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THE LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION B COMMITTEE MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON MONDAY, 1 JUNE 2015

TASMANIAN ELECTORAL COMMISSION

Mr NICK McKIM, MP, TASMANIAN GREENS, WAS CALLED AND WAS EXAMINED.

CHAIR - (Mrs Armitage) - I know I do not have to remind you but, of course, this is being recorded by *Hansard* and all evidence is protected by parliamentary privilege but anything you say outside is not.

Mr McKIM - Thank you, Chair. I thank the committee for accepting my submission and inviting me in today to give evidence to you. I really appreciate the opportunity on behalf of the Greens.

If our submission is accepted in its entirety it would significantly improve the functioning of the Tasmanian Parliament. It would significantly improve the functioning of Cabinet and therefore the decision-making processes of the Tasmanian government of the day and importantly it would significantly increase public confidence in our democratic system in Tasmania.

We have obviously made a number of recommendations to the committee. Firstly, Tasmania is currently the only state which does not have state-based donations disclosure legislation. This is a massive gap in our democratic framework and one that ought to be fixed as a matter of urgency. I would respectfully request the committee to give that matter very careful consideration.

The issue here is that when voters are not aware who has donated how much to whom when they go to the ballot box, that represents a significant disenfranchisement of Tasmanian voters. We believe voters have the right to know who has donated how much to which political candidate or which political party and they have a right to know that before they go into the ballot box. In this day and age a system of real time or very close to real time disclosure would not be hard. It would simply require the establishment of a website that a political party's candidates are required to submit to within a short period of time after receiving donations over a certain threshold. It is entirely doable and would address our concerns but of course that would require a legislative framework to back it up.

We also strongly recommend a much lower threshold for the public disclosure of political donations. At the moment it is correct to say that there is a national system for disclosing political donations, however there are some issues with that, particularly as it relates to Tasmania, because we do not have a state-based donations disclosure framework. The current disclosure threshold nationally is \$10 000 as a base rate and then they increase that in line with CPI each year. My understanding is that in the financial year of 2014-15 that amount was \$12 800, and any donations below that amount can remain anonymous, and importantly that can include multiple donations.

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The same person or organisation can make more than one with no limit, as I understand it, on the number of donations. That is a way in effect of rorting the national donations disclosure framework. The intent clearly is that donations over a particular amount should be disclosed, and we think that is a good thing, but the fact that people and organisations can make multiple donations below the threshold allows them to donate large amounts of money well over the threshold without ever being identified. We do believe that is an issue in the national framework. If Tasmania were to establish state-based donations disclosure legislation then that issue should be dealt with in that legislation. There should be a ban on multiple anonymous donations.

We also think the threshold of \$12 800 currently in place nationally is too high. Most citizens would not be able to afford to donate nearly \$13 000 annually to a political party. We believe that a cap should be not greater than \$1 000, and we would argue that a cap as low as \$100 would be worthy of consideration by the committee.

We recommend to the committee the establishment of a political expenditure cap. This is an important issue because it goes to the heart of the title of our submission which is 'Democracy for Sale'. I do not think we want an American-style political system in this state where the depth of your pockets is a significant determinant in the electoral outcome you can achieve. We think political debates should be about policy, values, vision and ideas. They should be the prime drivers of political debate in Tasmania and they should be the prime matters voters consider when they go to the ballot box, whereas at the moment there is no expenditure cap. As you would all know very well, there is a cap on expenditure by candidates for the Legislative Council, but in the House of Assembly there is no cap. There have been some reports that the current Government, the Liberal Party, spent over \$2 million.

Mr DEAN - There is no cap on independents either if it's done before 1 January of the electoral year.

Mr McKIM - That is right. We did not submit on that, but that seems to me a gap in the framework around Legislative Council expenditure and may be something that the committee might like to consider. In any event, we strongly recommend a cap on election expenditure. This would be something that would need very careful consideration because you are dealing with both political parties and candidates who may not necessarily be a member of a political party. So we submit there would need to be two scales for setting the cap: one for parties and the other for individual candidates who are not members of a party. We would urge that no double-dipping be allowed. I will use me as an example. I wouldn't expect to be able to spend money under the cap that is allocated for political parties, plus the cap for candidates, if you know what I mean. If there were recommendations along these lines, that would be something the committee would need to consider.

Mr DEAN - On the cap, and I will use Andrew Nikolic as an example. He started campaigning three or four years before, so how would you cover the cap in that situation? In other words, would you start when they start campaigning?

Mr McKIM - That is a good question. I would respond to that by suggesting that this expenditure be caught by the cap no matter when it was expended if it were expenditure for the purpose of that particular campaign. So if any candidate started campaigning a

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year or two out from an election, then any expenditure in that period should be caught, if you like, in the calculations around how much that candidate has spent on that election. Therefore the cap should apply, no matter what the timing of the expense.

Mr DEAN - That is on actual expenditure dollars paid out by the person?

Mr McKIM - That is right.

CHAIR - It could be a bit difficult, though. I can remember Sam McQuestin when he went for my seat. He had signs saying 'Sam McQuestion for Launceston', but it doesn't say 'Vote 1'.

Mr McKIM - You would need some process that was able to make a determination about whether something was or wasn't. In that example, Chair, I would submit very strongly that that is campaigning, no matter whether it said 'Vote 1' or not. The intent there seems clear to me.

Mr VALENTINE - I guess some would say, in the case of Legislative Councillors, that they had electorate allowances from which they provide grants to various bodies and -

Mr McKIM - Same with House of Assembly.

Mr VALENTINE - So if you are a candidate who is not a current member they will say, 'Hang on a minute. These people are out there promoting themselves through the grants they make.' Do you see any complexities there?

Mr McKIM - There may be complexities there. I can only speak for myself in terms of my electorate allowance. That is each year expended fully on support, mostly for people in my electorate, but I also sometimes help people who aren't in my electorate, and for communications with my electorate. I think a reasonable interpretation there is that this is part of the work of a member of parliament.

Mr VALENTINE - Part of doing the job.

Mr McKIM - Yes, I think so.

Mr VALENTINE - The same applies to Legislative Councillors. They obviously provide grants and things throughout the year.

Mr McKIM - My submission is that they ought not be caught unless it was clear that they were specifically designed to assist in a campaign and elicit electoral support, rather than the primary reason being the normal day-to-day work of a member of parliament.

Mr VALENTINE - Otherwise there would be a lot of organisations missing out on a lot of money.

Mr McKIM - There would, and that would be regrettable if that were the case, so I see that expenditure in normal circumstances as a normal part of the work of the member of parliament to support and communicate with the people we represent in the Parliament.

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However, if a part of the electoral allowance were used for signage, then that ought to be caught in the calculations around any candidate.

Mr VALENTINE - With respect to the cap, what level do you think it should be set at?

Mr McKIM - It is \$12 800 at the moment. We think it should not be greater than a \$1000. We would argue that the committee ought to examine even a lower amount - for example, \$100. If someone pays \$50 to come to a party fundraising event or a candidate fundraising event, I don't think we want to be in a situation where every last \$2 that someone spends on a raffle ticket at that event needs to be disclosed. The limit needs to be set at a reasonable place that catches people who are donating reasonably significant amounts of money to candidates.

Mr VALENTINE - So \$1 000.

Mr McKIM - We think not greater than a \$1 000, and potentially lower. In terms of expenditure cap, if the committee were minded to consider this you would need to consider a cap on political parties. We think somewhere around \$500 000 for a political party would be worthy of consideration, but being clear that individual candidates who were members of a political party could not double-dip through both the party cap and the individual candidate cap.

For individual candidates somewhere around \$50 000 may be appropriate. I acknowledge that those levels are much higher than the current level for the Legislative Council. I will offer a personal view about the Legislative Council expenditure cap; I think it is a little low. Communicating with your electorate as part of a campaign actually is a valid thing to expend money on. We are not arguing for a blanket ban on political advertising or political signage. In my communications with members of the public, a lot of them like the feel of an election campaign. I think it is important that you are able to communicate your values and your policies. That would be more difficult if you weren't allowed to pay for and buy media space or signage or produce leaflets that communicate those values and policies.

The Joint House Select Committee on Integrity that I was a member of, and Mr Hall and Mr Wilkinson were members, did recommend a review of the Electoral Act to provide for disclosure of the identity of sponsors of political advertising conducted by persons or organisations, other than political parties, during advertising campaigns. That allows me to say that I do think we need a cap on what I will call third-party electoral advertising, because the risk, if you put a cap on spending from parties and candidates but no other cap, is that money will be channelled through third-party organisations that will be used to effectively campaign for a particular party or candidate. If you didn't cap that as well I think you would have potentially an issue.

Mr VALENTINE - You are talking about a total amount they can provide.

Mr McKIM - I am talking about a cap on the amount that can be spent by third parties in the context of an election campaign.

Mr VALENTINE - There are two aspects. I am talking about the amount that can be spent by a third party in the context of an election campaign.

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Mr VALENTINE - There are two aspects - how much a third party might spend in support of a party or an individual, and also the total amount that any person or organisation can provide as support?

Mr McKIM - Yes, to a third party.

Mr VALENTINE - No, the total amount the third party can provide to any individual candidate.

Mr McKIM - Oh, in terms of a donation?

Mr VALENTINE - Yes.

Mr McKIM - I would see those as two separate issues.

Mr VALENTINE - They are two separate things.

Mr McKIM - I think they both need to be addressed if the committee is minded to recommend something along these lines.

Mr VALENTINE - Thanks.

Mr DEAN - You talked about the multiple donations made just under the limit. How would you control that? If the multiple donations exceeded the set amount, that would have to be disclosed.

Mr McKIM - Yes, exactly right. I think that is a fair way. If the totality of donations - this is done on a financial year basis, I would recommend leaving it on that basis - from any one donor, whether it be a business, an organisation or an individual. If that tallied over whatever the threshold is - at the moment it is \$12 800 nationally - that would then trigger the disclosure of the identity of the donor.

Mr DEAN - I will put another scenario: the Greens candidate in my electorate called for donations to be made to her election campaign. What would happen in that case if the donations well and truly exceeded the \$12 800 cap currently there? Say, by way of that, everybody individually donated \$20 or \$100, it mounts up to \$50 000 or \$100 000. Obviously no disclosure required, so how would you control that?

Mr McKIM - It would be very difficult and onerous to require people to disclose multiple donations of \$20. I'll just use your example. The committee may be minded to bring that in, but it would impose quite a significant burden on candidates and political parties. I think we need to find the balance between the imperative around making sure that donations above a reasonable level are disclosed and the identity of a donor becomes known, and imposing a framework that is so rigorous that non-compliance by accident, if you like, might become an issue.

Mr DEAN - Have you looked at the other states or areas that have that? Which one would you suggest is a reasonable one to follow?

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Mr McKIM - I should preface my answer by saying I have not done a rigorous assessment on a state-by-state basis.

Mr DEAN - You refer to some here, I noticed, but what is the best -

Mr McKIM - I am not in a position to answer that to the committee because I have not done the work, but other states do have donations disclosure regimes.

Mr FINCH - Ivan mentioned Andrew Nikolic and Eric Hutchinson, who too took a long time to get elected into parliament. Congratulations to him and Andrew on their stickability on taking a long-term view - being kicked in the pants at an election, but they still kept going in their desire to serve their state in this way. It is very difficult -

CHAIR - Your question?

Mr FINCH - Don't you think it is difficult to quantify that salute to stickability by saying, 'Hang on, you are going into an election campaign - no, you've spent all your money over the last four years as a candidate wanting to get into parliament'?

Mr McKIM - It potentially is difficult but I do not think it is unsolvable. You could take, as a start date, if you like, the date on which the candidate announced publicly they were going to be a candidate for that election. It is very hard to campaign for an election without people knowing you are going to be a candidate in that election. So potentially the date from the candidate's public announcement. In fact, at least one Tasmanian Labor candidate for the next federal election is already out and running - Brian Mitchell - and good luck to him too. This is not about individuals; this is about trying to come up with a framework that serves Tasmania well. You could have as a start date, the date of the candidate's announcement.

You may need to consider candidates who want to spend - for example, by ordering signage - before they announced. I'm not sure we should design the specific details of the system on the fly here. But it is not beyond the capacity of humanity to come up with a system that would impose much more rigour and much more fairness on elections in Tasmania.

