



Inquiry into the future of Victoria's electoral administration

Report to Parliament

Electoral Matters Committee

March 2014

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Committee Members



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Member for South Eastern
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Member for South Eastern
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Ms Dee Ryall MP – appointed to the Committee on Thursday 10 February 2011 and resigned on Tuesday 25 June 2013.

Mrs Inga Peulich MLC – appointed to the Committee on Tuesday 19 March 2013.

Mr Russell Northe MP – appointed to the Committee on Tuesday 25 June 2013.

Staff

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Research Officer

Mr Nathaniel Reader

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Mrs Bernadette Pendergast

Mrs Maria Marasco

The Electoral Matters Committee

Functions of the Committee

The Electoral Matters Committee is a Joint Investigatory Committee of the Parliament of Victoria. The Committee comprises five Members of Parliament drawn from both Houses.

The powers and responsibilities of the Committee are determined by the *Parliamentary Committees Act 2003 (Vic)*. The functions of the Committee, as defined by Section 9A, are, if so required or permitted under this Act, to inquire into, consider and report to Parliament on any proposal, matter or thing concerned with—

- The conduct of parliamentary elections and referendum in Victoria;
- The conduct of elections of Councillors under the *Local Government Act 1989 (Vic)*; and
- The administration of, or practices associated with, the *Electoral Act 2002 (Vic)* and any other law relating to electoral matters.

Matters are referred to the Committee either by resolution of the Council or the Assembly or by Order of the Governor in Council. The *Parliamentary Committees Act 2003 (Vic)* also enables a Joint Investigatory Committee to inquire into and report to Parliament on any annual report or other document relevant to its functions and which have been laid before either House of Parliament.

Committee's contact details

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Terms of Reference

On 7 March 2012, the Electoral Matters Committee, pursuant to Section 33(3) of the *Parliamentary Committees Act 2003* (Vic), self-referenced an inquiry into the future of Victoria's electoral administration.

Such an inquiry does not include elections pursuant to the *Local Government Act 1989* (Vic).

The Committee is required to report to Parliament in March 2014.

Abbreviations

ABC	Australian Broadcasting Corporation
ACT	Australian Capital Territory
AEC	Australian Electoral Commission
ALP	Australian Labor Party
CALD	Culturally and linguistically diverse
EAV	Electronically assisted voting
EBC	Electoral Boundaries Commission
ECCV	Ethnic Communities' Council of Victoria
EMS	Electoral Management System
ERRN	Electoral Regulation and Research Network
IDEA	Institute for Democracy and Electoral Assistance
JSCEM	Joint Standing Committee on Electoral Matters
MECC	Melbourne Exhibition and Convention Centre
NSW	New South Wales
NSWEC	New South Wales Electoral Commission
NTR	National Tally Room
OPV	Optional preferential voting
PAEC	Public Accounts and Estimates Committee
PRSA	Proportional Representation Society of Australia
US	United States of America
VCAA	Victorian Curriculum and Assessment Authority
VCE	Victorian Certificate of Education
VEC	Victorian Electoral Commission
VELS	Victorian Essential Learning Standards
VTAC	Victorian Tertiary Admissions Centre
VTR	Virtual Tallyroom

Recommendations and findings

CHAPTER TWO – EARLY VOTING AT VICTORIAN ELECTIONS

Finding 2.1: The Committee recognises that early voting is now an established component of Victoria’s electoral practice. It provides many Victorians with opportunities to vote which suit their work, social and lifestyle choices. Given that it is likely that rates of early voting in person will continue to increase at future Victorian elections, the Committee supports a two-week early voting period at Victorian elections.

Recommendation 2.1: The Committee recommends the VEC continue its efforts to conduct research into early voting at Victorian elections, with a specific focus on the effects of early voting on rates of voter turnout at Victorian elections.

Recommendation 2.2: The Committee recommends the VEC ensure that the location of early voting centres is advertised and marketed appropriately in the lead up to Victorian elections, with a focus on communities in rural and regional Victoria. In conjunction, the Committee also recommends the VEC consider ways to improve signage advertising the location of early voting centres in rural and regional Victoria.

CHAPTER THREE: LEGISLATIVE METHODS TO REDUCE INFORMAL VOTING AT VICTORIAN LEGISLATIVE ASSEMBLY ELECTIONS

Recommendation 3.1: The Committee recommends the Victorian Government amend the *Electoral Act 2002 (Vic)* to introduce a system of optional preferential voting (OPV) for Victorian Legislative Assembly elections. In drafting these amendments the Victorian Government should examine the models of OPV used in NSW and Queensland.

CHAPTER FOUR: PARLIAMENTARY OVERSIGHT OF VICTORIA’S ELECTORAL ADMINISTRATION

Recommendation 4.1: The Committee recommends the Victorian Government amend the relevant sections of the *Electoral Act 2002 (Vic)* to include under the VEC’s responsibilities the requirement for the VEC to work with the Parliament of Victoria’s Electoral Matters Committee.

Recommendation 4.2: The Committee recommends the Victorian Government amend the relevant sections of the *Parliamentary Committees Act 2003 (Vic)* relating to the functions of the Electoral Matters Committee, to prescribe that the Committee should review the VEC’s reports to Parliament, and conduct a review of every Victorian state election.

CHAPTER FIVE: THE VICTORIAN STATE ELECTION TALLY ROOM

Recommendation 5.1: The Committee recommends the VEC discontinues the Victorian state tally room for all future elections, subject to the VEC investigating and reporting to the Committee prior to the 2014 Victorian state election about the viability of establishing a public space for Victorians to congregate to view election results and celebrate Victoria's democracy.

CHAPTER SIX: ENCOURAGING PARTICIPATION IN VICTORIAN ELECTIONS

Recommendation 6.1: The Committee recommends that the provision of civics education to primary and secondary students in Victoria be considered a priority by the Victorian Government and the Department of Education and Early Childhood Development, in order to ensure that young Victorians develop positive attitudes and perceptions about the value of participation in electoral processes, and their role as citizens in an increasingly globalised world.

CHAPTER EIGHT: MODERNISING AND PROMOTING THE PARLIAMENT

Recommendation 8.1: The Committee recommends the Victorian Government amend relevant Victorian legislation to introduce the terms 'State Senate' as a reference to the Legislative Council, and 'State Senator' as a reference to a member of the Legislative Council.

Finding 8.1: While the Committee does not wish to comment on the process of Victoria's electoral redivision, the Committee encourages the EBC to take a consistent approach to the naming of Victoria's electoral Districts, with a particular emphasis on appropriate place names on the basis of geography.

Chair's Foreword

For most Victorians, a state election happens once every four years. It probably involves a quick trip to the local school on Saturday morning and maybe a snack from the sausage sizzle. The uneventful nature of Australian elections explains why our electoral administration is considered the international gold standard. We don't have to worry about the 'nuts and bolts'. This is a good thing.

Although Victoria's electoral performance is generally excellent, there is always room for improvement. In recent years there have been several, fundamental challenges to Victoria's electoral administration. Many inquiry participants asked the Committee to respond to these matters. One is early voting. While the majority of Victorians still vote on election day nearly 25 percent of Victorians voted early at the 2010 Victorian state election, either by post or in person. It is likely 30 percent of Victorians will vote before election day in November 2014. Based on evidence about the growing popularity of flexible voting methods in Australia and internationally, the Committee concluded that early voting should continue to be a part of the Victorian electoral experience. Reducing the early voting period for Victorian elections would disenfranchise many Victorians.

In a different way, rising rates of informal voting are a major barrier to full electoral participation. Some recent Victorian state by-elections have recorded informal voting rates of nearly 10 percent. In many Districts a substantial number of Victorians are voting informally either because the ballot paper is too long, English is their second language or they have misinterpreted the rules around preferential voting and simply marked '1' on their ballot paper. The Committee received detailed – and very persuasive evidence – about this last issue. Inquiry participants were unequivocal; optional preferential voting (OPV), as used in NSW and Queensland, has the most potential to address rising rates of informal voting in Victoria. Under OPV, at least 70,000 more Victorians would have their vote counted.

Several inquiry participants also asked the Committee to consider streamlining Victoria's electoral administration. At present, the VEC is answerable to the Parliament only when it reports on the conduct of Victorian elections. Some inquiry participants suggested formalising the relationship between the Committee and the VEC, so that the Committee oversight aspects of the VEC's work and continues to conduct independent, parliamentary review of Victorian elections. The Committee agreed; Australia's parliamentary electoral matters committees provide an important opportunity for the public to participate in electoral policymaking. There is a clear need for this Committee in the 58th Parliament.

As the title of this inquiry implies, the Committee was focused on the future of Victoria's electoral administration. During the inquiry it became clear that the Victorian state election tally room was no longer viable in its current form. However, the Committee believes that the VEC should still establish a

public space on election night where Victorians can congregate to celebrate Victorian elections. For the Committee, focusing on the future also meant making it easier for Victorians to engage with electoral processes and the Parliament. Parliaments have a responsibility to promote and increase community awareness of their work. Citizens expect this. Expert evidence from the UK and the US suggests that amending legislation to introduce the terms 'State Senate' as a reference to the Legislative Council, and 'State Senator' as a reference to a Member of the Legislative Council, would help increase community awareness of the Parliament and promote greater understanding of the legislative process. These changes would not involve significant administrative or financial costs. If, after 150 years of history, Victorians still do not understand what the Legislative Council is, then there is a clear need for change.

On behalf of the Committee, I would like to thank all inquiry participants for their evidence, suggestions and advice. The Committee is fortunate that the Australian electoral network is vibrant and well-resourced. The Committee also wishes to acknowledge evidence it received from inquiry participants with a disability; the Committee is strongly committed to ensuring that all eligible Victorians are able to participate in electoral processes.

As Chair I would also like to thank my fellow Committee members for their work and thoughtful suggestions during this inquiry; Mr Adem Somyurek MLC, Deputy Chair, Mrs Inga Peulich MLC, Mr Russell Northe MP and Mr Lee Tarlamis MLC. While the Committee was unable to reach consensus on some issues, I do not believe that this has diminished the quality of this report.

In closing, I would like to thank the Committee secretariat; Mr Mark Roberts, Executive Officer, Mr Nathaniel Reader, Research Officer, and Mrs Bernadette Pendergast and Mrs Maria Marasco, Committee Administrative Officers. Due in large part to their efforts, this report makes a substantial contribution to the betterment of Victoria's electoral administration.

Bernie Finn MLC

Chair

Electoral Matters Committee

Chapter One: Introduction

- 1.1 Chapter One introduces the report into the future of Victoria's electoral administration. It outlines the terms of reference, the Committee's responsibilities, the context and background to the inquiry and the inquiry process. It also outlines the report's structure.

Terms of reference

- 1.2 On 7 March 2012, the Electoral Matters Committee, pursuant to Section 33(3) of the *Parliamentary Committees Act 2003* (Vic), self-referenced an inquiry into the future of Victoria's electoral administration.¹
- 1.3 The Committee is required to report to Parliament in March 2014.²

Local government electoral review

- 1.4 It is important to note that the inquiry's terms of reference did not include elections pursuant to the *Local Government Act 1989* (Vic). In mid-2013 the Victorian Government established an independent Local Government Electoral Review Panel to carry out a review of Victoria's local government electoral system.³ At the time this report was tabled, the Local Government panel's final report was expected to be released in April 2014. Further information about the inquiry can be found at <http://www.dpcd.vic.gov.au/localgovernment/local-government-reform/local-government-electoral-review>.

Responsibilities of the Committee

- 1.5 The Electoral Matters Committee is a Joint Investigatory Committee of the Parliament of Victoria. The Committee comprises five Members of Parliament drawn from both Houses.
- 1.6 The powers and responsibilities of the Committee are determined by the *Parliamentary Committees Act 2003* (Vic). The functions of the Committee,

¹ Parliament of Victoria, Electoral Matters Committee, 'Terms of reference', 7 March 2012. Retrieved 10 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1810>.

² Parliament of Victoria, Electoral Matters Committee, 'Terms of reference', 7 March 2012. Retrieved 10 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1810>.

³ Victorian Government, Department of Planning and Community Development, 'Local Government Review Panel', 24 September 2013. Retrieved 8 November 2013 from <http://www.dpcd.vic.gov.au/localgovernment/local-government-reform/local-government-electoral-review>.

as defined by Section 9A, are, if so required or permitted under this Act, to inquire into, consider and report to Parliament on any proposal, matter or thing concerned with—

- The conduct of parliamentary elections and referendum in Victoria;
- The conduct of elections of Councillors under the *Local Government Act 1989* (Vic); and
- The administration of, or practices associated with, the *Electoral Act 2002* (Vic) and any other law relating to electoral matters.⁴

1.7 In the 57th Parliament, all of the Joint Investigatory Committees from the 56th Parliament were reappointed, including the Electoral Matters Committee.

Relationship with the Victorian Electoral Commission

1.8 The VEC is the independent statutory body established by law to run elections in Victoria. The VEC is accountable to the Parliament through its statutory responsibilities under the *Electoral Act 2002* (Vic).

1.9 The Committee wishes to thank the VEC for its participation in this inquiry. As it has done for every inquiry completed by the Committee in the 56th and 57th Parliaments, the VEC provided submissions, advice and appeared at the public hearings. The Committee also appreciates the VEC's continued efforts to provide briefings for the Committee on electoral matters.

1.10 Unlike some Victorian Parliamentary Committees, such as the Public Accounts and Estimates Committee (PAEC) which has an oversight function as part of its responsibilities, the Electoral Matters Committee does not have legislative oversight of the VEC. PAEC is responsible for reviewing the Victorian Auditor-General and his office (VAGO). This subject was addressed by a 2008 PAEC inquiry into strengthening government and parliamentary accountability.⁵

1.11 As a result of feedback and evidence received from inquiry participants during the inquiry – especially comments to the Committee's discussion paper – it became clear to the Committee that there was a need to examine whether the Electoral Matters Committee should oversee the VEC. Chapter Four addresses parliamentary oversight of electoral administration in Victoria.

⁴ *Parliamentary Committees Act 2003* (Vic) s9.

⁵ Parliament of Victoria, Public Accounts and Estimates Committee, *Report on strengthening government and parliamentary accountability in Victoria*. Retrieved 17 October 2013 from http://www.parliament.vic.gov.au/images/stories/committees/paec/reports/78th_report_-_Strengthening_Govt_and_Parl_Accountability.pdf.

Context to the inquiry

- 1.12 This inquiry and its findings are the result of the Committee's research agenda in the 57th Parliament and a continuation of the former Committee's work in the 56th Parliament.

Calls for a review of Victoria's electoral administration

- 1.13 As noted in the Committee's discussion paper, since the mid-2000s there have been calls from the Victorian electoral community for a broad examination of Victoria's electoral administration and practices. For instance, as part of the Committee's inquiry into the 2010 Victorian state election, the VEC prepared a research paper for the Committee examining different options for the structure of Victoria's electoral administration.⁶ The paper specifically called for an inquiry by this Committee. Similar calls for a review of Victoria's electoral architecture have been made by inquiry participants through the 56th and 57th Parliaments; in 2011, Steve Tully, former Victorian Electoral Commissioner, told the Committee that the time was right to think about what Victoria's electoral system should look like in the future.⁷
- 1.14 Alongside these calls, the Committee has closely followed trends in Australia's key electoral indicators. Commonwealth and state electoral commissions remain concerned about declining levels of electoral participation. At the 2013 federal election, approximately 1.22 million eligible electors were not registered on the electoral roll.⁸ The election also saw a high rate of informal voting of 5.9 percent for the House of Representatives.⁹ These statistics suggest that many Australians are not participating fully in the electoral process.
- 1.15 It is also clear that the nature of electoral participation at Australian elections is changing. At the 2013 federal election approximately 3.3 million electors voted before election day either by post or in person at a pre-poll voting centre, equating to a 60 percent increase on the rate of early voting at the 2010 federal election.¹⁰ Similar, substantial increases in the rate of early voting at all state elections in recent years, including the 2006 and 2010 Victorian state elections, indicate that many electors favour flexible voting methods. In addition, some electors for New South Wales (NSW) elections have an option to vote via the Internet (subject to criteria) using the iVote system. The Committee notes that these matters have widespread implications for traditional conceptions of election day; these implications

⁶ Victorian Electoral Commission, 'Shaping Victoria's Electoral Future'. Victorian Electoral Commission, Melbourne, October 2011, p.24.

⁷ Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, *Transcript of Evidence*, Public Hearing, Melbourne, 25 August 2011, p.36.

⁸ Australian Electoral Commission, 'Media key facts and figures, 2013 federal election'. Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/Elections/Federal_Elections/2013/e2013-facts.htm.

⁹ Australian Electoral Commission, 'Informal votes by state'. Australian Electoral Commission, West Block, Canberra, 4 November 2013. Retrieved 8 November 2013 from <http://vtr.aec.gov.au/HouseInformalByState-17496.htm>.

¹⁰ Australian Electoral Commission, 'Media key facts and figures, 2013 federal election'. Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/Elections/Federal_Elections/2013/e2013-facts.htm.

have not been fully investigated by Australia's parliamentary committees, or the academic community.

Changes to Australian electoral legislation– 2012-2014

1.16 During the inquiry several Australian jurisdictions passed or considered changes to their electoral legislation. The Committee monitored these developments with a view to understanding how they might relate to Victorian electoral practice, and matters considered during deliberations.

Commonwealth

1.17 At the Commonwealth level, a range of amendments to the *Commonwealth Electoral Act 1918* (Cwth) were passed in 2012 and 2013.

1.18 In 2013 the *Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013* (Act No. 19 of 2013) (Cwth) amended the *Commonwealth Electoral Act 1918* (Cwth) and the *Referendum (Machinery Provisions) Act 1984* (Cwth).¹¹ These changes followed on from the Commonwealth Parliament's Joint Standing Committee on Electoral Matters (JSCEM) report on the 2010 federal election. The Act 'implemented the Government response to Recommendations 12, 31 and 32 of the JSCEM Report as well as making a number of technical and minor amendments'.¹² Notably, the Act modified the prescriptions for how postal votes are processed, and increased candidate nomination fees for the House of Representatives and the Senate.

1.19 Also in 2013, the *Electoral and Referendum Amendment (Improving Electoral Administration) Act 2013* (Act No. 26 of 2013) (Cwth) amended the *Commonwealth Electoral Act 1918* (Cwth), the *Referendum (Machinery Provisions) Act 1984* (Cwth) and the *Taxation Administration Act 1953* (Cwth).¹³ The Act 'implemented the Government response to Recommendations 3, 9, 10, 11, 15, 23, 29 and 30 of the JSCEM report'.¹⁴ Notably, the Act removed the requirement for an applicant for a pre-poll ordinary vote to complete and sign a certificate, thereby speeding up the counting process.

1.20 The *Referendum (Machinery Provisions) Amendment Act 2013* (Act No. 34 of 2013) (Cwth) amended the *Referendum (Machinery Provisions) Act 1984* (Cwth). The Act 'amended Section 11 of the Referendum Act to substitute a requirement that the Yes/No pamphlet be sent to each address on the

¹¹ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

¹² Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

¹³ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

¹⁴ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

electoral Roll for the previous requirement that the Yes/No pamphlet is posted to every elector and, temporarily suspending the operation of subsection 11(4) of the *Referendum Act* (Cwth) until polling day for the 2013 federal election'.¹⁵

- 1.21 In 2012, amendments to the *Commonwealth Electoral Act 1918* (Cwth) through the *Electoral and Referendum (Maintaining Address) Act 2012* (Act No. 110 of 2012) (Cwth) and the *Electoral and Referendum (Protecting Elector Participation) Act 2012* (Act No. 111 of 2012) (Cwth) provided for the introduction of direct electoral enrolment.
- 1.22 Detailed information about these amendments is available on the Australian Electoral Commission's (AEC's) website.¹⁶

South Australia

- 1.23 During the second session of the 52nd Parliament five bills relating to electoral reform were introduced to the Parliament. Each had potential to alter the South Australian electoral system and its electoral administration. The bills were the:

- *Electoral (Funding, Expenditure and Disclosure) Amendment Bill 2013* (SA), introduced in September 2013 and enacted on 24 October 2013;
- *Electoral (Miscellaneous) Amendment Bill 2012* (SA), introduced in April 2012 and enacted on 24 October 2013;
- *Electoral (Optional Preferential Voting) Amendment Bill 2012* (SA)—*Private Member's Bill* introduced by Hon Bob Such MP, April 2012;
- *Electoral (Optional Preferential Voting) Amendment Bill 2013* (SA)—*Private Member's Bill* introduced by Hon Mark Parnell MLC, October 2013; and
- *Electoral (Voting Age) Amendment Bill 2012* (SA)—*Private Member's Bill* introduced by Hon Bob Such MP, April 2012.¹⁷

- 1.24 For the purposes of this inquiry, the *Electoral (Miscellaneous) Amendment Act 2013* (SA) is particularly significant. The Act alters South Australia's electoral practice in a number of areas, including by allowing the Commonwealth's new direct enrolment and update system to flow on to update South Australia's electoral roll. It also alters arrangements for postal

¹⁵ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

¹⁶ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since the 2010 federal election', Australian Electoral Commission, West Block, Canberra, October 2013. Retrieved 8 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

¹⁷ Office of Parliamentary Counsel, Attorney-General's Department, South Australia, 'South Australian Legislation: Bills of the 2nd Session of the 52nd Parliament', Adelaide, October 2013. Retrieved 17 October 2013 from <http://www.legislation.sa.gov.au/listBills.aspx?key=E>.

voting in South Australia, although the Committee notes that the provisions in the Act were not as comprehensive as those first proposed in the bill, which involved effectively removing political parties from the postal voting process. In addition, the Act addresses a range of issues of interest to this inquiry, including administrative procedures, the authorisation of campaign materials and the introduction of a term limit on the Deputy Electoral Commissioner's appointment.¹⁸

- 1.25 The Committee also notes that the *Electoral (Legislative Council Voting Reform) Amendment Bill* (SA) would have amended the *Electoral Act 1985* (SA) to change the Legislative Council ballot structure to a Sainte-Lague count which would not utilise preferences at all. At the same time, the *Electoral (Legislative Council Voting) Amendment Bill* (SA) 'proposed changes to administrative arrangements (raising nomination fees and requiring a larger number of electors' signatures for any nomination, and ensuring that independents are placed to the far right of the Legislative Council ballot paper'.¹⁹ Only the administrative changes were passed by both Houses, and the 'new procedures were in place in time for nominations for the March 2014 state election'.²⁰
- 1.26 As noted by Newton-Farrelly, the 'amendments increase the number of electors' signatures required by a single candidate (not party-endorsed) in support of their nomination application, from 2 to 20 for a House of Assembly district and from 2 to 250 for the Legislative Council. Amendments to the *Electoral Regulations 2009* (SA) have also increased the nomination fee for any candidate, from \$450 to \$3,000'.²¹

Victoria

- 1.27 In June 2013 Section 23 of the *Electoral Act 2002* (Vic) was amended by the *Justice Legislation Amendment Bill 2013* (Vic) to include a reference to Section 20 of the Act, to allow the VEC to share enrolment information with the AEC.²²

Electoral events in Victoria

- 1.28 Following the tabling of the Committee's report into the 2010 Victorian state election, there have been a number of electoral events in Victoria.

¹⁸ *Electoral (Miscellaneous) Amendment Act 2012* (SA).

¹⁹ Jenni Newton-Farrelly, Electoral Specialist, South Australian Parliament Research Library, *Correspondence*, 27 February 2014.

²⁰ Jenni Newton-Farrelly, Electoral Specialist, South Australian Parliament Research Library, *Correspondence*, 27 February 2014.

²¹ Jenni Newton-Farrelly, Electoral Specialist, South Australian Parliament Research Library, *Correspondence*, 27 February 2014.

²² *Electoral Act 2002* (Vic) s23.

Melbourne District by-election

- 1.29 On 21 July 2012 there was a by-election for Melbourne District following the resignation, on 7 May 2012, of the sitting member, the Hon Bronwyn Pike MP.
- 1.30 The Committee did not review the by-election. However, during the inquiry the Committee did consider key electoral indicators from the by-election and analysis in the VEC's report to Parliament on the by-election, was which tabled in Parliament in October 2012.
- 1.31 The voter turnout rate at the 2012 Melbourne District by-election was 30,803 or 68.62 percent of the 44,889 enrolled electors.²³ This voter turnout rate was the second lowest for any Victorian Legislative Assembly election since the introduction of compulsory voting in Victoria in 1926. As noted by the VEC, the 'lowest turn-out rate of all was 66.82 percent at the Melbourne District by-election of 17 December 1977, which took place a week after a Federal election'.²⁴
- 1.32 The early voting period for the by-election was also longer than that usually set by the VEC for Victorian by-elections. Early voting commenced on Friday 22 June 2012, almost a full month before election day. This contrasts with the Niddrie District by-election, held in March 2012, which had an early voting period of two weeks, and the 2006 and 2010 Victorian state elections, which also had early voting periods of two weeks. Chapter Two considers this matter in further detail.
- 1.33 Another distinguishing feature of the Melbourne District by-election was the informal voting rate of 9.34 percent. Chapter Three considers this issue in further detail.

Lyndhurst District by-election

- 1.34 A by-election for Lyndhurst District was held on 27 April 2013.

Redivision of Victorian state electoral boundaries

- 1.35 In December 2012 the Electoral Boundaries Commission (EBC), the government body responsible for conducting electoral divisions in Victoria, commenced the 2012-2013 redivision of Victoria's state electoral boundaries. The EBC is an independent statutory body composed of His Honour Chief Judge Michael Rozenes AO, Chief Judge of the County Court, as chairman, (Liz Williams as Acting Electoral Commissioner until 29 April 2013, and then Warwick Gately AM) and John Tulloch, Surveyor-General.²⁵

²³ Victorian Electoral Commission, *Report to Parliament on the Melbourne District by-election*, Victorian Electoral Commission, Melbourne, October 2012, p.i.

²⁴ Victorian Electoral Commission, *Report to Parliament on the Melbourne District by-election*, Victorian Electoral Commission, Melbourne, October 2012, p.i.

²⁵ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.3.

- 1.36 The term 'redivision' is used in Victoria. For the Commonwealth the term 'redistribution' is used.
- 1.37 The 2012-2013 redivision was the first in Victoria for both houses of the Parliament of Victoria since 2001. The Legislative Council was restructured following reforms to the *Constitution Act 1975* (Vic) in 2003, which came into effect for the 2006 Victorian state election.²⁶ However, for a number of reasons, the next relevant period for a redivision of both Houses did not occur until 29 November 2012. These reasons are explained in the EBC's final report on the 2012-2013 redivision of electoral boundaries.²⁷
- 1.38 In addition, a summary of the final electoral boundaries is contained in the EBC's final report. For the purposes of this report, it is appropriate to note the EBC transferred a total of 1,068,389 electors, or nearly 30 percent of all Victorian electors, to a different electoral District.²⁸ For the Legislative Council, the EBC transferred 392,844 (or 10.8 percent) of Victorian electors to a different electoral Region.²⁹
- 1.39 The Committee did not have a role in the redivision process. On 13 June 2012 the Committee received a presentation about the VEC's GIS mapping software and the process for determining population projections. Chapter Eight discusses how Victoria's electoral Districts are named.

Inquiry process

- 1.40 As noted earlier, on 7 March 2012 the Committee, pursuant to Section 33(3) of the *Parliamentary Committees Act 2003* (Vic), self-referenced this inquiry into the future of Victoria's electoral administration.

Preliminary research

- 1.41 The Committee met on 7 March 2012 and resolved to devise a preliminary research schedule for the inquiry. Given the secretariat was in the process of completing the final report for the inquiry into the 2010 Victorian state election, preliminary research commenced in April 2012 and accelerated in May 2012 following the tabling of the final report in Parliament.

Parliamentary Library

- 1.42 During this initial research phase the secretariat received assistance and research support from the Victorian Parliamentary Library Research Service, just as it did during the Committee's inquiry into the 2010 Victorian state

²⁶ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.3.

²⁷ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.31.

²⁸ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.30.

²⁹ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.30.

election; at the time, the Research Service prepared an election briefing. One of the functions of the Victorian Parliamentary Library's Research Service is to provide bill-focused research summaries. These summaries are greatly valued by parliamentary stakeholders and the public more generally.

Call for submissions, discussion paper and stakeholder liaison

- 1.43 It is common practice for the Parliament of Victoria's Joint Investigatory Committees to advertise their terms of reference and invite members of the public to make a submission to the inquiry. For its past seven inquiries the Committee has followed this practice. For this inquiry, prior to advertising the terms of reference, the Committee decided to stimulate additional interest in the inquiry by issuing a discussion paper.
- 1.44 The discussion paper was released in November 2012. A copy can be found on the Committee's website.³⁰
- 1.45 As a result of the Committee's work in the 56th and 57th Parliaments, the Committee is fortunate to have a wide network of stakeholders in the electoral community, including experts in electoral reform, Victoria's electoral system and electoral administration. These contacts span the academic community, psephologists (people who study elections), electoral commissions, their staff and members of the public with an interest in electoral administration. On 12 December 2012, the Committee wrote to these stakeholders, inviting them to participate either by making a submission or by appearing at the public hearings. As part of this correspondence stakeholders received a copy of the discussion paper.
- 1.46 In conjunction with the distribution of the discussion paper, the Committee placed a call for submissions in *The Age* and the *Herald Sun* newspapers on 8 December 2012. While the deadline for submissions was 1 February 2013, the Committee accepted some submissions after this date following requests from some inquiry participants for an extension to the deadline. In addition, the Committee called for submissions on the Parliament of Victoria's website, and through the Parliament's Twitter feed. Stakeholders and members of the public could follow particular stages of the inquiry's progress through Twitter.

Submissions

- 1.47 The Committee received submissions from 14 individuals and organisations based in Victoria and interstate. Appendix Two is a list of these submissions. Submissions addressed a range of issues. The Committee was pleased that inquiry participants chose to address themes outlined in the discussion paper.

³⁰ Parliament of Victoria, Electoral Matters Committee, 'Inquiry into the future of Victoria's electoral administration: Discussion paper', Parliament of Victoria, Melbourne, November 2012. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/article/1982>.

Public hearings

- 1.48 Based on feedback from inquiry participants, stakeholders and those who made submissions, the Committee devised a public hearing program in early 2013. Those who made written submissions to the inquiry were invited to attend.
- 1.49 On 12 and 14 March 2013, the Committee held public hearings for the inquiry in the Legislative Council Committee Room, Parliament House, Melbourne. The hearings were advertised in the same advertisement as the call for submissions in *The Age* and *Herald Sun* newspapers on 8 December 2012. In addition, the Committee also held a public hearing on 19 June 2013, at which Antony Green, ABC Election Analyst, gave evidence.
- 1.50 The Committee heard from 18 individuals and 10 organisations. The first day of hearings on 12 March 2013 saw evidence from disability and advocacy groups including the Ethnic Communities' Council of Victoria (ECCV), Able Australia, Blind Citizens Australia and People with Multiple Sclerosis. Evidence was also received from some of Victoria's registered political parties. On the second day of hearings on 14 March 2013, the Committee heard from the VEC, Vanessa Teague, University of Melbourne and John Mulholland.
- 1.51 Appendix One lists inquiry participants who appeared at the public hearings. The transcripts of evidence are also available on the Committee's website at <http://www.parliament.vic.gov.au/emc/article/1812>.

Background briefings

- 1.52 Background briefings are an important part of the inquiry process. They assist the Committee to refine its views and access information from inquiry participants who have expertise in a particular area.
- 1.53 During the inquiry the Committee was fortunate to receive briefings from stakeholders in the Victorian electoral community. Appendix Three lists the briefings.

Electoral Regulation and Research Network

- 1.54 The Electoral Regulation and Research Network (ERRN) was established in 2012 with the aim of fostering exchange and discussion amongst academics, electoral commissions and other interested groups on research relating to electoral regulation. Since 2012, the Committee secretariat has participated in ERRN workshops. Doing so has afforded staff valuable opportunities to contribute to scholarly discussion about electoral law and regulation in Australia.
- 1.55 The Committee wishes to acknowledge the good relationships it has with academics at various institutions in Melbourne, including Brian Costar, Professor, Swinburne University of Technology's Institute of Social Research, Joo-Cheong Tham, Associate Professor, Melbourne Law School, and Aaron

Martin, Lecturer, School of Social and Political Sciences, University of Melbourne. Associate Professor Tham is the Director of the ERRN network and Dr Martin the editor of the ERRN working paper series.

Site visits – Australia

- 1.56 Outside Victoria, the Committee has good relationships with Australia's electoral commissions, psephologists and electorally-focused academics. During the inquiry the Committee was fortunate to meet some of these stakeholders.
- 1.57 In August 2012 and October 2013, the Committee travelled to Darwin to meet with Bill Shephard, Northern Territory Electoral Commissioner. The primary purpose of the August 2012 visit was to observe matters related to the 2012 Northern Territory general election. In October 2013 the Committee returned to Darwin to meet with Mr Shephard and other individuals about developments in electoral education in the Northern Territory, building on the findings of the August 2012 visit. Appendix Four contains a full meeting schedule for both these visits.
- 1.58 The Committee wishes to thank Mr Shephard for meeting with the Committee in August 2012, during a peak period in the Northern Territory Electoral Commission's workload due to the general election.

International study tour – United States of America, 2013

- 1.59 On 22 April 2013, the Committee travelled to the United States of America (US). The main purpose of this study tour was to conduct investigations for the Committee's inquiry. The Committee received approval for these investigations from the Speaker of the Legislative Assembly on 3 August 2012.
- 1.60 On 22 August 2013, the Committee tabled a report in the Victorian Parliamentary Library about the study tour. The report contains information about the organisations the Committee met with in the US, research briefings and notes resulting from the meetings. A copy of the report is available from the Victorian Parliamentary Library.
- 1.61 Findings from the study tour are discussed throughout this report at relevant points.

Data analysis

- 1.62 The research, recommendations and findings in this report are based primarily on evidence received during the inquiry process. Written submissions and transcripts of evidence from public hearings form the basis of the Committee's analysis. These documents are analysed using qualitative research techniques, including thematic analysis and coding, to ascertain key themes.

- 1.63 Where appropriate, secondary research is undertaken to provide a broader perspective on issues raised in submissions and at the public hearings.

Role of Australia's electoral matters committees

- 1.64 An issue which the Committee did not receive evidence about during the inquiry, but which still has significant implications for Victoria's electoral administration, relates to the role of Australia's three parliamentary electoral matters committees in Australia's electoral system.
- 1.65 The Committee is aware of academic commentary about the value of parliamentary electoral matters committees in fostering ongoing debate about electoral reform at the federal and state level. Parliamentary committees also perform an important oversight role in some jurisdictions, as noted earlier with regards to the PAEC's oversight of VAGO. Chapter Four addresses these issues in further detail.

Report outline

- 1.66 This report is organised into nine chapters, including this Introduction.
- 1.67 Chapter Two addresses early voting in Victoria.
- 1.68 Chapter Three addresses methods to reduce informal voting at Victorian Legislative Assembly elections.
- 1.69 Chapter Four addresses parliamentary oversight of electoral administration.
- 1.70 Chapter Five addresses the Victorian state election tally room.
- 1.71 Chapter Six addresses encouraging participation at Victorian elections.
- 1.72 Chapter Seven addresses the impact of social media on Victorian elections and Victoria's electoral administration.
- 1.73 Chapter Eight considers ways to modernise and promote the Parliament.
- 1.74 Chapter Nine addresses electronic voting at Victorian elections.

