

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into the future of Victoria's electoral administration

Melbourne — 12 March 2013

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Mr N. Carroll, state secretary, Australian Labor Party.

The CHAIR — Thank you very much for joining us this afternoon, and thank you very much for your time. Welcome to the Electoral Matters Committee’s inquiry into the future of Victoria’s electoral administration and matters related thereto. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Parliamentary Committees Act 2003 and the Defamation Act 2005 and, where applicable, the provisions of reciprocal legislation in other Australian states and territories. I also wish to advise that any comments you make outside the hearing may not be afforded such privilege. Have you read the *Guide to Giving Evidence at a Public Hearing* document that the committee has provided?

Mr CARROLL — Yes.

The CHAIR — I ask you to state your full name, business address, the organisation you are representing and the position you hold.

Mr CARROLL — My name is Noah Carroll. I represent the Victorian branch of the Australian Labor Party, currently registered at 360 King Street, West Melbourne, and my position is state secretary.

The CHAIR — All the evidence you are about to give will be taken down and will become public evidence in due course. I now ask you to make a verbal submission, and we will open up to questions when you have concluded.

Mr CARROLL — Firstly, thanks for the opportunity for allowing me to make this submission. The work of your committee is something I watch with great interest and have a great amount of respect for, and I speak for a number of members of the party in relation to that, so I am keen to convey that. I would also like to outline that I do not expect that I will be setting the world alight with new, inventive and innovative ideas outside of what I have already submitted in writing. I am, however, keen to be here to elaborate on and/or clarify any issues people on the committee might have, specifically as they relate to the primacy of election day, which I have made reference to. I will quickly summarise what I have done in writing and get to that, but I also want to indicate that inquiries like this are always welcomed by the Victorian branch of the Australian Labor Party. It is especially important that these things are reviewed and reviewed regularly, and I applaud the work. I also want to applaud the work you did in relation to the discussion paper. It was very helpful. A number of people commented on its thoroughness and also the wide gamut it embraced, so many thanks for that in anticipation.

In terms of the questions of informal voting and optional preferential voting, the latter was tied up in a number of discussions I have seen in the media, so I thought I would try to address them both at the same time. It is not a shock to anyone, I think, that the Australian Labor Party has had a long and proud tradition of seeking the widest possible enfranchisement. That is primarily based on the idea that in our view it leads to a strong and rigorous democracy and, equally, a very legitimate contest of ideas, which is what any truth is sounded upon, as are, equally, good outcomes. As such, we generally always support measures that seek to do this in a sensible manner, along the lines of automatic enrolment because that is premised upon already very rigorous checks around identity, residence and other such tests.

However, equally, I want to convey that the Australian Labor Party has a strong view in relation to appropriations and augmented activities that might be identified that the Victorian Electoral Commission can undertake. Generally we are always in favour and positively inclined to that sort of an initiative. We believe it is very much an enormous return on investment to undertake those activities. A number of good ideas emerge regularly, and the most recent example of that is obviously the digital revolution in relation to all the options that provides. Equally there is the opportunity to empower those who would otherwise have trouble voting — that would be people who are visually impaired or have other such afflictions — which is why, as I said before, inquiries such as this on a regular basis are always welcomed.

The point I am trying to make with optional preferential voting is that I think it is absolutely critical (and I am someone who unfortunately has witnessed this time and again when scrutineering a number of ballots that are ruled informal) that because, although the voter clearly had the intent to exercise their view, for whatever reason they are caught up in the net of informality. As such I have always had a very strong

view, as has the Victorian Labor Party, that something must be done about anything that in any way, shape or form makes harder what is already for many people a hard task — that is, to exercise their view. The greatest tragedy with that is that many people walk out of the ballot room with the firm impression that they have had their say, and the greatest tragedy for me is their assumption that they had had their say and exercised their vote when they had not, and they are not even aware of it. Thus I am always concerned that there is an assumption that the writing at the top of the ballot paper is somehow going to make it clear to someone about what is in and what is out, that you must number every box and that you must do this or that.