Ms RATTRAY - I wanted to ask your view on in-kind support for candidates. I struggle to see how we are going to actually be able to quantify that in dollars. I instance potentially a union supporting a particular candidate at any given election. They send around to their three or four or five thousand members saying, 'This is the person we believe best suits our values and our direction.' Do you have some comment about that?

Mr McKIM - It would be very difficult to create a framework around that. The risk would be that you are impinging on people's right to have a view and communicate that view in a twenty-first century democracy, which would be quite a dangerous step for any of us to suggest or to take. So we would simply recommend the framework be around dollars, not in kind.

Ms RATTRAY - They pay dollars to their union fee. Their union fee is quite substantial in quite a number of unions, I believe - I have never belonged to a union.

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Mr McKIM - I am sure they would have you, Ms Rattray.

Ms RATTRAY - Therefore in some regard you could say they are supporting that union, and then the union potentially is supporting a particular candidate, and so that does provide a financial benefit.

Mr McKIM - Yes. I wouldn't argue with the principle you are making. I would answer by saying we are dealing with politics, where very little is perfect and very little is an ideal-world scenario in the profession we are all in. You could make significant gains around the money aspect of donations. There are counterarguments around freedom of speech and freedom of communication that would probably outweigh any benefits that might come from trying to regulate things like voluntary contributions or time spent by third parties.

Ms RATTRAY - It's so difficult to be able to box it all into a nice little package. Is it not so bad the way it is?

Mr McKIM - I would argue that it is so bad because we have a situation in Tasmania whereby, because we rely on the national donations disclosure framework, which at times can take up to 18 months to trickle down and become public in terms of how national organisations may then use funding that they have had donated to provide to their state parties -

Mr VALENTINE - Hence your real-time argument.

Mr McKIM - Hence the real-time argument, exactly. The 18 months means there could have been two massive donations made: one in the previous financial year, one in the financial year in which the election is held. The people go to the ballot box with no idea who has donated how much to which candidate or party. I think that's a pretty fundamental right in a twenty-first century democracy, that voters have this information before them when they make the decision about who to vote for.

Mrs TAYLOR - Thanks for your submission. It raises a lot of points that obviously we have been discussing and are highly relevant. The discussion has raised the fact that it is not simple to fix. We might be able to make it better, but to make it perfect or even good is going to be difficult. I raise this issue of disclosure before election. It seems there is still a significant loophole there. If you disclose after an election, then obviously the deed is done, so it doesn't matter. While I hear your argument about real time it seems it would be perfectly possible for people to say, 'Well, I will give you this, but I will give it to you after the election. So you spend it in the meantime and I will give it to you later.' It is impossible to actually make it foolproof.

Mr McKIM - I'm not sure how you would get around that. It would be worth looking at other pieces of legislation in other states and no doubt the committee has resources that enable it to do that. You have identified a potential issue there and I do not have the simple response to that today.

We also would like to see a ban on political donations from tobacco companies whose primary profits come from tobacco, gaming, liquor and property development. We note that the ACT currently has a ban on donations from any corporations to parties and

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candidates. We also note that NSW has a ban on donations from property developers, tobacco, gambling and liquor companies, so those donations are already banned in NSW.

One of the key recommendations in our submission was to restore the number of MPs in the House to 35. I won't go through the rather sordid history of this issue. If you want to know exactly who said what to whom, I could recommend Bob Cheek's book to you.

Mr DEAN - And what not to read.

Mr McKIM - It is written in a readable way, Mr Dean, by an ex-journalist. It has some interesting commentary and history around this issue. It is worth reminding the committee that on 2 September 2010 the then leaders of the three parties in the lower House - David Bartlett, Will Hodgman and I - co-signed an agreement for parliamentary reform. We agreed that the House of Assembly should be restored to 35 members, with seven members from each of the state's five electorates. We agreed to support legislation that would restore the House of Assembly to 35 members at the next election. In other words we agreed to support legislation during the previous term of the Tasmanian Parliament, and that was co-signed by all three of us.

I have tabled it in the lower House and I understand it was tabled by Hon. Doug Parkinson in the upper House on the 28 September 2010. Unfortunately, led initially by Mr Hodgman and followed very quickly by Lara Giddings who took over from David Bartlett as Premier, both Liberal and Labor parties walked away from their commitment to this in the previous term. I note the Premier has consistently said he is still supportive of restoring the House of Assembly to 35 members when the Tasmanian budget situation allows for it.

Well, happy days, ladies and gentlemen; \$580 000 000 of ongoing recurrent revenue over the out years from the GST basically pulls that last remaining plank out from under him.

Mr DEAN - I don't think our terms of reference let us go there.

Mr McKIM - I was going to acknowledge the principle of comity and acknowledge that you are a Legislative Council committee so long-established traditions may lead you to be cautious in making recommendations about the House of Assembly. I do ask for your forgiveness because I couldn't talk about electoral reform without talking about this issue.

CHAIR - We accepted your submission.

Ms RATTRAY - Do you believe we should have equity and also have an increase in the Legislative Council numbers as well?

Mr McKIM - As members would know, when the numbers in the House of Assembly were reduced there was also a smaller reduction -

Ms RATTRAY - Four.

Mr McKIM - Four, thank you, Ms Rattray. I think the arguments are there for an increase in the number of Legislative Councillors but I don't think the arguments are as urgent as they are in relation to the lower House. One issue around the lower House is that it is

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very difficult to get joint House committees to meet in a timely way because once you accept that ministers generally do not sit on parliamentary committees - they do from time to time but not generally - so you are basically taking out nine or 10 people from the pool. I am sure members have struck issues around timetabling of committees. I know a committee Mr Dean currently chairs, and of which I am a member, has run into that issue from time to time. We have a government that has 15 members in the House of Assembly. If you go back to the previous term, the major party of government only had 10 members in the House of Assembly, almost all of whom were either ministers or the Speaker, which made it very difficult for Labor Party backbenchers to make committee meetings.

The corollary to increasing the number of MPs in a lower house is also to create a deeper talent pool for Cabinet positions. Our argument is that the Constitution Act should be changed to provide for an increase in the size of the Cabinet and that should happen concurrently with an increase in the size of the House of Assembly. As argument for that, the minister for education in Tasmania should be a full-time job. Having done it for three years with multiple other portfolio responsibilities, I regret I was not able to give that portfolio my absolute undivided attention. It is so important for Tasmania's future that whoever has the honour of being minister for education should be focused wholly and solely on education.

CHAIR - We are veering a little too far. I allowed it to proceed but once we started to go to portfolios, I thought we were going too far.

Mr McKIM - Thank you, Chair, I apologise for that.

CHAIR - That is all right.

Mr McKIM - My final point - and I do very much appreciate the committee's indulgence here - is around the Tasmanian Electoral Commission. This body is tasked with running our elections in Tasmania. Throughout my political career the commission has done it with absolute professionalism, diligence and impartiality, as it should.

The Greens are very concerned about the fact the Electoral Commission was caught in the Tasmanian Government's budget savings strategies in last year's state budget. I note that those budget savings are now imbedded in the state budget released last week. So those requirements, those savings burdens, from the TEC - and, it is worth noting, a range of other independent statutory authorities in Tasmania - are ongoing even though we have kicked over into the next budget cycle. We believe that at a minimum the funding for the Tasmanian Electoral Commission should be increased by the same amount that it was decreased in last year's state budget.

We do not have an inside knowledge, obviously, of the workings of the Tasmanian Electoral Commission. I understand the commissioner and some of his colleagues are going to give evidence to you this afternoon. At a minimum we would like to see that funding increased to what it was before last year's state budget on the basis that if the Electoral Commission struggles to do its job, the ramifications for the public's confidence in our democracy would be extremely serious.

Mr VALENTINE - Last year, 2013-14, it was \$796 000. In 2012-13 it was \$849 000.

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Mr McKIM - So it has come down already?

Mr VALENTINE - It is \$807 000 for 2014-15. So if you are saying prior to last budget, it is actually lower than last year's. So are you talking about 2012-13 figure, which was \$849 000?

Mr McKIM - The difference in those amounts is not particularly significant in the context of the overall Tasmanian budget. I submit that it is a significant reduction in the context of the Tasmanian Electoral Commission itself. We would not have any issue with going back to, I think you said, 2012-13.

Mr VALENTINE - It is 2012-13, but I would have to get that from the horse's mouth.

Mr McKIM - Sure. I think the commission is in a better position to present to you the impact of all those cuts on its operations. For us, though, the key is that the risk of something going wrong due to inadequate levels of resourcing would have an extremely high consequence in terms of the public's confidence in our democratic systems. The risks generated by the cuts far outweigh the value of those cuts to the Consolidated Fund.

Mrs TAYLOR - I want to talk about the issue of public funding. That would automatically remove a number of loopholes and questions. It seems to be a great idea. Do you know which states do it?

Mr McKIM - Yes. Only Tasmania and South Australia do not have state-based public funding, to some degree, of political parties and, in some circumstances, candidates, but I have not done a rigorous assessment of all the legislative frameworks in other states. It is worth noting that in Tasmania we have Commonwealth public funding that flows to political parties based on, from memory, the quantity of votes they get at any Commonwealth election. So there is Commonwealth public funding around the country, but in the context of states to the best of my knowledge it is only Tasmania and South Australia that do not have state-based public funding.

If we think it is hard arguing for an increase in the number of politicians in Tasmania I think it would be even harder to argue politically for public funding. I have often likened the campaign to restore numbers in the House - I have been commenting on and advocating this for well over a decade now since I was elected - to a rowing boat with very low freeboard. If one person starts wobbling around, the boat tips a little bit and the water starts coming in over the gunwales and the boat sinks. That is why, unfortunately, from our point of view, we have not seen the House restored to 35, because as soon as Will Hodgman wobbled the boat, Lara Giddings jumped overboard and it was left with us and a sinking boat in terms of the campaign.

I think it would be as hard or harder to argue for public funding of political parties, but there is a very strong argument for public funding of political parties in Tasmania. It would help break that nexus between political donations and politicians. That would be of benefit to us all in the way the community felt about us.

Mr VALENTINE - So you are saying no donations from outside government funding?

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Mr McKIM - There are different approaches to that particular issue around Australia. The prime driver of introducing public funding would be to break that nexus between donations and politicians. In that case you would need to ban donations over a certain amount and also ban multiple donations under whatever the threshold you established was. Again, you might look at something like \$100, which would mean it was okay to buy raffle tickets at a Greens or a Labor or Liberal fundraising event, but it was not okay to donate over \$100. That would allow parties, and independent candidates for that matter, to run events for their supporters where they could pay \$50 and come along and have lunch or buy a few raffle tickets or bid at an auction for low-value prizes, but it would break that nexus. I think the main concern around donations is corporate donations - companies or representatives of companies trying to buy access and influence, particularly with governments of the day but also with all political parties. That is an issue that would need to be addressed if the committee were minded to recommend public funding.

Mr DEAN - The position of ballot papers has come up through this inquiry. One question was around the right of an independent member being able to identify as an independent on the ballot paper. What is the Greens' position on that?

Mr McKIM - We haven't discussed that in our party room. I will be clear that this is my personal view rather than a Greens' view. Given you are required, as I understand it, to identify on the ballot paper that you are representing a political party, it wouldn't be unreasonable for independents to be able to identify as independent. But there would need to be a requirement that you haven't been a member of a political party for a period of time, because some people who style themselves as independents have previously been members of political parties. There would need to be a cooling-off period between when you resigned your membership of any political party and when you ran, in order for you to be able to label yourself as an independent. I would have thought a minimum of five years would be necessary to demonstrate you were independent, and maybe as long as 10.

Mrs TAYLOR - There are a number amongst our independents in the Upper House who are members of political parties.

Mr McKIM - There are, Mrs Taylor. I wasn't going to mention any names, but there are.

Mrs TAYLOR - No, I am not either. The issue, I suppose, is that they are not supported or endorsed by the party to run. They certainly feel, and I agree, that it gives them the right to run as an independent, even if they say 'I'm a Liberal independent', or a Labor independent or whatever, because they are not actually endorsed. That means if they are elected they still have the freedom to vote in a way that is independent, rather than having to vote along party lines. That's what people see as the independent part.