CHAPTER TWO: AT A GLANCE

- **Early voting is the act of casting a vote before election day. In Victoria, electors can vote early by post or in person at an early voting centre.**
- **Rates of early voting in person have increased significantly at recent Victorian state elections. There has been a 202 percent increase in early voting at Victorian state elections since 2002.**
- **For this inquiry, the Committee was particularly interested in the increase in rates of early voting in person. Increased rates of early voting in person have a range of implications for Victorian electoral practice.**
- **Inquiry participants gave evidence about the growth of early voting in person in five areas: reasons why early voting has increased; normative implications; the length of the early voting period; impact on campaigning; and, impact on electoral administration.**
- **The Committee finds that early voting is now an established part of Victorian electoral practice, and that a two-week voting period is sufficient for Victorian elections. The Committee also recommends the VEC continue research into early voting.**

Chapter Two: Early voting at Victorian elections

- 2.1 Chapter Two considers the topic of early voting at Victorian elections. It begins by defining early voting and documenting recent trends in rates of early voting at recent Victorian and federal elections. This chapter then reviews evidence received during the inquiry about early voting, focusing on four areas: views about whether the rise of early voting is a positive or negative development; views about the length of the early voting period for Victorian elections; views about the impact of early voting on the capacity of political parties to campaign and communicate with electors; and views about the impact of early voting on electoral administration. This chapter concludes with the Committee's findings.
- 2.2 This chapter appears in this report following the Committee's decision to reconsider and reflect on a number of matters relating to early voting raised during its inquiry into the 2010 Victorian state election.³¹

Definition of early voting

- 2.3 Early voting is the act of casting a vote before election day. It is also widely referred to as 'pre-poll voting' by electoral administrators and psephologists. Pre-poll voting is the term used to describe early voting in Commonwealth legislation. In Victoria, the *Electoral Act 2002* (Vic) uses the term 'early voting'.³²
- 2.4 The only practical distinction between early voters and ordinary, election day voters in Australia and Victoria is that electors vote before election day in a designated early voting centre, also known as a pre-poll voting centre, or by post. Electors who vote early receive the same voting papers as other electors. Some early voters with special needs also have access to other forms of voting; the VEC establishes early voting centres at state elections with non-internet enabled electronic voting consoles to enable voting by people with low vision, motor disabilities and people who speak a language other than English. Victorians who were interstate or overseas at the time of the 2010 Victorian state election could also use the electronic voting kiosks.

³¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

³² *Electoral Act 2002* (Vic).

Different forms of early voting

2.5 In Victoria, electors can vote early in one of two ways.

Postal voting

2.6 One method for Victorian elections is to vote by post, otherwise known as postal voting. Postal voting is the oldest form of early voting in Australia, having been available to electors for federal elections since 1906.³³

2.7 To vote by post in Victorian elections, electors must lodge an application for a postal vote after the issuing of the writ, which occurs at least 25 days before election day.³⁴ The form is available online. Applications 'must be received and processed in time so that the elector is able to send the ballot paper back to the VEC for processing'.³⁵

2.8 Electors in Victoria may also register to become general postal voters. General postal voters are electors who always vote via post. These electors are automatically sent their ballot pack for every election relevant to them, and need to complete and mail it back to the VEC before election day. The criteria to register as a general postal voter in Victoria are those who:

- Live 20km from a voting centre;
- Are seriously ill or infirm, or caring for someone who is;
- Are 70 or more years old;
- Are in prison (but still on the electoral roll);
- Are a silent elector; or
- Are unable to attend on election day for religious reasons.³⁶

2.9 It is important to note that electors in Victoria who receive a ballot pack by post due to reasons of age do not 'automatically receive ballot materials for federal elections, as the relevant provisions in the *Electoral Act 2002* (Vic) and the *Commonwealth Electoral Act 1918* (Cwth) are different'.³⁷

³³ Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

³⁴ Victorian Electoral Commission, 'Postal Voting', Melbourne, Victorian Electoral Commission, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Vote/vote-postal.html>.

³⁵ Victorian Electoral Commission, 'Postal Voting', Melbourne, Victorian Electoral Commission, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Vote/vote-postal.html>.

³⁶ Victorian Electoral Commission, 'Postal Voting', Melbourne, Victorian Electoral Commission, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Vote/vote-postal.html>.

³⁷ Victorian Electoral Commission, 'Postal Voting', Melbourne, Victorian Electoral Commission, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Vote/vote-postal.html>.

Committee's view about postal voting

- 2.10 The Committee maintains a strong interest in the debate about the role of political parties in the postal voting process. In Australia, political parties are involved in the postal voting process although to a different extent in each of Australia's nine jurisdictions.
- 2.11 For this inquiry, the Port Phillip Greens' submission raised concerns about the 'general level of cynicism' in the community about political party involvement in postal voting.³⁸
- 2.12 At this point the Committee believes a quick summary of the debate about postal voting is appropriate. Some commentators argue that political parties should not have a role in the postal voting process. It is suggested that it causes confusion amongst electors, leading some to believe that a party postal application is in fact an official application sent by an electoral commission. For this reason, the VEC has previously suggested that the Committee recommend restricting political party involvement in postal voting.³⁹ In contrast, proponents of political party involvement in postal voting argue it is the right of political participants to play a role in the postal voting process, due to the resource constraints electoral commissions face in an environment where postal voting and flexible voting methods are growing in popularity.
- 2.13 In Victoria, Section 101 of the *Electoral Act 2002 (Vic)* provides for political parties and individuals other than the VEC to be involved in the postal voting process.⁴⁰
- 2.14 During the Committee's inquiries into the 2006 and 2010 Victorian state elections, the Committee considered evidence from different stakeholders about the role of political parties in the Victorian postal voting process. During this inquiry the Committee did not receive evidence about this matter. However, as a courtesy to those with an interest in the Committee's work, the Committee wishes to refer to its finding in its final report for the inquiry into the 2010 Victorian state election. Responding to evidence from the VEC about its concern about the role of political parties in the postal voting process, the Committee decided that 'political parties in Victoria are sufficiently resourced and organised to send postal voting materials to eligible Victorian electors'.⁴¹ The Committee maintains this view.
- 2.15 The Committee expects there will be some interest in its continuing position on political party involvement in postal voting following the 2013 federal election, as this issue has again been the subject of media scrutiny. It is likely that the Commonwealth JSCEM will also hear evidence on this matter during

³⁸ Port Phillip Greens, *Submission No.1*, p.p.3-4.

³⁹ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, 2011, p.99.

⁴⁰ *Electoral Act 2002 (Vic)* s101.

⁴¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.70. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

its inquiry into the 2013 federal election, which commenced in February 2014. This discussion is also referred to for definitional purposes, as the evidence focusing on early voting during this inquiry relates to early voting in person.

- 2.16 Further to this, readers are encouraged to review the Committee's findings on matters related to early voting in Chapter Four of the final report into the 2010 Victorian state election, as well as the government response to the report.⁴²

Early voting in person

- 2.17 Early voting in person is the other form of early voting available to Victorian electors. Victorian electors can vote in the two weeks before election day by attending an early voting centre; these are selected and publicised by the VEC prior to election day, and the VEC's website carries information about the location and opening hours of early voting centres at election time.⁴³ Early voting centres are usually open during business hours.
- 2.18 Unlike postal voting, which has been a feature of Australian elections since Federation, early voting in person is a relatively new form of electoral participation. While there have been absentee voting provisions in Australia since colonial times, notably in South Australia, the *Commonwealth Electoral Act 1918* (Cwth) was amended in 1984 to provide for early voting in person.⁴⁴ Early voting was introduced in Victoria around this time.
- 2.19 The growth in early voting in person has been one of the most notable trends in electoral participation across Australia in recent years. As shown later in this chapter, rates of early voting in person have doubled and in some cases tripled at recent federal and Victorian state elections. Despite some work by the Commonwealth JSCEM on this matter in 2007 and 2008, few Australian agencies or academic institutions are considering the rise of early voting in person.⁴⁵ As a result of this, the Committee formed the view during its inquiry into the 2010 Victorian state election that the trend towards early voting in person and flexible voting methods in Victoria required examination, and that this inquiry would be the best forum to seek specific evidence about the matter. Fundamentally, the Committee accepts that increasing rates of early voting in person have a range of implications for Victorian electoral practice.

⁴² Parliament of Victoria, Electoral Matters Committee, 'Report and response', Parliament of Victoria, Melbourne, May 2012, p.70. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

⁴³ Victorian Electoral Commission, 'Where to Vote', Melbourne, Victorian Electoral Commission, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Vote/vote-where.html>.

⁴⁴ Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

⁴⁵ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009. Retrieved 10 November 2013 from http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect07/report2.htm.

Matters held over from the Committee's 2010 Victorian state election inquiry

- 2.20 As noted earlier, during its inquiry into the 2010 Victorian state election the Committee chose to reinvestigate a number of matters relating to the increase in early voting at Victorian state elections. These matters were mostly connected to early voting in person. They were:
- Matters relating to the way the VEC advertised the option to vote early to electors, and how the VEC conducted election manager training;
 - The criteria for early voting in person in Victoria and how this was published on the VEC's website; and
 - Matters relating to the VEC's research into early voting.⁴⁶
- 2.21 Evidence about these matters is addressed in appropriate sections below. In addition, new evidence about early voting in person is considered where appropriate.

Legislative provisions for voting early in Victoria

- 2.22 The relevant sections of the *Electoral Act 2002 (Vic)* providing for early voting in person at Victorian elections were outlined in the Committee's discussion paper for this inquiry. In the interests of clarity and context, they are repeated here.

Postal voting

- 2.23 Sections 101-103 and 106 of the *Electoral Act 2002 (Vic)* provide for the process by which an elector may apply to vote by post.⁴⁷ Section 24 of the *Electoral Act 2002 (Vic)* also provides the criteria for a person to be registered as a general postal voter.⁴⁸

Early voting

- 2.24 Sections 98 and 99 of the *Electoral Act 2002 (Vic)* provide for early voting in person at Victorian elections. Section 98 of the Act states:

“(1) An elector may apply to an election manager or an election official at an early voting centre during the operating times advertised under [S]ection 65 to vote within the period that-

(a) starts at 4 p.m. on the final nomination day; and

⁴⁶ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.83. Retrieved 11 November 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

⁴⁷ *Electoral Act 2002 (Vic)* s101-103.

⁴⁸ *Electoral Act 2002 (Vic)* s24.

(b) ends at 6 p.m. on the day immediately before election day".⁴⁹

- 2.25 The Committee recognises that Victorian legislation is not as prescriptive as other Australian jurisdictions regarding the criteria to vote early in person at Victorian elections. Section 98 of the *Electoral Act 2002* (Vic) provides for early voting at Victorian elections. In effect, the criteria for Victorian electors for early voting, under Section 98 and 99, are that the elector is unable to attend a polling day voting centre. There are no further qualifications in the Act.
- 2.26 Previously, the Committee expressed its concern about how the VEC had published this information on its website. In its report on the 2010 Victorian state election the Committee recommended the VEC amend its website to make the criteria for early voting clearer to electors.⁵⁰ In the Victorian Government's response to the Committee's final report, the Victorian Government indicated that the VEC had written directly to the Committee about this matter, undertaking to amend its website.⁵¹ The Committee notes this has been done and thanks the VEC for its response.

Brief history of early voting in person at Australian elections

- 2.27 The Committee considered the history of early voting in Australia, focusing on federal elections.
- 2.28 One of the few official studies of early voting at Australian elections was conducted by the AEC in 2004.⁵² The report focused on declaration voting, but it also provided a short history of the development of early voting in Australia.
- 2.29 As noted earlier, early voting in person was first introduced for federal elections in 1984. This was made possible by amendments in 1983 to the *Commonwealth Electoral Act 1918* (Cwth). When the Act was rewritten, the AEC notes 'that at the Commonwealth level, the criteria for pre-poll voting were adapted from the criteria for postal voting. In 1990 the Act was amended to provide for pre-poll voting in its current form'.⁵³
- 2.30 Since then, the most significant amendments to the Act took place in 2010 and 2013. In 2010, the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010* (Cwth) amended the Act to enable

⁴⁹ *Electoral Act 2002* (Vic) s98.

⁵⁰ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.83. Retrieved 11 November 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

⁵¹ Victorian Government, 'Government response to the electoral matters committee inquiry into the 2010 Victorian state election', Victorian Government, Melbourne, November 2012, p.2. Retrieved 11 November 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

⁵² Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

⁵³ Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

pre-poll votes cast in an elector's home Division to be cast and counted as ordinary votes, rather than declaration votes.⁵⁴ As a consequence of this legislation, the 2010 federal election became the first election at which pre-poll ordinary voting was available for electors. At this election, 'there were 996,875 pre-poll ordinary votes cast. In practice, home Division ordinary pre-poll votes are issued in a similar way to ordinary votes on polling day'.⁵⁵

- 2.31 The next major amendment occurred, as noted in Chapter One, in 2013 with the enactment of the *Electoral and Referendum Amendment (Improving Electoral Administration) Act 2013* (Cwth); this has effectively brought Commonwealth practice in line with that of the states, in that electors voting early in person are no longer required to sign a declaration as to their entitlement.⁵⁶ Instead, they give a verbal declaration. The AEC noted in its submission to the inquiry into the *Amendment Bill* that electoral integrity was not affected by the legislation.
- 2.32 The AEC has argued for some time that early voting is being driven by elector convenience. In a 2004 report on declaration voting, the AEC dedicated a section to the underlying reasons for the increase in early voting in person. The report concluded that changing social conditions, including changing work patterns to the weekend and other commitments, had led to a situation where many electors saw voting before election day as convenient.⁵⁷ More recently, the AEC discussed the popularity of pre-poll voting in its submission to the Commonwealth JSCEM's inquiry into the above (*Electoral Administration) Amendment Bill* (Cwth).

Similarities in the development of early voting, Australia and the US

- 2.33 Australia is not the only country to have seen significant increases in rates of early voting in recent years. During its study tour to the US in April 2013, the Committee discussed early voting, also known as convenience voting, with academic experts in the field, including Paul Gronke, Professor, Reed College, Oregon, Michael Alvarez, Professor, California University of Technology (Caltech), Stephen Ansolabehere, Professor, Harvard University, and Jonathon Katz, Professor, Caltech. Professor Gronke leads the Early Voting Information Centre at Reed College; Professors Alvarez, Ansolabehere and Katz lead the Caltech/MIT Voting Technology project.

⁵⁴ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since 2010', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

Australian Electoral Commission, 'Submission to the Inquiry by the Joint Standing Committee on Electoral Matters into the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012', Australian Electoral Commission, West Block, Canberra, December 2012, p.9. Retrieved 10 November 2011 from http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/improvingelectoraladmin/subs/sub03%20aus%20electoral%20commission.pdf.

⁵⁶ Australian Electoral Commission, 'Commonwealth electoral legislation – changes since 2010', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/elections/australian_electoral_system/legislation-changes.htm.

⁵⁷ Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

- 2.34 One of the interesting insights to come from the Committee's meetings with Professors Gronke, Alvarez, Ansolabehere and Katz related to similarities in the historical development of early voting in person in the US. Like Australia, the US has a long history of postal voting and absentee voting. Absentee voting arose in the nineteenth and twentieth centuries out of a 'need for a more mobile populace to exercise its vote'.⁵⁸ As in colonial Australia, absentee voting in the US was widely available during periods of war; the overseas absentee voting was popular for soldiers serving in World War II.⁵⁹
- 2.35 The Committee learnt that early voting in person became a popular in the US at roughly the same time it as it was first legislated for at Australia elections. While there are definitional issues at the US state level between absentee voting and early voting – in many states, they are one and the same – Texas was the first state to adopt early voting in person extensively in the 1980s. By the 1990s Oklahoma, Tennessee, Nevada and New Mexico had comprehensive early voting practices.⁶⁰

Trends in rates of early voting in person at Victorian, federal and Australian state elections

- 2.36 The Committee has previously considered trends in early voting at Victorian, federal and Australian state elections as part of its inquiry into the 2010 Victorian state election. Discussion point four in the discussion paper for this inquiry focused on early voting.⁶¹ In this section of the report, the Committee discusses these statistics, both in order to give context to this section of the report and as a background to new evidence received from inquiry participants.

Victorian elections

- 2.37 As noted on page 20 of the discussion paper, there has been a significant increase in the rate of early voting in person at recent Victorian state elections.⁶² From the 2002 Victorian state election to the 2010 Victorian state election, there was an increase of 202 percent in the rate of early voting in person. 543,763 people voted early in person at the 2010 Victorian state election, an increase of 90 percent on the rate of early voting in person at the 2006 Victorian state election.⁶³ Over 15 percent of the total number of eligible electors enrolled for the 2010 Victorian state election voted early in person.

⁵⁸ Fortier, C.J., 2006. *Absentee and Early voting: trends, promises, and perils*, American Enterprise Institute, American Enterprise Institute Press, Washington D.C, p.7.

⁵⁹ Fortier, C.J., 2006. *Absentee and Early voting: trends, promises, and perils*, American Enterprise Institute, American Enterprise Institute Press, Washington D.C, p.8.

⁶⁰ Fortier, C.J., 2006. *Absentee and Early voting: trends, promises, and perils*, American Enterprise Institute, American Enterprise Institute Press, Washington D.C, p.35.

⁶¹ Parliament of Victoria, Electoral Matters Committee, 'Inquiry into the future of Victoria's electoral administration: Discussion paper', Parliament of Victoria, Melbourne, November 2012, p.19. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/article/1982>.

⁶² Parliament of Victoria, Electoral Matters Committee, 'Inquiry into the future of Victoria's electoral administration: Discussion paper', Parliament of Victoria, Melbourne, November 2012, p.20. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/article/1982>.

⁶³ Parliament of Victoria, Electoral Matters Committee, 'Inquiry into the 2010 Victorian state election', Parliament of Victoria, Melbourne, May 2012, p.75.

Expressed another way, 31 percent of the total number of votes at the 2010 Victorian state election were cast prior to election day.⁶⁴

- 2.38 As part of this inquiry the VEC provided the Committee with up-to-date statistics about early voting. Figure 2.1 compares rates of early voting in person and postal voting at recent Australian state and territory elections.

Figure 2.1: Rates of early voting at recent Australian state elections

State or Territory	Early voting type	Most recent election	Second most recent election	Third most recent election
Victoria	Postal	7.44%	6.26%	4.3%
	Early	16.33%	8.8%	5.98%
New South Wales	Postal	5.72%	5.53%	4.16%
	Pre-poll	8.22%	5.90%	3.75%
	ivote	10.92%		
Queensland	Postal	8.47%	7.45%	6.28%
	Pre-poll	9.81%	6.23%	3.94%
South Australia	Postal	11.08%	7.65%	5.59%
	Pre-poll	4.66%	3.51%	3.42%
Western Australia	Early [#]	9.75%	6.25%	4.94%
Northern Territory	Postal	3.9%	3.4%	3.4%
	Pre-poll	13.9%	11.0%	8.7%
Tasmania	Postal	7.19%	6.31%	5.74%
	Pre-poll	4.01%	2.45%	2.24%
Australian Capital Territory	Postal	4.30%	4.36%	2.89%
	Pre-poll	26.91%	20.29%	13.59%

Source: Victorian Electoral Commission, *Submission No.5*, p.9.

Federal elections

- 2.39 Rates of early voting in person have increased significantly at recent federal elections. The AEC has followed this trend, and it has been considered at different times by the Commonwealth JSCEM, including its inquiry into the 2007 federal election.
- 2.40 The 2013 federal election was held on 7 September 2013. Throughout the early voting period for the federal election, there was considerable interest in the number of pre-poll votes cast. In terms of media coverage, the Australian Broadcasting Corporation (ABC) and the *Australian* reported on the record number of early voters.⁶⁵ Even local newspapers reported on early voting; on 6 September 2013, the *Bendigo Advertiser* examined the popularity of pre-

⁶⁴ Parliament of Victoria, Electoral Matters Committee, 'Inquiry into the 2010 Victorian state election', Parliament of Victoria, Melbourne, May 2012, p.75.

⁶⁵ Herrick, R., 5 September 2013, 'Early voters turning out in record numbers for federal election', *Australian Broadcasting Corporation*. Retrieved 13 November 2013 from <http://www.abc.net.au/news/2013-09-02/early-voters-turning-out-in-record-numbers/4929506>; Fitzpatrick, S., 7 September 2013, 'A record three million early voters delay cliff-hanger results', *The Australian*. Retrieved 12 November 2013 from <http://www.theaustralian.com.au/national-affairs/election-2013/a-record-three-million-early-voters-delay-cliff-hanger-results/story-fn9qr68y-1226713606793#>; Australian Electoral Commission, 'Australian Electoral Commission urges travellers to vote early', 28 August 2013. Retrieved 11 November 2013 from <http://www.news.com.au/travel/travel-advice/australian-electoral-commission-urges-travellers-to-vote-early/story-e6frfqfr-1226706015841>.

poll voting in Bendigo Division.⁶⁶ In addition to these media reports, the AEC issued a media release comparing the 2013 figures with figures from the 2010 federal election at different points in the election period.

- 2.41 Approximately 3.3 million electors voted early by either by post or in person at the 2013 federal election, in comparison to 2.5 million at the 2010 federal election.⁶⁷ Over 1.3 million postal vote applications were received for the 2013 federal election. This compares to the 950,000 postal vote applications received for the 2010 federal election.⁶⁸

Other Australian state elections

- 2.42 In its report into the 2010 Victorian state election, the Committee examined early voting statistics from other Australian states and territories. There has been a general, upward trend in early voting across all Australian states and territories. While recent increases in Victoria have been slightly more pronounced, it is important to see these increases as part of a national trend.
- 2.43 In NSW, rates of early voting have increased at the past five NSW state elections. The NSW Electoral Commission's (NSWEC) report into the 2011 NSW state election summarises early voting patterns at the past five NSW elections, detailing the growth in early voting in person, or 'pre-poll' voting as it is labelled in Figure 2.2. The Committee notes the substantial jump in the rate of early voting at the past two NSW state elections – both these elections occurred around five months after the corresponding Victorian state election in 2006 and 2010. The NSWEC notes:

In the 2011 NSW state election almost three quarters (74.3%) of the votes were taken on election day... This represents the lowest attendance voting since 1995.⁶⁹

⁶⁶ Thomson, B., 6 September 2013, 'Pre-polling on the rise in Bendigo', *Bendigo Advertiser*. Retrieved 12 November 2013 from <http://www.bendigoadvertiser.com.au/story/1757210/pre-polling-on-the-rise-in-bendigo/>.

⁶⁷ Australian Electoral Commission, 'Media key facts and figures, 2013 federal election', Australian Electoral Commission, West Block, Canberra, 20 September 2013. Retrieved 12 November 2013 from http://www.aec.gov.au/Elections/Federal_Elections/2013/e2013-facts.htm.

⁶⁸ Australian Electoral Commission, 'Media key facts and figures, 2013 federal election', Australian Electoral Commission, West Block, Canberra, 20 September 2013. Retrieved 12 November 2013 from http://www.aec.gov.au/Elections/Federal_Elections/2013/e2013-facts.htm.

⁶⁹ NSW Electoral Commission, *Report on the conduct of the 2011 NSW state election*, NSW Electoral Commission, Sydney, 2011, p.p.64-67.

Figure 2.2: Rates of early voting by type, past five NSW state elections

Voting methods	1995	1999	2003	2007	2011
	%	%	%	%	%
iVote	-	-	-	-	1.1%
Postal	1.8%	3.2%	4.2%	5.5%	5.7%
Pre-poll	2.3%	3.8%	3.4%	5.5%	8.2%
Declared Institution	n/a	0.4%	0.3%	0.4%	0.3%
Early Voting Totals	4.1%	7.4%	7.9%	11.4%	15.3%
Ordinary	88.2%	84.6%	83.6%	81.1%	74.3%
On the day voting Totals	88.2%	84.6%	83.6%	81.1%	74.3%
Section/ Silent	n/a	0.1%	0.2%	0.1%	0.3%
Enrolment New	-	-	-	-	0.5%
Absent	7.7%	7.9%	8.3%	7.4%	9.5%
Other methods of voting Totals	7.7%	8.0%	8.5%	7.5%	10.3%
Totals	100.0%	100.0%	100.0%	100.0%	100.0%

Source: NSW Electoral Commission, *Report on the conduct of the 2011 NSW state election*, NSW Electoral Commission, Sydney, 2011, p.p.64-67.

- 2.44 Western Australia and the Northern Territory have experienced similar increases in early voting in person. During its inquiry into the 2010 Victorian state election the Committee met Warwick Gatley AM, the then Western Australian Electoral Commissioner (now Victorian Electoral Commissioner). Mr Gatley advised there was a 77 percent increase in early voting in person at the 2008 Western Australian state election compared to the 2005 Western Australian state election.⁷⁰
- 2.45 As noted in Chapter One, during this inquiry the Committee met Bill Shephard, Northern Territory Electoral Commissioner. One of the issues discussed was the growing popularity of early voting in person at the 2012 Northern Territory general election.

Evidence addressing the growth in early voting in person

- 2.46 There is widespread interest in the growth of early voting. This is reflected in the response to this inquiry and the Committee's discussion paper; 70 percent of submissions addressed the issue of early voting in person, as did over 80 percent of the inquiry participants who appeared at the public hearings.

⁷⁰ Warwick Gatley, Former Western Australian Electoral Commissioner, Western Australian Electoral Commission, *Correspondence*, 21 December 2011, p.p.1-2.

- 2.47 The evidence the Committee received covered five topics: evidence relating to the growing popularity of early voting in person; evidence considering the normative implications of current rates of early voting in person; evidence about the length of the early voting period; evidence about the impact of early voting in person on political campaigning; and, evidence about the impact of early voting on electoral administration. Each is addressed below.
- 2.48 The Committee also wishes to again note the valuable evidence it obtained during its US study tour in April 2013. Examples of this are also detailed below.

Reasons for the growing popularity of early voting in person

- 2.49 Many electors around Australia are choosing to vote early in person, and flexible voting methods are increasingly popular. While there is no hard data on this from the perspective of electors, the information the Committee and other parliamentary committees, notably the Commonwealth JSCEM, have is convincing – early voting is popular and electors like it. At the time of the 2010 Victorian state election, as noted in the Committee's discussion paper, the VEC commissioned Colmar Brunton, a market research firm, to conduct an evaluation of the VEC's services to voters at the 2010 Victorian state election. Colmar Brunton conducted an intercept survey of 111 voters who voted at early voting centres across Victoria.⁷¹ The main reason why respondents voted early was 'because they were going to be at work on election day. The second and third reasons were because they were going to be interstate on election day, or in another part of Victoria on election day'.⁷²
- 2.50 In this survey electors clearly favour flexible voting methods. The VEC's Colmar Brunton survey noted that early voters were 'very satisfied' with their experience at the voting centre, with more than nine out of ten 'extremely satisfied'.⁷³ Colmar Brunton concludes that early voters view the option to vote early as a positive feature of Victoria's electoral system. Similarly, in 2007 the Commonwealth JSCEM reported that many electors are expecting to participate at election time more flexibly, in a way consistent with their lifestyle decisions.⁷⁴
- 2.51 The Committee understands there are electorate-specific explanations for increasing rates of early voting in person. For instance, the AEC's 2004

⁷¹ Colmar Brunton, 'Evaluation of services at the November 2010 Victorian state election, Colmar Brunton, Melbourne, May 2011, p.85. Retrieved 12 November 2013 from <https://www.vec.vic.gov.au/files/RP-EvaluationOfServices2010.pdf>.

⁷² Colmar Brunton, 'Evaluation of services at the November 2010 Victorian state election, Colmar Brunton, Melbourne, May 2011, p.85. Retrieved 12 November 2013 from <https://www.vec.vic.gov.au/files/RP-EvaluationOfServices2010.pdf>.

⁷³ Colmar Brunton, 'Evaluation of services at the November 2010 Victorian state election, Colmar Brunton, Melbourne, May 2011, p.86. Retrieved 12 November 2013 from <https://www.vec.vic.gov.au/files/RP-EvaluationOfServices2010.pdf>.

⁷⁴ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.p.173-174. Retrieved 10 November 2013 from http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect07/report2.htm.

report notes the correlation between high rates of (then) declaration voting in some federal Divisions in Victoria with certain demographic profiles;

Religious beliefs may also play a part in explaining some variations; as federal elections are held on Saturday (the Jewish Sabbath) it is probably no coincidence that the two [D]ivisions with the largest number of persons of the Jewish religion also have the highest proportion of declaration voters.⁷⁵

- 2.52 Other, Australia-based research offers similar insights. The Australian Election Study, last completed in 2010, asked respondents a series of questions about how they voted and whether they would be more likely to vote on different days during the election cycle, for instance, if it were possible to vote on Sundays and during the week. Most respondents were broadly supportive of flexible voting options. In addition, Nathaniel Reader, who is also the Committee's current research officer, is completing a PhD at Swinburne University of Technology on early voting at Australian elections.⁷⁶ His research is examining the growth of early voting in person at Australian elections since 2002. Preliminary findings from the research indicate that Australian electors are likely to continue to embrace early voting as a form of electoral participation.

Normative views about early voting in person

- 2.53 Early voting in person raises interesting questions about the quality of the electoral experience in Victoria and Australia. The Committee notes that if more people are choosing to vote before election day, then this has a range of implications for the quality of democratic expression in Australia. Professor Paul Gronke has written about the normative aspects of political participation and early voting. Citing Dennis Thompson, Professor, Harvard University, it is suggested that early voting calls into question the principle of electoral simultaneity, or the value of an electorate expressing their views at roughly the same time, on the same day.⁷⁷ This is a key principle of democratic theory.
- 2.54 Some inquiry participants discussed whether early voting was a positive or negative development. In its submission, the ALP discussed its concerns about the 'true intent' of early voting and the primacy of election day:

...the concern over what we would characterise as the 'mission creep' of what the true intent of early voting – in contrast to the primacy of election day – is. Whilst always in favour of the greatest community franchise possible, the rapid expansion of the pre-poll period...demonstrates that there is a clear need for a vigorous and detailed examination in relation to the primacy of election day and how it relates to the pre-poll process.⁷⁸

⁷⁵ Australian Electoral Commission, 'Research Report 3: Analysis of Declaration Voting', Australian Electoral Commission, West Block, Canberra, 2013, p.7. Retrieved 11 November 2013 from http://www.aec.gov.au/About_AEC/research/paper3/page1.htm#3.

⁷⁶ <http://www.swinburne.edu.au/lss/pgprofile/view.php?who=nreader>

⁷⁷ Thompson, F. D, 2004. 'Election Time: Normative Implications of Temporal Properties of the Electoral Process in the United States'. *American Political Science Review*, v.98(1).

⁷⁸ Australian Labor Party, *Submission No.2*, p.2.

2.55 The Nationals Victoria also referred to the implications of increasing rates of early voting in person for a 'healthy democracy':

Since the introduction of early voting some years ago, the number of electors choosing to vote early has risen substantially at each succeeding poll. It beggars belief that many of these electors cannot attend a voting centre on election day and it therefore follows that many are breaching Section 98 of the *Electoral Act (2002)* [Vic] either in ignorance or because they are prepared to make a false declaration. Neither circumstance is conducive for a healthy democracy.⁷⁹

Length of the early voting period

2.56 A consistent theme in the evidence related to the length of the early voting period at Victorian elections. As noted earlier in the chapter, Victorian electors can vote in the two weeks before election day by attending an early voting centre; these are selected and publicised by the VEC prior to election day. The VEC's website publishes information about the location and opening hours of early voting centres at election time.

2.57 The Committee notes these comments apply to postal voting and to early voting in person.

2.58 As discussed briefly in Chapter One, during the inquiry an interesting development occurred in relation to the length of the early voting period for Victorian elections. A Melbourne District by-election occurred on 21 July 2012. The Committee notes that the early voting period for the by-election was longer than that usually provided by the VEC for Victorian by-elections. Early voting commenced on Friday 22 June 2012, almost a full month before election day. This contrasts with the Niddrie District by-election, held in March 2012, and the Lyndhurst District by-election, held in April 2013, which both had an early voting period of two weeks, and the 2006 and 2010 Victorian state elections, which also had early voting periods of two weeks. The Committee recognises that the VEC may have chosen a longer early voting period for this election due to the demographically mobile population profile of the Melbourne District electorate, which has a high student population. This is consistent with observations noted earlier about the relationship between certain demographic indicators and rates of early voting.

2.59 Some inquiry participants were also concerned about the length of the early voting period. In their submissions the Nationals Victoria and the Port Phillip Greens called for an early voting period of one week, reduced from the two weeks currently provided.⁸⁰ During the Committee's inquiry into the 2010 Victorian state election, the Nationals Victoria also called for a shortened early voting period.⁸¹

⁷⁹ The Nationals Victoria, *Submission No.10*, p.7.

⁸⁰ Port Phillip Greens, *Submission No.1*, p.5; The Nationals Victoria, *Submission No.10*, p.7.

⁸¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election*, The Nationals Victoria, *Submission No.6*, p.p.4-5.

2.60 At the public hearings, Noah Carroll, State Secretary, ALP, suggested that the popularity of early voting had ‘crept up’ on those involved in the electoral process and that the Committee needed to determine its position about this.

2.61 He said:

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.⁸²

Campaigning

2.62 Another matter closely linked to discussion about the length of the early voting period is campaigning. During its study tour in the US, Professor Paul Gronke told the Committee that the impact of early voting on election campaigns was an emerging field in US-based scholarship.

2.63 One of the chief concerns of the Nationals Victoria and the Port Phillip Greens related to the length of the early voting period and the quality of information electors receive. In an environment where rates of early voting are increasing, the Nationals Victoria and the Port Phillip Greens suggested it is likely that voters in Victoria are voting with two different sets of information – the information available to those voting early, and the information available to those who vote on election day. Given that many political parties tend to release policies toward the end of the campaign period, the Committee is cognisant of concerns of this nature. The Nationals Victoria’s submission noted:

Essentially, the greatest risk of the current long, early voting duration is that voters cast a vote for a particular candidate or party about which they may later have second thoughts. For instance, the major parties now seldom release all of their policies until very near the election date. In some cases, the campaign launch proper does not take place until after early voting has commenced. If an attractive policy is released or if a scandal envelops a candidate after a person has already cast an early vote, there is obviously no way that vote can be retracted or rescinded no matter how much the elector may then wish so to do. Logic dictates that the most accurate representation of the electorate’s intention will be captured if votes are cast as near as practicable to polling day.⁸³

⁸² Noah Carroll, State Secretary, Australian Labor Party, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.4.

⁸³ The Nationals Victoria, *Submission No. 10*, p.4.

2.64 The Nationals Victoria and the Port Phillip Greens also raised the matter of resources and early voting in person.⁸⁴ Submissions from both organisations noted that smaller political parties and independent candidates are at a disadvantage compared to larger organisations when electoral jurisdictions maintain lengthy early voting periods. For instance, it is administratively difficult and costly for smaller parties and independent candidates to secure volunteers to staff early voting centres. When asked about the resource requirements associated with early voting in person, Noah Carroll, State Secretary, ALP, shared the Nationals Victoria's and the Port Phillip Greens' view:

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.⁸⁵

Electoral administration

2.65 One part of the early voting literature in the US addresses the impact of early voting in person on electoral administration. The Committee learnt from Professor Alvarez of Caltech that a renewed interest in US electoral administration followed the 2000 US presidential election and the controversies surrounding vote counting in Florida. Some research in the US suggests that early voting reduces the administrative burden on electoral authorities associated with running elections, as having a larger number of voters before election day lessens the emphasis on holding an event at one particular point in time.⁸⁶ In the US, the Committee found this research pertinent given reports that some US electors queued for hours to vote at the 2012 US presidential election.⁸⁷

⁸⁴ Port Phillip Greens, *Submission No. 1*, p.5; The Nationals Victoria, *Submission No. 10*, p.7.

⁸⁵ Noah Carroll, State Secretary, Australian Labor Party, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.p.4-5.

⁸⁶ Gronke, P., Galanes-Rosenbaum, E., and Miller, P., 2008. 'Convenience Voting'. *Annual Review of Political Science*, 11, p.447.

⁸⁷ Allen, N., 6 November 2012, 'US election beset by glitches: Makeshift polling booths and four-hour queues', *The Telegraph*. Retrieved 12 November 2013 from <http://www.telegraph.co.uk/news/worldnews/us-election/9659688/US-election-beset-by-glitches-Makeshift-polling-booths-and-four-hour-queues.html>.

- 2.66 In Victoria, the Committee has previously considered the impact of early voting in person on the VEC's electoral processes. One area of contention related to the criteria for early voting in person. As noted earlier in this chapter, during its inquiry into the 2010 Victorian state election the Committee was told that Victorian legislation is not as prescriptive regarding the criteria to vote early in person at Victorian elections as other Australian jurisdictions, and that in effect, the criteria for Victorian electors for early voting, under Section 98 and 99, are that the elector is unable to attend a polling day voting centre. There are no further qualifications in the Act.
- 2.67 While the Committee is satisfied with the VEC's response to this matter, as noted earlier in the chapter, some inquiry participants remain concerned about the details of Section 98 of the *Electoral Act 2002 (Vic)* and whether Victoria should have more prescriptive criteria for early voting in person. In particular, the Nationals Victoria questioned whether some Victorian electors were taking advantage of the lack of prescription in the Act regarding the criteria to vote early.

