

ELECTORAL MATTERS COMMITTEE

Inquiry into the Conduct of the 2022 Victorian State Election

Melbourne – Monday 28 August 2023

MEMBERS

Luba Grigorovitch – Chair

Evan Mulholland – Deputy Chair

Brad Battin

David Ettershank

Sam Hibbins

Emma Kealy

Nathan Lambert

Lee Tarlamis

Emma Vulin

WITNESS

Stuart Smith, State Director, Liberal Party of Australia (Victorian Division).

The CHAIR: I declare open the public hearings for the Electoral Matters Committee Inquiry into the Conduct of the 2022 Victorian State Election. All mobile telephones should now be turned to silent.

I would like to begin the hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and paying my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue on the committee or who are watching the broadcast of these proceedings.

I am Luba Grigorovitch. I am the Chair of the committee and the Member for Kororoit. The other members of the committee here today are Evan Mulholland, Member for Northern Metropolitan; Sam Hibbins, the Member for Prahran; Emma Kealy, who joins us on the screen, the Member for Lowan; Nathan Lambert, who is here, the Member for Preston; Lee Tarlamis, Member for South-Eastern Metropolitan; and Emma Vulin, the Member for Pakenham. We have an apology from Mr Battin, I believe, and also from Mr Ettershank.

I welcome you, Mr Smith. Thank you very much for coming along today. I should note that all evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible. There is no media present today.

I now invite you to proceed with a brief 5-minute opening statement to the committee, which will then be followed by questions.

Stuart SMITH: Great, thank you very much. It is a pleasure to come and speak with you all today. Thank you for inviting me. I am quite new to the role. I have been here about three months now, so I was not present in my role in 2022. The submission that I believe you all would have received from June the party submitted, but I was ably assisted a number of party members who contributed to what was put there. I am just going to assume that it has been read, so I will not speak to the individual aspects of the submission lodged by the party. But I wanted to take this opportunity – I know it is not quite the 2022 election – just to say that obviously I was involved in the Warrandyte by-election over the weekend and am happy to answer any questions you might have about some of the observations I might have on the by-election and in particular how the VEC operated.

One of my concerns I guess, being a relative newcomer, is that on some occasions the commission may have had staff that did not quite fully understand that the participation of parties and party workers is a good thing. All of us are members of parties, and we all give up a lot of time and effort and do this voluntarily to be part of a democracy that is vibrant, free and contested. That is a good thing, so whilst I accept that passions run high sometimes and our volunteers can get a little too excited or a little bit too passionate, on the whole most people who are involved particularly in working at polling booths or prepoll locations generally behave very well and should be commended for their service to Victorian democracy. I had a couple of occasions during the by-election on which I saw just some evidence that the commission staff are being very focused on what they think is part of their process, and it would probably assist the commission staff if they were trained a bit better in understanding: who are party members, what are the types of people who are members of any party in Victoria, what do they do, why do they do it, why do they do it for free and why do they give up so much of their time? For those reasons it would probably assist if in the training there is a little bit of an attempt by VEC staff to see things from the perspective of others.

I will use an example. This committee heard on Friday I believe that voter turnout was low for Warrandyte. Yes, it was low. It was about 10 per cent down on the Aston by-election result, which was earlier this year. It

was obviously of major concern that people just did not know that voting was happening. When on election day at lunchtime some of our scrutineers went into polling places and they asked the officer in charge, 'Could you please advise, not exactly but roughly, how many voters have you marked off the roll?' or 'How many ballot papers have you handed out?' they were told no such information would be provided. If turnout is down, it is a quiet day and a lot of people have already voted early, especially in the afternoon period when there are not a lot of voters going through the polling booths, I would have thought that an organisation with a commitment to transparency would be happy to provide such information willingly and easily. What ended up happening was some of the polling place managers provided such information. They might have said, 'Look, we think by about lunchtime we've about 1200 through.' It was not an exact number, but you sort of got the picture. Then others said, 'No, we won't give that to you at all,' and then it was said, 'Well, could you please check that, because other polling places have.' Then in what seemed to be a bit of a ridiculous waste of time it was escalated up and down, and the ruling came out that such information would not be provided. That was of no benefit to the public or anybody present in the process in trying to withhold voter turnout statistics that would only a few hours later become public via a public website. And so I guess I found things like that a little disappointing, because it was a polite and reasonable request. But it is the type of thing that if we sort of come up against this, what I felt, culture of 'Let's not reveal anything', all that will happen is you will start to see more scrutineers standing in polling places taking voter tallies as people come through – which is not something that I would advocate, but I am just saying these are the types of things that if you withhold information, people from all parties are going to want to go out there and try and find the information out anyway.

So this is just an example of how we can work better together if there was a bit of a culture that we are not hostile, we are not the other side, we are not people who are trying to cause trouble for the commission; we are citizens, we are taxpayers, we are people who are wanting to participate as part of the process, and the sharing of simple information in a reasonable manner is something that could be done. Now, I accept, you know, if you had somebody coming in asking 20 times a day, that could be quite annoying – I accept that very much. But it is not unreasonable to offer that sort of information once or twice a day. For example, they will say, 'We'll give you some information at about midday or 1 o'clock,' and we would go, 'Okay, that's easy. Let's go in and do that.'