My experience — and I can speak for a number of people who have participated in a number of ballots and scrutineered — is that a lot of people go by habit. A lot of people go by what appears to them to be very obvious, and as such, if there is one system for a federal contest and another for a state or municipal contest, it would in my view be something that is highly inadvisable. I also suggest that it goes against a very long and proud tradition of this committee in relation to its work in seeking to harmonise as much as possible a range of things in equivalence with the federal act. I say that with the firm view that I am unaware of any such proposition at the federal level in relation to changes with the voting system when it comes to OPV, and as such it would very much be the Victorian Parliament consciously deciding to decouple itself from what is currently a harmonious system with, I would argue, very dubious arguments as to why that would make sense. I certainly know that it would radically increase informality when it comes to federal elections, because obviously if people are under the habit of filling in only some of the ballot for state, they are equally going to assume that they can do the same thing for federal, and that has been borne out in relation to New South Wales and Queensland reforms.

In terms of early voting, this is a critical question for your committee to consider, and I think you are the only ones who can actually do this in terms of the Parliament taking your collective view into account. I do not believe it is a partisan thing at all; I think it is actually — uniquely, when it comes to these sorts of things — very much about what the intent of it is. Early voting is desirable because it allows people to exercise their say who otherwise would not have that opportunity. I am certainly in no way, shape or form submitting that it should be discontinued. I am, however, submitting that some real rigour, and I would argue conscious deliberation, be undertaken in relation to what it is that you are trying to achieve with early voting, because the concern is this: whilst resources are outlaid in relation to election day, I do not necessarily see a commensurate decrease in relation to what is now roughly a third of most electorates using early voting and what you have to pay for as a democracy for what you do on election day.

That in itself is not the only argument, but I think it is a demonstration of how a desirable idea, because people can exercise a say who otherwise may not be able to for various reasons, has now slowly but surely crept into an ever-extended period. Most recently in Lyndhurst we have been advised that there are now going to be two booths for early voting. That has happened in the past in booths, but it is a classic manifestation of this mission creep, as I refer to it. The VEC cannot be responsible for how it has played out, because they have not been given a broad objective as to what it is there to represent.

I guess what I am saying is this: at the very least what would be helpful is if this committee could somehow reach a determination about ‘this far and no further’ and/or ‘it will consist of this at a minimum’. However, if the committee forms a view that it should in fact be expanded even further, making that intent clear and Parliament endorsing it would give much greater certainty to political parties. I say that even though, in my view, the Australian Labor Party is the party that has the greatest advantage when it comes to an elongated early voting process. We are fortunate enough to have a number of members who are happy to stand at the booths and hand out information in a whole variety of different areas.

Other parties, as I understand it, especially Independent candidates and minor parties, really struggle to put people at these booths. If you are an Independent candidate putting your hand up because you are a community activist and want to have a say, it is hard enough to make sure you have enough people at all of the booths and hard enough to make sure you meet as many people as you possibly can before election day for what is generally a relatively short contest. By then adding that prior to that you have to pick between, say, doorknocking and being at one of the early voting booths to stand there and meet as many people as you can, basically you are making it as hard as possible and dispersing as much focus as you possibly can

for a particular person who wants to do their best and make their views known in the community. If anything, the Labor Party has an advantage, but even I am sitting here saying that what really assists is some certainty about the direction it is heading in, because that gives faith to the polity that there is a real understanding of what it is there to do and what it is there not to do.

That is why I go back to the original idea of the primacy of election day. We have a proud tradition that election day is very much the contest. That is what everyone focuses on; it is certainly what the media focuses on, from what I can gather. As a result, it is a bit odd that, at the same time, slowly but surely it has grown, but equally the number of people exercising their ballot that way has grown. It is now, as I said, a third of the result generally, and I think a bit more rigour needs to be put around it. I am certainly not casting aspersions on the work of this committee previously. It has crept up on everyone, and I do not think anyone envisaged it being as popular as it has become in such a short time. Some credit for that should probably go to the Victorian Electoral Commission because they are so good at advertising it, but as such I think it is now the time to have a discussion around that, and any direction on that would be greatly beneficial to everyone.