Mr McKIM - I accept there are members those circumstances apply to and that is what they would see. I would respectfully differ. The consistent feedback to me in my time in Parliament is that if you're currently a member of a political party then you are actually not independent and you shouldn't style yourself as an independent. There are lots of people very angry about members of the Legislative Council styling themselves as independent while they retain membership of political parties.

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Mr DEAN - The other question was Mr Wing's. You have heard his argument in relation to the ballot paper. He says there is an anomaly where on the top of the ballot paper it says you must vote for all candidates, but if you come down to the bottom it says you must vote for at least three or four, or whatever it is, to make your vote count.

Mr McKIM - Are we talking about the House of Assembly or -

Mr DEAN - I think we are talking about all ballot papers.

Ms RATTRAY - It says 'you must' and then it says you must vote for three or five or whatever the number is. This is in big letters and this is in small letters down the bottom.

Mr McKIM - The commission will be in a much better position than me to respond to this. My understanding is that in the House of Assembly -

CHAIR - At the top of the ballot paper it instructs voters to vote for all candidates; at the bottom it gives different advice.

Mr McKIM - I can see the argument that this is potentially confusing to some voters. I am not sure why those words are at the top. My understanding has always been that in the House of Assembly you just vote 1 to 5. I always go through, because one of the great joys is who you are going to put last. I always - whether it is a Senate ballot paper with many dozens of people or House of Assembly - go through right to the end. I actually cannot explain that. Perhaps that is a question better asked of the Federal Commission.

CHAIR - Anyone else have any further questions?

Mr VALENTINE - Yes. Not receiving donations from companies that have a net negative impact on the community - tobacco, gaming, liquor and development. How do you gauge that? How do you administer that?

Mr McKIM - Firstly, they have a framework in New South Wales. I am not sure whether it uses the net negative impact on the community definition, but I have been advised that it bans donations from property developers, tobacco, gambling, and liquor entities. I do not think there is an argument that property developers necessarily have a net negative impact on the community, by the way.

I think you would need to rigorously define what those companies are. It would not be in terms of naming the companies, but in words to the effect that if a company has a primary intent of selling tobacco, gambling products or liquor or of developing property, that would rule them out from making donations.

Ms RATTRAY - Fast food chain?

Mr McKIM - It does raise the question of where you stop, Ms Rattray, I do accept that. I will go back to my point that because we are operating in a political arena, it is highly unlikely that anything we do will be perfect. I like to try to keep making improvements to our systems. I think that what we have proposed in our recommendations will be a significant step forward.

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Mr FINCH - On disclosure of political donations, you cited the Local Government Association supporting the disclosure regime. What sort of anecdotal evidence has filtered through to you from the local government area that includes them in your recommendations?

Mr McKIM - I do not have the specific reference here but I am very happy to provide it to the committee after I give evidence today. That was a statement made in writing from Mr Alan Garcia. I understand that he has since moved on, but when he was the head of the Local Government Association, it publicly stated that it would support a political donations disclosure regime for local government in Tasmania.

Mr FINCH - Was that because that it had noticed more political ramping up as far as local government was concerned?

Mr McKIM - I don't think I am in a position to answer that question, Mr Finch. I simply do not know what the motive of that was. It does not seem to be an unreasonable assumption to make, but I do not know what his motive was then.

Mr VALENTINE - With respect to caps on expenditure for individual candidates, it seems quite apparent that there is quite a difference between local government and state government. For instance, I remember when I was running for Lord Mayor of Hobart, it was a cap of \$8 000. I think it was \$5 000 for alderman and an extra \$3 000 if you were running for both. When I ran for Legislative Council, which is not even the same area - in fact, it's probably half the area - the cap was something like \$13 000. Do you see any issues there?

Mr McKIM - Yes, I do. Your point is a valid one. If we are going to put in place caps - and of course my political party thinks that we should - you have to find the balance between ensuring that people have enough money to spend to have a reasonable chance of communicating their policies and what they stand for to the voters, and ensuring that the cap is not so high that it the depth of the pockets of the candidates assumes a greater than desirable influence on an election.

Your point is valid in terms of the discrepancy. Part of the attractiveness of a suite of legislation that deals with donations disclosure and caps in expenditure would be the capacity to view them all holistically - local government, Legislative Council, House of Assembly - and put in place some donations disclosure thresholds, but also expenditure caps, that are not so counter-intuitive as the examples you just raised.

Mr VALENTINE - In that, would you also see exactly the same things ought to be a part of the disclosure? For instance, in local government you can print as many pamphlets as you like, but it is not included in your expenditure. However, I think - correct me if I am wrong - in the Legislative Council, it is everything you spend. Is that correct?

Mr DEAN - No, it is not quite right now. The act is all over the place, to be quite frank. When you read through the Electoral Act now, you can just about interpret it any way you want to. That is the way I see it. It's just not clear.

Mr FINCH - There are some exemptions on catering, fuel and refreshments for your team.

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Mr VALENTINE - Are you making the point that it needs to be consistent across all level of government?

Mr McKIM - Yes, I think it does. It would not necessarily need to be the same. But, if you viewed them all holistically, you could come up with a framework whereby the expenditure caps would be different. Obviously a cap only for the House of Assembly, which is the House of government, where we are all out at once, would very different to a Legislative Council election, where only two or three members in any given time may be campaigning. It would be different again from local government. So we would not argue that the caps need to be identical in terms of where you set those caps, but there would need to be a relationship between them that was justified.

Mr VALENTINE - And yet you have to get your message across to the same people.

Mr McKIM - That is true. The committee may determine they ought to be the same caps. I do not know whether the Liberal Party confirmed it, but there were reports they had spent \$2 million in the last state election campaign. I think you would struggle to find a Legislative Councillor who even spent anywhere approaching that, given that it is capped, or even a Legislative Councillor who would want to even spend \$2 million because the pay-back period would be fairly long in that circumstances.

You have to find the right cap for the right context. That would be a challenge, and I am not here today to say exactly what those caps should be but they would have to be justifiable.

CHAIR - And a different number of people would be standing too. The number of voters is different between the Legislative Council and obviously the House of Assembly.

Mr VALENTINE - It is.

Mr McKIM - Back on to your point, Rob, where I do think there can be consistency is what types of things are caught in any cap. I was not aware that limitless leaflets could be printed outside the existing local government cap -

Mr VALENTINE - It is only radio and print advertising.

Mr McKIM - That seems like an anomaly to me.

Mr VALENTINE - And television.

Mr McKIM - Yes, that seems like an anomaly to me that might need fixing. You could apply calculations around the cap to the same types of expenditure. You could have consistency across local government, lower House and upper House in terms of the kinds of things that were caught when you were calculating how much money any party or candidate had spent. However, I am not sure there is an argument for the caps to be at the same level.

Mr VALENTINE - If people advertise on properties - say, if they have the backing of a company or an individual who says they can put a sign up on their property - should we count the value of that signage as part of the total or not?

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Mr McKIM - I am not sure how you would calculate the value of that signage. I guess you could do a square meterage and apply a commercial -

Mr VALENTINE - It is like in-kind support.

Mr McKIM - I am not disputing your point. I think it is a valid point. There would be challenges in calculating the financial value of that but I do not think they would be insurmountable ones.

I mean, there are commercial rates. If you want to buy a billboard, it depends where it is. It depends how big it is. It depends how much traffic goes past it, both pedestrian and vehicle traffic, in a given time. All those things would need to be considered when you were trying to apply a value to a piece of signage that had been effectively donated. Again, we need to find a balance between a rigorous framework, but not one that takes, you know, multiple people multiple weeks to actually do those calculations.

CHAIR - It is looking like the TEC needs more and more money.

Mr McKIM - I think it might.

Mr DEAN - I have a couple of questions outside of your submission, Nick, that relate to this matter. If you don't want to comment, that's okay. Prior to the writ being issued, as you are aware, I can use your name, I can use your photograph. I can throw darts at your photograph. I can mutilate your photograph - that has occurred - and disseminate it. But as soon as the writ is issued, you cannot do that without the permission of the candidate. How do you see that?

Mr McKIM - This is a really interesting one. When the current Electoral Act was drafted, a panel of politicians - one Labor, one Liberal, one Green, and, from memory, two independent members of the upper House - was consulted as part of the drafting. That was entirely appropriate. This issue came up during that process.

The intent of the current prohibition on names and images is to make it more difficult to campaign negatively against individuals. To the best of my knowledge - and in fact, I have seen it many times - you can still campaign negatively against other political parties. It regularly happens in the context of Tasmanian elections.

Whether that has been effective is open to dispute. I would argue that it has been effective insofar as it has gone. The issue you mentioned is a timing issue around the writs. If the reason for putting in place these prohibitions is to discourage negative campaigning, I do not see why it should only apply once the writs are issued. There is an argument for extending it out to just a blanket. I am not suggesting people shouldn't be able to say negative things about other people in Parliament, because we should be. Absolutely. It is about, as I understand it, using their name and their image without permission.

Mr DEAN - At least take it back and have it coinciding with the expenditure, which is 1 January, I think, of that year.

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Mr McKIM - That would be a not unreasonable approach.

Mr DEAN - The other question on my -

CHAIR - Very quickly, because we have two minutes.

Mr DEAN - Okay. The blackout period is an interesting one. You would be aware that you've got to stop all your activities a day before.

Mr McKIM - Yes.

Mr DEAN - Well, that is what I thought, but you don't. You can robo-call up to 6 o'clock on the day of polling.

Mr McKIM - Yes. I would argue that the blackout period should be imposed for that method of campaigning as well. The feedback I have received during over 13 years in Parliament is people like the blackout period because they are just so relieved that those political advertisements have finally stopped. I also think the blackout on print media, even though I know that journalists and print media owners don't like it at all, is important. Not to have a print media blackout on election day would provide an incentive for people to go out and make extraordinary negative allegations on the Friday and see them reported on the Saturday with no right of reply. That would be problematic.

CHAIR - And social media?

Mr McKIM - Well, social media is much more difficult to police, Chair. I don't think you can police it in real time. There may be repercussions for people, but then you have to question whether an election result is invalid because someone tweeted something out on midnight on the day before or whatever it was, I think social media is a different beast to mainstream electronic and print media. I wouldn't advocate going down that line on social media but yes, Mr Dean, I think the point you made around timing is entirely reasonable.

CHAIR - We have reached 3 o'clock and we appreciate your coming in. Your submission was very informative and quite detailed. Thank you very much, Nick.

Ms RATTRAY - Thought-provoking.

Mr McKIM - I'm pleased, Ms Rattray. Thanks to you, Chair, and to all committee members, for the opportunity to present today.

THE WITNESS WITHDREW.

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Mr FRANK NOTT WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thank you for coming to the committee with your submission. The hearing is being transcribed by Hansard. Everything you say within this room is protected by parliamentary privilege; however, I need to remind you that if you go outside the room and repeat things, it is not protected. If you would like to give an overview and then members will ask you some questions.

Mr NOTT - Thank you, Madam Chair. Five of the six committee members have a strong involvement in local government either as deputy mayor or mayor. My submission relates to exhaust votes which may determine the mayor or the deputy mayor in local government elections. The experience, both in local government and being involved as a scrutineer in both Legislative Council and local government elections over the last number of years, I have seen that there could be some similarities between local government and Legislative Council in single-member electorates, particularly for deputy mayor and mayor.

I have provided information from the Legislative Council, where I notice that in the most recent election, 12 of the 20 since 2009 have gone to preferences. Some have been uncontested, for some there were only two candidates and there were two others where it was won by a 50 per cent majority so it did not need preferences. So 60 per cent of Legislative Council elections have been determined by preferences.

Looking at those results, going back to local government, and I have quoted some examples where three candidates for mayor and eight for deputy mayor where the exhaust votes in fact exceed the final margin - particularly in Glamorgan-Spring Bay and Hobart City Council but also Huon, where the exhaust votes totalled 432 and the final margin was 125. The point I make is if there was similarity between the partial preferences - as has happened in Legislative Council elections - had they applied for mayor and deputy mayor, it could have had an effect or it could have made a change to the actual result. More so in the deputy mayors if you look at Flinders, George Town, Hobart and Launceston, where the final margin for Flinders was one vote and yet there were 23 exhaust votes. George Town had 307 votes; the final margin was just four votes. Hobart had 3 001 exhaust votes and the final margin was 1 521. In Launceston, which I am aware of as I was scrutineering for deputy mayor, the exhaust votes totalled 1 476 and the final margin was 99. The point I make there is that there are strong similarities between the Legislative Council divisions and the mayor and deputy positions because they are single-member electorates.

