

PUBLIC

THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS MET IN ROOM 2, PARLIAMENT HOUSE HOBART ON TUESDAY 5 NOVEMBER 2024

The public hearing commenced at 11.00 a.m.

CHAIR - Welcome to these hearings for the Joint Select Committee on Electoral Matters for our hearings connected with our inquiry into the conduct of the 2024 House of Assembly general election and 2024 Legislative Council elections. May I welcome you to the hearing and introduce the members of the committee who are here participating.

We have online, Simon Wood, who is the member for Bass; Cassie O'Connor, member for Hobart; Kristie Johnston, member for Clark, Vica Bayley, member for Clark; and I am Meg Webb, member for Nelson. We also have in the room, Scott, who is our secretariat and Gaye on Hansard there. Welcome to you all.

I am going to read some information to you to begin with and then we will do a swearing in process. Just before you begin giving your evidence, I would like to ask whether you have received the guide sent to you by the committee secretary.

WITNESSES - Yes.

CHAIR - Great, if so, I would like to reiterate some important aspects from that document. This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings.

This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving the relevant evidence. Do you understand?

WITNESSES - Yes.

CHAIR - Thank you. We will do statutory declarations now. We might begin with Jackson, who is online. So, Jackson, I am going to ask you to introduce yourself, stating your name and title and organisation that you are with and then I am going to read out a statement and ask you to affirm that. So, can you start with your name, title and organisation?

Mr JACKSON REYNOLDS-RYAN, SENIOR POLICY ADVISER, BLIND CITIZENS AUSTRALIA (TASMANIA), WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED VIA WEBEX.

CHAIR - Thank you, and now we will move to the room.

Mr VAUGHN BENNISON, CHIEF EXECUTIVE OFFICER, DISABILITY VOICES TASMANIA, Mr MICHAEL SMALL, CHAIR OF THE BOARD, DISABILITY VOICES TASMANIA, and Mr DUNCAN MEERDING, PRESIDENT OF TASMANIAN BRANCH, BLIND CITIZENS AUSTRALIA (TASMANIA), WERE CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thank you all. That bit of housekeeping is completed. Now, what we would typically do is give you the opportunity, if you would like to do so, to make opening statements to us and then we would put questions to you. Is that something you would like to do, to make an opening statement?

Mr BENNSION - Yes, sure.

CHAIR - Excellent. Thank you. Go ahead.

Mr BENNSION - Thank you and thanks for the opportunity to address you. You have all had a chance to read the submission that we put forward as - I guess you could call it a joint venture between members of the community, Disability Voices Tasmania, Blind Citizens Australia, Tasmania branch, and that was endorsed by the Council On The Ageing Tasmania, which would have been here today, but unfortunately their representative is unwell and unable to appear.

I do not propose that we go through that submission necessarily, but we are very happy to take questions regarding it and regarding any of the issues that we discuss today. I think it is fair to say, from our perspective, that the issues that have arisen through the 2024 elections under discussion are issues for blind and vision-impaired people and people with other print disabilities and people with physical and intellectual disabilities have been experiencing in Tasmania and other jurisdictions for a very long time. I think it's also fair to say that those issues, in some respects, are worse in Tasmania and I'm sure that Jackson can speak to you about some of the work that's being done nationally around the provision for accessible voting but I think it's also fair to say that in Tasmania, we have a unique opportunity to get this right and to make things happen, to make sure that all people with disability are included in the voting franchise. So, thanks again for the opportunity.

CHAIR - Thank you.

Mr BENNISON - I'm going to talk a little bit about some of the issues that affect people with print disability and then Duncan, who has voted at elections, and I'll get into that in just a second, will talk about his experiences at a number of different jurisdictions.

Michael will talk to you a little bit about issues that are faced by other disabled people, including people with intellectual disabilities. As part of my comments, I also have been provided the okay to provide some comments on behalf of COTA, which are probably in their submissions, but just a couple of points that they've asked us to put forward.

CHAIR - Thank you.

Mr BENNISON - And then, of course, we will take any questions but please note that none of us can speak specifically on behalf of COTA, but many of the issues are similar to the issues that disabled people in Tasmania face.

So, if we think about the accessible voting provisions, we don't really have any in Tasmania, but in 2022, Disability Voices Tasmania and Blind Citizens Australia, Tasmania branch became particularly involved because the *Local Government Act*, I think it was, that got changed, meant that voting at local government elections was compulsory for the first time.

Prior to that, you didn't have to vote if you didn't want to, but what that meant was that suddenly disabled people who couldn't access the postal vote forms were effectively breaking the law and that's not a position that anybody wants to be in. That's setting aside whether people actually want to vote or not and most people in my experience, actually are quite happy to vote.

We had some discussions with the Tasmanian Electoral Commission and they established an impartial assisted voting process which we can speak more about, but as we're really focused on the most recent elections, it's fair to say that the Tasmanian Electoral Commission did work with us on putting that together.

We were concerned about the future for elections in Tasmania, particularly as voting via telephone is available at federal elections and voting by telephone for state elections, I understand, is available in other states of Australia and certainly is available overseas, and Michael will talk a little bit more to accessible voting provisions in other jurisdictions.

We very strongly believe that the *Electoral Act* does allow for the commissioner to implement telephone voting for people with print disabilities within Tasmania, just as it is available for people who are currently not resident in Tasmania. If there is any clarification needed, it's probably a very simple thing to add to the current *Electoral Act* and that could be done almost immediately without making too many changes.

Telephone voting doesn't go all the way, though, and I'm sure that's obvious. For example, deaf blind people who may struggle to use the telephone, there is a National Relay Service and that could be - if you're just deaf, you could use that. Some deaf blind people may have enough vision to be able to use the National Relay Service but my understanding, at the moment at least, and there is work being done to fix this, is that the National Relay Service is currently not very accessible for people who use screen readers and braille displays. So, somebody who's profoundly deaf and totally blind would really struggle to use the National Relay Service for the purposes of voting.

Telephone voting also in many respects is secret, independent and verifiable, but you're still relying on other people to assist you, even though those people don't know who you are. So, I'm happy to go into the process, but I think if somebody would like me to go into the telephone voting process, it would be better if you ask a question because I don't want to teach grandma how to suck eggs.

One of the things that we would really like to see happen, so that people can vote more accessibly, more independently, and verify their own vote and know that that vote is going to count, is to do some research and investigation into other means of accessible voting, that might mean technology, it could be an online process. I've heard the rhetoric about the fact that might be [inaudible 11.07.37] there might be problems, but I would argue that if we can do our tax returns and if we can do our census online, then surely we can vote. I get that we would need to do some considerable research to make that happen, that is one of our key recommendations coming out of that.

One of the other key issues that a lot of disabled people face, particularly people with a print disability who are looking to find out what the candidates for whom they're voting stand for, is the fact that accessible information about candidate statements, candidate information, et cetera, is very difficult to find. The Tasmanian Electoral Commission in regard to the 2022

local government election did do some work with a number of us to make sure that local government candidature was accessible - that was provided on the website - but there's no firm commitment to continue doing that, as far as we understand it. Whether or not the Disability Rights, Inclusion and Safeguarding act will have an impact on the Tasmanian Electoral Commission in this area, is difficult to say at this point, but we hope that it will.

Another one of the key recommendations is that all candidates and the commission should be required to make sure that their information is fully accessible to every person who is going to be voting for them.

There are a number of other key recommendations, but again, they're in our submission. I'll let Duncan talk now about his experiences as a voter, but I want to make the point that those of you who can see me and those of you who know me, know that I am totally blind, and I have to be clear that I have never voted in the Tasmanian government election. The reason for that is that, technically, I'm not an Australian citizen, I've been here 38 years from New Zealand. I have always said that I will become an Australian citizen when I have full access to be able to participate in jury duty and when I have full access to the right and obligation to vote in this country and in this state. I want to make that clear because people may wonder why I'm not speaking about my own personal experiences.

Mr MEERDING - Without going through everything with the voting process, I'll start by saying I started using the VI voting system when it first came out, then for a few election cycles I avoided it because it's quite convoluted to use. From my perspective as a screen-reader user, I feel it was potentially designed by somebody who wasn't necessarily a high screen-reader user.

For an example, I know somebody who's a very proficient screen-reader user, to direct all their preferences in the last state elections for the lower House took them an hour. From having it described to me in the past, it took me a lot less time than that. For an example with the VI voting system, when I voted in the lower House election, I was directing preferences and, because of the way that the Hare-Clark system works, we all know how it works and rotates. I was a bit unfamiliar with the way the candidates were put forward and I wanted to direct a preference. It wasn't a biggie, but what happened was the person I knew a bit better from personal experience, and I wanted to put them above someone else in the party line. What happened was I accidentally didn't do that and I'd already made a correction and so it cancels the entire thing, and you have to start again. I don't have an effective eraser tool, like a sighted person.

CHAIR - You cannot go back one step.

Mr MEERDING - Basically, you throw it out. Effectively it's an equivalent if a sighted person wasn't given an eraser, because I believe it's an erasable pencil a lot of the time, so people can do that. You get handed a pen and you have to screw up the piece of paper each time. People do make mistakes, that is the point of having the ability to change things. I didn't change the preference the second time around because I had already been there for quite an amount of time. I'd also gone in and the wrong ballot paper had been put in for the wrong candidature, I believe. The printer then didn't work, and then something else went wrong. I can't 100 per cent remember how long the process took, but I think we were there for about an hour.

Alongside all that, the staff hadn't been fully trained on how to talk or describe where things were to vision-impaired people. There was a lot of pointing and saying, 'Go over there'. I don't really need to explain that one to people. Anyway, the staff were well meaning, don't get me wrong, and they were very happy to pass it up the line, the different bits of feedback, but they were severely lacking in training in how to communicate with vision-impaired and blind people. That was the lower House.

Then there was the Legislative Council election that I voted in with the VI system, so I was like, 'Okay, we're campaigning to have all this; I'll give it another shot'. I was going in with a lot of trepidation because we had just had situations where the machines had broken on someone else. I went in and did the vote. Again, there were technical issues.

Also, getting there was probably another one. It was in a basement area of - not really a public building, I believe it was a private building - I went in and couldn't really figure out where it was. Luckily, I ran into someone I knew from the community. They said, 'Go down the escalators. Here, I'll just take you.' They then showed me. That was just dumb luck, basically, that I'd managed to actually find it. I probably would have been walking around a lot longer and I would have had to ask somebody, so that could have been looked at in a different way in terms of location of the vote.

Mr BAYLEY - That was the only booth where that service was available?

Mr MEERDING - Yes. There are three voting machines, I think, for the state, at least that's what's been offered to us. We don't need to then go into the intersectionality of rural and disability, that's a fairly obvious one and that's problematic as well because there were lots of people who wanted to cast their votes in rural areas and they're like, 'You have to go to this place', and there's no public transport, et cetera, et cetera.

So, there are problems with the machines. There are not enough of them and they're also not working very well in situations - alongside the fact that we then have had situations where we had multiple people going to vote at once and then the staff found it quite problematic, but on top of that, obviously, there's a huge bottleneck of only having one machine. That happened both of those voting times.

The final example, I'm going backwards here, is the local government where they had the scribe and I went to use the independent verifiable, sorry is not verifiable - the partial-assisted voting, we'll call it because I don't think it's like a full vote. I wasn't able to direct the preferences at the same level at which I would have liked, when I've done it with my partner or family members, and that was partly because I wasn't familiar with the person and it was all fairly new for everyone concerned. Obviously, not personally blaming anyone, again, it goes back to the training, but I also don't think that having a person is sufficient because effectively I had to disclose my vote and didn't have that secret independent and verifiable vote.

I'll leave it there.

CHAIR - Thanks so much for that. That's very interesting to hear that described from a first-person perspective.

Mr BENNISON - I think it's worth saying just before Michael has a word, that a lot of this started, particularly with regard to the lower House election, because a Launceston resident

had a significant problem where he attempted to cast his vote on three separate occasions and the machine didn't work. He then left because he had to go to work and an hour later suddenly the machine started printing off his vote and the Electoral Commission staff picked up the vote, checked it out, made sure it looked okay, and then deposited it. So, of course, he has no guarantee that that is actually truly his vote. Also, that person has seen his vote and knows what that is. Again, we have a lack of secrecy, we have a lack of independence and we have a lack of verifiability.

I did forget to make another couple of points that a lot of people have experienced and that is that information about where the polling booths are - and I was prompted by Duncan's point about not knowing where to go - is not made accessible, so that blind and vision-impaired people, particularly, can know exactly where it is that they have to go. They're not in places that blind and vision-impaired people typically know and go to regularly so that they can work safely without anxiety. Duncan made the point about rural people in particular. One person we're aware of was expected to get a taxi from Devonport to Launceston, cast his vote, then get a taxi back again. That's a significant financial cost as well as a time and efficiency cost for that person.

Mr SMALL - I should start off by saying that Disability Voices Tasmania has a policy of employing New Zealanders because we can pay them half the normal salary and we intend to continue with that policy.

We've used the term 'print disability' quite a bit already this morning and to remind you, because I think we did define it in our submission - what we mean by the term 'print disability' - because I want to speak a little bit about other people with different disabilities and problems in accessing a secret and independent ballot process - we use the term, basically, to describe people who have difficulty accessing print material. Now, that might be visually accessing print material, but it also might be physically accessing print material. You may have a dexterity difficulty, which means it's hard for you to mark a ballot paper. It may even be difficult for you to independently, secretly put your ballot paper into an envelope to post it off, et cetera. There are physical aspects to independent, secret ballot casting as well.

Then we've obviously got cognitive issues that may affect a person's ability to understand both the material that's been presented by political parties or independent nominees for positions, but also physically, in a cognitive sense, being able to access the ballot paper, which has 53 names on it and is longer than your arm. So, print disability includes people with physical disability, people with literacy difficulties, people with vision impairment as well - it's a catchall phrase.

So far, we've primarily talked about people with a vision impairment, people who are blind or people who have vision impairment because it would be fair to say that Disability Voices Tasmania's alliance with Blind Citizens Australia Tasmania branch and the national body came out, as Vaughn said, from that local government experience of the change in the law to mandatory voting. We've talked to our members and we've had personal experiences of people with different disabilities accessing the voting process. I, personally, for the last two state government elections have been to my local voting place only to find that, for example, there were no lower height voting booths. A person with a physical disability or person of short stature was obliged to go to an open area where there was a table where they could access the voting forms. That's not secret because you're in full view of everyone. There are issues like that, the availability of those booths suitable to the reach ranges of voters. We also have

examples of people who are going to their local voting place where the place itself might be accessible, but the path of travel from where they had to park was not accessible. All those things to do with the physical accessibility of the venues are things that we have continuing concerns about. It's one of the issues that is addressed in one of our many recommendations that we put forward here.

There are issues, and again these are not just Tasmanian problems, they're national and international, and they're ongoing, but we need to continue to work to address them.

There are issues to do with assumptions that are made, particularly about people with intellectual disability or cognitive disability or brain injury and older people, people with dementia. There are assumptions made about the capacity of people to actually understand and to exercise their right to vote. I'm very aware of, for example, in Canada, there is an obligation put on the electoral commission equivalent there to have an outreach program, which works with residential services, with nursing homes, with parents and family members, to give those staff and those family members and friends confidence to know how far they can go in assisting the person to understand voting options and their voting rights.

We have seen research and we have seen experiences where it should be the duty of those people that provide support to assist a person to be able to vote, but they back away from being able to do that because they do not have the confidence to know how much support they can give and how much direction, short of directing, that they can give people with, for example, intellectual disability. We need to look into how we can support service providers and families to be able to offer that support in a way which is appropriate and then, in terms of literacy, we think that we need to look at ways in which we can move away from assuming certain literacy levels and look at things like symbols and photos on voting forms which assist people to identify more easily the people of the political party or the particular position that people take so that voting is easier.

So, as I say, it's not just about people with vision impairment, it's not just about increasing number of VI voting machines and information about where they are, it's not just about accessible information in the form of online information, it is a whole range of issues that add up to, effectively, a degree of disenfranchisement of a section of the community, which is significant, is not a small part of our community.

I will just leave it there. I have some other information about what happens in other jurisdictions which we might come to in the question-and-answer form.

CHAIR - Thank you. Did Jack want to add anything from online to the opening statements?

Mr REYNOLDS-RYAN - Thank you, Chair. I'll be brief to give the committee an opportunity to kind of lead the questioning, but I would just endorse what has already been said by my colleagues. We share many of these same concerns. I speak from the position of a national body, Blind Citizens Australia, so these are concerns that are indeed shared by people who are blind or vision impaired across Australia. It is something that we are working on in various jurisdictions across the nation and different states and territories and the federal commission are doing different work on this, but it remains a really important concern.

I would note that the principle of free and equal participation in the political process is a really fundamental tenet of democracy. Vaughn has kind of touched on that in the reasoning of why he has chosen not to become an Australian citizen despite living in our country for so many years. That principle of free and equal participation obviously includes the right to vote, to cast a secret vote in elections and Australia was the first country in the world to allow citizens that right and it was a concept that was quickly adopted in democracies across the world.

We think that there are three key elements to a fully accessible vote, which have already been alluded to by my colleagues, that is; secrecy, being able to vote in private; independence, being able to vote without the need for assistance by another person and verifiability. Now, there are some debates in definition about verifiability because it can talk about different things. There are some negative connotations in the sense of verifying someone's identity in terms of their vote and being able to trace back based on particular voting behaviour, demographics, residential and where they're located et cetera. We're not government footprints, we're not talking about that. We're talking about verifiable in the way that a person is able to check to ensure that the vote has been cast the way it was intended.

I am a sighted person and when I cast a vote, I'm able to, before I put it in the ballot box, go back and make sure that the numbers make sense, that I haven't missed anything, that I haven't inadvertently put the number in the wrong box and any of those things that can go wrong, especially if I choose to vote in an election where there are several candidates in a below the line type voting, that can be a complicated process as enough as it is. That's not something that really exists for people who are blind or vision impaired at the moment despite it being such a crucial part of an accessible voting experience.

I would say, and this is also being touched on, that for too long the issue has been seen as a zero-sum game between competing concepts of accessibility versus security. For people who are blind or vision impaired, these issues are intertwined. Ensuring that people can cast a vote accessibly and ensuring that that vote is counted secretly and securely is part of that accessibility and is part of the reason why BCA continues to push for change across Australia.

I would note, as has also been mentioned, but just to go into this a little bit that governments across Australia and electoral commissions across Australia have acknowledged and encouraged the idea that voters, with or without disability, should be presented with as many possible opportunities and choices to vote with as many choices as possible, to ensure that as many people vote as possible, because we are a country that encourages that electoral participation.

Presumably, that's the reason why the Tasmanian Electoral Commission operated 14 pre-poll centres in the week before polling day, which is great - that's a commitment to democracy. We find it very problematic that during that pre-poll period there were only three locations across the entire state with the VI-Vote terminals in operation. We've already heard about some of the challenges that were faced by those VI terminals with three different locations on voting days. As Duncan has already alluded to, there were significant challenges. I would note that BCA is not opposed to the idea of kiosks or terminal voting, as you might call it. However, it is crucial that if kiosk or mobile terminal voting is part of a broader suite of options for voters that is actually co-designed in collaboration with the communities that it is seeking to support. It does not appear that was the case in this circumstance.

Look, a lot of this has been covered. I'm keen to give the committee time to ask questions because a lot of what I would have talked about has already been covered. As others have said I believe it is important to note that the challenges engaging with the process do go beyond the act of casting the ballot itself. During the election campaign, voters who are blind or vision impaired experience challenges in updating electoral roll information and accessing lists of candidates and engaging generally with the flow of information and communication. Even as much as finding out information about just which candidates are standing has presented challenges.

This this is especially difficult for voters who may be undecided about their vote. For people who have already made-up their mind on a party or a candidate that they wish to support, the challenges that we've all alluded to still exist, but there's a fairly simple process of identifying which party is going to get the vote and following any how-to-vote cards that might be there, but undecided voters feel further left out of the process. As this committee would know, on election day and during the early vote period, parties and candidates invest a significant time and energy into ensuring there are volunteers with a presence at every polling booth to give information, to provide how-to-vote cards and even a bit of information about major commitments that their party or candidate has made. We would echo the recommendation that electoral laws are amended to ensure that all campaign material, including how-to-vote cards, be ensured in accessible formats, and that has to include large print copy, braille, electronic and audio.

I will leave it there. There's more that we can talk about, but I do want to hand over to the committee to ask all of us questions. Thank you for your time.

CHAIR - Thanks so much, Jack, and thank you to all of you for those opening statements. It was very comprehensive and gives us a lot to drill down into. We might just dive into some specific areas.

One I'm interested in, going back to Vaughn, you mentioned in your remarks and it comes through in the submission as well, that clearly there's provision in the current act as it is without change for there to be special arrangements put in place for a range of circumstances. But that hasn't been done in relation to phone voting for people with vision impairment.

You seem to suggest that you felt that that could be done under the current act, and I think others share that view too that I've heard expressed. Do you have any sense about why it hasn't been done within the provisions of the current act, to the greatest extent possible?

Mr BENNISON - My view would be that it's about interpretation and it's about risk mitigation and not wanting to expend the money on establishing a call centre that might have - I don't know how many thousands of calls would be made in the state election because it's fair to say that regardless of what provisions we put in, there are people who are still going to go and vote with their partner or spouse, parent, whatever. Nobody's going to be captured by every issue. I think really it's a matter of interpretation but it's really about saying, if we do that, we open ourselves up to X, Y and Z and it's better not to do that. That's my view.

We, as I said, strongly believe that telephone voting could be made available to people with print disabilities in Tasmania and if not, it could easily be added very quickly to - I don't remember precisely the paragraph that we're recommending, but it's in the submission there.

CHAIR - Thank you. Can I ask another question? I know, and from your submission, you've described that there's been an advisory group since those 2022 local government elections and the issues that were identified there, there's been an advisory group that has been working with the TEC, and the bit that I want to ask about that and there's probably other questions to drill into that space too, but the bit I'm interested in is - because you mentioned training a number of times and potentially a lack of training being provided to people working on polling booths around how to manage situations involving people with disability.

Has the advisory group been asked to provide input into training of polling booth workers and TEC staff?

Mr BENNISON - No. To be clear, the working group was established and the commission was very careful and very persistent at making sure that it was focused on potential changes to the *Local Government Act* that could make the voting process more accessible to people with a print disability. Despite the fact that I and Duncan and others are continually pushed for - I think my argument was that we should be looking at all elections that are covered by the TEC because the last thing we want to do is have a beautiful set of recommendations for government on the *Local Government Act*, only to end up with egg on our faces because we come to another state election without accessible voting. And, of course, that's exactly what happened.

The answer to that question is 'no', because the working group was very specifically maintained about changes and recommendations for changing the *Local Government Act*.

Mr MEERDING - And those recommendations were made multiple times.

Mr BENNISON - Yes.

Mr BAYLEY - Can I ask a follow-on from that? I guess specifically, the one thing that jumps out to me about the working group process is the unwillingness, in your words, of the TEC to actually take action to improve the situation for voters.

Can I ask, why do you think that is? Why are they unwilling to listen and hear and take action to improve accessibility?

Mr REYNOLDS-RYAN - From BCA's perspective, and looking at it working with a number of electoral commissions and a number of state parliaments and governments across Australia, are reluctant to kind of point fingers and appropriate blame. What it seems to me is that there is a kind of risk averse culture in the Tasmanian Electoral Commission and that in the absence of clear and unambiguous guidance from either the parliament or the government that this is an approach that the government and the parliament, the elected representatives support.

The Electoral Commission, in my view, seems reluctant to take that step on their own. BCA shares that same interpretation of the act that we believe the telephone voting could be allowed under the current act as it stands. It is ambiguous, I will concede that point that it is ambiguous and I think the Electoral Commission is taking a risk averse approach to that, because it is ambiguous they are siding with caution and not establishing it. That is why there needs to be clarity provided to the Electoral Commission to give them that permission structure to do so.

It's the same in the working group. We were very concerned, as Vaughn has said, this is exactly what would happen and further that there is already differences and complications in the differences between voting, for example, in a parliamentary election for the Tasmanian parliament and when we go to federal elections. There are already differences in the way that a Tasmanian voter experiences that process.

We were very reluctant to then see an extra layer of reforming local government but not reforming state government. That's why we continually made those recommendations that we should change all of them at once. But again, because that wasn't how the group had been set up, because there wasn't that unambiguous permission from government and from parliament, I believe that the Electoral Commission took what might be the path of least resistance and the most risk adverse approach, which is to just focus entirely on the brief that they were given, which is local government. All of us around this table believe that there should have been a bolder approach, but that's the way it is and that's why we're asking government and asking other elected representatives to really take that leadership to give the Electoral Commission the go ahead to be bolder in their approach. That's my perspective on that.

Mr BENNISON - I think it's fair to say that the Electoral Commissioner specifically has stated that it is not the Electoral Commission's role to advise government on electoral matters and electoral processes. Our view is that's very clearly written in the act and surely in his job description, although I've not seen the job description, that one of the roles of the commission is to provide advice and report back on election and electoral practises. The commission or the commissioner was very unwilling to go further with the working group than providing a list of recommendations that we then, those of us who are the members of the working group, would then be responsible for taking those recommendations back to parliament.

