

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into the future of Victoria's electoral administration

Melbourne — 12 March 2013

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Mr G. Goode, president,

Dr L. Naish, vice president, Proportional Representation Society of Australia (Victoria-Tasmania) Inc.

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

Mr GOODE — Yes.

Dr NAISH — Yes.

The CHAIR — Marvellous. To begin with, could I ask you to state your full name and business address, if you are representing yourselves or an organisation and the position you hold within that organisation.

Mr GOODE — I am Geoffrey Goode, of 18 Anita Street, Beaumaris, and I am the president of the Proportional Representation Society of Australia, Victoria-Tasmania branch.

Dr NAISH — I am Dr Lee Naish. I am vice-president of the Proportional Representation Society of Australia, Victoria-Tasmania branch, and my address is 885 Park Street, West Brunswick.

The CHAIR — Marvellous, thank you very much. To begin with could I ask you to make a verbal submission, and then we will go into questions following that. All yours, thank you.

Mr GOODE — Thank you. In the verbal submission I will just go through our response to the points involved. These are in a written submission, which I have in front of me. The preliminary comment is that we obviously support democratic and representative conduct of elections, and we believe that enrolment should be maintained over the full spectrum of the community — age, socioeconomic status, gender, and any other relevant criteria. As we have said, we do not have anything particularly to offer on the first discussion point, other than a very general remark.

On the second discussion point, compulsory voting, first of all we make the point that many people make — that is, there is no such thing as compulsory voting. It is compulsory attendance at a polling booth. I am not sure about the wording in the Victorian act. The commonwealth act states that every citizen has a duty to vote, but it does not say what happens if you fail that duty of actually voting — if you voted informally, or if you just screwed the ballot paper up, or something else. It is not enforceable; it is just an exhortation, but we think it is a good one. We think that a duty to vote is important.

We do feel that having compulsory voting does provide a sanction against laziness and indifference. That is a worthwhile sanction, because people will say, ‘Oh, it is easier not to do it, so why bother’. We have all met people like that, but then on the other hand they think, ‘Perhaps I ought to. It is the law and I get fined if I don’t’. So they go along. The argument is that might be an ill-considered vote, but the really ill-considered ones presumably are almost random and cancel each other out in terms of the two main sides of politics.

We move on to the larger discussion point, which I think has exercised this committee — that is, informal voting. We share the concerns about informal ballot papers. We do think that 4.96 per cent of informal votes is larger than is desirable. We point out, though, that a much greater concern is the fact that just over 10 times that 4.9 per cent, which would amount to 49.9 per cent of voters in the Legislative Assembly, cast ballots that can have no effect on the outcome. The law says the only vote that is regarded and has any effect on the outcome is one more, effectively, than 50 per cent. That leaves a large number of ballot papers that are written out pointlessly. Our remedy of course is the ‘proportional multi-member’ situation, where a larger proportion than a bare 50 per cent of citizens are actually represented by people they decide they want to have representing them.

It is not hard to imagine that that provides a little more incentive for somebody to do something. If you do something and you get an outcome, a result from it, you are more inspired to do it than if it is a lottery, where you might be in the winners or you might be in the losers — 50-50. So we just make that point. Under the heading of ‘Informal voting’ we have several tables. There is an attached spreadsheet, which is the basis from which these tables were compiled, but I do not think we have time or need to go into those spreadsheets. You possibly have them in front of you or have access to them. I have access here, of course, as we produced them.

The first table in our main submission, table 1, shows the distribution of Assembly districts and the median percentage of informal ballots versus the number of candidates per district. They are ranked from 10 candidates per Assembly district right down to the smallest one, and there was only one such Assembly district that had two candidates. When you look at the right-hand column you would expect — if you felt that informality went up with the number of candidates — that the highest figure would be at the top and the lowest figure at the bottom. Well, in the one seat that only had two candidates, the lowest figure is at the bottom, that is true, 3.16 per cent — it is not hard to choose between two people. But apparently in the two electorates that had three candidates each, the highest median percentage — 5.89 per cent — that is where you really had your biggest individual problems when you only had three candidates. It is a bit hard to say, but where there were 10 candidates for an Assembly district — the top row of the table — you actually have a lower percentage, certainly not higher. So it is jumping all over the place and does not suggest a good link. I will make the point here, just under table 1, the base level of informal votes contested with more than two candidates is likely to be about 4 per cent. When you only have two, obviously it would be less.

Our next heading is ‘Informality percentage is markedly higher in ALP districts’. We found this quite surprising. We had no preconception of doing this; we simply ranked them, and produced table 2, which is entitled ‘Distribution of Assembly districts and median percentages of MLAs’ parties vs. ranges of informal ballots’. When you look at the MLAs’ parties, the Labor Party is in the top row with a median of 100 per cent having informal ballots of 8 to 9 per cent. In that range they are all Labor Party electorates. Likewise in the range 7 to 8 per cent of informal ballots. It is fairly heavy. As you have worked out, it decreases at the 6 to 7 per cent range — only 88 per cent of Labor MLAs in that range. The coalition has 12 per cent. As you go down lower in the chart, the ALP goes down to 60 per cent and the coalition comes up to 40 per cent. Likewise, it goes on in the last three rows: the coalition takes over with the more prominent or larger number of seats in the ranges 2 per cent to 5 per cent of informal ballots. At the very low end of the informal ballot scale you have a preponderance of coalition seats. That is very marked. There is no seeming exception to that picture.