The contention is that maybe listing additional preferences would provide wider representation of voter intent in the election. In my view, it would be a fairer and more accurate reflection of those voting. For those where they simply put a number one and it accounts for primaries, should the need be for preferences, then it would provide a more accurate reflection of their second, third and fourth choices and so on. If it was brought in line, I think it would have, maybe, particularly in those examples I have quoted, changed the election of the mayor and deputy mayor. That is the reason I have brought this forward for your consideration.

CHAIR - That is very good, thank you.

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Mrs TAYLOR - It is a really good submission and a good point to raise. I have been considering your submission. Playing devil's advocate I suppose, I have been, as you know, involved in local government myself and I am well aware, as you are no doubt of how few people know any of the candidates standing. There might be people who would say maybe that is democracy in action - 'Yes, this is the person I want but I really do not know the others so I can't make a judgement on the others. It would be like sticking a pin in'. They are exercising their democratic right to say 'this is who I want, I do not care who else - not so much because I do not care but I can't make a choice between the others.' Would that be it?

Mr NOTT - In my opinion, that is the case in many situations. It is also the case that preferences are not applied if you finish first or second on primaries. Therefore, if you are comfortable, if you think you are going to be the sitting member or whoever, you think you are likely to finish in the top two, then you have your supporters - family and whoever - put 1, then those preferences are not required. It is only further down the list when the third, fourth or fifth are cut up that those preferences could then affect those in the top two.

Mrs TAYLOR - Yes. I suppose the issue is, do you want people who choose to do that because they do not know the others to take a 'guesstimate' or are you better off for them not having a second choice of people who do know the other candidates?

Mr NOTT - There may well be those who you say are not known but for mayor and deputy one would expect they are either - particularly as we have seen in the latest local government elections where people who are well-known, in business or whatever have had the opportunity to vote and not serve the two-year term that was originally prescribed before they stood.

Mrs TAYLOR - Absolutely.

Mr NOTT - It could be said they would be well known in their council electorates.

Mr DEAN - My election was a classic example of what you are talking about and one which you would be aware of. I had many people who rang me and said, 'I am voting for one person and one person only,' and it took me a lot to convince a number of people that they had to vote for four candidates - whatever number they had to vote for, three I think it was. I said, 'If you don't vote for three, your vote will not be valid, it will not be counted,' but they said, 'We don't know the others, we are not voting for the others, we are going to vote 1.' I said, 'Well, it will not be a valid vote.' 'Why?' He was trying to get a question from that - and you can ask Julian later on today - why that has to be exhausted after the first votes are counted. It is admissible in the first round but then after that, because they only voted for one, it is an exhausted vote and it is tossed away. Is it accepted, am I right in that?

CHAIR - Your question?

Mr DEAN - The question is, the number one vote is counted, is that right?

Mr NOTT - This is for the Legislative Council, in primaries?

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Mr DEAN - Yes.

Mr NOTT - Yes.

Mr DEAN - So that is counted. How do we get around this?

CHAIR - It might be a question for the TEC.

MR NOTT - There is another aspect where it is confusing with local government and I guess this is pertaining to local government. I usually use the Legislative Council as an example because there are parallels with the single-member electorate which the council electorate can do for mayor and deputy mayor and. I also scrutineered out at the university looking at the councillor alderman in the recent election and I was aghast at the number who had simply put 1, and only 1, and therefore it was an invalid vote. If you put Danny Gibson 1, then it did not count.

CHAIR - You had to cover at least -

Mr NOTT - At least a number. That is the confusion - that currently, in local government, you can put a 1 beside the mayor and deputy, but you cannot for aldermen - actually, there were six to be elected.

CHAIR - So you are looking at consistency.

MR NOTT - Yes, consistency.

Mr VALENTINE - It is 12 now.

MR NOTT - Yes, 12 now.

Mr VALENTINE - In the number of all councils.

Mr DEAN - While you haven't covered this, you have a background and knowledge in this area. How do you see the position with the elections in local government where a person who is standing for mayor gets in as mayor, or they get in as deputy mayor? It has happened in this state a number of times but because they do not get sufficient polls in the council area, they lose their position. Have you looked at that at all? How do we get around that? It's a nonsense, really.

Mr NOTT - Not a great deal, Ivan. This does not happen very many times but the -

Mr DEAN - It has happened a few times; it has happened twice that I am aware of.

Mr NOTT - That is twice too many. Is it because there is insufficient education or knowledge of the rules? I know that there is huge confusion, as I saw just recently in Windermere in October, with the local government. There is confusion between the levels of government in voting. You would be well aware of this, Ivan, where a person at Waverley said to me, 'I'm not Windermere, I am here in Waverley. Windermere is down the road. I don't vote, I have never voted.' I said, 'How long have you lived here?' He

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said, 'I have lived here for 10 years.' I said, 'You must have voted, or been away or something.' This was six years ago.

There is confusion about who has to vote and whether you are voting - I guess those of you who have had recent elections would also be quite clear about the confusion that occurs between local government and Legislative Council rather than the House of Assembly.

Mr DEAN - Could you not have a position where, if a person is voted in as mayor or deputy mayor then that should satisfy the position; they should be mayor and they should also receive the position of alderman or councillor as a result of that? Why do they need to be voted into both positions? The deputy mayor in Southern Midlands was a good example where that occurred. He was only voted in as a deputy mayor and he didn't get sufficient councillor votes to get in.

Mr NOTT - That is obviously confusing because, if they have voted them in as mayor or deputy mayor, then surely that would indicate that they have confidence and their vote really reflects the fact that they want them to be mayor or deputy mayor. They didn't realise they needed to be an alderman or a councillor first. I think it also happened in George Town some years ago.

Mr DEAN - It did, too.

Mr FINCH - People in that one voting context might have thought in voting for somebody for, say, mayor or deputy mayor, 'Well, I have voted for them,' so when they come across the aldermen - is that the observation?

Mr NOTT - Yes, that's true.

Mr FINCH - They say, 'I have voted them in, so now I go down my other line.'

Mr NOTT - The fact there is different papers also affects that as well. They think, 'That is the mayor one. I have done that, and I have put them in for that.' So they don't see the need to vote a second time on a different ballot paper.

Mr VALENTINE - It has happened twice, hasn't it?

Mr NOTT - Yes.

Mr VALENTINE - At Oatlands and George Town - Hobart?

Ms RATTRAY - A couple of questions. Thank you very much for your submission. I really like the work that you've done, Frank, to flesh out the scenarios that you put forward. It's always difficult to convince people that they belong in the Apsley electorate when many of them haven't even heard of Apsley or been anywhere near the Apsley River or whatever. In relation to mayor and deputy mayor, it has been suggested that by not being able to contest both roles, you miss out on the second-best person taking on the second key role. Do you have any suggestion about how that might be overcome or whether it even can be overcome?

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Mr NOTT - I have heard a couple of suggestions, and one is whoever finishes second for mayor becomes the deputy. I have also heard that the deputy mayor should be elected around the table, throughout the -

Ms RATTRAY - Like it used to be in the good old days. The mayor used to be as well.

Mr NOTT - I don't think that's a good idea.

Ms RATTRAY - Yes, and as a community we've moved away from that, and I have no qualms with that.

Mr NOTT - There is certainly confusion around that. The council alderman has to make a choice as to whether they are going to stand for mayor or stand for deputy mayor. I guess one can gauge that their popularity in the electorate, particularly now that it's all in, all out. You could gauge who might have been the most popular or gained the most votes from the election results. I will be very interested in what comes of that because I can see advantages in both. There may be another solution to that. It's a moot point. It's contentious, I guess.

Ms RATTRAY - My second question is about the fact that there continues to be this confusion in Tasmania. I don't know what the answer is. All members of parliament work hard to get their profile out there and make sure that people understand where we fit in the Parliament and where we fit in the community. But I continually hear people say, 'You belong to the Council.' But 'Council' still resonates as local government for so many people, and so I have often thought about whether this, the Legislative Council, should be the Legislative Assembly to try to get that difference through. I am interested in your view on that.

I don't know whether it's the fact that in Tasmania a lot of members of parliament - you highlighted it as you sat down - already have a local government background. So they still see that Council tag as being of local government. They don't refer to it as local government, it is the local council. It remains an issue and I'm asking if you have a view.

Mr NOTT - It's a very valid point, the confusion between councils - the Legislative Council and local government councils. I know that they had a good example more recently with you, Ivan - certainly earlier this year there was confusion - 'He's on council?'. I guess the other aspect is, if there's a concern, and no doubt all of you would have had the situation where someone has come to you about housing or something else thinking that when you're a Legislative Councillor that you could help with an issue, or vice versa. They are confusing areas that might be covered by the state government rather than local government and vice versa.

CHAIR - I do not think they mind, they just come to you with a problem.

Mr NOTT - I can understand that.

You are well-known, you have a high profile in the community and therefore, if they think they can get an easier way or a quicker result, they will come to you. That is a very good argument.

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The second thing, I do think there is confusion with the naming of the divisions in the Legislative Council. I have spoken to Ivan about that but I can understand it with Apsley too. I know Great Western Tiers has become Western Tiers. But is it education? There is certainly confusion in that regard. Rosevears may link with West Tamar and so on to a degree -

Mr FINCH - People think I represent the township of Rosevears, don't worry.

Mr NOTT - There is a great tavern there anyway.

The other aspect is, as I said, there is confusion with Windermere and I guess with some of the others. I know those divisions were changed too were from Launceston and back to Launceston, and back to Hobart.

Ms RATTRAY - How do you find a name that suits the electorate of Apsley?

Mr NOTT - The Legislative Assembly, the name you mentioned, Tania - is in Victoria's Legislative Assembly and they have a Legislative Council as well. It would be ideal if there was another name, perhaps, that gets away from this and that is totally different from the other jurisdictions.

Mr VALENTINE - Upper House.

Mr NOTT - Well, yes.

Mr DEAN - In Victoria they call the local government areas 'shires'.

Mr VALENTINE - New South Wales has shires.

CHAIR - Thank you very much, Frank, for coming down, it is much appreciated.

THE WITNESS WITHDREW.

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Ms LIZ GILLAM, CHAIR, Mr JULIAN TYPE, ELECTORAL COMMISSIONER, Mr ANDREW HAWKEY, DEPUTY ELECTORAL COMMISSIONER AND Ms CHRISTINE FRASER, MEMBER, TASMANIAN ELECTORAL COMMISSION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you. I am sure you are aware that this evidence is being recorded and will be published on *Hansard*. Everything you say in this room is protected by parliamentary privilege but when you walk out of this room it no longer is, so please bear that in mind.

Ms GILLAM - Thank you very much for this opportunity. The Electoral Act commenced in February 2005, so after 10 years of operation it is indeed timely that this committee is undertaking this inquiry. We appreciate the people who have taken the time to respond to the inquiry and have read with interest the submissions made and the *Hansard* of the hearings. Ms Fraser and I also endorse a very positive comments made about the Electoral Commissioner, Julian Type, and his staff and the thorough professionalism and absolute integrity that they apply to their work.

Many of those issues raised in the submissions the commission would see as policy, even political matters, the resolution of which is ultimately for governments. Although our submission may have strayed into what might be regarded as policy matters, for example, our comments in relation to section 196 and 198, fundamentally we see our role as administering the policy decisions of government as set in legislation. We do have a role of providing advice to the minister so of course we expect to be consulted in the process of setting policy, primarily to ensure that the administrative and operational repercussions for the commission are fully appreciated.

A number of other matters that were raised relate to local government elections. You will note that we did not address these in our submission, having perhaps mistakenly read down the breadth of the terms of reference for this inquiry. As many of you would be aware, I have had a close association with the Local Government Act both during its development in the early 1990s and its review in the early 2000s, and fear it may be very difficult to ever achieve consensus on some topics. We are sure that members of the committee will ask us to respond to some specific matters raised in the submissions, so we have not tried to second-guess those.

I would like to take this opportunity to address further one matter in particular, and that is resourcing of the commission. The permanent establishment of the commission now stands at slightly less than eight, including the Electoral Commissioner. In our submission we commented that, at this level of staffing, we simply do not have the critical mass for long-term institutional sustainability and that it was imperative that we are able to restore our permanent establishment to somewhere around the 13 full-time equivalents we had in 2007.