Committee's findings

- 2.68 The Committee wishes to thank those who provided evidence about early voting in person. While the rise in early voting in Australia is a relatively new electoral trend, it has implications for electors, electoral participants and electoral administrators.
- 2.69 As noted earlier, the reason why early voting is considered in this report follows a decision by the Committee during its inquiry into the 2010 Victorian state election to conduct a thorough investigation into the growth of early voting at Victorian elections. The Committee appreciates that the need for this research is significant; rates of early voting in person have risen across Australia since 2002, and the growth of flexible voting in Victoria has been perhaps the most dramatic of all Australian jurisdictions. This chapter represents one of the few attempts by an Australian parliamentary committee to examine the growth of early voting at Australian elections.
- 2.70 The Committee is conscious of the effect of its opinion on this matter. As identified in this chapter, Victoria has amongst the least prescriptive legislation in Australia regarding early voting, and during the 56th Parliament several Committee stakeholders encouraged the Committee to determine whether current trends in early voting are desirable; this inquiry saw such evidence from three of Victoria's political parties, the ALP, the Nationals Victoria and the Port Phillip Greens. It is clear that the Victorian electoral community is seeking some guidance on this matter, not because the Committee is the preeminent public authority on Victorian electoral matters, but because it is the principal forum through which the public can participate in parliamentary debates about Victorian electoral reform.
- 2.71 During its deliberations, the Committee was persuaded by Professor Paul Gronke's advice to consider the normative implications of early voting in person. The question it posed was: are current rates of early voting in person

at Victorian state elections a positive or a negative part of Victoria's electoral system? Based on evidence received from inquiry participants, from discussions with stakeholders during its US study tour in April 2013, and evidence received during the 57th Parliament, the Committee concluded that early voting is a positive aspect of the electoral process, but with certain qualifications. Early voting is now an 'ingrained' part of the Victorian electoral experience, so much so that many electors probably expect – as indicated by the few surveys the Committee has seen about elector perceptions of voting services – to be able to vote before election day.

- 2.72 The Committee arrived at this conclusion by considering a related question: are rates of early voting likely to continue to increase? All the evidence available to the Committee, from recent Victorian state elections, NSW elections, the 2013 federal election and recent elections in the US, suggests early voting will continue to be a popular form of electoral participation in the future.
- 2.73 These considerations informed the Committee's response to one of the recommendations received during the inquiry about early voting; that the early voting period for Victorian elections be shortened from two weeks to one week. Given changing social conditions related to work and how people spend their weekends, the Committee determined that many Victorian electors would find it more difficult to participate at election time if early voting services were curtailed, i.e., if the early voting period was shortened to one week. Deliberately restricting access to early voting could thus have the effect, in the Committee's view, of disenfranchising many Victorian electors and discouraging electoral participation. Accordingly, the Committee does not support shortening the two-week early voting period for Victorian elections.
- 2.74 In arriving at this view, the Committee was sympathetic to the Nationals Victoria's and the Port Phillip Greens' views about the disadvantages faced by minor parties and independent candidates in an environment of increasing rates of early voting. However, in response to this, the Committee wishes to note that if rates of early voting continue to increase, this will have an effect on all political participants, including Australia's major political parties.
- 2.75 The Committee remains interested in two matters. The first relates to the primacy of election day. Although the Committee does not support reducing the length of the early voting period at Victorian elections, the Committee remains concerned that there was an early voting period of nearly four weeks at the July 2012 Melbourne District by-election. While there were plausible, District-specific reasons in Melbourne District for providing a longer early voting period, the Committee would be dismayed to see a state-wide increase in the early voting period at the 2014 Victorian state election. The reason for this is that the Committee fundamentally sees Victorian state elections as an opportunity for Victorians to express their view about the Government of Victoria on roughly the same day, at the same time. Having an early voting period of longer than two weeks would challenge this basic principle of Victorian democracy. To the extent that the Committee supports early voting, it is reluctant to call time on the primacy of election day – doing

so would have major implications for Australian electoral practice. Such a determination would best occur in consultation with other Australian jurisdictions.

- 2.76 The Committee also has a continuing interest in research into early voting. The Committee has previously recommended the VEC continue to conduct research into early voting in person – the VEC has also committed to such research. This report’s findings and evidence clearly reinforce the importance of the VEC’s continuing efforts in this area.

Finding 2.1: The Committee recognises that early voting is now an established component of Victoria’s electoral practice. It provides many Victorians with opportunities to vote which suit their work, social and lifestyle choices. Given that it is likely that rates of early voting in person will continue to increase at future Victorian elections, the Committee supports a two-week early voting period at Victorian elections.

Recommendation 2.1: The Committee recommends the VEC continue its efforts to conduct research into early voting at Victorian elections, with a specific focus on the effects of early voting on rates of voter turnout at Victorian elections.

Recommendation 2.2: The Committee recommends the VEC ensure that the location of early voting centres is advertised and marketed appropriately in the lead up to Victorian elections, with a focus on communities in rural and regional Victoria. In conjunction, the Committee also recommends the VEC consider ways to improve signage advertising the location of early voting centres in rural and regional Victoria.

CHAPTER THREE: AT A GLANCE

- A correctly filled out ballot paper is known as a formal vote. An informal vote is any ballot paper which falls outside the parameters set by the *Electoral Act 2002 (Vic)*.
- Rates of informal voting at Victorian and federal elections have increased in recent years. The rate of informal voting for the Legislative Assembly at the 2010 Victorian state election was 4.96 percent. Rates of informal voting have increased nearly 50 percent at Victorian state elections since 2002.
- The VEC's informal voting surveys show that a high percentage of informal votes for the Legislative Assembly are the result of a '1 only' ballot.
- For this inquiry, the Committee received considerable and detailed evidence about legislative methods to reduce informal voting at Legislative Assembly elections. Evidence focused on optional preferential voting, also known as OPV, and the South Australian ticket voting / savings provision.
- The Committee found that OPV has the most potential to reduce informal voting at Victorian Legislative Assembly elections. The Committee recommends the Victorian Government amend the *Electoral Act 2002 (Vic)* to introduce OPV, based on the OPV provisions in NSW and Queensland.

Chapter Three: Legislative methods to reduce informal voting at Victorian Legislative Assembly elections

- 3.1 Chapter Three addresses legislative methods to reduce informal voting at Victorian state elections, focusing on elections for the Legislative Assembly. The chapter begins by defining informal voting, and discussing recent trends in informal voting at Victorian, federal and Australian state elections. This chapter reviews the Committee's previous interest in informal voting. Following this, it discusses the two most common legislative approaches to reduce informal voting in full preferential voting systems – optional preferential voting, otherwise known as OPV, and the South Australian ticket voting / savings provision. This chapter then discusses evidence received from inquiry participants about methods to reduce informal voting, and assesses new developments in voting systems analysis arising from the 2013 federal election. This chapter concludes with the Committee's findings.
- 3.2 Like Chapter Two, this chapter appears in this report following the Committee's decision to reconsider a number of matters relating to informal voting raised during its inquiry into the 2010 Victorian state election.⁸⁸ During this inquiry the Committee has focused on methods to reduce informal voting through changes to voting systems. Chapter Six addresses other methods to increase participation at Victorian elections.

Definition of informal voting

- 3.3 The system of voting in Victoria for the Legislative Assembly is known as full preferential voting. The system of voting for the Legislative Council is a form of proportional representation known as single transferrable vote, partial preferential. Both systems are provided for by the *Electoral Act 2002* (Vic). Section 93 describes how votes are to be completed for Legislative Assembly elections, and Section 93A describes how votes are to be completed for Legislative Council elections.⁸⁹ Both sections describe how preferences are to be indicated on ballot papers, and detail the types of ballot paper markings

⁸⁸ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012. Retrieved 17 October 2013 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

⁸⁹ *Electoral Act 2002* (Vic) s93.

that determine whether the ballot paper will be accepted as a formal vote into the final election count.

3.4 A correctly filled out ballot paper is known as a formal vote. An informal vote is any ballot paper which falls outside the parameters set by the *Electoral Act 2002* (Vic).

3.5 It is important to note that it is not an offence to vote informally in Victorian elections. The AEC has discussed how this particular feature of Australia's compulsory voting system works in practice:

It is not an offence to vote informally in a federal election, nor is it an offence to encourage other voters to vote informally. However, anyone who encourages electors to vote informally, or to vote '1,2,3,3,3...' etc on a House of Representatives ballot paper, will be encouraging electors to waste their votes as no vote will be counted from these ballot papers.⁹⁰

Recent trends in informal voting

3.6 Chapter Three of the Committee's discussion paper for this inquiry highlighted recent trends in informal voting at Victorian, federal and Australian state elections. This information is repeated here in order to provide context to the following discussion.

3.7 Throughout the 56th and 57th Parliament, the Committee has closely followed discussion about informal voting at Australian elections. It is clear that rates of informal voting are increasing in most Australian jurisdictions, both for federal and state elections. While the Committee notes there is no particular pattern to this trend across Australia, a number of factors contribute to increasing rates of informal voting. These include: Australia's system of compulsory voting; Australia's system of compulsory preferential voting; and, the proportion of electors within an electorate for whom English is not their first language.

3.8 The following section addresses informal voting for Victorian elections, federal elections and Australian state elections.

Victoria

3.9 Like all of Australia's electoral commissions, the VEC has a strong interest in factors which contribute to informal voting. In its submission to this inquiry, the VEC notes that informal voting at Victorian elections has increased over the past decade.⁹¹ Most recently, at the 2010 Victorian state election, the rate of informal voting for the Legislative Assembly was 4.96 percent.⁹² This was

⁹⁰ Australian Electoral Commission, 'Electoral backgrounder: Informal Voting'. Australian Electoral Commission, West Block, Canberra, April 2010, p.4. Retrieved 10 February 2014 from http://www.aec.gov.au/about_aec/Publications/Backgrounders/files/2010-eb-informal-voting.pdf.

⁹¹ Victorian Electoral Commission, *Submission No 5*, p.6.

⁹² Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.16. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

the highest ever rate of informal voting for a Victorian Legislative Assembly election, up from 4.56 percent at the 2006 Victorian state election. This increase is best understood in relation to the 2002 Victorian state election. The informal voting rate for the Legislative Assembly at the 2002 Victorian state election was 3.41 percent. Within a space of eight years, the informal voting rate at Victorian state elections increased 50 percent.⁹³

- 3.10 The Committee considered these statistics in their historical context. Figure 3.1 lists informal voting rates for all Victorian state elections since 1999, alongside rates of enrolment as a percentage of the total Victorian electoral roll at the close of rolls for that election. It is accepted that the increase in informal voting for the Legislative Council for the 2006 Victorian state election was related to the introduction of a new voting system for the Upper House following constitutional reforms in 2003.

Figure 3.1: Rates of informal voting at Victorian state elections 1999-2010

Year of state election	Legislative Assembly	Legislative Council
1999	3.02 percent: Total electors enrolled: 3,159,215 92.38 percent of total roll at close of rolls	3.37 percent: Total electors enrolled: 3,159,215 92.37 percent of total roll at close of rolls
2002	3.41 percent: Total electors enrolled: 3,228,456 93.15 percent of total roll at close of rolls	3.67 percent: Total electors enrolled: 3,228,456 93.11 percent of total roll at close of rolls
2006	4.56 percent: Total electors enrolled: 3,353,845 92.72 percent of total roll at close of rolls	4.28 percent: Total electors enrolled: 3,353,845 92.73 percent of total roll at close of rolls
2010	4.96 percent: Total electors enrolled: 3,582,232 92.96 percent of total roll at close of rolls	3.38 percent: Total electors enrolled: 3,582,232 92.93 percent of total roll at close of rolls

Source: Victorian Electoral Commission, 'State election results', Victorian Electoral Commission, Melbourne, 2013. Retrieved 11 November 2013 from <https://www.vec.vic.gov.au/Results/results-state.html>.

⁹³ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.16. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

Victorian state by-elections

3.11 Informal voting has also increased significantly at recent Victorian state by-elections. As noted earlier in this report, the VEC has conducted four Victorian state District by-elections since the 2010 Victorian state election; the Broadmeadows District by-election in February 2011; the Niddrie District by-election in March 2012; the Melbourne District by-election in July 2012; and the Lyndhurst District by-election in April 2013. Rates of informal voting at these elections were significant; the 2011 Broadmeadows District by-election recorded an informal voting rate of 9.5 percent, while the 2012 Melbourne District by-election recorded an informal voting rate of 9.34 percent.⁹⁴ The 2012 Niddrie District by-election recorded an informal voting rate of 11.34 percent.⁹⁵ The 2013 Lyndhurst District by-election recorded an informal voting rate of 9.5 percent.⁹⁶

Reasons for increased informal voting at Victorian by-elections

3.12 Several factors influence early voting at Victorian state elections. These that these factors must be considered separately to the causes of informality for by-elections. By-elections typically have lower turnout rates when compared to general elections. In addition, the by-elections above featured particular circumstances which may have contributed to the informal voting rate. The VEC has shown that the number of candidates on a by-election ballot paper influences the informal voting rate. For instance, the 2012 Melbourne District by-election featured a record-high 16 candidates; the 2011 Broadmeadows District by-election and the 2012 Niddrie District by-election also saw nine candidates.⁹⁷ The 2013 Lyndhurst District by-election saw eight candidates. In addition, a Liberal Party candidate did not run in the four by-elections discussed.⁹⁸

3.13 Similarly, the VEC has shown there is a correlation between proficiency of English in an electorate and rates of informal voting, in the form of an increase in apparently unintentional informal voting. As shown in Figure 3.2, while the level of English proficiency influences informal voting rates in all elections, the VEC has demonstrated that high rates of informal voting at the 2011 Broadmeadows District by-election, and the 2012 Niddrie District by-election, could be the result of the proportion of residents in those electorates whose first language is not English.⁹⁹

⁹⁴ Victorian Electoral Commission, *Submission No 5*, p.7.

⁹⁵ Victorian Electoral Commission, *Submission No 5*, p.7.

⁹⁶ Victorian Electoral Commission, 'Lyndhurst District by-election 2013'. Victorian Electoral Commission, Melbourne, 2013. Retrieved 10 February 2014 from <https://www.vec.vic.gov.au/Results/stateby2013resultLyndhurstDistrict.html>.

⁹⁷ Victorian Electoral Commission, *Submission No 5*, p.6.

⁹⁸ Victorian Electoral Commission, *Submission No 5*, p.6.

⁹⁹ Victorian Electoral Commission, *Submission No 5*, p.7.

Figure 3.2: Comparison of informal voting rates at Victorian elections since 2006

Year	Election	Informality	Apparently Informal	Apparently Unintentional	Key Factors Present
2013	Lyndhurst By-election	9.45%	39.3%	62%	<ul style="list-style-type: none"> Absence of Liberal candidate 8 candidates 32.3% pre-poll votes
2012	Melbourne By-election	9.34%	45.5%	54.5%	<ul style="list-style-type: none"> Absence of Liberal candidate 16 candidates 25.37% pre-poll votes
2012	Niddrie By-election	11.48%	61.8%	36.5%	<ul style="list-style-type: none"> 6.3% of electors not proficient in English 9 candidates Absence of liberal candidate 23.63% pre-poll votes
2011	Broadmeadows By-election	9.5%	51.2%	48.7%	<ul style="list-style-type: none"> 10.07% of electors not proficient in English Absence of Liberal Candidate 9 candidates Absence of liberal candidate 22.39% pre-poll votes
2010	State election	UH 3.38% LH 4.96%	71.15% 47.52%	28.85% 51.74%	<ul style="list-style-type: none"> 23.96% pre-poll votes
2010	Altona By-election	4.96%	62.5%	36.7%	<ul style="list-style-type: none"> 8 candidates 26.8% pre-poll votes
2008	Kororoit By-election	6.3%	52.28%	47.39%	<ul style="list-style-type: none"> 13.6% of electors not proficient in English 6 candidates 23.14% pre-poll
2007	Albert Park By-election	7.47%	66.56%	33.19%	<ul style="list-style-type: none"> Absence of Liberal candidate 9 candidates 19.56% pre-poll
2007	Williamstown By-election	6.79%	63.81%	35.88%	<ul style="list-style-type: none"> 7% of electors not proficient in English Absence of Liberal candidate 9 candidates 17.29% pre-poll
2006	State election	UH 4.28% LH 4.56%	49.35% 40.82%	50.65% 59.18%	<ul style="list-style-type: none"> 15.5% pre-poll

Source: Victorian Electoral Commission, *Submission No.5*, p.7.

The VEC's informal voting surveys

- 3.14 Following each Victorian election since 2006, the VEC conducts an informal voting survey. These surveys examine informal ballot papers for their causes of informality, and compare these results with previous Victorian elections. The VEC usually selects nine Legislative Assembly Districts and two Legislative Council Regions for this purpose. The VEC also conducted surveys of informal ballot papers at recent Victorian state by-elections, including the 2012 Melbourne District by-election and the 2013 Lyndhurst District by-election. The Committee sees these surveys as a valuable source of information about the pattern of informal voting at Victorian elections.
- 3.15 As part of its inquiry into the 2010 Victorian state election, the Committee considered the results of the VEC's informal voting surveys. In summary, in comparison to the VEC's informal ballot paper survey from the 2006 Victorian state election, the VEC found that the proportion of apparently deliberately informal ballots for the 2010 Legislative Assembly election, as indicated by

being left blank or marked intentionally informal, was the largest category of informal votes, representing 25 percent of the total.¹⁰⁰ The second largest category of informal ballot papers were those that were marked with a single "1".¹⁰¹ This type of informal ballot paper was the most common type of informal ballot paper in five of the nine Districts the VEC examined.

- 3.16 Consistent with these results, the Committee also understands that the VEC's analysis of informal ballot papers for the Legislative Council showed that nearly half of the informal ballot papers were also apparently deliberately informal.¹⁰² The Committee also noted that the third largest category was those ballot papers which were marked below the line with a "1" only.¹⁰³ Some electors 'appear to have misapplied the advice to vote above the line with a "1" only'.¹⁰⁴ Despite this, the VEC suggests votes marked above the line were more likely to be formal than those marked below, indicating that electors are comfortable with the option to vote with a "1" only.¹⁰⁵

Federal elections

- 3.17 For federal elections, Sections 239 and 240 of the *Commonwealth Electoral Act 1918* (Cwth) establish the system of ballot paper marking for Senate and House of Representatives election ballot papers.¹⁰⁶ Like Victoria, both elections call for full preferential voting, meaning electors must indicate the order of their preference for each and every candidate on the ballot paper.
- 3.18 Rates of informal voting at federal elections have increased at a similar pace to Victorian state elections. At the 2013 federal election, the rate of informal voting for the House of Representatives was 5.92 percent.¹⁰⁷ This was the highest rate of informal voting in nearly 30 years. The only time the rate of informal voting was higher for the House of Representatives was in 1984, at 6.3 percent.¹⁰⁸ In 1983 legislative changes provided for above the line voting for the Senate. At the time this was advertised heavily in the media and may

¹⁰⁰ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.90. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.90. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰² Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.p.90-91. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰³ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.p.90-91. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰⁴ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.91. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰⁵ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.p.90-91. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁰⁶ *Commonwealth Electoral Act 1918* (Cwth) s239, s240.

¹⁰⁷ Australian Electoral Commission, 'Informal votes by state'. Australian Electoral Commission, West Block, Canberra, February 2014. Retrieved 10 February 2014 from <http://results.aec.gov.au/17496/Website/HouseInformalByState-17496.htm>.

¹⁰⁸ Australian Electoral Commission, 'Research Report No 1: Informal Vote Survey, 2001 House of Representatives Election'. Australian Electoral Commission, Canberra, 2001, p.17. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/files/res_rep_01.pdf.

have led to some confusion amongst electors about the different voting requirements for the Senate and the House of Representatives.

Australian state elections

3.19 Informal voting has increased at different rates at other Australian state elections. This is due to several factors, including different legislation in each state. The following addresses informal voting at Lower House elections in each state.

NSW

3.20 Rates of informal voting have varied at NSW state elections since the mid-1990s, following a spike at the 1995 election. NSW has had OPV in the Legislative Assembly since 1979.¹⁰⁹ The highest level of informal voting at a NSW state election was recorded in 1991, at 9.3 percent. Prior 'to 1982 a tick or a cross was considered a valid first preference but was later declared informal in 1990'.¹¹⁰ The informal voting rate decreased to 5.2 percent at the 1995 election, and formality rules were revised to again provide for a tick or a cross as a first preference. Informality decreased following this measure but has risen slowly since the 2003 NSW state election; the rate of informal voting at the 2011 NSW state election was 3.2 percent.¹¹¹

Figure 3.3: Rates of informal voting at NSW Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1995	3,837,102	3,599,141	185,379	5.15%
1999	4,115,059	3,832,123	96,000	2.15%
2003	4,272,104	3,924,676	102,872	2.62%
2007	4,374,029	4,052,126	112,152	2.77%
2011	4,290,595	4,153,335	137,260	3.2%

Source: NSW Electoral Commission, 'www.pastvtr.elections.nsw.gov.au', NSW Electoral Commission, Sydney, 2014. Retrieved 11 March 2014 from www.pastvtr.elections.nsw.gov.au.

¹⁰⁹ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹¹⁰ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹¹¹ NSW Electoral Commission, 'Report on the conduct of the 2011 NSW state election', State of New South Wales, Sydney, 2011, p.57. Retrieved 10 February 2011 from http://www.elections.nsw.gov.au/__data/assets/pdf_file/0006/96297/SGE_2010-2011_Amended.pdf.

Queensland

3.21 Levels of informal voting in Queensland have been low since the introduction of OPV in 1992, averaging 2.01 percent over the eight Queensland state elections since 1992.¹¹² The rate of informal voting at the most recent Queensland state election in 2012 was 2.2 percent.¹¹³ Queensland's low rate of informal voting is often attributed to Queensland having just one house of Parliament and OPV. Antony Green, ABC Election Analyst, has noted that informal voting was low in Queensland even before the introduction of OPV.¹¹⁴

Figure 3.4: Rates of informal voting at Queensland Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
2001	2,276,044	2,107,410	47,849	2.2%
2004	2,195,400	2,151,743	43,657	2.0%
2006	2,247,728	2,200,880	46,848	2.1%
2009	2,419,559	2,372,651	46,908	1.9%
2012	2,499,763	2,445,966	53,797	2.2%

Source: Electoral Commission of Queensland, 'www.ecq.qld.gov.au/elections/state/results', Electoral Commission of Queensland, Brisbane, 2014. Retrieved 11 March 2014 from www.ecq.qld.gov.au/state/results.

South Australia

3.22 Informal voting is generally lower at South Australian elections compared to Victorian and federal elections due to a unique feature of the South Australian legislative system, known as ticket voting / savings provision. This is described at 3.43. Rates of informal voting for elections to the South Australian Legislative Assembly have generally been lower than in Victoria, with the exception of the 1997 and 2006 South Australian Legislative Assembly elections, with rates of informal voting of 4.0 and 3.6 percent respectively.¹¹⁵

¹¹² Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹¹³ Queensland Electoral Commission, '2012 State General Election – Results Summary', Queensland Electoral Commission, February 2013. Retrieved 10 February 2014 from <http://www.ecq.qld.gov.au/elections/state/State2012/results/summary.html#15>.

¹¹⁴ Green, A., 'The impact of optional preferential voting on the rate of informal voting', Australian Broadcasting Corporation, January 2013. Retrieved 10 February 2014 from <http://blogs.abc.net.au/antonygreen/2013/01/the-impact-of-optional-preferential-voting-on-the-rate-of-informal-voting.html>.

¹¹⁵ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

Figure 3.5: Rates of informal voting at South Australian Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1993	1,006,035	912,095	29,206	3.1%
1997	1,010,753	889,914	37,430	4.0%
2002	1,045,563	948,032	30,537	3.1%
2006	1,005,347	939,161	35,029	3.6%
2010	1,093,316	980,669	33,762	3.3%

Source: Jenni Newton-Farrelly, Electoral Specialist, South Australian Parliamentary Research Library, *Correspondence*, 27 February 2014.

Western Australia

3.23 Informal voting is generally higher in Western Australia than Victoria. While Western Australia uses a full preferential voting system for Legislative Assembly elections like Victoria and federal elections, the average rate of informal voting for the Western Australian Legislative Assembly at the past five state elections since 1993 has been 4.72 percent. The rate of informal voting has also increased since the 2001 Western Australian state election, from 4.5 percent to 6.0 percent at the 2013 Western Australian state election.¹¹⁶

Figure 3.6: Rates of informal voting at Western Australian Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1996	1,119,992	963,606	44,229	4.39%
2001	1,187,629	1,026,720	48,836	4.54%
2005	1,259,262	1,071,953	59,312	5.24%
2008	1,330,399	1,089,257	61,200	5.32%
2013	1,412,533	1,184,432	75,657	6.00%

Source: Western Australia Electoral Commission, *Correspondence*, 28 February 2014.

¹¹⁶ Warwick Gately, Western Australian Electoral Commissioner, Western Australian Electoral Commission, *Correspondence*, 21 December 2011, p.p.1-2.

Tasmania

3.24 Rates of informal voting in Tasmania are generally higher than in Victoria. However, it is important to note the system used to elect members to the House of Assembly and the Legislative Council is considerably different to other Australian jurisdictions. There has not been a noticeable increase in informal voting at the past three Tasmanian elections for the House of Assembly; the rate has actually decreased since the 2002 Tasmanian state election from 4.8 percent, to 4.4 percent at the 2010 Tasmanian state election.¹¹⁷

Figure 3.7: Rates of informal voting at Tasmanian House of Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1996	324,556	311,486	17,526	5.40%
1998	322,754	306,655	11,521	3.91%
2002	332,473	311,637	14,438	4.87%
2006	341,481	324,008	13,747	4.44%
2010	357,315	335,353	14,259	4.45%

Source: Tasmanian Electoral Commission, *Annual Report 2012-13*, Tasmanian Electoral Commission, Hobart, September 2013, p.26.

Australian Capital Territory

3.25 Like Tasmania, the Australian Capital Territory's (ACT)'s voting system is unique in Australia. The ACT has only one house of Parliament. Elections in ACT in '1989 and 1992 elections used a modified d'Hondt voting system, in which preferences could be marked both above and below the line'.¹¹⁸ 1995 'was the first election to use the Hare-Clark system, in which voters are asked to mark as many preferences as there are vacancies in the Assembly, but a first preference only is considered formal'.¹¹⁹ Rates of informal voting have averaged 3.42 percent over the three ACT general elections since 2004.¹²⁰

¹¹⁷ Tasmanian Electoral Commission, 'Annual Report 2012-13', Tasmanian Electoral Commission, Hobart, September 2013, p.26.

¹¹⁸ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹¹⁹ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹²⁰ ACT Electoral Commission, 'Past ACT Legislative Assembly Elections', ACT Electoral Commission, Canberra, 2012. Retrieved 11 March 2014 from http://www.elections.act.gov.au/elections_and_voting/past_act_legislative_assembly_elections.

Figure 3.8: Rates of informal voting at ACT Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1998	205,248	180,350	8,134	4.32%
2001	218,615	190,840	7,881	3.97%
2004	226,098	204,189	5,560	2.65%
2008	243,471	211,649	8,370	3.8%
2012	256,702	221,172	7,953	3.47%

Source: ACT Electoral Commission, *Correspondence*, 29 January 2014.

Northern Territory

3.26 Like the ACT the Northern Territory has only a Lower House of Parliament, the Legislative Assembly. In the three Northern Territory general elections since 2005 the rate of informal voting has averaged 3.7 percent. The rate of informal voting at the 2012 Northern Territory state election was 3.2 percent.

Figure 3.9: Rates of informal voting at Northern Territory Legislative Assembly elections

Election Year	Enrolled Voters	Formal Votes	Informal Votes	Percentage
1997	101,886	76,318	4,161	5%
2001	105,506	81,367	3,627	4%
2005	111,954	86,288	3,358	4%
2008	119,814	80,029	3,407	4.1%
2012	123,805	92,143	3,072	3.2%

Source: Northern Territory Electoral Commission, 'Election results', Northern Territory Electoral Commission, Darwin, 2014. Retrieved 14 March 2014 from www.ntec.nt.gov.au/electionsandreferendums/LegislativeAssemblyElections/.

The Committee's previous work on informal voting

3.27 Like many electoral commissioners, academics and commentators around Australia, the Committee is concerned about the implications of increasing rates of informal voting at Victorian elections. In the 56th Parliament, the Committee considered rising rates of informal voting as part of its inquiries into the 2006 Victorian state election and its inquiry into voter participation and informal voting. While evidence was received about this matter during both inquiries, the later report was more comprehensive. The Committee focused on legislative methods to reduce informal voting. This included OPV and the South Australian ticket / savings provision. As a result of this, the

then Committee's report recommended the Victorian Government examine legislative reform of the relevant provisions of the *Electoral Act 2002* (Vic) to 'maximise the electoral participation of eligible Victorians, while maintaining a system of compulsory preferential voting'.¹²¹ In its response to this recommendation in December 2009, the Victorian Government committed to examining legislative reform.¹²² No changes relating to informal voting were made to the *Electoral Act 2002* (Vic) prior to the 2010 Victorian state election, which resulted in a change of government.

3.28 In the 57th Parliament, the Committee inquired into the 2010 Victorian state election. Several inquiry participants discussed legislative strategies to reduce informal voting, including OPV and the South Australian ticket voting / savings provision. However, despite its findings, the Committee concluded that it required further information about the two alternative models, and informal voting more generally, before it recommended which system was the most appropriate method to reduce informal voting at Victorian state elections. To this end, the Committee therefore resolved to investigate legislative methods to reduce informal voting as part of this inquiry, and seek additional comment through its discussion paper.

3.29 As noted earlier, Chapter Six addresses other methods to increase participation at Victorian elections.

Legislative methods to reduce informal voting at Victorian Legislative Assembly elections

Correct procedure for marking the Victorian ballot paper

3.30 As noted earlier, in Victoria the method of marking the ballot paper is prescribed by Sections 93 and 93A of the *Electoral Act 2002* (Vic). Section 93 describes how votes are to be completed for Legislative Assembly elections, and Section 93A describes how votes are to be completed for Legislative Council elections. Both sections describe how preferences are to be indicated on ballot papers, and the types of ballot paper markings that determine whether the ballot paper will be accepted as a formal vote into the final election count.

3.31 For the Legislative Assembly, electors must number '1' in the square beside the name of the candidate for whom the person votes as his or her first preference to be elected.¹²³ Electors then place consecutive numbers against the name of each and every other candidate on the ballot paper to show the order of the voter's preferences. In Victoria, electors do not have to mark the last candidate on the Legislative Assembly ballot paper.

¹²¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into voter participation and informal voting*, Parliament of Victoria, Melbourne, July 2009, p.104. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/278>.

¹²² Victorian Government, Department of Justice, 'Government response', 24 June 2010, p.4. Retrieved 10 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/278>.

¹²³ *Electoral Act 2002* (Vic) s93.

- 3.32 For the Legislative Council, electors have two voting options. The first is to vote below the line. Electors must number consecutive preferences against each and every candidate on the ballot paper, following the method for the Legislative Assembly ballot paper. 'Below the line' implies the candidates' names written below the large, black line located at the top of the ballot paper. The other option available to electors is to express a single preference above the line.

Legislative methods to reduce informal voting in the Victorian Legislative Assembly elections

- 3.33 While Australia's nine electoral systems share many similarities, some systems have adopted different legislative provisions to reduce the rate of informal voting. In Australia, two legislative methods to reduce informal voting in full preferential voting systems like that used for Victoria's Legislative Assembly are OPV, and the South Australian ticket voting / savings provision.

Optional preferential voting

Full OPV

- 3.34 For the purposes of this report, the system of OPV used at NSW and Queensland elections is referred to as 'full' OPV. Some commentators use the term 'pure' OPV but the Committee prefers the term 'full' OPV.
- 3.35 Full OPV is a form of preferential voting system used for NSW and Queensland lower house elections, and also for Victorian Legislative Council elections in relation to the provision for above the line voting (in Victoria, this system is called the single transferrable vote, partial preferential system).¹²⁴ Unlike voting for the Legislative Assembly in Victoria where electors must assign a preference to each candidate on the ballot paper in consecutive order, electors for the NSW and Queensland lower houses have the choice of voting for one candidate, more than one candidate, or all the candidates on the ballot paper. Electors can express a single, primary preference for a single candidate by marking only one square and leaving all the other candidates blank. Electors may also express a partial distribution of preferences by voting for some, but not all, of the candidates. Finally, electors under OPV have the option to express a full distribution of preferences; in this way, this type of marking on the ballot paper vote is exactly the same as Victorian full preferential method.
- 3.36 There are slight variations between the NSW and Queensland OPV systems. Both accept the use of a tick or a cross, ✓ or ✕, as a first preference vote where there is no "1" shown on the ballot paper and all other squares are blank. In NSW, the formality criteria are more prescriptive. As noted by the Electoral Council of Australia and New Zealand, 'NSW deems ballot papers

¹²⁴ Electoral Council of Australia and New Zealand, 'New South Wales', Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

formal where there is a break in sequence of preferences or where the same preference (other than the first preference) has been recorded for more than one candidate'.¹²⁵ In these cases 'the preferences are counted up to the break in the sequence of preferences or the duplication of preferences'.¹²⁶

- 3.37 NSW has had OPV longer than Queensland. OPV was first introduced for NSW state elections in 1979. As noted earlier, 'prior to 1982 a tick or a cross was considered a valid first preference but this was later declared informal in 1990'.¹²⁷ As a result the informal voting rate decreased to 5.2 percent at the 1995 election; formality rules were then revised to once again allow a tick or a cross as a first preference. Informality decreased following this.
- 3.38 In Queensland, OPV was introduced in 1992. In parliamentary terms, the major difference between NSW and Queensland is that Queensland does not have an Upper House; it was abolished in 1922.

Modified OPV

- 3.39 In addition to NSW and Queensland, Tasmania and the ACT have a form of partial preferential voting built in to the proportional representation systems used for elections to the Tasmanian House of Assembly, the Tasmanian Legislative Council and the ACT Legislative Assembly. For the purposes of this report, these systems are referred to as 'modified' OPV.
- 3.40 Members of the Tasmanian House of Assembly are elected using the Hare-Clark system of proportional representation. These elections 'are partially preferential, in that electors do not have to vote for all candidates on the ballot paper, but must number at least five squares if required'.¹²⁸ Therefore a formal vote must have preferences for at least five candidates in the correct sequence, with further preferences being optional. As noted by the Electoral Council of Australia and New Zealand, 'preferences may be counted until sequential numbering breaks down'.¹²⁹ In addition, for elections to the Tasmanian Legislative Council, members are elected using a partial preferential voting system. Where there are three or more candidates 'electors are instructed to number "1", "2", "3" on the ballot paper, and any additional preferences they may have after that. If there are three candidates

¹²⁵ Electoral Council of Australia and New Zealand, 'New South Wales', Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

¹²⁶ Electoral Council of Australia and New Zealand, 'New South Wales', Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

¹²⁷ Australian Electoral Commission, 'Research Report 10 – Informal Voting at State and Territory Elections: Introduction', Australian Electoral Commission, West Block, Canberra, 30 May 2013. Retrieved 10 February 2014 from http://www.aec.gov.au/About_AEC/research/paper10/page01.htm.

¹²⁸ Electoral Council of Australia and New Zealand, 'Proportional Representation – Tasmanian House of Assembly', Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

¹²⁹ Electoral Council of Australia and New Zealand, 'Proportional Representation – Tasmanian House of Assembly', Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

and the ballot paper is marked “1”, “2”, the vote is taken to be “1”, “2”, “3”. Where there are two candidates electors must fill in “1”, “2”.¹³⁰

- 3.41 In the ACT, members are elected to the Legislative Assembly using the Hare-Clark system of proportional representation. Electors ‘are instructed to number squares from one to N, with N being the number of candidates. A formal vote must indicate at least a single first preference. Further preferences are optional and votes can be counted until a sequence breaks down’.¹³¹ Unlike NSW and Queensland’s full OPV system, ticks and crosses are not accepted.

