ELECTORAL MATTERS COMMITTEE

Electoral Matters Subcommittee

Inquiry into voter participation and informal voting

Inquiry into political donations and disclosure

Melbourne — 24 July 2008

Members

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Mr S. Luntz, electoral analyst, Australian Greens Victoria.

The CHAIR — Good day, and welcome. We have a subcommittee in place today. It is a diminished committee; we have got a few members at a funeral. There are some formalities now. Welcome to the public hearings of the Electoral Matters Committee inquiry into political donations and disclosure and the inquiry into voter participation and informal voting. 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 hearings may not be afforded such privilege. Have you read the 'Giving evidence at a public hearing' pamphlet?

Mr LUNTZ — I read it just a few minutes ago.

The CHAIR — Are you happy with that?

Mr LUNTZ — Yes, I am.

The CHAIR — Great. If you can please state your full name and business address.

Mr LUNTZ — My name is Stephen Luntz, and my business address, I guess we would say, is 377 Little Bourke Street; the Greens office.

The CHAIR — Great. Are you attending in a private capacity or representing an organisation?

Mr LUNTZ — I am representing the Australian Greens Victoria.

The CHAIR — I know you have stated this before, but your position in the organisation?

Mr LUNTZ — I am the party electoral analyst for Victoria.

The CHAIR — Your evidence will be taken down and become public evidence in due course. You may begin your verbal submission, thank you.

Mr LUNTZ — I would like to start by expressing my condolences to Mr Thompson and regret his absence here.

The Greens' positions on the broad principles that you are looking at, I think, are fairly clear. We have for a long time believed that there are dangers in the overreliance on private donations for political parties and that things that can be done to control that should be done. That includes both greater transparency, so certainly lowering the threshold at which donations become public, but also limiting particular forms of donations that are particularly likely to undermine the democratic process. While we would not necessarily support every option that is proposed here, our general position is to support the direction that these reforms seem to be going in.

As far as the voter participation side of the inquiry goes, we think that it is a serious concern that considerable groups in the community are increasingly excluded from the democratic process by omission rather than by a specific act. Because the number of homeless people is rising, there are more people for whom it is difficult to be on the roll, and positive steps need to be taken to address those. The people who spoke before me are far more qualified, I think, to talk about exactly what those steps should be, but we would certainly encourage moves to work in the directions taken by the groups with the qualifications to know what will be effective rather than have this being swept under the rug, as it has been for quite a while. We certainly congratulate the committee for taking on those issues.

On the specific questions, for example, the issue of election day registration sounds to us like a great idea in principle. The documents I have read from America make it sound like it is a huge success there, but they were written by people who were likely to support it — and cover up if there were any problems, I guess. I think our position would be that we would welcome inquiries on whether it has worked as intended in the US. If it has, we think that that would solve a lot of problems, if it could be implemented here. I have made the written submission. I am not sure whether there is anything else that needs to be highlighted, but I am certainly open to any questions.

Mr SCOTT — Firstly I will touch on participation, that you touched upon. There are issues around particularly young people. The evidence seems to be that a much greater proportion of young people are not on the electoral roll. Is that a particular area of concern for you?

Mr LUNTZ — Yes. That is an area where our idealistic concerns and our pragmatic concerns overlap. Whereas I have no idea how the homeless vote when they do vote but I do not think that they particularly favour us, we certainly know that young people are more likely to vote for us. So we are naturally concerned about it for that reason, but also I do not think it is good for society when any group is not voting and particularly people who are going to be the ones most affected by a lot of decisions. So we are certainly concerned about that. I think there are multiple reasons why fewer young people are on the electoral roll, so no one solution is likely to solve all those problems, because of the multiple reasons, but a number of things could be done.

Mr SCOTT — Just as a follow-up — I have discussed this and I know that you were present when the previous witnesses spoke — a number of jurisdictions, and I think Canada particularly has an interesting model, use automatic processes to ensure enrolment and they also have election day registration. Would you be interested in seeing that sort of area explored?

Mr LUNTZ — Yes, absolutely. I think that there is probably room for having an opt-out clause. Some people may have a specific conscientious objection to being on the electoral roll.

Mr SCOTT — Some religious groups.

Mr LUNTZ — Yes, some religious groups and some people, not necessarily for religious reasons but because they regrettably do not have faith in democracy, or whatever.

The CHAIR — You say 'lazy' here.

Mr LUNTZ — I realised after I wrote that that because of the ordering it may sound like I am saying that that is the dominant thing. Laziness is one factor. I do not think it is necessarily the most common one; there are all sorts of reasons. As I say there, it is particularly common for people to believe that if they have missed one election and then they get on the roll they will be fined for the one they missed previously. I have encountered people who are 28 and who say that they want to get on the electoral roll, they want to vote, but they are scared that they will be hit with fines for every election since they turned 18. I do not know where this myth comes from, but it is stopping people.