The final submission I want to make is in relation to the retention of ballot papers. As you would expect, I am somewhat of an election tragic. I take a lot of interest in the behaviour in elections but equally in the activity levels of Independent candidates and, moreover, what happens with their preferences. When we are talking about a compulsory preferential system, I think it is absolutely critical that the polity has a clear understanding of what, if any, patterns emerge — equally, what particular aberrations might occur in a particular electorate — because that actually tells you another layer of what they say at the ballot box. Sure, they vote in a Liberal Party member at this seat; sure, they vote in a Labor Party member at that seat. But there is always the fascinating story of community activism. There is always a fascinating story of Independents working very hard, sometimes in concert with and often opposed to the major parties. I think it is an important story that needs to be told, and the only way it can be told is having the opportunity to examine ballot papers after the result.

As I have indicated in my submission, I think it is completely appropriate, should the community determine that it is the way to go, that in turn you determine what the basis of engagement is on that. I do not think it is something where you can have these ballot papers sitting there, like *Raiders of the Lost Ark*, for hundreds of years in pinewood boxes. However, I think for the period just after the last election, and provided that the person seeking access is reasonable about the time line in which they require access so it, and it is not considered to be an undue burden on the electoral commission, it will do a great amount of good. I mean good in the sense of truth and rigour around the research and evidence in relation to a proposition that is put about what the electorate thought and what it did not.

I can speak from experience. There are always 100 theories out there. Often it is validated by whoever is fortunate enough to win, but it is not always the truth. Something like this would go some way to assist with that. We have also seen a proliferation of opinion leaders and equally electoral analysts who make a living from this. If they are going to do that, I applaud them. I think it assists the broader community in terms of their understanding of the process and what they are participating in, which is ultimately there for them.

What I think is really critical in that scenario, should those people's suppositions not be sufficiently well researched, is that somebody else can be sufficiently well researched and can call them out on suppositions that sometimes are very much premised on partisanship, as opposed to real research. I think academe has also very much expanded its role in this area. Every day I read of a different professor from a different university who gives a very strong view on politics in either the state or federal arena. I am sure a lot of great work could be done if access to these ballots is granted to people.

I will leave my comments there. As I indicated, I was not planning to expand beyond that, but I felt it was really worthwhile to put in the emphasis which sometimes can be lost in the written word.

The CHAIR — Thank you very much. I have a couple of small questions to begin with, and then I will throw it open to the rest of the committee. Did you at any stage detect a change in policy by the VEC with regard to early voting?

Mr CARROLL — No.

The CHAIR — No deliberate change of policy?

Mr CARROLL — Are you referring to something specifically?

The CHAIR — As in at one stage they were saying, ‘You have to come in here and prove that you cannot show up on Saturday in order to have an early vote’, whereas at the last election they were actually advocating coming in and voting early.

Mr CARROLL — I could not really speak to that particular question.

Mr SOMYUREK — You should probably expand on what you are saying, Bernie. It has been our collective experience — I think we have all experienced this — that in the early 2000s and late 1990s —

The CHAIR — Early 1990s even.

Mr SOMYUREK — Or even in the early 1990s, it used to be much easier. There was less vigour around the VEC officials querying you on whether you could actually attend on election day. What we are picking up anecdotally, and basically this manifests itself in the figures too, is that that vigour is gone. We feel basically they allow anyone to vote, whereas 10 or 15 years ago they were really grilling people who wanted to vote early. That I think goes to the chair’s question.

Mr CARROLL — I would be curious in relation to that whether you consider an amendment to the act is required or a response to this inquiry. One is operational and one is, very strictly speaking, that these are the parameters under which you must act as a commission.

Mr SOMYUREK — That is right. What we have been trying to do is get an answer as to whether there has been a directive passed down to the coalface.

The CHAIR — It is interesting that you have not actually noticed that yourself.

Mr CARROLL — To be perfectly frank, I do not think I have been around quite so long in my role that I would be able to give you a really clinical take on where it is at. I have been in different roles throughout those periods specifically. I have been scrutineering quite consistently throughout that period, but I have not necessarily been at the coalface of discussion. In terms of a VEC briefing for a by-election, for example, I have done a number of those in the interim, and I would notice what the difference is with that, but when it comes to what was happening in the early 2000s, I cannot really assist with that question.