South Australian ticket voting / savings provision

- 3.42 The system of voting for the South Australian House of Assembly is full preferential but unique amongst Australia’s electoral systems because of the way it is designed to save certain types of votes that would otherwise be informal. The only two differences to the full preferential voting system in the Victorian Legislative Assembly relate to the ticket voting / savings provision, and the capacity for candidates to lodge one or two voting tickets. This provides that some ‘ballot papers may be rendered formal if a voter has only indicated some preferences on their ballot paper where the preferences indicated are consistent with the ticket or tickets lodged’.¹³²
- 3.43 South Australia has had this ticket voting / savings provision since 1985.
- 3.44 To best understand the South Australian ticket voting / savings provision, the Committee believes an outline of the formality interpretations in the *Electoral Act 1985 (SA)* is warranted. The Committee notes this information was also partially included in its discussion paper, and featured in the Commonwealth JSCEM’s final report on the 2010 federal election, tabled in June 2011.
- 3.45 For election to the South Australian House of Assembly, a ballot paper is deemed formal if:
- ‘Consecutive preferences are indicated against the names of all candidates, commencing with a “1”, a tick or a cross;
 - Consecutive numerical preferences commencing with a “1” (or a tick or a cross) are indicated against the names of candidates except one; or

¹³⁰ Electoral Council of Australia and New Zealand, ‘Preferential voting in single member electorates – Tasmania’, Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/single/by_area/tas.htm.

¹³¹ Electoral Council of Australia and New Zealand, ‘Proportional Representation – Tasmanian House of Assembly’, Electoral Council of Australia and New Zealand, July 2012. Retrieved 10 February 2014 from http://www.eca.gov.au/systems/australia/by_area/nsw.htm.

¹³² Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.127. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

- The previous criteria are met, and the elector has corrected an error (for instance by crossing out and renumbering), but the correction still leaves the elector's intention clear'.¹³³

3.46 In contrast, a ballot paper is informal if:

- 'It is marked in a way that positively identifies the voter;
- It is blank or if no first preference is indicated by either a "1", a tick or a cross;
- More than one first preference is indicated (i.e. if a "1", tick or cross appears in or against two or more squares);
- There is a break in the consecutive numerical preferences, a duplication, or two or more preferences omitted; or
- The ballot paper was not placed in the ballot box, even if it meets other formality requirements'.¹³⁴

3.47 Section 93 of the *Electoral Act 1985* (SA) provides the savings provision. It specifically provides for candidates' entitlement to lodge one or two voting tickets. In this context an incomplete voting paper will be saved if:

- 'A first preference has been marked (with a "1", tick or a cross) for a candidate who has lodged one or more tickets; or
- A first preference and some – but not full – preferences have been marked that are consistent with the ticket(s) lodged'.¹³⁵

3.48 Section 93 (3) determines the procedure where there is only a first preference indicated and two tickets are lodged. Section 93 (5) provides for the situation where a first preference and some further preferences are indicated. In practice, this means that if the preferences indicated on an otherwise informal ticket are different from the preferences on ticket(s) lodged by the candidate for whom the first preference is marked, it will not be saved by the ticket voting provision.

3.49 Administratively, votes saved by Section 93 are still counted as informal at the polling place. After inspection by the Returning Officer, specifically that the candidate has lodged 'one or two tickets and that the preference(s)

¹³³ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.p.127-130. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹³⁴ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.p.127-130. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹³⁵ *Electoral Act 1985* (SA) s93.

indicated are consistent with these', the ballots are then admitted to the count.¹³⁶

- 3.50 It is also important to note that it is an offence in South Australia to encourage an elector to mark their ballot paper with a "1" only.

Recent proposals for reform of the South Australian Legislative Council's voting system

- 3.51 As a backdrop to this discussion, the Committee also notes its continuing interest in debates about potential reforms to South Australia's voting system, particularly focusing on the Legislative Council. During this inquiry, the South Australian Parliament enacted two amendments to the *Electoral Act 1985* (SA). The first, the *Electoral (Funding, Expenditure and Disclosure) Amendment Act 2013* (SA), was enacted on 24 October 2013. The second, the *Electoral (Miscellaneous) Amendment Act 2013* (SA) was also enacted on 24 October 2013.

- 3.52 The Committee followed debates about two other bills before the South Australian Parliament. The first, a Private Member's Bill introduced on 16 October 2013 in the Legislative Council by Greens Member Hon Mark Parnell MLC, is the *Electoral (Optional Preferential Voting) Amendment Bill 2013* (SA). It proposed to abolish voting tickets for Legislative Council elections and introduce above the line OPV for Legislative Council elections.¹³⁷ The bill was ultimately defeated. In addition, the Committee followed debate about the *Electoral (Preferential Voting Reform) Amendment 2013* (SA).¹³⁸ This bill was introduced by Deputy Premier the Hon John Rau MP on 12 November 2013. This bill proposed to elect the Legislative Council using the Sainte-Lague method of proportional representation, a system that has not been previously used at an Australian election. As noted by Antony Green, 'Sainte-Lague is a [system] which overcomes the biggest hurdle to implementing change ahead of the state election, that a more complex preferential solution would have required the SA Electoral Commission to modify the computer software it shares with other Australian electoral authorities'.¹³⁹ Only the administrative provisions of the bill were passed by both Houses.

Recent proposals for reform of the Senate voting system

- 3.53 The Australian Senate is elected using a system of proportional representation known as the Senate System. As in Victorian Legislative

¹³⁶ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.130. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹³⁷ *Electoral (Optional Preferential Voting) Amendment Bill 2013* (SA).

¹³⁸ *Electoral (Preferential Voting Reform) Amendment 2013* (SA).

¹³⁹ Green, A., 'Explaining the Saint-Lague Electoral System Proposed for the SA Legislative Council', Australian Broadcasting Corporation, November 2013. Retrieved 11 February 2014 from <http://blogs.abc.net.au/antonygreen/2013/11/explaining-the-sainte-lague-electoral-system-proposed-for-sa-legislative-council.html>.

Council elections, electors have the choice to vote either above the line for a nominated candidate or grouping, or vote below the line in their order for candidates.

3.54 The federal election was held on 7 September 2013. There was a record number of candidates for both the House of Representatives and the Senate. There was a notable increase in candidates for the Senate, with a total of 529 candidates contesting 40 Senate seats, representing an average of 13.2 candidates per vacancy.¹⁴⁰ The Senate ballot paper was thus one of the largest ever printed. In Victoria, to elect Victorian Senators electors who voted below the line had to correctly number consecutive preferences for 97 candidates. Subsequent to this, there has been considerable media coverage of the outcome of the Senate election, including the use of preference 'deals' to secure election. Some candidates were elected to the Senate with small percentages of the primary vote; two were also elected on less than one percent of the primary vote.

3.55 On 13 November 2013, Independent Senator Nick Xenophon introduced to the Senate the *Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013* (Cwth). The bill proposes an amendment to current voting practices for the Senate to introduce above and below the line OPV voting. As noted in the explanatory memorandum, the purpose of the bill:

...is to reform the current system for electing Senators to the Australian Parliament. The 2013 election revealed the current system's vulnerability to 'gaming' through preference deals...

The aim of this bill is to reform the system to make it easier for voters to determine their own preferences, rather than through the current system of group and independent voting tickets, and to increase transparency in the voting process. By introducing an optional preferential system above and below the line, these reforms prevent parties and groups from assigning preferences and instead make it easier and clearer for voters to know 'where their vote' is going.¹⁴¹

3.56 The explanatory memorandum further discusses how the proposed above and below the line OPV system will operate for Senate elections:

The system proposed in this Bill is similar to that which already operates in New South Wales for the Legislative Council in state elections. Instead of lodging group voting tickets with the Australian Electoral Commission, groups standing at a Senate election will only be able to nominate the order of their candidates and therefore the preference flow within their group. Groups will not be able to allocate preferences to candidates outside their group.

Voters will have the option of numbering at least one group voting square above the line (and as many subsequent group voting squares as they wish) *or* at least as many candidate voting squares below the line as there are candidates to be elected

¹⁴⁰ Green, A, 'Average Candidates Per Vacancy At Federal Elections', Australian Broadcasting Corporation, November 2013. Retrieved 11 February 2014 from <http://blogs.abc.net.au/antonygreen/2013/11/average-candidates-per-vacancy-at-federal-elections-1949-2013.html>.

¹⁴¹ *Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013* (Cwth), 'Explanatory Memorandum', November 2013. Retrieved 11 February 2014 from http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fs934_ems_e012583d-d792-4d67-941a-0db72bec04ed%22.

(six for a half Senate election, twelve in the case of a full Senate election, or two in the case of Territory elections) and as many subsequent squares as they wish. Voters have the option of numbering no other squares beyond the minimum when voting either above or below the line. Under these provisions, a voter does not have to number all the squares below the line, which will reduce the number of informal votes where there are a significant number of candidates.

Candidates are then elected according to the current quota requirements. If not all vacancies are able to be filled under the quota requirements (for instance, if not enough candidates achieve a quota), then the remaining candidates with the largest number of votes will be elected.

This method will simplify the process of casting a vote and, by removing the use of group voting tickets and therefore preventing the manipulation of preferences, will more accurately represent the will of voters.¹⁴²

- 3.57 The bill was referred to the Senate Finance and Public Administration Legislation Committee in November 2013. It is due to report in March 2014.

Evidence received from inquiry participants about legislative methods to reduce informal voting at Victorian Legislative Assembly elections

- 3.58 The Committee received compelling and detailed evidence from several inquiry participants about legislative methods to reduce informal voting at Victorian Legislative Assembly elections. Many responded directly to the questions posed in Chapter Three of the Committee's discussion paper for this inquiry; inquiry participants were asked to discuss their views about OPV and the South Australian ticket voting / savings provision. The Committee received evidence from the VEC, the Proportional Representation Society of Australia (PRSA) (Victoria and Tasmania), the ALP and the Nationals Victoria. Antony Green, ABC Election Analyst, also appeared before the Committee at the public hearings to discuss several matters, including OPV.
- 3.59 The Committee also reconsidered evidence received from inquiry participants during its inquiry into the 2010 Victorian state election. Several inquiry participants expressed views about legislative methods to reduce informal voting at Victorian Legislative Assembly elections; including these views in the following discussion is consistent with the Committee's commitment to thoroughly examine the available evidence about informal voting before recommending a course of action to the Parliament.

¹⁴² Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013 (Cwth), 'Explanatory Memorandum', November 2013. Retrieved 11 February 2014 from http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fs934_ems_e012583d-d792-4d67-941a-0db72bec04ed%22.

Evidence about full OPV at Victorian Legislative Assembly elections

3.60 Several inquiry participants discussed the impact of OPV on rates of informal voting at Victorian Legislative Assembly elections.

3.61 The Committee draws particular attention to the VEC's evidence on OPV. Throughout this inquiry and the 2010 Victorian state election inquiry, the VEC has maintained a clear position of not responding to matters of policy raised by the Committee. As noted on page six of the VEC's submission, the VEC 'implements relevant legislation and provides advice on the impact of legislation on electoral administration, and does not comment on matters to do with government policy in relation to legislation'.¹⁴³ Accordingly, the VEC did not offer a specific view about the most appropriate legislative method to reduce informal voting at Victorian Legislative Assembly elections.

3.62 However, the VEC did respond to the question raised in the Committee's discussion paper for this inquiry about whether OPV could reduce informal voting at Victorian elections. The VEC's submission indicated that the introduction of OPV for Victorian Legislative Assembly elections could prevent approximately a third of informal votes from being informal. The VEC stated:

In accordance with legislation, the VEC implements exhaustive preferential vote counting in the Lower House. Could the introduction of optional preferential voting help to reduce the incidence of informality?...The types of informality that relate to electors using insufficient numbers or using "1" only when voting (both areas that could be addressed by the introduction of [OPV]) are compared for the last nine state electoral events in Victoria. The figures suggest that the use of [OPV] for the Lower House at State elections could prevent approximately a third of informal votes from being informal. The figure is less for state by-elections and ranges from 10 percent-18 percent. [OPV] is used in the NSW Lower House. The average informality rate across the state for NSW's last two general elections is 2.78 percent (2007) and 3.2 percent (2010) – compared to Victoria's 4.56 percent (2006) and 4.96 percent (2010) respectively. The introduction of [OPV] in Victoria may save 1.5 percent-2 percent of informality across the state or the equivalent to 71,500 votes.¹⁴⁴

3.63 Further to this evidence, Figure 3.10 details the types of informality at Victorian elections that could be addressed through the introduction of OPV.

¹⁴³ Victorian Electoral Commission, *Submission No 5*, p.6.

¹⁴⁴ Victorian Electoral Commission, *Submission No 5*, p.p.6-7.

Figure 3.10: Types of informality at recent Victorian elections

Year	Election	1 Only	Insufficient Numbers
2013	Lyndhurst By-election	6.1%	7.4%
2012	Melbourne By-election	5.5%	12.4%
2012	Niddrie By-election	6.6%	5.9%
2011	Broadmeadows By-election	8.3%	9.7%
2010	State election	UH BTL 11.72% LH 23.79%	UH BTL 1.11% LH 7.40%
2010	Altona By-election	5.5%	5.9%
2008	Kororoit By-election	7.14%	5.97%
2007	Albert Park By-election	5.35%	4.68%
2007	Williamstown By-election	7.89%	18.82%
2006	State election	UH BTL 27.36% LH 26.38%	UH BTL 2.75% LH 6.97%

Source: Victorian Electoral Commission, *Submission No.5*, p.8.

3.64 While the VEC has never officially endorsed OPV, at the public hearings for the Committee's inquiry into the 2010 Victorian state election Steve Tully, then Victorian Electoral Commissioner, indicated that OPV could reduce informal voting:

The CHAIR—Could that high informal vote in the lower house be addressed by just having a "1" in a box in both houses?

Mr TULLY—Certainly. Just as a means of providing information, we have conducted that informal survey, and informality under an optional preferential system or a savings provision — such as exists in some other states — would reduce informality by up to half. I find that some people are just getting it wrong. We cannot do much about the ones who are putting messages on the ballot paper, who are just striking through it or who are writing clearly, "I want to vote informal". The ballot paper survey that we conducted does show, in our view, that a number of people are attempting to vote properly and formally below the line but are just getting it wrong.¹⁴⁵

3.65 During the 2010 Victorian state election inquiry, the Committee also discussed OPV with Antony Green, ABC Election Analyst. At the public hearings for the 2010 Victorian state election inquiry on 25 August 2011, Mr Green explained his support for OPV in general:

¹⁴⁵ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.96. Retrieved 11 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

Mr GREEN—I am a supporter of [OPV]. I have actually just been to Britain campaigning for the alternative vote, which is [OPV]. Unfortunately the British could not get their minds around preferential voting; they really did not understand it at all. It was quite a novel experience to watch them try to understand this electoral system in which the candidate who got the highest first preference vote did not win. I think it is fair. What it does do is make it harder for a candidate to win from second place. [OPV] always assists the candidate with the highest first preference vote. Some people call it de facto first past the post because of the way it is working in New South Wales and Queensland.¹⁴⁶

- 3.66 During this inquiry, Mr Green also appeared before the Committee at a public hearing on 19 June 2013. He again suggested OPV could reduce informal voting at Victorian elections, and explained how OPV operates in NSW and Queensland. Mr Green also explained his views about how compulsory preferential voting places too much of a burden on voters to vote correctly, particularly when many electors accurately express a first preference;

Mr GREEN — ...I was specifically asked to think about [OPV], and I have just a few comments about that. I think one of the problems of compulsory preferential voting in Australia is that as it operates at the moment we have a high informal rate caused by errors. I think that we set too high a barrier for votes to be admitted to the count, that too many of our rules are written on the basis that we define at the start of the count what cannot be admitted rather than trying to look at what could be admitted. We have many votes with a perfectly valid first preference that get knocked out — votes that could count, that do not need their preferences examined but are excluded from the count.

That is apart from the idea of moving towards [OPV] where voters only have to put in what preferences they have. An advantage of optional preferential voting is that voters do not always rate all their preferences equally. With the increasing number of candidates we see in elections these days, people are just filling in preferences to have their vote counted when clearly they do not necessarily have these preferences. Just as a reference, in 1985 at the Victorian election there were only an average of 2.4 candidates per electorate in the lower house. At the last election in 2010 that number had increased to 5.7, and we are seeing similar increases all across the country.¹⁴⁷

- 3.67 In contrast to these views, some inquiry participants expressed less positive views about OPV and its implications for the Victorian electoral system. In their submission the Nationals Victoria called for a discussion about OPV to be held in a general context, and not to base its introduction on the rates of informal voting at recent Victorian state by-elections. The PRSA (Victoria and Tasmania) also called for Victoria to consider legislative methods to reduce informal voting which did not follow the 'extreme' position of full OPV as used in NSW and Queensland.¹⁴⁸

- 3.68 Some Australian-based research indicates that OPV can have unfavourable outcomes for an electoral system. In 2011 Cameron Dick MP, the then Attorney-General of Queensland, reported to Cabinet on Queensland's OPV

¹⁴⁶ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.95. Retrieved 11 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

¹⁴⁷ Antony Green, *Transcript of Evidence*, Public Hearing, Melbourne, 19 June 2013, p.2.

¹⁴⁸ PRSA (Victoria and Tasmania), *Submission No 4*, p.p.3-4.

voting system. While the report highlighted some of the positive impacts of OPV, it also focused on the disadvantages. The report observed that OPV can reduce elections in preferential systems to a de facto 'first past the post' contest, 'as preferences can be quickly exhausted where a large number of voters choose to vote '1' only. This is particularly problematic where a large number of candidates are contesting a seat. In this situation, it would be possible for a candidate to be elected with only a small proportion of the vote, which could leave the majority of the population unrepresented'.¹⁴⁹

3.69 In addition, the report discussed the impact of OPV on voting patterns at Queensland state elections:

As part of its analysis of a survey of ballot papers from the 2009 state election, the Queensland Electoral Commission found that approximately 63.03 percent of ballot papers were marked '1 only'. At the 2006 election, 62.15 percent of surveyed ballot papers fell into this category. Up until the 2001 election, the number of ballot papers marked '1 only' had been significantly lower (20.7 percent in the 1995 election).¹⁵⁰

3.70 Based on this report, the Committee gave substantial consideration to one of the key arguments against OPV: that it turns elections into de-facto 'first past the post' contests. Former Committee Member, Dee Ryall MP, and Antony Green, ABC Election Analyst, discussed this scenario in detail:

Ms RYALL — Antony, I just want to clarify your views on [OPV]; you obviously have specific views on it. Your concerns were that it could end up a virtual first-past-the-post system and that the 1-only campaigns by various parties will certainly increase their specific vote or might deter others from otherwise giving preferences. What would be your suggestion for countering the negatives of OPV in those instances?

Mr GREEN — One option would be to simply encourage, with instructions on the ballot paper, full preferences. As an example, in the ACT, which uses the Hare-Clark electoral system, they have five and seven-member electorates. Their formality rules are that you can vote with a single '1'; you do not have to give any preferences. But the instructions on the ballot paper say 'Number 1 to 5' or '1 to 7'. It is an instruction to encourage people to give preferences, because the more preferences people fill in, the more effective their vote can be. If you went down the path of [OPV], both NSW and Queensland — [I] stress that you must put one preference, and then you can go on and give others. I think that if the instructions on the ballot paper push more towards giving preferences, it will help to overcome tactical advantages in encouraging 1-only voting.¹⁵¹

¹⁴⁹ Queensland Department of Justice, 'Attorney-General's Report to Cabinet on Optional Preferential Voting in Queensland', 2011, p.2. Retrieved 11 February 2014 from http://www.justice.qld.gov.au/__data/assets/pdf_file/0011/80003/optional-preferential-voting-in-queensland.pdf.

¹⁵⁰ Queensland Department of Justice, 'Attorney-General's Report to Cabinet on Optional Preferential Voting in Queensland', 2011, p.2. Retrieved 11 February 2014 from http://www.justice.qld.gov.au/__data/assets/pdf_file/0011/80003/optional-preferential-voting-in-queensland.pdf.

¹⁵¹ Antony Green, *Transcript of Evidence*, Public Hearing, Melbourne, 19 June 2013, p.5.

Evidence about modified OPV at Victorian Legislative Assembly elections

- 3.71 The PRSA (Victoria and Tasmania) outlined a proposal called 'partial' OPV. This system represents a significant departure from the current full preferential system of voting used for Victoria's Legislative Assembly. The PRSA (Victoria and Tasmania) called for a 'quota-preferential proportional representation, along the lines of that used for the Tasmanian House of Assembly, or the ACT Legislative Assembly'.¹⁵² The PRSA suggested this system should be introduced along with a system of partial OPV, where the 'formality requirement is that a ballot is formal if as many preferences as there are candidates to be elected are marked'.¹⁵³ The PRSA explained:

If Victoria is to maintain the less representative single-member system for its Legislative Assembly, PRSAV-T Inc. considers that its present unnecessarily onerous formality requirement for marking all but one preference should be replaced with the partial [OPV] requirement specified in Section 102 of Tasmania's *Electoral Act 2004* (TAS) for voting in the single-member system used for elections for its Legislative Council. That established requirement provides that the number of unique consecutive preferences, beginning with a first preference, that are required to be marked for a ballot-paper to be formal is one less than the number of candidates, except that where there are more than three candidates, a ballot-paper need only be marked with the unique preferences 1, 2 and 3, in order to be formal.¹⁵⁴

Evidence about the South Australian ticket voting / savings provision at Victorian Legislative Assembly elections

- 3.72 Several inquiry participants considered the impact of a South Australian ticket voting / savings provision on Victoria Legislative Assembly elections.
- 3.73 At the public hearing on 19 June 2013, Adem Somyurek MLC, Deputy Chair, and Antony Green, ABC Election Analyst, discussed whether the South Australian ticket voting / savings provision could reduce rates of informal voting. Mr Green suggested the provision had reduced informality at South Australian elections:

That is one solution. That is adopting the view that we cannot...allow exhausted preferences, but we have to do something about the informal votes. It was introduced in 1985 after the experience of the 1984 federal election when above-the-line voting was introduced for the Senate, and that induced a high rate of 1-only votes in the lower house. When South Australia adopted the same upper house system in 1985, the preferencing system whereby you can just vote one by accident in the lower house — your vote is imputed to have the preferences of a lodged ticket — that was introduced to avoid this problem, and the informal vote in South Australia would be twice as high as it is if it were not for that savings provision. So it certainly saves a substantial number of votes. It is one solution.¹⁵⁵

¹⁵² PRSA (Victoria and Tasmania), *Submission No 4*, p.4.

¹⁵³ PRSA (Victoria and Tasmania), *Submission No 4*, p.p.3-7.

¹⁵⁴ PRSA (Victoria and Tasmania), *Submission No 4*, p.p.4.

¹⁵⁵ Antony Green, *Transcript of Evidence*, Public Hearing, Melbourne, 19 June 2013, p.3.

- 3.74 In addition to evidence from inquiry participants, the Committee also considered the Commonwealth JSCEM's views on the South Australian ticket voting / savings provision. In its report on the 2010 federal election, tabled in June 2011, the Commonwealth JSCEM received detailed evidence about the South Australian model. It ultimately found that a savings provision was consistent with the full preferential system of voting in place for the House of Representatives, and 'that campaigners would derive no benefit articulating this savings provision'.¹⁵⁶ Accordingly, the Commonwealth JSCEM recommended the introduction of a savings provision for the House of Representatives based on the South Australian ticket voting / savings provision model.
- 3.75 In contrast to Mr Green's views and the Commonwealth JSCEM's findings, some inquiry participants strongly opposed a South Australian ticket voting / savings provision for Victorian Legislative Assembly elections. The PRSA (Victoria and Tasmania) argued that any deeming of votes would amount to an attack on the idea of preference voting at Australian elections, one of the key principles of Australian democracy. The PRSA (Victoria and Tasmania) also argued that a ticket voting / savings provision would 'surrender' voters' preferences to a pre-ordained ticket which many electors might not be aware of:

So-called 'ticket voting/savings provision voting'...imputes to the voters, nearly all of whom are not known to the party - intentions that the voters cannot, and should not, be assumed to have. If the voters choose not to provide a Returning Officer with details of their views on any candidates, there should never be any case where a Returning Officer should ever be empowered to attribute views not explicitly revealed by a voter.

The so-called 'ticket voting/savings provision voting' is similar in principle to the 'above-the-line voting' in Upper House elections in Victoria and federally, which provides a facility whereby political parties can, and normally and blatantly do, encourage voters to authorize the Returning Officer to accept a preference order registered in advance by a political party in lieu of an order of preferences that they explicitly mark on the ballot-paper themselves, which latter order might generally give its earliest preferences for the same party, but might involve a different order of preference for certain candidates of that party, or might involve a different order of preferences for parties that the voter prefers less than his or her most preferred party.¹⁵⁷

- 3.76 The PRSA's (Victoria and Tasmania) views are somewhat similar to those in the Coalition minority report tabled along with the full report of the Commonwealth JSCEM's inquiry into the 2010 federal election. The minority report argued that a ticket voting / savings provision was designed to 'deem' votes, and that the OPV was the only system which counted the maximum

¹⁵⁶ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.146. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹⁵⁷ PRSA (Victoria and Tasmania), *Submission No 4*, p.3.

number of votes while ensuring 'the decision and the vote' remained with the voter.¹⁵⁸

- 3.77 In addition, the Committee reviewed evidence given to the Commonwealth JSCEM by Kaye Mousley, South Australian Electoral Commissioner, and Steve Tully, former South Australian Electoral Commissioner and former Victorian Electoral Commissioner, about the South Australian ticket voting / savings provision. Both gave important insights into the administrative responsibilities associated with the introduction of the South Australian ticket voting / savings provision. Ms Mousley suggested that the savings provision created an additional administrative burden for election staff:

You will find that the voting ticket provisions are somewhat difficult for polling place staff to understand. Primarily, they are employed once every four years and, whilst some of the staff have problems with preferences, particularly with the number of candidates, the higher the number, just following the preferences and sorting to informal and formal, is problematic in itself.¹⁵⁹

- 3.78 Mr Tully's evidence also reinforced the idea that the savings provision was perceived to be administratively 'tricky', but it did save many votes and was worthwhile.¹⁶⁰

Evidence about the impact on federal elections of introducing a different voting system for the Victorian Legislative Assembly

- 3.79 One of the common themes in the Committee's research about modifying the Victorian Legislative Assembly's voting system was the impact of any change to the Victorian electoral system on federal elections and the rate of informal voting in Victoria's federal Divisions. In its submission to the inquiry, the VEC encouraged the Committee to reflect on this when considering the range of influences on informal voting at Australian elections.¹⁶¹

- 3.80 The Committee notes that the AEC's research into the relationship between state and territory electoral systems and the rates of informal voting at federal elections has had mixed results. As noted by the AEC:

Higher informality rates for ballots with incomplete numbering in New South Wales and Queensland may be influenced in part by the optional preferential voting provisions for the lower house in these states. However, both of the jurisdictions with

¹⁵⁸ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.198. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹⁵⁹ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.130. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹⁶⁰ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2010 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2011, p.132. Retrieved 10 November 2013 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect10/report.htm.

¹⁶¹ Victorian Electoral Commission, *Submission No 5*, p.p.6-7.

partial preferential voting had informality rates for incompletely numbered ballots that were below the national average, and two of the four states that allow ticks and crosses as a first preference for lower house elections had informality rates for ticks and crosses below the national average.¹⁶²

Committee's findings

- 3.81 Some of the most convincing evidence the Committee received during this inquiry came from the VEC's informal voting surveys. The Committee finds these surveys useful because they provide a unique insight into informal voting behaviour at Victoria elections. Evidence from the VEC's surveys from the 2006 and 2010 Victorian state elections indicate that, while there has been a substantial increase in apparently deliberate informal voting at recent Victorian elections, a significant number of Victorian electors are voting unsuccessfully because they are expressing a single preference, or voting with a "1" only. Policymakers and electoral administrators find this type of informal voting concerning because while the elector's intention is patently clear, Victoria's system of full preferential voting requires that the elector number every candidate on the ballot paper. Considered alongside the increasing number of candidates at Victorian Legislative Assembly elections – there were 16 candidates at the 2012 Melbourne District by-election – the Committee formed the view that Victoria's system of full preferential voting is placing an unnecessary burden on some electors.
- 3.82 As the principal forum for the public to interact with the Parliament in discussion on electoral matters, the Committee has a responsibility to ensure that Victorians engage with the electoral process. Changes to electoral processes must be simple and easy for electors to understand. They must also be transparent. It was with these principles in mind that the Committee formed the view that the South Australian ticket voting / savings provision would not be the most appropriate method to reduce informal voting at Victorian elections. It is clear that such a system 'deems' votes and gives political parties the power to determine votes, often without the voter's knowledge. Given that many Australians are still unsure how some candidates were elected to the Senate at the 2013 federal election on less than one percent of the primary vote, this Committee cannot recommend legislative changes to the way the Legislative Assembly is elected which, for many electoral experts, result in an outcome many Victorians would not understand.
- 3.83 This Committee has received expert information about OPV during this inquiry from inquiry participants, notably the VEC, Victoria's electoral administrator. While the VEC has always been reluctant to offer policy advice to the Committee, during this inquiry the VEC was unusually candid when the Committee asked it consider whether OPV could reduce informal voting at Victorian Legislative Assembly elections. Quoting from the VEC's

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Australian Electoral Commission, 'Research Report 12 – Analysis of Informal Voting, House of Representatives, 2010 federal election', Australian Electoral Commission, West Block, Canberra, 29 March 2011, p.4. Retrieved 11 March 2014 from http://www.aec.gov.au/About_AEC/research/paper12/files/informality-e2010.pdf.

submission, the VEC said that the use of 'OPV for the Lower House at State elections could prevent approximately a third of informal votes from being informal. Put another way, the introduction of OPV in Victoria may save around two percent of informality across the State, or approximately 71,500 votes. It is clear to the Committee that legislative amendments to the *Electoral Act 2002* (Vic) to introduce a system of full OPV, as is used in NSW and Queensland, would be the simplest and clearest legislative method to reduce informal voting at Victorian Legislative Assembly elections. Such a system would admit the most number of votes to the count.

Recommendation 3.1: The Committee recommends the Victorian Government amend the *Electoral Act 2002* (Vic) to introduce a system of optional preferential voting (OPV) for Victorian Legislative Assembly elections. In drafting these amendments the Victorian Government should examine the models of OPV used in NSW and Queensland.

Committee's views about potential reforms to the Senate system

- 3.84 Like many Australians, the Committee remains concerned about the 2013 Senate election. An electoral system which can elect a Senator on less than one percent of the primary vote must be examined.
- 3.85 While the Committee has no formal position on above the line OPV for the Senate, the Committee will continue to follow debates about the *Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013* (Cwth).

CHAPTER FOUR: AT A GLANCE

- In an electoral context, oversight is the process of independent review of electoral administration, or how elections are conducted.
- Australia has nine electoral commissions. Electoral administration in Australia is well regarded internationally for being independent and transparent.
- Australia has three dedicated parliamentary electoral matters committees. These are the Commonwealth JSCEM, the NSW JSCEM and the Victorian Electoral Matters Committee. All three Committees have close relationships with the electoral commission in their jurisdiction. Australia's electoral matters committees play an important role in the electoral process, providing the public with an opportunity to participate in electoral policymaking.
- Some inquiry participants requested that the Committee should oversight the VEC, as legislation in this area is unclear. The Committee considered several oversight models, including how the Parliament of Victoria's Public Accounts and Estimates Committee reviews the work of the Victorian Auditor-General and his office.
- The Committee recommends the Victorian Government formalise the relationship between the Committee and the VEC in the *Electoral Act 2002* (Vic) and the *Parliamentary Committees Act 2003* (Vic).

Chapter Four: Parliamentary oversight of Victoria's electoral administration

- 4.1 Chapter Four considers parliamentary oversight of Victoria's electoral administration. It first defines parliamentary oversight, outlining the functions and responsibilities of Australia's parliamentary electoral matters committees. It then considers why parliamentary electoral matters committees are an important feature of Australia's electoral system. This chapter then focuses on Victoria, outlining the functions and responsibilities of the Committee and the VEC. Evidence about Victoria's parliamentary oversight of electoral administration is discussed. This chapter concludes with the Committee's findings.
- 4.2 The Committee did not seek evidence about parliamentary oversight of electoral administration in its discussion paper. However, during this inquiry several inquiry participants asked the Committee to examine formalising the relationship between the Committee and the VEC. The Committee also discussed this matter with VAGO on 6 November 2013, and with representatives from the Caltech / MIT Voting project in April 2013.

Parliamentary oversight of electoral matters in Australia

What is oversight?

- 4.3 Oversight is one of the central concepts in electoral integrity. Internationally, as noted by the ACE Electoral Network, in many electoral systems a particular government authority is mandated to oversee or actively supervise the electoral process. This agency 'may be located within a country's electoral commission, or be a separate institution, such as an Auditor-General's office, or an independent commission or court'.¹⁶³ In Canada, the Committee notes the federal Commissioner of Canada Elections has this responsibility.
- 4.4 Effective electoral oversight can encompass a range of functions. An oversight body might provide ongoing, non-partisan monitoring of a

¹⁶³ International Institute for Democracy and Electoral Assistance, 'Electoral Management Design: The International IDEA Handbook: Overview of Electoral Management', International Institute for Democracy and Electoral Assistance, 2006. Retrieved 11 February 2014 from <http://aceproject.org/ace-en/topics/em/em10>.

jurisdiction's electoral administration. It may involve 'regular, independent and objective auditing of certain aspects of the jurisdiction's electoral administration to ensure that the administrator is following laws and procedures; this could involve financial auditing'.¹⁶⁴ Oversight may also involve an independent assessment of the performance of the electoral administration, 'with a view to improving the administrator's general performance, transparency or increasing public accountability'.¹⁶⁵

Structure of Australia's electoral administration

- 4.5 In Australia, electoral administration is structured differently to other developed countries. Australia has a system of independent, statutory electoral commissions in each of its nine jurisdictions. These electoral commissions have broad responsibility for running and administering elections. Electoral commissions also have responsibility for maintaining and updating the electoral roll, overseeing electoral boundary reviews (in Australia, the electoral commission usually establishes another, independent body for this function. In Victoria the *Electoral Act 2002* (Vic) provides for the establishment of a body separate to the VEC, the EBC, as well as other functions, such as electoral education and running local government elections.
- 4.6 The unique structure of Australia's electoral administration is a result of its colonial heritage. As shown by Sawyer and Brent, Australia developed advanced, independent electoral administrations due a strong desire by Australia's colonial administrators in the mid-1850s to not 'import' the kind of issues which plagued the British electoral system. According to Sawyer, Australia was seen as a clean slate. Responsibility for electoral administration first belonged to public servants working in a government department, with greater independence later being achieved through the use of statutory bodies, or 'offices', and finally with the removal of ministerial direction and the establishment of commissions.¹⁶⁶
- 4.7 These reforms have seen Australia regularly held up as the 'gold standard' for electoral administration.¹⁶⁷ While Australia's electoral commissions have legislative responsibilities through relevant electoral legislation in each jurisdiction, they are independent and primarily answerable to the Parliament in relation to their chief measure; the conduct of elections. Due to this independence the oversight of Australia's electoral commissions is also different to comparable countries. While some countries, like Canada,

¹⁶⁴ International Institute for Democracy and Electoral Assistance, 'Electoral Management Design: The International IDEA Handbook: Oversight Bodies', International Institute for Democracy and Electoral Assistance, 2006. Retrieved 11 February 2014 from <http://aceproject.org/ace-en/topics/ei/eic/eic03>.

¹⁶⁵ International Institute for Democracy and Electoral Assistance, 'Electoral Management Design: The International IDEA Handbook: Oversight Bodies', International Institute for Democracy and Electoral Assistance, 2006. Retrieved 11 February 2014 from <http://aceproject.org/ace-en/topics/ei/eic/eic03>.

¹⁶⁶ Sawyer, M., 2003. 'Enrolling the People: Electoral Innovation in the New Australian Commonwealth', in Orr, G., Mercurio, B., Williams, G. (ed.), *Realising Democracy: Electoral law in Australia*, Federation Press, Sydney, pp. 52-65.