Getting back to your original question, this has not been discussed by the Greens as a whole, so we may take a different position. I would like to see an opt-out clause so that people have the choice not to be on the roll if they really have an objection but that it be the default for them to be on the roll through other sources of information that are available, rather than it being up to them to get hold of the form, fill it out correctly — many people do not find it that easy — and then, every time they move, do it again.

Mr SCOTT — Another issue is informality. One of the issues that has been discussed here — and there has been evidence in other jurisdictions — is that people are not participating successfully in the electoral process due to informality. Would the Greens be generally supportive of mechanisms which decreased informality and made it simpler for people to vote?

Mr LUNTZ — In principle, naturally we support it. Obviously some of those mechanisms will create other problems and sometimes those other problems outweigh the benefits, but obviously we support the general principle.

Mr SCOTT — For example, are you aware of the South Australian model where, particularly if someone has voted 1 or has filled out less than the entire ballot where it is not an optional preferential system, there are efforts made to ensure that votes are counted that are not completed ballot papers?

Mr LUNTZ — Yes, I am aware of that. I have not studied it in a great deal of detail. There are certainly some problems with it. It does increase the power of the party machine, in a sense, just like the above-the-line ticket voting for the Senate. You have this large block of votes that are effectively controlled by the machine because everybody who does not get it right goes that way, so those preferences are decided by a small group of people rather than the bulk of people. So that is a negative consequence. But the positive side is obviously that people who have an intention to vote broadly in a particular way and have made just a small mistake, those votes are not invalidated.

I have not looked closely enough at how the South Australian model is applied and how it actually works in practice to make a judgement at the moment. It would depend on a lot of things like whether as a result, that option being the case, more people are deliberately just putting a 1 down and saying, 'That's okay. I don't have to worry about anything else; it's just in the machine's hands', and therefore it becomes like an above-the-line vote for the Senate and the Victorian upper house, which we have concerns about. If it is actually just capturing the small number of people who put down two 7s instead of a 7 and 8 or make other mistakes like that, and if what they have found is it not altering people's voting behaviour — it is just being a safety net, catching a small number of people who otherwise would have their votes informalised — then I would fully support it. I think the fact that we have got the study gives us the opportunity. It has been in South Australia for 20 years or so, so I think it would be great to have a look at how it has worked and to decide on that basis.

The CHAIR — The key distinction between the upper house and the South Australian model is that it is not publicised, so that would be a safety net.

Mr LUNTZ — Yes, even though it sounds bad to not publicise something. I think in the ACT, for example, where they have certain safety nets that are not publicised, even though in principle one thinks that everything should be publicised, that is actually a good situation because otherwise you encourage people to vote in a lazy manner, which is unfortunate. But, again, the statistics must be there from the South Australian model; I just have not seen them. I think that would be well worth looking at. I also understand that Antony Green has a compromised model which I have not looked at too closely, but it may well be worthy of consideration. I do not know whether he is making a submission to you but it would be worth looking at.

Mr SCOTT — Another option that was raised — and I notice that Professor Costar is here how — was that when the Albert Langer vote was outlawed it had an unintended consequence of making a series of other votes where people had made errors informal, where people had put two 2s, or two 4s, or made a numbering error along the way, and an option would be to formalise those votes.

Mr LUNTZ — Yes. We would support those. It probably works against our interests, to be honest, as a percentage vote. It will not affect the outcomes, but it will reduce the proportion of the vote that parties that are not in the top two in any seat get. Speaking for myself rather than for the party — but I think the party would back me up if it discussed it, which it has not — I think the benefits to democracy outweigh a very minor negative for us.

Mr SCOTT — So you would be keen to avoid McEwen's scenario where people's votes, on both sides, are being knocked out, and where the clear intent is there and there is no doubt how people are intending to vote but they have made a minor error on preferences?

Mr LUNTZ — Yes, absolutely. I would actually think we should possibly consider extending something like the Senate system where you are allowed to make errors in 10 per cent of the boxes; so if there are 63 candidates you can make 6 errors. That will not be directly applicable in the lower house because there are usually not 10 candidates, but having something like 1 error for every 5 candidates or something like that would be quite good because the more candidates there are the more errors people make. People whose numeracy is not good can get to numbering 5 okay, but when there are 12 candidates it is a struggle for them and there is scope for changes in that way.