The only other point that I would just like to make in my opening remarks was that I did see some of the evidence that was provided to you on Friday via I think it was Ms Lang about the way that the by-election was advertised. I have to say I was a little bit disappointed by some of the evidence provided, because it did not seem to make sense – the idea that there was an admission by the VEC that they only had mobile phone numbers and email addresses for 50 per cent of the voters in Warrandyte. So they only had personal contact details for 50 per cent of the voters, and then they were asked why they did not, for example, send a letter or something to the people who were not there. And a comment that had been given throughout the campaign, in something that I presume Ms Lang approved for release in one of the bulletins, said:

[QUOTE AWAITING VERIFICATION]

Electronic communication is a far more efficient and cost-effective communication service than mailings to every voter, who may not check their letterboxes on a regular basis.

So what we had was a bizarre situation where the electoral commission said, 'We acknowledge that we have not told 50 per cent of the electorate that there's an election on because they apparently won't check their letterboxes, but we will mail a fine to them for not voting.' And so I accept and I understand I would like to save money. I personally would like to receive things by email or SMS as opposed to snail mail, but when there is 50 per cent of people who have not heard from the commission and the commission will be sending them out letters telling them that they might be fined, wouldn't it have just been easier to say, 'You are enrolled in the Warrandyte district. There is a by-election on this date; here is where you can vote'? They could have actually even said in the letter, 'If you would like to register for our VoterAlert service, provide us with your mobile and email and in future we can do it that way,' which would be good.

So all up it would probably have cost about \$25,000 to have written to the voters who they did not have mobiles and emails for, but instead they said, 'No, that's a waste of money, waste of time – instead we're going to spend \$157,000 advertising in the *Herald Sun* and the *Age* and on FM radio.' So, I mean, I know of people who were resident in Geelong who were hearing radio ads on Smooth FM saying, 'You have to vote if you live in Warrandyte.' And then I know of voters in Warrandyte who, presumably because they were not listening to

Smooth FM, did not know that they had to vote. It just seemed that an extraordinarily wasteful amount of money was spent on promoting a by-election to large parts of Melbourne and outside of Melbourne – in fact in statewide advertising – at the same time as roughly about 25,000 voters in Warrandyte did not receive any personalised communication telling them that they had to vote and why they had to vote and how they could vote. I just think that in future it would be a better position for the VEC if they were making sure that they at least do one personalised piece of communication with all voters about the need to vote and where to vote and when to vote. And they can rely on social media and electronic – I encourage that – but, for example, for voters over 70 who might not be great on the email, might not have Facebook, even if there was something done to ensure that they were all aware of their responsibility to vote. Voting is a public good. It is good for all of us, and having high turnout is something that we are pleased to see in Australia. I just would like to think that maybe the commission could focus on that before any future electoral events come up. Thank you.

The CHAIR: All right. Thank you for raising that, Mr Smith, and also your other points. I should say that our Deputy Chair really prosecuted them and asked the questions as to why that did occur. Anyway, we are where we are, and that is what this committee is for, so we will continue on that path.

Just going back to your earlier comment about booth behaviour, I turn to page 9 of the submission that was given to us. In here you outline concerns around booth behaviour. I go backwards to Ms Jan Cooper, an 82-year-old cancer survivor, who had submitted that she was shouted at and photographed by the Liberal candidate, the Member for Brighton. Can you understand why this behaviour might be intimidating and distressing for an elderly, vulnerable woman up against a larger man?

Stuart SMITH: I was not present at the time, but my understanding is that that claim is contested. So I would not want to make a comment on a particular individual situation that I was not present at and that is contested.

The CHAIR: Okay, but you are aware of the complaints to the VEC?

Stuart SMITH: I am aware of the submission, yes.

The CHAIR: Okay. Do you know: were any complaints made to the party about the Member for Brighton's behaviour?

Stuart SMITH: That was before my time. I commenced in late May. So, no, I am not aware of any complaints.

The CHAIR: I do not know the Liberal Party inside out, but I assume being the State Director you have obviously been around the party for quite a while. So you are not aware of any complaints at all?

Stuart SMITH: To me or to the party?

The CHAIR: To the party.

Stuart SMITH: To the party. Look, I am not –

Emma KEALY: On a point of order, Chair, the person who is giving evidence has made it very clear that they were not the state director at the time. I would like you to review the questions, because they are not in order in relation to the inquiry. He cannot possibly answer the questions, because he was not the state director at the time, so I would ask you to consider rephrasing the questions or withdraw the remarks.

Lee TARLAMIS: Just on the point of order, he could take the question on notice and check whether his party did receive a complaint and provide that answer on notice.

The CHAIR: Absolutely. Look, I am very passionate about booth behaviour. I was out in Kororoit day in, day out during pre-poll obviously trying to get votes myself, and there was a lot of despicable behaviour there. So this is something that when I did read about it really resonated with me. I am just very mindful, because picking up on the recommendations that you have got here, your submission states that the committee should consider whether section 152 of the Act is fit for purpose in responding to intimidatory behaviour on polling booths. So I guess what I am asking is: do you envisage that the intimidation that Ms Cooper experienced should also be captured by any amendments to the provision?

Stuart SMITH: Could you just ask that question again? What Ms Cooper experienced – should that be part of any future amendments?

The CHAIR: Any amendments to the provision, yes.