The commission in this instance saw itself as facilitating a working group of interested people or interested organisations and community sectors in providing and assisting them to work through and develop a set of recommendations that were specifically aimed at changes to the *Local Government Act* and as has been illustrated, they wouldn't budge on that.

Ms O'CONNOR - Just going back to your earlier statements, Michael, about the level of disenfranchisement, not just of people who are vision impaired or have physical disabilities, but also people with cognitive and intellectual disabilities, do you agree there's an issue, or particular cohorts of people who can be disenfranchised, and they're those who are dependent on accommodation supports? I can think of a particular large disability accommodation service provider where, a few elections ago where no one who lived in that facility was given the opportunity to vote. One of the residents contacted my office to say, 'I would have really liked to vote and I wasn't given that chance'. To your understanding, is that an uncommon or a common occurrence? It is so patchy and variable because it depends on who's running the facility, it depends on the people who are involved and how much they recognise that it's a right for all people to vote.

Mr SMALL - Look, we haven't got any research to be able to give you that accurate a picture of the scope. We've looked at some international research on this and the same problem is replicated in other countries. It comes back to what I was trying to communicate about the confidence. I think service providers understand the rights of people that they support to be able to vote, but I think they lack confidence to be able to provide the appropriate levels of support. I think they withdraw from that and that results in, essentially, disenfranchisement.

Ms O'CONNOR - But there's potentially - sorry, Vaughn.

Mr BENNISON - I was just going to observe that that is one of the key points that COTA has been considering because this is equally true for people in aged care facilities and things like that. The only comment I would make about it is that yes, we don't really have a full understanding of the impact that sort of thing has on our population, but my view is that if even one person is unable to vote because the voting process is not provided to them in an aged care or group home or anything like that, that is a problem. I think you're absolutely right. I think research needs to be done on an outreach program to make sure that the TEC is aware of these environments and that there are provisions put in place to make sure that people can cast a secret, independent, verifiable vote regardless of where they live.

Ms O'CONNOR - There's two potential roles here for the TEC, isn't there? One is in providing that educative and training material for people who work in these facilities and the other is to take a more potentially direct role in helping people in those facilities vote. I don't know if it still happens, but there used to be TEC staff who'd come into hospitals, for example, on or before election day.

Mr MEERDING - That happened for my grandmother in her nursing home.

Mr BENNISON - The other question, it is not entirely relevant, but I wonder how the census manages that and if the TEC could take a page out of their book, they might not be any better, quite honestly, but it might be worth considering.

Mr SMALL - I often look to Canada as a shining light. I lived there for a year and enjoyed looking at how they do things there. Elections Canada specifically has a role and obligation to perform that outreach program, to go to places where people are potentially disenfranchised and to work with those organisations and families to support them to ensure those barriers are reduced.

Ms O'CONNOR - There's a democratic risk here, isn't there? There's a risk that people are being denied their democratic right. I'm certain it's happening and it hasn't stopped.

Ms JOHNSTON - Thank you very much for your submission. You've been very generous and kind in describing the TEC as risk averse in its culture. From what I'm hearing today and have identified in other submissions and from people I speak to in the street, there seems to be a distinct lack of disability awareness when it comes to a whole range of activities the TEC conducts. There are the technical provisions of the facility or the mechanism to cast a vote, but also in terms of the way that they provide information about accessibility to vote in the first place.

I'm wondering if I can get your reflections on if the 2024 election was any worse? From my personal experience in talking to members of the public who are wanting to cast their vote for a range of reasons early or had trouble accessing centres, the lack of pre-poll centres was a major concern. The lack of information about the different ways in which someone, particularly with mobility issues, could access pre-poll or polling day centres, the lack of information about what polling booths were accessible was a major problem, being able to get that information. A number of people couldn't access it. It seemed to me that that situation was far worse than the 2021 situation. If you would be able to reflect, do you think, not in terms of

the actual mechanism for voting itself, and I recognise the complete restrictions around that, but in providing information about the process of engaging elections, did that seem worse in 2024 or is that my imagination?

Mr BENNISON - It is difficult to say because I do not think we really measured the status quo in 2021 and then did so again in 2024, but I think that there is a number of questions that your comment brings up and the first one is one of our key recommendations. It is that, notwithstanding the fact that the Tasmanian Electoral Commission has finally recruited an access and inclusion officer who, if has not already started, she will be starting very shortly, it is our belief that there is not enough disability awareness training in the TEC office but also in the frontline staff who provide that support, whether they are paid or volunteers, who provide that support at polling booths and other environments around the election.

Our recommendation is that anybody who works, particularly in a frontline role, but this should extend to the commissioner as well and the commissioner's staff should undergo disability awareness training and if that has been done at some point in the past, it should be updated and should be updated fairly regularly.

Mr MEERDING - And should be delivered by people with disabilities.

Mr BENNISON - Yes, absolutely. That goes without saying. The other part of your question is around information that is made available to people when they are thinking of casting their votes and I think we touched on that a bit earlier, talking about the lack of accessible information about where polling booths could be found, where people could go and what they needed to do and I think you are right.

I cannot testify the fact to whether or not it was any worse than the 2021 state election but certainly, there is an appalling lack of information made available and Duncan illustrated that point by talking about when the polling booth was in the Centrepoin Arcade, I think it was -

Mr MEERDING - No, it was even more obscure than that.

Ms JOHNSTON - Icon complex?

Mr MEERDING - Yes, below Myer sort of area.

Mr BENNISON - Sorry, I thought that was Centrepoin, but again, there is the confusion and so, just 'it is shop 85 of the Elizabeth St Mall' is not a good enough way of telling somebody who is blind or vision impaired or with a cognitive disability potentially where the polling booth can be found. Again, that extends to candidate information.

I have been, for various reasons, looking very closely at the Tasmanian parliament website recently and I really like the fact that I can see who all of the members are. I am apolitical, I do not particularly follow politics, my wife will tell you that I am very boring, and so it is very interesting to know who all the people are, but you cannot easily find that out before they get elected or when the election process is happening.

So yes, I agree. There is a lot of work that needs to be done to make sure that information is accessible, to make sure there is a good and easy place where people can find out the same

information about all of the candidates and particularly in the local government space, where you are electing people who are specifically in your area and there is a lot of candidates to wade through. That information needs to be developed in a way that is useful and accessible to everybody.

Mr SMALL - Could I just add that I do not think we can answer your question yes or no. What is really disappointing is that people with disability have been making complaints and expressing concerns about these sorts of issues for a long time. I have to say that, and Vaughn and Duncan will correct me if I'm wrong, I think we have raised those concerns with TEC or said that we believe that people with disability have raised those concerns, the response we got back was, 'Well, we have not had any complaints or any concerns expressed,' so we actually drew up a list of people who gave dates on which they had given concerns and did that and fed that back.

What is really disappointing is a feeling that people have expressed concerns, but nothing has been done and, as Vaughn says, we are very hopeful now that the commission has or is about to appoint a person who will be charged with responsibility to try to grasp these issues, but it has certainly been a problem in the past and, if you could just indulge me for a second, we did a bit of a survey of electoral commissions in other states and territories, just looking at their websites and, for example, Victoria and Western Australia; you have an inquiry box so people can search the website. You have an accessibility statement about the accessibility of the website. You have information in easy English on the electoral process. You have opportunities for accessible documents on their websites.

The TEC has no research facility on its website. It has no accessibility statement. It has no action plan. The other commissions have a disability access and inclusion plan; the TEC has no such thing. The only information currently on the TEC website is associated with the last election and the availability of voting booths, but that's four or five levels down within the website to be able to get to that information, so there's clearly a lot of work for the commission to do and we're hopeful that the appointment of a person dedicated to this area is a sign that the commission recognises that and is going to get on top of it.

Ms JOHNSTON - It may be a bit of a - sorry for my - Dorothy Dixier but when I rang up to raise my concerns about the lack of pre-poll accessible centres because the Icon Complex was particularly not accessible for people in Glenorchy where I have a strong base, I was told that it was because it was a quick election. It was an election that was far earlier than expected, and so they didn't have the opportunity to find accessible locations. This is a bit of a Dorothy, is it acceptable that they prioritise just locations over access and the disenfranchising of people who need to be able to access and so - is that a factor perhaps for the 2024 election when it was called much earlier than anticipated?

Mr BENNISON - I would say that it's the commissioner's responsibility. If they are thinking about - regardless of when an election is called, whether one is called for tomorrow or in three years time, they should know what environments are and aren't accessible and they should be doing an audit every few years to make sure that any environment they pick is a fully accessible and inclusive environment.

Ms JOHNSTON - Pre-planning and advice to the ministers, I'm assuming, would be included in that?

Mr BENNISON - I imagine so, yes.

CHAIR - I will throw to Jack, who's got a comment to add.

Mr REYNOLDS-RYAN - Yes. To answer that question, but also thinking about comparing the work of the TEC elsewhere. Again, because we have the national focus, we're aware that this is an issue that electoral commissions face across the nation and especially in jurisdictions that don't have fixed terms of parliament where an election can be called and held quite quickly we acknowledge that that does create additional challenges to quickly being able to hire and organise accessible places. I understand there are some logistical issues there.

However, that is why it is so important to ensure that there are other solutions, so that, of course, the electoral commission should do everything it possibly can and, as Vaughn said, keep an audit of accessible places, be constantly looking for new venues to be used as election polling places that can reach those accessibility features, but we know that we're not living in an ideal world and not every polling booth is going to be and that's why it's important to have, first, a wide selection so, hopefully, if the one that's closest to you isn't accessible, the next one closest to you should be. That's why it's also important to ensure appropriate changes to the *Electoral Act* to allow for technology-assisted voting, including telephone voting or kiosk voting, that are actually designed appropriately.

I also note that, in terms of whether - like my colleagues, I can't necessarily say definitively whether it was better or worse than in previous elections. I would say that this round of elections was one of the most inaccessible BCA has seen anywhere in the country in a long time. Every other jurisdiction does allow for some form of telephone voting, which Tasmania doesn't and, as has been mentioned, there is a culture as well.

BCA sits on a committee, an accessible working group for the Victorian electoral commission, and recently they are looking at ways to improve their electoral accessibility plan that they have underpinning the electoral commission's entire work. At the beginning of that process, those of us who were gathered around the room were basically encouraged - blue sky thinking, talk to us, let's go from the starting principle of what would be the ideal world for people to be able to vote in an accessible way. We can get down to the reality of what the challenges are later, but let's start from the first principle of what do you need? That's the kind of culture that I think we're missing in the Tasmanian Electoral Commission is, from my experience sitting on this committee and I think the others around this table would say as well, is that the electoral commission's working group here in Tasmania was very much focused on only what was allowed to be discussed and very strict parameters. Anything out of that was unable to even be mentioned. You're not going to get genuine co-design and progress if that's the attitude.

Mr BENNISON - They were constantly pushing back and giving us the minutes of the previous meeting two days before the next one. It was a very difficult process. I agree with Jack, it has been extremely difficult working through this process.

Mr MEERDING - The prescriptive nature of it also meant that, to reiterate, we did recommend phone voting, even though they said that it was only about the *Local Government Act*. We were saying that could be something we could put into the state government. We had those conversations before and they kept on saying that and that wasn't two weeks before the election. That is why we're also bringing up the fact that the commissioner could make

recommendations to parliament. That was brought up well in advance as well, the phone voting and the recommendations that could have been proactively dealt with.

We really also want to reiterate they shouldn't purely rely on the accessibility and inclusion officer, but that there needs to be a bit of a cultural - I've got to be careful with what word I use after that - sorry, a bit of a cultural change or cultural awareness around disability within the organisation as a whole and within society more broadly. It is reflective upon some of the other issues faced, in terms of getting there by public transport, for example.

Mr BAYLEY - Michael, you've mentioned Canada a couple of times and we've talked about other jurisdictions in Australia. Is there anywhere else that we, as a committee, should look to that does it really well, in Europe or Scandinavia or anywhere like that? Are you aware of a shine-out jurisdiction?

Mr SMALL - Happy to get back to you on that.

Mr BAYLEY - That would be really useful.

Mr BENNISON - Estonia is a good one where they use technological means for all of their voting processes.

Mr SMALL - The United States is a good example of the moment where everything is happy and shiny and everybody trusts the process.

Mr REYNOLDS-RYAN - If I could quickly add that there's nowhere in Australia that's doing it perfectly right now. This is something that every government and every electoral commission is grappling with one way or another. I would say that provides a real opportunity, particularly in New South Wales. The New South Wales commission that had - the electoral commission that used to have iVote suspended it. We don't have time to go into that. They've acknowledged that they need something to replace iVote and they are taking active steps to build that new process. But, one of the things the New South Wales electoral commission has said in their report around what the next steps of the future are is that any opportunities for cross-jurisdictional collaboration, so that rather than every parliament, government and electoral commission trying to reinvent the wheel, we can learn from those cross-jurisdictional approaches and, even better, have some consistency for voters given people do move around Australia and to create a sense of uniformity and consistency. Noting that Tasmania does have a slightly different electoral system, but as much uniformity and consistency for voters as possible is going to help with electoral participation.

Ms O'CONNOR - A last question to get some clarity on what the obstacles might in the first instance, at least, rolling out the capacity for telephone voting outside local government elections. Can you confirm, is that the process that people use when they're voting from overseas, for example? What did the TEC say to you apart from making it clear to you that they didn't think there was any obligation to provide this option during state or Legislative Council elections? What did the TEC say to you was the actual obstacle to having a telephone voting system in place?

Mr BENNISON - Our understanding is that the commission's view is that it can't be done under the current act.

Ms O'CONNOR - What, that it's prohibited?

Mr BENNISON - Effectively, they said, 'no, we can't do it the act doesn't allow it'. It doesn't expressly prohibit the use of telephone voting, but it doesn't expressly allow it and, once again, we've got this 'risk-averse' - I call it cantankerous - culture that says we cannot do anything unless it's expressly provided for because we might get our, you know -

Mr SMALL - It may well be that culture is turned on its head with the proposed legislative change that the Attorney-General issued a few days ago, which, to our minds, clarifies what we believe already exists, and that is that the commission is allowed to propose and develop alternative ways of improving accessibility. We look forward to pursuing that.

My last statement, if I may, would be that we recently had a really productive and positive engagement with government over the Disability Rights, Inclusion and Safeguarding Bill, where we felt, at the end of the day, we engaged with government and we were partners in the co-design of what essentially is going to be a piece of legislation we can be very proud of, and thanks again to those of you who contributed to that. We don't want to be consulted over changes, we want to actually be co-designers of changes and that's why it's so important that we have a commitment from the TEC, and the political commitment to establish an ongoing advisory group, which has a term of reference which is extensive and blue sky - gives us that opportunity to develop a blue sky vision for the future.

CHAIR - I'm aware we've gone a little over time, if there are any brief closing remarks that any of you would like to make, please do so, and then we'll close the hearing.

Mr BENNISON - Nothing further from me.

Mr REYNOLDS-RYAN - No, nothing further.

CHAIR - I will just state at the end here, as I advised you at the commencement of your evidence that what you've said to us here today is protected by parliamentary privilege, once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said to us. Do you understand this?

WITNESSES - Yes.

CHAIR - Thank you so much for your time, that brings us to the close of the hearing.

THE WITNESSES WITHDREW.

The committee suspended at 12.05 p.m.

The committee resumed at 12.15 p.m.

CHAIR - Welcome, Mr Cocker, Dean. Thank you for coming to this hearing with the Joint Select Committee on Electoral Matters for our inquiry into the 2024 General House of Assembly Election and the Legislative Council 2024 Periodic Elections. Welcome to the committee.

I'll introduce the members. On the screen is Simon Wood, member for Bass. We have Cassy O'Connor, member for Hobart, Kristie Johnston, member for Clark, Vica Bayley, member for Clark, and I'm Meg Webb, independent member for Nelson. We also have Scott as secretariat for the committee and Gaye from Hansard today.

Thank you for your time. I'll just read some formalities and we'll do a swearing in. Before you begin giving your evidence, I'd like to ask whether you've received and read the guide sent to you by the committee secretary?

Mr COCKER - I have.

CHAIR - If so, I'd like to reiterate some important aspects from that document. This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom, without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings.

This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It's important that should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving the relevant evidence. Do you understand this?

Mr COCKER - Yes.

Mr DEAN COCKER, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thank you very much. Would you like to make some opening remarks or a statement before we have some questions?

Mr COCKER - I'm taking it that you have read the submission, so I don't really need to go into detail with what's already in there if you've read that. I guess I would open it up by saying that my submission was prompted by hearing an interview by Leon Compton on ABC Radio Hobart of the Electoral Commissioner, Andrew Hawkey. That was about two days after the election day, and the electoral count was still going. It was just listening to that interview, where Mr Hawkey referred to an audit and audit materials during the electoral count.

As a person who doesn't know what arrangements are in place with regard to parliamentary elections in Tasmania, it just struck me as an odd thing that while you're actually doing the count, you're referring to an audit, which with my sort of accounting/finance background, typically you would regard an audit as something that's independent, and the Tasmanian Electoral Commission is the body charged with the responsibility for overseeing and conducting the election. To me, that seemed a bit odd to be talking about an audit during

a count, not after everything had been done, and to be referring to that as an audit, almost suggesting that it was an independent audit.

I can imagine there may be a reason for maybe wanting the public to have assurance that the election is being conducted appropriately, there's no maladministration or fraud or anything like that. Certainly, if there are checks and reconciliations being undertaken, that gives a degree of comfort. Also, I think, with elections it's not a question of, 'Do you believe it was free and fair?' it's really a question of the degree of integrity of the process is really a matter of confidence. That is either do you have more confidence if there are independent audits on a regular basis, or do you have less confidence if there are no independent regular audits? It's not a question so much of belief, like a religious belief, it's more about what's your level of confidence that this was a free and fair election and everything was above board - there was no maladministration, no fraud, whatever.

It got me thinking when I heard that, so I made some inquiries, reaching out to government to see if there is any contact there that could maybe update me as to what independent audits are actually carried out for the elections in Tasmania. I received an acknowledgement saying my query had been referred to Justice, but I haven't heard anything months later. I'm operating on the assumption, just through Google searches and trying to find out what is actually going on, that potentially there are no independent audits outside of the Tasmanian Electoral Commission that might, perhaps, conduct internal audits.

My suggestion, for want of a better term, is that it would be nice if there were actually independent audits so that there was an increased level of confidence. That's pretty well it, in a nutshell.

CHAIR - Thank you. I found your submission really interesting and quite thought-provoking. We're living in a world where the confidence in elections is something that comes up quite often. Today is an interesting day for us to be talking about that, given what's occurring in the US. It's interesting to hear you describe what had led you to make the submission and the thinking that had been triggered for you around the use of the word 'audit' and how that was placed.

Are you aware, or have you looked into, whether there's a system of some form of independent audit done in any other jurisdictions in relation to the conduct of elections and election counts?

Mr COCKER - I am aware that different jurisdictions, including the US, have the electoral data available for public review. That is, also, if there are questions about that, there are opportunities for people to look at that data, make some assessments, sometimes use that as the basis of court action or not. In particular, if there are non-profits that have queries about things and bring cases. I'm not suggesting that that has to be something we have here - that our election data and information is available for general public review. There is a requirement, certainly, in jurisdictions like the US that you keep the data for two years, in case there's a case.

My view is, if there isn't the opportunity for the public to go in and have a look and, say, they're not going to be able to identify individuals by the data, but they can look at discrepancies they might perceive in the data. What I'm suggesting is not that. I'm just suggesting, perhaps, that there ought to be an independent audit undertaken, just as there are independent audits of most areas of government. Every single public company, including charities, is required to

have an independent audit, yet I find it remarkable that in Tasmania the Tasmanian Electoral Commission is not required to be subject to an outside body undertaking an audit. Maybe I'm wrong about that, but I've made inquiries of the bureaucracy and I haven't had any response. I'm operating on the presumption that there is no such thing. I'm sure that there are different opportunities for audits and information being available for review in other jurisdictions. All I'm saying is, I think having the electoral commissioner refer to audits and audit material, when the TEC is not independent of conducting the process, is misleading.

Ms O'CONNOR - Thanks for that very interesting presentation, Dean, and your paper. It's interesting to hear you cite the US, because although I understand they have mechanisms in place, depending on which state you're in, for people to check back on the vote, there are also a lot of allegations over there of voter fraud. It potentially undermines that trust in democratic processes that you were talking about. In your submission you make reference to, because it takes so long to count the postal votes, that it's more time for an insider to tamper. Have you heard or seen any evidence that there's any reason to question the Tasmanian Electoral Commission's impartiality or capacity to conduct a free and fair election?

Mr COCKER - As I say in the submission, I have no basis to have any doubts about the election, other than the fact that there is no opportunity for general public review or independent audit.

Ms O'CONNOR - Can I just check, when you say independent audits, you can go in during the campaign and observe a count, scrutineers -

Mr COCKER - That is not the same thing.

Ms O'CONNOR - It is the auditing of ballot papers you are talking about, post the election?

Mr COCKER - Yes.

Ms O'CONNOR - Okay.

Mr COCKER - In our family business, it has always been said that if you put temptation in front of an employee by not having adequate checks in the system, you can turn an honest person into a dishonest person. Everybody starts out honest, but if you put temptation there, sometimes someone can be tempted, if they think there is no opportunity that they would get caught if they did it. Most businesses have extensive reconciliations, that if you're making payments, you make sure that the person who authorises the payment is a different person to the person on the computer who sets up the banking transaction, a different person to the person who pushes the authorisation for the payment. There are checks there.

It is not because you don't trust your employees, it's because, as my family has said, you can turn an honest person into a dishonest person by putting too much temptation in front of them. It is the business's responsibility to make sure that that temptation is not there. As I said, every public company, almost every charity of any size, is required to have independent audits. Yet, our elections are not required.

I cast no aspersions against the Electoral Commissioner or the Tasmanian Electoral Commission. Personally, I believe that the election was free and fair and well done and so on.

It is not really a question of belief; it is a question in elections of confidence. How confident are you? If someone said to me, 'How confident are you?' I'd say, well, if an election system doesn't have independent audits, they have less confidence than if it had independent audits. All my suggestion is, is that ought to be considered.

Ms O'CONNOR - Can I ask, then, what sort of entity or organisational body would you give that kind of a brief to? Have you seen examples of electoral processes themselves being independently audited by an entity that has enough credibility - one of the big four consultancies, for example? How would you do that, do you think?

Mr COCKER - It is interesting, your mention about credibility, because in New South Wales, they have electronic voting, and their electronic voting is audited by PriceWaterhouse, which had some issues with the tax department.

Ms O'CONNOR - I reckon.

Mr COCKER - My personal opinion is that it's far easier to have the Electoral Commission with paper ballots hand counted, and that, as a separate process after that, an auditor can be using computers to expedite an audit. For example, the process of undertaking the Hare-Clark distribution takes three days or something like this - that is a process that could be done by hand. However, if the ballots are appropriately set up it would be possible to run those also, independently, through a computer system, and it would be able to confirm that the hand count has been accurate very quickly.

It is a lot safer to have the Tasmanian Electoral Commission do the hand count and say, 'This is what it is', and to have an independent body run those through and say, 'Yes, that is correct', than to go the other way, because if you try to audit the electronic transactions, there is a lot more opportunity - as we know, the Tasmanian Education department just had 16,000 documents hacked into and disclosed online, so there is a lot less confidence in cybersecurity.

It's a lot harder to ballot stuff or to do anything like that if people are hand counting and they are basically arriving at a result, however, an audit can be very efficiently carried out for not too much money, if everything is set up to run through and that could be an independent process. I gave the example of PriceWaterhouse, that is who did the audit in New South Wales, and I read about one of their most recent elections where PriceWaterhouse pointed out that basically during the election - their electronic elections - there was unauthorised access where someone went in and was making changes during the actual election, which was prohibited under the rules that they had. The audit picked up that there was an irregularity with how things were done. It doesn't mean that there was necessarily fraud or whatever, there may have been someone just didn't realise and thought that they were just fixing something.

All I'm getting at is there are audits in other jurisdictions and I don't see why Tasmania could not have audits itself. If they used computers after the fact, there's no doubt in the minds of the electorate that there's been fiddling with the digital result because that's only been used to audit a hand count. Most people, when you're talking only 400,000 votes, which is not a lot, would feel comfortable with a hand count and then have an independent auditor. Now, there is an audit office in the government, so it could be them or it could be a separate body, or it could be an outside auditor like one of the big four consultancies that did the audit. It was just what came to my mind.

Mr BAYLEY - I thank you for your submission and ideas. I hear you around business and temptation and potential for people to gain the system and gain some kind of benefit, but I guess I'm still trying to wrap my head around the Electoral Commission as an entity or even individuals in it. I guess a motivation necessarily to game the system as an entity because you're asking for that entity to be audited itself. Are you concerned? Is it sort of semantics in some ways, like if the Electoral Commissioner had instead said audit, had it said we are going to conduct another recount and we'll do it five times to make sure we got the right result? I mean, would that address your concerns? Is it merely the language that the commissioner is using?

Mr COCKER - The language used prompted my thought process.

Mr BAYLEY - And that stimulated the idea around checks and balances?

Mr COCKER - That stimulated my thought, 'Oh, he is saying there is an audit. But he's conducting the election and his team, so how could they conduct the audit? Surely, that's an independent audit'. I asked him, 'I can't find any evidence that there is an independent audit'. His language prompted my thinking, if he had said what you just said, it may not have prompted my thinking. But when the Electoral Commission referred to undertaking an audit with audit materials during the election actually count going on, that is what prompted me. But the question that you raised is a good one.