The CHAIR — The Greens make the point that you are seeking an end to the punitive system of taking people off the roll. I must say I instinctively agree with you, but how can you follow up on some of these people without — —

Mr LUNTZ — There are difficulties with administration which would have to be up to the commissions to work around, but there are situations where we know somebody has moved because the electoral commission has received some information indicating that they are no longer at the one address. Sometimes the information is quite easily available as to where they are. You can contact the people at the address and say, 'Yes, so and so used to live here and now they have moved to such and such an address', and a lot of cases like that exist and it is quite easy to resolve. At the moment, as I understand it — and I could be wrong about this, but it is my understanding — those steps are not taken if somebody is not at an old address. They are just taken off there and it is up to them to get on at the new address. Many people do not realise that they have been taken off the roll, or they just do not get around to enrolling at the new address and all of those other things, and if simple inquiries were made to the people

living at the address like, 'Do you know where this person now is? Could we contact them?', all those sorts of things, I would think it would cut out a lot of the people who currently get taken off.

The CHAIR — And that then dovetails into the automatic enrolment and that shift of emphasis from the onus of being in the electorate to being on the Victorian Electoral Commission roll.

Mr LUNTZ — Yes. There was a question you asked the previous people about whether the responsibility should be on the state rather than on the individual. I think it is a shared responsibility. I do not think it should be purely one or the other. But allowance needs to be taken for the fact that it is all very easy for people who own their own home, move twice in their lives, to get on the roll when that happens, as against somebody who is homeless and shifting constantly, and the state needs to take more responsibility for people who are in more difficult circumstances, and I think there is a mixture that is appropriate, and at the moment it is heavily weighted in the one direction.

The CHAIR — As your example indicates, the status quo as it stands is that the VEC, although they know where the people live, are basically saying, 'It is not our problem. The onus is on them to make contact with us'.

Mr LUNTZ — It is usually the Australian Electoral Commission, because the bulk of the enrolments are done by it, but yes.

Ms BROAD — Can I turn to that section of your submission that deals with electronic voting technologies? Whilst you say that you believe electronic voting technologies have a role to play in improving voter participation — and we have certainly had some of those advantages advanced to the committee in our previous investigation and report on the state election in relation to, for example, alerting a voter to the fact that the vote they are about to cast is informal and do they wish to proceed or have another bash at it — you then go on to say that you are deeply opposed to electronic voting for the bulk of voters. I thought that deserved some elaboration.

Mr LUNTZ — In a previous life I helped develop an electronic voting system for KPMG which has been spun off and is now operating as a separate company. I have to say the experience was rather frightening not for what we were trying to do, because we were trying to develop a system basically for voting in non-government elections where often the standard of democracy, because of lack of funds usually rather than any ill will, was much lower than in elections. So that system was actually an upgrade on what they had previously, and I feel good about what we did. But in the process we saw some of the obstacles to making it a truly reliable system, an unhackable system, a system that will never break down et cetera. It was frankly frightening to see just how difficult it is to come up with a system that cannot be hacked, cannot crash, cannot anything else.

If you are trying to run the elections at Monash campus, Gippsland, for the student organisation and the system goes down, it is not the end of the world, and the chances that anyone is going to try and hack it are probably pretty slim as well. If a Victorian election is run entirely electronically, or for the bulk of voters electronically, I can tell you there are going to be thousands of people around the world who, purely for the challenge, are going to be trying to find ways to get into that system and rig it. Whether because they actually care who wins and want to rig it for that reason or just because it is a challenge, they will do it. A lot of the things we thought were quite simple to prevent, once you have spent 15 months on them you find that there is no way around them.

When you have that voting for a minority of people who have either disability access or, for example, Antarctic voters — I understand at the last federal election Antarctic voters had an electronic voting system available to them — or small numbers of people like that, it may well be better than the alternative. But when you have something which is large enough to be attractive as an option for people to distort, you will find people trying to do it, and the danger is really high that you will just find 7000 votes for Mickey Mouse in the system somehow because someone has put them there. We have seen the problems when we go to the websites to try and keep an eye on the problems with electronic voting in America.

I am sure that some of the claims they make are exaggerated or unsubstantiated, but there are enough there that really have something behind them. There were people who in 2004 went in and pushed the button for John Kerry, a cross came up for John Kerry on the screen and then as they were about to step back the cross faded from John Kerry and appeared next to George Bush. The person panicked, ran outside, called an electoral official and the electoral official thought they have got to be wrong, came in and did the same thing, and it happened again. There are cases like that and the cost — with the American electronic voting system the amount of money they have spent on it is enormous. It would bankrupt Victoria to spend the amounts of money they have spent on it, and they have

not been able to get it right, and I just think the idea that we can is very dangerous. So I have deep concerns about it for those reasons.

The CHAIR — You advocate a receipt. You do not think a paper trail will offset some of the potential risks?

Mr LUNTZ — A paper trail offsets the risks to an enormous extent — virtually entirely. But the thing with a paper trail is if you are doing a paper trail, what is the benefit? Certainly there is a benefit for the disabled and so on, but for most people what you then have is the situation where you are not taking any paper but there is certainly no cost saving. It would be vastly more expensive to do, because you are paying for both basically. You are paying for the paper side and the electronic side.