We then did something that might seem rather speculative and unreal, and we are not suggesting it is going to happen; it is a worst-case scenario, but sometimes the worst-case scenario can give you some sort of inkling of what mad things could start to happen and how you could have a bit of trouble. Worksheet 5 of those worksheets lists the MLAs’ two-party percentage vote and we subtract from that the percentage of informal votes. The idea of that is to say they got a two-party percentage vote where the informal votes obviously played no part, but if the informal votes were all the other way, all against that MLA, that would decrease the two-party preferred vote for that MLA. When that is done, the bottom 26 districts listed in that worksheet are the 26 districts where the MLA that was elected would not have been elected under quite different rules of formality if all of the informal votes, in a highly unlikely worst-case scenario, had been cast for the other side.

So there is a square around that, a border, which points out that if any districts are going to be at risk by some change or some change in patterns, or voters, or the legislation, or something, they would be most at risk. Of those very risky framed electorates or districts in 2010, 18 were won by the ALP, with only 8 won by the coalition, though the coalition is in a less hazardous position, it would seem, just on those sort of grounds, which admittedly are not the actual likely case but more a worst-case scenario.

Our next point, which is a very strong point, is our opposition — and we are not alone in this, fortunately, because I think the coalition, and certainly the federal Liberal Party, is opposed — to any deeming of votes that the Labor government in Canberra is currently flirting with. This is something that would follow or

take up the South Australian arrangements, which again we deprecate. We sparingly use bold type in our presentation, but we do say in a sentence here:

Preferential voting was introduced in Australia to give voters the power to rank candidates according to each —
and then we use the bold type —

voter's own preference.

Not some other person's preference or some organisation's preference. If one examines the report of your federal counterpart, their electoral matters committee, the Coalition strongly opposes this, and Senator Scott Ryan gave an additional comment where he made some other strong points too, which we support.

Our submission here does reiterate submissions we made earlier to this committee under a different chairman, where we strongly criticised and continue to criticise above-the-line voting, which was a device introduced in 1983 that has spread. Certainly in other electoral reform areas in other countries it has lowered the reputation of the Australian electoral system. Certainly in the UK referendum the sort of automatic preprogrammed nature of above-the-line voting was given as a good reason for steering away from some of the ideas coming from Australia, whereas previously the system was much more voter friendly in the sense of voter empowering.

Then we come to what I think is probably the most useful contribution we can make, although I suspect some of our ideas might not be supported, but this one is one that could well be supported as a sensible compromise. This is under the heading 'Partial optional preferential voting'. We recognise that various jurisdictions in Australia have different approaches to this full compulsory marking of all preferences and the simple optional preferential voting in single-member districts where only one first preference needs to be marked.

What should not be overlooked is a very sensible middle position that has been taken in this matter by a jurisdiction that seems to have an instinct for good electoral arrangements. They have been at it a long time, have had plenty of experience and have generally improved things for the voter, rather than worsened them, and I am talking about the Tasmanian arrangements. There you have Robson rotation in both houses, but you also have partial optional preferential voting in both houses. It is understandable that would be the case in the House of Assembly where you only have to vote for the number to be elected — five preferences. But in the upper house, where only one vacancy is contested in each division when there is a poll, there is not a requirement that the voter has to mark preferences for all candidates, nor can the voter get away with just marking one.

If there are more than three candidates, the voter must mark at least three preferences. If there are only three candidates, the voter can mark two. The third is assumed; it is the last. If there are only two candidates, one preference suffices. Where there are more than three candidates, voters are not required to mark them all. There is an actual absolute cap on the task that the voter faces. This is tremendous for avoiding informal voting and general bewilderment, because people know it is not a terrifying task. It is difficult if you have 10, 11 or 12. I have not looked at recent history, but they do not all have small numbers; some of them do have quite a lot of candidates. There is that sensible moderation. It is not reduced to a de facto first-past-the-post system, which is the danger in full optional preferential voting in single-member districts. This is a sensible compromise that we commend to you. We hope some response to it features in the report. It is actually an idea of the Tasmanian Parliament, not ours.

Finally, I think the strongest thing we need to say here is that we do not speak on the social order or community engagement. We have made some points there that you might like to ask us questions about, but I think I am nearing the end of the time I have to speak, and it is time for you to ask questions shortly. I am not seeing any clock, but I get that feeling.

The CHAIR — We have about 8 minutes left.

Mr GOODE — I can then briefly touch on the community engagement. Do you mean 8 minutes with questions?