¹⁶⁷ Sawyer, M., 2003. 'Enrolling the People: Electoral Innovation in the New Australian Commonwealth', in Orr, G., Mercurio, B., Williams, G. (ed.), *Realising Democracy: Electoral law in Australia*, Federation Press, Sydney, pp. 52-65.

establish oversight bodies to review the work of electoral commissions, in Australia, oversight of electoral administration is primarily parliamentary.

Parliamentary electoral matters committees

4.8 At the time of writing, Australia had three dedicated parliamentary electoral matters committees. The Commonwealth JSCEM is the oldest of the three committees; it was established as the Joint Standing Committee on Electoral Reform in 1983. The NSW JSCEM was established in 2004, and the Victorian EMC was established in 2007. It is worth noting that Queensland also has a history of conducting parliamentary inquiries into electoral matters. These inquiries have usually been conducted by the Legal Affairs, Policy, Corrective Services and Emergency Services Committee.

Commonwealth JSCEM and the AEC

4.9 The Commonwealth JSCEM is one of the Commonwealth Parliament's 15 Joint Committees, and is established by a resolution of the House of Representatives and the Senate. The role of the Commonwealth JSCEM is to inquire into and report on such matters relating to electoral laws and practices and their administration as may be referred to it by either House of the Parliament or a Minister.¹⁶⁸ The matters that may be referred by the House include reports by the Commonwealth Auditor-General. The Committee could also inquire into matters raised in annual reports of Commonwealth Government departments and authorities.¹⁶⁹

4.10 As Australia's federal electoral commission, the AEC is responsible for conducting federal elections and referendums and maintaining the Commonwealth electoral roll. The AEC also provides a range of electoral information and education programs. Prior to 1983 it was known as the Australian Electoral Office. Following amendments in 1984 to the *Commonwealth Electoral Act 1918* the Office became known as the AEC. As noted on the AEC's website, the AEC has seven core business functions. These include:

- Managing the Commonwealth electoral roll;
- Conducting elections, referendums, including industrial and fee-for-service elections and protected action ballots;
- Educating and informing the community about electoral rights and responsibilities;

¹⁶⁸ Commonwealth of Australia, 'House of Representatives Committees: Standing Committee on Electoral Matters', Commonwealth of Australia, 2014. Retrieved 11 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/role.htm.

¹⁶⁹ Commonwealth of Australia, 'House of Representatives Committees: Standing Committee on Electoral Matters', Commonwealth of Australia, 2014. Retrieved 11 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/role.htm.

- Providing research, advice and assistance on electoral matters to the Parliament, other government agencies and recognised bodies;
- Providing assistance in overseas elections and referendums in support of wider government initiatives;
- Administering election funding, financial disclosure and party registration requirements; and
- Supporting electoral redistributions.¹⁷⁰

4.11 Kelly has examined the AEC's relationship with the Parliament and the Commonwealth JSCEM, as per the fourth function in the AEC's core business. While Kelly suggests there is a close relationship between the AEC and the Commonwealth JSCEM, there is no formal requirement for the AEC to participate in JSCEM inquiries. Kelly notes that the JSCEM holds 'regular (twice yearly) private hearings with the AEC. Although these hearings are recorded by Hansard, the transcripts are not released to the public; they are regarded as briefings and an opportunity to discuss the mechanics of electoral administration away from public scrutiny'.¹⁷¹ Kelly also notes:

The AEC...provides substantial submissions to JSCEM inquiries—for example, more than 1000 pages of information and comment were submitted following the 2004 and 2007 elections. Typically, the AEC's submissions present data on the conduct of the election, as well as providing information and comment on specific electoral issues that have been raised through the media or might have been foreshadowed or requested by the Committee.¹⁷²

NSW JSCEM and the NSWEC

4.12 The NSW JSCEM is a Joint Standing Committee of the Parliament of NSW, established on 14 May 2004 and re-established on 22 June 2011. The Committee inquires into and reports on matters that are referred by either House of the Parliament or a Minister relating to the administration of, and practices related to, the *Parliamentary Electorates and Elections Act 1912* (NSW) (other than Part 2) and the *Election Funding, Expenditure and Disclosures Act 1981* (NSW).¹⁷³

4.13 The NSWEC is an independent statutory authority established under the *Parliamentary Electorates and Elections Act 1912* (NSW). The NSWEC's main functions are similar to those of the AEC. The NSWEC:

- Conducts elections and by-elections for the State of NSW, local government and the NSW Aboriginal Land Council;

¹⁷⁰ Australian Electoral Commission, 'Overview of the AEC', Australian Electoral Commission, West Block, Canberra, 2014. Retrieved 11 February 2014 from http://www.aec.gov.au/about_aec/.

¹⁷¹ Kelly, N., 2012, *Directions in Australian Electoral Reform: Professionalism and Partisanship in Electoral Management*, ANU E-Press, Canberra, p.15.

¹⁷² Kelly, N., 2012, *Directions in Australian Electoral Reform: Professionalism and Partisanship in Electoral Management*, ANU E-Press, Canberra, p.22.

¹⁷³ Parliament of NSW, 'Joint Standing Committee on Electoral Matters', State of NSW, 2014. Retrieved 11 February 2014 from <http://www.parliament.nsw.gov.au/electoralmatters>.

- Conducts elections for registered clubs, statutory bodies and state registered industrial organisations;
- Manages the Commonwealth electoral roll with the AEC;
- Provides administrative support to the Election Funding Authority to research electoral issues; and
- Provides advice to the relevant Minister on matters relating to the administration of enrolment and elections in NSW.¹⁷⁴

4.14 The NSW Electoral Funding Authority is unique in Australia's electoral system. Its main purpose 'is to allocate public funds to parties and candidates for State election campaigns and, in the case of parties, to allocate public funds for administrative and policy development expenses'.¹⁷⁵ It also enforces 'the imposition of maximum amounts (or 'caps') on the value of political donations that might be lawfully accepted and the electoral communication expenditure that might lawfully be incurred, and to enforce the prohibition on donations from a limited class of intending donors'.¹⁷⁶ In addition, the Authority enforces the 'requirement to disclose the source and the amount of all political donations received and the amount of electoral expenditure for state parliamentary and local government election campaigns'.¹⁷⁷

Why are parliamentary electoral matters committees important?

- 4.15 The Committee is aware of debate in the critical literature about the value of parliamentary committees in Westminster-derived electoral systems.
- 4.16 Parliamentary committees play an important role in the parliamentary process. They allow the parliament to conduct investigations and research into particular subjects which would otherwise not be possible inside the chamber. As such, they are an extension of the chamber. In Victoria, parliamentary committees also have a strong track record in terms of community engagement. The Parliament of Victoria currently has 12 Joint Investigatory Committees, and three Legislative Council Standing Committees. All these Committees conduct inquiries calling for written submissions and providing opportunities for the public to appear before the Committee to give evidence. The Committee believes that this 'opening up' of the parliamentary process to the general public is one of the great strengths of parliamentary committees.

¹⁷⁴ NSW Electoral Commission, 'What We Do', NSW Electoral Commission, January 2014. Retrieved 11 February 2014 from http://www.elections.nsw.gov.au/about_us/what_we_do.

¹⁷⁵ NSW Election Funding Authority, 'What We Do', NSW Election Funding Authority, January 2014. Retrieved 11 February 2014 from http://www.efa.nsw.gov.au/about_us/what_we_do.

¹⁷⁶ NSW Election Funding Authority, 'What We Do', NSW Election Funding Authority, January 2014. Retrieved 11 February 2014 from http://www.efa.nsw.gov.au/about_us/what_we_do.

¹⁷⁷ NSW Election Funding Authority, 'What We Do', NSW Election Funding Authority, January 2014. Retrieved 11 February 2014 from http://www.efa.nsw.gov.au/about_us/what_we_do.

4.17 Parliamentary electoral matters committees also have an important role in providing public access to electoral policy making. As noted by Ian McAllister, Professor, Australian National University, Australian electoral policy making is closely controlled by parliaments. Due to this, Reader has shown that Australia's parliamentary EMCs are one of the only fora through which the public can see Australia's electoral administrators, such as the VEC, subject to direct parliamentary scrutiny.¹⁷⁸ Submissions and public hearings provide opportunities for the public to participate in electoral policy making.

Structure of Victoria's electoral administration

4.18 Victoria's electoral administration is similar in structure to the Commonwealth and NSW, with the VEC as the independent statutory body running elections, and this parliamentary committee overseeing electoral matters.

4.19 As noted in Chapter One, this Committee is a Joint Investigatory Committee of the Parliament of Victoria comprised of members of Parliament drawn from both Houses. The powers and responsibilities of the Committee are determined by the *Parliamentary Committees Act 2003* (Vic). The functions of the Committee, as defined by Section 9A, are to inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with—

- The conduct of parliamentary elections and referendums in Victoria;
- The conduct of elections of Councillors under the *Local Government Act 1989* (Vic); and
- The administration of, or practices associated with, the *Electoral Act 2002* (Vic) and any other law relating to electoral matters.¹⁷⁹

4.20 In addition, matters are referred to the Committee either by resolution of the Council or the Assembly or by Order of the Governor in Council. The *Parliamentary Committees Act 2003* (Vic) also enables a Joint Investigatory Committee to inquire into and report to Parliament on any annual report or other document relevant to its functions and which have been laid before either House of Parliament.¹⁸⁰ On this basis the Committee can also self-reference an inquiry.

4.21 The VEC is an independent and impartial statutory authority established by the *Electoral Act 2002* (Vic). The VEC's primary responsibilities are defined by the *Electoral Act 2002* (Vic). The VEC:

- Conducts Victorian parliamentary elections and by-elections;
- Conducts Victorian local council elections and by-elections;

¹⁷⁸ Reader, N., 2014, 'Assessing the policy impact of Australia's parliamentary electoral matters committees: a case study of the Victorian Electoral Matters Committee and the introduction of direct electoral enrolment', in *Parliamentary Affairs*, 1-20.

¹⁷⁹ *Parliamentary Committees Act 2003* (Vic) s9.

¹⁸⁰ *Parliamentary Committees Act 2003* (Vic) s9.

- Conducts certain statutory elections;
- Ensures the enrolment of electors;
- Prepares electoral rolls for parliamentary elections, voters' lists for local government elections and jury lists;
- Promotes public awareness of electoral matters through education and information programs;
- Conducts and promotes research into electoral matters;
- Provides advice to the Attorney-General and to Parliament on electoral issues; and
- Reports to Parliament on the VEC's activities.¹⁸¹

4.22 The VEC also conducts electoral representation reviews of local councils in accordance with the *Local Government Act 1989* (Vic), maintains the Victorian electoral enrolment register, conducts electoral research and provides education services.

4.23 Echoing federal arrangements, this Committee and the VEC have a close working relationship. While there are no formal requirements for the two bodies to consult, the VEC regularly participates in Committee inquiries, providing advice and evidence on electoral matters. The VEC also hosts regular briefings for the Committee on electoral matters. Appendix Three lists the briefings attended by the Committee during this inquiry.

Evidence about parliamentary oversight of Victoria's electoral administration

4.24 As noted earlier, the Committee was surprised by the level of interest in parliamentary oversight. While the Committee did not call for evidence about this matter in its discussion paper, the Committee discussed parliamentary oversight during its study tours to Darwin in 2012 and 2013, and through the participation of the Committee secretariat in various ERRN workshops in 2013. The Committee also discussed parliamentary oversight with VAGO on 16 November 2013.

4.25 The Committee appreciates the conceptual link between parliamentary oversight and broader interest in the role of electoral commissions in Australia's electoral framework. In 2013 Joo-Cheong Tham, Associate Professor, University of Melbourne, released a paper examining Australia's electoral commissions through the framework of deliberative democracy.¹⁸²

¹⁸¹ *Electoral Act 2002* (Vic).

¹⁸² Tham, C. J., 2013. 'Deliberative democracy and electoral management bodies: the case of Australian electoral commissions', Working Paper No.20, Democratic Audit of Australia and Electoral Regulation and Research Network, Melbourne Law School, p.2. Retrieved 13 March 2014 from http://www.law.unimelb.edu.au/files/dmfile/WP_20_Tham3.pdf.

The paper argued that electoral commissions in Australia have three core roles – administering electoral rules, making electoral rules and fostering democratic deliberation of electoral rules – and that electoral commissions have an important role in the process of democratic deliberation in Australia.¹⁸³

- 4.26 The Committee notes how this evidence contributes to international discussion about electoral administration. During its US study tour in April 2013, the Committee met with representatives from the Caltech / MIT Voting Project. One of the project's key research areas focuses on electoral administration and arrangements for oversight of electoral administration in the US.

Gaps in the Committee's functions

- 4.27 The Committee understands there is some misunderstanding about the Committee's role in relation to the VEC. The Committee notes that some online reference sources claim that the Committee overlooks the work of the VEC, and that this function is a prescribed function of the Committee according to the *Parliamentary Committees Act 2003* (Vic).
- 4.28 According to Section Eight of the *Electoral Act 2002* (Vic), the VEC only 'has responsibility to conduct and promote research into electoral matters that are in the general public interest'.¹⁸⁴ This Committee is not mentioned anywhere in the Act. Similarly, in terms of direct responsibility to the Parliament, the Committee notes that the VEC is administratively a part of the Department of Justice. Section Eight of the *Electoral Act 2002* (Vic) also notes that the VEC must 'consider, and report to the Minister on, electoral matters that are in the general public interest referred to the Commission by the Minister'.¹⁸⁵
- 4.29 In the *Parliamentary Committees Act 2003* (Vic), the Committee's relationship with the VEC is not prescribed.

Oversight model for Victoria's electoral administration

- 4.30 Some inquiry participants suggested the Committee consider an oversight model for Victoria's electoral administration. The Committee was encouraged to consider the PAEC's relationship with VAGO.
- 4.31 On 13 November 2013, the Committee met with staff from VAGO. VAGO outlined the nature of its work, and its relationship with the Parliament's PAEC. Broadly, the PAEC has three functions: a public accounts function; an estimates function; and, an auditing function. Through these functions, and

¹⁸³ Tham, C. J., 2013. 'Deliberative democracy and electoral management bodies: the case of Australian electoral commissions', Working Paper No.20, Democratic Audit of Australia and Electoral Regulation and Research Network, Melbourne Law School, p.p.3-4. Retrieved 13 March 2014 from http://www.law.unimelb.edu.au/files/dmfile/WP_20_Tham3.pdf.

¹⁸⁴ *Electoral Act 2002* (Vic) s8(2).

¹⁸⁵ *Electoral Act 2002* (Vic) s8(2).

as prescribed by the *Parliamentary Committees Act 2003* (Vic), the PAEC is involved in reviewing the work of the Auditor-General.¹⁸⁶ This can extend to:

- Reviewing the Auditor-General's report on the annual finances of the State of Victoria;
- Recommending the appointment of the Auditor-General and the independent auditors of the Auditor-General's Office (both financial and performance); and
- Considering and reporting to Parliament on the budget estimates and the annual plan of the Auditor-General's Office.¹⁸⁷

4.32 The PAEC also 'has a consultative role in determining the objectives and terms of reference of performance audits and identifying any particular issues that need to be addressed as part of the audits and in advising the Auditor-General on the audit priorities for the year'.¹⁸⁸ It can exempt, if necessary, 'the Auditor-General from any legislative requirements applicable to government agencies on staff employment conditions and financial reporting practices'.¹⁸⁹

The importance of regular parliamentary review of electoral administration

4.33 Some inquiry participants emphasised the importance of the Parliament reviewing state elections on a regular basis. At the public hearing, Noah Carroll, State Secretary, ALP, observed:

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...but I also want to indicate that inquiries like this are always welcomed by the Victorian branch of the ALP. It is especially important that these things are reviewed and reviewed regularly, and I applaud the work.¹⁹⁰

¹⁸⁶ Parliament of Victoria, Public Accounts and Estimates Committee, 'Functions of the Committee', Parliament of Victoria, Melbourne, 2014. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/paec/function-of-the-committee>.

¹⁸⁷ Parliament of Victoria, Public Accounts and Estimates Committee, 'Functions of the Committee', Parliament of Victoria, Melbourne, 2014. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/paec/function-of-the-committee>.

¹⁸⁸ Parliament of Victoria, Public Accounts and Estimates Committee, 'Functions of the Committee', Parliament of Victoria, Melbourne, 2014. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/paec/function-of-the-committee>.

¹⁸⁹ Parliament of Victoria, Public Accounts and Estimates Committee, 'Functions of the Committee', Parliament of Victoria, Melbourne, 2014. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/paec/function-of-the-committee>.

¹⁹⁰ Noah Carroll, State Secretary, Australian Labor Party, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.2.

Committee's findings

- 4.34 As noted earlier, the Committee has a close working relationship with the VEC.
- 4.35 It is clear to the Committee that there is scope for the relationship between the VEC and this Committee to be formalised. The *Electoral Act 2002 (Vic)* does not mention this Committee in the VEC's functions or responsibilities, nor does the *Parliamentary Committees Act 2003 (Vic)*. Given the extent of the VEC's involvement with this Committee's inquiries, it would seem logical to amend relevant Victorian electoral legislation to formalise this relationship.
- 4.36 In many respects, the Committee already oversees the work of the VEC. Following every Victorian state election and by-election, the VEC is required to report to Parliament on the conduct of that election. The Committee's inquiries into the 2006 and 2010 Victorian state elections coincided with the VEC's own report to Parliament on the election; the reports became key submissions to both inquiries. Both reports provided important information about trends in Victoria's electoral indicators. The Committee also notes that the VEC fast-tracked the tabling of both reports in Parliament to suit the timing of the Committee's inquiry. The Committee appreciated the VEC's assistance.
- 4.37 While the PAEC's oversight of VAGO represents a good model for parliamentary oversight, the Committee is reluctant to replicate the PAEC's role, particularly in relation to the appointment of the Electoral Commissioner and oversight of the VEC's financial matters. The Committee believes existing provisions in the *Electoral Act 2002 (Vic)* appropriately provide for the appointment of the Electoral Commissioner, and that external bodies, such as commercial auditing firms, should continue to audit the VEC's finances.

Recommendation 4.1: The Committee recommends the Victorian Government amend the relevant sections of the *Electoral Act 2002 (Vic)* to include under the VEC's responsibilities the requirement for the VEC to work with the Parliament of Victoria's Electoral Matters Committee.

Recommendation 4.2: The Committee recommends the Victorian Government amend the relevant sections of the *Parliamentary Committees Act 2003 (Vic)* relating to the functions of the Electoral Matters Committee, to prescribe that the Committee should review the VEC's reports to Parliament, and conduct a review of every Victorian state election.

CHAPTER FIVE: AT A GLANCE

- Election night tally rooms are a unique feature of Australia's electoral process and have been part of the national electoral landscape since the 1950s.
- Traditionally, Australia's electoral commissions have established tally rooms to provide a space for media agencies to gather and report the results of an election. The general public has also been invited to attend tally rooms; in Victoria, this began in 1999.
- With the advent of the computerisation of election results, and the Internet, the Committee learnt that tally rooms have come to play a less central role on election night. Due to cost and the decision by broadcasters to not establish temporary studios in the tally room, the AEC decided to not establish the National Tally Room for the 2013 federal election. Based on this decision, the VEC requested the Committee consider whether it was appropriate to establish a tally room for the 2014 Victorian state election.
- While the Committee agrees that there is little benefit in establishing a traditional tally room for the 2014 Victorian state election, the Committee also believes that Victorians should still have access to a public space on election night to celebrate the election. This is an important part of Victoria's, and Australia's, democratic tradition.
- As such, the Committee recommends the VEC discontinue the Victorian tally room, subject to the VEC reporting to the Committee prior to the 2014 Victorian state election on the viability of hosting an election night celebration in Melbourne. The Committee encourages the VEC to consider Federation Square.

Chapter Five: The Victorian state election tally room

- 5.1 Chapter Five addresses evidence about the Victorian state election tally room, the venue where state election results have traditionally been reported to the public on election night. It discusses the role and functions of the Victorian tally room, the history of the National Tally Room (NTR), the Victorian tally room and what the tally room means to stakeholders in the electoral process. This chapter then discusses evidence received during the inquiry about the Victorian tally room and tally rooms in other states. It concludes with the Committee's views about the Victorian state election tally room.
- 5.2 Currently only Victoria, Tasmania and the Northern Territory establish a tally room for state elections. In July 2013 Ed Killesteyn, Australian Electoral Commissioner, announced the AEC would not establish the NTR for the 2013 federal election¹⁹¹.

What is a tally room

- 5.3 Australia's election night tally rooms are one the most distinctive aspects of national election coverage. They act as a central point for the display of results on election night. While Australia's tally rooms operate differently they share key features. The first is the display of election results. When the NTR last operated in 2010, 'election figures for the House of Representatives were displayed on a manual tally board, approximately 35 metres by seven metres in size, at the front of the room'.¹⁹² In so far as other Australian jurisdictions have used either manual or electronic tally boards, the idea of a tally board on election night has been a feature of Australian elections for nearly 40 years.
- 5.4 Another important function of the tally room has been to provide an opportunity for the media to broadcast election results. Media outlets construct temporary studios in the tally room to facilitate both radio and television broadcasting; typically, results are displayed on computer terminals

¹⁹¹ S. Anderson, 'Tally room axed for election', *The Canberra Times*, 2 July 2013. Retrieved 3 February 2014 from <http://www.canberratimes.com.au/act-news/tally-room-axed-for-election-20130702-2p8rr.html>.

¹⁹² Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.42. Retrieved 12 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect07/report2/final.pdf.

'available to the media and members of registered political parties, which are then fed simultaneously to television networks'.¹⁹³ In addition, journalists often use the tally room to conduct interviews with candidates.

- 5.5 Members of the public also attend the tally room, although rates differ amongst Australian jurisdictions.

History of the National Tally Room and the Victorian tally room

National Tally Room – administered by the AEC

- 5.6 The NTR was the election night tally room established and administered by the AEC for federal elections. As noted by the Commonwealth JSCEM, it was one of Australia's largest media gatherings with representation from radio, print, online and television media.¹⁹⁴ At the height of its popularity, arguably around the 2004 federal election, the NTR attracted '700 members of the media, 100 political party workers and members of Parliament, 160 international and official guests and as many as 2,400 members of the public, limited to around 300 at a time due to the capacity of the venue'.¹⁹⁵ The Commonwealth JSCEM noted that the NTR was the focus of the nation for approximately six hours on election night.

- 5.7 The rationale for an election night tally room in Australia can be traced back to the 1950s. Prior to 1974, election night information was displayed on large, wooden tally boards, which listed progress totals of first preference votes for each candidate in each seat. According to the AEC:

At least into the 1950s – eyewitness reports from that era are hard to obtain – these tally boards were located not in a single NTR, but in separate tally rooms for each state. This made it extremely difficult for commentators to analyse an election other than on a seat by seat basis, and in fact the impetus for the establishment of a [NTR] came from newspaper chains, which were finding it necessary to organise their own national tally rooms. By the mid-1960s, results were released both in the states and centrally.¹⁹⁶

- 5.8 The AEC's submission to the Commonwealth JSCEM's 2004 inquiry into the administration of the AEC offers further insights into the development of the NTR:

¹⁹³ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.42. Retrieved 12 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect07/REPORT2/final.pdf.

¹⁹⁴ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.42. Retrieved 12 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect07/REPORT2/final.pdf.

¹⁹⁵ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.42. Retrieved 12 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect07/REPORT2/final.pdf.

¹⁹⁶ Australian Electoral Commission, 'Submission two: inquiry into certain aspects of the administration of the Australian Electoral Commission – the National Tally Room', 29 June 2007, p.3. Retrieved 12 February 2014 from http://www.aec.gov.au/elections/australian_electoral_system/jscem/.

By the late 1960s the institution of the NTR was well established. Election night commentators, increasingly employed by television as well as radio, usually [sought] as returns came in to identify each seat as having been won by either the Coalition or Labor; when over half of the seats had been so allocated to one side they would 'call the election'. The braver commentators might be prepared to call the election even before all seats had been allocated, if it seemed clear from the voting patterns in the allocated seats that one side had won a decisive victory.¹⁹⁷

5.9 The next major change to the NTR came with the advent of computerised vote tabulation. According to the AEC:

The first major advance in the tallying of votes on election night was implemented at the election of 18 May 1974, when results ceased to be transmitted to the NTR by telephone, and instead were entered at State Input Centres into a nationwide computer system, the Polling Results Processing Package, which ran on a mainframe computer belonging (at the outset) to the Customs Department.¹⁹⁸

5.10 Due to the increasing sophistication of computer technology, by the late 1990s the AEC began to implement a fully computerised results service. While 'election results had been fed from the TENIS system directly to publicly subscribed online information services as long ago as 1987, it was only with the expansion of the world wide web, and of public access to it, that the provision of a web-based Virtual Tally Room (VTR) became feasible and worthwhile'.¹⁹⁹

5.11 The advent of the online VTR was the impetus for calls to have a completely online results service without a physical tally room. In 2007:

The AEC floated the idea of abolishing the NTR in favour of disseminating results entirely via electronic means. Following stakeholder consultation which yielded vastly differing views, the AEC announced that the NTR would continue to be staged for the 2007 federal election, which would 'enable broader consideration and assessment of the future of the NTR' for future elections.²⁰⁰

5.12 Following the outcome of inquiries by the Commonwealth JSCEM which featured discussion about the NTR, as noted earlier, in July 2013 Ed Killesteyn, Australian Electoral Commissioner, announced the AEC would not establish the NTR for the 2013 federal election. In the AEC's official statement, Mr Killesteyn said online advances meant the service was little more than a 'visual backdrop' for many outlets, making it hard for the commission to justify its \$1.2 million price tag.²⁰¹ Another, major driver for the

¹⁹⁷ Australian Electoral Commission, 'Submission two: inquiry into certain aspects of the administration of the Australian Electoral Commission – the National Tally Room', 29 June 2007, p.3. Retrieved 12 February 2014 from http://www.aec.gov.au/elections/australian_electoral_system/jscem/.

¹⁹⁸ Australian Electoral Commission, 'Submission two: inquiry into certain aspects of the administration of the Australian Electoral Commission – the National Tally Room', 29 June 2007, p.5. Retrieved 12 February 2014 from http://www.aec.gov.au/elections/australian_electoral_system/jscem/.

¹⁹⁹ Australian Electoral Commission, 'Submission two: inquiry into certain aspects of the administration of the Australian Electoral Commission – the National Tally Room', 29 June 2007, p.5. Retrieved 12 February 2014 from http://www.aec.gov.au/elections/australian_electoral_system/jscem/.

²⁰⁰ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into the 2007 federal election and matters related thereto*, Parliament of Australia, Canberra, June 2009, p.42. Retrieved 12 February 2014 from http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=em/elect07/report2/final.pdf.

²⁰¹ Australian Electoral Commission, 'Statement on the future of the National Tally Room', Australian Electoral Commission, Canberra, July 2013. Retrieved 12 February 2014 from <http://www.aec.gov.au/media/media-releases/2013/07-02.htm>.

AEC's decision was confirmation that none of the major television networks, including the ABC, would host their election night coverage from the NTR. While Mr Killesteyn called the NTR a 'Canberra institution', the AEC viewed the NTR as a 'non-practical component' of the business of generating election results.²⁰²

The Victorian state tally room – administered by the VEC

5.13 The VEC's reports to Parliament on Victorian state elections provide a rich source of information about the history of the Victorian tally room. The Committee considered how the Victorian tally room has developed since the 1999 Victorian state election.

1999 Victorian state election

5.14 For the 1999 Victorian state election held on 18 September 1999, the Melbourne Exhibition Centre was used as the Victorian tally room. Given that Victoria did not have fixed election dates at the time, the VEC's report to Parliament advised that the VEC found it difficult to locate premises to hold the tally room; many suitable venues required booking 12-months in advance.²⁰³

5.15 According to the VEC:

Results were transmitted in real time to the tally room through the VEC's computerised election management system. The results were transmitted to printers at the tally room for posting directly on to the tally board. EMS 2000 also provided a direct data feed to television media, AAP, and political parties in attendance on the night.

The tally room was attended by major media organisations including Channel Nine, Seven, Ten and ABC television networks; 3LO, 3AW, Triple MMM, and Triple RRR radio stations; and all major Victorian and national print media. The tally room was also attended by representatives of the National and Liberal parties.²⁰⁴

5.16 Significantly, the 1999 Victorian tally room was the first tally room where members of the public were officially invited to attend. According to the VEC:

Newspaper advertisements were placed and 400 respondents were provided with passes. Television monitors were provided to enable the public to follow television coverage within the atmosphere of the tally room. This initiative was considered to be extremely successful – [due to the close result] there were very few empty seats and most members of the public stayed throughout the evening until nearly all results

²⁰² Australian Electoral Commission, 'Statement on the future of the National Tally Room', Australian Electoral Commission, Canberra, July 2013. Retrieved 12 February 2014 from <http://www.aec.gov.au/media/media-releases/2013/07-02.htm>.

²⁰³ Victorian Electoral Commission, *Report to Parliament on the 1999 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2000, p.43. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-1999-part1.pdf>.

²⁰⁴ Victorian Electoral Commission, *Report to Parliament on the 1999 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2000, p.p.43-44. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-1999-part1.pdf>.

were available. A number of media commented positively on the extra atmosphere provided by a public presence.²⁰⁵

- 5.17 Prior to election night the VEC had raised the possibility of discontinuing the Victorian tally room after the 1999 Victorian state election. The VEC suggested that with the advent of computer technology, 'there was no longer a requirement for a special venue for the posting of election results'. Nevertheless, the VEC received feedback 'that the media would like to retain the Victorian tally room at future elections as an atmospheric focal point for their election night coverage'.²⁰⁶

2002 Victorian state election

- 5.18 The VEC's preferred venue, the Melbourne Exhibition Centre, was the Victorian tally room for the 2002 Victorian state election on 30 November 2002.
- 5.19 As noted in the VEC's report to Parliament on the 2002 Victorian state election, preparing 'the tally room [was] an enormous logistical exercise. It took over a week to construct the tally board, seating for the public and media, and television studio sets. Extensive security arrangements were established during the set up of the tally room and on election night. Entry to the tally room at all times was by pass only'.²⁰⁷
- 5.20 For the 2002 Victorian state election, the tally room cost approximately \$250,000 to establish and operate. This included venue hire, wages, security and all communication and technical costs. The media was responsible for their own set up and operating costs.²⁰⁸ As with the 1999 Victorian tally room, the tally room was attended by major media organisations including: the ABC, Nine, Seven, Ten and Sky television; ABC, 3AW and 3AK radio; and major Victorian and national print media.
- 5.21 Prior to the election the VEC placed an advertisement inviting the public to the Victorian tally room on election night. The response was 'enthusiastic and the 550 respondents who had been issued with passes filled the public gallery'.²⁰⁹ Feedback from journalists indicated the Victorian tally room created an 'atmosphere' on election night.

²⁰⁵ Victorian Electoral Commission, *Report to Parliament on the 1999 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2000, p.p.43-44. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-1999-part1.pdf>.

²⁰⁶ Victorian Electoral Commission, *Report to Parliament on the 1999 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2000, p.p.43-44. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-1999-part1.pdf>.

²⁰⁷ Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2003, p.49. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2002-Section4.pdf>.

²⁰⁸ Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2003, p.49. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2002-Section4.pdf>.

²⁰⁹ Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2003, p.49. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2002-Section4.pdf>.

5.22 Regarding election results, the VEC noted:

Election results were transmitted electronically to the tally room and broadcast media present in the tally room on election night...Most journalists relied on the VEC's website for results on election night. The website was updated every ten minutes. At 6.30 pm on election night there was a technical fault that meant the website was not updated for about 45 minutes. During this period updated results continued to be posted to the tally board and distributed to the media.²¹⁰

5.23 Following the 2002 Victorian state election the Committee notes there was some speculation about the future of the tally room. However, as noted in the VEC's report to Parliament on the 2002 Victorian state election, the VEC received feedback that the media 'would like the tally room to be retained as an atmospheric focal point for election night coverage. Most political parties also [appeared] to be in favour of retaining the tally room'.²¹¹

2006 Victorian state election

5.24 The VEC held the Victorian tally room for the 2006 Victorian state election at the Melbourne Exhibition and Convention Centre (MECC). According to the VEC:

This was the only available venue large enough to cater for all the required uses – accommodation of a 20 x 9 metre tally board plus staging, television studio sets, areas for radio and print media, and seating for the general public. The electronic tally board projected results onto a screen, replacing the old physical tally board that had been used for many years.²¹²

5.25 The MECC was also leased to conduct the computer count for the Legislative Council after the election. This 'decision also enabled the venue to be used for the conduct of the three Legislative Council recounts at very short notice'.²¹³

5.26 For the 2006 Victorian state election, the tally room cost \$320,000 to establish, and took place in front of 150 people – down from 550 at the 2002 Victorian state election. The only media agency to establish 'a temporary presence there was the ABC, with other agencies crossing live to the tally room over the course of election night. Due to this, the VEC concluded there was speculation about the future of the Victorian tally room'.²¹⁴

²¹⁰ Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2003, p.49. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2002-Section4.pdf>.

²¹¹ Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Victorian Electoral Commission, Melbourne, May 2003, p.49. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2002-Section4.pdf>.

²¹² Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Victorian Electoral Commission, Melbourne, July 2007, p.59. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2006-Section4.pdf>.

²¹³ Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Victorian Electoral Commission, Melbourne, July 2007, p.59. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2006-Section4.pdf>.

²¹⁴ Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Victorian Electoral Commission, Melbourne, July 2007, p.59. Retrieved 12 February 2014 from <https://www.vec.vic.gov.au/files/ER-2006-Section4.pdf>.

2010 Victorian state election

- 5.27 The Victorian tally room for the 2010 Victorian state election was held at the Victory Room, in Etihad Stadium. The VEC noted it was ‘a focal point for media on election night’.²¹⁵ ABC News (television and radio) broadcast live throughout the evening with Sky News, Channel 7, Channel 9 and Channel 10 offering live crosses. 3AW and MTR ‘also had a broadcasting presence all evening. The media outlets were responsible for their own set up and operating costs’.²¹⁶
- 5.28 Following the low public attendance at the Victorian tally room for the 2006 Victorian state election, the VEC provided a ‘reduced seating area for members of the public. Around 100 people attended the tally room, despite inclement weather; ‘extra seating was also provided in the stadium where the tally board was projected onto large screens’.²¹⁷
- 5.29 One feature of the 2010 Victorian tally room was the creation of a website dedicated to the publication of results — the VTR. According to the VEC:
- The VTR was designed to provide quick and secure access to results as they were received by the VEC on election night and during the following week. On election night, the website and results files were updated at no more than five minute intervals, receiving more than 1.5 million hits from nearly 78,000 visits to the website.²¹⁸
- 5.30 Nathaniel Reader, the Committee’s research officer, attended the 2010 Victorian tally room in his capacity as an election observer.
- 5.31 Following this, in late 2013 Warwick Gately AM, the Victorian Electoral Commissioner, wrote to the Committee following the AEC’s decision to not establish the NTR for the 2013 federal election. He asked the Committee whether it wished to see a tally room established for the 2014 Victorian state election. At a subsequent meeting the Committee resolved to write to the VEC to request information about the 2010 tally room. The VEC responded accordingly.²¹⁹

Perceptions of the NTR and the Victorian tally room

- 5.32 Election night tally rooms are attended by a mix of media, politicians, electoral administrators and members of the public. All require different things from the tally room.

²¹⁵ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.54.

²¹⁶ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.54.

²¹⁷ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.54.

²¹⁸ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.54.

²¹⁹ Warwick Gately, Victorian Electoral Commissioner, *Correspondence*, Victorian Electoral Commission, Melbourne, 19 November 2013, p.1.

