ELECTORAL MATTERS COMMITTEE

Inquiry into the conduct of the 2006 Victorian state election and matters related thereto

Melbourne — 28 August 2007

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Mr A. Green, political commentator, Australian Broadcasting Corporation.

The CHAIR — Antony, thank you for joining us as we take your evidence through a telephone conferencing facility.

Mr GREEN — Thank you, I am happy to be here. Sorry I could not be there in person.

The CHAIR — No problem. Welcome to the public hearings of the Electoral Matters Committee inquiry into the 2006 Victorian state election and matters related thereto. All evidence taken in 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 wish to advise witnesses that any comments they make outside the hearing may not be afforded such privilege. Antony, do you have the guide to giving evidence at a public hearing pamphlet?

Mr GREEN — Yes, I do.

The CHAIR — Please state your full name and address.

Mr GREEN — My name is Antony Green, care of the ABC at 700 Harris Street, Ultimo, New South Wales.

The CHAIR — Please state if you are attending in a private capacity or representing an organisation.

Mr GREEN — A private capacity. I worked for the Australian Broadcasting Corporation on the Victorian election, which is why I have an interest in the subject, but my submission is from my own personal experiences and a personal submission.

The CHAIR — Your evidence will be taken down and become public evidence in due course. I now invite you to make a verbal submission. The committee will ask you questions following your address.

Mr GREEN — I will try to be as brief as possible in this first section. I worked with the Australian Broadcasting Corporation to negotiate with the Victorian Electoral Commission the delivery of votes for election night. To that extent my involvement is to do with getting results for analysis, for reporting. My involvement in sort of auditing results, which there has been a lot of concern with at the election, is minimal but my concern is how we were delivered votes on the night. The consultation for that began very early, in March 2006. We were happy with that. We were happy that the VEC was prepared to adopt a developing standard for delivery of election night results, which the Australian Electoral Commission was developing. There were some late changes required to that to do with differences in Victoria with the counting of pre-poll and postal votes, and we were happy with the consultation and the changes that were made by the VEC and they were very responsive when problems occurred like that.

I do want to make that important distinction between reporting for the media and for results analysis and reporting for auditing. This particularly came up — I have been criticised for not supporting a feed which involved booth-by-booth results for Legislative Council results. We did not request that and I view very much that as more of an auditing-type function. It would actually slow down the reporting of results on the night if the vast amounts of data processing involved in producing those sorts of files for very small numbers of users occurred. I have some interest in ensuring that election night sticks to being about reporting, that the auditing function not become dominant on polling night. I am sure anyone in the media would be concerned about that.

There were some problems with the VEC organisation quite late. This mainly came up with what was being reported. The commission decided to set up a large number of vision centre booths and there was confusion about whether they would or would not be reporting. I would suggest the VEC deal with those differently in the future. Also, confusion about what pre-polls and postals

were being counted. Victoria is one of the few states that counts those declaration votes on election night, most other states do not do it until afterwards, and that caused some confusion.

I also have some general comments about the batching. Clearly this is the first time the Legislative Council system had been done the way it was. I am not convinced the VEC adopted the best approach at counting the Legislative Council on the night and in the post-election period, and would have some suggestions on that, particularly towards using the way the Australian Electoral Commission does it, which is just simply to provide group totals on the night and then deal with the post-election period in a different way. I would also make the comment that, having now seen the reports that the electoral commission has published to Parliament, I do not think there is nearly enough acknowledgement of the ticket votes in the published results. I found it rather difficult to find where the number of ticket votes for each party is reported in the returns. Given that ticket votes — the group votes — were so important to the results and how preferences were distributed in the upper house, I think they should be identified a little more clearly in the reports. They are my general comments. I am quite happy to take any questions on those and on my submission.

The **CHAIR** — Thank you, Antony.

Ms CAMPBELL — Thank you very much both for today and for your submission. You mentioned that there could well be further improvements in relation to the VEC counting of the upper house. Could you expand on that, please?

Mr GREEN — One of the difficulties with this count, and this came up particularly in Victoria because two of the provinces — western metropolitan and south metropolitan — in fact came down to the below-the-line votes. It was the smaller number of below-the-line votes which determined the final vacancy in both provinces. What made people's trust in the system worse was the problem in north metropolitan where there was a data entry error which got the first version of the result wrong. It was so close in those two provinces on the final seat that in western metropolitan on the recount the result did change. South metropolitan came down to below-the-line votes but was not quite as close.