We all have a degree of confidence in the integrity of our electoral commissions. We all like to have the best wishes and hopes that these people are going to be acting honest. We say to ourselves, I can't imagine that there would be any benefit for them to act dishonestly in any way.

But in my submission, I also include the example where evidence was given at the Shepherdson vote rigging inquiry back in 2000 where there actually was evidence given of insiders within the Queensland Electoral Commission that were providing the opportunity for the registration of bogus - people basically putting themselves down in electorates in a bogus way to try and influence the voting. That is an example where there was someone, an insider if you will, within the process, who basically the outsiders were able to influence that person to do what they needed to do so that they could game the system and gain an electoral advantage.

We've already in Tasmania had an instance where an unethical businessman made an offer of payment to a new parliamentarian so we know that there are people who are prepared to do this either for financial benefit or ideology, for whatever reason or loyalty to a particular political persuasion or not. I think the Tasmanian people don't care who votes and who gets elected, as long as people who voted their votes have all been not played with - like we can all accept whatever government gets in if we're confident that everyone's votes were taken into account and it was an accurate result.

I gave the example of the commissioner in an area of Pakistan who took 70,000 votes off independents who were in the lead to give it, the government, to the major party that he thought would be more stable than if there was a rabble of independents of all disparate political ideologies and views, et cetera. We would hate to think that something like that would happen in Tasmania. We have a minority government but we all believe that that's what the people of Tasmania voted for and, therefore, everyone supports that.

All I'm saying is there are examples where, in electoral commissions, some insiders have been dishonest in different jurisdictions in Australia and around the world and we would have a lot more confidence if there was an independent audit so that those people knew if they do something untoward, they have a chance of being caught. At the moment, there's probably little chance of being caught unless there is a whistleblower and sometimes if you have a body where, let's say a commissioner has hired, pretty much all the people who are in there, they may have a degree of loyalty to that person that there may not be whistleblowers who come forward.

I'm not saying any of that applies in this instance, I'm just saying my observation leading from when audit was mentioned was we should have independent audits.

Ms JOHNSTON - Thank you. Clearly, I'm hearing the importance of language around this and you've spoken earlier about the level of confidence that people have and whether it's high or low in election processes. I believe your submission outlines, perhaps, some vulnerable points in the election, if I'm understanding you correctly. One of those is around the time it takes to count the vote and waiting for pre-polls and for postal votes to come in and I believe that's where your concern about the Electoral Commissioner making some comments on ABC radio about the audit that it was conducting which I believe you said was two days after the polling day -

Mr COCKER - While the count was going on.

Ms JOHNSTON - While the count was going on. In your view, is that a particularly vulnerable time for misconduct, for things to go wrong in election processes and how would you view the auditing process? Let's assume it's an external audit that should be conducted after the full polling period has ended or?

Mr COCKER - The Pakistan election was an example where there was a two-week delay and it was during that period that the commissioner knew where the votes were and what votes were needed to be found or to be lost to change the result and make losers into winners, as was referred to. Some other jurisdictions, I believe like France, where they have all paper ballots on the particular election day, if there are to be mail-in ballots, they have to arrive by the election date.

We have a process which says someone could post it on election day and they allow 10 days that it could arrive within. What that means is we have something like 90 per cent of the vote counted within the first weekend so there's 10 per cent that's hanging there and because we're waiting 10 days for the postal ballots to arrive - and I'm not saying at all that anyone in our electoral commission or otherwise is engaged in this, but the fact that you have a two-week period after you know what 90 per cent of the votes are, it just means that if someone wanted to do something untoward they would know by what amount they needed to find votes to change a result. I'm not saying that that's happened and I'm not saying that it's likely to have happened, all I'm saying is it is a vulnerability. I'm not saying that we shouldn't allow for the two-week process. All I'm saying is maybe an independent audit would keep people on their toes and remove any temptation for anyone to ever think of doing such a thing.

Ms JOHNSTON - Regarding the audit, there are results announced on the night and then they're refreshed over a number of days over that polling time. I'm guilty of hitting the refresh button probably as much as anybody. Do you think there should be an audit of each update

when it's providing information to the public? The TEC might provide final numbers for the polling night and then the next day another update, should there be an audit of what those results are and how they then reflect their final result? Do you think that would be useful or is it just the final result that needs to be audited?

Mr COCKER - 'I don't know' is the answer. If parliament was of a mind to have an independent audit as part of the process and maybe even to take recommendations on what would be the most appropriate way to do it. I could imagine trying to undertake an audit while the actual election is happening could be a nuisance for the electoral commission. I think it's unlikely that an audit should be happening while the count is happening. That's why when the commissioner, Andrew Hawkey, said that his team is undertaking an audit, I wondered 'why they would have an audit while still doing the counting? You would have it afterwards'. I would say that an audit should happen after a hand count. We have a hand count which says that's what it is, this person declared the winner, et cetera. I'm not saying that the audit has to happen so that before someone says this person has won the audit has confirmed it.

What I'm saying is that if the materials are such that they could be readily audited shortly after, that provides an opportunity to check on if someone was going to do any kind of shenanigans, they would know that within a month or two after the election, everything is being handed over to the auditor and they'll be going through it with a fine-toothed comb. Maybe they'll be running stuff through the computer if the ballots have got some electronic detection on them or something. If something wasn't right, that could be picked up. That's all I'm suggesting, not to interfere with the election and what the Tasmanian Electoral Commission is doing, but to have an expeditious audit afterwards that's independent.

Ms O'CONNOR - It's very thoughtful paper and presentation. Thank you.

CHAIR - We might be wrapping up with that. I found it really interesting to think through. It occurs to me that we do regard our electoral commission as a very particular kind of credible independent entity. It's very much at arm's length from anything political, either through departments or through the parliament, but also just seen by the public and the public having confidence in the independence and capacity of that entity is really important. It might even be that if there was to be contemplation of these sort of auditing processes after the fact, potentially the very credible independent electoral commissions from other jurisdictions might be well placed to cross audit each other.

Mr COCKER - They could be, although as I said in most other jurisdictions, their elections have substantial computer electronic voting. I think in Tasmania it's only the vision impaired, that it's designed to allow for them to vote. There might be other people who could vote because the machine is there, but it's generally the VI vote, I think, is for vision impaired. In many other jurisdictions now they've got more and more computers available for people to do it that way, and so they would have their auditing done by the likes of a PriceWaterhouse or someone else, typically, because the expertise to do the computer audits is not usually in-house. So, I would think if Tasmania was having an independent audit, if there were some computers that were a part of it, such as the Hare-Clark distribution, they'd probably have the ballots marked in such a way that they could actually just run those through a computer and that would allocate it, and that may not be another jurisdiction because not many, apart from ACT maybe, have actually got our unique system and even then theirs might be slightly different. So, it may well be that there's an audit organisation that basically does something separate.

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CHAIR - Thank you very much for that. I'm going to just make mention at the end here that, as I advised you at the commencement of your evidence, what you've said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that the privilege does not attach to comments you may make to anyone, including the media, even if you're just repeating what you said to us. Do you understand this?

Mr COCKER - Yes, I do.

CHAIR - Excellent. Thank you so much for your time.

Mr COCKER - Thank you.

CHAIR - And we'll close the hearing.

THE WITNESS WITHDREW.

The Committee suspended at 12.45 p.m.

The committee resumed at 1 p.m.

CHAIR - Welcome to these hearings for the Joint Select Committee on Electoral Matters for our inquiry into the 2024 House Assembly state election and the Legislative Council periodic elections from 2024. Welcome and thank you for your submission. Before we begin with your evidence, I'd like to ask whether you've received and read the guide sent to you by the Committee Secretary.

Mr COULSON - Yes, I have, thank you, Chair.

CHAIR - I will reiterate some important aspects of that document on the record. This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It's important that should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving the relevant evidence. Do you understand?

Mr COULSON - I do.

CHAIR - Welcome, as members of the committee, we've got Simon Wood, the Liberal member for Bass, Cassy O'Connor, Greens member for Hobart, Kristie Johnston, independent member for Clark, Vica Bayley, Greens member for Clark, and I'm the independent member for Nelson, Meg Webb. Thank you for your time. Would you please make the statutory declaration. You are very welcome to make some opening remarks before we get to questions.

Mr PETER COULSON, LIBERAL PARTY OF AUSTRALIA (TASMANIAN DIVISION)
WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Mr COULSON - Good afternoon. It's great to be here with you, and I appreciate the opportunity to provide some feedback on the recent state and Legislative Council elections.

We've put a submission before you we focused on two particular issues - that is in relation to section 196 of the *Electoral Act* and in relation to a very unfortunate incident that occurred on the state election polling day, where there was, in my view, a clear breach of both the letter and the spirit of the act, and one that I believe should be followed up to ensure this doesn't happen again.

In relation to the first point of our submission around section 196, I understand the government has put forward, again, an amendment to that section, which was previously considered and blocked in the upper House. I would, without wanting to breach any standing orders or pre-empt debate, put it to you that that section is anti-democratic. It's anti free speech. There's no reason why a member should be prevented from having their record, actions and policies critiqued.

I think that all it does is it seeks to provide an entrenchment of incumbents that they should be able to be above scrutiny. I don't think that's healthy in our system. I'm very happy to answer further questions around that if I can be of any assistance. In relation to the second

point of our submission, I think the submission largely stands for itself. The material has been provided to the Electoral Commission and I've had no further follow-up.

CHAIR - Thank you and for clarity on that bill that the government has been bringing through the parliament in relation to section 196, the Legislative Council in recent sitting weeks has referred that bill to this committee for an inquiry. So that is something the committee will look at through a separate process. But any discussion we have of it here, and evidence we receive in relation to it here, can be made available to that separate inquiry as well. For clarity, anything in your submission and anything we discuss here in this hearing can be taken as being regarded by the committee as appropriate and relevant to that separate inquiry on the bill. Members, would you like to start questions?

Ms O'CONNOR - Thank you, Peter, for your submissions and your opening statement. I want to go to the issue of section 196 and, unusually, I find myself agreeing with the director of the state Liberal Party about the need to amend section 196. What is your, or the Liberal Party's perspective on how section 196 has been interpreted and applied in recent elections? We've got a particular dynamic here where there's more communications inputs and more ways to publish. What are your thoughts on how it's applied and whether it's been applied to your understanding in the way that it was intended?

Mr COULSON - Thank you for the question and congratulations on your election to be the member for Hobart.

Ms O'CONNOR - Thank you.

Mr COULSON - Can I say, first of all, that in principle, I support the government's position that the whole section should be removed. To talk through the way in which it was interpreted, as I say in my submission, it would appear that we had a bit of a moving feast around that and the reasons for that come down to the definition of section 196 within the words 'publish or broadcast.' In my mind, publishing something to one website, whether it is a video or a post or something like that, is fundamentally of no difference to creating a video, to place that video on a different website, such that there is some kind of real difference between publishing and broadcasting. In my mind, if it is on the internet and someone is able to see it, for the purposes of this point, I do not see any difference there. It seems to me that it is just a matter of splitting hairs, so to speak.

In this regard, what I think occurred during the campaign was that we received, as everyone does, the candidate's handbook. It set out certain aspects of how 196 was going to operate and then I received some other correspondence, which I provided to the committee, that seems to, while not directly at odds, have a bit of a tension with some of the earlier definitions around the section and, I think it comes down to the way the various social media platforms operate, whether they are a video, whether there is some kind of algorithmic feed based on the postings of what people put up. For example, to be specific, the difference between Facebook and YouTube, where you go to YouTube specifically to access videos, but in Facebook you might receive a number of different types of content, and so, therefore, to put a video on Facebook was, I understand, originally seen to be publishing, whereas to put a video on YouTube was seen to be broadcasting that video. Again, I do not see that as much more than an unhelpful artificial separation between the two.

If the content is able to be consumed online and the act says that you should not use a person's name or likeness, I do not quite understand where it gets this to artificially separate the two. So, that, in a nutshell, is the concern I have raised.

Ms O'CONNOR - Thank you for that, and we may well have another conversation with you about it when the bill itself comes before this committee, but just in broad terms, this is the first time in 20 years, after your predecessors and Labor's predecessors cut the numbers in the House of Assembly to 25, it is the first time in decades that Tasmania went to a 35-seat election. Did you have any sort of broad observations on how that worked, how it rolled out, how it worked for the party machinery, how the Tasmanian Electoral Commission responded to the challenge?

Mr COULSON - I think by and large, as far as the government's system has operated, it appeared on the outside to work quite effectively. I mean, obviously the same number of ballots have been cast. There might be an increase of five to seven positions and therefore that might take some further counting, but largely speaking, there was not a significant change, as I understand it from the outside, on the government's operation. I think the TEC acquitted themselves well on that front. I think the public information campaign around numbering seven boxes rather than five appeared to hit the mark.

I think you are always going to have a bit of friction whenever there is a change in respect of changing people's behaviours and some people may point to that as requiring some kind of vote-saving provision or something like that, but the reality is I think there are other reasons for why people might be casting informal votes and I do not think that it is reasonable just to assume that the reason for that is because they do not number seven boxes or they are unable to for some other reason.

As far as the party is concerned, yes, fielding 35 candidates as opposed to 25 candidates is a significant increase in resources and, on behalf of the Liberal Party, I think that the members and volunteers of our party rose well to that challenge and it was very pleasing to see the return of the historic fourth term of the Liberal government in that regard.

Ms O'CONNOR - Liberal minority government.

Mr COULSON - A Liberal government, yes.

Ms O'CONNOR - Yes, a Liberal minority government. Yes, okay. No, that is fine for now, I will be back.

Ms JOHNSTON - Thank you, Peter, for coming along today. I am interested in your submission in regards to potential breaches of section 177 in terms of the signage that appeared on polling booth stations and I am wondering perhaps if you can expand on your concerns about the timeliness of action taken, given that obviously it's polling day, a very short time frame for responding to any breaches and perhaps the timeliness of the response, the TEC and perhaps the lack of response you've received since your letter, I understand.

Mr COULSON - While it is reasonable to say, yes, it's one big day and there's a lot going on that you would take into account the fact that is a stretch on resources for them. However, that being said, obviously, it's the day, and so therefore if there was ever going to be a foreseeable call on those resources, that would be the day that they would be most necessary.

Therefore, to have resources ready to go, I would say is what I would assume a reasonable preparation for that day.

I first raised the matter with the Electoral Commissioner on the Saturday as soon as it was brought to my attention, which was from memory, around 7.30-8 o'clock. I continued to speak with the Electoral Commissioner and the Deputy Electoral Commissioner during the day. I'd like to compliment the Deputy Commissioner, whose communication in that regard was excellent. I understand the Electoral Commissioner himself had quite a lot to have to deal with and can understand that it took a few hours for some action to be taken.

However, where I saw the biggest problem arising is that my understanding of the way the TEC operates is that they have a supervising officer on every booth and there seems to be some inability for the head officers or the commissioners to have the supervising officers deal with this matter. I was told by my volunteers and members that were at the various booths that the feedback to their requests to have the signs taken down was that the TEC staff and supervisors there did not have the authority to do so and that there was a misunderstanding in some regards that because the signs have been placed before polling day, that is before 12 o'clock, that they were able to be there, which, as I understand, is an extraordinarily ambitious attempt to read into the act, which I think is quite clear. There should not be any politicking on a polling booth. I think that's quite clear.

I think that it would be better in future, number one, if the handbook that was provided to TEC staff on polling day is very clear in that regard. I do not want to put words in the mouth of the Electoral Commissioner, but I would hazard a guess to say that there was an attempt to clarify the situation where a static sign on someone's house had been placed for the duration of the campaign that on polling day fell within 100 metres of that location. I would guess that there was an element of reasonableness in saying that if that sign has been there the whole time, we're not going to kick a fuss about it. I think in doing so, it was not clear that any signs placed on the polling booth before polling day should not be taken down. I think that's where there may have been some ambiguity in there and I would put that down to a need for that to be clarified first of all. I think the TEC staff on polling booths need to understand their obligation in respect of either advising the other political parties of the fact that they're in breach or maybe in breach of the law and asking them to deal with it or to take action themselves.

There needs to be, you know, communication with the council if it's a public place, or with the Department of Education if it's at school, around having some presence of some kind of response organisation to go and deal with these things.

Ms JOHNSTON - Flowing on from that, the response from the TEC since that time, obviously there's an immediate reaction in terms of what to do on the day. But in terms of prosecution of breaches or enforcement after the event, do you have a view around that and the timeliness of that and what should occur?

Mr COULSON - Well, I would have expected that I'd be given some kind of update by now, but I'm not aware of any response from the TEC to my letter substantially.

CHAIR - Following on from that, on the day, is it your understanding that the Electoral Commission then has legal advice available on the day to help determine matters like this and guide their decisions and actions?

Mr COULSON - I'm not aware of the specifics, but I should imagine that they do, given the nature of the system and how vital it is that those sorts of resources would be available.

Mr BAYLEY - Thank you for your submission. We're looking into the conduct of the election and I'm interested in, I guess, what's been called pork-barrelling. And it's the third election in a row that the Liberal Party's been accused of pork-barrelling through its community project funds. The Integrity Commission has described it as indirect electoral bribery. Geoffrey Watson has called it flat pork-barreling. I'm just interested while we have you here, I wonder if you could talk us through the process the Liberal Party goes through in terms of receiving, assessing and ultimately deciding on applications that are successful under your community project election commitment processes.

Mr COULSON - Well, Mr Bayley, thank you for the question. You say it's the third election where these accusations have been raised. Well, I think there's been plenty of elections where the Liberal Party's been successful that certain allegations are made. This is no different.

Mr BAYLEY - The Integrity Commission, no less, though.

Mr COULSON - Well, as I understand, the Integrity Commission has not made any particular negative findings about the Liberal Party at all, about this -

Ms O'CONNOR - Well, it did about the program that the party administered.

Mr COULSON - No, that's not my understanding and I certainly don't understand that the words 'indirect electoral bribery' were used as a finding by the Electoral Commission. If that's the case, I'd be very interested to see where that was.

Let's back up a step here. What is it that democracy is all about? Political parties present themselves to the people. They tell the people very clearly what they're going to do, and the people vote. In essence, it is entirely consistent with that that political parties should say, well, yes, we're going to undertake this project or that project, we're going to introduce this policy or that policy, and then after the election, go ahead and do so.

The process this time under the campaign that I ran, was informed by the material that the Integrity Commission has put out in general around conflicts of interest. Every application was thoroughly scrutinised for any potential conflict of interest. Decisions were taken at arm's length from -

Mr BAYLEY - Who makes those decisions?

Mr COULSON - They were undertaken by Liberal Party members at arm's length from any particular candidate or MP to avoid there being any situation that could suggest that an actual or a perceived conflict of interest could have arisen.

Mr BAYLEY - The Premier in parliament says that elected representatives make the decisions.

Mr COULSON - Well, they do when it comes to the Budget, Mr Bayley, but in an election campaign, it's the Liberal Party who makes those decisions.

Mr BAYLEY - That's right.

Mr COULSON - If you had candidates making those decisions, then you would hazard the possibility of there being conflicts of interest. So, that's why it does have to be done at arm's length, which is what the Integrity Commission did suggest.

Mr BAYLEY - So, they're unelected?

CHAIR - Let's just be clear, the expenditure of public money, we're talking about, and the Integrity Commission made it very clear that that's not best done by faceless people in a party environment, but by a fair and transparent and accountable process through the public sector.

Mr COULSON - Yes.

CHAIR - After elections.

Mr COULSON - Yes.

CHAIR - That's what the Integrity Commission said, just to be clear. So that's not what your process that you're describing is.

Mr COULSON - Well, they're not inconsistent, Ms Webb. The fair and public process -

CHAIR - Well, that's a separate question.

Mr COULSON - I beg your pardon?

CHAIR - Well, sure, that's a separate question but please continue your answer. I'm quite happy for you to continue answering the question.

Mr COULSON - Yes. The fair public process, Ms Webb, is the budget process. So, after the election, those commitments are provided to the parliament. The parliament examines them and then votes on them. So, there was a fair and public process after the election campaign where all these matters were considered as part of the parliamentary budget process, as the Integrity Commission requested. And to go back to your -

CHAIR - No, no. Sorry. Thank you. There is a budget process, but just to be clear, that is not what the Integrity Commission suggested and that does not stack up against the principles and guidelines the Integrity Commission outlined in their report - their research report on this matter. Just to be very clear, I don't want the Integrity Commission's work to be misrepresented here. They did not endorse your process.

Ms O'CONNOR - No, they definitely did not.

Mr COULSON - I did not say that they endorsed. I said that we designed a process consistent with the advice that they provided. If you're going to -

CHAIR - No, sorry. That's not what they would - that's not what their advice was. Your process does not stack up against their process. I don't want this to be a process of badgering

you though. You are here to give evidence and answer questions as you see fit. So, let's get to the question.

Mr BAYLEY - And the question was the process by which they're received and who makes the decisions on allocation of those funds, and then a follow-up question is how are they notified?

Mr COULSON - Let me come back to your point there, Ms Webb. First of all, I don't agree that you're speaking accurately for what the Integrity Commission has said around this. Perhaps it's best if neither of us try to speak on behalf of the Integrity Commission; they can do that for themselves.

In relation to the process that we designed, it was done at arm's length from anyone who had a conflict of interest. There was a detailed process for identifying any interests and the potential for any conflicts, perceived or real. It was handled at arm's length and the announcement was made by me as the campaign director so that there could be no suggestion that there was a perceived conflict of interest in the announcement of the promise. The promise doesn't come into effect until after the election; therefore it is the public parliamentary budget process, where, as suggested by the Integrity Commission, these matters are properly scrutinised. That is the opportunity for the parliament to go through this line by line.

Ms O'CONNOR - The Integrity Commission also made it really clear that any process should be merit-based and equitable. The issue with the process, whichever election you're looking at, is that it singled out special electorate interests for funding. The process wasn't shared and open between other organisations in the electorate and it certainly wasn't managed by a government agency looking at merits.

Mr COULSON - Look, again I don't agree with that. The fact is that it was published on the front page of the *Mercury*. Every single person in Tasmania was aware of the fact that the Liberal Party was running a process for these sorts of organisations. It is absolutely not accurate whatsoever to suggest that it was some secretive matter. The actual form itself was published by the newspaper on their front page. I think that it's quite absurd to suggest that it was done quietly and only for certain interests.

Mr BAYLEY - The decision-making process, though, you've admitted it's a completely internal decision-making process made by, potentially, yourself. You announced it. I'm not sure. I mean, who are the decision makers? Could you tell us which positions within the Liberal Party of Tasmania make those decisions?

Mr COULSON - The decision, ultimately, about whether or not any particular commitment is going to be honoured is made by the Tasmanian people. They are the ones who get to vote.

Mr BAYLEY - No, no. In relation to your program, though -

Mr COULSON - The difficulty that -

Mr BAYLEY - We're talking about the conduct of the electoral -

Mr COULSON - I'm sorry, did you want me to answer questions or are you just going to continue to talk over the top of me?

Mr BAYLEY - I'd like you to answer the question, which is who makes the decisions within the Liberal Party context that you announced and was on the front page of the paper? Who, within your process, actually makes the decisions about which organisations receive or will receive funding through a future budget under a Liberal government should you be elected?

Mr COULSON - The point that I was trying to make is that I think what we've had here is a discussion around a view that the Tasmanian people got it wrong when they made certain decisions around which political parties they were going to support. That, I think, goes to the heart of the problem -

Ms O'CONNOR - Who put that?

CHAIR - Let's just finish the question.

Mr COULSON - I think that goes to the heart of the problem that we have here. You are upset that the Tasmanian people voted in a particular way.

Ms O'CONNOR - Are you serious?

Mr COULSON - I would like to know why you think that the Tasmanian people should not be presented with electoral promises and be given the opportunity to decide them.

CHAIR - Let's come back to the question.

Mr COULSON - I'd like to come back to the point here.

CHAIR - To the question, perhaps.

Mr COULSON - Let me come to the point. Why is it that bureaucrats should make decisions, not the Tasmanian people? That is the inherent tension between the two positions.

Mr BAYLEY - Who made the decision within the Liberal Party?

CHAIR - Come back to the question.

Mr BAYLEY - That is my question.

Mr COULSON - Let me be very clear, it was not a bureaucrat, Mr Bayley, it was a political party that designed policies and proposals -

Ms O'CONNOR - With public money.

Mr COULSON - And took them to the Tasmanian people. The Tasmanian people chose which ones of those they wanted to support. Then it went to a parliamentary budget process where it was rigorously scrutinised by yourself. If there was any failure, please let me know. Now they've been implemented.

CHAIR - Mr Coulson, can I follow up on that? You describe decision makers being present who made decisions, you described a process where conflict of interest was assessed and then where decisions were made to allocate the funding across proposals. Can you table for us or provide us with detail about who was involved, what criteria were used and what conflict of interest process was used across that process that you've outlined?

Mr COULSON - I'd be very happy to talk about the processes around that. We actually adopted the proposal from the Integrity Commission's website in identifying conflicts of interest. They provide a tool. That tool was provided to all candidates when they were dealing with these matters. The material was then put forward and anyone who used that tool where it recommended, sorry, where the tool suggested that there was a real or a perceived conflict of interest was taken out of the process.