There does appear to have been some discrepancy between this figure and the information tabled by the Secretary of the Department of Justice. We apologise for that. There may have been some blurring of the number of bodies as opposed to FTEs. There was certainly no intention to mislead the inquiry.

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However, this does not in any way diminish our increasing level of concern for resourcing of the commission, now and in the longer term, and as stated in our submission, the consequential ability for us to meet our legislative responsibilities, let alone undertake the research and development required to keep our systems robust and deal with emerging issues and policy initiatives. For example, the commission's electoral management system comprises a series of Microsoft Access databases, some dating back to the mid-1990s and it is in desperate need of redevelopment before 2018.

With the introduction of four-year election cycles in local government, the highs and lows in the workflow of the commission have been greatly intensified, as Ms Rattray pointed out when examining the Secretary of the Department of Justice. It is very important that this does not somehow get transposed into the view that there are times when the staff were wandering around the commission looking for things to do. This is never the case.

Because in comparison with so many parts of the world, our electoral processes are robust, secure and safe, there is not a high level of appreciation, certainly in the wider community, of the complexity and incredible level of detail necessary for planning and running an election. However, it has been demonstrated recently in Western Australia, and here, that things can go wrong, especially when large numbers of people are involved for a short time, but a very intensive period of time.

In the so-called downtime, the need for constant review, quality control and improvement is unremitting. The Legislative Council boundary review will also take place in the period before the next state election. It also means that, where you might expect if you have staff of eight, to have close to the equivalent of one person out of the office at all times due to annual leave, long service leave and sick leave, this period will have to be used for leave catch-up.

What the election cycles do mean is that there is now an extended period when a small number of people are working under extreme pressure and stress. For the 18-month-or-so period over the next state and local government local election cycles, the ability for staff to take their leave entitlements will be severely restricted. Fingers crossed, no-one will need any sick leave during that time. Putting it bluntly, at our current staffing level in peak workload times, there is now simply no safety net, exactly as Nick McKim suggested earlier. This is not just about bodies in situ, it is their level of knowledge that has become critical. As mentioned in our submission, two very long-serving staff have recently left the commission. The remaining staff establishment is also long-serving and stable. However, without in any way belittling their knowledge and commitment, when Julian chooses to retire, which he could do realistically at any time, we will be losing a great deal more than 12 percent of our corporate knowledge.

Furthermore, with staffing levels so low it becomes difficult to develop new staff. Fortunately, there has been a major investment in the development of training materials for temporary and casual staff at election time in recent years. The ability to address human resourcing is of course inextricably linked to our budgetary situation. The Secretary and the Director of Finance at the Department of Justice provided the committee with a very comprehensive overview of this which clearly demonstrates the

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commission has been very modest in its requests over the past 10 years. To some extent this has been to our detriment as the application of budgetary cuts is not necessarily able to take this into account. I quote from the department's submission to re-emphasise the seriousness of the situation:

The result of these reductions is that the TEC will receive a consolidated fund allocation of \$733 000 in 2015-16, a reduction of 3.3 per cent on its allocation 10 years previous.

Complicating this further is the fact that the change in the local government election cycle has had a significant impact on revenue flow, as was addressed in our submission. The commission is in the fortunate position that it has access to Reserved by Law funding and there is little doubt this will have to be drawn on more extensively to meet the commission's ongoing expenses. Other agencies do not have a similar advantage. It is not difficult to justify costs and expenses as being incurred in, or in connection with, the conduct of elections; that is, to draw on this Reserved by Law funding. Whichever bucket you use, there is still only one well. At a time of such tight budgetary constraint, it is important there is complete openness in the allocations of resources and from our point of view, a full understanding of the cost of undertaking the democratic process in this state.

In the submissions, a number of areas were raised in which it was felt the commission was not being proactive enough. There were also quite a number of suggestions of things that commission could be doing, particularly in terms of engaging with the electorate with a view to increasing participation. In recent years, there has also been a considerable effort to develop our website and education programs to make information about elections and electoral processes far more accessible.

The matter of political donations and spending was also raised a number of times. The discussion today has clearly demonstrated the potential resourcing issues of introducing such systems whilst we have no position on whether they are a good thing or bad thing. In some submissions there was an acknowledgement that such programs come at a cost and also that constant changes in technology make it difficult to keep up. But we doubt there is an appreciation that there is no capacity in the commission to take on new activities and projects without significantly increasing resources, such as that received from the Consolidated Fund for the development of the electronic count for the last local government elections were extensively greater demands on the Reserved by Law funding or, in the case of local government, significantly greater cost to that sector, which I am sure would bring a reaction. I apologise if this all sounds rather glum, but the commission feels it is essential that this message is made very clearly here today.

Mr FINCH - Significant increases in funding - do you have any idea of a quantum that would alleviate the situation, to assist the running of the TEC and set you up for the processes going forward that need to be modernised to make sure that the TEC stays contemporary? Do you have any suggestions to make to us? Is it \$500 000, is it \$50 000? Can you give us some idea?

Ms GILLAM - A lot would depend on specific projects. For developing new databases you have to do a project plan and a project assessment. The same if we were looking at

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things like, if a political donations system was brought in, you would have to look at how much that was going to cost to administer. In terms of general day-to-day running of the office, I might defer to Julian.

Mr TYPE - It is a difficult question to answer, Mr Finch, because, as we indicated in our submission, we not only have access to consolidated funding but we have access to Reserved by Law funding to run particular election events. We also have access to retained revenue, which is particularly important when we run local government elections.

The real issue for us is being able to employ our current 7.8 full-time staff year in, year out and we think that figure should be more like a dozen or 13. We would like to retain that number of people without having to juggle buckets of money and be able to know that we could employ them continuously through the four-year election cycle. We will probably be able to get through due to retained income from last year's local government elections, but it is a constant battle and in many cases we will have to dip into our working capital in order to retain our intellectual capital.

Mr FINCH - It may be here in your submission, I just can't bring it to the front of my mind, you had a diminution in your numbers of FTEs, what was that figure?

Mr TYPR - The current figure is 7.8 FTE.

Mr FINCH - Yes, where from?

Mr TYPE - We are not entirely clear on where the zenith of our staffing numbers was, it was probably something around 11 FTEs.

Mr FINCH - So what would your suggestion be as to what would make the operations more comfortable for yourself and for your fellow workers, to make sure that you are able to cover the obligations, not only the ones you have now but what might be projected in respect of extra areas that you might want to research or investigate?

Mr TYPE - If we have extra statutory areas of responsibility handed to us, for example in the disclosure of political donations sphere, then I think that would require extra resources again. The figure which I mentioned in answer to your question earlier was 12 or 13 FTEs as a sustainable number for the TEC moving forward and being able to deliver the events that we are going to have to deliver come 2018.

Ms RATTRAY - Just following on, we are often compared to South Australia and in the submission I read that the Electoral Commission of South Australia had 24 permanent staff. Would you have three-quarters of the South Australian electoral commission, I know you said around 13 but is there a proportion of the work?

Mr TYPE - It is a problem that most of the State Service has to deal with in that we are such a small jurisdiction. We probably are literally around one-third of the size of South Australia but we still deliver all the same functions which the South Australian electoral commission delivers and we certainly do not have the simplest electoral system in the country either.

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Ms RATTRAY - Thank you, I thought it was worth putting that on the record.

Mr DEAN - How strongly have you pursued the position with the current Government, the minister? What have you done in that regard to adequately resource the Tasmanian Electoral Commission?

Ms GILLAM - We probably have to thank this committee for really thumping home the truth to us, because when we started looking at the facts and figures we thought, gosh, we have quietly gone along with things and this is where we have ended up. I suggest we will be getting a little bit more assertive now.

Mr DEAN - I take it the answer to that is you haven't really taken this up with the current Government in any strong way. I will put it this way: is the current Government aware of the problems this is creating for you in the work that you should be doing and returning?

Mr TYPE - Chair, one of our roles is to advise the minister that, with your agreement, that advice should remain confidential. It is true to say that, if I could answer the question -

CHAIR - The advice you are going to give us now, you would prefer it to be kept confidential? That will be mainly to -

Mr TYPE - No. The conversations which we may or may not have with the minister perhaps should be treated as confidential.

CHAIR - Yes, that's fine.

Mr TYPE - If I could go to the question from another angle, we certainly keep the Secretary of Justice and the Deputy Secretary for the administration of Justice - whose portfolio the TEC comes within - very much across the issues which confront us.

Mr DEAN - So the Secretary of Justice is well and truly aware of your issues, your resourcing issues and the fact that you are very much understaffed, to return the service that is necessary of you as a commission?

Ms GILLAM - I think that came across in their submissions. They, on the other hand, have been given a task to do and they have spread it fairly evenly across their department.

Mr DEAN - So the Secretary of Justice, this year, at the time of this Budget being handed down and being put into place, would have been well and truly aware of your plight, if I can put it that way?

Mr VALENTINE - My question is in regard to the budget papers. I just wanted to try to understand exactly what your financial circumstance is; you were talking about \$570 680.

Mr TYPE - Yes. I do owe an apology to the Chair because I haven't directly put this to her attention. But in the budget papers this year the consolidated funding for elections and referendums is reduced from \$807 000 to \$653 000. After Justice department overheads

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are subtracted from that, it's reduced to \$499 000, which is basically the level that is going to pay the rent and two of our staff.

Mr VALENTINE - Is that the HR and all of those corporate services?

Mr TYPE - Yes, it is. It is -

Mr VALENTINE - So the money that you have to actually run your elections, to do your work -

Mr TYPE - Yes. But, having said that, we have separate funding to run next year's Legislative Council elections. That is Reserved by Law funding. We have separate Reserved by Law funding for the maintenance of the electoral roll, for the expenses of the Electoral Commission, for Aboriginal Land Council elections and so on. So the budgetary situation, because of the three revenue streams, is somewhat complex.

Mr DEAN - It's not quite as it looks on this, on table 5.10.

Mr TYPE - No. I refer you to our submission, where we were, I think, very upfront about the three revenue streams under which we operate. Certainly in the current financial year, we are going to have to, as I said before, dip into what should be our working capital in order to retain our intellectual capital.

Mr VALENTINE - There is quite a significant difference to the 2012-13 budget allocation, which was \$849 000 in these tables. In 2013-14, it was \$796 000, last year's was \$807 000, and then it is back to \$653 000 for this year. There is quite a significant change in the revenue from appropriation by output table. I am wondering, when you compare it to South Australia, I think you said 7.8 FTEs - is that what you have, including yourself?

Mr TYPE - Yes, including me.

Mr VALENTINE - You are dealing with 366 000 electors. South Australia deals with 1.2 million, they are about 3.28 times the size, so seven or eight would be about one-third, as you have already stated. But from what you are saying, the functions you need to perform are just as much as the functions the South Australian electoral commission has to perform. You do not have an FTE figure that you can say would bring you up to parity?

Mr TYPE - I did give the figure of 12 or 13 in answer to earlier questions from Mr Finch. In many ways, our full-time establishment, as with any electoral administration, is the tip of the iceberg. To run a House of Assembly election, we rely on fielding close to 2 000 ordinary Tasmanians to help us run polling on the day and to work for weeks inside of the election delivering postal voting and pre-poll voting, helping with the count afterwards and so on. That is the same with any electoral administration, and we do not have issues with paying for that resource. The issue we do have is adequately training that resource.

Mr VALENTINE - Given that you have the general services to deliver for state and local government, you also take on other work, for instance for the Tasmania University

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Union, and the education union and those sorts of organisations. Is that part of your statutory responsibility to provide those services, or is it something that you provide if you feel you have the resources to do it?

Mr TYPE - No, it is something we are statutorily entitled to provide. Only in the case of the Aboriginal Land Council and some water management bodies do we have a statutory obligation to provide those services.

The services we do provide are often to community organisations or to smaller Tasmanian businesses with enterprise agreements. The sorts of elections that we run are probably a useful service in the Tasmanian community. Yes, we have often thought we need this next election like a hole in the head but I think it would be a sad day when we had to walk away from that community service role we try to fulfil.

Mr VALENTINE - So those community service roles you play, say, the university union elections, most of those would come at a time separate to your major elections, or not? Is this just a balancing act that you play in trying to fit everything in?