Stuart SMITH: That is right, yes. I think, as I mentioned before, as I understand it, the claims by Ms Cooper are contested. Not being a witness, I do not know if they actually did occur or not.

The CHAIR: Okay. As per the suggestion by Mr Tarlamis, perhaps you could take it on notice and get back to the committee.

Stuart SMITH: I will. However, I just wanted to say that if any complaints were made to the party or to Mr McQuestin, and sometimes a complaint could have been made to my predecessor – if it was made to other party staff, I may be able to seek records. I might not be able to seek records of what went to Mr McQuestin. I am happy to take it on notice, but just with that caveat.

The CHAIR: Okay – mindful of that. Thank you, Mr Smith.

Emma KEALY: Just a further point of order, I think that questions which are related to internal party matters are not within the remit of the inquiry. I therefore suggest that the Chair's question is out of order because it is a party-political matter and anything there is internal to the party. I therefore seek that the Chair withdraw the question.

The CHAIR: I am just mindful that in your submission that you provided us, one of the key points is booth behaviour. As I just said, I totally agree it is something we need to look at, just going off the back of recommendations 13 and 14. But I am mindful of time. It is 3:25. I have only taken 5 minutes. I will pass over to my Deputy Chair. I am sure he has got questions, as I know everyone does, so if we could all stick to 5 minutes, that would be great.

Evan MULHOLLAND: Yes, thank you. And thank you, Stuart, and congratulations on your win on the weekend. I will also note that for other questioning, the Labor secretary and assistant secretary refused to go into detail about party members and memberships, so you are well entitled to do the same. On your opening statement on, I guess, the treatment of volunteers, I will note that that is something that has also been mentioned in the ALP's submission about sometimes party volunteers and workers being treated as adversaries rather than people that are part of the democratic process, so I think those comments would be quite bipartisan.

I wanted to get into the Warrandyte by-election, which you are particularly familiar with, and the consequences of them not sending out mail. What did the Liberal Party have to do in order to substitute that?

Stuart SMITH: Yes, so the Liberal Party engaged in a public advertising campaign about the need to vote and about where to vote, how to vote and who was required to vote. Again, that was something that we did because too many people that we were hearing from were saying, 'I don't live in Warrandyte the suburb, therefore I don't have to vote; I live somewhere else.' There have been some, obviously, boundary changes ahead of the last election because of the redistribution, and there were people in many suburbs who were not aware of or were not familiar that they were in an electoral district called Warrandyte. If you live in Doncaster East or Chirnside Park, those suburbs are a long way from the suburb of Warrandyte. For that reason we felt that we had to provide that sort of information so that we could assist people who may not have received the SMS or email from the commission.

Evan MULHOLLAND: Excellent. You went into a bit before about the research. We have asked that to be tabled. The problem with that is that they have used that research to say people want information digitally rather than by mail and have used that to completely get rid of mail in going all digital, then used the excuse for costs but seem to be spending more money than what regular mail would cost. What do you think about this, and what advice can you give the committee to take forward in terms of recommendations?

Stuart SMITH: Whatever research they were referring to on Friday was probably poor research, because it did not ask the right questions. It asked the question: 'Would you prefer to receive communications from the commission via email or posted letter?' So in answering that question a lot of people, myself included, would say they would rather receive an email. That is a standard question. But if the question was 'Would you prefer

to receive a letter or nothing at all, and then be fined for not voting?’ of course everyone would say, ‘I would prefer to receive a letter from the commission.’ The VoterAlert service could work very well if it had, you know, 95 per cent of people’s contact details, but it does not. So until it is improved, we cannot just ignore 50 per cent of the population of any electorate. I just think that whatever research it is, and of course I have not seen it, if it is not asking the right questions – if the advice was, ‘Where possible, people would prefer electronic rather than physical mail,’ that is fine, but then at the same time you need to make a decision to prioritise, ‘When it is a choice of mail or nothing, let’s choose mail over nothing.’

Again, to say that they are advertising on Smooth FM in Geelong or they are advertising in the *Herald Sun* in Toorak but they are not actually sending a letter to voters in Chirnside Park telling them, ‘You’ll be fined if you don’t vote,’ on the argument that people do not check their letterboxes, well, I tell you what: they check their letterboxes when the VEC send them a fine in the mail. The by-election period was quite a long time; it was nearly 12 weeks between Mr Smith’s resignation and polling day. The VEC had plenty of time to make sure they could do early communications, and that would have probably seen a higher turnout just like what we saw in the Aston by-election.

Evan MULHOLLAND: I might –

The CHAIR: Thank you, Mr Smith. I am sorry; I am going to cut you off there. I am just going to give everyone 5 minutes, due to time, and we will already go 10 minutes over. I am mindful you have a busy day as well. I will hand over to Mr Tarlamis.

Lee TARLAMIS: Thank you. I just wanted to note your recommendation 20 in relation to postal vote applications, where you are suggesting the winding back of laws to allow political parties to issue postal vote applications again to ensure the maximum enfranchisement of voters. What evidence do you have to suggest that voters have been disenfranchised or not enfranchised as a result of political parties being banned from this space?