I was concerned that it was unclear through the process what had been counted. This was made worse by, as I said, the vision centre booths. There were six of those created for every lower house region, which meant there were an extra 600 booths in the system. There was a lot of confusion on the website of the VEC because those booths were not entered until quite late, which meant you were getting 80 per cent of votes counted and some report that there were 600 booths still to be entered — 70 booths in each of these regions yet to be entered. This caused some distrust among some people following the results on the website.

The Australian Electoral Commission publishes results in a different manner. What they report to us on election night is a group total for each district. That is what comes to us in the tally room. The VEC decided to give us results with a total for each candidate, and I think that caused some confusion. The AEC then use that total as a group total, a batch total, for every booth: every booth, right, reports 400 votes for a group, that goes into their system and is retained until the point where all the below-the-line votes are entered into their data entry system.

The commissions have a very complex task. They have an election night reporting system which gives you all the totals by booths by group, so it gives totals by booth. But then they have to do a data entry process where all the ballot papers are entered and then there has to be some sort of reconciliation on the website between what has been data entered into one system and what is the reporting process for the booth totals in the other system. That was confusing on the website and caused people to be unsure about what had been counted. People who were in at the actual count may have had access to more information, but I think the way both these systems interacted and what was reported on the website caused some confusion. Of course, there are a lot more people looking at this information. For the first time the VEC made the data available to other than the media on election night, so that other people doing blogs got access to the feeder votes. Of course,

they were all off doing commentaries; some of them not necessarily well informed, but this added to the general confusion about what was going on in the upper house.

Ms CAMPBELL — If you were making recommendations, could you give me the two key ones you would make to make the public more assured that there is transparency and accuracy in the VEC counting of the upper house?

Mr GREEN — I do not know exactly what process they had, but it looks to me that they are batching — if you have hundreds of forms they have got to be batched, and you have got to be able to track back to where the information came from. I think they managed to do that but there was a possibility of too many votes being entered in. I have been involved with many elections where you get incorrect information piped in on the night. For instance, in the seat of Caulfield on the night there was a moment where they had put in Family First as the winning candidate. That was simply a data entry problem; there should have been a way for that to be prevented. They are now testing the system to see if it was possible for more votes to be entered than there were numbers of enrolled voters in the district. I think there are checks you can put into computer systems to try to catch some of those simple keying errors. I understand that was what the problem was in North Metropolitan Region; there was a keying error but it was not an error that was picked up in the software. The software and the batching just needs to be reassessed to make it more secure in the future to give more confidence in the system. This was the first system the system had been used in Victoria. It is a brand new electoral system. They are hardly used procedures for returning officers, and therefore it is prone to errors, and I would hope that the VEC goes back and does a complete review of that batching.

My second recommendation would be to rethink the way the information is presented on their website. I would recommend they look at the way the Australian Electoral Commission reports that after the election in terms of trying to distinguish between the group total vote that had been entered and the votes as they are entered into that data entry system.

The CHAIR — During your presentation you drew a distinction between reporting for media, reporting for results, and reporting for auditing. Do you think the VEC had the balance right? If not, was accuracy or efficiency compromised?

Mr GREEN — I do not see the auditing side of it. I am not involved in the scrutineering. To an extent I would have to rely upon people who did scrutineering as to whether they felt they had enough information. Did they get enough information to feel they could properly scrutineer the process. I do think it does not necessarily need to be the case that the website has to carry the full auditing information load. Particularly on election night there is a vast computing process involved in — if you tried to publish all the results on election night for the Legislative Council by booth you would get an enormous file, and it would take quite a bit of processing, and there are actually very few people interested in that sort of data. I would hate to see a huge beefing up in auditing process into their website devolved onto the election night system, which is all about reporting results for the media. As a media person I would be very concerned if there was too much effort put into auditing on election night, but I leave it to others to review whether there was enough auditing information after the election.