Mr TYPE - Yes, for example last year in the case of the TUU elections which you have heard rather too much about, we did ask the union if we could run the elections earlier in the year because if we had run them at the usual time they would have clashed with local government elections.

Mr VALENTINE - You certainly would not have had FTEs to cope with that.

Mr TYPE - Exactly, so we said to run them early, or we do not run them at all.

Mr VALENTINE - That was my reason for asking about the FTE levels because there are elections out there you are running that you can simply say no to. Would that be the way you should go? What you are saying is, it is a service that should be provided.

Mr TYPE - Your point is very well made, Mr Valentine, but I repeat that it is a community service obligation that I have been very reluctant to begin to walk away from.

Mr VALENTINE - I'm not suggesting you do. I'm just exploring that.

Mrs TAYLOR - A supplementary to that, is that done by fee for service, are you paid for those by those organisations?

Mr TYPE - Yes, we are paid fee-for-service.

Mrs TAYLOR - So it is income-generating as well. Do you make a profit?

Mr TYPE - Usually they are on such a small scale that they would be more a break-even proposition. It is local government which dwarfs our other earned income. There was a time when we ran a number of elections for quite large organisations. The most recent one, for example, was an election for board members of RBF. RBF at that time had around 70 000 members. Once an election gets to that sort of scale, then there is probably a small but worthwhile surplus generated by it. Most of the elections we run at the moment are on a much smaller scale than that.

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Mr FINCH - On the question of the numbers of FTEs and staff, and you talked about the pressures and stress that go with the work of the Electoral Commission, have you had anyone off on stress leave?

Mr TYPE - I would be very reluctant to answer any questions that go to the health of an individual member of staff. There would be a whole variety of reasons why people might take stress leave. I might answer your question by saying that we were very thrilled at the way in which all our staff stood up during what was a very stressful 2014 and put in an Herculean effort to get the House of Assembly and local government elections run.

Mr FINCH - And the Legislative Council election - a brilliant result, I might say.

Ms GILLAM - That's what I was getting at. It would just take something coming in over the top of that. If one of them fell over and broke a leg or something, we would be in serious trouble without that electoral grunt in the office.

Mr TYPE - The interchange bench was looking surprisingly thin.

Mr FINCH - With the people who come in to assist during elections, what sort of feedback do you get from them about the way your ship is run? Are they encouraged to let you know the shortcomings or the successes of the way elections are run?

Mr HAWKEY - There is no formal process we do for feedback, but part of the fact we had a team that blended so well was testament to the fact people got in and enjoyed it. The annual report we tabled earlier this year has a page showing the team. That team consists of our permanent staff, of which two are no longer with us, but also a range of casuals we brought on and an IT assistant. We have to blend those people. Even with such a small number, we work very tightly in being able to resource and support the broader structure that occurs in the field. That is part of getting enough intellectual knowledge and corporate knowledge within a broader structure and that is very important.

Mr TYPE - I first started working in this field in Burnie in 1984. I went to the Devonport training session for the Mersey Legislative Council election a few weeks back, and I was surprised but not surprised to see that half of the officers in charge of polling places there had been there since 1984, like I had. Generally, we have a very loyal, continuing workforce, which is not say I am sure the occasional member of staff doesn't think we are a bunch of old fogies and they could do it a whole lot better.

Mr FINCH - They have probably been around since 1984. On an election day, let us say the state election, how many people are needed to run the day itself? I realise there is postal voting, et cetera, but do we know the numbers that are involved for a state election?

Mr TYPE - It is around 1 600 or 1 700 on polling day, but that is a figure to the nearest hundred.

Mr FINCH - A lot of people would not realise the number of people and the connection you have to have to your community to be able to draw on those people at those specific times.

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Mr HAWKEY - And most of those people for one day. They don't necessarily have a history with the elections, they don't necessarily know the processes, so part of what we have been undertaking in preparation for the recent lot of elections in 2014 was developing broader training material and resources to better facilitate them in their learning, getting the message right and getting the understanding right of what they're doing in the polling place.

Mr VALENTINE - But many would be repeat staff, wouldn't they?

Mr TYPE - Yes, and it is absolutely not uncommon for them to clock up 50 years.

Mrs TAYLOR - I have some practical questions, and I don't know whether you have an opinion on whether it could be done. One is having the name 'Independent' put on the voting paper as opposed to party candidates who are clearly identified. Is there a reason why we couldn't do that?

Mr TYPE - There was a bill before the last Parliament, which lapsed on the dissolution of the Assembly, proposed by Mr Hall which passed the Legislative Council. It was debated and then adjourned and then lapsed in the House of Assembly. The TEC had no practical or philosophical problem with Mr Hall's bill.

Mrs TAYLOR - My second question that has arisen since I discussed this with you some time ago, Julian, is the fact we now have quite a number of people who are refugees or humanitarian entrants and a whole new lot of immigrants. The question has been raised with me, certainly in regard to local government elections if not state elections, that they would find it very helpful to have photos of candidates on the ballot paper and not just their names. The voters have difficulty identifying who the people are. In many cases they come from an illiterate society, never mind about not being able to read English. Would it be very difficult to do? It seems to me to be quite a sensible idea.

Mr TYPE - We dipped our toe in the water last year with local government elections, starting to produce photographs of candidates.

Mrs TAYLOR - You're not allowed to take that into the ballot, are you?

Mr TYPE - This was for local government elections so you don't go to a polling place anyway. There is nothing to stop you taking in a photograph of a candidate. It would be another logistical problem but it is certainly not impossible. I have worked in a number of jurisdictions where photographs of candidates were de rigueur for exactly the reason you suggested. With the House of Assembly elections we currently have to turn around ballot papers within basically 48 hours from the closing of nominations to having ballot papers on the streets. That would be a real logistical problem for us. We would need time built into the statute to be able to include photographs on ballot papers.

Mrs TAYLOR - When people put in their nominations though, they could supply the photo then, couldn't they?

Mr TYPE - They could but, unfortunately, although nominations are open generally for 10 days or two weeks, they nominate on the last morning, so it might as well not have

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been open for the first 10 days at all. From our point of view, it is the close of nominations to when the first ballot papers have to hit the streets.

The second problem is that, for the House of Assembly and local government elections, ballot papers are already quite large and cumbersome. I suggest that this is probably about the minimum useful size for a photograph, which would mean the space you had to allocate to each candidate would be that much greater. With the right administrative arrangements put in place, it is certainly not undoable, and I see the reason underlying your suggestion. If some of the reports are to be believed, it may not simply be people from refugee and non-English-speaking backgrounds who might benefit from the -

Mrs TAYLOR - I wasn't going to comment on our own levels of literacy.

Ms GILLAM - The recognition factor in local government? You raised it before.

Mrs TAYLOR - Absolutely. Yes, where they might know people by face but certainly not by name.

Ms RATTRAY - I will go straight to the ballot paper and the question that has been asked about the fact you need to vote for all the candidates and then right down at the bottom of the ballot paper, you only need to vote for one or two or three or four. Can you give me some idea of how we might be able to make that clearer for people? It does appear to be ambiguous for some people. They don't understand how that works.

Mr TYPE - The first thing to be said is that it is specified in both the Electoral Act and the Local Government Act, and that those instructions will be on the ballot paper. I respect the opinion of people who believe that it is ambiguous, but personally I don't share that opinion. I believe that the first requirement saying vote from 1 to n in order of your choice for the candidates is the ideal way in which a voter should approach his or her ballot paper.

The secondary requirement, you must vote for at least five or six candidates or your vote will not count, specifies the minimum requirement. If you think of them as an ideal and a minimum, I don't think that they are ambiguous, but I don't think that argument is going to be easily resolved.

Mr DEAN - It is not an ideal world we live in, Julian, that is the problem we have.

Mrs TAYLOR - It relates back, too, to the last issue I had about photographs. There are many voters who are frightened off by the fact that they have to vote for everybody. They often even don't read the last little bit on the bottom, they don't get that far.

Mr TYPE - The reason for the ideal is that, if you choose not to express preference for all of the candidates, then there is a possibility that your vote could exhaust and be of no effective value in the outcome of the election. That is why it is an ideal.

CHAIR - Could it not be reversed though?

Mr TYPE - It could be reversed, or we could even look at changing the form of words to 'Write the numbers 1, 2, 3, 4 and 5 against five candidates in the order of your choice.'

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You may number as many other squares as you wish.' There are a variety of forms of words which could be used.

Mr DEAN - It is a position you have. You have the one on the top and the other one is right at the bottom underneath.

CHAIR - That is what Julian was saying, it could be reversed or the words changed.

Mr DEAN - Either that or together or in that same area, I would have thought.

CHAIR - Yes, that is what he was just saying.

Mr FINCH - With the debate on this and the idea that has been promulgated by others, particularly Don Wing and now to you, what sort of debate will take place now in respect of that idea and that suggestion? Will you, Mr Type, take that on? Will the commission take that on?

Mr TYPE - Mr Finch, it is probably the domain of the Parliament. At the moment we are simply giving effect to the requirements set out in the Local Government Act 1993 and the Electoral Act 2004. If this committee recommends a change and Parliament legislates a change, then we will implement that change.

Mr FINCH - But the legislation is not prescriptive in the way the words, or what words, are used. Am I right there?

Mr TYPE - It is fairly prescriptive. The only thing that I venture is that I don't think the legislation requires the one to be on the top and the other to be on the bottom. But the form of words is pretty much prescribed by both pieces of legislation.

Mr DEAN - You were just on that point, now, Julian, if you have it right, you would not need any direction from this Parliament or anywhere else to conjoin those two at the top of the ballot papers. Is that what you are saying?

Mr TYPE - I should say incidentally, in reference to this copy, that this is a 2006 ballot paper. Since 2006 in the Legislative Council and House of Assembly elections we have used this same italic mixed font top and bottom.

CHAIR - But the words are the same?

Mr TYPE - No, it is the same size. We haven't so far, in local government elections, the font of the secondary instruction below is significantly smaller in relation to local government elections. It is set out in section 100 of the Electoral Act 2004.

Instructions on the ballot paper are to indicate that -

- (a) the elector is to number the boxes from 1 to a number (being the number of candidates) in order of choice; and
- (b) the elector's vote will not count unless the elector numbers -

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Yes, that much is correct, Mr Dean, that the commission could decide to conjoin the instructions at the top of the ballot paper.

Mr DEAN - It might help then if this committee were to make a recommendation in relation to that.

Ms GILLAM - Yes, certainly. The commission approves the ballot paper, so it is certainly something we would examine next time we -

Mr VALENTINE - I am wondering whether you have received any more representations about the University Union election? What is being done to try to resolve the way those elections are run to make sure that they are democratic and all the rest of it?

Mr TYPE - Mr Valentine, no, we have not received any further representations in relation to the TUU election. Essentially, the issue revolves around elections being conducted in the Morris Miller library, which was open to students to attend for a variety of reasons other than to go and vote, and that supporters of the various candidates were busy coaching students, particularly, as I understand it, international students, in how to complete a ballot paper. Our election officials did their best, when they became aware of the behaviour, to request people cease and desist. That may have been a little more successful than we have been given credit for. Nonetheless, we are not happy that the issue arose in the first place.

When we run a fee-for-service election we have to run it in accordance with the constitution of the contracting party, in this case the constitution of the Tasmanian University Union, which basically provides no sanctions whatsoever for inappropriate behaviour during the conduct of an election. Mr Overland, in his testimony to you, wearing the hat of the Chair of the TUU board, indicated that the TUU is looking at amending its constitution to provide meaningful sanctions against individuals who conduct themselves inappropriately during the conduct of the TUU elections. We are anxiously awaiting the outcome, what the TUU board does in relation to its constitution. That will inform our decision about involvement with this year's TUU elections as well.

Mr VALENTINE - Is it a case where there needs to be a signed-off contract that clearly shows whose responsibility is what? Quite clearly, the union itself has certain responsibilities, I guess, as well as the Electoral Commission. You do not have an act of Parliament you have that you can operate to, so it is a case of clarification of where the boundaries lie?

Mr TYPE - As to the boundaries in relation to conduct by a student of the University of Tasmania, the conduct clearly, in the first instance, needs to be sanctioned by the University of Tasmania or one of its constituent parts, not the TEC.