Stuart SMITH: We had a large number of people contact the Liberal Party during the recent Warrandyte election saying that they wanted a postal vote application, and we of course told them we could not send them one, and then we said that they could go online and apply for one online. They were elderly people, and they said, ‘I’m not very good with computers,’ and then they said, ‘What other options do we have?’ And we said, ‘Well, you could go to the Australia Post outlet,’ and they said, ‘Oh, look, I’m not that mobile. I don’t drive anymore.’ So we had people even up to and on polling day contacting us – usually older people – and they were doing that. I guess just a number of phone calls – well over a hundred people would have contacted us asking for assistance with postal votes, and we had to tell them, ‘I’m sorry, we’re not able to assist you.’

Obviously, being new I do not quite know the experience from last year, but I do know in the last month that the party in particular was contacted by people who were struggling or looking for assistance to vote, and our saying to them, ‘Oh, if you get down to your local post office,’ just did not quite seem to be as helpful as what they were looking for. They said, ‘Well, the reason we’re calling you is we don’t really use websites or the internet much and we can’t apply ourselves.’ The other thing as well is that to apply online you have to have a regular email address, and look, I know we all do – I know my mother does and my grandmother does – but there are some people out there – again, older voters, often – who do not have an email address. For those reasons, if we are able to use the postal service to send ballot papers out, why are we not able to use the postal service for people to make an application form? It just seems unusual that we would send ballot papers by post and make applications effectively only available to be done online.

Lee TARLAMIS: So I guess the difference there is ballot papers being sent by an independent agency who are also processing postal vote applications. Did you advise people that they could actually call the VEC and request one over the phone if they are not across being able to use computers?

Stuart SMITH: As I understand it the VEC do not offer that service.

Lee TARLAMIS: They do. You can call the VEC and request a postal vote application.

Stuart SMITH: We gave them the website. We would say, ‘Here’s the website, here’s the 13 number, and you can also get one at your Australia Post outlet,’ but –

Lee TARLAMIS: You just said that that service was not offered, so how did you let the people who were contacting you about postal votes know if you –

Stuart SMITH: It was not me, personally. If you look on the VEC's website, as I understand it they do not say that you can apply by phone for a paper form.

Lee TARLAMIS: Would it surprise you to know that the rate of postal voting at the 2022 election significantly increased and that 94 per cent of people at the 2022 election completed their online application? Numbers are significantly going up in terms of people applying for postal vote applications since this change was made, and the majority of them have applied online.

Stuart SMITH: Which is a good thing, but does that mean the people who are struggling to apply online – should we not care about them as well?

Lee TARLAMIS: No, but the figures also tell a story about how general postal voters in the cohort of people aged over 70, who you used as an example, have also significantly increased. Of that cohort, people aged 70 and above who are eligible to be on the role, 11.24 per cent are now general postal voters. People are obviously finding the different options to be able to enrol as a general postal voter or as a postal voter, and the numbers are clearly identifying that. That is why I am interested to ask: what evidence, other than anecdotal, do you have as to this being an issue about enfranchisement of Victorian voters?

Stuart SMITH: As I have said, we have just experienced a number of people feeling their only option to ask for help to vote is to contact the Liberal Party. If those people knew that they could contact the VEC or even how to do that, maybe that would have been better. But as I said, the communication to some of these voters was mostly lacking, and that is why they were contacting a party. Why is it that a party feels that it needs to provide voting information when that is not our role? None of us would agree that we should be trying to persuade voters to vote for our respective parties, but it just seemed to be that there was not very much interest in communicating with these people because of what Ms Lang said was a report that people generally preferred electronic communications. That is nice, but not everybody prefers that way. And it would be nice if the commission could at least try to communicate with them once in a personal manner.

Lee TARLAMIS: That is a different matter to what we just discussed, but having said that, are you aware of how many complaints came in from the VEC when political parties were distributing postal vote applications?

Stuart SMITH: I am not aware.

Lee TARLAMIS: Okay. It would be substantially higher than the number of people that you may have received calls from.

Evan MULHOLLAND: On a point of order, Chair, I was cut off after 5 minutes. It is now 6 minutes since his time –

The CHAIR: Sorry, I have got a time clock here, and it was going to be his last question. Sorry, could you just repeat the question so Mr Smith could answer.

Lee TARLAMIS: I was simply making the point that the number of complaints that the VEC received when political parties were engaged in this space were substantially higher than any number of calls that you may have received.

Stuart SMITH: Complaints that we were assisting people with voting?

Lee TARLAMIS: That you were distributing information, engaging in the process.

Stuart SMITH: Which has happened for decades in Australia.

Lee TARLAMIS: Yes, which was a problem and why it was stopped.

Stuart SMITH: It was a problem, was it? I mean, it is assisting people to vote. Anyway, there is a reason why the Aston by-election had a higher result than the Warrandyte by-election, and maybe this might be one of them.

The CHAIR: Thanks, Mr Tarlamis. We will pass it over to Mr Hibbins.

Sam HIBBINS: Thank you, Chair. Thank you for appearing today. Recommendation 1 goes to the abolition of group voting tickets in your submission, and you have stated that the Liberal Party supports the abolition of group voting tickets. Is that conditional on upper house reform? Is it an in-principle support of abolition, or do you have a preferred model for the upper house? Can you provide some more clarity over that?