The CHAIR — Yes.

Mr GOODE — I had better end. Our final comment is about the renaming of the Legislative Council. We give some good reasons why that is perhaps not a good idea. Electronic voting is something that Dr Lee Naish, who is an academic specialist in these matters, might like to comment on.

Dr NAISH — Just very briefly, I guess the bottom line is that we endorse the way the VEC is proceeding at the moment. It is a sort of proceed-with-caution approach. I would advise against taking the word of commercial voting software providers as to how verifiable their systems are. It is much better to seek academic advice and independent advice. I know that Dr Vanessa Teague is appearing tomorrow. She is a colleague of mine, and I certainly trust what she has to say. Verifiability is very important when you start bringing computers in, even if it is only to count handwritten ballot papers. You want to be able to have independent scrutiny of all the data before it gets counted. Even access to data files is important, and end-to-end verifiability of any system that has electronic entry of ballots is important. I think the current management of the VEC, on that last point, is doing a good job.

The CHAIR — I will commence the questions. You have expressed opposition to above-the-line voting, which automatically means you would want people to fill in however many boxes below the line, but you have also expressed deep concern about the number of informal votes. Given that above-the-line voting was introduced in 1983 because of the higher number of informal votes — I think in the 1983 election, from memory — how would this system you are proposing lower the informal vote rate?

Mr GOODE — You say it was introduced for one reason. That might have been the ostensible reason, but it would also seem to be very convenient for party-political operators to simply decide who was going to get certain positions, and it becomes rather boring and de facto. In the Tasmanian situation, in the lower house, there has never been such an arrangement. It has been resisted. There, with Robson Rotation, the parties get their due proportions — there is no question about that — but the actual distinguishing between the candidates is the job of voters, and they are not herded, or their job is not made easier. They actually have to do it. The whole idea of above-the-line voting is to make it easy, which of course does reduce informal voting. But making something easy for people — absolutely easy — means less involvement, and that is what it means. There is less interest in who the people are. They are just parties. They are just people who wear different coloured shirts — black shirts, red shirts and blue shirts. They are faceless.

Dr NAISH — Can I also add that we do not advocate compulsory marking of all preferences? We are much happier with the Legislative Council arrangement, where five preferences are sufficient, for example, compared with the Senate, where you mark all or at least 90 per cent.

The CHAIR — I do not wish to hog the question time, but I really must ask this question: we have proportional representation here in the upper house, as you know, and I am sure you are very happy with that, as indeed are a number of us, but we see in Tasmania, and have seen this for a very long time, that proportional representation in the lower house causes no end of trouble in terms of forming governments. It causes instability, and it causes various problems across the board, not just for one party but usually for all parties. Why would you want to introduce those problems into Victoria in the lower house?

Mr GOODE — We do not believe it is a question of the system causing any problems as such. The system in Tasmania reflects more accurately and soundly the views of the voters, and it produces a proportionate and excellent reflection of the views of voters, which sometimes are complex. You might be able to pretend that there is that simple answer, that you elect a strong man or some sort of single person to do something and everything would be simple.

Mrs VICTORIA — Or a woman. Can I add ‘a woman’ in there?

Mr GOODE — Yes. We are suggesting that, democracy is complicated. You have a number of people who disagree, and it is sometimes hard to get a majority. In Tasmania they have had it for 100 years, and in nearly all of those 100 years they have had one party able to form government by a majority of people in the Assembly. Victoria and South Australia have had trouble. I believe the commonwealth is currently having less than ideal results — —

The CHAIR — That will be resolved shortly, I understand.

Dr NAISH — Can I also add that there are different definitions of stability? One is the stability of policies and how the policies of governments change over time. An election might see different people in Parliament, but the policies might continue. You can also look at the leadership of political parties, and obviously we have seen a couple of notable examples of that recently and not in houses elected by proportional representation. So there are different definitions of stability, I think. You can often pick one to suit your argument.

Mr TARLAMIS — I was going to say, on a different topic, does your organisation have a position on civics education, and whether it should be taught compulsorily as a part of the curriculum in schools?

Mr GOODE — We have been aware that the Victorian Electoral Commission has improved its efforts in that regard, and we are very impressed with it. Whether it is actually compulsory is a matter for the school authorities. It is desirable, obviously, and we would be very pleased if it happened, but to say that it should be compulsory is perhaps not appropriate for us, just that it is important and that if they were to consider it compulsory, we would approve of that.

Mr SOMYUREK — I was just going to indulge the committee by running a commentary on PR, as to how important it is. We do not have an upper house to have PR in the lower house. But our time is up, so — —

The CHAIR — It is up. Yes, it is. Gentlemen, thank you very much indeed. You will receive a copy of the transcript in about a fortnight. If you would check that for any typing errors, but you cannot make changes to the substance of it. That would be appreciated. Thank you very much indeed for your time and your contribution today.

Mr GOODE — Thank you, Chair.

Witnesses withdrew.