The CHAIR — On the issue of OPV, I thought you put a pretty good argument for it until about halfway through, and then things went a bit haywire. But I will ask in relation to your concerns about the conflict with the federal system — for example, I understand the chairman of the federal committee has expressed a view that she would like to see OPV federally. If a change of government, for example, later this year was to introduce that, would your opposition to OPV in Victoria than evaporate?

Mr CARROLL — I also noted in a recent redistribution submission by the Liberal Party that they invoked forthcoming legislation from the planning minister as a reason population projections were not in place. My only point with that is that it has not happened yet, therefore you cannot take it into account. I think you know beyond any shadow of a doubt that you really cannot count your chickens until they have hatched. That would be the only comment I have in relation to that. Anyone who is telling us what is going to happen in September is either a very wise or a very foolish person.

The CHAIR — Or in April.

Mr CARROLL — Yes.

Ms RYALL — Adding further to Bernie's point, given the difference between state and federal systems here and knowing Queensland and New South Wales differ, are their representatives who are in similar situations to you therefore advocating for a return to full preferential?

Mr CARROLL — There are a number of arguments that are often relayed as to why compulsory preferential voting makes sense. I think what is interesting to note is that the person's voting intent is always paramount. That has always been my starting point, which is why the South Australian ticket was invoked, in my submission, in relation to a possible option. Everyone is very good at criticising or saying this should not happen or this should happen, without making any third proposition.

You are talking about a scenario where at the moment a particular party might see a great advantage in an OPV approach. But equally if you went back 15 years ago, it would be completely turned on its head. You could argue that those parties that introduced it have ended up, funnily enough, being potentially the victims of it. I do not necessarily agree with those characterisations. It is not about a victim; it is not about gaming out a process or anything like that. The concern I always had with OPV is, firstly, it is confusing and, secondly, if you have a system in which people's full view is not required to be expressed, you can potentially get huge aberrations in results, which I do not think serves anyone.

Say, for example, there is a minor party that is abhorrent to the vast majority of Australians. Now that is a very subjective view. I am not even going to go into the specifics of that kind of scenario; it is just to give a hypothetical scenario. If that party cannot gather enough primary votes in their own right, even with an OPV system, which they often cannot —

Ms RYALL — Yes, I understand. My question was more to the point of whether the ALP in New South Wales and Queensland is, from the state perspective, looking at or requesting a change back to preferential voting, given federal is different to state.

Mr CARROLL — I am here to talk about Victoria. I could not really assist you with that question.

Mrs VICTORIA — Noah, if I can take you back to the pre-poll situation, currently we are open for a couple of weeks, and I understand what you were saying about the difficulty, especially for the minor parties and Independents, of being able to staff those booths and give, if you like, fair representation to those who are coming to do their pre-poll voting. Do you have a particular set time that you think that should be limited to? Also, do you think there should be a list of criteria that the VEC checks off against to be able to say, 'Yes, you are eligible or ineligible to vote before polling day'.

Mr CARROLL — In terms of me prescribing or making a suggestion, it is probably more appropriate if I, in the great tradition of the submitters to parliamentary inquiries, basically put it upon you. This is the problem; you guys should be able to fix it. That is much more convenient for me.

Mrs VICTORIA — We are looking for answers.

Mr CARROLL — To be perfectly frank, and I want to be very clear, my submission is not necessarily having a view either way. However, certainty is critical, and it shapes the contest. The starting point for me is that if I was a candidate, I would want to meet as many of my potential electors as possible, have the maximum opportunity to do so and have a process that facilitates that wherever possible.

The best example of that is that at the moment the electoral commission can have multiple early voting centres. That in itself in my view is not advisable. They could argue that with geographic dispersion you are required to do that. The problem with that is that if I am doing my best to try to be at the best possible location to meet as many people as I possibly can, we already know it is physically impossible, but it makes it much more impossible than it ever was. I do not think the process should be assisting that.

Ms RYALL — If I can come in on that, though, I guess the question is: are we facilitating this for the sake of the candidate or for the elector?

Mr CARROLL — That is my point in terms of not actually prescribing. Is it a reduction, or is it an expansion?

Mrs VICTORIA — But if there were two or three pre-poll booths, one would argue that perhaps that is easier for a person to then be able to go and cast their ballot.

