those people. Obviously, there are, or potentially there could be, different matters at the state and local level that ACT government does, versus the federal government. In terms of the numbers, is that the other part of your question—how many?

MS CLAY: Yes. The principle of the numbers; how many should there be?

Mr Paine: There should be a balance regarding having enough people to represent the community and do the work. Another factor would be to make it reasonably contestable for all candidates. Imagine that we only had one person; imagine that we had single-person electorates. We would behave like Gough Whitlam did in his early days, so we would just have three. With the greatest respect, I suspect we would end up with three Labor all the time. That is obviously a bit ridiculous. Similarly, if we went down to the other end, and had single-member electorates with only two suburbs, perhaps you would end up with all Labor as well. That might end up with far too many people.

There is a common-sense balance. Somewhere in the 20s is probably about right. We could go back to three by seven or three by nine. I think it would be hard to make a case that the world is going to fall in, having regard to either of those examples.

THE CHAIR: Mr Paine, thank you very much for your submission and for appearing today, representing independents. Your submission was very interesting. The extra information that you have provided will be useful for the committee as well. Thanks very much. We may or may not see you at the next election; we will see.

Mr Paine: Thank you for letting me appear. I am sure I and many others will be looking out for your report.

McNEILL, MS JENNIFER, Deputy Director-General, Justice, Justice and Community Safety Directorate

HUTCHINSON, MS ZOE, Executive Branch Manager, Legislation, Policy and Programs, Justice and Community Safety Directorate

THE CHAIR: Welcome; thank you very much for coming along. Can I make sure that you are aware of the pink privilege statement that is in front of you? That is great. These proceedings are being transcribed and recorded, and live streamed. Thank you for your submission. I invite you to make an opening statement.

Ms McNeill: I have no opening statement, Chair; we are very happy to proceed to questions.

THE CHAIR: An issue that has come before the committee is that of electronic voting—the code. Particularly in the submission from Professor Teague and her team from the ANU—they appeared before this inquiry—they raised the concern, and it seems to have been agreed by the Electoral Commission, that there were inaccuracies. It did not affect the outcome, but the number of votes recorded was affected and there has been some toing and froing in terms of what code should be released and how that process is audited. Have you had a look at electronic voting? Are you comfortable that the systems being used—hardware, software and processes—are robust enough?

Ms McNeill: That is a matter which we would regard as being principally within the purview of the Electoral Commission. We take some comfort, obviously, from the report that indicated that the outcome of the election was entirely unaffected. I think that the commission has publicly agreed that there were some deficiencies in the code that are being addressed; so the system is working satisfactorily.

THE CHAIR: You are not of a view that there need to be any additional resources for the Electoral Commissioner to sort those systems out? Have there been any conversations with the Electoral Commissioner about that database to reassure the directorate that they have what they need to make sure that that system is robust in the lead-up to the next election?

Ms Hutchinson: We have had conversations with the Electoral Commission regarding the report and the conversations in relation to the data drawn out of the electronic voting system. Our understanding and advice from the Electoral Commission is that they are confident of the robustness overall of their systems, while acknowledging that those errors did occur. The errors, ultimately, did not affect the outcome of the election. We have had those conversations, and we are confident, on the basis of those, that the Electoral Commission has robust processes going forward.

THE CHAIR: Going forward to the next election, you are comfortable that they have all of the resources they need and the processes in place to address those issues?

Ms Hutchinson: Based on their advice.

DR PATERSON: Following on from that, one of the things that came up in the last hearings was around the fact that, with the touchscreens, there is literally no audit to

check whether they are working. Someone puts in their vote and it is gone; that is it. The argument was that you cannot know it is robust if you have not audited and checked it. One of the calls has been for the touchscreen process to be randomly audited throughout the election process so that people have confidence in the system. I am wondering what your thoughts are around that.

Ms Hutchinson: In terms of specific auditing frameworks, the Electoral Commission is probably best placed to advise on those operational issues. It is something that we could certainly further explore with them around audits of that nature.