CHAIR - Again, it's just a matter of transparency and accountability about that in a more public sense. Are you able to table that, or make a commitment to provide it to the committee, so that we can see the tool, for example? And to follow up, can we have the list of decision makers on allocating the funding? Can we also have the criteria by which that funding was allocated to the final proposed recipients?

Mr COULSON - The tool is available on the Integrity Commission's website. I'm sure it'll be there for everyone to go and have a look at. The decision makers in relation to the process were the Liberal Party members who were working on the campaign, were a party of volunteers and, to go to the merits of each particular proposal that came forward, they were assessed against the ability for there to be a stronger community as a result of those election commitments.

We were all about trying to ensure that the election led to a stronger Tasmania. We were not trying to do what you are doing right now and that is trying to run down community organisations who are putting forward themselves as supporting Tasmanians.

CHAIR - I'm very calmly interacting with you about this. I don't think there's a need to make accusations about what the committee is or isn't doing. Clearly, everybody who put forward a proposal would have felt that they were contributing or presenting something that would contribute to the strength of our state and, through an open and transparent process in the public service, that would have been assessed against clear and open transparent criteria and allocations would have been made and some people would have been successful and likely others not. That wouldn't have been a reflection that there wouldn't have been merit in the ones who weren't successful - just that, for whatever reason against competitive criteria, they didn't make the cut.

That's not available for us to see in what you're describing so far. The questions are about whether you're prepared to make that process transparent and accountable publicly, given that it's public money we're talking about here that's ultimately being expended.

Mr COULSON - I'm very curious to understand how you see the role of bureaucrats in determining which election commitments could or shouldn't be made during an election period. How do you see that operating feasibly?

CHAIR - To be really clear - and we will move on from this because I know there'll be other areas of questioning - but just to be clear, the Integrity Commission proposal is that the

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absolute cleanest way for this to happen is that parties are absolutely at liberty to say we would allocate this bucket of money to strengthening our community through these types of programs and we would invite community groups to see themselves as applying for that, so the election commitment is the bucket of money for that purpose. That's the election commitment. The process for allocating it occurs after the election when that party has successfully been elected through a process that's accountable and transparent in the public service, the way other public money is allocated in that way. That's what the Integrity Commission clearly laid out.

What we're talking about here from you is not that process. You're allocating it internally within the Liberal Party to groups, so that's why we're trying to draw out and see if you were willing to share some transparency around that process. Are you willing to share that?

Mr COULSON - I've been very transparent. I'm here and I'm answering all your questions.

I have a real problem with the suggestion that political parties shouldn't actually tell the people what they're going to do.

CHAIR - I think they should.

Mr COULSON - I think political parties should be very clear about what it is in government they're planning to do and if I take the logic of what you've just put to me there, then it sounds like we wouldn't actually ever have a politician say, 'Well, I'm going to build - I'm going to upgrade the southern connector', for argument's sake. It would be, 'Oh, we're just going to upgrade roads, just any road. We don't know if they'll be the ones that you drive on every day' but a bureaucrat down the track will determine which one it is based on the criteria that they set after an election.

CHAIR - I don't think roads have to put submissions in.

Mr COULSON - Well, why is there a difference because I don't see the logic. I don't see the difference in logic in a political party saying -

CHAIR - Roads don't vote and people involved in community organisations do, so here's the difference. When you're promising money to a community organisation over the one next door to them who:

- (a) We're not sure had the opportunity to fairly put in a submission for a start, because when we can't guarantee that -

Mr COULSON - It was on the front page of the paper.

CHAIR - and -

- (b) We don't know how if they did put in a submission, how they were rejected over the person in the organisation next to them being accepted.

So, that's why people within those organisations vote, so the ability to influence votes in that very direct way is there, which is why it is sensitive, Mr Coulson.

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Ms O'CONNOR - And that is recognised by the Integrity Commission.

CHAIR - Indeed. I know we have spent a lot of time on this topic; it just sounds like you are not prepared to provide -

Mr COULSON - Can I reply to that? You are not prepared to let me reply to that?

CHAIR - Well, no, I was just going to say, it does not look like you are prepared to provide tangible, accountable documents to show us what this process looked like.

Mr COULSON - No, I am here to answer questions and I am prepared to answer all of your questions. I have not refused to answer one yet. No, let me go back to the proposition you just put before me. You have just said that what this is all about is putting money to community groups for them to vote for you in response.

CHAIR - I am saying the risk is there that that is the perception, which the Integrity Commission recognises.

Mr COULSON - I do not agree with that. I do not think that it is fair to say that what you are suggesting is accurate because, in a situation where any particular community group did or did not receive a community grant under this process, you are effectively suggesting that they have done something untoward. I do not think that is fair at all for you to outline this for these communities.

CHAIR - I am sorry, I think you have just verbalised me there, Mr Coulson. I have not suggested anyone has done anything untoward in terms of the community groups -

Ms O'CONNOR - We have not.

Mr COULSON - Well, if there is nothing untoward, then why do we have a problem?

Mr BAYLEY - The process is untoward. That is the problem, Mr Coulson.

Mr COULSON - The process is very clear. The party speaks to community groups, outlines areas of need within our community and then makes commitments based on their successful election to the parliament in order to satisfy those needs in government. I do not think there is any real difference between saying we are going to upgrade a kitchen at a particular community group that some members of the community rely on, and a particular road, for argument's sake, that members of the community may drive on. There is no real difference.

CHAIR - All members of the community can drive on the road but not everyone can benefit from the kitchen, is the point.

Mr COULSON - I think what you are driving at, is you're suggesting that there is something improper about giving money to community groups -

Mr BAYLEY - There is nothing improper about it. It is about how it is done.

CHAIR - It is a shame that you would seek to verbal me here, Mr Coulson, when I clearly have not suggested that. Straw man arguments are all very well in the public domain when you are trying to defend this, but that is not necessary here, for you to verbal me while we are here at this table. I clearly have not said that. I have clearly located anything that needs to be clarified for transparency and accountability in your court, not in the court of the groups that are receiving promises or ultimately are receiving funding under this sort of arrangement. Now, one final thing?

Ms O'CONNOR - Just on this topic, the Integrity Commission, in its April 2022 report, Mr Coulson, says good practice grant management principles primarily focus on transparency. I think that is at the heart of the questions that we are asking you today. I am sorry that you have sort of taken it personally and decided to sort of bite back a bit. But, do you agree that the processes, and it does not matter whether it was this state election, 2021, or 2018, that the processes of determining how much public money the Liberal Party members decide to allocate to various community groups (a), is not transparent and (b), is not actually done to make Tasmania a better place. It is done because it is a well-known, well-understood major party practice of donating small sums of money for maximum publicity in a community in order to generate votes. Otherwise, you would do it all during the campaign, not just in the month before election day, hey? Isn't that true? It is about winning votes. In fact, it is what the Integrity Commission calls, in its first paper in this series, 'indirect electoral bribery', colloquially known as pork-barrelling.

Mr COULSON - Well, I think you are overlooking the fact that it goes on continuously throughout the electoral cycle, not just at election time. Governments make commitments, members make commitments through their electoral allowances, the Premier does it through the PDF. So, to suggest that this does not happen is incorrect. But let me come back to the major point here. This is where I think the tension was with respect, before, and myself; I don't see a strong argument yet that says that bureaucrats are the best people to decide how public money is to be allocated. In my mind, the best people to decide what their money should be spent on is the Tasmanian public and so, that is what this is all about.

Ms WEBB - That is a straw man argument, Mr Coulson, that is a -

Mr COULSON - You are interrupting me, Mrs Webb, and I do not appreciate it.

Ms WEBB - It is Ms Webb, thank you.

Mr COULSON - I am very sorry, Ms Webb. If I can continue. So, the point is simply this, as between a bureaucrat making an allocation on a spreadsheet, whereas between the Tasmanian people at the polling booth deciding which political party or candidate to support, I think that there is a very strong case that the best person to make that decision is the public having an informed vote, which is what this is all about.

CHAIR - Which it's not, but that's okay. This is Liberal Party people behind the scenes through a non-transparent process deciding where to allocate public money as opposed to a government process that's done transparently, openly, and fairly, where the decision maker is actually the government of the day and the minister deciding to set up a bucket of money.

Bureaucrats aren't making decisions about it; they are facilitating the decision-making process in an accountable and transparent way. That's why it's a straw man argument. I

understand why you would argue against it because, fundamentally, here it is about gaining votes and that's of course what the party's interested in at election time. I understand why you vigorously defend it; it's not, though, defensible based on what the Integrity Commission has found and reported on through their research.

Mr COULSON - Point number one, the Criminal Code, sorry, the *Electoral Act*, when it talks about electoral bribery, specifically excludes these sorts of things. For the electoral commission to try to redraft that legislation by saying its indirect electoral bribery is really quite incorrect. But to come back to Ms Webb's point here -

Ms O'CONNOR - No-one's tried to redraft anything.

CHAIR - Well if people just act with integrity when they ran for election, then it would not be a problem; we would not have to legislate for it. If parties and candidates behave with integrity according to the guidelines set out by the Integrity Commission, then we wouldn't have to legislate for this.

Mr COULSON - Right. Well, I don't quite see how you can say the people are behaving without integrity when they're telling the Tasmanian people what they're going to do, and the Tasmanian people get to decide whether or not they're going to support it. I don't see any difference between a small community group receiving the money or a large organisation or a trade union or a particular piece of infrastructure in a particular location over another. There's no strong logical reason why one and the other are any different.

Mr BAYLEY - I think there's plenty, but let's move on.

Ms JOHNSTON - I'd like to move on to electoral disclosure. It's unfortunate, in my view, that we went to the 2024 election without the act being proclaimed and therefore the donation disclosure laws were not implemented for the 2024 election, which meant that Tasmanians again voted without knowing who was donating to political parties and the influence that those particular entities had over party policy.

Did the Liberal Party receive donations from the THA, either in kind or financially, from either the peak organisation, the THA itself, or THA members during the 2024 election?

Mr COULSON - Let me come back to a comment that you made there at the start. Obviously, the parliament's operations around when they pass legislation is not a matter that's within my control, so you'll have to take that up with the people in parliament who decided the timing of these things.

In relation to the comment that Tasmanians voted without knowing who donated what, well that is not entirely accurate. The Liberal Party complies with the law and discloses all our electoral data as required by the law to the Australian Electoral Commission.

Ms JOHNSTON - Not before the election.

Mr COULSON - To come to your very specific question around who and what, look, I don't have that level of data in front of me, any particular member -

Ms JOHNSTON - You don't recall whether the THA would have donated?

Mr COULSON - I don't have that data in front of me and that's just not something that I would even be able to work out how I could go through it. Any member of the THA donating? I mean, that's a very specific question.

Ms JOHNSTON - Would you agree that the party allowed for their candidates to have signs on THA sites?

Mr COULSON - I don't know that the THA has sites, does it?

Ms JOHNSTON - Sorry, members' sites?

Mr COULSON - Members of the THA? Well, like the Liberal Party, the THA, as I understand, is a member-based organisation. I can't control what members, card-carrying branch members, of the Liberal Party do or don't do and I suspect the THA may well be the same. I'm not sure that you could say that because one particular pub had a sign up that, therefore, every member of the THA supported it, for argument's sake. I'm not sure that I can say that there was any particular support on behalf of the whole organisation at all. But yes, I am aware, that certain pubs like yours did have signs up as yours did for you, so I'm not sure you could draw any particular inference in that. I'm certainly not.

Ms JOHNSTON - Can I ask then perhaps does the party have any process for vetting locations or support for signs or donations, for instance? Is there someone that you wouldn't accept it from because of the party's policy, for instance? Or someone that you might seek support from? Is there a policy around that the party has?

Mr COULSON - Do we vet sign sites?

Ms JOHNSTON - Or donations. Are there particular organisations you'd say 'No, we won't accept that'? Is there a policy about that?

Mr COULSON - Not at my level, not at the state director level, for a sign site. A local campaign may well make choices based on the number of signs that they have and allocate them across particular locations. That may well have more to do about traffic at particular sites, or any number of other matters to consider.

As for vetting of donors, yes, absolutely. We are very careful about that. We have a very strong fundraising code of conduct. That requires all donor interactions to occur on certain terms. Those terms are, among others, that donors have the right to put their views to us. They have no right to expect anything further. In my view, it's very problematic when you have a situation where donations are made with conditions: 'You must do or must not do something if I give you this money'. Our fundraising code of conduct absolutely prohibits the receipt of a donation that has conditions attached to it.

I draw a difference to your website, Ms Webb, on that point, where you solicit donations and then invite people to contact you to talk about them and what would be done with those donations. I would see that as incredibly problematic if any member of the Liberal Party were to be involved in that kind of quid pro quo. That is why that simply doesn't happen.

Ms JOHNSTON - Is that code of conduct publicly available?

Mr COULSON - Let me consider that. I'll just speak through it.

Ms O'CONNOR - Have you had a million dollars from the gambling industry lately, Ms Webb?

CHAIR - No, I haven't got a million dollars. I must say.

Ms O'CONNOR - What about salmon? Have you got some money from big salmon?

Mr COULSON - What about Graeme Wood, Ms O'Connor? What about the Triabunna mill? Would you like to talk about that?

Ms O'CONNOR - Yes, any time. That's not relevant to this inquiry.

Mr COULSON - It was \$1.5 million was it, Mr Bayley? Remind me.

Mr BAYLEY - How long ago was it? A decade or so ago, was it, Mr Coulson?

Ms O'CONNOR - We did not give it to the Tasmanian Greens.

CHAIR - It is not relevant to the Tasmanian state. You have just made comments about my website and my approach. I'm going to clarify that. There is an availability to make donations on my website. I declare any donations over \$1000, of which there have been very few, mind you, and the clarity around how I use those donations is that I provide that clarity on my website.

The times that I have received donations of more significant amounts have been for particular purposes that I believe are very worthwhile, to be clear about with the public. The key one of which was from Sir Max Bingham, eminent elder of the Liberal Party - may he rest in peace - who specifically donated money to me for a purpose. Not to gain a policy outcome which, of course, I can't deliver as an independent member of the upper House, but to pay for a particular set of pieces of work relating to poker machine campaign activity that was occurring at the time, because he felt so strongly about it. That included doing some polling and it included doing some economic analysis that was purchased with his donation, which I was very open and clear about, just for the public out there, to be absolutely clear. I'm utterly transparent about it.

People don't purchase my policy positions or purchase any particular outcomes. I'm just clear with them, and with the general community, about what I would use their money for. Just to be clear, in case you are making any allegations about me or the way I deal with donations.

Mr COULSON - You haven't received any donations since 2021, I believe your website says.

CHAIR - That is right.

Mr COULSON - Sorry, I was waiting for the point that you were -

CHAIR - I'm just clarifying, you seem to be implying that somehow I was available to be purchased by accepting donations, for which I'm open about how they're used.

Mr COULSON - No, I think you are verballing me. What I said was that there shouldn't be a discussion with a donor because that allows perception, to use your words, that there's some kind of quid pro quo. That's why it has to be arm's length. That's why in the Liberal Party we have a fundraising code of conduct, which I'm not sure if it's public, I'd have to check and see what's on our website.

CHAIR - Can it be tabled?

Mr COULSON - I don't have a copy with me now. The point is, there is an arm's length nature of those sort of dealings to prevent there being any perception that a donor would get anything more than the right to put their views to a Liberal Party member.

Ms JOHNSTON - To be clear, you can't recall whether the THA made a donation to the Liberal Party prior to the 2024 election?

Mr COULSON - Not that I'm aware of.

Ms O'CONNOR - Thank you, Madam Chair. I guess the difference is, the Liberal Party takes donations from corporations, often with vested interests, who are expecting a quid pro quo, whereas, certainly from the Greens' point of view -

Mr COULSON - I think I was very clear, Ms O'Connor, to be fair.

Ms O'CONNOR - Well, they are expecting it. That's why people make political donations. Like corporations make -

Mr COULSON - Did Graeme Wood expect something when he donated \$1.5 million?

Ms O'CONNOR - I think he expected us to protect the forests, which is not exactly a financial quid pro quo for him, is it? That's why people donate to the Greens - because they want us to save stuff from parties like the one you belong to. That's not my question. My question is, at a couple of Liberal Party state conferences now there have been resolutions passed to get rid of Hare-Clark, which I'm sure you'd appreciate is, in many ways, much beloved by Tasmanians. Is it still your party's policy to abolish Hare-Clark?

Mr COULSON - Well, I think that I can say that many people donate to the Liberal Party to save Tasmania from the Greens, and from some of your disastrous anti-industry, anti-jobs and anti-family policies.

Ms O'CONNOR - I hope they enjoy all the scenery and the forests, as they look around, that we've been part of saving with civil society over 50 years. Otherwise they'd be living in a wasteland, but anyway, go on.

Mr COULSON - Well, I think the Liberal Party's policies on protecting the environment speak for themselves. If you look out there after 10 years of Liberal Party rule, there's some wonderful forests. I enjoy them every weekend.

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Ms O'CONNOR - Have you read the State of the Environment report? Worse in 10 years.

Mr COULSON - I think that the Liberal Party's environment policies should not be denigrated the way that you have and it's unbecoming.

Ms O'CONNOR - Anyway, back to Hare-Clark.

CHAIR - Let's not veer off, thanks, member for Hobart.

Mr COULSON - Hare-Clark, yes. Look, in the Liberal Party, the party organisation of which the volunteer members comprise, have the right to put together our platform. It is the elected representatives who have the right to put together policy. So, it's not unusual that party members may pass resolutions and the elected representatives of the PLP may choose to go a different direction. You'll see that Hare-Clark is still the electoral system that's here in Tasmania, so I don't think there's any need for me to comment any further on that.

Ms O'CONNOR - Do you think that there's support amongst your elected colleagues for retaining Hare-Clark, even though it's making life a bit difficult for the major parties, increasingly, isn't it?

Mr COULSON - I'm not aware of any realistic push to get rid of it.

Ms O'CONNOR - I just thought there were rumblings inside your party. Well, I'm glad to hear there's no realistic push.

Mr COULSON - Not that I'm aware of.

Ms O'CONNOR - Okay.

CHAIR - I'm mindful we've gone slightly over time. Anything - Simon, are you right up there? Anything you need to come through?

Mr WOOD - No, fine thanks.

CHAIR - We'll wrap it up, I think. Thank you for your time with us today. It's much appreciated. I just need to advise you that at the commencement of the evidence - as I said at the commencement of your evidence, what we've said here today is protected by parliamentary privilege. Once you leave the Table, you need to be aware the privilege does not attach to comments that you may make to anyone, including the media, even if you're just repeating what you said to us. Do you understand this?

Mr COULSON - I do. Yes, and thank you very much for the opportunity to join with you today. Look, I'm really quite disappointed that the member for Lyons, Rebecca White, isn't with us today. As the shadow minister for integrity, I would have expected that she would be here, rather than taking part in donor and political processes in other parts of the world.

Ms O'CONNOR - Come on. If you were given the chance, you'd go and have a look as a -

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CHAIR - We'll just leave it at that.

Mr COULSON - No, I don't think I would. If I were paid to do so, then that could be improper.

CHAIR - We are going to leave the hearing at that point.

Ms O'CONNOR - I don't think she was.

CHAIR - Bec made that comment and that's fine. Thank you very much for your time.

THE WITNESS WITHDREW

The Committee suspended at 1.48 p.m.

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The committee resumed at 3 p.m.

CHAIR - Thank you so much for coming into this hearing with the Joint Standing Committee on Electoral Matters - our first inquiry process as this new committee and first of hearings today. We thank you for your submission. I'll introduce you to members of the committee. I'm sure you'll know who we are, but just for the courtesy of it, Simon Wood is a Liberal member for Bass; Cassy O'Connor, the Greens member for Hobart; Kristie Johnston, independent member for Clark; Vica Bayley, Greens member for Clark; and Meg Webb, independent member for Nelson. We have Scott as the secretariat support and Gaye from Hansard. Thank you so much for being here.

I will do some formalities to begin our session. Before you begin giving your evidence, I would like to ask whether you've received and read the guide sent to you by the committee secretary.

WITNESSES - Yes.

CHAIR - I would also like to reiterate some important aspects of that document here on the record. The hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings.

This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It's important, should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving that relevant evidence.

Do you understand?

WITNESSES - Yes.

CHAIR - Thank you. We'll now make statutory declarations at the table if you would, and then we'll proceed with the way that we normally do - if you'd like to make an opening statement, and then we move on to questions after that, if that's all right?

Mr ANDREW HAWKEY, ELECTORAL COMMISSIONER AND **Mr HOWARD MICHAEL BLAKE**, COMMISSION CHAIR, TASMANIAN ELECTORAL COMMISSION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you so much. Would you like to make an opening statement?

Mr BLAKE - Yes, and thanks for the opportunity. Before I do so, I'd like to acknowledge with us in the room today is Allyson Warrington, a newly appointed member of the commission; and Ngaire Edwards, the Deputy Commissioner; and Director, Kylee Rumble.

I'd also like to acknowledge the strong contribution to the commission made by Karen Frost, who finished her term about two months ago.

I thank the committee for inviting the Tasmanian Electoral Commission to appear before it today and I commend the establishment of this joint standing committee.

The commission regularly reviews its own processes following elections but independent scrutiny by your committee is welcomed.

Providing all electors with the best opportunity to exercise their democratic right to vote has been an ongoing focus of the commission, especially in recent years when innovative approaches were needed aimed at enabling this, especially during COVID-initiated lockdowns, holding multiple elections on the same day, the move to compulsory local government elections and the recent move from five-seat divisions to seven in the House of Assembly. This required community consultation and innovative promotional material aimed at informing and educating our electorate.

In anticipation of changes to the *Electoral Act*, such as the funding and disclosure scheme requirements, the commission moved quickly to review its staffing and organisational structure arrangements, which were changed, and recruiting is well underway, funding for which has been progressed with government. This also required systems upgrades and review of our cyber security risks. The commissioner's more detailed opening statement addresses these matters.

I have little doubt that holding independently run elections is likely to become increasingly difficult. I welcome your committee's proposals on how best to respond to rapidly emerging challenges like prompt handling of risks associated with, for example, social media and artificial intelligence. However, as you go about your deliberations, I urge you not to tinker with the independent status of the commission. An independent commission is essential for our democratic processes. Thank you.

Mr HAWKEY - My opening statement includes a brief outline regarding the role of the commission in relation to this inquiry, a broad range of details regarding the state election, a summary of the Legislative Council elections, and an outline of the broader issues and challenges electoral management bodies are facing when conducting electoral services concurrently in the future.

As stated in our written submission, the commission is established under section 6 of the *Electoral Act* and is comprised of the Chairperson, the Electoral Commissioner and one member. The act establishes a range of functions, powers and responsibilities of the commission, including conducting Tasmanian parliamentary elections, providing information and advice on electoral issues to the parliament, the government, government departments, and state authorities, and publishing material on matters relating to its functions. On 17 and 18 October 2024, two commission publications that are relevant to this inquiry were tabled with the parliament, the 2023-24 TEC Annual Report and a 2022-24 report on parliamentary elections. I provide copies of these for the committee.

CHAIR - Would you like to table those?

Mr HAWKEY - Yes, please. These reports contain information in numeric tables and statistics for these elections, for the inquiry.

The small team at the TEC often must respond to multiple, overlapping electoral events. Since the beginning of the year, the office has conducted a state election; two periodic

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Legislative Council elections, together with a Legislative Council by-election; two other government mayoral by-elections that were triggered by the outcomes of the Legislative Council elections; two city elector polls; the Aboriginal Land Council enrolment process and elections; and various other local government recounts and by-elections to fill casual vacancies.

On 27 February 2024, Her Excellency, the Governor, informed me that a general election of the members of the House of Assembly would be held on Saturday 23 March. The dates for these elections were the issue of writ and close of roll on Wednesday 21 February; the nomination period from 22 February to 29 February; announcement of candidates on 1 March; then early voting before the Saturday 23 March election. The post-polling day processes crossed over Easter period, with electoral staff counting on all days except for the period of Good Friday to Easter Sunday.

After the 10-day period for postal votes to return, the Hare-Clark counts commenced on the afternoon of Tuesday 3 April. All counts were completed by Saturday 6 April, with the declarations of the poll held on Tuesday 9 April. The five election writs were returned to Her Excellency, the Governor, on that day.

As a brief statistical overview of the election:

- There were 408,109 Tasmanian electors enrolled for the election.
- 91.2 per cent of electors voted, which was comparable to the turnout of 2021 and 2018.
- A record 167 candidates contested the election, which included 67 female, 96 male and four indeterminate election candidates. Of these, 16 female and 19 male candidates were elected.
- The ballot papers consisted of a record 49 columns of candidate names, which, under Robson Rotation, required 714 versions of the ballot papers to be produced.
- 355 polling sites were used, 255 polling day polling places, 14 pre-poll centres, and 86 mobile polling locations.
- The different types of voting services provided were: ordinary voting on polling day at polling places across the state; pre-poll voting; postal voting; interstate voting at offices of Australian state and territory electoral commissions; mobile polling; telephone voting; and express voting for electors in Antarctica and undertaking Southern Seas duties.
- In addition, electors attending a polling place could vote from their car, with assistance from electoral staff. A small number of polling places allowed electors to use an independent, vision impairment voting system.
- Currently, voting systems are only provided in English.

