

Democratic Labor Party

5/786 Warrigal Road Malvern East Vic 3145 Tel: 03 9568 5241
PO Box 8118 Monash University Clayton Vic 3168

22 April 2013

Mr Mark Roberts
Executive Officer
Electoral Matters Committee
Parliament House
Spring Street
Melbourne Vic 3000

Dear Mr Roberts,

Please find enclosed my corrections to the proof transcript of my submission on 14 March 2013 at the public hearings of the Electoral Matters Enquiry.

As per my note at the end of that transcript, I make further explanatory submission and, to clarify the question, I confirm that all legal proceedings between me and the Victorian Electoral Commission have been finalised.

My further submission is as follows:

Part 4 of the *Electoral Act 2002* makes it mandatory for the secretary of an eligible political party to sign any applications to the Electoral Commission, to register a political party (s.45(2)(a)), to change the Register, *inter alia* by substituting the name of the registered officer with that of another person (s.51(2)(a)) and to re-register a political party (s.58B(a)).

Under the Act it is entirely within the discretion of the Commission to decide whether to grant or refuse a relevant application to register a political party (s.50(1) and (2)), to change the Register (s.51(5) and (6)) or to re-register a party (58D(1)(a) and (2)).

Since the Act does not specify how the discretions should be exercised, their exercise appears to be largely unfettered and, advertently or inadvertently, open to the making of arbitrary decisions in certain circumstances.

Regrettably, the experience of the Democratic Labor Party (and the protracted legal disputation to which I have referred in my earlier written submissions) demonstrates this.

Under the Act, it is readily possible for the Electoral Commission to make an error of fact in deciding, as it must, whether an application has been signed by the secretary of a political party in circumstances where an internal party dispute about the issue has arisen.

Accordingly, it is my submission that until the matter is resolved within the political party, under its own rules, or through the courts, the *status quo* prevailing when the dispute arose, should be preserved; and this should be reflected in the electoral legislation.

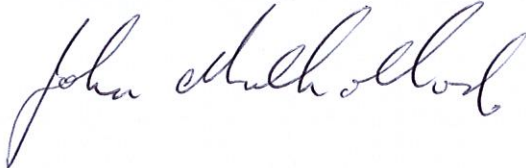
The alternative is to leave the Commission in the position of deciding who *should be*, as distinct from *who is*, party secretary where the Act stipulates *inter alia* that the relevant application *must* be signed by the secretary.

This would be to compromise the independence of the Commission and, in effect, to allow the Executive Government to interfere in the internal affairs of political parties and the electoral process itself.

Community engagement with the electoral process (in the right to participate freely in political parties) is thus at risk of being seriously impaired.

I trust that this further submission may be considered by the Committee.

With thanks and good wishes

A handwritten signature in cursive script that reads "John Mulholland". The signature is written in dark ink and is positioned below the text "With thanks and good wishes".

JOHN MULHOLLAND

On behalf of the Democratic Labor Party (Victorian Branch)