Stuart SMITH: Thank you. I think recommendation 1 is more about the concerns about what we have seen in Australia with group voting tickets over the last decade, I would say. It is not particularly tied to a specific view on how the upper house should be structured other than with the advancements in modern technology, including optical scanning, which makes it easier to read and enter preferences than it was back in the day. For those reasons, with a combination of some clear gaming of the system and advancements in technology, we thought that ensuring that voters could allocate their own preferences was a public good. We do that in the lower house. In Warrandyte, for example, there were 12 candidates, and to do a formal vote they had to put 11 preferences down. About 95 per cent I think of electors did that themselves without the need of a group voting ticket. Voters have shown that they can do that not only in the lower house but also in the upper house.

In the federal Senate in particular these changes were made in, I think, 2016, but also recently I think WA has done away with group voting tickets as well. It just seems very perverse that you could engage a consultant to assist you to get favourable preference flows from parties that were set up intentionally as sort of feeder tickets. It has been a little while since I myself have looked at these things, but I did remember a senator once bragging at a federal electoral matters hearing about how they had set up multiple parties for that purpose – to set up as feeder tickets for his own election. He came in and he bragged about it and said if he had time, he would set up more. That was the day that I really turned off group voting tickets, because I just thought that we cannot have a voting system that is so complicated that you can do something like that. Sorry, I appreciate that was a long answer to your question. But I do not have a particular view on a model, other than I think we can safely abolish group voting tickets without any major impact.

Sam HIBBINS: And obviously abolishing group voting tickets might require legislation and changes to the upper house might require a referendum or what have you. Would you or would the Liberal Party support straight-up abolition of group voting tickets without necessarily upper house reform or pending future upper house reform?

Stuart SMITH: I think we would have to. If there was going to be upper house reform – for example, a change to the number of regions or something like that – I think there would have to be quite a comprehensive consultation process, because everybody would want to have a look at what might be proposed, and obviously I would want to consult with Evan's parliamentary colleagues in particular, just to see what their views were. We would want to have a look at what models were put up, but there are various models in other states. Again, being quite new, I do not quite have a view myself on how the upper house could be changed in a different way, but I think at least most of our members are united on the position on group voting tickets.

Sam HIBBINS: And your preference would be, obviously, before the next election?

Stuart SMITH: I think so. There is enough time to do that, so yes, I think so.

Sam HIBBINS: Yes. Okay. Thank you.

The CHAIR: Thanks, Mr Hibbins. Mr Lambert.

Nathan LAMBERT: Thank you, and thank you Stuart, for appearing and for your submission, which I thought was well written. I particularly appreciated recommendations 3, 8 and 12, which went to some more technical matters that we can all follow up on. I was wondering if I could pick up on some of the big themes you have been discussing with the Member for Prahran, particularly this really big question we are discussing about how we incorporate mainstream views and less mainstream views in our system through all these mechanisms. Now, if I go back and look at your how-to-vote card in Preston in the 2022 election, you were indicating that the Liberal Party's preference, if you could not elect your own candidate, for the next best person to represent Preston and Reservoir was Angelique Matias of the Freedom Party. Now, I appreciate you were not there, but you have obviously just – I think it went to Labor, DLP second in the most recent by-election. What is your understanding of what a Liberal Party '2' means?

Stuart SMITH: What a what, sorry?

Nathan LAMBERT: What does it mean? Is that saying that your next preference ideologically is that person? Is it a tactical thing? What do you mean when you put someone second in the Liberal Party?

Emma KEALY: On a point of order, this is going to the views of a political party. It is about internal political matters – party matters – and I say it is entirely out of order for the purposes of this inquiry. I ask you to rule this question out of order. And further, this is now the third Labor MP in this committee who has been given the opportunity to ask questions. There is only one Liberal MP, who has been given 5 minutes, there is one Greens MP, whose question was 5 minutes. If you are looking –

Nathan LAMBERT: On the point –

Evan MULHOLLAND: I would agree with that.

The CHAIR: Hold on. I am the Chair. Sorry, everyone. I am going from side to side, and I am also going to go to everyone in the room to start off with. I have got 5 minutes, and I rule the question in order, so if you would like to repeat it for Mr Smith.

Nathan LAMBERT: Yes, it is an interesting and important question for all of us. You have put the Freedom Party second. What does that mean?

Emma KEALY: On a point of order, these are completely internal party matters –

The CHAIR: Sorry, Ms Kealy, you are wasting time that is quite valuable to everyone. We have only got a short amount of time left, and I am mindful you probably have some questions as well.

Evan MULHOLLAND: Sorry, on the point of order, I would agree with the Member for Lowan, only because it is an internal party decision. It is just like asking about what you do with your spending. It is not relevant to the review of the 2022 election how the Liberal Party preferences. It is completely irrelevant, and Chair, you should rule it out of order.

Lee TARLAMIS: Questions about Warrandyte are not relevant to the 2022 election either, but they have been allowed to be asked extensively at this meeting too.

Evan MULHOLLAND: Well, it goes to the running of the election.

The CHAIR: I will allow the question. Would you like to reframe it perhaps?

Nathan LAMBERT: I am going to reframe the question. We have been discussing the balance of mainstream and less mainstream views for the entirety (of the hearing), and no-one has pulled up an earlier question on this. It is an entirely legitimate question – I should say, an important question for people in Preston and Reservoir – so I do not appreciate being told that it is not. But let me put it this way in terms of a more forward-looking review: ‘Put Labor last’ was a major plank of your policy. It was a major statement from a significant institution in our system about the balance between mainstream and less mainstream views. Is that still the policy of the Liberal Party that you lead?