- The TEC employed 1911 Tasmanians to work on the state election. For 532 employees, it was their first time working for the TEC. Around two-thirds of all staff were women, and around half were over the age of 60.
- Almost 32 per cent of votes were cast early, predominantly pre-poll votes, followed by postal, then telephone voting, and the smallest proportion being mobile voting.
- Of the 59 postal votes mailed overseas, only one was returned in time to be counted. Of the 932 postal votes mailed to electors on the Australian mainland, 757 were returned in time to be counted.
- 341,245 voters, or 91 per cent, voted in person at a polling place - 30,414 of those voted at a site outside their home division.
- Of the 372,077 ballot papers cast, 23,465 ballot papers, or 6.3 per cent, were informal. Just over 40 per cent of informal ballot papers were assessed as apparently intentionally formal, with just under 60 per cent assessed as apparently unintentional.
- In four of the five divisions one candidate received more than a quota of first preferences, with the Hare-Clark counts processing completed in five days.
- The cost of the 2024 State Election was \$12.37 per elector, in comparison to the cost of the 2022 Federal Election, which was \$25.94 an elector.

Similar to 2018 and 2021, an election tally room was established on election night at the Hotel Grand Chancellor. As state election dates are not fixed, a tally room site cannot be booked very far in advance. Fortunately, the organisation who had hired the relevant space in the week leading up to polling day agreed to make the Federal Ballroom available by late Friday morning, prompting a small, 30-hour window for the Hotel Grand Chancellor and media outlet teams to bump in sets, camera equipment and telecommunications infrastructure, and establish what was, once again, a great space and environment on election night.

I would also like to record my thanks to the leaders of the three parliamentary parties for agreeing to attend and speak on the night.

I believe we are the last physical tally room in the world where the candidates and party faithful from all sides, and the general public, can attend. I see this as an important part of the ritual and transparency of our elections. It is the intention of the current members of the commission to continue having a tally room for state elections, as long as suitable locations are available, our resourcing can manage it, political parties maintain their involvement, and the safety of all involved can be maintained.

With the government moving into minority in May 2023, the commission assessed there was a higher likelihood of an early election, and therefore moved to address a range of risks relevant to the conduct of a successful electoral event. In addition to experienced Tasmanian staff, the TEC identified and trained returning officers from New South Wales as a contingency resource, were an early election event be called. The TEC also secured medium-term leases for two small southern Tasmanian commercial properties as additional operation and storage spaces - one in Glenorchy and a second in Cambridge.

While worldwide postal services have largely recovered to pre-COVID-19 service levels, the ability to vote by post from overseas at Australian elections is far from certain. Since the commission's approval of telephone voting as an alternative service for some electors at recent Legislative Council elections, the commission extended the use of this service to electors who were interstate or overseas at the time of voting for the state election. At the state election, 3901 electors cast their vote using the telephone voting service.

There have been calls for telephone voting system to be made available for blind and vision-impaired electors for Tasmanian elections. As I stated publicly during the election, the commission was of the view that it did not have the authority under the act to approve this service for these individuals.

I note that the government has announced that they are looking to bring amendments to the parliament to broaden the commission's authority for approving alternative services. The commission welcomes the suggested amendments.

With the change of the size of the parliament, a principal concern for the commission was the potential for a significant increase in the number of informal votes if electors failed to number a sixth and seventh preference. To manage this risk, a supplementary public awareness campaign was developed featuring the tagline '7 or more to make your vote count', with visual prompts to emphasise the number 7. This message was delivered concurrently with the longstanding, 'Your vote is bigger than you think' campaign. For further information on it, that campaign is provided in our annual report.

As noted in our statistics, on election nights, and in final form in our parliamentary report, there was an increase in informality from 5.13 per cent to 6.31 per cent of ballot papers received. We're in the process of undertaking further analysis of informal ballot papers from the state election, and hope to have the paper made public before the end of the year. I'm happy to provide a copy of the paper to the committee once it's been completed.

One statistic of note that can be deduced from our informal ballot paper survey provided in the parliamentary elections report is that, of the 372,077 ballot papers cast at the state election, 212 were ballot papers where an elector only placed preferences 1 to 5. This equates to less than one in every 1700 ballot papers. Also of note is that 45 of the 212 incidents, or 21 per cent, were where the first preference was marked to a Shooters, Fishers & Farmers Tasmania candidate in the Division of Lyons, which was the only column across all divisions that listed five candidates.

One aspect of elections not broadly understood within the community is the significant amount of work conducted after polling day. This includes return of all election material from statewide polling places, including islands; transfer of out of division material to their home division; return of electronic voter lists and the extraction of data; processing of all declaration

votes; return of interstate material; scrutiny for alternative voting services such as telephone voting; full formality checking; continuous publication information on the TEC website; amalgamation of ballot papers from polling place level to single-candidate first-preference collections; conducting the Hare-Clark counts; conducting the declarations of the poll and the return to the writ; and conducting non-voter processes.

To reduce confusion for electors who are required to vote at the 2024 Legislative Council elections and the Glenorchy and Sorell by-elections, the non-voter processes for the state election were delayed with the process commencing on 25 June, with 25,400 electors being issued initial non-voter notices, and concluded on 21 August. At the end of the process, the TEC has processed the payment of 4107 fines; recorded valid and sufficient reasons or claims to have voted for 6886 electors; and forwarded details of 12,780 electors to the Monetary Penalties Enforcement Service due to a non-response. Similar processes are underway for the 2024 Legislative Council elections and the local government by-elections.

Including the national referendum, electors in Glenorchy and Sorell have been required to vote at four compulsory electoral events since October last year. We are seeing a growing trend in electors not responding to non-voter notices which creates an elongated timeframe and workload for the TEC staff as well as increasing fines for those not responding due to the incremental fine structure under MPES.

The resignation of the member for Elwick to contest the state election resulted in a by-election being conducted in parallel with the 2024 Legislative Council elections in Hobart and Prosser. As a brief statistical overview of these three elections:

- there were 76,626 Tasmanian electors enrolled to vote across three divisions;
- 81 per cent of those electors voted. Sixteen candidates contested these elections, including six female and 11 male candidates; of those, one male and two female candidates were elected;
- As has occurred at upper House elections since 1994, individual elector cards were mailed to electors to inform them of the need to vote and the basic election information such as the names of candidates, different ways to vote, and locations of their divisional polling places;
- Seventy-four polling places were used for these elections: 49 on polling day; five pre-poll centres; and 20 mobile polling locations;
- All the voting services provided at state election are also provided at Legislative Council elections;
- The TEC employed 447 electors to work on these elections. For 22 employees it was their first time working; again, around 60 per cent of all staff were women and around half were over the age of 60;
- Over 37 per cent of votes were cast early, predominantly pre-poll, followed by postal, telephone, and the smallest being mobile voting. Of the two postal votes issued overseas, neither were returned in time to be counted. Of the 78 postal votes issued to electors on the Australian mainland, 69 were returned in time to be counted;
- There were 56,123 voters, or 91 per cent, who voted in person; 4209 of these voted outside their home division;
- Of the 61,268 ballot papers cast, 2169, or 3.5 per cent, were informal, with just over 65 per cent of informal assessed as apparently intentional and just over 35 per cent apparently unintentional;

- The cost of these elections was \$18.07 per elector.

Finally, as stated in our written submission, the breadth and diversity of the TEC responsibilities continues to significantly expand. This includes the establishment of the Tasmanian Funding and Disclosure Scheme, the increase in investigative powers of the TEC and expected changes to local government elections. The commission has commenced a recruitment process which will expand our organisation into a tri-directorate structure. We noted that the government has recently paused its consideration of amendments to the *Aboriginal Land Council Act*, which was expected to significantly change our relationship in that area.

Finally, as a broad statement, elections are more challenging, complex, and confrontational than ever before.

As stated in our written submission, the following trends and risks are impacting electoral administration in Australia: growing foreign interference and domestic misinformation and disinformation; the upward trend of coordinated physical disruption of services and intimidation of electoral officials during electoral events; the rise in submissions and the calling for truth-in-advertising legislation which would have a massive impact on our resourcing; and that there is a need to develop better understanding, culture, and services that are more inclusive and accessible serving a broader range of electors who currently face barriers to fully participate and feel a part of our important democracy.

There is an increasing reliance on technology and modern IT infrastructure and systems to deliver timely, inclusive, and accessible electoral services. The real and present cyber-security threats to systems and data, requiring constant vigilance. Even the increase in number of registered parties, groups, and candidates contesting elections, while valid, increase the complexity of processes and the number of voices seeking information responses, and often action from electoral management bodies. In more recent times, electoral management bodies around the world are seen as a new and alternative target to undermine the integrity of results and electoral events.

Finally, in the local context, the TEC is also facing challenges in relation to the ageing casual workforce employed by the TEC for electoral events, and the increasing uncertainty of suitable polling place sites across the state.

That is the end of my statement.

CHAIR - Thank you very much for that comprehensive opening statement. It's appreciated.

Mr BAYLEY - Thanks for your submission. Upfront, I acknowledge your work. It's obviously a complex and very detailed planning and logistical exercise. I also acknowledge the over one thousand people around Tasmania who are casual employees, who help make this process work. It's very welcome and it's so important. We're all completely agreed there. I also want to note your commitment to the tally room, and it is the last tally room. We welcome that because I think it is a really important institution in Tasmania.

I want to go first to the informal vote. You've been through some of the statistics there. I think I heard you say your take is 60 per cent of the votes were unintentional, informal, but

you also noted that there were only 212 votes that voted 1 to 5. It was a significant concern in the lead up to this election going from five-member electorates to seven-member electorates. I do note a submission from several submitters, including Dr Kevin Bonham, who expressed frustration at the lack of savings provisions in our system. Could you further unpack the informal vote and your concerns or otherwise about that and touch on savings provisions?

Mr HAWKEY - Certainly. The terms 'apparently intentional' and 'apparently unintentional' is a long-standing tradition of assessment. Essentially, those that are blank or have writing on it are considered intentional attempts not to vote. It could be that some of those blanks were because of literacy issues and people didn't know what to do. It's not categorical but it gives a long-term assessment across areas. There is a broad range of ways that votes can be informal outside of that. The 212 related to the particular concern the commission had where people just thought 1 to 5 was all they needed to do. The commission was confident that there was no fundamental problem there, but there are other complexities across the ballot paper.

My original attempt was to try to have the other paper done before the committee meeting, but unfortunately there's too much work to be done. We're looking at whether there are connections between column sizes and complexities of ballot papers in relation to whether there's anything with the types of errors. Yes, there is an increase in relation to those. There were some where they did a 6 or a 7, or were missing, there was an error and they can be identified in that appendix B in relation to where those are. In a pure sense, those 6 and 7 would not have been there at that last election. Absolutely.

I would always argue that, especially if you compare it to, say, the federal case where in the lower House you have to vote every preference, that in a sense the vote 1 to 7 is, in a sense, a saving provision, ideally under Hare-Clark. Again, I'm a Hare-Clark nerd, and the Hare-Clark is a healthier system the more preferences people put in there. If everyone put a preference, then there would be no exhausted votes and every candidate would reach the quota, which again is just a part of the electoral mandate process of getting elected.

CHAIR - To clarify your statement there, if every voter numbered every box -

Mr HAWKEY - Every voter, every box, then every vote would continue to its final end.

CHAIR - To full use, yes.

Mr HAWKEY - That's the ideal. Now, that's not possible and practical for a whole range of reasons, especially as we see a growing number. We saw not only a record number of candidates but an extraordinarily high number of columns, which led to the 714 versions of different versions of ballot papers. The expansion does make more complexity.

Around the savings provision, I appreciate that this is an issue of concern. We haven't done enough data to get more detail in particular and I hope to discuss that further in those environments. The key concern I have, and I've mentioned this in previous ones, about saying less than the 7, is that it could have broader consequences for the election. Again, the stats will come out in relation to at what point an error occurred after 1, after 2, after 3. The numbers are there, but they're not huge. I note in Kevin's point, he puts in that he doesn't believe the change would have impacted in the election event.

Mr BAYLEY - Impacted the result.

Mr HAWKEY - The concern for me, and I think we heard Mr Coulson say earlier today, that issues from going from 25 candidates to 35 candidates is a major issue for parties. If we then said, 'Well, let's make it 1 to 5 as it was', then I would think it would be likely over time that parties are going to say, 'We'll just list five candidates so people can vote 1 to 5', and then it makes it easier, less candidates, less for us to worry about.

That in itself isn't necessarily a problem except when we get to the point of casual vacancies. Under our legislation, we have this wonderful process which is fast, cost effective, but more importantly, maintains the view of the parliament made by the electors at the time of election. If you look at a federal one and you especially look at the case where there was the dual citizenship and we saw a whole run of by-elections at the federal level, that becomes a by-election based on new issues and new campaigning and new positions that people feel about the parties. Ours maintains the mindset of the electors at the time of that election. It creates, in that sense, its own stability.

If, let's say, a major party had five candidates and had a successful election and got three elected or even dare I say four - and again under seven, you're wanting to win four because you need to get four to become a majority in at least in three of the five divisions - if you have one or two resignations, you've run out of the candidates for that party. We saw under five, we got to the edge with the Liberals on one or two occasions. Going back, the Labor Party in Franklin ran out of candidates to contest that by-election.

You might say, that's fine and that's okay because then the recount can go ahead and someone else can be there. Well, two things. One, that does partly undermine the stability, although it would probably still be a like-minded person compared to the electors. But the act actually provides a provision where a registered - if it occurs to a registered party and they don't have any candidates, they can request from the commission a by-election because they're saying we have no chance to replace it and so, it will create a by-election process. So, the likelihood for me of reducing that and doing other - it won't have a flow-on effect. It undermines a little bit of the stability of our House of Assembly. That's speculation but we have seen runs of vacancies at different times in our parliament.

I note that Kevin puts up two options there. He looks at a five but he also looks at errors in other numbers. Look, I think one of the key themes that we want to add to this here is that - and we've discussed this with the department and we've discussed this with the minister - there is time for a review of the *Electoral Act* and to look at a whole range of ways we can modernise the act. So, this is something that could be a part of that broader discussion.

Mr BAYLEY - A quick follow-on. It'll only take you two seconds, I'm sure, but 60 per cent unintentional, I think, in the general election, the House of Assembly, and then one of the latter elections - was it the Legislative Council or council - was 35 unintentional. Why the discrepancy there, in your mind?

Mr HAWKEY - Fundamentally, it's a simple ballot paper. It's a single column and you only vote 1, 2, or 3, depending on how many candidates there are, as a formality, and so, it's just a simple ballot paper to do and that is the fundamental thing, I think. One of the things that we will see, and again, not wanting to quote numbers, but where there are seven candidates in a column in the House of Assembly election, something like 1 per cent of people made a repetition error of people who voted one preference. Where there were less, some of the other

parties, it was like 5 per cent and we proceed, particularly, with that one column of five candidates for the Shooters, Fishers & Farmers Tas Party. Hopefully, there will be some stuff that comes out of that that shows that the configuration sometimes has an impact, but again, NLC is a straight column. One, two or three is a simpler process.

CHAIR - Following up on that same topic area, there is also consideration if you are going to be putting forward the idea of savings provisions. Obviously, it sounds like so far - and I know there is further deeper analysis to come from you in the report in coming months - but 212 that were only 1 to 5 is a relatively small number; 45 per cent of them related to people numbering one party in one division. Against that, and the impact that may or may not have had, is also the fact that if we have a savings provision, which only requires 1 to 5, you reduce the functionality of the Hare-Clark system potentially too.

Mr HAWKEY - Potentially, yes.

CHAIR - You're actually risking a certain number of votes, exhausting before it fully can come to expression under the Hare-Clark system. There's a great deal of the community who do not number 1 to 5 in a column, who put their numbers across different columns, and if they have only numbered 1 to 5 because that's all that they have heard they need to, at the moment, I presume we can only speculate the degree to which that would then exhaust and not actually be given full effect under our Hare-Clark system. There is that balancing act, isn't there, that would need to be put into consideration?

Mr HAWKEY - That's my concern, but again, it's something that could be discussed broader because there are so many complex elements that come together to make our electoral system work and tinkering one aspect can have a flow-on effect in others.

Ms O'CONNOR - Thank you very much, Chair, and thank you for your wonderful work defending our democracy. I first wanted to just explore some of those threats, Andrew, that you detailed at the end of your presentation. I guess in Tasmania we would like to think that it is all relatively smooth here, but you have talked about the potential for foreign interference, threats to officials, TEC staff, cyber threats. They're quite weighty concerns for the commission and, therefore, for the administration and functioning of democracy. Is there any evidence that this is an issue in Tasmania or were you talking more broadly, nationally?

Mr HAWKEY - Primarily, nationally. The term used by electoral is 'single-issue electors' are becoming considerably more disruptive. We have seen in New South Wales, there was huge involvement and threats made to the electoral commissioner around local government elections and there are calls for him to be bludgeoned with the truth. That's growing.

We saw in South Australia disruptions and lobbying. We are advantaged in Tassie with our 100-metre rule, that people cannot hang outside a polling place, but there were issues there with illegal materials that some of those groups that were running were having. In Victoria, we saw a case recently where there was someone heckling people on the way in, and then came in to vote and squeezed a bottle of Clag into a ballot box.

Where we are seeing a little bit of disruption in the Tassie context is I think we saw a bit of it at the local government level around committee meetings and things like the future of local government. It hasn't really hit electoral yet, but there are elements of its moving in and around

us. There are some voices in Tasmania in that area, I get - I am sure you do - a range of correspondence in this sort of area, but most of mine comes from interstate.

It is something that we need to be aware of and we need to try to be on the front foot on. Issues around accessibility, which again, I am sure we will discuss later, are far behind. That also includes accessibility and suitability for our own staff and their safety, with an ageing population and physical spaces and things like that.

Ms O'CONNOR - To follow up on that question, how do you plan and respond to the evidence of those threats interstate and a concern that they may be an issue here?

Mr HAWKEY - It's an area where we have a lot of work to do. As I've mentioned, I think in the last time we appeared at the hearing, the TEC has been a bit like a family business. We know what we have to do or we know what we've always done, we need to roll it out and get it done, to saying we need to be more of a corporate organisation and we need to have better policies, structures, and reporting mechanisms to better ensure these things in the future.

Ms O'CONNOR - Isn't it a security issue as well though? I'm trying to explore that as well.

Mr HAWKEY - Yes. We haven't done a lot of work in that area for the Tasmanian environment. We do assessments of our polling places, but - is there the threat coming of a lockdown of a polling place? We haven't - this is one of the things that we need to look at moving forward. Tasmania is behind other states and territories in relation to this. It is something that we need to be hopefully on the front foot of learning before we have a horrible incident in Tasmania. The current circumstance is low, but it's growing interstate and may grow here.

Mr BLAKE - I'll just add to that. You're focused on maybe physical security, but cyber-risk is just as important.

Ms O'CONNOR - Yes, and I mentioned that.

Mr BLAKE - We've done a lot of work on trying to improve our systems to reduce the risk of cyber within the context of the resources that we've got. The very difficult challenge we have in terms of recruiting IT people, the commission doesn't have a great structure in terms of career paths for people who want to come and work for us when there's only 14, 15 or 16 people. We worked with the Signals Directorate and the commissions interstate to try to find what the gaps are in our IT in terms of cyber, to try to strengthen those. Work to be done but at least we're on the way.

Ms O'CONNOR - Okay, thank you.

Mr HAWKEY - I was just reminded, there are the odd polling place where we do employ security guards, where we think there is a higher threat. That is only a small number, but we are open to that. As a broad policy of lockdown, we haven't got to that point yet.

CHAIR - Can I just pick up on that to clarify?

Ms O'CONNOR - You're the Chair.

CHAIR - In terms of this year's election, the suite of elections that we're looking at in this inquiry, were there security guards employed during those elections at any locations and how was it determined that that was required?

Mr HAWKEY - I think it was due to the feedback from the community and the hall that we were hiring that there were issues in that area. It was certainly Bridgewater, there may have been others as well. It's starting - it's evolving that area.

CHAIR - Did that involve just on polling day or was that also at pre-poll centres?

Mr HAWKEY - I don't think any of our pre-poll centres needed it. They were within more organised structures in city centres and that sort of thing. The ones that've been in areas of disruption around those areas. Certainly, when we've had things like local government elections and we've had big centres, and we had it at Elwick at the race course, we'd have security staff there as much because of people loitering and other bits and pieces. We haven't really had any incidents I'm aware of, but that may grow in time. But again, we need to have a better policy and better structures to prepare for that in future.

CHAIR - At the present time, there is a policy or isn't a policy that relates to that?

Mr HAWKEY - There isn't - it is more a matter - it's a case-by-case basis. There are particular questions we'll ask when we hire a location - I can't remember what they are off the top of my head - but that may trigger it, but there is no broader formed policy. The tri-directorate structure will help us quickly expand into some of these areas.

Mr BLAKE - We do also have the security at the tally room. That's something we beefed up a couple years ago.

CHAIR - You might need to speak up a little bit.

Mr BLAKE - We do also have improved physical security at the tally room functions and that's been worked through with the Tasmania Police.

Mr HAWKEY - I meet with Tasmania Police for each state event to get a sense of whether they believe there are any hotspots or concerns. Also, in the cybersecurity area, there's a national taskforce, which rings in with the Signals Directorate, but a whole range of other national security elements and some state ones as a review. Again, in the Tasmania environment to date, that's been very minimal compared to other places.

CHAIR - Just following on from that question.

Ms O'CONNOR - I'm fine for you to come back later, that's fine.

CHAIR - In relation to, I guess, the conduct of the whole election and then particular elements of it such as locations of polling places, do you have a formalised or documented risk assessment process that you go through that addresses both the cybersecurity-type risks and also the physical security-type risks. Is that a documented process?

Mr HAWKEY - In part, but not in full, so that's where we need to be better. There are different elements, but they're not comprehensive and whole and complete. Again, this is a part of being a tri-directorate. These are all the things we need to get better at.

Mr BLAKE - To add to that, one of the things I have observed is, when the elections come along and there are 14 or 15 people working within the office but, as Andrew said, up to 1900 people are then resourced to run the election, because of the small numbers it has required hands-on approaches by the deputy commissioner who just gets stuck in to get all this work done. Because it's been so uncertain about when the next election is going to be in some cases, we've had to be anxiously ready for when it's going to happen. Therefore some of those processes that you might describe should normally be there don't work when you're just not clear about when the next election might be.

CHAIR - Possibly, yes. The other side of that is if you have documented and well-developed processes in place you can deploy them as necessary and then perhaps feel more confident in that uncertain space of not-known timeframes. I've always been on the record as a big supporter of fixed-term elections in this state. I'd very much like to see that. I've always been plain about it because I think that would deliver certainty to all sorts of people, including the Electoral Commission.

Ms JOHNSTON - That leads nicely to the question around fixed terms.

Andrew, you highlighted in your opening statement and clearly in your written submissions, we've had two elections now in a row called quite early and we are a minority government situation in terms of preparedness for the commission. How difficult is it for the commission without a fixed term for House of Assembly elections to manage its workload?

You referred to Glenorchy electors having four elections in a very short period of time. That's a lot for electors to take in, let alone for the commission to be able to expand its numbers and to manage it. I'm particularly interested in site selection for polling booths and things like that and how that is practically managed.

Mr HAWKEY - The first question is when are we going to election? We use the phrase, 'spots of rain'. Once we went into minority government in May 2023, the likelihood became a real possibility and there was speculation in a range of places of when it could. None of our staff - and there are only 14 of us - none of us were allowed to take more than two weeks of leave at any point last year because of the uncertainty of when that was on. The one time I did allow people to go overseas was when the federal referendum was on, because it's a federal referendum, we know the government is supporting the referendum, there couldn't be an election called. Then we had the Attorney-General no longer be the Attorney-General, and the Premier threatening to immediately call an election. Our staff are under that hypertension.

Also, you have five or six stages of contingencies. We have contingencies for prior to the budget Estimates, or post the budget, or a February election, or a December election because we have to be ready. We can't say we weren't sure, we didn't know. With the New South Wales electoral commission, because there were three slots of dates where we couldn't have our own staff that we bring in - retirees who were doing their own trips - we brought them in and trained them in November 2023 because we needed that. We are looking at our own shadow a lot in the current environment.

The parliament in Tasmania has always had non-fixed terms and that's fine. I've been here long enough to go through periods when there's been a very regular process and some where they're not. I was here in 1998 - 1997 - when the Rundle government suddenly decided to go to election. It's a part of our role to do that, but it has had an impact in relation to being able to physically plan it.

Another good example of that is, we brought in data entry for local government elections when it went to all-in, all-out. We knew when that time was, we knew what that structure was and we brought in the Victorian Electoral Commission system, modified it for Tasmania, and it was ready for the election.

We've been looking to modify that system, so it can be used for the House of Assembly for a range of reasons, which requires a range of things - change of platform because the old platform is no longer secure, but also making a multi-column version of the ballot paper. At different times because of our unsurety, we haven't actually been able to get that done and the timeframe for getting it done has been shifted. But now, funding disclosure has come on so that's now pushed that even further behind the IT infrastructure we needed for that. In our structure, as we are with our small size and that uncertainty, it means it's very hard to plan 12 months in advance on anything we do or where we are.

Mr BLAKE - The question also from Ms Johnston was how do we decide polling places?

Mr HAWKEY - Sorry, I'll come back to that. Part of where I forgot to go with that is that it's very hard because if you don't know when polling day is, we don't know what is available to us. With the Legislative Council, we can book six or eight months in advance where it's not a by-election, but we can't do that for a House of Assembly.