DR PATERSON: Something that came up in one of the submissions this morning was about a register of property developers and having it quite explicit about who is a property developer and who is not, in the ACT. Is that something that would fall under the directorate, the ACT government, or is it something that would sit with Elections ACT?

Ms Hutchinson: It would depend on how that particular provision or requirement was structured in legislation. It could be something that would sit with Elections ACT, as the independent authority responsible for elections, or it could, subject to parliament's will, sit with the directorate.

MS CLAY: We heard from the Electoral Commission last week. They expressed a level of discomfort with some of the things that a lot of the submitters would consider as part of their core role. To summarise, obviously, they are an independent regulatory body and they need to preserve their integrity in carrying out that role, but they seem to find it a bit difficult to have any kind of role in truth in political content—truth in political communications.

A number of submitters have asked for them to have a continued or a greater role in providing candidate information, ensuring that we have a well-informed electorate. Do you have any views on that balance between their regulatory role and their role in democracy, in ensuring that there is good quality, fair and even-handed information about elections, candidates and parties?

Ms McNeill: At the end of the day, these are policy matters for government and the Assembly. I would observe that it is possible for independent regulatory bodies to assist particularly with information dissemination. There is a way of presenting information so that they are not owning that information, if that is the anxiety that the commission have flagged. I think they can play a very important role in ensuring that the information is available in a single spot to electors. There is certainly merit in that, and I think there are ways of managing the discomfort and anxiety around the perception of bias or owning the representations that might be being made by parties, if that is the concern.

MS CLAY: Some of the submitters suggested that perhaps the fact checking could be outsourced to an independent body, but the commission itself could then gather that information together and make a decision. There are also other regulators that act as arbiters of truth, like the ACCC. Do you see any barriers, opportunities or better ways of managing that role?

Ms McNeill: Ultimately, it would be a matter for the commission to decide how it was going to undertake what you have called the truth-checking function. For example, it could adopt a complaint-driven model, where members of the public or members of other political parties might raise concerns about the advertising that one of the candidates was presenting.

On the question of whether the role is directly akin to roles undertaken by others, I am aware that organisations like the ACCC deal with representations that have a commercial dimension to them. Very typically, they would not take on an assessment of political-style material that does not have that commercial context. It is, I think, qualitatively different from the kind of fair trading role that fair trading agencies play.

THE CHAIR: The commission, when they appeared before us, raised an issue with their accommodation—their facilities at their end. Have they had any discussions with you, that you are aware of, or would that go to Property Group? Are you aware that, when they run elections, they are trying to find other accommodation? At this stage have they raised those concerns?

Ms Hutchinson: That is not a matter that the directorate looks after in respect of Elections ACT. I am aware, though, that they are looking for permanent accommodation arrangements.

THE CHAIR: You have no role, as JACS, in facilitating that? Do they go straight to ACT Property Group? Who does make that decision?

Ms Hutchinson: It is a decision that is made by the ACT government in totality. Obviously, given the independence of the organisation, that is not something of which we necessarily have oversight, as the directorate.

THE CHAIR: I get it that, on electoral matters, they have independence, but we are talking about the logistics of their ability to operate in a building.

Ms Hutchinson: Yes.

THE CHAIR: I would not have thought that that would be a matter of their independence or not. Who does that go to, to make that decision, if not JACS?

Ms McNeill: That is a matter that I will double-check, but I am reasonably confident that it progresses through—is it the Speaker?

Ms Hutchinson: My understanding is that it progresses through the president—

Ms McNeill: Okay, the president.

Ms Hutchinson: in relation to any budget bids that the Electoral Commission might be putting forward. Obviously, the budget bids go before government for consideration.

THE CHAIR: So it needs to be dealt with as part of a budget process, rather than just recognising that they need additional space. We would expect to see the Electoral

Commissioner's budget submission going through that process.

Ms McNeill: If the request for a change to accommodation had a budgetary impact then the answer to that is yes.