Stuart SMITH: Sorry, I do not understand how this relates to the *Electoral Act*’s requirement that we have a how-to-vote card that advocates a formal vote. The Liberal Party’s how-to-vote card in your seat advocated a vote for the Liberal Party. It did not advocate a vote for any other party, it advocated a vote for the Liberal Party. Preferences come into play and preference recommendations come into play when a party is excluded in a distribution of preferences, but I am sorry, I do not know the particular result in your seat and who was excluded.

Nathan LAMBERT: I can put it to you another way. This is an important issue. I have, as I am sure other committee members have picked up, some reservations about expanding to statewide electorates to let less mainstream views in. I think some of those views at the end of the day do not have sufficient community support and should fail at the ballot box position. Does the modern Liberal Party stand for mainstream views, and does it share some of those reservations?

Emma KEALY: On a point of order, Chair, the political views of any party are completely up to the political party and its membership. It is not part of this inquiry. I ask you to rule the question out of order.

The CHAIR: I cannot rule it out of order, because it goes back to the submission. I will allow the question.

Nathan LAMBERT: It is a key question. You preferenced the Socialists ahead of Labor and the Freedom Party ahead of Labor. It is an entirely legitimate question whether that remains the view of the Liberal Party.

Stuart SMITH: Sorry, I disagree that my party's submission had any reflection about our preferences about other parties. I thought that this was a submission about electoral matters and about the state election.

The CHAIR: Recommendation 8, I would say, is about ballot paper order. I do not believe it is an unreasonable question to answer.

Stuart SMITH: Ballot paper order. It is not talking about preferences and –

Nathan LAMBERT: I am happy to take on the record that the Liberal Party members are not happy to talk about it. That is fine. I will have one final question then, as I have not been able to engage on what I genuinely think is an important issue in the considerations of this committee.

Emma KEALY: On a point of order, Chair, I have not had an opportunity to speak. The questioner has had more than 5 minutes.

The CHAIR: Sorry, Ms Kealy, you are completely incorrect. He started at 3:41. You have interrupted on three different occasions, so I was going to give him until 3:46. He has now got until 3:47. Mr Lambert, would you like to ask your final question, and then I will move on to the next committee member.

Nathan LAMBERT: Yes, final question; different topic – I would have liked to have had a chat about that topic, but that is fine if you do not want to. On a much simpler thing, I was told by some local Liberal Party members that Liberal candidates were given no control over their own social media pages and they were run entirely from head office with no input from those candidates. Is that something that you would be likely to do as a campaign director?

Stuart SMITH: I am again not sure that this has anything to do with the operation of the *Electoral Act* at the 2022 election. The Liberal Party obviously likes to work with its candidates on how it conducts an election campaign, and I do not see that how we choose to communicate with our candidates is really what this committee is looking at today. It is certainly not something that was in my submission.

The CHAIR: Thank you very much, Mr Smith. Given Ms Vulin is in the room, I will go to Ms Vulin first. Ms Kealy, you will have an opportunity at the end. Ms Vulin.

Emma KEALY: Chair, I am just forewarning that I am going to lodge an official complaint about how this meeting has been conducted. It is completely unfair and outside of the rules of committee engagement that you would have such a biased level of questioning, and if you think this is funny by smiling at it and thinking, 'Yes, we've got the numbers on the committee and so we can do whatever we want,' I think it is an absolute disgrace. The fact that you were lobbed into this role as committee Chair halfway through an inquiry and now we have got a position whereby you are allowing four Labor MPs to ask questions which are entirely out of order and are entirely outside the inquiry which is in front of us to go ahead. It is a terrible reflection not just upon this committee but upon the parliamentary legislation which sets out this committee.

The CHAIR: Ms Kealy, I have let you have your say, and your accusations are well and truly heard and in my opinion quite rude. Mr Hibbins is not a member of the Labor Party, so I will just put that on the record. We will go over to Ms Vulin, because I am mindful of the time that Mr Smith has afforded us.

Evan MULHOLLAND: On the point of order, Chair, the former government Chair of this committee would always try to cross between the parties – Labor, Liberal, Greens, Legalise Cannabis – in a weighted way so as to not forward-load any particular party, which is what has been done. Can I suggest in future hearings, maybe not this one, that that might be the approach taken.

The CHAIR: It should be noted that we went to me as Chair, Labor. We then went to you, Liberal. We then went to Mr Tarlamis, Labor. We then went to Mr Hibbins, Greens. Then we went to Mr Lambert, Labor. Now we are going to Ms Vulin, because she is in the room, and we will continue. Ms Vulin.

Emma VULIN: Thanks. Thanks, Mr Smith, for coming. Moving on from Warrandyte and going back to the conduct of the 2022 Victorian state election, as a possible solution to addressing negative behaviour at polling booths your submission suggests consideration on whether there should be a maximum number of volunteers per party at polling entrances. How many volunteers do you think is reasonable?