One good example is the tally room. When the drops of rain appeared to be falling last year, I was on to the Grand Chancellor asking what dates they had available. They said that any day except 23 September would be fine. We ended up making it work because, as I said, the people moved out slightly early and we got something up and running. There was no other possible site for that in the south of Tasmania that met the particulars for that.

It is similar for other polling places; it's similar for pre-poll. We've had times where nothing has been available in Glenorchy even for an LC but when you get an announcement and you've got to have a pre-poll set up in three-and-a-half weeks, you've got to have the physical space. The site that was mentioned this morning, the one in the CBD, was the best we could do from my understanding in that environment. It wasn't ideal, but it still had a lift access and other things, but it was still hard to find. Finding another place is out of our control unless we spend a lot of money booking a lot of places and giving money to have retainers.

You have the secondary issue where you're out in the middle of nowhere and there's one hall that's within a 50-kilometre radius of nothing else. We had one year where a storm came and the roof fell in. Even if you might be able to book places, you can't guarantee that they're suitable at the time the polling day comes along.

CHAIR - Can I go to a couple of specific things about the elections held this year? You mentioned the recruitment from New South Wales.

Mr HAWKEY - Yes.

CHAIR - Is that a practice that has been used frequently in the past?

Mr HAWKEY - No.

CHAIR - Is this the first time we recruited interstate?

Mr HAWKEY - This is the first time.

CHAIR - Why did we do that because we've recruited locally previously?

Mr HAWKEY - Because we had a range of staff who were experienced, but they weren't available for every time. They had made themselves available for the Legislative Council window, but some of them were not available so having experienced New South Wales staff who had undertaken their elections were less of a risk to bring them in and train them as experienced staff that know all the logistics and learn our system. We only used about a third to half of the people that we trained because some of the people were available, but it was just a contingency of risk.

CHAIR - Does that mean that we don't have a large enough pool here from local people? Is that something that you're addressing? Clearly, if we had a larger pool that we had been regularly ensuring were recruited, trained and ready, this would have been an opportunity for them to become more experienced and strengthen the resource that was there.

Mr HAWKEY - One of the issues that we found is how do you recruit and train people in a short period of time to be able to deal with the broad complexities of running an election. Part of our new structure that we're developing will have a training unit as a part of that which we will be able to build. We've got a northern office, which we have as a permanent space now. We're looking to have a new office in the south. Part of that will be to develop and maintain an ongoing core of experienced staff which will have simulations and other elements and pieces. It is just the consequence of the timeframe that we didn't feel we had confidence to have them across the state at that time and so we looked at New South Wales as a backup option.

CHAIR - What, if any, issues did you experience with that arrangement this time? Having just heard you and accepted what you've explained as a reason for bringing them in from interstate, what challenges or issues were experienced in that context then?

Mr HAWKEY - There weren't a great deal. Part of it is understanding things like Robson Rotation, the nuances of informality responsibilities. For example, in Tasmania it's the 1 to 7, but it's also that the intention is clear. If someone scribbles all sorts of things but the returning officer can see, I can see, the intent of this elector to give 7 or even up to number 21, that's a part of Tasmanian elections, but it may not be in other states.

The amalgamation of ballot papers where other states' data enter papers. There were elements of the Tasmanian experience that we needed to bring in but the ability to manage and roll out polling places, polling place material and coordinate large groups of electoral staff, they already had those key elements.

CHAIR - Were there instances in which there were hiccups to do with the responsibilities of those returning officers because of that one step removed familiarity with the Tasmanian system?

Mr HAWKEY - While we had returning officers through the state, we still had our staff overseeing it. When we had the counting, we either had one of our senior officer staff or, in the end because of COVID hitting our staff, myself or the deputy in the north there to oversee and be there as a mentor role and help cover it. I'm not aware of anything that became an issue. There are different interpretations at different times or different styles, but I don't believe there are any broader issues.

CHAIR - I'm going to stick with the call for the moment and go to another area specifically because it's been raised in submissions and in hearings today around what occurred with signage being put up on polling places during the night ahead of polling day and that being in contravention of the act. It would appear an inability to address it on the day, even though it was raised relatively early in the morning. Can you talk us through that issue, what you had available to you to address that issue on the day, and how the decision making worked?

Mr HAWKEY - Our awareness of the posters first came - my records and recollections are different to Mr Coulson's in that I don't recall any conversation with him as early as he talks about. Our first one was from the Labor director, concerned that people were taking down his signs. That was our first indication of it.

Not long after, Mr Coulson contacted us to say it was there. Part of the discussion here is, does it breach the *Electoral Act*? The point put forward by Mr Coulson was that it was a breach of within 100 metres, which part of the section of the act:

Offences within 100 metres ...

A person must not, within 100 metres of, or within, a polling place which is open for polling ...

so that includes pre-poll,

canvass for votes; or

solicit the vote of an elector; or

induce or attempt to induce an elector not to vote for a particular candidate ...

or party.

It's about the campaigning aspect of it. In 2007 when the GFC occurred, there were a range of buildings put forward, where the federal government provided money especially to schools to build halls. This issue came up at that time, whether a sign was seen as breaching this act. Our advice at the time was that it wasn't because these were the 'here's the money from the federal government to build your lovely hall' and [inaudible] political. Our advice in relation to that was that, as a fixed sign, it was not there.

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Ms O'CONNOR - Can I get some clarity on that? Are you talking about when those signs, which would have said 'brought to you under the building the great nation', 'the future fund', was that during a campaign it was decided that they weren't election signs? Or at any time?

Mr HAWKEY - We sought a principal advice in relation to: is a fixed sign something that breaches this section of the act. We had signs in houses close to 100 metres in the past. The advice at the time was it wasn't seen as canvassing for votes or soliciting.

CHAIR - A 'Building the Education Revolution' sign is not canvassing for an election, but 'Vote 1 John Smith' sounds like canvassing for an election to me.

Mr HAWKEY - Yes, but at the time it was considered. We used to initially provide brown paper to polling places so they could put things over signs within 100 metres. You might have a polling place here and across the road might be an office or a sign. From that point, the commission went to the view that it wasn't. The issue for me with the circumstance on polling day was that these were signs that were essentially trespass and were interfering in the independent and impartial area that the commission had hired.

The first thing is we didn't know the particular sites where they were. They were predominantly in the south. There were a couple in the north. We found out from parties more than anyone where these signs were. One of the first things we had to seek was that it was - I wanted them all down because I believed that we'd hired that space and therefore we had the right to be. Part of it we needed to make sure was that there wasn't consent given, especially because some of them were on the boundary line, on the fence line; some were inside and they were clearly a breach. But those on the fence line of schools, we got advice. We got an email from the secretary of Education to confirm they weren't and we put out the directive to have them brought down.

One of the other problems that occurred was that we no longer provide scissors to our polling places - because we now have things that rip - for health and safety. You didn't need one. Even just the way of removing them wasn't necessarily clear.

Certainly, it was still the morning when we got that advice and we were trying to send it out through our polling place liaison officers to polling place managers to have them brought down in a way that was safe for the individuals and things like that. I couldn't tell you when they were all down, and I couldn't tell you how many places that occurred, but we sent out that direction to staff to say that if it was on the boundary or within the boundary, it should be removed.

CHAIR - Granted, you can't give us the full picture of things that weren't reported to you necessarily. In terms of details of what was reported to you, the locations that were reported to you that had this signage up, that you responded to with instructions to take the signage down, are you able to provide us with those details and the methods of how that occurred, so we can understand how it works?

Mr HAWKEY - We can try to get that. Initially, it was a lot of phone calls. It would be Mr Coulson ringing, saying, 'I've been to this school and there's a sign there.' Then we'd say, 'Go.' I don't know if there's necessarily a full record of the schools, but once we got the agreement from the secretary of Education, we sent out a mandate: if there are these, have them

removed, have them brought down in a way that's not a work health and safety issue or a property damage issue, and they were done. Again, we didn't tally them or collate them at the time. The position of the Labor Party was that they hadn't breached the *Electoral Act* in relation to this, to which I said, 'From my point of view, of hiring these spaces, you've breached other things.' Then we had them removed to the best of our ability. I don't have particular numbers - we could try to look it up.

Mr BAYLEY - Do you maintain that they haven't breached the *Electoral Act*? I guess I'm interested in what follow-up you've done with the party.

Mr HAWKEY - The argument to the point was 177, and I appreciate that Mr Coulson said that I hadn't responded. I had responded along these lines in phone conversations, but not necessarily emails or formal letters. The key thing for me at that time was to get them down and get them addressed. I asked the Labor Party to bring them down, as well as our staff.

Sorry, what was the broader part of that question?

Mr BAYLEY - What have you done? Have you taken steps so it doesn't happen at the next election, whether it be because they're inappropriately sited on venues you've -

Mr HAWKEY - Well, not in particular, and part of that is because we went straight into the 10-day period, then the Legislative Council and other activities. We have undertaken reviews, but what we're really happy about with the inquiry is it will bring back to us some things that we've missed in follow-up. I'll be really happy to follow up with that and to look at that in a broader sense. Again, what is our policy around this matter, and how do we move forward? We haven't articulated that at the commission level yet. That's where we're looking for the committee and the different people's submissions to the committee to raise things that we've missed in follow-up.

CHAIR - I'm going to go into that a little bit more. What legal advice do you have available to you on a polling day? I mean, during election period broadly, but also specifically on a polling day, to be able to respond to things that crop up like this?

Mr HAWKEY - We have a direct connection to the Solicitor-General's Office. I don't believe we did on this case - you were referring to the north - because we had already had the situation at the other, and the key thing for me was to get them down as quickly as we could. Again, we didn't know necessarily where they were and how many there were. There were a handful, I think, in the north of the state and a few more, but quite heavily, in the south. That was the key thing. At the time, I had the view that it wasn't breaching 177, then there wasn't necessarily an electoral offence that it had created, other than the essential of trespass or putting something on someone's property without their permission.

CHAIR - You didn't seek legal advice on the day from the Solicitor-General?

Mr HAWKEY - No, not on that one.

CHAIR - Have you sought legal advice from the Solicitor-General since?

Mr HAWKEY - Not on that matter, no. Again, we can look at that moving forwards, absolutely.

CHAIR - Looking at 177, I can see why somebody might make the argument that it was captured by 177 and would want to have a formal legal determination made about that.

Mr HAWKEY - Our original advice in 2007 did include electoral signs. It wasn't just those signs, and the advice at that time was along that position. Now, there may be -

CHAIR - We're all of the understanding you can't put one of your signs within 100 metres of - let me give an example: during a campaign period - and should one be arriving sometime soon for some of us - often you might put signs on a trailer and tow a trailer around your electorate during your campaign. Of course, that trailer could be pulled up right beside the school or polling place.

Mr HAWKEY - That was not seen as a fixed sign, at the time.

Mr BAYLEY - As candidates, we were still notified about those issues.

CHAIR - For example, I might have a sign during the campaign period on a house that was within 100 metres of a school. Now, my understanding was that we would need to take that down during a polling day.

Mr HAWKEY - No. After 2007, the position was that there was no right to take that down on a private property, even if it was within 100 metres. Historically, we did have brown paper for that, but based on that advice, that was a change that was undertaken. Now, given our incident, I think I am very happy to try to seek better clarification and come up with a more direct policy on that for future.

Sometimes I think doing something like that can have as much negative consequence for people as positive, because the Tasmanian elector base is highly sensitive to the way they like elections run - but absolutely, we can be better at having a better, more direct answer to that. Again, we never expected that a party would go and put up signs, and put some of them right on polls, into the doors of halls.

Ms O'CONNOR - Wow.

CHAIR - Granted, you said you've been busy since then, and I accept that you have been, with all those other things and the new donations and disclosure and funding stuff in the pipeline. You're doing your internal restructure, which I am sure we will talk about too. So, granted all that, it hasn't been put to you or requested of you, that you follow this up with action post-election?

Mr HAWKEY - Not specifically, no.

CHAIR - You haven't done that in terms of self-referral?

Mr HAWKEY - Again, the list of processes that we are covering at the moment is broad. Even the other key element - and I noted with the submission from the people you heard from this morning, the fact that I thought, 'Why did I not meet with the different sectors in that April?' Part of that was that, at the same time, we were undertaking the Aboriginal Land Council

enrolment process. So, from the March through to May, we also had to process around 100 objections to individuals on the Aboriginal Land Council roll and a whole lot of data.

The same staff that are doing the state election and preparing for the Legislative Council and preparing the Glenorchy Elector Poll are also having to do the very sensitive and highly charged processes of that other process. So, have we turned our mind back to reviewing some of those things? No. Again, we can, and we are happy for these things to be raised. We are also hoping our bare structure will allow us to have better resources that they can keep their mind on some of these things.

Mr BAYLEY - You mentioned policy and that in relation to this you don't have a policy. I am keen to turn to policy, because we've heard a little about that already. I am wondering whether you would be willing to table for the committee your suite of policies - OH&S, et cetera - everything you have, just for our consideration, to have a read, and see what they are like. I guess the follow-up question to that is, do you think they are adequate? Do they cover everything? Are you resourced enough to be able to fill any holes - if you identify that there are holes - given how much work you have on? Do you have policy officers on staff to do this work?

Mr HAWKEY - First thing is that our staff are Department of Justice staff, so the first level of policies come through the Department of Justice. Whether it is accessibility and accessibility training, or procurement, work health and safety, there is a requirement for us to adhere to all those elements.

Where are the broader policies moving forwards? That is still a work in progress, but we can look to see what we have. Do you have any comment on that?

Mr BLAKE - Other than those two, I think one of the issues we found as we went through a small team of people and trying to satisfy all of their needs, because some surveys that we did within the office four, five, six, seven years ago, highlighted that governance processes needed improvement, internal procedures needed improvement, and so on. We've tried to develop those based on survey material and advice given to us by the staff - especially, as I said earlier, in a very small team of people - to try to develop those structures.

Those structures are now coming to fruition as we develop a team of more than 14 people. There has always been a gap in terms of governance and process. That doesn't mean that we haven't had things in place, but maybe they weren't documented as well as they could have been.

The commission identified those gaps and we started to deal with them, but that's on top of everything else that we've tried to do. Some of those policies around running elections rather than work, health and safety or procurement stuff that the department gives us advice about, are very much works in progress and are going to require the establishment of a broader team of people.

Mr HAWKEY - With the triple directorate model, one is legislation, funding disclosure and compliance, which our colleague is our new director of; one is business; and one is elections and engagement. The business directorate will have a governance officer whose primary responsibilities will be making sure we are up to speed and the organisation is aware and learning and not just, 'Here's a piece of paper in the filing cabinet', but we understand how

that relates to our work. That person will manage a range of positions. We have a finance officer, which we've always had because we've had election costs the whole time, but we've also got our new accessibility inclusion officer who's there in that area but we're looking at a business improvement officer and a data analyst to improve our process, document our processes and move forward.

Mr BAYLEY - What about resourcing, then, putting aside the future and what might happen with truth in political advertising? We've absolutely heard and understand that you would need more resourcing to adequately do that. I hear a consistent narrative across your presentation today that you're stretched, you've got a lot to do and limited resources or limited human resources to do it. Are you satisfactorily resourced? Is your budget submission met each year?

Mr HAWKEY - After 2023 and the 2022 local government elections, compulsory voting only came in months before we'd already commenced planning and that was a major change. By early 2023, we were at the point where we had to be a bigger structure and get some of those things resourced. We had an independent review undertaken by the former head of LGAT, who was working privately in a different capacity, to do an assessment and a review of our organisation. Certainly her position was that there were too many single-point dependencies and that there should have been an election failure before now based on our staffing resources. She recommended a broad expansion, including the tri-directorate model. That was taken to Justice in October last year, when we gained in-principle agreement to that. The minister has been informed on that from late last year. Mike and I have met with the minister in relation to those and we're now undertaking that process.

The first stage was the directors and establishing those. We're hoping in the coming days to recruit six people into that directorate around legislation compliance, which will cover a whole range of areas. We're now adding positions across the structure, so those ones in business will be new, but even -

CHAIR - How many positions in business?

Mr HAWKEY - There'll be a new governance officer, an executive officer, which again will help with our governance areas -

CHAIR - So six in legislation and compliance, business -

Mr HAWKEY - One of those was an ongoing position that was vacant, so five new positions. There are six positions in relation to the business directorate and under the elections directorate there are four positions.

Mr BLAKE - Importantly, though, we haven't just imposed this on the staff. The staff have been consulted all the way through in terms of the best model to help them do what they have to do. We've consulted throughout with the staff and that's what Katrina did as part of that review of our structure. We didn't just come up with a model; the consultant worked with the staff and there was a range of different options looked at and this is where we landed. That was supported by Justice as well as the team in the office and then taken to government.

Mr BAYLEY - Are you able to table that structure or is that published?

Mr HAWKEY - Look, it's still a work in progress because although there was in-principle agreement there's still some minor changes, so I'd prefer not to at the moment.

CHAIR - Could you table for us the independent review document and that in confidence?

Mr HAWKEY - In confidence? I think we can - yes, certainly. I'm happy for the executive summary to be made available more broadly, but the full review I think should be in confidence in that sense.

CHAIR - We're happy to accept documents in confidence if they're not ready or appropriate to be public documents, but I think it would be useful for us to understand the review process and what it arrived at. I'm interested in the consultation with staff that went alongside that, if that includes a description of what that process looks like.

Mr HAWKEY - Yes, it does.

Mr BAYLEY - Can I ask regarding your budget submission for funding to meet your planned restructure, was that fully met in the Tasmanian Budget this year?

Mr HAWKEY - The Electoral Commission is different from the normal processes. We have three funding elements: we have admin funding; we have trust funding; and we have reserved by law. The costs for the funding disclosure unit are reserved by law. The costs for preparation, creation and conducting an election are reserved by law. Predominantly, we have an arrangement where Justice assists. Where it's a gamble, such as a state election a year early, there has to be an immediate process of funding. There isn't the normal budgetary process for a lot of our costs.

Mr BAYLEY - That's what reserved by law means?

Mr HAWKEY - Yes. Reserved by law means essentially we can go straight to Treasury through the Justice finance officer. Even with things like the funding disclosure, we have not been given a set budget but we are being transparent about the structure - which was part of this here - but also we're still working with interstate electoral commissions about getting a good deal for establishing an online website system and how that will be maintained and costed. We provide all the details, but there is a fluency that doesn't exist in most parts of government.

CHAIR - I want to follow up on that. I know we're coming to other areas -

Ms O'CONNOR - Yes, I've got things to ask about.

CHAIR - On that, your regular budget, then, that isn't your reserved by law? It's an admin part and then the first one you mentioned was -

Mr HAWKEY - There's a trust account. Local government elections are essentially funded by themselves, so we have a hole for that.

CHAIR - Yes, they pay into that. As to the responsiveness to your needs outside of the reserved by law areas, has there been responsiveness through the Department of Justice and through the relevant minister to funding what you need?

Mr HAWKEY - Yes. They are working with us on those processes and it's moving well.

CHAIR - The current Budget that we're under has sufficient resources for the TEC to undertake its role outside of reserved by law.

Mr HAWKEY - Essentially. That's about how we managed our admin funding and how these are allocated in costings. We've provided that to Treasury as a part of that structure.

Mr BAYLEY - Including upgrading policies and fulfilling the suite of policies.

Mr HAWKEY - Yes. Because things like the funding disclosure unit are reserved by law and elements of our operations are reserved by law. It's a matter of how we've allocated and sorted those funds as things currently stand.

Mr BLAKE - It's important also to raise that this isn't happening overnight. The plan was to have this in place by December 2025. It's going to be a progression over the next year or so but we started six months ago. The process is well underway and government knows what we're doing.

Ms O'CONNOR - I want to have a chat with you about section 196 and a particular incident that happened during the state election campaign where, I guess what could be classified as a request, made clear to Juice Media that they faced very significant potential consequences for advertising, in the TEC's view, and Juice Media obviously believes it is not an advertiser, it's a producer of satire.

I listened before to you refer to having an open line to the Solicitor-General. Given how many times section 196 comes up - and you and I have had an incident in the past relating to the Huon election - has the Solicitor-General provided advice on the application of section 196? The Greens have a view, based on our legal advice, that it's being applied very broadly in a way that could be used to silence critics and suppress politically active, dissenting voices within an election campaign. Have you had advice on how to interpret that clause?

Mr HAWKEY - On more than one occasion, depending on the context of the environment. As was said to me by the previous Solicitor-General, I have a responsibility to enforce and administer every section of the act, regardless of whether it's easy, hard or otherwise.

In the case you and I were involved with - to go back, section 196 was originally set up in relation to print and publication material. My belief and understanding is that it fundamentally came from how-to-vote cards and the Robson Rotation of names. It was as much an internal party issue than external. But the wording of it is actually quite broad, in particular the word 'advertisement'. There are two issues here. Juice Media is one in relation to the word 'advertisement'. The broader issue is, what do we want on internet. I noticed that with Robin Banks' submission she talks about three prosecutions that were undertaken by my predecessor. All of those were print material, so it was a slightly different context to the online information we have found now.

Basically, advice in relation to 'advertisement' is its broadest meaning. In the document submitted by - I haven't got in front of me - Mr Coulson, it talks about where there was further

clarification of the assessment as to where and how I would consider a case in social media or on digital environment. That worked hand-in-glove with the Solicitor-General's office. Part of that was the fact that it could be considered an advertisement if it brought to the attention the performance of a political group or had the ability, the capacity, to influence a voter.

Absolutely the Juice Media was a satire, but it was all about the performance of the Liberal Party. Therefore, in the sense of it being a broad advertisement in relation to electoral matter, under the understanding that I had and the direction I had in relation to how to view that and administer that section, it met the point - only because it had that photograph. If it had not had the image of the Premier, then it would have been compliant because it didn't mention anyone's name or likeness -

CHAIR - It was as soon as they put the potato there instead.

Mr HAWKEY - once they had the face, so the potato made it relevant.

This is a part of the dilemma of electoral administration. The response from Juice Media was very well thought out and very well structured about the issues around section 196, which have been debated and discussed by different groups. I have the responsibility to administer it.

Again, once the potato was there, there was no head, there was no likeness. There is a fine line as well with electoral administration. I believe we saw with these submissions that there are a lot of people who want the commission to do particular things at particular times and drawing a fine line where something breaches the act, or where going too much further with it can highlight it even further, and it can become more of an issue within the election.

Ms O'CONNOR - Thank you. The warning notice that was given to Juice Media at the time - was that based on advice that you had on that specific instance?

Mr HAWKEY - I can't recall if it was specific, but it was certainly along the lines that it met the criteria of being an advertisement under the broad direction that had been given about it.

There are some interesting elements about the 196, and I see Robin Banks talks about that maybe it is a good way of stopping some AI deep fakes in the future. But there's other issues of freedom of political communication, let alone is it possible to actually prosecute any of these cases under this section. This is where the commission is in a point where we have responsibility to administer offences, but it may not be possible to prosecute under those offences.

Ms O'CONNOR - I wonder if the Solicitor-General has ever been asked the question whether or not section 196 would fall over in the High Court because there is an implied right of freedom of political communication in Australia, which is the defence that we put to you when I refused to take down the Facebook post in the Huon election.

Mr HAWKEY - I would say that if the DPP had possibly taken that to court, we may have had an answer to that.

Ms O'CONNOR - I would have quite enjoyed the opportunity. Given how often section 196 comes up - and it's an issue for the commission. Every election, there'll be these situations

and there's a provision in the *Electoral Act* under section 9, I think it is, where the commission, as part of its roles and functions, advises the minister following elections. I know we've seen a section 196 amendment bill that's now been sent off to this committee, but has the commission ever raised with the minister that section 196 makes life very difficult, is unworkable, should be tightened up and potentially is unconstitutional?

Mr HAWKEY - Not in those words.

Ms O'CONNOR - I'm sure not.

Mr HAWKEY - Again, this is another reason why we're really glad to have this committee. My predecessors and I are of the view that the Tasmanian political landscape is very complicated. We see with submissions here that there are people with strong arguments about a whole range of things on different views. The Electoral Commission has always tried to not get in a position where it could be argued that it is giving an agenda that may have a negative impact on some elements of our democracy compared to others. Maybe it could be broader than that, but it's certainly been the position that we talk about the implication of legislation, but we don't set policy in relation to electoral administration.

Ms O'CONNOR - I understand that, Andrew, but to me the act is really clear that within the powers and functions, or the roles and functions, of the TEC, is that capacity for a direct line to the minister following an election to go, 'Well, this is how the act operated in this campaign, this is some of the problems that still persist', because you've got the clear capacity in the act to go to the minister. Potentially, we'll be back here at another state election and there'll be another 20 complaints under section 196.

Mr HAWKEY - This is where the commission believes it's time to do a review of the *Electoral Act*. There are issues that are continuing that deserve to have reasonable debate and discussion. You could argue with 196 - that occurred with the review that was done after the 2018 election. The report that came out of that made a recommendation which is referred to in Robin Banks's submission and was put in the legislation and the Legislative Council turned it down. There was debate, there was an opportunity, and the parliament chose not to.

Ms O'CONNOR - Yes.

Mr HAWKEY - This is where we, because as we see in front of us here, two of one party, two independents of different Houses, and we have one Liberal Party there and we have a Labor representative -

CHAIR - By the way, three members are not here but are on the committee.

