



## HIGH COURT OF AUSTRALIA

Public Information Officer

8 September 2004

### JOHN VINCENT MULHOLLAND v AUSTRALIAN ELECTORAL COMMISSION

Provisions of the Commonwealth Electoral Act concerning registration of political parties that require registered parties to have 500 members and that none of those members be shared with another party were constitutionally valid, the High Court of Australia held today.

The AEC in 2001 asked Mr Mulholland, the registered officer of the Democratic Labor Party, to provide names and details of at least 500 DLP members so it could check that these people were indeed DLP members and ensure there was no overlap with other parties' membership. Mr Mulholland refused to comply with the request and the AEC gave notice, pursuant to section 137 of the Electoral Act, that it was considering deregistering the DLP. Mr Mulholland argued that the 500 rule and the no-overlap rule infringed the implied constitutional freedom of political communication because the ballot paper was a form of communication with voters and an unregistered party cannot have its name printed on it. The scheme for registering parties to receive public funding was introduced in 1983, with the DLP registered since 1984, and the no-overlap rule was added to the scheme in 2000.

Mr Mulholland issued proceedings in the Federal Court seeking an order restraining the AEC from deregistering the party on grounds including that the 500 and no-overlap rules were invalid. Justice Shane Marshall dismissed the application and the Full Court dismissed an appeal. The Court unanimously dismissed the appeal in May and today handed down its written reasons for judgment.

Mr Mulholland submitted that the two rules contravened the constitutional requirement of direct choice by the people because they impaired the making of an informed choice by voters and they unreasonably discriminated between candidates from registered and unregistered parties. The Court rejected both reasons, holding that electors retained a full and free choice between competing candidates and that Parliament's requirement of a minimum level of public support for a party before it received election funding did not involve unreasonable discrimination. The no-overlap rule was designed to avoid confusion, deception and frustration of the democratic process by using the same block of members to register multiple parties, including front parties channelling voters' preferences to another party. The Court held that both rules were consistent with the constitutional requirements of direct choice by the people and with representative government.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*