The same probably goes for most bodies for whom we run an election. I guess the issue something of a sleeper in that it could happen anywhere - to pick any organisation at random, there could be misconduct during the St Helens RSL Club elections as well. We would then have to look very carefully at the St Helens RSL Club's constitution to see what we could do about it. I don't think that we want to become gun-shy but we are certainly very cognisant of the issue with the TUU.

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Mr VALENTINE - Sometimes having these experiences make things a little better.

Mr TYPE - Indeed it does. Like I say, I hope it improves the situation and does not make us gun-shy.

Mrs TAYLOR - I just wanted to raise with you the issue that has been raised a number of times, about caps on electoral expenditure and/or state funding for electoral campaigns, which could limit or even out the expenditure of individual candidates. I am not asking you to comment on policy, but I thought you might have experience between you of this issue in other jurisdictions and whether it works well in those jurisdictions, and what the drawbacks or advantages of it might be. It sounds like if everybody could spend the same amount, and that was state-provided rather by donation or from their own funds, if it was limited to how much you can spend, that might even out the democratic process.

Ms GILLAM - I might preface anything Julian says by saying we are fairly wary of commenting in this area because our role is to administer what we are given. We have to be fairly careful that what we say does not influence a debate that needs to happen openly and fully. You would know what is happening elsewhere.

Mrs TAYLOR - I suppose that is what I am saying. I am not asking you for your particular opinion but whether you have knowledge of what is happening elsewhere and how those jurisdictions are receiving that or managing it.

Mr TYPE - We certainly keep a watching brief on the three areas of public funding, disclosure of donations and capping of expenditure in the other jurisdictions. I believe in all of the other jurisdictions, administration of those provisions is the responsibility of the electoral commission. There used to be a separate funding and disclosure authority in New South Wales but I believe that has been rolled into the electoral commission. I would expect that were any such provisions to be introduced in Tasmanian law, they would likely be our responsibility, which is why we keep a watching brief on them. I hasten to add, it doesn't logically follow that you give it to the Electoral Commission. You might just as easily give it to the Integrity Commission or the Auditor-General, for the sake of argument, to administer. We would not even presume that it is a function we would take on board. But certainly, yes, it is one that we keep an eye on.

Mrs TAYLOR - You couldn't comment on whether those jurisdictions think that it is a great idea, or whether they are in the process of saying they need to go back to some other system?

Mr TYPE - We are talking with three areas there, and there are probably administrative teething problems in relation to each of those three areas. As to whether it is desirable to regulate in that space at all, that is very much a matter for the respective parliaments.

Mr DEAN - I want to raise the question that came up in my election constantly. Why is a vote invalid when there is only one position, where a person only votes for one person? I understand what Julian says about if it comes to preferences, then that person does not have a say in who gets the position. Why does that have to be the position? Because it is written into our act?

Mr TYPE - Yes, it is.

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Mr DEAN - Could that, in your view, be easily changed? I am talking about, where you have one, two or three positions. I understand that if you have three positions, it should be three votes, three persons. If there is only one position, why couldn't that vote be counted? Those invalid votes that are invalid votes now, could well get that person past 51 per cent.

Mr TYPE - You are simply proposing a straight-out option of a preferable system of voting, such as is used in New South Wales and Queensland, and it could be adopted in Tasmanian law tomorrow.

Mr DEAN - I am saying that, and I am not saying that. What I am saying is, whilst we can still stick to the system that we have of the preferential voting, if a person only votes for that one candidate - for the one position - that vote should still be counted.

Ms RATTRAY - If it is clear that it is their intention to vote for that person.

Mr DEAN - Yes, if they mark a 1 here and a 1 there. You probably would not promote that. I am wondering why an act could not be written in such a way that it could receive a vote as a valid vote in that situation. It just defies commonsense to me. If you talk to 70 or 80 per cent of the people out there, they would say it defies commonsense.

Mr TYPE - The reason I am demurring, Mr Dean is - my first answer was, you are proposing an optional preferential system of voting. Fine, if that is what the Tasmanian Parliament wants, legislate for it, no problem. But putting an instruction on the ballot paper that is not in fact the instruction, that seems to me somewhat to be flying in the face of the discussion we were having previously about the instructions on ballot papers.

Mr DEAN - We couldn't the way the current act identifies you. You could not do that, quite obviously, and I accept that. I am talking from a point of view of a change that might be considered to the act. That is what I am saying. You probably will not want to answer this, but I will ask the question anyway. Would you see any strong reasons why that should never be the case? You work in it, you understand it, you know the system better than any of us.

Mr TYPE - It is a discussion you have had with Dr Bonham in relation to local government elections particularly. There is a good deal of evidence that once we went to all-in, all-out elections, to some people the instruction became to vote from 1 to 12 in an unbroken sequence in the order of your choice of candidates. It became too hard for a lot of people; it almost became too hard for me, I hasten to add.

There may well be an argument for a saving provision to allow a ballot paper that has perhaps one error in the numbering sequence to be saved and counted as far as you can count, in much the same way you propose. I would not like to vote from 1 to 3 in the order of your choice of candidates in an Legislative Council election when someone could run a spoiler campaign on the sly and say just vote 1, much as both the Labor and Liberal-National parties did in Queensland and turned their system into a de facto 'first past the post' voting system. But in terms of a saving provision, particularly in relation to more complex elections we run, I think our technical view is that this was a particularly intelligent suggestion by Dr Bonham.

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Mr DEAN - That is interesting. I had a lot of questions but I will ask one more at this stage. Does the Tasmanian Electoral Commission take anything from what perhaps has gone wrong in my election? I think about 25 per cent of the people did not even bother to vote. Is there something wrong with the educational side of things here, or is it that they may not have liked any of the candidates and that is why they did not vote. Is there anything to take from that when 25 per cent seems to be an almost historical figure of people not voting?

Mr FINCH - I thought it was about 20 per cent.

Mr TYPE - The worst we have ever had was a by-election for the old division of Hobart back in the early 1990s, which I think was down to around 65 to 67 per cent. You are a long way off that. Mr Dean, the Windermere turnout, I think, was in the end down about 1 to 1.5 per cent on the equivalent figure in 2009, which is not a great result. Unfortunately, for whatever reason, Windermere is one of those divisions, like Hobart, that does not seem to get great turnouts.

Mr DEAN - There is probably an answer to that, but I do not think they should be saying it.

Ms GILLAM - We have talked about it and it is hard to see what more you can do beyond sending a letter to everyone who is entitled to vote. We have heard stories of people seeing them and tossing them out. I am not quite sure what you do about that.

Mr TYPE - We wonder if they toss out tax refund cheques, but you do not get tax refund cheques anymore, do you?

Mr FINCH - I will put on record again that I commend work of the Electoral Commission in recent years, probably the last decade. It has improved so much in the communication from you to the electorate to say 'you are in this electorate, you have to vote'. The job is done very well but we have to campaign constantly to educate our people as well. For all that work, I had 20 per cent in 2008 and I had 20 per cent in 2014.

Ms FRASER - And your question?

Mr FINCH - My question is: in Mr Dean's campaign, there were robocalls, and the same for mine. I know the Electoral Commission had to have received complaints about mine because my people were so vociferous in respect of the way they were dealt with. I do not know if the message for Mr Dean was quite as volatile as mine, but did you receive and do you do a quantum of complaints that come in during a campaign, such as the one for Mr Dean in the Legislative Council?

Mr TYPE - No, we do not do a quantum, and the complaints that come through to us are probably the tip of the iceberg of the grizzles in relation to robocalls. I can confirm we received complaints in relation to both rounds of robocalls, yes.

Mr FINCH - How many would you suggest might have been made?

Mr TYPE - I would have to take that on notice, Mr Finch.

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Mr FINCH - Do you keep a record of complaints that come in?

Mr TYPE - Yes, we do.

Mr FINCH - I would like to have an understanding of how many were made because we had a suggestion that two went in to the proponent of the robocalls. There were two complaints back to that organisation, and I am befuddled by that, because of the volatility during my campaign. People cannot stand them. Whether that does not filter back to the parties or people concerned, or to the Electoral Commission, that is what I would like to know. To the people who phoned me, I said, 'Direct your complaint to the party or the Electoral Commission.' I would be interested to know how many people take up - whether they feel phoning me has given them the opportunity to complain.

Mr TYPE - It probably has. I am not expecting the number to be anything other than single digits, but we will go back and look through the records to tell you. It is certainly not extensive. There are lots of things that gripe me but I am not going waste my time complaining about them. Aren't most of us the same?

Mr FINCH - If I say the Electoral Commission was inundated with calls, that would be wrong.

Mr TYPE - Yes, it would, Mr Finch, I'm sorry!

Mr FINCH - It brings me to the issue of the way we do things - robocalls as part of our process now, you have cited some other methods of campaigning, like push polling, the use of social media, Google AdWords. These new forms of campaigning by parties and by opponents of sitting members, I am curious about. I will also cite the case of media blackouts, where for your normal methods of campaigning in newspapers and on television there is the blackout prior to elections, yet the push polling, robocalls and posts on social media can continue ad nauseam, some would say, right up until the voting time. Can I have some comments on that aspect of the change we are getting a sense of in campaigning?

Mr TYPE - In many ways you are looking at time moving on in the development of social media and some of those newer forms of campaigning. The act certainly has not kept up with them. It is open to Parliament to legislate in all of those cases. I believe once we get into the area of social media, I would be lacking in much confidence that we could enforce whatever provisions Parliament made, but certainly in some of the other areas I think it is open to Parliament to attempt to deal with these matters.

Mr FINCH - In respect of newspapers and television, do you feel, because those other things can continue, we need to look at that aspect where there is that blackout on television and in newspapers? Does that put them at a disadvantage in informing the public right up until the voting time of their options and what is going on with the campaign?

Mr TYPE - Clearly the thrust of the *Mercury's* submissions on the matter, they feel being a legacy print medium they are subject to regulation that their internet peers are not. The radio and television blackout is in the Commonwealth Broadcasting Services Act. It is more stringent than the polling day blackout under Tasmanian law which applies to the print media. The radio and television blackout applies from the Wednesday prior to

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polling day for an election. It will not be open to the Tasmanian Parliament to legislate in that sphere because the Commonwealth law will take priority.

Ms RATTRAY - In relation to the signage, we have received a submission about the signage remaining up three, four or five months after an election. Is that something that local government should be dealing with or that in your bailiwick?

Mr TYPE - That is quite correctly an issue of visual amenity and therefore squarely lies with the local government.

Ms RATTRAY - My second question is, it has been put forward strongly in a number of submissions about the increase in Parliament, and I know that is a policy decision, but would you have any idea what financial implications expanding only the House of Assembly would have on your area?

Mr TYPE - We made a submission to the independent rapporteur about four or five years ago. At that stage we estimated an additional cost of about \$250 000 per House of Assembly election and given that time has moved on, it would be \$300 000 to \$350 000, not a huge increment and by no means an unmanageable task.

Mr DEAN - On the robocalls, I am talking about the blackout period and I raised this at the time with Julian at Launceston. What is the position there? We have this blackout period which operates from the day before, and yet, as I understood you to say, robocalling and that form of advertising could be made right up until 6 o'clock on polling day. If that is the case, then do you think we ought to be making some changes to ensure we get this blackout period right, one way or another? Or should we make changes the other way to make it open slather? I think you have indicated here for campaign regulation in the digital age that maybe we need to change the whole thing around and allow people to stand outside polling booths and hand out pamphlets. What is your position? What should we do?

Mr TYPE - We strongly agree with Mr McKim that Tasmanians love voting undisturbed by anything other than the sausage sizzle. I would be very disappointed to see the canvassing of polling places allowed under Tasmanian law. It is clearly open to Parliament to legislate against push polling. We did say, perhaps a little too tongue-in-cheek in the submission, you could as easily originate them in Bangalore as in Sydney. The fact is that I assume someone in Tasmania would cause them to do it and the causing of placement of the push polling, as I understand it, could constitute an offence. The fact is, it currently doesn't, and we are not here to prosecute things that should be an offence; we are to prosecute things that are an offence.

Mr DEAN - You have answered that question well. The committee will take that on board. I would be surprised if they do not.

Ms RATTRAY - It was astounding that it was only \$500 for 10 000 calls. I think we all want to get on that plan.