Mr HAWKEY - Yes, and three members who aren't here. The positions and the perspectives and the policies are not binary in many other parliaments. I'm happy that the work be done. It's difficult for the commission to take a lead on that, I suppose is what I'm saying.

Ms O'CONNOR - I understand why you might take that view, but as professionals in the administration of the act, for want of a better term, it's unarguable that the best people to advise government on the operation of a 20-year-old piece of legislation is the TEC. I wonder if part of the reason we haven't seen some of that structural tidying up of the act and dealing with things like section 196 in a not-ad hoc way is because the TEC's torn a bit between having

to maintain its integral independence and then having this power under the act to say to government, 'Well actually, what we could do here is something a bit better'. I wonder if maybe you haven't exercised this power enough.

Mr BLAKE - There have been changes to the act since I've been around. Some of them, for example, improved our investigative powers, but we haven't gone to the extent that you've suggested. I'm happy to think about that.

Mr HAWKEY - I probably had a closer link to Vanessa Goodwin when she was minister than the later ones, but we could look into it being broader in that environment.

Again, if we're a bigger structure and the commissioner and deputy commissioner aren't running the floor for a state election or local government, then we have more space for some of those things as well, which is a part of our aim. I'm still very mindful that we need to not be seen as - we've got to be careful about undermining our integrity by coming too much on one side. The other issue is things like you're looking at truth in political advertising and misleading and mis- and dis-information. Some of the other states have moved into, and commissions have moved into, a misinformation register. When do we get to the point where a political player meets the criteria of being putting on mis- and dis- information? What does the AEC need to do then and where does that come to a point where suddenly they could be considered as perceived impartiality? These are all the sorts of risks that come at us with these new challenges.

CHAIR - Instead of getting more information from other jurisdictions on that, for example, the South Australian Electoral Commission is reviewing that side of things, and all indications are it hasn't affected the credibility as an independent entity. We'll discuss that, I'm sure, under other circumstances rather than now.

Mr HAWKEY - Yes, that's truth in advertising.

Ms O'CONNOR - Have you got a question, Kristie? I have one before we go I want to ask, but I'm happy to wait for others to go.

CHAIR - I've got a tiny one on the line of questioning the member for Hobart was on. She was inviting you to explain why you wouldn't have potentially advocated more strongly to the minister for a change on that. A case could be made that rather than just saying, 'Our advice to you is this needs to be changed, minister' - but reporting on, for example, after each election, the extent of the complaints received and actions taken, which would demonstrate the resource it occupies for you and things like that. Have you been doing that over time in order to feed into the discussion about the need for change?

Mr HAWKEY - Yes, in different ways; certainly at the commission level - the three of us, the trio - in part to the Department of Justice, but not in a regulated form either way.

CHAIR - Is that something you can provide to us, in terms of a record of activity at each election around section 196, the number of complaints received and responses?

Mr HAWKEY - We have some statistics on that we can look at, yes.

CHAIR - Great. I would appreciate that, so we can feed that into our understanding of it as well.

Ms O'CONNOR - Can I ask a final question on section 196? In a perfect world, Mr Hawkey, have you had a look at the amendments that have been proposed by government? There's an amendment bill that stalled in the Council last week, which would have made it really clear that the intent of 196 was to be restricted to how-to-vote cards. I'm not asking you a political question; I'm just making sure of that. Do you believe that would be a change that would reflect the intent of 196, and make it more workable for the commission?

Mr HAWKEY - I think it would make it more workable for the commission. Yes, is probably the easy one, because it would limit the breadth of it - but again, whether that's a good thing or not is a decision for the parliament, but certainly it would become more workable for us.

Ms O'CONNOR - It's just extraordinary that in an election campaign in Tasmania, we're the only place in the country where you can't identify anyone else without their permission. It's just odd, really.

Mr HAWKEY - There are ways that people do that. The Premier -

Ms O'CONNOR - Sure, they put potatoes on faces -

Mr HAWKEY - And different things, but I believe it is bespoke to Tasmania.

Ms O'CONNOR - About 100 years of 'bespoke-ness'.

Ms JOHNSTON - The act creates a whole number of offences. I'm sure during an election campaign your office gets inundated with people inquiring about whether there have been breaches of the act and so forth. I understand that the commission has a really important educative function in terms of trying to educate people first about their roles and responsibilities under the act, rather than reach to prosecution as the first mechanism. In your view, are there instances that have occurred where prosecution is warranted? We've talked about section 177 breaches; there's a debate there, I suppose, whether that was an intentional 'do the act and ask for forgiveness later' kind of situation - 'let's test the provisions of the act'.

What's the process you go through in determining whether this is just a simple mistake by someone, or whether this is a serial offender, or someone who's deliberately pushing the boundaries of the act?

Mr HAWKEY - It's really interesting you raise that. We did a summary of regular offenders at this last event, and yes, there are people who do a bit of an 'Oops, sorry, and then someone else does an 'Oops, sorry' - 'they did it, so we'll do it.'. It is something we need to turn our mind to. The question for me - and this is a discussion I might have with the Solicitor-General or via the DPP - is whether there is a possibility of conviction here? I would argue that the ability for us to have a prosecution undertaken has not been high in our experience of the last few years.

Ms JOHNSTON - What are the limitations around that? What's the barrier?

Mr HAWKEY - Primarily in relation to the fact of - putting words, dare I say, in the DPP's mouth - the level of evidence required to make it worthwhile to take it to court.

Ms JOHNSTON - The threshold, in terms of what the DPP's view is, in advising you?

Mr HAWKEY - That's my take on his words and apologies to him if that's not accurate. My take on it is that there needs to be a certain threshold in relation to it being worthy of being taken to court. Your example, where we looked into your investigation, is one of those. Again, part of that point, which is where I provided information following that event, is that the original 196 was in relation to printed matter and never covered verbal matter. So you can say anything you like on radio or on television or in the town square, but you can't put it on a piece of paper and hand it to somebody.

Where does the digital world sit in between? Part of it is if someone says, 'I think such-and-such is a great candidate' or 'I think someone's a terrible candidate', in the digital because of the section of the act says it includes the internet. The act was changed, I don't remember when, to say, 'There's a new thing called the internet, so we'll just add that in and sweep that in'. Section 196 wasn't changed to say - and when it was done probably no-one knew what the internet was compared to now - 'Let's just make sure we get in that sphere', but it hasn't really worked to a point where we can take a prosecution.

Saying all this on the public record is lovely because sometimes the Electoral Commission has to seek a higher virtue from electors or participants and say, 'This is a breach of the act', when there is very little chance of prosecution. The Greens' case in the Legislative Council was one of those. So there are broader issues there going forward.

Part of the broad review of the *Electoral Act* is how effective it is. One of the changes that has occurred following the review that occurred post-2018, and only came into effect after the state and Legislative Council elections, is that the commission now has much stronger investigative powers. They were a part of that review and came in the last legislation. We haven't seen them in action yet and we haven't looked at how that's going to impact. We now have a much better ability to get more information. That might suddenly mean things can go to the threshold. We haven't gone there yet. There is a broad issue for the electoral commissioners in how we try to make sure each election runs as smoothly as possible with open debate, knowing that each political participant is going to seek an edge. Part of our aim is we don't want it to become the story more than it should.

Ms JOHNSTON - I'm interested in the resourcing of that and the investigative powers and the timeliness of that. If we're talking about the section 177 breach, for instance, that occurred in a very small window of time, overnight. To investigate that, to take action and to determine if it is a breach, I am sure, if warranted, prosecution would be some time in the future. But for the investigative ability of the commission, is that resource there to be able to respond when election campaigns are only four or five weeks, for there to be quite quick and decisive action taken that would impact on election outcomes, particularly if we're talking about advertising or influencing voters in any way?

Mr HAWKEY - The new structure, that new central directorate, goes to address that. Part of it is being based on things we've looked at for other states and territories in their structures. That middle directorate has three areas. It has legislation regulation, which is essentially what we've had in the past. It then has funding and disclosure, which is probably

the new scheme. Then it has a compliance area. The manager of compliance and investigation is someone who has investigative powers and structures. Under our new authority, and now this new position, we are now gaining, hopefully once we recruit somebody, someone with the skills, expertise and abilities to start doing broader, bigger investigations going forward. Certainly, the issue of the pattern of minor breaches is something we may be looking into as a commission and how we address that in the future.

Ms JOHNSTON - If I may go back to an hour ago, we had a conversation regarding policies and the potential breach of section 177 around the signage. I think at the time you said you became aware of sites where this might have been an issue. Is there a policy you have around the polling supervisor in terms of making sure the site is prepared, ready and appropriate on the day of election? I am wondering, were you only informed by members of political parties or candidates who were concerned, or did you get information from your polling booth supervisors about the practice and does that extend to issues around access and all those kind of things? Is there a checklist or a policy that they provide around that?

Mr HAWKEY - There are elements of that. Essentially, a polling manager will often have two connections with a site before polling day. One is to collect the keys and find out the broad business requirements and usually then, on the Friday night, they go in to set up the polling place, so everything internally is ready to go to the location the night before, which reduces any risks of other things the next day, so the early day can start well.

I was unaware, at my level, where these issues had occurred. It's one of those things with electoral - yes, there are inspections that are done there. I'm sorry, I'm just looking at this message here. There were some inspections done from what I hear, that were then found and that people acted on. It didn't come through to me at the time, but there were some policies in place. I don't have the full details to be fair.

There are checkboxes and checklists that we have for each polling manager to have it set up. Whether it specifically said something about party signs, I doubt, because it's not been an issue before. It will be around visibility; work health and safety access; flow of things; making sure that the accessibility car park is clear and the sign next to it that we have; and issues around staff. It would have been something that's essentially brushed past probably at the moment of the business of the morning. We can get better in that area, but again, it was one of those unusual things we didn't expect to occur.

CHAIR - Can you table for us or provide a copy of that checklist, safe for a polling place, so we can get a sense of what that looks like.

Mr HAWKEY - Yes, absolutely.

Ms JOHNSTON - That should include some security arrangements too, so if there's a security concern or a breach of security overnight. That would be good.

Mr HAWKEY - Yes.

CHAIR - For clarity in terms of anything we've been asking you to provide later we will write to you with a list of these things. You'll have that from us formally and be able to refer to it. I know you've been noting them down, but rest assured we'll ask for them formally.

Can I come back to the review that you've been doing in order to design the restructure. In it, I want to understand the relationship between the Electoral Commission and the department. Naturally, there's an appropriate independence and separate mass that the commission has from the department and yet there's some crossover to some extent through some recruitment matters and some staff management matters.

You spoke about taking the new structure that had been developed out of the review to discuss with the department. What is the nature of that relationship when it comes to, for example, oversight and helping to structure or manage your commission internal staffing environment compared to the department internal staffing environment? What's the formality of that relationship?

Mr HAWKEY - Technically, I'm not a public servant. I'm a statutory position holder. All the staff of the TEC are permanent Justice employees, essentially under the normal HR arrangements we have to fit in, in relation to that structure. Work health and safety of those staff essentially sits under the authority of the secretary of the department. We work with them. Our finances go through the Department of Justice finance structure. We have relative independence in how we use that, but we use their administrative finances and HR. They're the key areas of responsibility. Our IT infrastructure is separate. We keep the department aware of what we're doing, but there aren't that many things where we seek their support in relation to those things.

CHAIR - In terms of an ongoing monitoring of workplace culture and how staff are travelling, because within a department they'd be monitoring the turnover rates and learning about staff movements here. Where is that done for the TEC staffing group?

Mr HAWKEY - That's part of the Department of Justice through their HR. All our staffing, our arrangements and workers compensation or support for staff is done hand in glove with the HR area. We're part of the Justice health and wellbeing survey, and staff satisfaction surveys that are undertaken.

CHAIR - You probably wouldn't meet the threshold of the number of people to get a separate report on that, would you?

Mr HAWKEY - That's right. No, not currently, no.

CHAIR - What would the minimum be?

Mr HAWKEY - I think it's 15 or something. We may do once we're in bigger, broader structure.

CHAIR - At the present time -

Mr BLAKE - Can I just add to that? We have done our own surveys. I haven't got the details but those surveys would have indicated a broad level of satisfaction with the way the office is being managed. There are some outliers who don't agree - it is a small place.

The other thing that Andrew's done in my time has been to develop a strategy for the office, which wasn't there before, to develop values and objectives. Those values were rolled out with staff consultation. We support the commission. The commission doesn't have a

governance role; it has an advisory role. We don't run the office, as you've just described, but we do provide advice and insight as to what that might look like. We try to set the tone so that we're not getting in the way. I'm very conscious of my responsibility as the PCBU. I don't have any directly but, in fact, I need to make sure I behave properly. We don't impose working conditions on the staff that are unreasonable.

Those surveys have indicated, 'Hey, we need to deal with things like governance', which we've talked about. 'We need to have some better policies', which we've talked about, and levels of satisfaction - and, in some cases, 'We're not very happy here'. Those have been brought to the commission. We've advised Andrew on what we might do about that. He's then gone away and developed strategies to deal with it. There have been surveys of our staff which have been helpful.

CHAIR - Can you describe when they've occurred?

Mr HAWKEY - That'll be a part of the review, as one -

CHAIR - Right, that would have been during last year that that last one was done?

Mr BLAKE - There's been more than one. The review is one series of staff surveys, because the consultant we used was keen to make sure that what was being recommended in terms of the structure, the staff were comfortable with.

Mr HAWKEY - It was about how they feel within the organisation and elements like that. There is the Justice one, but then there's also that one that was a part of that.

Mr BAYLEY - How would you characterise the sort of broad vibe of that survey?

Mr HAWKEY - Good. I think the key theme is we need better governance structures, which is where the directorate came in. There aren't enough broader policies. We are too responsive operationally, based on people - how to know how to run elections, rather than have the broad corporate elements, which is where we're looking to move to.

One of the things, I think, about electoral is that there is a semi-vocational element. People want to come and contribute to democracy, but the demands that are undertaken - like last year with when is the election called - have serious implications ongoing for that psychosocial, which is an area we are broadening our language into. The values, which are in our front page of our annual report, were developed by the staff as a part of working through who we are and where we are, what we want to achieve. I think the broad, there is strong buy-in, but there is a weariness in relation to being able to keep going.

In 2018, we had the by-election from the passing of Goodwin. At the end of 2017, we had the Glenorchy full ordinary election across Christmas. We then had a state election in the March, we had a Legislative Council in the May. We then had a data breach in June. We then had a local government in the September-October. That was all with a staff of 14. All with immutable deadlines, so we can't say no, 'I'll do that [inaudible]'.

In 2021, we had a state and Legislative Council shared polling day. I had no real notice to that. Luckily we had Easter. All our staff worked over Easter because we had to define new processes of how you had a joint polling place that had never occurred in 150 years. Then we

had local government, where we had three months out - it's compulsory. Our logistics, our new advertising campaign, a whole lot of things have to be done inside those dates.

CHAIR - It's highly unique. I completely accept it's quite unique and has all these time pressures. Can I come back to prior to the review and the survey done with staff during the review process, when were staff surveyed internally in the TEC before that?

Mr HAWKEY - I don't recall.

Mr BLAKE - We certainly received feedback from the staff in terms of the need to develop organisational structures because we were so key person dependent. Over those periods that Andrew has just described, people were just tired. There was just so much going on. I couldn't roll out a survey for you that I'd -

CHAIR - Okay, so there wouldn't have been another before. How about indicators we'd look to like retaining staff - so, staff movement, staff exiting - over, say, the last 10-year period? How would you characterise the staff turnover rate in the team you had 10 years ago to the team you have now?

Mr HAWKEY - Basically, when we had these major events, we had people saying, 'I don't want to do any more.' We want to respect that there is a lot that is asked of the Electoral Commission, especially around those election events. Part of our structure is we do performance reviews and broader developments. Our 2021 Election Pulse Check was another survey that we've done, just for the record. Sorry, I've lost track. What was the question again?

CHAIR - Perhaps we can have details of that pulse check in a minute. The question I was asking was about staff turnover over, say, the last 10-year period. If we looked back to 10 years ago, you had 14 staff, I think, on board around that time, probably that size cohort. How have we retained them across this 10-year period?

Mr HAWKEY - There's been, as one of them reported, a range of, I think, up to 17 staff that have transferred. Some are people that have moved interstate, one passed away, we had two that came from other environments that were poached back to their environments. We had two or three people that went, 'No, this isn't what I signed up for', and walked away. There's been a range - a mixture of reasons.

CHAIR - Do you do internal exit interviews with staff, knowing that the department may do it through their HR, but presumably you would want to have the same information available to you?

Mr HAWKEY - Not necessarily formally, but we have conversations. The health and wellbeing of our staff is really important. In an electoral sphere, people get to the point where it's a bit like jackjumper bites. You don't know how many elections you've got in you until you go, 'I just don't want to do that again'. One of our questions we go around and ask all our staff after an election is how you're going, where you are. Generally, you get two responses: 'I never want to do that again', or 'Now that I've seen that, I think we could do something different'. There comes a point where people just say, 'No, I'm not going to wear that anymore.' We appreciate that, we support them and we say, 'Thank you for your service. How can we help you moving forward?'

Things like a no-blame culture and celebrating the fact that we identify things before they leave the building. One of our sayings is, if it hasn't left the building, it's not a problem. If you've found an error, then let's know about it, because we need to find it and fix it. We try to be as positive as we can, but the feeling of being hemmed in by immutable deadlines and the fact that 14 people have to manage 1900 at a state election across 300 sites where 350,000 people are going through - and they might not know four weeks before what they're doing - creates that psychosocial hazard. So, part of this broader structure - there are people who want to leave but were encouraged by this site, because they feel that there's going to be a better carriage of the workload from here.

Mr BLAKE - I suppose if I compare it to the Audit Office, which I'm more familiar with, the Audit Office was 40-odd people. We didn't have any reliance on any other agency; it was just us. We were a reporting entity in our own right. We made all our own calls, we had our own HR policies, and so on. Do you want to have that for this Electoral Commission? I'm not sure we want to go that far, but that's the other option. This review didn't have a look at, 'Should we become a standalone entity, not part of anybody?'. In other electoral commissions, they are more independent.

Mr HAWKEY - It's a mixture, yes.

Mr BAYLEY - Do you have a view on that?

Mr BLAKE - Even with 30 staff, I'm not sure that's what you want to end up being, because that creates other costs that you might not otherwise incur, so I'm not sure you want to go that far.

Mr HAWKEY - One of the things that we've done since the review is we had a retreat to take our staff through things. We've been working with the health and wellbeing unit as a part of Justice. We've been dealing with the change management unit, and they've been really good supports to help our staff. Essentially, there'll be more new people than previous people in this organisational change. That's a massive thing, as well as all the pressures coming on. We try to work with our staff in the best way to support them through that. Being able to draw into Justice and some of those aspects is really beneficial.

CHAIR - There's probably more on this topic. Are we still on this topic?

Ms O'CONNOR - No, I want to talk about the electoral disclosure and funding log, which we haven't talked about enough.

Ms JOHNSTON - I'm just keen to sort of thresh out a bit more the interaction between Justice in terms of HR. Obviously your workforce expands significantly around elections. How does Justice's HR policies relate to your polling booth workers, all those kinds of things? Or people who are counting, for instance, who might work extraordinarily long hours, public holidays, all those kinds of things. What's the interaction or the support that you get from Justice in terms of making sure that it's a safe workplace, for instance, for those people, particularly around those pressure-point times?

Mr HAWKEY - Technically, electoral staff are enrolled under the *Electoral Act*, so that means that HR Justice is a little bit more hands-off. It's about us having the procedures and processes that mirror them. So where Justice has a policy of HR or workers compensation, then

we adopt that, to the best of our ability, for all our election operation materials and things, and our arrangements, in that sense. I am responsible for the work health and safety of electoral officials under the *Electoral Act*, but not for the permanent staff. We try to mirror as much as we can in relation to those areas of things around hours, lunch breaks, vehicles and safety on the roads, all those sorts of things. We've got structures and policies for that, similar to government.

Ms JOHNSTON - Is that something we might be able to receive and have tabled, or virtually?

Mr HAWKEY - Yes, I reckon we have some paperwork for that.

Ms JOHNSTON - Thank you.

Mr BLAKE - The commission also sets what we pay those people. There is a formal process around how we approve payments and increases in payments for each of the levels of the people running the elections.

Ms JOHNSTON - Yes. Thank you.

Ms O'CONNOR - We had some evidence put to us this morning about auditing processes for the TEC. It was put to us that there is significant benefit in having the TEC itself open to audit, potentially by the Auditor-General's Office - that would be an appropriate body - also the vote itself. I was wondering if you have thoughts on that. The TEC has this history of serving Tasmania beautifully but, in some ways, it is only as good as the people who are in it at any given time, no matter how strong the legislation is or isn't. I am interested in your thoughts on more rigour around auditing the TEC itself, but also the question of the vote. I think it's New South Wales that has a vote audit. I am not sure.

Mr HAWKEY - I'm not sure what New South Wales does. New South Wales had the iVote system.

Ms O'CONNOR - Electronic?

Mr HAWKEY - Electronic votes. There are audits of electronic systems. The system we use for local government, for what's called computer count, which came from Victoria, that was fully audited as part of its development. It was a Victorian system; they had an interstate company that did the audit. When we created the Tasmanian version, we had them do that audit as well. At that stage, there was an audit.

The key thing for me in relation to review of our processes is the vital role of scrutineers. Scrutineers are that independent voice and sight and query. We always encourage candidates to have those. At the top end of that scale, you have someone like a Kevin Bonham who can see things and understand things at a level that many can't. In that sense, that's a part of the fundamental transparency. I am not necessarily sure, other than maybe broader reporting purposes, what sort of audit would necessarily fit?

Ms O'CONNOR - It's like when you look at the annual reports of government entities, there's an auditing of the finances of the organisation.

Mr BLAKE - Sorry to interrupt, but because we are not a state entity as defined in the *Audit Act*, we don't prepare a financial report. The annual report doesn't include a financial report. The commission doesn't get involved in how we're going against our budget, because that's not our role. Unless you create us as a separate state entity, which would therefore, in my mind, just increase the bureaucratic processes. We do report the average cost per elector and we have a good look at that over time to see why is it going up or down, and there are good reasons generally provided and we try to explain that in our annual report.

To do more than that would then, I think, create something bigger than is intended. I think the Auditor-General could come and have a look at us in terms of his mandate around efficiency and effectiveness. That would be something I would welcome in terms of how would he measure us against somebody else, against some sort of benchmark: are we efficient, are we effective? I have no problem. I think it would be worth doing.

Mr HAWKEY - That did occur in the 1990s, but not for a while.

CHAIR - There is a function there, isn't there, that is just about transparency, about expenditure of public money? Visibility of the budget and the difference that those three elements of your budget, and visibility about how public money is being spent - particularly reserved by law funding - I would have thought there'd be a public interest transparency piece there to potentially deliver.

Mr BLAKE - Is it in the Justice annual report?

Mr HAWKEY - All that would be part of Justice, auditing of Justice, because all our accounts go through them, including our trust and our -

CHAIR - I wonder if it can be extrapolated and be seen in a publicly visible way. That's an interesting question.

Ms O'CONNOR - I have one final question, because I think Vica is champing at the bit there. I want to ask about the electoral disclosure and funding framework that needs to be in place on 1 July next year, which I am sure you are very mindful of. We haven't heard how it's going, given that we're only eight months out. It's a very significant change and extra load on the commission.

Mr HAWKEY - It is a large workload and we're building momentum, but nothing necessarily external yet. Essentially, there's about six different streams of management that need to be undertaken here. The first one is recruitment, and hopefully within days we'll have the full complement of staff processes up and running. There's the IT system and structures. There's stakeholder management, which we'll look to get rolling. Then there's also precedent and policies in relation to things like the peculiarities of Tasmania. I raised this in the review that we did when the first draft legislation was put through. While there is a structure that is fairly straightforward, looking at the three of you here, you're a party member in the Legislative Council, you're a party member in the lower House and there are certain rules, independents have certain rules different from the parties, while independents in the upper House have different rules, you don't get any funding.

CHAIR - No funding for me.

Mr HAWKEY - What about the case of the two members who are no longer with the Jacqui Lambie Network? How about Sue Hickey, who was a member of the Liberal Party expecting to be endorsed but was not and then ran as an independent? What about Madeleine Ogilvie, who started as Labor at one election, became an independent, then became Liberal? The transition of people in their status in relation to funding disclosure is a complicated area we'll be getting advice on. There's a lot of stuff that's been developed and this is the implication.

One of the biggest unknown factors for us is what's happening with the draft bill that's been proposed and was discussed. I see that some things have been referred to this area. Probably the biggest impact on us will be the real-time changes, the time for disclosing, because our online system will need to be more fully functional at an earlier rate. Under the current process, there's a lot of stuff parties and political participants need to do and we need to do in supporting them that need to occur before 1 July and through that period. The website under the current arrangement only needs to have something up basically by the end of January in relation to the first six months of returns.

Ms O'CONNOR - You'll have to fix that.

Mr HAWKEY - That impacts our time frame. Essentially, we have over a year to have that operation in the current environment. But if the legislation goes through, and we don't know when or if it's going to get through, that will mean things will need to be done at the end of July rather than the end of January. We try to prepare for both scenarios. They are the sorts of things that make it more complicated.

Ms O'CONNOR - Can I check which legislation you're talking about? The Greens' bill?