DR PATERSON: One of your amendments to the act is to:

... require the full given name and surname of a person and the name of an entity
... to be shown in an authorisation statement to allow the public to identify the
source behind the dissemination of the electoral matter ...

Isn't that currently the case?

Ms Hutchinson: It was previously the case that people could use an initial, rather than their full name.

DR PATERSON: Their first full name rather than "M Paterson"?

Ms Hutchinson: Yes, that is right. A concern was raised by the Electoral Commission that the use of initials made it sometimes difficult to identify who had authorised the particular advertisement.

MS CLAY: You have noted a few matters in the parliamentary and governing agreement as items on the agenda for reform. I am quite interested in whether you have had any thoughts about real-time political donation reporting—we have had quite a lot of submissions about that matter—and banning political donations from foreign sources.

Ms Hutchinson: With those matters, we are probably awaiting the outcome of this inquiry to do further work in respect of those. As a general principle, in relation to real-time seven-day reporting, in other parts of the Electoral Act we also have matters that are already subject to close to real-time reporting requirements. The committee would be looking at whether to expand those current requirements.

MS CLAY: We had some operational suggestions from the people who were on the ground and the parties about how that might be done better, and tools that might assist. Some of the content was about things like better web portals, like MyGov or A-G, and just making reporting easier. I am assuming from your first answer that we should make policy decisions first and then decide how we do it operationally, and we should not get too bogged down in the detail?

Ms Hutchinson: In a way, practical considerations will also feed in to policy decisions. Of course, as I said, we would await the outcome of this inquiry before exploring policy options further.

MS CLAY: There are no massive barriers that have come up so far, or has there just been no work done?

Ms Hutchinson: There has been limited work done on these particular proposals.

THE CHAIR: There has been discussion about idling vehicles with banners on them, parked cars with banners and roadside signs. I assume part of that relates to being a distraction to drivers; there is a safety element to it in regard to the law. A number of candidates and political parties have circumvented that by standing on the side of the road, wobbling the sign, rather than putting it in the ground. At busy intersections, lots of people standing there and waving signs at drivers causes distraction. Do you see a potential issue with that?

Ms McNeill: The corflutes issue is dealt with as a land management issue, so I suppose it is a creative way of getting around the device that has been used to regulate those. We would need to take advice on the risks that were presented and whether there was any issue under current laws with that kind of conduct.

THE CHAIR: It seems to me that if the view is that we do not want proliferation of roadside signs, cars parked on the side of the road, banners or whatever, people are then circumventing that because of the way that the law is written. By standing there with a sign and waving it around, there is a point of view that this is a distraction, particularly to road users and so on. That would potentially be far more distracting, particularly as they are going to congested traffic points. If the law was structured in such a way that roadside signs were prevented or banned, would that include that, or would there need to be another legislative amendment made that says, “Hang on, the intent of this is to stop stuff on the side of the road, and just because you’re holding it rather than having a stake, you’re just trying to circumvent the law”?

Ms McNeill: We would need to reflect a bit more deeply on whether there are traffic laws at the moment that might regulate that kind of behaviour.

THE CHAIR: It all gets a bit mixed up. I am wondering about knowing whether that was breaking existing laws. If you are not allowed to have a car idling, are you allowed to wave a sign? Is it an issue from a safety point of view, at a busy junction? I certainly know that in my electorate, on Hindmarsh Drive, that was used by all political parties to go and wave signs around. I would have thought that that is not necessarily a safe thing to do; I do not know. I do not know whether that is captured under existing legislation or whether there should be a policy decision to have an additional amendment to say, “For the purposes of political campaigning, waving signs.” Does it need a legislative amendment?

Ms McNeill: It bears reflecting on, given the limitless creativity of people, whether simply passing a law about waving signs will be the correct response or whether something of more general application that might anticipate fresh and creative responses would be appropriate.

