TRANSCRIPT

ELECTORAL MATTERS COMMITTEE

Inquiry into electronic voting

Melbourne — 24 August 2016

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Mr David Kerslake, electoral commissioner, Western Australian Electoral Commission *(via teleconference)*.

Necessary corrections to be notified to executive officer of committee

The CHAIR — Mr Kerslake, thank you very much for your willingness to participate in the Victorian Parliament's Electoral Matters Committee hearing into electronic voting.

Mr KERSLAKE — You are welcome.

The CHAIR — There is almost a full quota of the Electoral Matters Committee. There are some people in the gallery who are listening to your evidence as well. Can I just check with you, please, if you have read the guide to giving evidence at public hearings pamphlet, which I believe was provided to you?

Mr KERSLAKE — Yes, I have.

The CHAIR — Thank you. So you would understand the nature of parliamentary privilege, with Hansard being present, applying to this hearing. Can I at the outset say how helpful it has been to the committee not only to have the Victorian Electoral Commission involved in this but to receive a submission from WA, and we greatly appreciate the time you have taken to participate in our deliberations. Could I please ask you to state your full name and your business address and then to clarify for the committee whether you are appearing in an individual capacity or whether you are representing your organisation and to perhaps make some introductory comments relating to your submission?

Mr KERSLAKE — Thank you. My name is David Arthur Kerslake. My business address is 111 St Georges Terrace in Perth. My comments are my own, but they do draw upon my experience as an electoral commissioner currently in Western Australia and previously in Queensland.

By way of introductory comments, in my written submission I referred to two main forms of electronic voting. One form enables electors to cast their vote on voting machines in polling places under the supervision of election officials. Although such equipment has been deployed successfully in recent ACT elections, in my view it is not well suited to most other Australian jurisdictions. For example, it would be extremely challenging, if not logistically impossible, to roll out electronic voting machines throughout a state the size of Western Australia. As well as being extremely expensive, the risk of systems failure would be huge because of a lack of technical support in local areas.

I would like to add to that that I have no reason to believe that the challenges would be any less in Victoria than they are in Western Australia. Therefore, if consideration is being given to the introduction of electronic voting, in my view internet voting is a more realistic proposition. Critics of internet voting will argue strongly against this view, pointing to risks such as hacking and denial-of-service attacks. In response to those criticisms, I should firstly acknowledge that there are risks associated with internet voting. At the present time no-one can give an absolute guarantee that any internet application can be made 100 per cent secure.

But having said that, any assessment of internet voting also needs to take account of the risks inherent in the paper-based system that we already have in place. For example, none of the paper-based systems currently in place at federal, state or territory level in Australia offer any guarantee against multiple voting. Such instances can be detected after the event but not before any corrupted votes have already been admitted to the count. That is not to say that multiple voting is common under our current system, because it is not, but it is a known risk. Under a paper-based system there will also always be the risk of human error, such as the loss of ballot papers in the 2013 Senate election in Western Australia. Computers are less likely than human beings to make such mistakes. Under a paper-based system ballot papers cannot warn electors that the votes that they are about to cast will be informal; an internet voting system can do that. Critics of internet voting often argue that such systems would open the door to voter coercion, but of course that is just as possible with postal voting under the current system.

While on the subject of postal voting, there is a serious threat to the current system posed by the recent decline in postal standards. We are perhaps not far away from the time when we will be unable to guarantee electors in some rural areas that their votes will be received in time to be counted. In making these points I am not suggesting that our current system cannot be trusted; all I am saying is that, whether or not we are in favour of internet voting, to have a sensible discussion on that topic we need to be careful not to overlook risks that already exist. No system of voting is or ever will be absolutely risk free.

A further point I wish to make is that any sensible conversation about internet voting also needs to take into account the changing nature of our society and the changing expectations of many electors. To illustrate that point, it is not that many years ago that the overwhelming majority of electors actually voted on election day. Indeed one of the arguments sometimes raised against the introduction of internet voting is that it would threaten the ritual of voting — the community habit of turning up to a local school or community hall to cast your vote.

These days we are faced with a very different reality. For example, at recent elections across Australia there has been a substantial increase in the level of early voting. In terms of lifestyle changes, there are now very few Australian households that do not have internet access. Internet transactions are rapidly becoming the norm, and we have a new generation of electors who, in my view — or my experience — are clearly more wedded to their smart phones than they are to polling places and to sausage sizzles. So for many in this new generation of electors, giving up part of their Saturday to vote will no longer be seen as a comforting ritual but as an inconvenience.