Mr HAWKEY - Yes, the Greens' bill.

Ms O'CONNOR - Yes, the \$1000 threshold and the real time.

Mr HAWKEY - That will have a massive admin pressure cost. Again, if that's the will of the parliament, that's fine, but the timetables are concerning. We're hoping to be starting the strategic stakeholder work early in the new year, once we've got some staff, and get some ground rules on some of those elements, but for some things like this change, we'll start from the position of what the current legislation is but will need to be ready to change if the 1 May legislation comes through that changes it for 1 July.

CHAIR - However, presumably, even if that legislation does come through and is passed through the parliament, it could also be on proclamation, therefore you can work to a timeline that's going to be workable for you.

Mr HAWKEY - Hopefully.

CHAIR - I want to clarify here that the lower House committee that was looking at that bill has made recommendations about certain aspects of it being referred for further inquiry by this committee, but nobody has done that referral to us yet. To be clear for anyone paying attention to this hearing, and for your purposes, we are not initiating an inquiry on those things in this committee as yet because a formal referral, I believe, hasn't been made to this committee, which would have to come from a Chamber of parliament or our own motion.

Mr HAWKEY - Certainly, but from a practical point of view, knowing that my knowledge is not great in this area, I'm assuming that because some elements have been referred, the bill probably can't be returned to the lower House.

Ms O'CONNOR - No, that's right, and we have pulled the two amendments that had the broadest agreement out of that bill and will present a new amendment bill to the House. That is an amendment to the disclosure and funding act.

Mr BAYLEY - One last question. We heard from important stakeholders this morning about accessibility of voting and the principles of secrecy, independence, verifiability and unfortunately a significant disenfranchisement from that segment. You would have heard or read that they were thinking TEC's working group wasn't working very well. It hasn't been convened in 2024 and the TEC doesn't believe it can give advice to the minister. We've got formal notification from the minister and a bill that's going to be before the parliament, but what commitment can you give to that stakeholder group or those stakeholders about working with them to co-design and make sure that their needs are met genuinely in both logistics and legislation?

Mr HAWKEY - Although it doesn't appear that way, and I appreciate where they're coming from, we're very supportive about growing this area. It's a big area and we are behind. The things I don't disagree with are things that they said this morning; we can be a lot better but it also fits into our resourcing.

The original working group was established purely because of the Anti-Discrimination Commissioner about the compulsory election. Everything happened very quickly in 2022 and this group was established. Through that agreement that came from the Anti-Discrimination Commissioner, a set of rules were established in relation to what it needed to report on. That's why the group was initially set up. It's gone a long way there, but it hasn't actually finalised that. From the commission's point of view - and we have representatives of the Local Government office on there - it's about finding a solution that moves forward. We're happy to facilitate that and have that, but we don't have the resources greatly, at the moment, to do much about it.

Part of it for me was that I didn't want any expectation that we would have the capacity to change things for immediate state elections, which has now occurred. I wanted us to find something which then had a year or two to implement for local government, so that there was a clear understanding and development.

To be fair, VI-Vote was really good in 2007 and it met those three criteria that were raised at the meeting, but it doesn't meet modern ones and it's fallen off a cliff. I was unaware of the issues that were there, and I think there's a mixture of reasons and not appropriate training, and certainly we've never trained in relation to how to communicate with people with disability, and that was a great point.

We're really happy to get these points, but it's about being able to turn our mind to things. The same way as why have we not followed up about local government and some possible offences to the act - there is a balancing act of where we can put our time.

But we are very hopeful. We've got a fantastic person who's come in as the accessibility and inclusion officer who is already pushing us, which is great. I said, 'Keep that tension',

because our history and our culture are operational, and it is without that mindset. One of the things I say is that three years ago or five years ago, we used to think in an operation you had 'What are the outcomes, what's the timeframe, and what are the resources that we need to deliver?' After 2018 with the cyber scare, it is, 'How is that project cyber-secure?' Now we need to move to, 'Does the process fully cover all elements of accessibility that we need?' We need to bring it into our initial thinking. We're not there - and I fully accept what they said - but we're hoping to get better and hopefully pretty soon.

CHAIR - I'm mindful that we've reached the end of our time. Because we've only heard from a very limited number of stakeholders, and this time has been limited with you, it's my anticipation that the committee, when it discusses things and confers, may well like to have you come back to speak to us more when we've heard from more stakeholders in more detail, and we can cover things we didn't get a chance to get to today, and cover things from today in some more detail if we think that's necessary. I'm just flagging that with you now as something to potentially expect that we'll reach out about.

We will certainly write to you subsequent to today to clarify the things we've asked for to be provided to us on notice, and thank you for your cooperation with that in advance. We really appreciate your time today.

I'm just going to finish with a reminder that, as I advised you at the commencement of your evidence, what you've said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege is not attached to comments you may make to anyone, including the media, even if you're just repeating what you said to us. Do you understand this?

WITNESSES - Yes.

CHAIR - Thank you so much to you and the team for your time. We appreciate the effort, and it's going to be interesting to continue the process. On a personal level, I'm also excited we now have this committee to do this work and look forward to getting good results as we progress it.

Ms O'CONNOR - We'd love to work with you to make it better.

THE WITNESSES WITHDREW.

The committee suspended at 5.04 p.m.

PUBLIC

The committee resumed at 5.06 p.m.

CHAIR - Thank you very much for your time today with the Joint Committee on Electoral Matters and our inquiry into the 2024 House of Assembly General Election and Legislative Council periodic elections. We appreciate your submission and the fact that you've come in to give evidence. Thank you.

To introduce you to our committee members. Online, we've got Simon Wood, Liberal member for Bass; Cassy O'Connor, Greens member for Hobart; Kristie Johnston, independent member for Clark; Vica Bayley, Greens member for Clark; and Meg Webb, independent member for Nelson. We have Scott helping us with secretariat and Gaye from Hansard.

I'll read some information for you and then we'll get to the swearing in. Before you begin giving your evidence, I'd like to ask whether you've received and read the guide sent to you by the committee secretary?

Mr BROWNE - I have received it; I have read it.

CHAIR - Excellent. I'd like to also reiterate some important aspects of that document here. The hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It's important that should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving the relevant evidence. Do you understand these aspects?

Mr BROWNE - I do.

CHAIR - Could I ask you to make the statutory declaration and then following that, you're welcome to make some introductory comments if you'd like to?

Mr ROLAND BROWNE, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Would you like to make some opening remarks in relation to your submission or other things you might like to add to your submission?

Mr BROWNE - I'd like to add to the submission that I've made to the committee, which is dated 23 August 2024, by way of supplementing it and adding some additional comments to it.

I want to start by saying that the establishment of this committee is an excellent development in this state. Its function will be critical to improving the democratic process in Tasmania. My written submission of 23 August was directed to what I regarded as statements by the Premier that misled the electorate that were untrue and the concealment of information by the Treasurer and the Premier in the course of the election campaign in February and March of 2024.

I don't believe it should pass without an acknowledgement of the coincidence that I have the privilege of talking to a committee of this parliament about accountability for politicians for concealing statements or misleading the electorate on the very day that America is having an election characterised by misleading statements and there is no accountability there.

The thrust of my comments today is directed towards what I regard as the role of this committee as holding politicians accountable for statements made in the conduct of the election. To discharge its function that's been reposed to it by the parliament this committee must look broadly and comprehensively at the election in all its aspects and, of course, this leads to an examination of what may have been misleadingly promised and/or concealed from the electorate. Making a misleading statement about a substantial issue in the election or concealing information critical to the electorate's decision on whom to vote for is a serious matter.

The focus of my submission and my evidence to the committee relates to the proposed stadium to be constructed at Macquarie Point that's been pushed by this government since around 2021-22. Why is the stadium the issue that is central to my evidence because there may well have been other instances of concealment or misleading statements to the electorate made in the course of the 2024 election campaign? The answer to that question is that this election was called because of the stadium and because the Liberal Party had lost its parliamentary majority in 2023 over the stadium, though not entirely related to the stadium. It was of great significance that John Tucker and Lara Alexander were troubled by the lack of transparency surrounding the project and the cost of the proposed project. Those two issues, project cost and transparency, were front and centre in the election campaign and were behind the Premier's decision to call the election and they provided the backdrop to the election and, consequently, they were at the heart of the election.

The election of candidates and of parties to government is the outcome of and the product of the reposal of trust by the electorate in individuals in a political party, but also in the democratic system of government. It is a trust in the system of democracy continued in Tasmania by the *Constitution Act 1934* and ultimately by the Commonwealth Constitution, which recognises state parliaments and representative democracy as part of that compact.

The High Court, which is the ultimate authority on these matters, recognises that the Commonwealth Constitution implies a freedom to communicate about government and political matters at a state and a federal level. No law can unreasonably interfere with that freedom to communicate. This is because, the High Court has said, such forms of communication are essential to enable electors to choose for whom they vote. Yet with that freedom must come a responsibility. False statements eat away not only at the community's trust in the politician who makes that false statement, but also in the system of government.

In November 2022, seven months before he signed an agreement that only a handful of people had seen, Premier Rockliff decried there had been too many untruths in the debate about the stadium. He said on Facebook:

I've seen a small vocal group of detractors, unfortunately, report mistruths in an effort to damage our dreams of a Tasmanian AFL team.

He went on to say that those mistruths were that funding the stadium would divert money from health and housing to fund the AFL team. As it turns out, that statement was patently

incorrect in three senses. First, the diversion of government funding was to pay for the stadium, not for the AFL team. Second, the statement was not just directed to funding being diverted from health and housing, it was that government services would be cut generally. Third, the small vocal group of detractors were critical of the proposed stadium, not the establishment of a Tasmanian AFL team.

One of the persons whom Premier Rockliff was complaining about pushing mistruths must have been Senator Duniam. Senator Duniam said, at the time, in an opinion piece published in northern Tasmanian newspapers:

Tasmania is being asked to choose between health and footy, between roads and footy. Tasmanians are now being made to make that choice.

In the 15 months to November 2024, the government has cut funding for the bike lane on the Tasman Bridge; cut funding for the upgrade of Collins Street for a bike lane, ironically, which is deemed a necessary part of the stadium infrastructure; imposed a 5 per cent efficiency dividend across government departments; and abandoned the plan to construct a new centre for youth offenders in place of the odious Ashley Detention Centre.

I welcome the Premier recognising the role of truth in public statements. What I do not welcome, and what I deprecate, is his hypocrisy and his failure to deal with the public of Tasmania in a truthful way on day one of the election campaign on 15 February 2024.

My paper identifies, what I assert to be, a grossly misleading statement on day one of the campaign, that the Tasmanian government would not put in a cent more than \$375 million to the stadium. First, before the Premier signed the AFL funding agreement on 3 May 2023, he was presented with a briefing paper from the Department of State Growth dated 3 May 2023. That is, the morning before he signed the agreement. That briefing paper attached legal advice from a local law firm and also from the Crown Solicitor. We can only assume the Premier read the advice and the funding agreement and the other attachments, notwithstanding it was about a one-inch pile of paper that he needed to get through, but the summary of the legal advice provides the context to his statement in February 2024 on day one of the election campaign.

The Premier was specifically told there were high-level risks with the transaction, particularly with delay, overall transaction structure and state commitments. With the knowledge of those high-level risks, including that the state was liable for all financial risks of the project, clause 21.4, all other risks of the project, clause 22.3, cost overruns, clause 21.6, and delay penalties, clause 9.1, with a \$4.5 million penalty, and also a need to indemnify, if there was an external funding required, to keep the club going. Notwithstanding all those risks, he signed the agreement. History will judge that to have been a most foolish decision.

In his statement on 15 February 2024, Premier Rockliff said:

A re-elected majority Rockliff Liberal government will cap Tasmanian government capital expenditure on the Macquarie Point multipurpose stadium at \$375 million.

We now know that statement was misleading for a further reason and continues to be so. Originally the stadium was claimed to cost \$715 million, comprising \$375 million from the state, \$240 million from the Commonwealth and \$15 million from the AFL. Then there was a

further \$85 million from the state from borrowing and land sales. That seems to have dropped off. But in February 2024, there was no \$240 million from the Commonwealth in the way of a grant or as extra revenue to Tasmania. There was \$250 million of money that Tasmania effectively already had, and the Premier knew that and so did his Treasurer. So when the Premier said Tasmania will not contribute a cent more than \$375 million, it was false because of the terms of the AFL funding agreement, with the state carrying all risks for the inevitable cost blowout as well as bearing the cost of penalties imposed when stage completion dates are not met, and it was false because Tasmania was not able to cap its funding at \$375 million. In fact, Tasmania can only cap its funding for the stadium at \$375 million plus \$240 million being the GST allocation - that is \$615 million. It is a process of smoke and mirrors surrounding the funding allocation for the stadium.

By September 2024, the projected costs of the stadium had started to rise as predicted. The stadium, or at least those components that had been costed, was now to cost \$775 million, and to that is to be added \$80 million for a fit-out not included in the cost. Also not included in the cost is transport and other infrastructure such as bridges, roads and access at \$185 million. Then there's three floors of underground car park that is not included in the cost and the relocation and fit-out of the Goods Shed. The list goes on. So when the Premier talks of his cap on the Macquarie Point multipurpose stadium that he imposed on 15 February 2024, on day one of the election, we don't know what he's talking about. Is it the stadium with or without the fit-out? Is it the stadium with or without transport infrastructure? Is it the stadium with or without the 3-4 underground car park?

The stadium was a major issue in the February 2024 election. The loss of majority government, largely owing to the cost and concealment of stadium machinations, was a catalyst for the election. The promise was a cap of \$375 million. That cap cannot, in any circumstances, be delivered. Our politicians, each and every one, owe it to us, the electorate, to be truthful to us. The Premier was untruthful on 15 February. His 'not a cent more' comment was not a promise or an aspiration and it was not an opinion, either. It was a guarantee on which he or the government cannot possibly deliver, and by virtue of the agreement he signed on 3 May 2023 and the legal advice he was given that day about the risks of cost blowouts and because he knew the Commonwealth money was not extra funding, he well knew on 15 February he could not deliver on his guarantee.

This committee of the parliament is in a position to make a finding that the Premier misled the electorate on the cap and that both the Premier and Deputy Premier Ferguson misled the electorate by concealing the truth on the GST funding illusion. This committee of the parliament should make that finding. The evidence on both topics is compelling.

I've mentioned in my written submission that I don't go near truth in political advertising laws. I consider that as a separate issue. I consider that the two issues I've put before the committee should be the subject of debate and further investigation by the committee, because it is not a matter of advertising, this is a matter of a statement made and it's not a minor matter.

It is the case in every election that you could identify politicians of every party, every occupation, making statements that can't be verified, that can't be delivered on and that are not correct. It's an overwhelming task and an impossible task to try to review every statement made through an election, but I'm not talking about that. I'm talking about two statements made by the government about the cornerstone issues of this election. That is why I suggest that this committee should acknowledge how central those statements were to the election and why you

can probably make an exception and say, 'This committee is not going to review every statement made, but we are going to select some very significant statements by the Premier in relation to the subject matter of the election'.'

Ms O'CONNOR - Because you say it influenced the course of the election.

Mr BROWNE - Absolutely influenced the course of the election and it was designed to influence the course of the election. It was made on day one of the election and you can find some good evidence of that in an article written by the Liberal Party's campaign manager, whose name I've forgotten.

Mr BAYLEY - Brad Stansfield?

Mr BROWNE - Yes. About a week or so after the election, he talked about how the stadium was a real problem for the Liberal Party through the election, so the dots are very easy to join up.

Ms JOHNSTON - Thank you, Roland, for your submission and detailing the concerns tonight. I share your concerns about truth around those statements made. I'm interested to understand your view on when misleading and deceptive statements are made and then an election occurs on the back of those statements, particularly where the House of Assembly does not have fixed-term elections. Obviously, the electoral process for the upper House is fixed; we know when they're going to occur, but do you have a view about whether that misleading and deceptive information put out to the public is compounded when it influences election cycles?

Mr BROWNE - I'm in a position where my focus is on two statements that were made or not made at the very beginning of the election. I don't want to undermine or dismiss any other untrue statement or concealment that is made by any party, person or politician in the course of an election campaign, but in the normal course of events there is an election and statements are made and the cycle rolls on and politicians will make those statements in the knowledge that there is no accountability until the next election, and that's the problem. We can't have an election every six months to have accountability for misleading or false statements, all we can have is an institution like this committee, selecting very serious issues or statements that are misleading or concealment of information and focus on those. We can only have accountability in that way. Unfortunately, we don't have a media in Tasmania that holds the government to account in this way. This was ripe for some very serious journalistic consideration and it hasn't occurred.

Ms JOHNSTON - Is it your view that we went to an early election because of those two particular misleading statements relating to the stadium?

Mr BROWNE - We went to an early election because the government had lost its majority over the funding for the stadium, and also it lost its majority because members Tucker and Alexander were absolutely infuriated with the government's refusal to release information and to include them. They were members of the Liberal Party at the time. They had no idea what was going on and they continued with their frustration. They were infuriated and they left the government. That was what was the cause of the election. It was the cause of the loss of the majority.

Mr BAYLEY - To be clear and to reflect back to you, if I'm hearing correctly, that may have caused the election but your submission is that the very first steps, in terms of conduct, by these two candidates in the election, the Premier and the then treasurer was to deliberately mislead the electorate around the financial situation which only they know for sure and that had an impact on the election. This is a committee that's looking into conduct of the election, we should call the Premier and the then treasurer to interrogate and make findings against in that regard.

Mr BROWNE - Absolutely right. It is shown by the Premier's statement on day one of the election that there was going to be a cap. As I've said, it's a cap that was an illusion that could not be delivered on. It's like engaging somebody to build a house where the contract is for a million dollars plus cost overruns and you've only got \$500,000 and you say, 'Well, I'm going to do that'. That's what he's done.

He has engaged with the AFL, made an agreement for the construction of this stadium, it is a blank cheque. There are so many risks and he knew that because of the advice that he received on the morning that he signed the agreement. All we have at the moment is there were what were described as high-level risks and the like. That's code for there are some very big risks here, but they're manageable, whatever that means, but he signed it anyway.

Mr BAYLEY - I concur and I understand your proposition, Roland. Thank you.

Ms O'CONNOR - You have certainly given us something to think about and talk about. You talked earlier, Roland, about this implied freedom of political communication and the constitution. There's a broad acceptance that politicians lie. Politicians will say anything to get a vote. I exclude the people at this table, by the way, and in this committee, but there's a perception of that. Apart from bringing the Premier and the treasurer before this committee, there is no other accountability mechanism. If they have that freedom to lie at will during election campaigns and a media who's not following through on it, this committee is kind of it, isn't it?

Mr BROWNE - That's absolutely right. I don't want to malign every political representative across all the levels of government in this country as prone to lying. I don't want to go there. What I want to do -

Ms O'CONNOR - I was talking about a perception in the public.

Mr BROWNE - Yes. There's a perception, but I don't want to go into the perception either. I want to focus on the two statements, or the absence of information and the statement by that Premier in this election which are demonstrably either a lie in the case of a funding cap, or misleading the electorate when it was absolutely clear to the treasurer and the government that the \$240 million was an illusion.

In terms of accountability, to answer your question, Cassy, the truth in advertising laws won't deal with this kind of thing. This is just a statement and so it has to be separated off. The High Court won't deal with it either. The High Court doesn't impose a requirement that the truth has to be told. The High Court's role in this area is simply to invalidate legislation. The question is, what accountability is there? There's only two. There's the media or there is this committee, and I do not accept that the next election is the opportunity for accountability. No

chance of that, if it's four years away, three years away, it doesn't matter, no chance. It doesn't work like that.

Ms O'CONNOR - We can have short memories here, but if you look back at the 2018 state election and the 2006 state election, there are integrity issues here that are part of our history now that we just do seem to keep repeating, don't we?

Mr BROWNE - I believe you nail it in your question because that a politician who is the Premier and the deputy premier can lie so brazenly to the electorate is reflective of a culture that they can get away with it. There is a lot of cultural issues in the electoral area that need to be reviewed and the culture needs to change. Electoral donations are one, and there's a long way to go in the way of change. I'm talking about the system of donations but also the idea that it's okay for something like the Sportsbet organisation to donate a pile of money to the Liberal Party a month before the stadium decision is made. That's regarded as okay; it should not be.

The Premier coming out on day one of the election and telling a lie to the electorate is regarded by him, those that advise him, those in the parliament, the parliamentary Liberal Party as okay and that has to change. I reiterate it's only this committee that can hold them to account.

CHAIR - I'm going to push back a bit, Roland, and it's not because I don't absolutely understand the concern and the issue that you're raising, and have a great deal of sympathy for it. I do. You would understand that my distaste of this sort of activity by politicians running for office would date back. We could go to the 2018 election and we could look at the fact that the then premier, Peter Gutwein, refused to answer questions about casino tax rates that were part of their future gaming market policy at that time. He refused to answer it during an election campaign. RTI materials that were extracted later showed that he had already agreed to that rate with Federal Group behind the scenes. He knew what the rate was and he refused to disclose it during an election campaign, knowing it would be damaging to them.

That being an issue that is well known that I'm quite passionate about, I understand the consequence of what you're raising. It is interesting, though, to contemplate the role of this committee in that and it will be something for us to discuss later when we are deliberating and discussing as a committee. I want to put on the record here some pushback about it in the interests of the public record of it.

The difficulty is there are other mechanisms. For example, claims about financial matters can be investigated through other committees and decisions taken by governments, obviously not by candidates during election, but by government subsequent to election can be looked at through other committees. The Public Accounts Committee is a prime one that's looking at financial decision making around this issue through a parliamentary process.

My view is that there are parliamentary processes that can look at the consequences of this and I don't want this to elaborate into a speech on my behalf because that's not appropriate in this context.

I want to place before you that the difficulty of your proposition to us as a committee, and perhaps you can suggest some solution to this, is that if we were to go down this path that you're suggesting during this inquiry on this election, on this particular matter that you've laid out for us very comprehensively, it's likely that at every election we would have matters brought to us and be asked to adjudicate them in relation to what people said as either being true or

false, an omission or not full truth. That becomes potentially problematic as a committee if that is what the focus of this election review process turns into.

Do you accept that there's a difficulty there if we were to take this action here in this inquiry around this matter, that it sends us down a pathway, that in the same way when you describe truth in political advertising being fairly large and amorphous to try to deal with, that this could become that as well?

Mr BROWNE - I don't agree. First, the Public Accounts Committee will look at the consequences of a decision made to spend money, but not a promise made in the course of an election, so I don't agree that any parliamentary committee can tackle the issue of a statement made in the course of an election campaign and the truthfulness of it.

The experience I've had with committees of the Commonwealth parliament - I've at times had to work in that area. They confront similar problems to this as a committee - and I don't want to speak for them - but I would anticipate that they would confront a problem like this by saying, 'We have never had to confront an issue like this before. We're a brand-new committee, we're starting from scratch'. Hopefully, they would say, 'An issue like this is an issue of very great significance to the electoral process'. They would find, I would hope, that it's within the contemplated jurisdictional power of the committee to look into it. At that point they would issue guidelines and say, 'This is how this committee is going to deal with these kinds of issues'. I would expect the committee will say, and my experience has been with the Privileges Committee, 'We're going to have referrals like this into the future. It's inevitable, and we're going to set some ground rules'.

That's why I've been at pains to identify those ground rules for this committee, not in a direct way, it's been more indirect. The ground rules as far as I'm concerned are that these two statements, or the lack of information and the misleading statement, were absolutely part of the reason the election was called and were fundamental to the electorate's consideration of what was before them through that campaign. The statement was made on day one of the campaign and it was made by the Premier. I also suggest that the evidence is compelling that at the time he made it, it was false.

From all of that - and I suggest from some other factual material, including the article by Brad Stansfield in the *Mercury* - you can identify criteria, going into the future, that this committee can adopt to decide what you're going to look at and what you're not going to look at. I suggest that the statement in this election campaign was so significant as to be reprehensible that it'll pass whatever test that you apply to allow the committee to move forward to make this kind of investigation. I absolutely agree, and I think I touched on it before, that you can't look at everything that's raised through an election. I suggest you look further afield, and try to identify some guidelines to work out what you're going to look into, now and in the future.

Mr BAYLEY - Do you think, over time, it'd have a preventative reaction? As in if this committee calls out an instance such as this, and the next one and maybe the next one, over time it would have the impact of preventing that behaviour?

Mr BROWNE - If I was to say 'no' or 'I doubt it', I would say you still need to do it. I would think that this committee is so important that it will have that effect. I've just been talking to you about possible guidelines, and that's potentially a guideline you could look at.

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That is, will an examination of this issue, the calling of evidence and a determination by the committee, whatever it's going to be, have a benefit to the conduct of the next and future elections? If your answer to that is no, then fair enough. I would be surprised if it's no, but if the answer is no, you say this isn't important enough or it won't assist in the future, once again it's another box that you can deal with when you tick boxes to decide what you look at.

CHAIR - Thank you so much for that, and I appreciate you extrapolating further in response to the challenge I raised.

I'm going to bring the hearing to a close and finish with another statement I need to make before we finish. As I advised you at the commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you have said to us. Do you understand this?

Mr BROWNE - I do.

CHAIR - Thank you very much for your time, we appreciate it.

THE WITNESS WITHDREW.

The committee suspended at 5.43 p.m.