Media

- 5.33 For media commentators, a tally room must function primarily as a temporary studio and place where they are able to conduct radio, television and internet broadcasts. Evidence suggests that media organisations have been happy with both the NTR and the Victorian tally room. Giving evidence to the Commonwealth JSCEM in 2004, Garry Linnell, former head of news and current affairs at Channel Nine, noted that the NTR was, at the time, an integral part of the Nine network's coverage of elections.²²⁰
- 5.34 Mr Linnell also suggested the NTR added 'warmth' to television election coverage.²²¹ In his evidence to the same inquiry, Antony Green, ABC Election Analyst, agreed, saying that the biggest thing that would be missed about the tally room was the 'buzz' it created.²²² Until the mid-2000s the Committee notes that Australia's media clearly endorsed the tally room as a highly symbolic feature of both federal and state elections.
- 5.35 However, media acceptance of the NTR began to waver prior to and following the 2007 federal election, coinciding with the move to VTR-style results tabulation and Internet reporting. In 2005 Mr Green noted that the ABC did not have strong feelings about the NTR. In addition, at the 2010 Victorian tally room, Mr Green also publicly expressed his concerns during the ABC's television broadcast about the long-term viability of the Victorian tally room. A software malfunction – which was ultimately unrelated to the tally room's IT infrastructure – caused the results feed to drop out, making it difficult for Mr Green to conduct his usual analysis.²²³ Since this time, on his ABC blog Mr Green has suggested that the tally room is not necessary for Commonwealth and state elections.

Members of parliament, candidates and political parties

- 5.36 As noted by the Commonwealth JSCEM, the demands of campaigning and travelling mean that election candidates and political party officials tend to spend election night at venues other than the tally room.²²⁴
- 5.37 It is well known that the last leader of the opposition and/or Prime Minister to attend the NTR was Bob Hawke in 1983, with political leaders preferring to base themselves in their home city or electorate for election night activities. A

²²⁰ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.p.45-46.

²²¹ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.p.45-46.

²²² Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.p.45-46.

²²³ J. Massola, 'Antony Green defends ABC computer glitches', *The Australian*, 29 November 2010. Retrieved 14 March 2014 from <http://www.theaustralian.com.au/national-affairs/antony-green-defends-abc-computer-glitches/story-fn59niix-1225962395402>.

²²⁴ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.p.45-46.

similar situation occurs in Victoria; at the 2010 Victorian state election, anecdotal evidence suggests few members of Parliament attended the Victorian tally room during the course of the evening. Similar anecdotal accounts suggest it is also rare for political party officials to attend tally rooms. This trend accelerated with the advent of Internet-based results reporting.

- 5.38 The Committee has received mixed reports about the value of tally rooms to political parties. During this inquiry, political parties were ambivalent about the Victorian tally room.²²⁵ The Committee received similar views during its inquiry into the 2006 Victorian state election, its 2009 inquiry into voter participation and informal voting, and its inquiry into the 2010 Victorian state election.
- 5.39 Despite this, some members of Parliament believe the tally room has an important democratic function. In the Commonwealth JSCEM's inquiry into certain aspects of the administration of the AEC, one member of Parliament said that democracy 'needs to be seen to be done', and that the tally room was an important view into how an election is conducted.²²⁶

Electoral administrators

- 5.40 For electoral administrators, tally rooms are used to communicate election results. It should be noted that the AEC is not officially required to publicise election results. In relation to a House of Representatives election, the Assistant Returning Officer at a polling place is required by Section 274(2)(f) and Section 274(2B) of the *Commonwealth Electoral Act 1918* (Cwth) to transmit results of counting 'in an expeditious manner' to the Divisional Returning Officer; a similar requirement is imposed in relation to Senate elections.²²⁷
- 5.41 In Victoria, the *Electoral Act 2002* (Vic) does not require the VEC to communicate election results. The VEC has customarily provided a tally room for Victorian state elections.
- 5.42 While neither the AEC nor the VEC are required to communicate electoral results via a tally room, there is an expectation that they will. As noted by the Commonwealth JSCEM in its report on the 1990 federal election, 'the AEC operates on the basis that there is a clear community expectation that it will do everything within its power to ensure that election results are known as early as possible'.²²⁸
- 5.43 Establishing a tally room is one of the most intensive tasks undertaken by an electoral commission in the election period. There are a range of issues to consider, including venue selection, staffing, risk management, budgeting as

²²⁵

The Nationals Victoria, *Submission No 10*.

²²⁶

Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.53.

²²⁷

Commonwealth Electoral Act 1918 (Cwth) s274.

²²⁸

Parliament of Australia, Joint Standing Committee on Electoral Matters, *Inquiry into certain aspects of the administration of the Australian Electoral Commission*, Parliament of Australia, Canberra, September 2007, p.43.

a proportion of a total election budget, and media liaison. Setting up the venue itself is also a significant task in project management: as noted earlier, the VEC required a full week prior to the 2010 Victorian state election to set up the Victory Room at Etihad Stadium.

General public

- 5.44 Tally rooms are a place where the public can go to experience media coverage of the election, to gain a 'behind the scenes' perspective on election night, and celebrate an election.
- 5.45 The Committee notes there has been a general decline in public attendance at both the NTR and the Victorian tally room. For federal elections, the falloff in public attendance has been less pronounced; Ed Killesteyn, Australian Electoral Commissioner, notes that election night is a 'Canberra institution'. The Committee notes this social aspect to the NTR. In Victoria, declining public attendance at the tally room has coincided with the decision by some media outlets to not broadcast from the tally room. Other, election-specific factors also play a role; the 2010 Victorian state election took place on a day of inclement weather. To find the tally room at Etihad Stadium, members of the public needed to walk from Southern Cross station in strong rain. The Committee believes the inclement weather would have deterred some members of the public from attending the tally room.
- 5.46 The Commonwealth JSCEM, and the VEC's reports to Parliament on Victorian state elections, have suggested that tally rooms are an important part of Australia's democratic tradition, and that members of the public appreciate this role. Comments on Antony Green's blog written about the AEC's decision to discontinue the tally room reflect this; while the majority of comments supported the AEC's decision, many also emphasised the important role of tally rooms in Australia's democracy. One submitter, 'Sami', argued the tally room was a part of Australia's election culture:

I mean, ordinary civilians still line up on election night to get into the AEC tally room. I remember shots on ABC in 2010 and 2007 of the lines and the people outside. You had late teens, some dudes in their twenties, you had those in their 40s and 50s, and a few in their 70s. When citizens from youth upwards are lining up to get into the tally room, [it's] clear [it's] a big part of the Australian political institution still. [It's] still important to Australians of all ages. [It's] probably more relevant today than before because of the huge amount of people that flock there on election night.²²⁹

- 5.47 Such views contribute to debate about democratic theory. Notable commentators, such as Dennis Thompson, Professor of Government, Harvard University, have argued that elections are a tradition, a series of

²²⁹ A. Green, 2013. 'Antony Green's Election Blog: 'ABC to have full coverage of federal election results on 14 September'', Australian Broadcasting Corporation. Retrieved 14 March 2014 from <http://blogs.abc.net.au/antonygreen/2013/06/abc-to-have-full-coverage-of-federal-election-results-on-14-september.html>.

rituals that measure an electorate's view on the same day, at the same time.²³⁰

Evidence from inquiry participants about the 2010 Victorian tally room / tally rooms in other jurisdictions

- 5.48 Several inquiry participants discussed the future of the Victorian tally room.
- 5.49 In terms of Victoria's political parties, the Committee was once again told that Victoria's political parties do not have strong views about the Victorian tally room. At the public hearings, Noah Carroll, State Secretary, ALP, explained his views about the primacy of election day and its associated traditions.²³¹
- 5.50 During the inquiry, the Committee met representatives from the Northern Territory Electoral Commission and the Tasmanian Electoral Commission, to discuss how the tally room operates in these jurisdictions. Both the Northern Territory and Tasmania are known for having vibrant tally rooms.
- 5.51 On 23 February 2012 the Committee met with Andrew Hawkey, Deputy Tasmanian Electoral Commissioner, and Bryan Stait, from the Tasmanian Parliamentary Library. Mr Hawkey, Mr Stait and the Committee discussed how the tally room operates in Tasmania, and some of the factors unique to Tasmania that make it a success. Mr Hawkey suggested that the tally room is an important part of Tasmania's electoral culture; it is possibly the only tally room in Australia where party leaders attend on election night.²³²
- 5.52 Similarly, in August 2012 and October 2013 the Committee met with Bill Shephard, Northern Territory Electoral Commissioner. Members of the Committee also attended the tally room for the 2012 Northern Territory general election. Mr Shephard and the Committee discussed the role of the tally room in the Northern Territory. Mr Shephard said that the Northern Territory's small population size meant that the tally room became a focus of attention on election night, despite not many candidates attending.²³³
- 5.53 In April 2013 the Committee also discussed election night tally rooms during its US study tour. During its meeting with Professors Alvarez and Katz, of Caltech, and Professor Ansolabehere, of Harvard University, the professors explored how electoral authorities in the US are stimulating public interest in election results by staging official meetings and public celebrations / gatherings.
- 5.54 As noted earlier, the VEC wrote to the Committee, following the Committee's request to provide more information about the 2010 Victorian state tally room. The VEC's letter noted the 2010 tally room cost \$500,000; that about 120

²³⁰ Thompson, F. D, 2004. 'Election Time: Normative Implications of Temporal Properties of the Electoral Process in the United States'. *American Political Science Review*, v.98(1).

²³¹ Noah Carroll, State Secretary, Australian Labor Party, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.2.

²³² A. Hawkey, Deputy Electoral Commissioner, Tasmanian Electoral Commission, *Transcript*, 23 February 2012, p.3.

²³³ B. Shephard, Electoral Commissioner, Northern Territory Electoral Commission, *Transcript*, 24 August 2012, p.1.

members of the general public attended; that several MPs attended but the majority went to party and electorate functions. The VEC also expected most media agencies to broadcast from their own studio in 2014. As such, the VEC viewed the tally room as an expensive backdrop to the election, and requested the Committee consider whether the tally room is still a viable feature of the Victorian state election experience.²³⁴

Committee's findings

- 5.55 Based on evidence presented to this inquiry, and previous inquiries by this Committee, the Committee developed a strong understanding about the Victorian tally room, the NTR and the role of tally rooms in Australian electoral practice.
- 5.56 In 2007, the Commonwealth JSCEM suggested it was difficult to gauge the breadth of opinion in the community about tally rooms. The Committee has not experienced this issue during this inquiry. There is a wealth of information publicly available about the NTR, its history and place in Australia's electoral culture. In addition, due to the VEC's reports to Parliament, the Committee was able to review the history and development of the Victorian tally room since 1999, including the views of stakeholders over time.
- 5.57 It is clear to the Committee that interest in tally rooms has declined in recent years. In Victoria, there was a sudden decline in the number of people who attended the Victorian tally room at the 2006 Victorian state election. This coincided with the decision by media agencies to not broadcast from the tally room. To this extent, the tally room is, and perhaps always has been, a function of the media, a tool established by electoral commissioners to assist the media to meet the community expectation that they publicise election results. Now that VTRs and real-time reporting are favoured by the majority of media agencies, the Committee appreciates why interest in tally rooms is decreasing.
- 5.58 Correspondingly, the Committee appreciates that there is less financial value in establishing tally rooms, particularly in light of the AEC's comments that they are a 'non practical' component of election activity. Such considerations explain the AEC's decision not to proceed with the NTR for the 2013 federal election. The Committee understands that the NTR was not missed in 2013. The Committee is also satisfied that the quality of election coverage did not decrease as a result of this decision; for the majority of television viewers it would have been difficult to tell the difference between a television studio and the NTR.
- 5.59 Considering how the tally room is perceived by political parties and the media, the Committee sees no real administrative reason why the Victorian tally room should be established for the 2014 Victorian state election.

²³⁴ Warwick Gately, Victorian Electoral Commissioner, *Correspondence*, Victorian Electoral Commission, Melbourne, 19 November 2013, p.p.1-2.

- 5.60 However, in reaching this view, the Committee gave considerable thought to the impact of discontinuing the Victorian tally room on the general public, and Victoria's democratic traditions. Elections are more than just the act of voting. They are also a reason for the public to come together to celebrate democracy. The Committee believes all Australians are privileged, given that elections in overseas jurisdictions are often marked by civil and political unrest.
- 5.61 As far as the Committee notes that Victorians are perhaps less inclined than ever to visit a tally room, the Committee believes there is a need for a public venue to host those Victorians who would like to participate in a celebration of election night, as has been the tradition in Australia for many years. The Committee notes that the falloff in attendance at the Victorian tally room happened relatively recently; in fact, the public was only first invited to attend the Victorian tally room in 1999. If something is to be taken away from Victorians' electoral experience, something which many people feel fondly for, the Committee believes there is merit in 'thinking outside the square' to develop a way for Victorians to share electoral results in a public space. Doing so would certainly be consistent with the Committee's and the VEC's efforts to generate interest in electoral participation.
- 5.62 The Committee therefore recommends the discontinuation of the Victorian tally room with one stipulation; that the VEC report to the Committee, prior to the 2014 Victorian state election, on the viability of a public celebration of the Victorian state election on election night. This would not need to be as costly as a tally room; just a place where the VEC might establish a presence, and potentially broadcast results on a television screen. In making this suggestion the Committee is informed by the activities of the ABC and other media outlets that use Federation Square to televise sporting and cultural events. The Committee notes that Federation Square has been used as a public viewing space for the 2014 US Superbowl, the Royal Wedding of Prince William in 2011 and when former American talk show host Oprah Winfrey broadcast live from Melbourne as part of an Australian tour in December 2010.

Recommendation 5.1: The Committee recommends the VEC discontinues the Victorian state tally room for all future elections, subject to the VEC investigating and reporting to the Committee prior to the 2014 Victorian state election about the viability of establishing a public space for Victorians to congregate to view election results and celebrate Victoria's democracy.

CHAPTER SIX: AT A GLANCE

- The Committee is committed to ensuring that all eligible Victorians are able to participate in the electoral process.
- The *Electoral Act 2002 (Vic)* requires the VEC to provide public awareness of electoral matters that are in the general public interest by means of the conduct of education and information programs.
- During this inquiry, the Committee received evidence about how Victorians with vision impairment, and Victorians with deafblindness, participate in the electoral process. The Committee also considered evidence about how Victorians from culturally and linguistically diverse communities participate in the electoral process.
- The Committee also considered the important role of civics education in creating awareness of electoral processes. It recommends that the provision of civics education to primary and secondary students in Victoria be considered a priority by the Victorian Government and the Department of Education and Early Childhood Development, in order to ensure that young Victorians develop positive attitudes and perceptions about the value of participation in electoral processes, and their role as citizens in an increasingly globalised world.

Chapter Six: Encouraging participation in Victorian elections

- 6.1 Chapter Six considers methods to encourage participation at Victorian elections. It is different to Chapter Three of this report in that it focuses on non-legislative methods, including how to improve access to electoral processes for Victorians with disabilities and Victorians from culturally and linguistically diverse (CALD) communities. Primarily, this chapter responds to research and recommendations from inquiry participants. It focuses on evidence received from the ECCV about Victorian electors from CALD backgrounds, evidence received from Blind Citizens Australia about the electoral experience of Victorians with a visual impairment, evidence from People with Multiple Sclerosis Victoria, and evidence from Able Australia about Victorians who are deafblind. In addition, the Committee considers findings from a research report into civics education completed by a student who participated in the 2013 Parliament of Victoria Internship program.
- 6.2 The Committee understands that many Victorians experience difficulty engaging in the electoral process. The Committee encourages readers of this report to seek out the Committee's previous reports in the 56th and 57th Parliaments. These reports contain findings relating to efforts by the Committee and the VEC to encourage electoral participation by all Victorians, including young Victorians, Indigenous Victorians and Victorians experiencing homelessness.

The VEC's role in encouraging electoral participation

- 6.3 In Victoria, the VEC plays an important role in encouraging electoral participation and community engagement with electoral processes. According to Section Eight of the *Electoral Act 2002 (Vic)* the VEC is required to provide 'public awareness of electoral matters that are in the general public interest by means of the conduct of education and information programs'.²³⁵
- 6.4 These responsibilities are carried out by the VEC's Community Engagement and Education Unit. The unit is the main provider of electoral engagement strategies for Victorian elections. It works with community agencies, advocacy agencies, schools, homelessness agencies, residency agencies, indigenous groups and disability groups to minimise barriers to democratic participation and encourage all Victorians to participate fully at election time.

²³⁵

Electoral Act 2002 (Vic) s8.

Content of the VEC's engagement programs

- 6.5 The VEC's submission outlines the VEC's current community engagement priorities:
- A pilot Democracy Ambassador program with African communities;
 - The development of a new prisoner education program;
 - An expansion of the VEC's Passport to Democracy program being delivered within secondary schools;
 - The development of specific Indigenous engagement resource materials for delivery to community;
 - The third year of an existing three-year sponsorship with [sports team the] Tigers in the Community Foundation's Korin;
 - Gamadji Institute – running leadership camps for potential young Indigenous role models;
 - Expansion of the VEC's Homeless Not Voteless program in the lead up to the 2014 Victorian state election;
 - Involvement in the 2013 and 2014 Youth Parliament program in Victoria; and
 - Investigation of the feasibility of an elector notification and reminder system.²³⁶

Evidence about electors with a vision impairment

What is blindness or vision impairment?

- 6.6 The causes of blindness and vision impairment are varied and people are affected differently.
- 6.7 According to Vision Australia, an individual is considered legally blind when they cannot see at six metres. Someone with normal vision can see at 60 metres. An individual is also 'considered legally blind if their field of vision is less than 20 degrees in diameter rather than 180 degrees for a normal sighted person. To be considered to be legally blind there must also be no possibility of correcting a person's vision through treatment'.²³⁷
- 6.8 The term 'vision impaired' simply means an individual has some degree of sight loss. Some forms of vision impairment can be corrected through the use

²³⁶

Victorian Electoral Commission, *Submission No 5*, p.10.

²³⁷

Vision Australia, 'Blindness and vision loss: newly diagnosed', Vision Australia, 2012. Retrieved 14 March 2014 from <http://www.visionaustralia.org/living-with-low-vision/newly-diagnosed/blindness-and-vision-loss>.

of glasses or contact lenses. Some forms of vision impairment can be treated.

- 6.9 In 2013, Vision Australia estimated that 357,000 Australians were blind or had low vision. This figure is set to increase to 564,000 by 2030.²³⁸ Every 65 minutes an Australian is diagnosed with a vision impairment that cannot be corrected by glasses.²³⁹ In Australia only 3 percent to 5 percent of print material is available in an accessible format. The Committee thanks Vision Australia for providing a reliable, up-to-date assessment of vision impairment in Australia.

Evidence from Blind Citizens Australia

- 6.10 The Committee received a submission from Blind Citizens Australia about how electors with vision impairment experience the electoral process. Blind Citizens Australia is one of Australia's representative organisations for people who are blind or vision impaired. Its mission:

Is to achieve equity and equality...by empowerment, by promoting positive community attitudes and by striving for high quality and accessible services which meet needs. As the national peak body...[it has] over 3100 individual members, 16 branches nationwide; in metropolitan, regional and rural locations and 13 affiliate organisations that represent the interests of Australians who are blind or vision impaired. Blind Citizens Australia has over 1,000 individual members who reside in Victoria, several Victoria centred membership branches and several organisational members located in Victoria.²⁴⁰

- 6.11 The submission focuses on three key themes: location, accessibility and participation.
- 6.12 Regarding location, Blind Citizens Australia emphasise the importance of polling centres being close to public transport. This is important as people with vision impairment often rely exclusively on public transport as a means of transportation.
- 6.13 In addition, Blind Citizens Australia emphasise the importance of clear and accessible signage for polling centres. The submission notes:

Clear and high contrast large print signage can assist people with vision impairment to navigate their way independently to polling sites and to identify where to go once in a polling site. This can be quite simple to implement and can make a marked difference to the comfort of the voter in knowing where to go. Raised tactile and Braille signage is helpful for people who are blind to navigate inside buildings, identify elevators, floors and facilities. Accessible signage should be considered when selecting suitable polling sites and after a site has been chosen.²⁴¹

- 6.14 Blind Citizens Australia also emphasise the importance of equal access to the electoral process for all Victorians. The submission reminds the

²³⁸ Vision Australia, *Correspondence*, 3 March 2014, p.1.

²³⁹ Vision Australia, *Correspondence*, 3 March 2014, p.1.

²⁴⁰ Blind Citizens Australia, *Submission No 8*, p.2.

²⁴¹ Blind Citizens Australia, *Submission No 8*, p.p.3-4.

Committee that all 'election information and educational material produced by the Victorian Government or the VEC needs to be available in alternate formats; standard print, large print, audio, Braille and e-text in order that all eligible voters can independently make their own decisions about where, how, when and for whom they cast their ballot'. This includes Internet-based materials. Blind Citizens Australia calls on political parties to follow these standards, where possible.²⁴²

- 6.15 Further, Blind Citizens Australia discusses the accessibility of current ballot paper options for Victorians with vision impairment. While Blind Citizens Australia is satisfied with the Victorian Government's and the VEC's efforts to provide accessible ballot papers, the submission requests that there should be a greater commitment to the provision of electronically assisted telephone voting polling services and voting kiosks. Blind Citizens Australia also calls for electronic assisted voting to be made available on election day to enable voters to cast their vote at the same time and in an equivalent manner to the rest of the community.²⁴³
- 6.16 Regarding participation, Blind Citizens Australia requests the Victorian Government and the VEC consider ways to make the electoral process more accessible for people in remote and rural areas, and for those vision impairments, such as those who are deafblind or have dual sensory impairments.²⁴⁴

Committee's findings

- 6.17 The Committee wishes to thank Blind Citizens Australia for bringing these matters to the Committee's attention. Given that the VEC already has a close working relationship with advocacy agencies representing the vision impaired community, the Committee will not make any specific recommendations to the Victorian Government. However, the Committee encourages the Victorian Government and the VEC to continue making elections more accessible for Victorians with vision impairment.
- 6.18 The Committee also wishes to draw attention to the VEC's 2014 State Election Plan. The VEC plans to trial early voting 'supercentres'. These centres will be fully accessible to Victorians with a varying range of special needs.

Evidence from Able Australia – deafblindness

- 6.19 The Committee received evidence from Able Australia about some Victorian electors who are deafblind. Deafblindness is the condition when an individual has little or no useful sight and little or no useful hearing. According to the Australian Deafblind Council:

²⁴² Blind Citizens Australia, *Submission No 8*, p.p.3-4.

²⁴³ Blind Citizens Australia, *Submission No 8*, p.p.5-7.

²⁴⁴ Blind Citizens Australia, *Submission No 8*, p.7.

People with deafblindness form a very diverse group due to the varying degrees of their vision and hearing impairments plus possible additional disabilities. This leads to a wide range of communication methods including speech, oral/aural communication, various forms of sign language including tactile, Deafblind fingerspelling, alternative and augmentative communication and print/Braille.²⁴⁵

- 6.20 At the public hearings, Meredith Prain, Speech Pathologist for Able Australia, advised there were approximately 100 Victorians who were deafblind. She also advised that while this was a relatively small number of people, people with deafblindness can experience social marginalisation due to the nature of their condition.²⁴⁶
- 6.21 At the public hearings on 12 March 2013, the Committee heard from Michelle Stevens, a client of Able Australia. Ms Stevens discussed her experiences as a deafblind elector, and her experience with the VEC's electronic voting kiosks. Ms Stevens stated that while the kiosks made voting for people with deafblindness possible, it was not possible for people with deafblindness to vote independently. Ms Stevens called on the VEC to examine whether it would be possible to adapt the kiosks to allow Braille-assisted voting.²⁴⁷
- 6.22 Further, Ms Stevens called for additional support for deafblind electors at polling places.

...for people who are deaf-blind I think it is really important to have either a support worker or a fully qualified tactile Auslan interpreter to be with them at the polling station if they so wish to cast a vote, so that he or she can communicate with the polling officials if needed. I think it is important to have that in a fairly centralised area so that ease of access can be given to the person attending the voting booth. I also think it is important that all VEC staff at a polling station are aware of people with special needs. I know that through Sue Lang we are trying to make inroads into this.²⁴⁸

Committee's findings

- 6.23 The Committee wishes to thank Ms Stevens and Able Australia for their evidence. Electors from the deafblind community obviously face significant challenges in their daily lives; the Committee continues to encourage the Victorian deafblind community to participate in the electoral process.
- 6.24 The Committee encourages the VEC to work with Able Australia and other advocacy groups representing the deafblind community, such as the Australian Deafblind Council, to improve the accessibility of the electoral process. If, as Ms Stevens evidence suggests, it is possible to modify the VEC's electronic voting kiosks to accommodate a 'plug in' Braille board or adaptor, the Committee would strongly support this.

²⁴⁵ Australian Deafblind Council, 'Home', Australian Deafblind Council, 2014. Retrieved 13 February 2014 from <http://www.deafblind.org.au/>.

²⁴⁶ Meredith Prain, Speech Pathologist, Able Australia, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.4.

²⁴⁷ Michelle Stevens, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.2.

²⁴⁸ Michelle Stevens, *Transcript of Evidence*, Public Hearing, Melbourne, 12 March 2013, p.3.

Evidence from the ECCV – encouraging electoral participation amongst CALD communities

- 6.25 Victoria is the most culturally diverse state in Australia, with almost a quarter of Victorians born overseas. Victorians come from over 230 countries, speak over 200 languages and follow over 120 different faiths. CALD is an abbreviation for culturally and linguistically diverse communities. In Australia, individuals from a CALD background are those who identify as having a 'specific cultural or linguistic affiliation by virtue of their place of birth, ancestry, ethnic origin, religion, preferred language, or because of their parents' identification on a similar basis'.²⁴⁹
- 6.26 The ECCV is the statewide peak advocacy body representing ethno-specific agencies and multicultural organisations. The ECCV 'has been the principal liaison point between CALD communities, government and the wider community in Victoria. It has over 210 members representing groups with an ethnic or multicultural focus, organisations with an interest in these areas, or individuals who support the ECCV'.²⁵⁰ Amongst other activities the ECCV advocates and lobbies all levels of government in areas including rights, access and equity, racism, discrimination, employment, education, health and justice.
- 6.27 The ECCV's submission outlines some of the factors affecting the participation of people from CALD communities in the electoral process:
- Language and literacy barriers;
 - Uncertainty regarding civic rights and responsibilities;
 - Familiarity with democratic processes and Australia's/Victoria's system of government;
 - Issues related to the electoral roll, and knowledge that Victorians are required to be registered on the electoral roll;
 - Transport and mobility issues;
 - Settlement pressures;
 - Reluctance and distrust; and
 - Disillusionment with the political process.²⁵¹

²⁴⁹ Kids Helpline, 'Information Sheet: CALD diversity', Kids Helpline, 2014. Retrieved 13 February 2014 from <http://www.kidshelp.com.au/upload/22935.pdf>.

²⁵⁰ Ethnic Communities Council of Victoria, *Submission No 12*, p.1.

²⁵¹ Ethnic Communities Council of Victoria, *Submission No 12*, p.p.2-3.

6.28 The ECCV's submission also suggests strategies to counter these barriers to electoral participation. These include:

- Increased use of ethno-specific media to advertise electoral processes;
- More support on election day for CALD communities;
- A focus on civics education for CALD communities; and
- The use of Democracy Ambassadors to provide ongoing, electoral support to CALD communities. The ECCV recommends the VEC continue to work with the ECCV to develop and improve the Democracy Ambassadors program.²⁵²

Committee's findings

6.29 The Committee thanks the ECCV for its evidence. Many of the initiatives suggested make a great deal of sense to the Committee, and obviously have the capacity to increase awareness amongst CALD communities of electoral processes.

6.30 In response to the ECCV's recommendations, the Committee understands the VEC has partnerships with several agencies working with CALD communities to develop resources in response to community specific needs. According to the VEC's *Annual Report 2012-2013*, the VEC's CALD Advisory Group 'met in 2013 to discuss the additional barriers to voting experienced by those from new and emerging communities and provide feedback on the VEC's proposed Democracy Ambassador program outline'.²⁵³ The Committee understands 'the Advisory Group approved the Democracy Ambassador pilot, focusing on African communities, and that the VEC will meet regularly with the Group in the year ahead to seek guidance from partner agencies and to develop a responsive electoral education program'.²⁵⁴

6.31 The Committee also understands that the ECCV is part of the VEC's CALD Advisory Group. The Committee encourages the ECCV to continue to engage with the VEC through this forum.

Role of civics education

6.32 In terms of the impact of civics education on increasing electoral participation, the Committee also considered the findings of a research report completed by Ben Zocco, Monash University, an intern who participated in the Parliament of Victoria's internship program in 2013. During the internship Mr Zocco worked for Committee Member Lee Tarlamis MLC.

²⁵² Ethnic Communities Council of Victoria, *Submission No 12*, p.7.

²⁵³ Victorian Electoral Commission, *Annual Report 2012-2013*, Victorian Electoral Commission, Melbourne, 2014, p.51.

²⁵⁴ Victorian Electoral Commission, *Annual Report 2012-2013*, Victorian Electoral Commission, Melbourne, 2014, p.51.

- 6.33 Civics education can mean many things. In the context of this report, civics education is taken to be the type of education which teaches school age children their role in a functioning democracy and their obligations as citizens in an increasingly globalised world.
- 6.34 In Victoria, civics education is a part of the curriculum from Foundation to Year 10. Prior to the introduction of the Australian Essential Learning Standards for Victoria in 2013, the Victorian school curriculum was based on the Victorian Essential Learning Standards (VELS). The VELS was first published in 2005 and outlined what was 'essential for all Victorian students to learn during their time at school for Foundation to Year 10'.²⁵⁵
- 6.35 Civics and citizenship was a part of the VELS. Under the standards, civics and citizenship aimed to teach students what it means to be a citizen in a democracy. There were two dimensions to the standard. The first was civic knowledge, including study of Australian political and legal systems, and basic Australian political history. The second was community engagement and was related to developing the types of skills required to live in a democratic community.²⁵⁶
- 6.36 In addition, the VEC is also actively engaged in providing civics education to Victorian secondary schools. The VEC has run the 'Passport to Democracy' program for several years. Passport to Democracy is a course which can be completed by secondary school students. It is designed to be taught in the Civics and Citizenship domain of the Physical and Social Learning Strand of the former VELS. Through a series of classroom modules and mock electoral activities, it 'assists students to make the connection between politics and the things that matter to them'.²⁵⁷ It also prompts students to 'consider how they can make an impact on issues they care about and ultimately, how they can engage with the community to achieve positive change'.²⁵⁸ Mr Zocco's report discussed the program in detail.
- 6.37 The VEC provides classroom training materials for the course, along with a facilitator (a VEC Outreach Officer) where available to assist in delivering the course.

Committee's findings

- 6.38 The Committee appreciates Mr Zocco's report, and the ECCV's insights into civics education. Given that many young people report feeling disengaged from formal politics – but nonetheless participate in alternative forms of political engagement, such as signing a petition or joining a protest – it is

²⁵⁵ Victorian Curriculum and Assessment Authority, 'Previous Curricula', State Government of Victoria, August 2013. Retrieved 13 February 2014 from <http://www.vcaa.vic.edu.au/Pages/foundation10/curriculum/previouscurricula.aspx>.

²⁵⁶ Victorian Curriculum and Assessment Authority, 'Previous Curricula', State Government of Victoria, August 2013. Retrieved 13 February 2014 from <http://www.vcaa.vic.edu.au/Pages/foundation10/curriculum/previouscurricula.aspx>.

²⁵⁷ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.47.

²⁵⁸ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.47.

important that this Committee and the Parliament continue efforts to educate young people about their democratic responsibilities.

- 6.39 In principle, the Committee agrees with the general thrust of Mr Zocco's report and the ECCV's evidence about providing better resourcing to schools for the purposes of civics education, both as a way to increase political knowledge amongst young people and amongst Victorians from CALD communities. The Committee has previously commended the VEC for its Passport to Democracy program; the Committee remains impressed with the program. The Committee continues to support Passport to Democracy and looks forward to seeing it rolled out to new Victorian secondary schools in the future.

Recommendation 6.1: The Committee recommends that the provision of civics education to primary and secondary students in Victoria be considered a priority by the Victorian Government and the Department of Education and Early Childhood Development, in order to ensure that young Victorians develop positive attitudes and perceptions about the value of participation in electoral processes, and their role as citizens in an increasingly globalised world.

CHAPTER SEVEN: AT A GLANCE

- **Social media are online tools and websites that facilitate communication between users, such as Facebook and Twitter.**
- **Social media have diverse implications for the Victorian electoral landscape. In terms of elections, social media is used by political parties, political candidates and members of the general public to make campaign announcements, discuss politics and generally create new opportunities for political engagement. Electoral commissions and Parliaments also use social media to communicate and inform electors about electoral processes.**
- **Despite requesting submissions about this issue in its discussion paper for this inquiry, the Committee did not receive a great deal of evidence about social media.**
- **Accordingly, on 26 February 2014 the Committee resolved to self-reference an inquiry into the impact of social media on Victorian elections and Victoria's electoral administration. The terms of reference for this inquiry are available on the Committee's website.**

Chapter Seven: The impact of social media on Victorian elections and Victoria's electoral administration

- 7.1 Chapter Seven considers the impact of social media and Web 2.0 related technologies on Victorian elections and Victoria's electoral administration. This chapter begins by defining social media and then discussing how social media is used in the Victorian electoral context by political parties, political candidates, members of Parliament and the VEC. This chapter then outlines how electoral content on social media is currently regulated in Victoria in relation to legislation governing election advertising. It also discusses how the VEC and the Parliament use social media to communicate and engage with the Victorian community. After considering evidence from inquiry participants about social media, the Committee concludes with its findings.

What is social media?

- 7.2 In 2012 the AEC commissioned a report into the role of social media in maintaining and promoting electoral engagement, from the perspective of electoral commissions. In the report the following definition of social media was used; the Committee found this definition suitable for the purposes of this inquiry:

...Social media have been defined as 'online tools and Web sites that facilitate many ...communications between users. Specific examples include Facebook and Twitter, but may also include more regional or niche services, and more longstanding collaborative environments such as web-based forums and wikis'. Social media [is also seen] as internet-based applications built on the technological and ideological foundations of Web 2.0, described by Tim O'Reilly, who coined the term as a second generation of Web-based services that feature openness for participation, collaboration and interactivity.²⁵⁹

Social media and Victorian elections

- 7.3 Social media impacts many aspects of electoral activity and is now an integral part of Victorian electoral practice.

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Australian Electoral Commission, 'E-lectoral Engagement: Maintaining and Enhancing Democratic Participation Through Social Media', University of Technology Sydney, Sydney, 2012, p.6. Retrieved 13 February 2014 from http://www.aec.gov.au/about_aec/research/files/social-media.pdf.

7.4 In terms of elections, social media is used by political parties, political candidates and members of the general public to make campaign announcements, discuss politics and generally create new opportunities for political engagement. For federal elections, social media has been used extensively – and certainly popularised – by some members of Parliament: research published in *Public Communication Review* has documented the role of social media in former Prime Minister Kevin Rudd's 2007 election campaign.²⁶⁰ For the Coalition Malcolm Turnbull is well-known for his social media presence. Internationally, social media also plays a central role in elections. Much has been written about the online aspect of Barack Obama's campaign for the presidency in 2008 and his subsequent use of Twitter to announce his election victory in the 2012 US presidential election. His 'tweet', now known as the 'Four More Years' tweet, is currently one of the most popular social media communications of all time. For the Committee such tweets demonstrate the pervasiveness of new technologies such as social media, and their impact on election campaigns.

7.5 Like other government agencies and departments, Australia's electoral commissions have also adopted social media as a tool for electoral engagement and communication. Electoral commissions use social media to facilitate and increase public awareness of electoral events, and to assist people to learn about all aspects of elections, electoral reviews and the democratic process. In this sense, social media, as noted by the AEC's 2012 report provides enhanced opportunities for electoral commissions to communicate with electors, both potential electors and those already enrolled:

Because social media are interactive, they offer qualitatively improved opportunities in mediated communication. Whereas traditional mass media primarily involve one-way transmission of information top-down from elites (government, businesses, institutions, etc), social media provide two-way interactive and participative engagement with citizens—specifically, they allow citizens to have a say and be heard (to some extent), they allow citizens to ask questions and seek information directly relevant to their needs and interests, and they afford discussion and participation.