As an electoral commissioner, this leads me to wonder whether it is only a matter of time before internet voting is introduced in response to public demand, and as an electoral commissioner I believe the sooner we accept that likelihood the sooner we can get started on developing the sort of robust systems that will be needed to mitigate the perceived risks of voting online.

If I can conclude on this note: the pragmatist in me leads me to ask not whether we should start to build internet voting systems — because clearly we need to — rather, it leads me to ask, 'Which groups should we make them available to in the first instance?'. The West Australian Parliament recently decided to make internet voting available to people with disabilities — people who would otherwise be denied a secret vote through their reliance on assistance to fill out a ballot paper. That seems to me to be a good place to start, but it also seems to me to be the absolute minimum; other groups could include electors in remote areas and those who happen to be outside of the state when an election is held, the alternative risk for those voters being that if they are not allowed to vote online, they may well be disenfranchised.

If electronic voting is to be introduced, these seem to me to be the obvious starting points that could be considered: addressing areas of disadvantage while at the same time affording the opportunity for electoral commissions to build up their online voting capability. Thank you.

The CHAIR — Thank you very much, Mr Kerslake, for your very succinct and direct presentation. Could I just ask you this, in the first instance: a number of people, coming before this committee in person and in their submissions, have put it to the committee that there are a very limited number of people with expertise in this area and that it might be a better option for the state electoral commissions, and indeed possibly the federal one, to work together and spend their money in a more targeted way through cooperation. Are you in a position to tell us whether the WA commission is doing that at present?

Mr KERSLAKE — Yes. Let me make a general comment, firstly, that I am a very strong supporter of that type of collaboration between all electoral bodies and I have supported that very strongly through the Electoral Council of Australia and New Zealand. It is a good way to defray costs, but it is also a very good way to combine our collective knowledge to bring the best solutions to bear. What we are currently doing is that we are working in collaboration with the New South Wales Electoral Commission, which, as you are aware, has developed its own iVote system. We are looking at using that system, putting that system in place for our next state election in March next year. We are working with New South Wales to implement that system and in the process are making some enhancements to their system.

Ms SPENCE — Could I just get you to elaborate upon that? What were the enhancements that you saw necessary in rolling out an iVote-type system?

The CHAIR — That was the Deputy Chair, and can I also add that Adem Somyurek has now joined the committee, which means there is a full complement of committee members listening to your evidence.

Mr KERSLAKE — Thank you. There are no substantial changes that have been made, but as with all electoral systems, whether they be internet, electronic or the other systems we use with our normal

processes, there are always enhancements that can be made and are made after every election. The New South Wales commission noted some areas where there could be some tweaking done to improve systems, and we are implementing those. We also need to make some enhancements to make sure that their system dovetails with our election management system. Nothing of major substance, but there are some improvements that will be made. I am not a technical person, so I cannot run through with you all of the detail of that. I am happy to take that on notice if you would like.

The CHAIR — Well, it would be, I think, beneficial for us to know if the areas you are looking at tweaking were technical or non-technical. We do not need to probably get all the detail if it is technical, but if we could — —

Mr KERSLAKE — They are more technical enhancements, not any major difference in approach.

The CHAIR — Okay, thanks.

Mr DIXON — Is the West Australian election next year? Is that right?

Mr KERSLAKE — Yes.

Mr DIXON — So how far down the track are you in terms of providing some of this new electronic voting for next year? March is not far away, Christmas in between. Are you looking at it for this coming state election or the one after?

Mr KERSLAKE — We are looking at it for the current state election. The legislation that authorises us to do that has only recently been proclaimed, but there was bipartisan support for it, so on that basis we felt confident to go ahead and start working on the development of the system. So we are well advanced, and we expect to have internet voting available for people with disabilities at the next state election.

Mr NORTHE — Just in terms of the number of people that you anticipate would be part of the electronic voting, can you give a number on that? Secondly, too, in terms of the criteria, you briefly spoke about remote voting. Will that apply to people who might be a certain distance away from voting centres?