THE CHAIR: Given that you have said it requires some thinking, are you able to think on it and come back to the committee; or are you just going to think on it and—

Ms McNeill: We can certainly think on the extent to which that kind of behaviour might be currently regulated, if that would assist.

THE CHAIR: Currently regulated; whether it would say that it is against the law now or whether it would need a legislative amendment.

DR PATERSON: Going to that point, if you banned corflutes then every candidate is going to want to stand on the side of the road.

THE CHAIR: That is the problem.

DR PATERSON: There is a potential flow-on effect.

THE CHAIR: You solve one problem and you create another. All of a sudden, the junction of Hindmarsh and Melrose becomes the site for every candidate in the electorate, with potentially 30 people waving signs, and there is nothing to stop that. Maybe there is. I do not know, but it would be good to know. If it is not, the committee has to make a decision as to whether that should be okay or not. Maybe you could reflect on the fact that a proliferation of 30 candidates all waving wobbleboards would potentially have an impact on road safety. I would have thought so but I am not an expert on this.

DR PATERSON: In terms of the cost to the ACT government through city services or the rangers, I am not sure who was collecting the signs when they were knocked down, posed a risk or were put in the incorrect place. What does that cost look like?

Ms McNeill: I do not have any information about that to hand, but we can see whether we can ascertain some information.

DR PATERSON: Because it is a six-week period of having signs. We have all gone and collected them at points, and there would be a cost to the taxpayer.

Ms Hutchinson: We can reach out to our colleagues in city services and see whether they have figures around that.

MS CLAY: We made a lot of changes for this election due to COVID. A lot of those changes were popular and increased accessibility. We have had some specific submissions on how long pre-poll should be for. A lot of the views lodged are that pre-poll should be for two weeks, not three weeks. There is a lot of enthusiasm to make pre-poll available to anybody at their convenience, rather than for limited circumstances. A lot of accessibility changes were made. Do you have any views on which of those worked really well and should be retained in ordinary times?

Ms McNeill: Some of those changes had previously been recommended but the COVID environment really increased the criticality of giving them a go, if I could put it that way. Into that category would fall the opportunity for telephone voting by people with a disability and people that were vulnerable.

Ms Hutchinson: And voting for overseas electors. Both of those were recommendations of the 2016 inquiry into the Electoral Act.

Ms McNeill: As far as I am aware, the Electoral Commission has not raised any concerns about them. With implementation during the COVID period, that seemed to work well. The question of pre-polling is a very interesting one because one wants to maximise the engagement of the electorate and maximise opportunities for voting; at

the same time, given that an election period runs a course, you do not want people voting before they know exactly what they are voting for.

THE CHAIR: An interesting balance.

DR PATERSON: With respect to the caretaker periods, I read in one of the submissions—I am not sure if it was Labor’s or another submission—that we have the longest caretaker period in Australia. What are your thoughts around reducing that?

Ms McNeill: Ultimately, that is a policy matter for the government.

THE CHAIR: Going to the costings, I assume that was done through treasury rather than you guys, but did you get any feedback on how that process worked, in terms of the costing of election promises and—

Ms McNeill: I do not have any direct insights, no. It was done through treasury.

DR PATERSON: You may not be able to answer this, but going back to the pre-poll places that were rented over the election period, one submission referred to Bonner House, in Woden; that was rented from Westfield for the election period. They have very strict rules about putting up signs, so people were not able to find the polling booth there easily. Who makes the decision in terms of where these pre-poll places are rented? Should consideration be given in the future so that, if you can’t put signs up, it is not a great place for a pre-poll facility?

Ms Hutchinson: The location of polling places is a matter for the Electoral Commission.

THE CHAIR: Thanks very much for your submission and for appearing today. If you are able to provide the committee with a response to those questions about the creative use of corflutes, that would be greatly appreciated.

DR PATERSON: And the expenditure.

THE CHAIR: And expenditure, yes.

Ms McNeill: We will follow it up; thank you very much.

The committee adjourned at 12.13 pm.