Stuart SMITH: It would depend, I think, on probably the number of candidates. So, for example, if you had an election where there might be only four candidates, it is not as busy with party workers. I think it would have to be, you know, some sort of formula maybe to do with the number of candidates present. As I understand it – again, I mentioned I was not here – this advice was that there was an exceedingly large number at this particular polling booth. I am talking 20- or 30-plus people from one party, which is really quite unusual. I think the Victorian Socialists was the party, and of the 12 parties at Warrandyte over the weekend I think that representatives from 11 of the 12 parties did behave very well. Again, I believe that the police were called to one polling booth to escort a member of the Victorian Socialists off. It seemed to be a particular thing with one cohort within maybe that party. But, yes, at a by-election with lots of candidates you want to have more than, say, just one, right, because there are multiple entrances, people coming from everywhere, lots of other party workers. But I think it would have to be in relation to the number of candidates.

Emma VULIN: And do you think that the VEC needs to perhaps develop stronger regulation for conduct at polling booths?

Stuart SMITH: Look, it would be helpful if maybe the VEC worked with the police. I saw a situation on the weekend where the police arrived at a particular polling booth, and I was there with another party volunteer. We had been setting up, and the police asked us what we were doing there and asked why we were on school property – this was at 7:30 in the morning, 20 past 7 or something like that. ‘Why are you here, and what are you doing?’ And we said, ‘Sorry, we’re here for the election; there’s a by-election’. They were very polite, the police, I might add, but they appeared to not quite be aware of why we might be at the school. The reason they were called was because the alarm was going off – the VEC had gone in and set it off. But the point was, the reason I raised it was, that maybe there could be a bit of work between the VEC and the police, even the final week before an election, saying, ‘This is what we’re expecting to see; this is what we look out for’. I just got the impression that the police were a little unaware about what was going on at polling booths at certain locations that day. Maybe the VEC could work with them a little more closely in the future.

Emma VULIN: Another question I had was: your submission highlights the issue of registered political parties using similar keywords in their names as other parties. It is clear that in some instances the aim is to take advantage of the confusion for political benefit. Is there any research that backs this up?

Stuart SMITH: Yes, so there were some electoral results – I believe Antony Green did some work on this. It first came to light I think in 2013 in the New South Wales Senate, where I think in box A the party who drew the first box in the Senate was the Liberal Democrats. The Liberal Party was drawn somewhere like X, Y, Z or somewhere down the other end of the ballot paper. That was a strong election for the Liberal Party in 2013, but the Liberal Democrats got a senator elected. I think they got – I cannot quite remember, but it might have been like a double-digit or close to that amount. And I think Antony Green might have said at the time or somebody else said at the time that the LDP had never received more than a heartbeat of support in the election, and then all of a sudden by drawing that first box and that voter confusion they had got a much, much higher than normal – normally they might get, you know, 1 per cent, and they were getting like 11 per cent or something. So what ended up happening after that was the federal committee started to have a look at those matters, and we started to see in our own history other parties popping up.

We had a party that tried to register called, I think, the New Liberals, and that just seemed to be not a serious attempt. I am aware that it happens to Labor as well; there was a party I think called Progressive Labour and other things like that. I believe it was in the federal Parliament maybe early last year or the year before, in 2021, where there was a bipartisan change to make that registration process come in, but it was based on previous happenings, in particular the 2013 election, and there was another particular case where there was a joint polling booth at that election and I think it was in Tweed Heads, which is right on the border between New

South Wales and Queensland. There was a booth on the boundary on the border and voters from both states – both sides of the street – could vote there. On the New South Wales side the LDP got 7 or 8 per cent or something like that, and then in Queensland, where they were behind the Liberal Party, I think they did not even make 1 per cent, so there was clearly some sort of confusion going on I think.

Emma VULIN: Yes. Our side gets that as well.

The CHAIR: Sorry, Ms Vulin. I am mindful –

Emma VULIN: This is very, very quick: do you support changes to the *Electoral Act* to prevent these voter changes –

Evan MULHOLLAND: Sorry, I got cut –

Emma VULIN: Okay, never mind.

The CHAIR: With your indulgence – I am mindful that we are over time. We did start at 3:10; we were going to go to 3:55, but if you are happy for the last 5 minutes?

Stuart SMITH: Yes, sure.

The CHAIR: Okay. Over to you, Ms Kealy.

Emma KEALY: Thank you very much, and thank you, Stuart, for your time today. We know that the government dragged its feet on group voting tickets and the Labor Party has now given its in-principle support. However, we saw leaked during the campaign that preference whisperer Glenn Drury had set up a deal with crossbenchers elected that they had to work with Labor to give them ‘An amenable crossbench that the government can work with so that it never reforms group voting tickets.’ What is your view on this dodgy background dealing?

Stuart SMITH: Thank you, Ms Kealy, for the question. I think I said earlier on that I in my younger days observed a federal electoral matters committee when a senator came on and bragged about setting up parties deliberately and he – Mr Drury – I think appeared at that committee meeting as well, but it was the stage of the bragging about it that I was most disappointed about because, as I said, voters are very capable in the lower house of distributing their preferences. So for that reason I think that the retention of consultants and other ways that the system might be gamed could be – it just seems that if we have an electoral system that can lead to the rise of consultancies, I really do just get concerned that maybe this is taking away choices from voters and starting to, through complex rules, put them in the hands of consultants, which I just do not think is a public good for anybody at all from any party. For that reason I would hope that the committee would look at seeing what they could do to make sure that that cannot happen again in the future.

Emma KEALY: Given the politicisation of the Electoral Matters Committee – and we have seen that in your hearing today, where there has been complete bias, there has been the Chair scoffing at questions, there have been questions put by Labor MPs in a disproportionate amount of time to coalition MPs – what confidence do you have that the Labor MPs who are members of this committee will recommend the abolishment of group voting tickets, and further, that the Andrews Labor government would accept that recommendation should it end up in the committee’s final majority report?