Mr KERSLAKE — I will answer the second question first. In terms of remote voting, we do not have that in place at the moment. The West Australian Parliament has not legislated to enable internet voting in remote areas. During the passage of the bill, the Parliament did indicate that they were happy to look at expanding the system to, for example, remote areas at a future time, but at the moment it is confined to people with disabilities. If it were to be introduced, the real challenge would be in remote areas — that is, the challenge where postal voting is very much under threat with the decline in postal services. So down the track that is an area that I think could be opened up. Sorry, Russell, could you take me back to your first question?

Mr NORTHE — It was just really the number of people you anticipate would form part of the electronic voting system at the next state election.

Mr KERSLAKE — To be honest our biggest concern at the moment is that the take-up will not be huge. We are doing a lot of work with disability groups to encourage them and to get them to inform their members. We are doing a lot of work in that area. One of the biggest challenges — and I think New South Wales found this with people such as the blind and vision impaired — is that many of them will over the years have gone to a polling booth with their partner. Their partner at an election is still going to have to go to the polling booth, so many people will still go along with them because they have got into a habit. So that is the big challenge for us — to get the word out to people. From those who have used it, though, in New South Wales, the feedback is that to be able to vote in secret for the first time really impresses people. But our challenge will be to get the numbers up; I acknowledge that.

Ms BLANDTHORN — You have probably in part already answered my question, but the New South Wales example showed that those with a disability perhaps used it much less than anticipated and certainly less than the numbers in the other groups of people who use the system. What sorts of measures are you

putting in place? We heard evidence yesterday as well going to the point you have just raised about people, particularly vision-impaired people, who will still go and vote with their family or friends or their partner or whatnot in the way they always have. What sorts of measures are you undertaking to try and increase the vote amongst that cohort of people?

Mr KERSLAKE — Firstly, we have had a person in place, a special project officer or project manager, to help specifically with that process. He is not a technical person. He is a person whose role it is to go out and talk to groups. I have been out personally talking to groups as well. We will be doing a lot of work with disability radio groups and so on as well to promote the system. We have had people from blind peak bodies come in and show us the equipment that they had in their own homes to make sure that we are dovetailing with equipment to make sure it will work for them. So we are working extensively with those bodies, and we have worked with the department of disability services as well to identify all of the groups we should be talking to. We have spoken to a lot already. We will have an extensive program of making sure we have spoken to all of them prior to the election. So it will certainly be no lack of effort on our part to make this system known. The question is whether people are able to break away from habits perhaps that have become ingrained over a period of time.

The CHAIR — Are you privy to why the WA Parliament did not want to extend this trial, if you like, to overseas or interstate voters?

Mr KERSLAKE — Not in any great detail. I can only go on the debate that occurred during the passage through Parliament. But the impression conveyed there was that the Parliament was, if you like, dipping its toe in the water. Certainly they acknowledge that the secrecy aspect associated with disability voting is a very critical one, but they have acknowledged that there are difficulties, for example, with people overseas in being able to vote as well, but I think that they want to see how the system goes before they go to the next step.

The CHAIR — Understood.

Ms PATTEN — Just following on from Russell, if in the cohort that this is now going to be available to every single person took it up, do you have any idea of what that number might be?

Mr KERSLAKE — It depends, I suppose, upon how you apply the definition, but it would be a six-figure number if you take all of those people into account.

Ms PATTEN — So if 10 per cent of them took it up, then we would still be having a fairly good sample.

Mr KERSLAKE — Yes, because it does not just apply to the blind and vision impaired. They are obviously a major target group, but the legislation is defined to include people with an incapacity. So that obviously includes people who are blind and vision impaired, but it could include other people with disabilities that prevent them from filling out a ballot paper, for example, or with other significant incapacities, and it also includes people with literacy challenges as well. So when you take all of those groups into account, it is not so easy to come up with an exact figure, but I would imagine it would be a six-figure number.

The CHAIR — As questions have concluded, Mr Kerslake, can I again thank you. Obviously an electoral commissioner adding to our deliberations is of significant value to us, and we are very grateful for the time you have taken. You will receive a Hansard transcript of your evidence within the next two weeks or so. I am sure you know the gig, but you are free to make corrections where there are errors based on fact but not to change the evidence you have given to the committee. Thank you very much for your participation in this.

Mr KERSLAKE — Thank you. Thanks for the opportunity.

Witness withdrew.