Psychological research shows that engagement is enhanced through the affordance of voice and participation and, conversely, that it is much less achieved through one-way information flow.²⁶¹

7.6 Australia's Parliaments are also using social media for communication and adapting to the way Members of Parliament use it and how this impacts on the Chamber. In 2011-2012 in Victoria, the Parliament's Standing Orders Committee conducted an inquiry into the use of social media in the chamber following an incident where a member of parliament used a portable electronic device to submit a comment to a social media site regarding the

²⁶⁰ Howell, G., Da Silva, B., 2010. 'New media, first time voters and the 2007 Australian federal election', *Public Communication Review*, v.1, 2010, p.27. Retrieved 17 March 2014 from <http://epress.lib.uts.edu.au/journals/index.php/pcr/article/viewFile/1288/1526>.

²⁶¹ Australian Electoral Commission, 'E-lectoral Engagement: Maintaining and Enhancing Democratic Participation Through Social Media', University of Technology Sydney, 2012, p.8. Retrieved 13 February 2014 from http://www.aec.gov.au/about_aec/research/files/social-media.pdf.

Office of the Speaker.²⁶² In terms of communication, parliaments also use social media to provide updates on what happens in the house, debates, status of legislation and committee activity; this has generally coincided with the development by Australian Parliaments in the past decade of Web 2.0 websites.

How is social media regulated for Victorian elections, Victoria's electoral administration and by the Parliament?

Legislation

7.7 In Victoria Sections 83 to 86 of the *Electoral Act 2002* (Vic) provide authorisation requirements for electoral advertising.²⁶³ Division Six of the *Electoral Act 2002* (Vic) also provides that all campaign materials, including advertising, must be properly authorised by the candidate (or a representative of the candidate's party) so that it is clear who produced it and who is accountable for it. Materials 'that are likely to mislead an elector in relation to the casting of their vote must not be printed or distributed'.²⁶⁴ While the Act does not specifically mention social media platforms such as Twitter and Facebook, content or postings containing electoral matter must be authorised, as should advertisements.

VEC

7.8 The VEC is responsible for monitoring complaints in relation to the relevant sections of the *Electoral Act 2002* (Vic) regarding the authorisation of electoral advertising and campaign material. If 'candidates or members of the public believe that there has been a breach of electoral law, complaints can be addressed to the Election Manager or Electoral Commissioner and must be in writing to ensure an evidentiary trail'.²⁶⁵ As noted by the VEC:

Complaints lodged with an Election Manager will be forwarded to the Electoral Commissioner for consideration and response. Ultimately, the VEC notes that the courts are the only authorities that determine whether a breach has occurred and are the only authorities who can impose penalties following a successful prosecution action. The VEC will only take a matter to court where it is in the public interest and where there is enough evidence for the case to have a reasonable chance of success.²⁶⁶

7.9 To assist candidates, the VEC publishes guidelines for candidates for all Legislative Assembly, Legislative Council and Local Government elections in the official 'Candidates' Handbook'. For the 2010 Victorian state election,

²⁶² Parliament of Victoria, Standing Orders Committee, 'Inquiry into the use of social media in the Assembly and members reflecting on the Office of the Speaker', Parliament of Victoria, 2013. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/la-standing-orders/article/1989>.

²⁶³ *Electoral Act 2002* (Vic) s83, s86.

²⁶⁴ *Electoral Act 2002* (Vic) s83, s86.

²⁶⁵ Victorian Electoral Commission, 'Candidate's Handbook: 2010 Victorian state election', Victorian Electoral Commission, Melbourne, October 2010, p.23.

²⁶⁶ Victorian Electoral Commission, 'Candidate's Handbook: 2010 Victorian state election', Victorian Electoral Commission, Melbourne, October 2010, p.23.

Section Seven of the Candidates' Handbook explained, amongst other things, how electoral matter 'should be authorised and defines electoral matter'.²⁶⁷

7.10 In terms of the VEC's use of social media in an organisational context, the VEC has a range of policies. The VEC maintains a presence on social media platforms including Facebook, Twitter and YouTube. According to the VEC's website, 'posts made on these platforms and any associated data may be collected and stored securely by the VEC for research or analysis. This data will be de-identified or destroyed after one year. The VEC uses this data to evaluate its social media and communication strategies, or for law enforcement purposes where necessary'.²⁶⁸

7.11 The VEC has policies in place for Facebook and Twitter usage. As noted on the VEC's website, the primary purpose of the Facebook page and Twitter account is to raise public awareness of electoral events. The Committee notes that posting to the VEC's social media is governed by five rules:

- 'Please don't post about politics. As the organisation that conducts state, local and some commercial elections and polls in Victoria, we do not comment on candidates, parties or policies. To make sure our Facebook page does not influence or prejudice any election, we can't allow posts that appear to preference a candidate or party.
- Please be respectful, and consider other points of view when posting. We can't allow content or links to content that could be considered offensive, defamatory, obscene, threatening, or otherwise not appropriate for an audience of all ages.
- Please don't post any of your own or anyone else's personal information. If you need to enrol or check your electoral enrolment, visit www.vec.vic.gov.au or call 131 832 and one of our helpful staff will assist you confidentially.
- Please keep posts relevant to the VEC, or the services the VEC provides. This page [feed] exists so that people can discuss and learn about the democratic process.
- Please don't spam or try and advertise on our page. Multiple, duplicated or repetitive posts do not educate or further the democratic debate'.²⁶⁹

7.12 The VEC also has a YouTube usage policy.

²⁶⁷ Victorian Electoral Commission, 'Candidate's Handbook: 2010 Victorian state election', Victorian Electoral Commission, Melbourne, October 2010, p.p.22-23.

²⁶⁸ Victorian Electoral Commission, 'Social media', Victorian Electoral Commission, Melbourne, 2014. Retrieved 17 March 2014 from <https://www.vec.vic.gov.au/about/VEC-social-media.html>.

²⁶⁹ Victorian Electoral Commission, 'Social media', Victorian Electoral Commission, Melbourne, 2014. Retrieved 17 March 2014 from <https://www.vec.vic.gov.au/about/VEC-social-media.html>.

Parliament

- 7.13 While the Parliament as an institution is not specifically involved in Victoria's electoral administration, it obviously has an important role in Victoria's electoral system.
- 7.14 There are two aspects to the use of social media and the Parliament of Victoria. The first is how social media is used by Parliament, and parliamentary officers, to engage with the public to increase public awareness of the Parliament's work. The second deals with the use of social media by members of Parliament in relation to their parliamentary duties, particularly during time in the chamber.
- 7.15 One of the Parliament of Victoria's goals in its Strategic Plan for 2010-2014 is to increase public awareness of, and opportunities for engagement with, the functioning of Parliament. As part of this process, in 2010 a working group was established within Parliament to develop a social media strategy for the three parliamentary departments – the Department of the Legislative Assembly, the Department of the Legislative Council and the Department of Parliamentary Services. The Parliament's social media policy was issued in May 2012 and focuses on how a parliamentary officer's obligations as an employee of the Parliament of Victoria, particularly obligations under the Code of Conduct, apply in relation to the officer's use of social media.²⁷⁰ It covers official use of social media and personal use of social media where the conduct is connected with or may have an impact on the Parliament. In addition, the policy also covers how staff working for the House or the Committees should use social media in an official capacity.
- 7.16 The other aspect of the Parliament and social media relates to how social media is used by members in the chamber. In December 2012 the Parliament's Standing Orders Committee tabled its report on the inquiry into the use of social media in the Legislative Assembly to comment on the Office of the Speaker. As noted in the report:
- This inquiry arose from a situation that members on both sides of the House acknowledged was unusual. A member, dissatisfied with a ruling from the Speaker during question time, used Twitter to express his views about the ruling. The content of the tweet accused the Chair of bias. Viewing the tweet as a reflection on the Chair, the Speaker sought an apology.²⁷¹
- 7.17 The inquiry found that the Parliament's existing policies regarding the use of social media and handheld devices by members were sufficient, but needed to be better communicated to members.

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²⁷¹

Parliament of Victoria, 'Social media policy: parliamentary officers', Parliament of Victoria, May 2012, p.1.

Parliament of Victoria, Standing Orders Committee, 'Inquiry into the use of social media in the Assembly and members reflecting on the Office of the Speaker', Parliament of Victoria, 2013, p.1. Retrieved 14 March 2014 from <http://www.parliament.vic.gov.au/la-standing-orders/article/1989>.

Evidence received about online electoral advertising and social media

7.18 The Port Phillip Greens' submission addressed the issue of online electoral advertising. While it is possible to place online electoral advertising through both social media and non-social media platforms, online advertising forms part of the Committee's overall interest in social media and how online technologies are impacting Victorian elections.

Online electoral advertising

7.19 The Port Phillip Greens' submission outlined the party's concerns regarding unauthorised electoral advertising published as Google Adwords. This is a service that places advertising copy alongside Google search results. As noted in the VEC's report to Parliament on the 2010 Victorian state election, the Adwords claimed to be advertisements for the Greens and contained a link to the Greens' website. As noted in the VEC's report:

The advertisements were short-lived, and had ceased to run before Google Australia Pty Ltd had received any complaint about them. Subsequently, the VEC sought the assistance of Google Australia to provide information regarding those responsible for the placement of the advertisements. After investigation, Google Australia advised that although it held the information requested in accordance with 'commercial confidentiality practices', since Google Adwords was not conducted by Google Australia, the VEC should direct its request to Google Inc., of California, through an email to its Legal Investigations Support Team. This process appears largely automated. The Victorian Government Solicitor's Office, acting for the VEC, received a response advising that 'valid legal process' was required for Google Inc. to make such disclosure, and indicating that it may accept 'an order signed by a judge or magistrate' served by registered mail.

The VEC was not in a position, under the legislation as it currently stands, to obtain an order in this form.²⁷²

Social media

7.20 The VEC's submission to the inquiry also discussed how political content is authorised on social media. In the VEC's report to Parliament on the 2012 Niddrie District by-election, the VEC recommended that Parliament consider introducing legislation to exempt certain social media platforms from authorisation requirements. It noted 'the South Australian Parliament recently changed its electoral regulations to exclude blogging and applications such as Twitter from authorisation requirements'.²⁷³

7.21 The Committee considered this matter as part of its inquiry into the 2010 Victorian state election. In its final report, the Committee resolved to consider this matter in further detail as part of this inquiry. Accordingly it solicited submissions about this matter in the discussion paper for this inquiry. Despite

²⁷² Port Phillip Greens, *Submission No 1*, p.p.6-7.

²⁷³ Victorian Electoral Commission, *Report on the Niddrie District by-election held on 24 March 2012*, Victorian Electoral Commission, Melbourne, April 2012, p.21.

this, the Committee received little evidence about the relationship between social media and electoral advertising and even less about authorisation requirements for political content on social media platforms.

- 7.22 The other inquiry participant to canvas this issue was the Nationals Victoria. The Nationals Victoria noted that social media content should be authorised but that this issue would need to be revisited in future given the integral role of social media in modern communication.²⁷⁴

Committee's findings

- 7.23 Social media has fundamentally changed the way people communicate. Almost 40 percent of Australians use Facebook on a daily basis; similarly, around two million Australians use Twitter. Social media platforms have also revolutionised the way governments and government agencies conduct their work and engage with the public. As the AEC notes in its 2012 report on social media, the 'readership, listenership and viewership of traditional media (press, radio and television) are declining among most demographic groups, particularly among young people, and use of social media is increasing rapidly'. These forms of media offer 'increased access to voters and potential voters'. Social media and new communications technologies thus have many implications for Victorian elections and Victoria's electoral administration.
- 7.24 While the Committee appreciates the efforts of some inquiry participants to respond to the Committee's call for evidence about social media in its discussion paper for this inquiry, the Committee remains surprised with the general lack of evidence it received about this topic. The Committee accepts that this may be due to the overall nature of the scholarship about social media and elections in Australia.
- 7.25 The Committee developed several discussion points for further consideration. These are:
- The impact of social media technologies on the Victorian electoral process, focusing on how social media platforms such as Facebook and Twitter are used for political communication and whether current regulations regarding the authorisation of political content on social media are appropriate;
 - Whether online electoral advertising, such as Google Adwords, is appropriately regulated in Victoria; and
 - How social media and new communications technologies are used by the Victorian Electoral Commission and the Parliament to engage Victorians and improve knowledge of electoral processes.

²⁷⁴

Nationals Victoria, *Submission No 10*, p.5.

- 7.26 Given that the 2014 Victorian state election is approaching, the Committee believes there is scope – and time – remaining in the 57th Parliament to conduct focused research into the impact of social media on Victoria's electoral landscape. The Committee is confident this research would attract interest from the Committee's stakeholders in the academic community, and from technology and social media companies like Facebook and Twitter.
- 7.27 Accordingly, on 26 February 2014, the Committee resolved to pursue an inquiry on the impact of social media on Victorian elections and Victoria's electoral administration. The Committee notes this inquiry may well extend into the 58th Parliament.

CHAPTER EIGHT: AT A GLANCE

- In the past decade there has been a growing interest in strengthening representative institutions. Some evidence suggests that Parliaments are seen by the public as distant and hard to access.
- In Victoria, during its inquiry into the 2010 Victorian state election the Committee learnt there was a general lack of awareness and a misunderstanding in the community about the Legislative Council, its work and the role of members of the Legislative Council.
- The Committee considered different approaches from interstate and international jurisdictions to modernise representative institutions. Evidence suggested that changing the name of the Legislative Council would be a proactive step by the Parliament to communicate and promote its work to the community.
- During its study tour in the US, the Committee learnt that the term 'State Senate' is used in state legislatures for the Upper House. Based on this, and evidence from inquiry participants, the Committee recommends the Victorian Government amend relevant legislation to include 'State Senate' as a reference to the Legislative Council, and 'State Senator' as a reference to a member of the Legislative Council. Such a change would not incur significant administrative or financial costs.
- Without wishing to comment on the 2012-2013 redivision of Victoria's electoral boundaries, the Committee encourages the EBC to take a consistent approach to the naming of Victoria's electoral Districts.

Chapter Eight: Modernising and promoting the Parliament

- 8.1 This chapter focuses on the Parliament and its capacity to effectively perform its functions. It begins by discussing the Committee's interest in strengthening representative institutions. This chapter considers the Victorian Legislative Council, and evidence received by the Committee that there is a sense of confusion in the community about Victoria's Upper House, the role of members of the Legislative Council and its role in the parliamentary process.
- 8.2 Following the 2012-2013 revision of Victoria's electoral boundaries, this chapter also briefly considers how Victoria's Legislative Assembly Districts are named.

Strengthening representative institutions

- 8.3 Since the early 1990s, there has been an increasing interest in developed countries with Westminster-derived parliaments about the role of representative institutions in the democratic process.²⁷⁵ This interest has focused on strengthening and promoting the role of parliament in democracy, developing the skills of members of parliament and assisting parliaments in emerging countries to develop resilient institutions as they transition to democracy. Since 2008, the Parliament of Victoria has been twinned with the Parliaments of Nauru and Tuvalu, assisting with the exchange of information and training.²⁷⁶
- 8.4 In Australia, the Committee has closely followed research conducted by AusAid and the Inter-Parliamentary Union about the competencies and professional development needs of parliamentarians, as a formal method for building the capacity of parliaments both in established and emerging democracies.²⁷⁷ This research was co-led by Ken Coghill, Associate Professor, Monash University. Dr Coghill is also a former member and Speaker of the Victorian Legislative Assembly.

²⁷⁵ Inter-Parliamentary Union, 'IPU: strengthening representative institutions', IPU, Geneva, 2013. Retrieved 5 March 2014 from <http://www.ipu.org/dem-e/assistance.htm>.

²⁷⁶ Bridget Noonan, Deputy Clerk, Legislative Assembly, Parliament of Victoria, *Correspondence*, Wednesday 12 March 2014, p.1.

²⁷⁷ Coghill, K., 2013. 'How should elected members learn parliamentary skills?', Papers on Parliament No 59, Canberra, Parliament of Australia. Retrieved 5 March 2014 from http://www.aph.gov.au/About_Parliament/Senate/Research_and_Education/~/link.aspx?_id=B4F0F33CE8CD4657AE356D8976E6FC4B&_z=z.

- 8.5 In Victoria, there has also been recent interest in parliamentary accountability. In the 56th Parliament the Parliament of Victoria's PAEC inquired into options for strengthening government and parliamentary accountability in Victoria. The inquiry was wide-ranging and addressed several topics, including parliamentary committees, question time procedure, standards of parliamentary behaviour, overseas travel by Members, reform of the process for dealing with petitions, and importantly, modernising Parliament and parliamentary processes with a view to strengthening the institution.²⁷⁸

Strengthening Australian Parliaments

- 8.6 Australian Parliaments have adjusted to the increasing expectation that they communicate effectively with the community, not just about the legislative agenda but also how the parliament works.
- 8.7 The Committee notes there are two elements to strengthening parliament in this way. The first relates to the parliament's media and public relations. All Australian Parliaments have an outreach function, usually in the form of a dedicated education branch. Through these departments parliaments inform the community about what parliament is doing, its history and who current members are. In recent years there has been a move to expand this focus, due a range of factors, including poor public opinion polling about politicians and parliament, concerns from parliamentarians about lack of recognition of their work, including their work on parliamentary committees, and to a lesser extent, waning levels of public interest in parliamentary committee inquiries. Due to these concerns, parliamentary education departments are now involved in activities that they were not a decade ago, such as social media.
- 8.8 The second aspect of parliamentary strengthening relates to institutional reform. In the past decade, several Westminster-derived parliaments have attempted comprehensive structural reforms aimed at increasing the representativeness of the institution. In the United Kingdom (UK), governments have been attempting to reform the House of Lords, the UK's Upper House, for over 100 years; the most recent bill to reform the House of Lords was submitted to Parliament in 2012 but ultimately abandoned.²⁷⁹ In Victoria, comprehensive reforms to the Legislative Council came into effect with the passing of the *Constitution (Parliamentary Reform) Act 2003* (Vic). The Legislative Council lost the power to block Supply. The system used to elect the Council was also substantially reformed, introducing fixed four-year terms (applicable to the Legislative Assembly) and the use of proportional representation to return five members for eight Regions.

²⁷⁸ Parliament of Victoria, Public Accounts and Estimates Committee, 'Inquiry into strengthening government and parliamentary accountability in Victoria', Parliament of Victoria, Melbourne, August 2007. Retrieved 5 March 2014 from <http://www.parliament.vic.gov.au/paec/inquiries/inquiry/125>.

²⁷⁹ *The Guardian*, 'Lords reform', *The Guardian*, 2014. Retrieved 14 March 2014 from <http://www.theguardian.com/politics/lordreform>.

Public perceptions of Parliament

- 8.9 Reflecting the ‘spirit’ of parliamentary strengthening projects, research has attempted to measure public perceptions of parliaments in Westminster-derived systems. One such project is the Hansard Society’s ‘Parliament 2020’. Parliament 2020 was a multi-country visioning exercise conducted in four legislatures, ‘exploring how new technologies can be harnessed to transform internal processes and enhance relationships with the public’.²⁸⁰ The focus of Parliament 2020 was not on ‘technologies but rather on how parliaments can improve processes and enhance engagement, thus facilitating greater levels of transparency, accountability and, ultimately, public trust’.²⁸¹
- 8.10 The study featured semi-structured discussions with key stakeholders, including parliamentary officials, elected representatives and members of the public, in four countries: the UK, Canada, Chile and Australia. The Australian phase of the project was smaller but it did feature a comprehensive public survey. As the project team noted, ‘Parliament 2020 is not an exhaustive project, its overarching aim is to discover what different representative groups thought their legislatures might look like in the future and to ask how digital media might work to support internal processes and transform the way citizens interact with their parliament and its members’.²⁸²
- 8.11 The Committee considered findings from Parliament 2020 about public perceptions of Australian Parliaments. According to the research, many Australians believe that parliament is hard to engage with and ‘distanced’ from everyday life. In particular, the project noted concerns from members of the public that the transparency and effectiveness of parliament, and thus the public’s understanding of the institution, was hampered by archaic language:

All three phases highlight the use of impenetrable language as a problem for the public trying to engage with parliament. Whilst it is important to recognise that some aspects of a parliament’s work will necessarily use precise, technical and legalistic language, the issues highlighted here are around the language used to describe the procedural side of parliament, which can be simplified. Archaic language is not just a problem for the public either, some legislators indicated that it is a barrier to their own understanding of what is going on and therefore potentially hampers their effectiveness in parliament.²⁸³

- 8.12 Based on its consideration of these findings, the Committee has examined institutional reforms in overseas Westminster-derived jurisdictions including

²⁸⁰ Hansard Society, ‘Parliament 2020: Visioning the future parliament’, Hansard Society, London, 2011, p.1. Retrieved 11 March 2014 from <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/Parliament-2020-Visioning-the-future-Parliament-International-Comparisons-2011.pdf>.

²⁸¹ Hansard Society, ‘Parliament 2020: Visioning the future parliament’, Hansard Society, London, 2011, p.1. Retrieved 11 March 2014 from <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/Parliament-2020-Visioning-the-future-Parliament-International-Comparisons-2011.pdf>.

²⁸² Hansard Society, ‘Parliament 2020: Visioning the future parliament’, Hansard Society, London, 2011, p.1. Retrieved 11 March 2014 from <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/Parliament-2020-Visioning-the-future-Parliament-International-Comparisons-2011.pdf>.

²⁸³ Hansard Society, ‘Parliament 2020: Visioning the future parliament’, Hansard Society, London, 2011, p.27. Retrieved 11 March 2014 from <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/Parliament-2020-Visioning-the-future-Parliament-International-Comparisons-2011.pdf>.

proposals to change the name of the chamber. Since early 2011 there have been calls for the Welsh National Assembly to be named the Welsh Parliament.²⁸⁴

Institutional reform of the Parliament of Victoria

- 8.13 Drawing on this research agenda, in the 57th Parliament the Committee has learnt there is a lack of awareness, and some confusion, amongst some Victorians about the role of Parliament, the role of parliamentarians and their work.
- 8.14 This issue first came to light during the Committee's inquiry into the 2010 Victorian state election. During the inquiry the Committee met with the NSW JSCEM, and Greg Smith MP, the NSW Attorney-General and Minister for Justice. The Committee's meeting with Mr Smith featured discussion about the role of the Upper House in the legislative process.²⁸⁵ The NSW JSCEM also suggested there was concern in NSW about how the Legislative Council was perceived by the wider community, and that the institution was 'archaic'.²⁸⁶
- 8.15 During this inquiry, the Committee discussed similar perceptions about the Parliament of Victoria's Legislative Council. During the Committee's study tours to Darwin in 2012 and 2013, Bernie Finn MLC, Chair, highlighted anecdotal evidence sourced by him and his Legislative Council colleagues about the perceptions of members of the public to his position as a member of the Legislative Council. Mr Finn suggested there was 'confusion' about exactly what the Legislative Council did. Some people were also confused by the post-nominal 'MLC'.²⁸⁷ He suggested some people misconstrue 'MLC' to mean that the Member is in fact associated with an insurance company, MLC.²⁸⁸
- 8.16 As a result of these views, the Committee resolved to seek further evidence about community awareness of the Parliament, and the Legislative Council, in its discussion paper for this inquiry. It specifically requested advice, based on the Chair's discussion, about the name of the Legislative Council, and whether introducing a new form of recognition for the chamber would result in increased community awareness of the Parliament and the Legislative Council.

²⁸⁴ A Davies, 'The Welsh Assembly should be renamed the Welsh Parliament', *The Guardian*, 10 August 2012. Retrieved 13 March 2014 from <http://www.theguardian.com/commentisfree/2012/aug/10/welsh-assembly-renamed-parliament>.

²⁸⁵ Bernie Finn, Chair, Electoral Matters Committee, *Transcript*, 10 May 2011, p.p.3-4.

²⁸⁶ Bernie Finn, Chair, Electoral Matters Committee, *Transcript*, 10 May 2011, p.p.5-7.

²⁸⁷ Bernie Finn, Chair, Electoral Matters Committee, *Transcript Evidence*, Public Hearing, Melbourne, 19 June 2013, p.5.

²⁸⁸ Bernie Finn, Chair, Electoral Matters Committee, *Transcript Evidence*, Public Hearing, Melbourne, 19 June 2013, p.5.

Legislative Council

- 8.17 The Parliament of Victoria is a bicameral legislature, meaning it consists of two chambers or houses. The Lower House is called the Legislative Assembly. The Upper House is called the Legislative Council.
- 8.18 The region now known as Victoria was part of NSW until formal separation in 1851. The Act that established this 'separation also provided for a limited form of representative, self-government in the new colony'.²⁸⁹ This occurred through the establishment of a Legislative Council (but not a Legislative Assembly) consisting of thirty Members, with twenty elected (only significant property owners being eligible to vote) and the remainder appointed by the Lieutenant-Governor (who was, in turn, a British Government appointee).²⁹⁰ Victoria's Legislative Council first met in November 1851 at St Patrick's Hall, Melbourne.
- 8.19 The first Legislative Council served the colony for only five years but has been credited with having made at least three significant and lasting contributions to Victoria's parliamentary system:
- It was responsible for drafting a Constitution for Victoria which provided the framework for a system of responsible government;
 - It introduced the secret ballot for parliamentary elections which was a unique innovation in the world at the time; and
 - It initiated the building of Parliament House in Spring Street, Melbourne, the first stage of which was completed in 1856.²⁹¹
- 8.20 The composition of the Legislative Council has varied since it became an elected house in 1856. Originally six provinces elected five members for a total of 30 members. Membership of the Council peaked at 44 members representing 22 provinces following reforms in 1974, which took effect at the 1976 Victorian state election. In 2003, the *Constitution (Parliamentary Reform) Act 2003* (Vic) came into effect for the 2006 Victorian state election. The Council now consists of 40 members representing eight Regions.
- 8.21 Members of the Legislative Council use the postnominal 'MLC', denoting member of the Legislative Council.

²⁸⁹ Parliament of Victoria, Legislative Council, 'Information Sheet No 7: the Legislative Council', Parliament of Victoria, Melbourne, 2013. p.1.

²⁹⁰ Parliament of Victoria, Legislative Council, 'Information Sheet No 7: the Legislative Council', Parliament of Victoria, Melbourne, 2013. p.1.

²⁹¹ Parliament of Victoria, Legislative Council, 'Information Sheet No 7: the Legislative Council', Parliament of Victoria, Melbourne, 2013. p.1.

Evidence from inquiry participants about alternative names for the Legislative Council

- 8.22 No inquiry participants suggested an alternative name for the Legislative Council. However, as part of its inquiry into the 2010 Victorian state election, the Committee learnt that other jurisdictions, notably NSW, have considered alternative names for the Legislative Council. One option is the Senate.
- 8.23 The Senate is the Upper House of the bicameral Parliament of Australia, the Lower House being the House of Representatives. The composition and powers of the Senate are established in the *Australian Constitution*. There are 76 Senators; 12 Senators are elected from each state, regardless of population, and the two autonomous internal territories each have two Senators.²⁹² Senators are popularly elected under a single transferable vote system of proportional representation. There is no constitutional requirement for the election of Senators to take place at the same time as those for members of the House of Representatives. Senators normally serve fixed six-year terms, unless the Senate is dissolved in a double dissolution.²⁹³
- 8.24 Members of the Senate are called Senators. They use the prenominal 'Senator'.

Use of the term 'Senate' in the US

- 8.25 In April 2013 the Committee travelled to the US. During the study tour the Committee met with officials at the Louisiana State and Florida State Legislatures. In these jurisdictions, as in Victoria, the legislature is bicameral. The Committee discussed the use of the term 'Senate' in US state legislatures.
- 8.26 There is a high level of consistency in the naming conventions for US state legislatures. Of the 50 US state legislatures, 49 have an Upper House.²⁹⁴ Of these 49, nine (California, Georgia, Louisiana, Mississippi, New York, Oregon, Pennsylvania, Washington and Wisconsin) called the Upper House the 'State Senate'; the term 'Senate' is used in the remaining 41 states.²⁹⁵
- 8.27 Only one state, Nebraska, has a unicameral legislature. On November 6, 1934, Nebraska passed a constitutional amendment converting the state's bicameral system to the current unicameral system. The Committee learnt that the move towards unicameralism has an Australian connection. After a trip to Australia in 1931, 'George Norris, a five-term Member of the House of Representatives for Nebraska, campaigned for reform, arguing that the bicameral system was based on the inherently

²⁹² Parliament of Australia, 'Senators', Commonwealth of Australia, Canberra, 2014. Retrieved 13 March 2014 from http://www.aph.gov.au/senators_and_members/senators.

²⁹³ Parliament of Australia, 'Senators', Commonwealth of Australia, Canberra, 2014. Retrieved 13 March 2014 from http://www.aph.gov.au/senators_and_members/senators.

²⁹⁴ National Conference of State Legislators, 'Directory', National Conference of State Legislatures, Denver, 2014. Retrieved 5 March 2014 from <http://www.ncsl.org/aboutus/ncslservice/state-legislative-websites-directory.aspx>.

²⁹⁵ National Conference of State Legislators, 'Directory', National Conference of State Legislatures, Denver, 2014. Retrieved 5 March 2014 from <http://www.ncsl.org/aboutus/ncslservice/state-legislative-websites-directory.aspx>.

undemocratic British House of Lords and that it was pointless to have two bodies of people doing the same thing and hence wasting money'.²⁹⁶ Norris noted the example of Queensland, which adopted a unicameral parliament in 1922. The Committee was interested to learn that, while the name of Nebraska's legislature is formally the 'Nebraska Legislature' its members are commonly referred to, especially by themselves, as Senators.

- 8.28 Representatives from the Louisiana State and Florida State Legislatures suggested using the name 'Senate' for a state legislature contributed to higher levels of understanding in the community about the responsibilities of government and representative institutions. The Committee also noted that, as far as these jurisdictions were concerned, sharing the name 'Senate' with the US Senate did not hamper public perceptions about the work of state legislatures.

Attempts to rename the NSW Legislative Council

- 8.29 There have been attempts to rename the NSW Legislative Council.
- 8.30 In August 2012 the *State Senate Bill 2012 (NSW)* was introduced into the Legislative Council by Reverend the Hon Fred Nile MLC.
- 8.31 The object of this bill was to authorise the use of the terms 'State Senate' as a reference to the Legislative Council and 'State Senator' as a reference to a member of the Legislative Council. Prior to 2012 Reverend the Hon Fred Nile MLC introduced a similar bill in 2010. However, that bill lapsed on prorogation at the second reading stage.
- 8.32 The bill was a Private Member's Bill that sought to authorise the use of the term 'State Senate' as an alternative to 'Legislative Council'. In the Second Reading speech, Reverend the Hon Fred Nile MLC advised that this change was designed to 'remove the connotation of the term 'Legislative Council' from its traditional role as an advisory body to the Governor. In its place, the title 'State Senate' will afford the chamber proper recognition as a legislative body by conferring onto it a title that is internationally understood'.²⁹⁷ In addition, the bill sought to authorise the use of the term 'State Senator' for any individual who is a member of the Legislative Council.²⁹⁸ In his Second Reading speech, Reverend the Hon Fred Nile MLC advised that 'State Senator' 'is more contemporary and relevant than the term 'the Honourable', which is regarded as archaic'.²⁹⁹

²⁹⁶ Dakota County Star, 'History of Nebraska State Senate', *Dakota County Star*, 5 July 2012. Retrieved 14 March 2014 from http://www.enterprisepub.com/dakotacountystar/opinion/editorial/history-of-nebraska-s-unicameral/article_159c441c-c6c1-11e1-a62d-001a4bcf6878.html.

²⁹⁷ Parliament of NSW, Legislative Review Committee, 'Legislation Digest Review: No 22/55 – August 2012', Parliament of NSW, August 2012, p.28.

²⁹⁸ Parliament of NSW, Legislative Review Committee, 'Legislation Digest Review: No 22/55 – August 2012', Parliament of NSW, August 2012, p.28.

²⁹⁹ Parliament of NSW, Legislative Review Committee, 'Legislation Digest Review: No 22/55 – August 2012', Parliament of NSW, August 2012, p.28.

- 8.33 The Parliament of NSW Legislation Review Committee made no comment on the bill in respect of issues set out in Section Eight of the *Legislation Review Act 1987* (NSW).

Evidence from inquiry participants about the proposal to rename the Legislative Council the Victorian State Senate

- 8.34 The proposal to rename the Legislative Council the Victorian State Senate received a mixed response from inquiry participants.
- 8.35 Some inquiry participants favoured the term Legislative Council, and argued against changing it on historical grounds. The Nationals Victoria suggested that while there may be some confusion, or lack of knowledge, regarding the Legislative Council in Victoria, the Legislative Council 'is an important historical feature' of Victoria's democracy.³⁰⁰ Similarly, the PRSA (Victoria and Tasmania) argued that renaming the Legislative Council the Victorian State Senate might only impact a small number of people, given general levels of awareness in the community about the Parliament.³⁰¹ The PRSA (Victoria and Tasmania) also objected to the proposal on the basis that it could cause further elector confusion in relation to the Australian Senate.³⁰²
- 8.36 In contrast, some inquiry participants supported renaming the Legislative Council in principle. Antony Green, ABC Election Analyst, discussed this with the Committee:

The CHAIR—Antony...one area that we are looking at of which you may be aware is the possible name change of the Legislative Council to the [Victorian] State Senate. I understand there is a private members bill currently before the New South Wales Parliament.

I am just wondering if you know much about that. If you do, could you share your insights with us?

Mr GREEN—I know many MLCs find it rather hard to get people to understand what an MLC is—

The CHAIR—That is the truth, absolutely.

Mr GREEN—For some of us of a certain age, it sounds like an insurance company.

Mr SOMYUREK—Yes, that is exactly right.

The CHAIR—That sounds familiar, yes.

Mr GREEN—I can understand why state members of the upper house would like that. I am a bit connected to some of these old names; they have always been legislative councils. I am just trying to think about overseas. In Canada most of the provinces have abolished their upper houses over the years, where we have managed to keep ours, except for Queensland. I think more and more people know what the Senate is; I think fewer and fewer people know what the Legislative Council is. If it helps people know that there is a state upper house, it would help raise understanding.

³⁰⁰ The Nationals Victoria, *Submission No 10*, p.p.5-6.

³⁰¹ PRSA (Victoria and Tasmania), *Submission No 4*, p.7.

³⁰² PRSA (Victoria and Tasmania), *Submission No 4*, p.7.

The CHAIR—But do you think a name change to the Senate would actually help the general population understand what we do up here?

Mr GREEN—Yes, I suspect it would. People have a better understanding of what the Senate is than they do of the Legislative Council.³⁰³

Conflation with local government

- 8.37 One inquiry participant also noted that some people confuse the Legislative Council with Victoria’s local government bodies.
- 8.38 As noted by the PRSA (Victoria and Tasmania), the concurrent use of those titles in the territory that is now the State of Victoria began in 1842 when the New South Wales Legislative Council passed a law creating the Town of Melbourne and its governing body, which it termed the ‘Council’.³⁰⁴ That Legislative Council also created the Borough of Geelong and its ‘Council’ in 1849. When the Colony of Victoria was established in 1851, the Legislative Council of Victoria was ‘also established and that body, and its name, have existed for the 162 years since, as has the practice of terming the governing bodies of municipalities in Victoria ‘councils’.³⁰⁵
- 8.39 The term ‘council’ can thus mean two things in relation to Victorian governance. According to Bernie Finn MLC, Chair, constituents often ‘attempt to correct MLCs when they say they are members of Parliament; they instead suggest you are a local councillor’.³⁰⁶ In the PRSA’s submission, it is accepted that this coincidence is a source of confusion for some people.

Committee’s findings

- 8.40 The Committee notes the strong, worldwide interest in strengthening and enhancing the role of representative institutions in recent years. While Australian Parliaments are better at promoting what they do, there is still work to be done in this regard. It is the responsibility of parliaments to engage with the public and inform people about what parliaments do.
- 8.41 It is with this theme in mind that the Committee has decided to recommend the Victorian Government amend relevant legislation to introduce the terms ‘State Senate’ as a reference to the Legislative Council, and ‘State Senator’ as a reference to a member of the Legislative Council. In doing so, the Committee is not calling for constitutional reform; the recommendation will simply allow MLCs to use the term ‘Senate’ and ‘State Senator’ in the same way that members of the Legislative Assembly use ‘MP’. Such a change will assist members of the Legislative Council to advertise and promote their work to constituents, and improve overall understanding of Parliament in the community.