Stuart SMITH: Thanks. Look, I do not want to reflect on the committee because I do not think that is my job, but I do hope that the committee does take a rigorous look at this matter, because it is important and it does have the ability to change electoral outcomes and change legislation for the people of Victoria. So I do hope that the committee, please, looks at this issue carefully. I just do note the pattern that it seems that other states have, maybe for a variety of reasons, gotten rid of this particular aspect, so it might be unusual if Victoria were wanting to keep it at the same time as lot of other states and the federal Parliament have decided to get rid of it. That is something for the committee to consider, but I will leave that up to all of you to consider in your deliberations.

Emma KEALY: I agree. It is an important task of our committee that we do remain focused on what we are doing, which is the inquiry into the 2022 election and making sure we have fair electoral outcomes and not biased political outcomes as a result of the findings of this committee. Stuart, I would also like to ask about an

issue that has been raised at a number of hearings, which is around the shortage of ballot papers across large expanses of the state. In my electorate of Lowan there were ballot shortages in Stawell, but there were also ballot shortages in the electorate of Bass which could have had an impact on the electoral outcome. Have you got any particular views about the importance of making sure that everybody who turns up to vote has that opportunity and perhaps how that could be better delivered by the VEC in the future?

Stuart SMITH: Thank you. Look, obviously I think it goes without saying that all of us are disappointed about what happened with the ballot paper issue in Bass. When you turn up to vote, especially if voting is compulsory, you should be able to turn up and vote and get out of there. I think it is not unreasonable to say that everyone should be able to get in and out within 15 minutes. Having to wait for hours or to be told to go kilometres and kilometres away is disappointing. We know how many people are on the electoral roll. We do have information on how many people have voted at previous elections in these areas, and we do have information on population growth, so it should not be too hard to project some of these things. I do just hope that in the future there is a bit more of a mindful approach taken to these things.

I have seen the VEC get involved in all sorts of matters that are not not important but that are not their primary role. The primary role should be that you make sure that you have enough ballot papers for people to vote with. There are some of the other things – you know, like cat memes and all that other stuff – that they seem to have time to do, but then they are not quite doing the base job that they are employed to do. It unfortunately just sort of discredits the commission's effectiveness. We all want a commission that we can all have trust and confidence in and that will do a good job, but again over the weekend I saw party volunteers who were told that they had to be inside the polling booth by 5 to 6 because they were going to lock the doors strictly at 6 o'clock. Then they got in there and got told that they had to wait for half an hour because the VEC officials wanted to have pizza and there would not be any counting going on in that particular polling booth. So you will have things like that going on and you will have things like, you know, International Cat Day or whatever else is going on, but you will not actually have them ensuring that there are enough ballot papers at a polling booth. To run out of ballot papers as well – it is not like you did not see that coming. If you are saying, 'Oh, we're down to our last 100 ballot papers', get someone to get the car and go over to the next polling booth when you are starting to run low. I mean, that is quite a normal thing. I just do not know how it could have got that bad that they had not been alerted sooner.

Emma KEALY: Thank you, Stuart. Just on notice – you may not have had a chance to consider this, but it has been raised numerous times, including by the VEC. There are tight challenges around the ballot draw and getting how-to-vote cards through that week, getting them approved and having early voting starting on the Monday immediately following. Would you consider shortening pre-poll to just one week but having the same similar framework that we do now – so have a late in the week ballot draw, then have a week clear before early voting begins on the Monday, have a week of voting and then have the full election day on the Saturday?

Stuart SMITH: I believe New South Wales has gone to one week of early voting. So they can have postal voting that can happen earlier than that, but they have gone down to one week of early voting. I cannot say I have looked at their results closely, but I understand that there was not a major change in their number of early votes. We do know from the VEC statistics but also from other evidence that roughly the majority of people who cast a pre-poll early vote will do so in the final three days, and we obviously have seen a pick-up in those things. To do with the registration for how-to-vote cards, there is a bit of a silly thing where you have to turn up, I think, with a USB with the electronic version, but also turn up with printed copies, whereas in other states like New South Wales you can actually upload it to a system. For whatever reason it took the VEC a whole day to approve our one recently in Warrandyte, but I understand another party was in and out with an approval within an hour. Approving a how-to-vote card is not a particularly onerous process. I understand from last year that – there could be an error, you know, there might be a spelling mistake or there might be something wrong, but then what you would have to do would be you would have to go back to the office, make that one little change, print off a new one, and then try to book in a new appointment, and the new appointment might not be until two days time or something. You should have a process where, if we just need one minor amendment, you should be able to resubmit almost straight away and have the matter dealt with, not like having to take a new ticket and start again, which just does not seem to help anyone. So hopefully the VEC can start to make some changes into how they make it more efficient and allow for minor changes to be made quickly.

Emma KEALY: Thank you.

The CHAIR: Thank you for your answers, Mr Smith, and for your questions, Ms Kealy. Thank you again for taking the time to speak with us today. As mentioned at the beginning, you will be sent a proof copy of the transcript to check over as soon as it is available. This session is now concluded. Thank you.

Stuart SMITH: Thank you very much.

Committee adjourned.