Mr CARROLL — But equally you have the postal option. I am conscious of the fact that people do actually go their own way on this stuff in terms of how they want to do it. Yes, you make it as easy as you possibly can; there is always a question of degrees. However, in terms of how that interacts with other things, as it relates to the second question in terms of, 'Is it desirable?', I certainly agree that it is desirable. Basically, as far as I can tell, there has been no hard call about early voting is here to do X, Y and Z; therefore, why? The operational component of the process through the VEC has basically been allowed to go along unfettered. I do not think that is necessarily fair on the VEC, and it is not necessarily the best possible outcome for the polity. That was the basis on which I was engaging with that particular issue, if that makes sense. Although it is frustrating for you, I am sure, that I am not actually prescribing or making suggestions as to, 'Does it expand? Is it reduced?', provided you guys can actually reach a determination around that, it would do a vast amount to improve it for everyone. Going forward everyone will have a firm understanding of where the Parliament collectively is going with this, because at the moment it is very unclear. As we keep saying, the number of people who exercise their vote in that manner has continued to increase at a pretty cracking pace.

Ms RYALL — I have a question on access and retention in relation to your views on being able to access the ballots after the election period. I just wondered what your thinking behind that was in terms of whether your view was of somebody being able to come in, punch in data, do some sampling, or was it for somebody to come in and do wholesale data entry?

Mr CARROLL — I am a pretty simple person. I would think it would be advisable that if that were actually ticked off by a committee, there be a request that a VEC staff member be present at all times. I think that is only appropriate. Equally — let us just be sensible — you would need a person to outline in writing well ahead of time the gamut of what they are seeking. In turn the commissioner or another delegated person in the commission would be responsible for responding to that in terms of what is practicable, notwithstanding budgetary considerations as well — basically the amount of time if you had a staff member present.

The simple reality is that if somebody is saying they want to look at all of Victoria, for all this, right now and in one fell swoop, we all know they are going to be there for a very long time. What is much more likely is that it will be a systemic approach and that they will say, 'I would like to look at these three seats, and obviously I reserve the right to request further ones. But, in light of the resourcing question, for now this is what I would like'. If a particular person seeking that sort of access cannot prioritise like that, I suspect they do not know what they are looking for.

The CHAIR — Do have a view on the need to authorise material on social media and, if so, how far we should go? Should it be advertisements? Should it be all comments? Where do we draw the line on that?

Mr CARROLL — Twitter provides quite a few issues, not least of which is the amount of characters you are allowed to put in it. I do not at this stage. I think it is very early, and I would be very interested in reading your august opinions about it, because you no doubt have a number of solutions from a number of people in this space. If ever there were a demonstration why constant inquiry is required, social media is a pretty good one, because for every second there is another medium that emerges. It is a moving feast.

When it comes to a political contest it is always advisable that somebody is ultimately accountable, but on how that is manifested in a particular way, there is always going to be an interesting debate about freedom of speech versus that. I will probably just let that go through the keeper on my part. Equally, with each month that goes by, I notice that there is more formed opinion on that by virtue of a range of precedents. Things do occasionally get tested in the court. Defamation complicates things quite dramatically, so in

relation to that, I think the jury is still out on a number of things. As to whether your committee should be trying to reach a determination in relation to this prior to the next state election, again, that is something you guys would have to make a decision on, ultimately without input from political parties. The broad gamut of the people who would make a submission to you versus political considerations — I think that is probably the best way to go about making a decision in relation to that.

The CHAIR — Thank you very much for coming in, Mr Carroll. I can tell you that you will receive a copy of the transcript in about a fortnight. If you could check it for typos — no changing of — —

Mr CARROLL — No corrections?

The CHAIR — No changing of any content. That would be appreciated. We do appreciate you coming in this afternoon.

Mr CARROLL — If I could, through you, Chair, I would just also like to convey, as I did in writing: the ALP in Victoria has the utmost regard for the Victorian Electoral Commission staff. We have always found them very professional, and obviously their dedication has always been second to none. I think that is worth conveying too. Obviously they give effect to all the legislation you guys are in charge of recommending, so we thought it was worthwhile putting that on the record also.

The CHAIR — Thank you.

Witness withdrew.