20 September 2007

Mr M. Roberts  
Executive Officer - Electoral Matters Committee  
Parliament House  
Spring Street  
Melbourne Vic 3000

Dear Mr Roberts,

The Victorian Electoral Commission (VEC) has noted the additional submissions published on the Electoral Matters Committee website today from Mary Levens and William Hackett. The following is provided for the committee’s consideration in response to the additional submissions.

The submission from Ms Levens suggests that the VEC is not correctly interpreting the legislation in respect to the counting of upper house ballot papers. The VEC has discussed this issue extensively with Ms Levens and believes that its interpretation of the legislation is in fact correct but that the provisions could be worded more clearly.

Proportional representation (PR) vote counting systems around Australia have slight differences that would almost never have an impact on the results. Indeed Ms Levens does not conclude that the result of any Regional election could have been different. Under her interpretation, the example she uses in relation to candidate Kavanagh in the Western Victoria Region is not that helpful, as he would have been elected under all PR systems.

All legislation needs to be considered in full and the differences most often relate to the treatment of bundles of ballot papers transferring to other candidates.

In Victoria, the legislation allows for ballot papers of the same value to be amalgamated whereas other legislation clearly does not permit such amalgamation. In cases where amalgamation is not permitted, the order of treatment for each bundle is prescribed. If amalgamation was not contemplated in Victoria, then an order for dealing with the individual bundles would have been prescribed. Ms Levens notes that the legislation is silent on the order of treatment of individual bundles.

Out of an abundance of caution, the VEC processes were discussed with the Victorian Government Solicitor’s office that endorsed the VEC’s interpretation of the current provisions.
Mr Hackett objected to the application for registration of People Power. Mr Hackett was given a hearing and subsequently certain matters were taken up with the applicant.

The VEC received over 500 responses to its mailout to individuals stating that they were members of People Power. The individuals were later confirmed as being electors and the application satisfied all other prescribed requirements for registration.

People Power was subsequently registered and Mr Hackett appealed to VCAT. With the subsequent deregistration of People Power after the election review, the case was withdrawn.

The VEC is happy to assist the committee with any further information in relation to these matters if required.

Yours sincerely

Steve Tully
Electoral Commissioner