There is a possible benefit in terms of a small number of people who currently vote informally and do not intend to; it warns them that that is the case. But you are spending a lot of money on this double-cost system to deal with that problem. In many cases I am not sure it would even work there because, while some people have just made a small mistake it tells them there is a mistake and they will work it out, I think a lot of people who are not that familiar with the system and do not know what they are doing, when it says to them there is a problem, I am not sure that they are necessarily going to respond. If they are people, say, who are comfortable and who have voted correctly most of the time and this is just a one-off mistake they will go, 'Oh yes, I see I have got two 5s; I'll fix that'.

For other people it is not necessarily that easy. It certainly happens to me that the computer flashes up a message saying, 'You have done the wrong thing on the internet', or whatever, 'You have clicked yes rather than no', or whatever. It will catch some of the people, but it will not catch everyone and it will cost an enormous amount to do. So I have real doubts about that. Then of course the other problem is individuals have to check their paper vote, which most of them will not do. You have got people who will just assume it is right, and then there has to actually be a count of the paper. At least some of the time there has to be an audit checking enough of the paper ballots against the computer votes to make sure that the results are in keeping, which again is a further cost. It seems to me that while potentially that might work, it is an expensive way to do it, and there are probably better ways of solving those problems.

Mr SCOTT — On electronic voting, are you aware of the Indian system?

Mr LUNTZ — No, I must confess I am not.

Mr SCOTT — The Indian elections are conducted entirely by electronic voting, but their approach is entirely different, to say the least. Their approach is to have entirely hard-wired, simplified systems, which is a completely different approach. The view taken was that whatever complexity you added to solve a problem simply created a further problem, which is a complete reverse of the American approach from the literature I have read. The more complex you made it, the more inherent the other problems became and the most open to other forms of attack the system became.

Mr LUNTZ — My understanding is that Brazil has gone along the same lines. I had not heard about the Indian system. The thing about that is that is great when you have got first-past-the-post voting. Trying to do that for lower house preferential voting is more difficult — not necessarily impossible, but more difficult. When you have got two houses of parliament with the upper house having a more complex system still, it starts getting very difficult.

Mr SCOTT — I do not disagree; I was just raising it with you.

Mr LUNTZ — I would be horrified if we ever went to first-past-the-post voting, for obvious reasons, but if we did I do not think that would necessarily be a bad way of doing it; but, please God, we will never have that.

Mr SCOTT — One final question from me. In terms of public funding you do not touch upon, as far as I can see, the issue of who should be able to give donations. A number of people who have given evidence have suggested it be only individuals or only persons who are Australian citizens. Could I raise one particular concern with the only Australian citizens idea? If a political entity is defined broadly, as some persons do when making submissions, you could end up with a situation where, say, a group of refugees who wish to advocate on their own behalf would be unable to raise funds for that purpose. I would have some concerns if people were made

non-persons and could not just not vote but could not participate in any electoral processes when they live within society and they are affected by the laws that are passed within that society.

Mr LUNTZ — I would completely agree with that. We did actually talk about it briefly. This was not something we had considered before. I saw the question, but because of a delay which was entirely our fault I actually only got the request to make a submission two days before it was due in, so that part was somewhat skipped over. You would have to include not just citizens but a residents category, and exactly how you define residents I do not know. To limit it to citizens only would be appalling for exactly those reasons. If you had a situation where one party was promising to prevent any new arrivals from ever getting citizenship, for example, people who did not yet have citizenship would have a very strong interest in opposing that.

I was thinking in response to people who were not Australians at all but who simply wanted to throw their money around for whatever reason. It is obviously much more common in America because more people have an interest in it. There was a Florida election where, I think, $700 000 was donated by a UK citizen. Even in America $700 000 makes a big difference to an election outcome. I can understand why people would want to control that, although it does not seem to be a major priority because I do not think it is a big issue in Australia. But if any such decision is made, it needs to be circumscribed to deal with the situations you have. You could not just say it has to be people who are resident at the time, because I think it is entirely legitimate for an Australian citizen who happens to be overseas for two years to make a donation from overseas. You have to make the boundaries quite broad about who can be included.

The CHAIR — I am conscious of the fact that we have gone over time, but just quickly, the Greens do not seem to be advocating a particular model for campaign finance reform.

Mr LUNTZ — The reason for that is that is still being discussed within the party. Given the short time frame in which I was trying to write this, I did not want to prejudge some of those things. We probably will have a model in not too long.

The CHAIR — You are welcome to put in a subsequent submission.

Mr LUNTZ — I appreciate that. What will be the time line for that?

The CHAIR — September.

Mr LUNTZ — I will keep that in mind and try to get something to you.

The CHAIR — Thanks very much for your time this morning.

Witness withdrew.