³⁰³ Antony Green, ABC Election Analyst, *Transcript of Evidence*, Public Hearing, Melbourne, 19 June 2013, p.p.5-7.

³⁰⁴ PRSA (Victoria and Tasmania), *Submission No 4*, p.7.

³⁰⁵ PRSA (Victoria and Tasmania), *Submission No 4*, p.7.

³⁰⁶ Bernie Finn, Chair, Electoral Matters Committee, *Transcript of Evidence*, Public Hearing, Melbourne, 19 June 2013, p.p.5-7.

8.42 The Committee notes the recommendation will not involve significant administrative changes or costs.

Recommendation 8.1: The Committee recommends the Victorian Government amend relevant Victorian legislation to introduce the terms 'State Senate' as a reference to the Legislative Council, and 'State Senator' as a reference to a member of the Legislative Council.

How Victoria's electoral Districts are named

8.43 During this inquiry the EBC conducted the 2012-2013 redivision of Victoria's electoral boundaries. This was the first redivision for both Houses of Parliament since 2001.³⁰⁷

8.44 While the Committee does not wish to comment on the redivision's outcomes, the Committee closely followed the redivision process. It was particularly interested in the process used by the EBC to change the name of some of Victoria's Legislative Assembly Districts. The redivision saw 15 Districts abolished and 15 new Districts established. It also resulted in a change of name for four Districts: Ballarat District was renamed Wendouree District; Scoresby District was renamed Rowville District; Seymour District was renamed Euroa District; Swan Hill District was renamed Murray Plains District.³⁰⁸

8.45 These name changes, and the redivision process, presented the Committee with a timely opportunity to reflect on how Victoria's electoral Districts are named.

Naming of places in Victoria

8.46 In support of the 2012-2013 redivision, the EBC released briefing information about the process for naming Victoria's electoral Districts and Regions.

8.47 In Victoria, the naming of geographic places and features is covered by the *Geographic Place Names Act 1998* (Vic). It is augmented by various pieces of legislation that provide for the determination and notification of geographic place names.³⁰⁹ The definition of 'place' includes, but is not restricted to, townships, suburbs, localities, roads, parks, reserves and topographical features. The *Geographic Place Names Act 1998* (Vic) specifies that it does not apply to the naming of electoral Districts or Regions.³¹⁰

8.48 The *Geographic Place Names Act 1998* (Vic) permits the creation of guidelines; the current version is known as the 'Guidelines for Geographic

³⁰⁷ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.3.

³⁰⁸ Electoral Boundaries Commission, *Report on the 2012-2013 redivision of electoral boundaries*, State Government of Victoria, Melbourne, 2013, p.3.

³⁰⁹ Electoral Boundaries Commission, 'Redivision reference material', Electoral Boundaries Commission, Melbourne, 2013. Retrieved 14 March 2014 from <http://www.ebc.vic.gov.au/files/GeogNamesEBCStatementDec2012.pdf>, p.1.

³¹⁰ Electoral Boundaries Commission, 'Redivision reference material', Electoral Boundaries Commission, Melbourne, 2013. Retrieved 14 March 2014 from <http://www.ebc.vic.gov.au/files/GeogNamesEBCStatementDec2012.pdf>, p.2.

Names 2010'. These Guidelines set out the principles and procedures in selecting, assigning or amending a place name. While the naming of electoral Districts and Regions are not included in the Act, the procedures may still be applied in the selection of appropriate names for electoral purposes.³¹¹

8.49 The Guidelines also note:

Commemorative naming, such as the use of personal names, should preferably only be applied posthumously, or on the basis of a tested historical record of achievement. However, it is noted that Victoria does not have a tradition of naming state electorates after people.³¹²

8.50 The Committee notes many places and features bear Indigenous names, but many of them are not the original place names. As noted by the Guidelines:

Sometimes their true cultural meanings are lost, due to lack of understanding of the complexity of Indigenous languages and incorrect pronunciation. Victorian place naming encourages the use of Indigenous place names to recognise and increase awareness of our state's Indigenous culture. The assignment of Indigenous place names is subject to the involvement and agreement of the relevant Indigenous community. When considering the assignment of Indigenous place names, assistance should be sought from the Victorian Aboriginal Corporation for Languages and/or Aboriginal Affairs Victoria (Department of Planning and Community Development). A further consideration is that the approval process to assign an Indigenous name may become protracted.³¹³

Committee's findings

Finding 8.1: While the Committee does not wish to comment on the process of Victoria's electoral redivision, the Committee encourages the EBC to take a consistent approach to the naming of Victoria's electoral Districts, with a particular emphasis on appropriate place names on the basis of geography.

³¹¹ Electoral Boundaries Commission, 'Redivision reference material', Electoral Boundaries Commission, Melbourne, 2013. Retrieved 14 March 2014 from <http://www.ebc.vic.gov.au/files/GeogNamesEBCStatementDec2012.pdf>, p.1.

³¹² Electoral Boundaries Commission, 'Redivision reference material', Electoral Boundaries Commission, Melbourne, 2013. Retrieved 14 March 2014 from <http://www.ebc.vic.gov.au/files/GeogNamesEBCStatementDec2012.pdf>, p.2.

³¹³ Electoral Boundaries Commission, 'Redivision reference material', Electoral Boundaries Commission, Melbourne, 2013. Retrieved 14 March 2014 from <http://www.ebc.vic.gov.au/files/GeogNamesEBCStatementDec2012.pdf>, p.2.

CHAPTER NINE: AT A GLANCE

- **Electronic voting is the act of casting a vote using an electronic machine, such as the electronic kiosks used in Victoria, or a computer.**
- **In Victoria, eligible Victorians have been able to cast their ballot electronically since the 2006 Victorian state election. Rates of electronic voting at Victorian elections are low. At the 2010 Victorian state election only 270 eligible Victorian electors cast their ballot electronically at a Victorian early voting centre. The Committee supports the VEC's efforts to engage eligible Victorians and improve awareness of the option to vote electronically.**
- **During this inquiry the Committee received evidence about the VEC's efforts to develop electronic voting technology in Victoria.**
- **The Committee also received evidence about remote electronic voting, which is when an elector casts a vote using a computer over an internet connection. The most well-known remote voting system in Australia is the NSW iVote system, which was introduced for the 2011 NSW state election.**
- **Given the rapid pace of change in electronic developments in Australia, the Committee will continue to monitor the VEC's work and the iVote project.**

Chapter Nine: Electronic voting at Victorian elections

- 9.1 This chapter focuses on electronic voting at Victorian elections. It begins by defining electronic voting, and outlining the electronic voting options for Victorian elections. It then discusses the main issues raised during this inquiry in relation to electronic voting, and evidence received from inquiry participants.
- 9.2 As noted in the discussion paper for this inquiry, electronic voting involves using a computer to fulfil some or all of the voting process. According to the VEC there are many kinds of electronic voting, ranging from systems where the vote is collected and counted electronically to systems where the computer simply marks a paper ballot on the voter's behalf. Some electronic voting 'systems can be completely online, whereas others may be provided at a nominated location or require specific hardware or software'.³¹⁴

Electronic voting in Victoria

- 9.3 In Victoria, electronic voting was first introduced for the 2006 Victorian state election. In July 2006, the *Electoral and Parliamentary Committees Legislation (Amendment) Bill 2006 (Vic)* was passed by the Parliament. The amendment allowed for the introduction of electronically assisted voting (EAV) at the 2006 Victorian state election. For the 2006 Victorian state election the VEC conducted a trial of EAV for electors who were blind or had low vision. The trial was successful and received positive feedback from users.³¹⁵
- 9.4 In 2007 and 2008 the Committee considered the results of the VEC's trial of electronic voting at the 2006 Victorian state election as part of its inquiry into the 2006 Victorian state election. In response to feedback from the VEC, the Committee recommended that the electronic voting franchise be expanded to include electors with motor impairments, electors whose first language is not English, and those with low or no English literacy.³¹⁶ These

³¹⁴ Victorian Electoral Commission, 'Electronic voting', Victorian Electoral Commission, Melbourne, 2012. Retrieved 15 March 2014 from <https://www.vec.vic.gov.au/Vote/vote-eav.html>.

³¹⁵ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Victorian Electoral Commission, Melbourne, August 2011, p.30.

³¹⁶ Parliament of Victoria, Electoral Matters Committee, *Inquiry into voter participation and informal voting*, Parliament of Victoria, Melbourne, June 2009, p.169.

recommendations were legislated in August 2010 through *the Electoral Amendment (Electoral Participation) Act 2010* (Vic).

- 9.5 The Electoral Regulations 2012 came into effect on 31 August 2012, providing for the expansion of the criteria for electronic voting. In addition to electors with motor skill impairments, electors whose first language is not English, and those with low or no English literacy, Victorians located outside Victoria during the election period could vote electronically.
- 9.6 Most recently, at the 2010 Victorian state election, EAV was available at the 101 early voting centres across Victoria.³¹⁷ The VEC also provided EAV facilities at eight interstate venues and two venues in the United Kingdom. In addition to touchscreen voting, the VEC introduced telephone voting for blind or low vision electors.³¹⁸

Rates of electronic voting in Victoria

- 9.7 Rates of electronic voting at Victorian state elections have been low since 2006. The VEC notes in its submission to the inquiry that despite 'significantly increasing the number of access points in 2010, there was only a small increase in the take-up by eligible electors within Victoria'.³¹⁹ At the 2010 Victorian state election, while EAV was available at 101 early voting centres, only 241 electors cast their vote electronically at a Victorian early voting centre. The great majority of electronic votes, 720, were cast by Victorians at two centres in the United Kingdom, located in Manchester and London.³²⁰

Raising awareness about electronic voting

- 9.8 The Committee shares the VEC's interest in raising awareness amongst eligible electors about electronic voting, and the VEC's concern about the low take-up rate for electronic voting at the 2010 Victorian state election at early voting centres.
- 9.9 The Committee encourages the VEC to continue promoting electronic voting amongst target groups. Based on the evidence the Committee received during this inquiry, the Committee is satisfied with the VEC's efforts in this area, and with the relationships it has with community and advocacy groups representing Victorians with special needs. The Committee expects to see growing interest in electronic voting in Victoria, particularly with the increasing popularity of 'tablets' and other mobile computing technologies.
- 9.10 Further, the Committee encourages the VEC to liaise with organisations such as Able Australia, who work with Victorians with deafblindness, to tailor an

³¹⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.106.

³¹⁸ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.106.

³¹⁹ Victorian Electoral Commission, *Submission No 5*, p.11.

³²⁰ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2010 Victorian state election and matters related thereto*, Parliament of Victoria, Melbourne, May 2012, p.106.

electronic voting option to the needs of this particular Victorian community. While only a small number of Victorians are deafblind – and the nature of deafblindness makes it difficult for deafblind electors to vote unassisted – the Committee appreciates that deafblindness presents a serious challenge to a person’s capacity to engage with electoral processes.

Electronic voting at the 2014 Victorian state election

9.11 Electronic voting will again be available to eligible Victorians at the 2014 Victorian state election. The VEC’s submission to the inquiry provides detailed information about the VEC’s solution for the 2014 Victorian state election, including a number of improvements to the electronic voting experience:

The main benefits of this system are that it provides a more accessible experience for the elector – that votes collected can be electronically counted, and that election integrity can be independently verified. The system will serve 20 languages based on the top non-English languages in Victoria as identified by the 2011 Census. The languages will be provided on the voting system screen in textual format and spoken to a limited extent as aural introductions to the steps in voting. The voting devices which will be a common tablet computer and will provide moving video guidance, large coloured graphic buttons and support many tablet gestures such as tapping and scrolling.³²¹

9.12 On 25 September 2013, the VEC demonstrated its electronic voting solution for the 2014 Victorian state election to the Committee. Members interacted with the tablet-based voting interface, and discussed the voting experience with the VEC’s electronic voting team.

Themes in the evidence about electronic voting

9.13 There are common themes in the evidence about electronic voting. These are:

- Verifiability;
- Transparency; and
- Remote electronic voting.

9.14 The Committee received detailed evidence about these five points from the VEC, Vanessa Teague, CORE, and the NSWEC.

Verifiability

9.15 Verification is one of the most important aspects of an electronic voting system. As noted by the VEC, an important consideration when developing any electronic voting system ‘is that it must be verifiable in order to be publicly transparent, like the paper voting system. It is also desirable that

³²¹ Victorian Electoral Commission, *Submission No 5*, p.p.11-14.

systems are universally verifiable and provide strong mathematical evidence collected outside the system to prove that the system has performed as expected'.³²²

9.16 Dr Teague's submission also discussed verifiability at length, and some of the central ideas behind the concept:

The idea of verifiability applies to all elections, not just electronic ones. Unlike elections conducted in a single polling place and based on paper, electronic processes are inherently opaque to observers, so even a group of scrutineers standing around the computer cannot actually verify directly that it is doing the right thing to the ballot data. Nor can a voter using a computer verify directly that the computer is writing the electronic vote that the voter wanted.

'Verifiability' needs to be made precise in order to be meaningful. Indeed, many electronic voting software vendors advertise 'verifiable' products which in fact provide very little meaningful evidence of having achieved the correct result.³²³

9.17 In addition, Dr Teague's submission discusses why the VEC's 'pret-a-voter' project has advantages over other forms of electronic voting in terms of verifiability:

The crucial advantage of pret-a-voter over [computer assisted attendance voting with a human-readable paper trail] is that voters take home a receipt that provides evidence of the correct inclusion of their vote; there is no need to retain a paper trail at a polling place (or transport a paper trail back to a counting centre) because a full electronic proof is provided to everyone.³²⁴

Transparency

9.18 Transparency in the Australian electronic voting context relates to how the details and technical information about an electronic voting solution are available for public scrutiny. It is widely accepted that for an electronic voting system to meet the highest levels of transparency, the source code must be available for analysis, and preferably all documentation on the 'development processes and reports on the audit and evaluation'³²⁵ of the system.

9.19 The need for transparency in relation to electronic voting solutions stems from the openness of the traditional paper-based electoral system used in Victoria and Australia. As noted by the VEC, paper-based elections are visible to everyone, and meet established international standards for electoral integrity:

There are high levels of confidence in the integrity of our current paper based voting system. Electors identify themselves in person at a voting centre and have their name marked off the roll. Their name is not linked in any way to how they vote and they are able to vote independently and in private (unless they request assistance). Electors place their completed ballot paper in a ballot box, which is sealed with tamper-evident seals.

³²² Victorian Electoral Commission, *Submission No 5*, p.13.

³²³ Vanessa Teague, *Submission No 14*, p.2.

³²⁴ Vanessa Teague, *Submission No 14*, p.3.

³²⁵ Victorian Electoral Commission, *Submission No 5*, p.12.

At a point in time, the votes are removed from the ballot box and counted and the result of the election known. Each stage of the process is witnessed by election officials and scrutineers. Electors can be confident that their vote did not change throughout the process. In summary, the VEC's paper based system meets accepted standards of elector authentication, accessibility, secrecy, transparency, security and accuracy.³²⁶

Remote electronic voting

9.20 Remote electronic voting is a form of voting where electors can vote unsupervised on an electronic voting machine, such as a computer, which then submits their vote to a central processing system. The most common way for this to occur is using the Internet.

9.21 In Victoria, electronic voting is limited to supervised voting centres. As noted by the VEC, supervised voting centres have the clear advantage of 'meeting all the standards that are currently met by current paper-based voting systems'.³²⁷ The VEC also notes:

Because the system is not exposed to the internet, the threat of security breaches is significantly reduced. Having control of the hardware an elector uses means that electoral administrators can police the software installed and the data that is received and sent. Security protocols are managed to ensure the system meets a number of essential security requirements and the system can detect and report on any possible malicious or unauthorised changes. Universal verification also ensures that any breach would be detected and because the voting device and network are controlled by the administrator, there is a greater likelihood that affected data can be isolated to a particular device. This is not always possible where the voting devices and network cannot be controlled. The VEC's electronic voting system also maintains the secrecy of the vote which is not possible under any remote voting facility.³²⁸

Advantages and disadvantages of unsupervised versus supervised electronic voting

9.22 There are distinct advantages and disadvantages to unsupervised and supervised electronic voting solutions. This issue was discussed extensively in submissions by the VEC and Dr Teague.

9.23 As noted above, the main advantage of supervised electronic voting systems is they meet most, if not all, of the usual standards for electoral integrity as paper-based voting systems. According to the VEC, the main disadvantage of supervised electoral voting is that it is limited to set locations:

This is not a particularly effective solution for electors in remote locations, either interstate or overseas. In addition, there is a significant burden on administrators in distributing and supporting hardware and communication lines at voting centres in remote locations. The VEC believes there is a maximum number of voting locations that can be effectively supported without introducing unacceptable levels of risk. In

³²⁶ Victorian Electoral Commission, *Submission No 5*, p.12.

³²⁷ Victorian Electoral Commission, *Submission No 5*, p.12.

³²⁸ Victorian Electoral Commission, *Submission No 5*, p.15.

2010, this was 101 early voting centres within Victoria and nine voting centres in interstate and overseas locations.³²⁹

9.24 In terms of unsupervised electronic voting, the main advantages of this type of system are convenience and accessibility. As noted by the VEC, the most accessible tool for electors in remote locations is the Internet. A 'further advantage of Internet voting systems is that they remove the financial and administrative burden on electoral commissions involved in rolling out and supporting the operation of voting machines in voting locations. This is a particular consideration when establishing electronic voting facilities at interstate and overseas venues'.³³⁰ Dr Teague also sees similar benefits in remote voting systems, subject to appropriate security and verification requirements.

9.25 However, evidence received from the VEC and Dr Teague indicates there are serious security risks associated with remote voting, in particular voting via the Internet. The VEC's submission focuses on issues relating to privacy, the security of remote voting systems and voter authentication:

The biggest hurdles to internet voting are security and proof of integrity. Internet voting systems are more exposed to potential attack than services that are not served over the internet. Under an internet voting system, administrators have no control over the elector's voting equipment or network. This has the potential to compromise elector privacy where the elector's machine may be watched by a third party. Having no control over the network means election administrators cannot guarantee that a service will be available at all times. A further challenge often raised in regard to internet voting is ensuring that the person voting is who they say they are. Options for elector authentication however, are available and are at least as strong as those that exist under current postal voting arrangements. The secrecy of voting can never be strictly enforced under an internet system. In fact, this is the case for any system that allows people to vote away from a voting centre, including the current postal voting system. Those using these services can show someone else how they voted if they wish. While it is possible that an elector could be coerced to vote in a particular way, it is not something we have seen specific evidence of under the current postal voting system in Australia.³³¹

9.26 Dr Teague's submission identifies four outstanding technical challenges with remote voting: cast-as-intended verifiability, voter authentication, verifying the votes are counted as cast and tallied correctly and privacy. These apply equally to Victoria and other Australian jurisdictions.³³²

9.27 The Committee also appreciates that adapting electronic voting systems to the system of voting used in Australia, known as single transferrable voting, is problematic. During its US study tour in April 2013, the Committee discussed this issue at length with representatives from Caltech, the Florida State Senate and the Florida Board of Elections.

³²⁹ Victorian Electoral Commission, *Submission No 5*, p.15.

³³⁰ Victorian Electoral Commission, *Submission No 5*, p.14.

³³¹ Victorian Electoral Commission, *Submission No 5*, p.14.

³³² Vanessa Teague, *Submission No 14*, p.p.2-7.

Discussion about NSW's iVote system

- 9.28 iVote is a remote voting system that has been used for NSW state elections since the 2011 NSW state election. Under current legislation, iVote cannot be made available for NSW local government elections.
- 9.29 According to the NSWEC, iVote was originally intended as an initiative to enable electors who are blind or have low vision to cast an independent vote. The legislation subsequently introduced provided for broader eligibility, including for electors who are illiterate, have special needs, or live more than 20km from a polling place or will be interstate or overseas on election day.³³³
- 9.30 The Committee reviewed iVote in its report to Parliament on the 2010 Victorian state election.
- 9.31 In addition to the VEC and Dr Teague's evidence, the Committee received a submission from the NSWEC about iVote. The submission notes that iVote 'delivered all the outcomes required by legislation and identified in its feasibility report in relation to transparency'.³³⁴ The NSWEC also notes it is considering obtaining additional, expert advice for the 2015 NSW state election, with a view to increasing the transparency of iVote.³³⁵
- 9.32 The Committee also notes that the NSW JSCEM has reviewed iVote and given its support to continued use of the system for NSW state elections.

Committee's findings

- 9.33 The Committee wishes to thank the VEC, the NSWEC and Dr Teague for the detailed evidence presented about remote electronic voting.
- 9.34 The Committee's comments about remote electronic voting come in two parts. The first relates to discussion about the NSW iVote system. While the Committee appreciates the efforts of inquiry participants to examine and discuss iVote, the Committee has no comment on iVote as a courtesy to the NSWEC, the NSW JSCEM and the NSW Government. The Committee looks forward to seeing how iVote is implemented for future NSW elections.
- 9.35 The Committee's other comments about remote electronic voting are more general. It is clear that remote electronic voting has significant potential as an election technology. However, at this time in Victoria's electoral development, the Committee is averse to recommending that the VEC pursue a remote electronic voting solution for Victorian elections. The Committee believes the risks associated with remote voting, as outlined by the VEC and Dr Teague, currently outweigh the positive returns remote electronic voting might deliver. In this instance, the Committee refers to Estonia, where remote voting has been used since 2002. Following the 2011 Estonian elections, significant

³³³ NSW Electoral Commission, 'iVote: background', NSW Electoral Commission, Sydney, February 2014. Retrieved 15 March 2014 from <http://www.elections.nsw.gov.au/voting/ivote/background>.

³³⁴ NSW Electoral Commission, *Submission No 6*, p.1.

³³⁵ NSW Electoral Commission, *Submission No 6*, p.1.

concerns about the integrity of the ballot were raised, with reports suggesting as many as 60,000 votes might have been 'mangled' by the system.

- 9.36 The Committee will continue to follow developments about remote electronic voting. The Committee also commends the VEC for its innovative work in this field.

Committee Room
Parliament House
26 February 2014

Legislation

Victoria	<i>Electoral Act 2002 (Vic)</i> <i>Electoral Boundaries Commission Act 1982 (Vic)</i>
New South Wales	<i>Parliamentary Electorates and Elections Act 1912 (NSW)</i> <i>Election Funding, Expenditure and Disclosures Act 1981 (NSW)</i> <i>Senators' Elections Act 1903 (NSW)</i>
Queensland	<i>Electoral Act 1992 (Qld)</i>
South Australia	<i>Election of Senators Act 1903 (SA)</i> <i>Electoral Act 1985 (SA)</i>
Tasmania	<i>Electoral Act 2004 (Tas)</i> <i>Constitution Amendment (House of Assembly Electoral Boundaries) Act 2009 (Tas)</i>
Western Australia	<i>Election of Senators Act 1903 (WA)</i> <i>Electoral Act 1907 (WA)</i> <i>Electoral Act (Commencement of Amendments) Act 1987 (WA)</i>
Northern Territory	<i>Electoral Act 2004 (NT)</i> <i>Northern Territory (Self Government) Act 1978 (NT)</i>
Australian Capital Territory	<i>Electoral Act 1992 (ACT)</i> <i>Election Commitments Costing Act 2012 (ACT)</i>
Commonwealth of Australia	<i>Commonwealth Electoral Act 1918 (Cwth)</i>

Appendix One – Public hearings

Public Hearing, 12 March 2013
 Legislative Council Committee Room, Parliament House
 Spring Street, East Melbourne

No.	Witness	Organisation
1	Dr Irene Bouzo Senior Policy Officer	Ethnic Communities' Council of Victoria
2	Mr P Sharma Luitai JP Policy Committee Convenor	
3	Dr Meredith Prain Speech Pathologist	Able Australia
4	Ms Michelle Stevens	Client Representative
5	Ms Thai Nguyen Advocacy and Policy Officer	Blind Citizens Australia
6	Ms Helen Freris	Client Representative
7	Mr Geoffrey Goode President	Proportional Representation Society of Australia (Victoria and Tasmania) Incorporated
8	Dr Lee Naish Vice President	
9	Mr Nigel Caswell President	People with Multiple Sclerosis - Victoria
10	Mr Noah Carroll State Secretary	Australian Labor Party
11	Ms Ann Birrell	Port Phillip Greens
12	Mr Stuart Copeland State Director	The Nationals Victoria

Public Hearing, 14 March 2013
Legislative Council Committee Room, Parliament House
Spring Street, East Melbourne

No.	Witness	Organisation
13	Dr Vanessa Teague	University of Melbourne
14	Mr John Mulholland	
15	Ms Liz Williams Acting Electoral Commissioner	Victorian Electoral Commission
16	Ms Glenda Frazer Manager, Election Services	
17	Mr Craig Burton Manager, Electronic Voting	

Public Hearing, 19 June 2013
Room G2, 55 St Andrews Place, East Melbourne

No.	Witness	Organisation
18	Mr Antony Green Election Analyst via teleconference	

Appendix Two – List of submissions

No	Organisation
1	Port Phillip Greens
2	Australian Labor Party, Victorian Branch
3	People with Multiple Sclerosis Victoria Incorporated
4 Part A	Proportional Representation Society of Australia, Victoria and Tasmania
4 Part B	Proportional Representation Society of Australia, Victoria and Tasmania
5	Victorian Electoral Commission
6	New South Wales Electoral Commission
7	Everyone Counts
8 Part A	Blind Citizens Australia
8 Part B	Blind Citizens Australia
9	Democratic Labor Party, Victorian Branch
10	The Nationals Victoria
11	Michelle Stevens and Meredith Prain
12 Part A	Ethnic Communities Council of Victoria
12 Part B	Ethnic Communities Council of Victoria
13 Part A	John Mulholland
13 Part B	John Mulholland
13 Part C	John Mulholland
13 Part D	John Mulholland
13 Part E	John Mulholland
14	Dr Vanessa Teague

Appendix Three – Committee briefings

No	Date of Meeting	Witness	Organisation
1	13 June 2012	Ms Glenda Frazer Manager, Election Services Mr Paul Strickland Manager, Electoral Enrolments and Electoral Registrar of Victoria Representatives from the VEC	Victorian Electoral Commission (VEC) VEC's geo-mapping presentation
2	27 June 2012	Mr Victor Perton Former Victorian Commissioner to the Americas	
3	19 September 2012	Mr Jai Rowell MP (Chair) The Hon Robert Borsak MLC (Deputy Chair) The Hon Paul Lynch MP Mr Daryl Maguire MP The Hon Amanda Fazio MLC The Hon Dr Peter Phelps MLC Mr Andrew Fraser MP The Hon Peter Primrose MLC The Hon Trevor Khan MLC	Parliament of New South Wales, Electoral Matters Committee

No	Date of Meeting	Witness	Organisation
4	21 November 2012	Ms Liz Williams Acting Electoral Commissioner	Victorian Electoral Commission

		Ms Glenda Frazer Manager Election Services	Discussion on 2012 local government elections
5	19 June 2013	Mr Antony Green	
6	25 September 2013	Mr Warwick Gately Victorian Electoral Commissioner Ms Liz Williams Deputy Electoral Commissioner Mr Craig Burton Manager, Electronic Voting Mr Simon Harcourt IT Manager	Victorian Electoral Commission Demonstration of electronic voting and electronic ballot draw
7	6 November 2013	Mr John Doyle Auditor-General Dr Peter Frost CEO and Deputy Auditor-General Ms Nancy Stefanovski Director, Audit Support Group Mr Marco Bini Director of Policy and Co-ordination Ms Natalia Southern Assistant Auditor-General, Performance Audit	Victorian Auditor-General's Office (VAGO)

Appendix Four – Darwin Study Tours, August 2012 and October 2013

Darwin Study Tour 2012 – Meeting Schedule

No	Date of Meeting	Witness	Organisation
1	23 August 2012	Mr Bill Shephard Commissioner	Northern Territory Electoral Commission
2		Delegation from Timor Leste	
3		Electoral Officials	
4		Ms Jane Peace Deputy Electoral Commissioner	
5	24 August 2012	Mr Bill Shephard Commissioner	Northern Territory Electoral Commission

Darwin Study Tour 2013 – Meeting Schedule

No	Date of Meeting	Witness	Organisation
1	22 October 2013	Mr Bill Shephard Commissioner	Legislative Assembly, Parliament of Northern Territory
2		The Hon Kezia Purick MLA Speaker	
3		Mr Michael Tatham Clerk	
4		Mr Russell Keith Clerk of Committees	

5	23 October 2013	Mr Terry Mills MP	Member for Blain
6		Mr Ken Parish Law Course Co-ordinator	Charles Darwin University

Electoral Matters Committee

Reports to Parliament and publications

No	Title	Date
1	Inquiry into the Conduct of the 2006 Victorian State Election and matters related thereto	June 2008
2	Report on International Investigations into Political Donations and Disclosure and Voter Participation and Informal Voting	December 2008
3	Inquiry into Political Donations and Disclosure	April 2009
4	Inquiry into Voter Participation and Informal Voting	July 2009
5	Inquiry into the Provisions of the <i>Electoral Act 2002</i> (Vic) relating to Misleading or Deceptive Political Advertising	February 2010
6	Inquiry into the Functions and Administration of Voting Centres	June 2010
7	Inquiry into the 2010 Victorian state election and matters related thereto	May 2012
8	Inquiry into the future of Victoria's electoral administration – discussion paper	November 2012
9	International investigations into the future of Victoria's electoral administration	August 2013

Minority reports

MINORITY REPORT ONE

Labor members of the Committee do not support the following recommendation by Liberal Party members of the Committee:

Recommendation 3.1: The Committee recommends the Victorian Government amend the *Electoral Act 2002 (Vic)* to introduce a system of optional preferential voting (OPV) for Victorian Legislative Assembly elections. In drafting these amendments the Victorian Government should examine the models of OPV used in NSW and Queensland.

Labor members of the Committee are concerned that the above recommendation by Liberal Party members of the Committee was based on electoral expediency: motivated by restricting the Greens Party's preferences flowing through to the Labor Party. Labor Party members of the Committee believe that electoral law should be based on democratic principles rather than short term electoral opportunism.

Labor Party members of the Committee oppose recommendation 3.1 for the following reasons:

- a) Labor Party members of the Committee are of the view that electoral law should be harmonised between state and federal laws. Given that compulsory preferential voting is the method used for federal elections the Labor Party members of the Committee are concerned that the introduction of OPV in state elections will lead to voter confusion. The Australian Electoral Commission (2013) agrees noting that in Queensland and NSW, where OPV is used in state elections, a high number of voters only mark a first preference when voting for the Federal House of Representatives (44.57% of informal votes in Queensland and 35.65% in NSW in 2004), rendering them informal.³³⁶ This data suggests that if Victoria were to diverge from the Federal standard of compulsory preferential voting, the Federal informal voting rate in Victoria would increase due to increased voter confusion concerning preferential voting requirements.
- b) Labor Party members of the Committee are concerned that OPV systems permit a candidate to be elected into office as a representative of an electorate with a minority of the votes meaning that the OPV system is a De facto first past the post system. The Labor Party members of the Committee are concerned that the negative characteristics of first past the post systems will manifest themselves in an OPV system, such as the party winning government is often elected by the minority of the population. Although this also occurs in the compulsory preferential model, it is more likely to occur in the OPV model.

³³⁶

http://www.aec.gov.au/About_AEC/research/paper10/page02.htm

- c) Labor Party members of the Committee understand the compulsory preferential voting system to be automatic run-off elections similar to the French Presidential elections where the candidate with the least amount of votes is eliminated after each election. Labor Party members of the Committee believe that it is inconsistent to compel electors to vote (compulsory voting) in the first election (first preference) but not in the subsequent automatic elections (subsequent preferences).

- d) The Labor Party members of the Committee believe that OPV further entrenches the two party systems by making it difficult for minor parties to gain seats in parliament. The merging of the Queensland National Party and the Queensland Liberal Party is widely attributed to the introduction of OPV in that state. The Labor Party members of the Committee believe that our parliamentary democracy is best served with a plurality of parties representing a diversity of views.

Labor Party members of the Committee acknowledge that an OPV system will reduce the rate of informality in Victorian state elections. However Labor Party members of the Committee are of the view that if the Liberal Party members of the Committee were genuine in upholding the principle of reducing the rate of informality in Victorian state elections, rather than electoral expediency, they would have adopted the South Australian ticket voting model which is as effective in minimising informality as OPV but has the added advantage of not being a De facto first past the post system.

Steve Tully, then Victorian Electoral Commissioner, while giving evidence at the public hearing into the 2010 Victorian state election, indicated that the South Australian ticket voting model could reduce informal voting as much as OPV

The CHAIR—Could that high informal vote in the lower house be addressed by just having a "1" in a box in both houses?

Mr TULLY—Certainly. Just as a means of providing information, we have conducted that informal survey, and informality under an optional preferential system or a savings provision — such as exists in some other states — would reduce informality by up to half.³³⁷

Mr Tully's view that the South Australian savings provision model would reduce informality was supported by respected ABC election analyst, Antony Green. At a public hearing on June 2013, Mr Green expressed to the Committee his opinion that the South Australian savings provision model would reduce informality.

³³⁷ Parliament of Victoria, Electoral Matters Committee, Inquiry into the 2010 Victorian state election and matters related thereto, Parliament of Victoria, Melbourne, May 2012, p.96. Retrieved 11 February 2014 from <http://www.parliament.vic.gov.au/emc/inquiries/article/1453>.

Mr Green – ...the informal vote in South Australia would be twice as high as it is if it were not for that savings provision. So it certainly saves a substantial number of votes. It is one solution.³³⁸

Reinforcing Mr Tully's and Mr Green's assessment, that the South Australian savings provision model would reduce informality as much as OPV is supported by statistics showing that there was only .1 per cent of a difference between the rates of informality at the 2010 South Australian general election (3.3%)³³⁹ and the 2011 NSW general election (3.2%).³⁴⁰

Whilst the Labor Party members of the Committee recognise that the informality rate at Victorian state elections is a concern, and recognises that the South Australian savings provision model would be the least disruptive way of reducing informality rates, the Labor Party members of the Committee consider that the diminution of voter confusion should be a key principle of our electoral system. Therefore the Labor Party members of the Committee believe that the harmonization of the Victorian and Federal electoral laws should be of paramount importance.

For these reasons the Labor Party members of the Committee do not support recommendation 3.1.

Adem Somyurek MP (Deputy Chair)

Lee Tarlamis MP

³³⁸ Antony Green, Transcript of Evidence, Public Hearing, Melbourne, 19 June 2013, p.3.

³³⁹ Jenni Newton-Farrelly, Electoral Specialist, South Australian Parliamentary Research Library, *Correspondence*, 27 February 2014.

³⁴⁰ Source: NSW Electoral Commission, 'www.pastvtr.elections.nsw.gov.au', NSW Electoral Commission, Sydney, 2014. Retrieved 11 March 2014 from www.pastvtr.elections.nsw.gov.au.

MINORITY REPORT TWO

The Nationals Member for Morwell Russell Northe

The Nationals Member for Morwell does not support the following recommendation proposed in the Parliament of Victoria's Electoral Matters Committee's *Inquiry into the future of Victoria's Electoral Administration*:

Recommendation 3.1

The Committee recommends the Victorian Government amend the Electoral Act 2002 (Vic) to introduce a system of optional preferential voting (OPV) for Victorian Legislative Assembly elections. In drafting these amendments the Victorian Government should examine the models of OPV used in NSW and Queensland.

In recording my objection to Recommendation 3.1 it is important to note that The Nationals provided a submission to the Committee making clear its opposition to the introduction of OPV to the Legislative Assembly of Victoria. This position also has support from other political parties in Victoria.

As part of The Nationals submission and within "*discussion point three: informal voting*" it notes concern on the rate of informal voting experienced subsequent to the introduction of OPV in New South Wales and Queensland.

This is also referenced in Chapter 3 of the Committee's report under section 3.67. The percentage of informal vote in New South Wales and Queensland since OPV was introduced has both fluctuated and been stable depending on circumstances at the time of elections in these states.

It is the strong view of The Nationals that the introduction of OPV for future Victorian Legislative Assembly elections will not reduce levels of informal voting and will instead negatively impact upon the future of smaller political parties as part of the democratic process.

Best regards



Russell Northe MLA
Member for Morwell