Mr FINCH - You mentioned in your submission that the Victorian Electoral Matters Committee released a discussion paper on its Inquiry into the Impact of Social Media on Victorian Elections and Victoria's Electoral Administration. Are there any observations

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from that? I have not read it. Are there any observations from that which you might be able to offer to the committee? Anything that stood out, any strong recommendations?

Mr TYPE - Mr Finch, it is a while since I read the report. My recollection is that there are no strong recommendations which stick in my mind, more that it was an evolving area on which a watching brief should be kept. I may be doing the report an injustice in saying that.

Mr VALENTINE - According to the Local Government Association, case law says social media is publishing. Do you believe that to be the case?

Mr TYPE - In relation to section 196 or section 278 of the Local Government Act?

Mr VALENTINE - Just in relation to having to state who is making the statement. If I were a candidate and I make a statement on social media or blog site, I would need to say who it is authorised by me.

Mr TYPE - Quite clearly, it is specifically dealt with in section 191(1)(b) of the Electoral Act, which establishes it as an offence to publish or permit or authorise another person to publish any electoral matter on the internet without the name and address of the responsible person appearing at the end of the electoral matter. There is no equivalent provision in the Local Government Act, which basically almost predates the internet now. But in terms of parliamentary elections, yes, quite clearly that is covered.

Mr VALENTINE - Yes, but not so for local government?

Mr TYPE - No.

Ms GILLAM - The argument though we are running was that the word 'publication' had been judicially interpreted to be wide enough to include social media.

Mr TYPE - Yes.

Mr VALENTINE - So we are not talking about an ad in, say, the *Tasmanian Times*, which presumably would have to have an authorisation officer, but when people participate in blogs they make these statements.

Mr TYPE - They would still be publishing electoral matter, so it is covered by the Electoral Act. It is covered, whether it is a blog -

Mr VALENTINE - The question is whether if you are making a comment, and you called it just a general comment, it is not necessarily advertising but -

Mr TYPE - No. Electoral matter is covered much more widely than a paid electoral advertisement. Electoral matter is defined in section 4 of the act and it really has the widest possible definition. For example, it is electoral matter if it contains an express or implicit reference to, or comment on, the election or an issue submitted to or otherwise before the electors in connection with the election.

Mr VALENTINE - So a personal opinion from a candidate would be considered publishing?

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Mr TYPE - Yes. Look, if you were talking about the weather forecast on polling day, it would be electoral matter.

Mr VALENTINE - Thanks for clarifying that.

Mr DEAN - Just a couple of issues. I am not sure if it has been covered in my absence, it might have been: the use of candidates' names and photographs. Perhaps you can give us a position on it. It just seems nonsense to me that after the writ is issued, it is an offence for them to use your name and photograph without your express permission to do that. But prior to the writ being issued, you can go hell for leather.

That is exactly what happened in my election. They used my name and used false information on their handouts. Do you see that as an area that needs regulating? In other words, should it be taken back to at least 1 January at the same time as the expense part starts, bringing it together? Or do you think there should be an overall situation where in any campaigning at all, if you were campaigning for an election and you start two years or three years beforehand, that it would be an offence to use another candidate's name, and they probably would not be known at that stage, but after a candidate was known, to use their name and photograph at any time without their express permission? Do you have a position on that?

Mr TYPE - Most of what you suggest is capable of legislation. But again, that is a matter for the Parliament. From our point of view, the act refers to 'from the issue of the writ'. I am sorry, but the day before the speed limit is still 250 kilometres per hour.

Mr DEAN - Yes. That is right. That is good. I thought there might be some reasons you could put up from your point of view as to why that might be the best way to go.

Mr TYPE - If you go too far back in time, you are going to have people saying they were actually running for local government or they will stand for a federal election, or there will be another election or another issue causing their name to be out there. I would not get too speculative in your journey back in time.

Mr DEAN - I agree with you on that. Thank you for that. The other one was: you talked here about the Denison election where there were some issues with the fifth candidate. I am gauging from that, and other members would too, that you are probably saying that there needs to be an amendment considered to satisfy and clarify that position. Am I reading that right?

Mr TYPE - Thank you very much for that question. This is a very serious matter which I hope will be addressed prior to the next general election for the House of Assembly. As you know, unfortunately we destroyed 150 to 200 postal ballot papers in the division of Denison. That destruction had the potential to make the winner of the fifth seat in Denison unknowable between four ALP candidates. In the event, it was not unknowable, and the exclusion of each of the three ALP candidates in the election of Madeleine Ogilvie could not possibly have been affected by those destroyed ballot papers. The problem would have been, if it had been, we may not have been able to return the writ for the division of Denison, which would have meant that the House of

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Assembly was inquorate. The incoming Government would not have been able to sit and the consequences could have been very grave.

The only remaining consolation we had was the impending sunrise. We are suggesting that we believe the Electoral Act could be capable of amendments. In that situation, the first four seats in the division of Denison, which were never in any doubt, were declared. The House of Assembly could sit, the Supreme Court would make whatever orders it needed to make. It might involve a by-election for all five seats in the division of Denison, and the four elected members might have faced the inconvenience of having to go back to the people. Nonetheless, the incoming Government could have been formed. Those members who assumed ministerial office, or in one case the speakership, could do so and the matter could be resolved in a much more orderly way.

I very much thank Mr Dean for raising the matter because it is one which we feel needs putting beyond doubt before the next election. It is not just letter-opening machines where it could happen. Planes fall out of the sky, cars have accidents, ballot papers are transported by a variety of means, so although it seems rare, it is probably more likely than you think.

Mr DEAN - I will ask a general question. You have covered a number of points and they are obviously issues that are of concern to you, or you believe you should raise them with this committee. I take it then that we are not looking at other areas that are really causing you concern with the current act the way it is written? Are there any other areas that could be clarified that need change that would come to mind at this time? This is an opportunity we will have as a committee to make some fairly strong recommendations. There is a lot of talk about this act currently amongst parliamentarians and others; that it does need change here and there, so are there any other issues you would like the committee to consider?

Ms GILLAM - I do not think there are. That one is of real concern to us. It is quite clear that it was very well drafted legislation. I have been involved with another piece of legislation and just about every section we pick up we cannot quite work out what to do with. We certainly have not had that sort of experience. The issues are really these other policy issues that have been raised, and they are probably in the discussion we have had. Operationally, these are the major issues.

Mr TYPE - The issue we talked about earlier, local government elections and the rise in informality with the move to all-in, all-out elections, is a source of concern to us. It is quite alarming that Hobart City Council had over 7 per cent informality rate in an election that is not compulsory. Therefore, we can assume that all those people were actually giving it a red hot go trying to complete the ballot paper.

Looking at either reducing the numbering requirement or introducing a saving provision, particularly into the Local Government Act, would be an issue which we see as an important one.

There are always a number of important issues in the electoral sphere bubbling along, but they are not necessarily issues that it is appropriate for the electoral administration to be editorialising about.

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Mr DEAN - I appreciate that, Julian. Thank you for that.

Ms RATTRAY - While you are addressing your mind, Julian, to local government elections, it has been suggested that the signature on ballot papers is almost redundant really, because who would check them? I mean, you do not have people's signature. Would you have time to cross-reference every signature? It has been suggested in a submission, why do we do that? Has there been any problem with that?

Mr TYPE - We don't cross-reference every signature. By no means do we cross-reference every signature, but we can. In some cases, we do as a more systematic integrity process.

Ms RATTRAY - Just a random selection?

Mr TYPE - I would hope that we are all taught that signing something actually means something to us, that we sign our own name and we know what we are signing when we sign it, and we do not sign anyone else's name. I hope it is an action that brings with it an integrity all of its own for 99 per cent of the law-abiding electorate. I do not really buy the argument, no. I guess you would probably see that.

Mr HAWKEY - The only other comment about that is that it is an area that is getting more logistically difficult. We have a signature process for express votes that we have for Legislative Council and House of Assembly elections. We are now getting to a point where either younger people, in particular, change their signature or do not have a standard signature. Also, now nationally, with enrolment you don't have to provide a signature necessarily to enrol. There are implications that are coming, but that is an administrative issue more than a principle which I think Julian was saying, especially the fact that we can check is as much an important aspect as -

Ms RATTRAY - It has been suggested that online voting is something that will be coming along, like it or not. Therefore, there is no opportunity to sign for online voting. That is a broader question, I know, but -

Mr TYPE - That will come with its own integrity checks, and complicated and expensive ones at that. We will not be moving to online voting unless our budgetary situation improves rather remarkably.

Ms GILLAM - I am hoping someone else comes up with the ideal product before that.

CHAIR - I asked you earlier about standing for mayor and deputy mayor, whether you consider that people should be allowed to stand for both. Obviously, if they were elected mayor, then their vote would drop out for deputy.

Mr TYPE - Yes. Again, I am not going to answer the question about whether I think they should be able to stand for both because that is your area.

CHAIR - No, I understand that. Or the difficulties -

Mr TYPE - Could we run a system where they could stand for both? Yes, I believe we could. We could simply say on the deputy mayor ballot paper, 'If your preferred

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candidate has already been elected as mayor, your vote will default to your second preference.'

CHAIR - So there is not a real difficulty with it?

Mr TYPE - There is not a real difficulty with it. I guess we would get the usual gripes about 'This is too complicated altogether,' but it is not -

Mr HAWKEY - Those I don't think would put a single preference - therefore their vote wouldn't possibly drop out of the system or -

CHAIR - Now that you have mentioned that, you would have heard Frank Nott's evidence, which is a little bit the opposite to Ivan's to do with Legislative Council - he is saying, when you only have a 1, the number of differences in the outcomes are - he mentioned Flinders as a really good example of where the final margin was one, exhausted votes were 23; in Launceston the final margin was 99, exhausted votes were 1 476. As Mr Dean mentioned earlier, in the Legislative Council election you have to put 1, 2, 3, whereas in local government elections you can just put 1.

Mr TYPE - Local government elections use a pure optional preferential system; Legislative Council elections use a semi-optional preferential system, as distinct from the House of Representatives elections, which use a full preferential system.

CHAIR - Yes, difficulties all around.

Mr FINCH - Mr Type, if we focus on a Legislative Council election in the Launceston area - Rosemary's, Ivan's or my own - there are things that are frustrating for Ivan, for me, and perhaps for Rosemary, if she stands again. I know that I have access to you on the phone. I am wondering whether there might be a thought, given there might be funding or extra sources of revenue to enable it; if there was somebody who could more closely scrutinise the behaviour of all candidates and the way they process their campaigns. We would all have issues we can progress with you to some extent satisfactorily, but I am wondering whether somebody on the ground, closer, to handle those complaints, would be an advantage to the process, or offer a better process in an election campaign?

Mr DEAN - I would like to say that Anne Scott does a great job; she is a great lady.

Mr TYPE - Thank you and we share your view about Anne. I am sure she would be gratified by your comments. The last thing an electoral administration wants to do is get in the way of a robust election campaign. For that very reason, we need to move with a light hand as far as possible. That is not to say we should not come down like a ton of bricks on someone who breaks the law. But actually going out, checking if they are breaking the law, is not something that you normally do in relation to most of us who can be presumed to be, for the most part, law-abiding citizens.

I do not really want to get the Tasmanian Electoral Commission into the position where we are administering the act with a heavy hand and getting in the way of the free interchange of ideas and robust opinions that should mark an election campaign in a democracy. I would rather deal with complaints as the complaints arise.

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Mr VALENTINE - With regard to signage - I may have asked this question before, so forgive me if I have. Commercial signage, billboards, where someone hires a billboard for elections, that is considered to be an electoral sign as opposed to a commercial sign, is it not?

Mr TYPE - It is both.

Mr VALENTINE - So it has to comply with the quantum in terms of 5 square metres -

Mr TYPE - It is 3 square metres in the Local Government General Regulations 2005. Yes, it does, but only from the period one month before the notice of election to the prescribed period -

Mr VALENTINE - Yes, that's right. There is obviously not the same stricture on state elections as for local government ones. Do you think there should be some consistency between the two, or is that a policy issue again that you would rather not go into?

Mr TYPE - I think the world would be a better place without large billboard personally!

CHAIR - Thank you very much. If no-one has any more questions, it is 5 p.m. and we appreciate your coming along and speaking with us. Thank you very much for giving up your time.

Ms GILLAM - We thank you for the opportunity to do so.

THE WITNESSES WITHDREW.