The AEC has been responsible for coming up with a gigantic schema of the way results are produced in the future. Some of the state electoral commissions have much smaller IT branches and they cannot really adopt the huge scheme that the AEC has adopted. Certainly there was confusion in the upper house camp this time. I am sure the VEC recognises that and will put a lot of effort into actually trying to do something about that. In terms of what I got for the media, I was happy with what I got. As I said, I thought there was some confusion about what was published on the Legislative Council. I would add one point. It would be good in the future — and I hope the VEC is prepared to take this on board — if the feeder votes that are received on election night could be continued in the post-election period. It was simply posted twice a day in the post-election period and there should be ways that that could be done on a more regular basis.

The CHAIR — Good point.

Mr THOMPSON — Antony, you refer to the New South Wales Electoral Commission having originally proposed a different feed. What was the original New South Wales feed to which objection was taken?

Mr GREEN — The New South Wales Electoral Commission produced a vast file with results by polling place which we had not asked for. This is a rather complex thing. Probably everything is at polling place level, but the file itself did not actually include any electorate totals which meant that anybody who wanted to use what the New South Wales Electoral Commission was providing had to do all the totalling themselves. It also published details to the extent that it had election night totals, rechecked totals and recount totals all in the same file, and the media had to try to figure out which state count everything was at. The file they produced was terrific for auditing, it was hopeless for the media; that was my view. The VEC went down the path of a separate media feed. In NSW they eventually adopted the same feed that the VEC produced, and the VEC's feed was based on what the AEC was doing. My concern about the New South Wales Electoral Commission is they went ahead and did something without consulting the media first. We were happy that the VEC consulted quite early in the process in March last year, well before the election. We were very happy with what they did for the media; they were very responsive. Probably in New South Wales it was that they simply produced too much information and it actually was not in the form that the media needed that information.

Mr THOMPSON — Yes. I take it you are also happy that there is wider access to other interested parties such as bloggers and political parties, or do you feel that the media are losing an edge on election night?

Mr GREEN — No. I am quite happy with that. The one problem I would have — and I raise this because I actually jumped down the throat of one blogger who did not understand the political sensitivities — on the Thursday before the election, the commissions always do a test of their data feeds, and they have people in their returning offices typing in both. That is then sent through to us in the media where we test our systems. From many years of experience, we always ask the electoral commission to put in relatively sensible data. Do not go putting in data with the same number of votes for every candidate. It then comes through to us. It does not test our system because you cannot do preference distributions, you cannot do predictions. You get — you know — final contests between Christian Democrats and Australian Democrats, which are never going to happen, so we always ask electoral commissions to put in relatively realistic data, which they did.

One particular blogger, who hung on the end of this feed, then put on his web blog that clearly the Victorian Electoral Commission had decided that this was what the result was going to be. I jumped down his throat and said, 'No, no, we asked for that data'. So there are some sensitivities therefore in allowing other people in who are not quite in the loop with some of these things — for instance, it is a very political decision to say who are the final two candidates that the commission has chosen to distribute preferences to. They give that to some of the media on an embargo basis, knowing that we are not going to release it. The AEC are very secretive with that information, and still will not release it before polling day. One of the difficulties of allowing bloggers in is that they start to see some of those decisions are actually in the data feed. There are some difficulties in allowing others access to it, but I do not see any reason why other groups should not be given access to the data.

Mr SCOTT — Antony, there seems to be a clear separation in your mind between the process of providing information to the public on election night where speed is of the essence, in a sense, combined with accuracy and the auditing process. It seems to me that what you are really proposing is for the VEC to finetune those processes to assist the media in providing information to the public on a timely basis while not impinging on the audit process which would take place later. Would that be a correct summary of much of what you are saying?

Mr GREEN — Yes. I have come under criticism from Anthony van der Craats, who let it be known to some of you, because the media decided we did not want the Legislative Council feed with complete booth details. We just thought that was of no use to us and we did not request it.

Anthony van der Craats has criticised the VEC for not publishing that information. We did not ask for it and I have been criticised therefore because it is my fault it was not there — just because I did not want it did not mean it should not be done. His criticism is the AEC does that. The AEC does not do that either: they do not publish booth information on the night. They collect it in their system, but there are very few people interested in that information. To take that information and publish actually involves a fair bit of computer power to produce the files, to strip that data out and publish it. The point about that is that on election night that material is unaudited. All of this information is rechecked the next day. I would hate to see the desire for a very small number of people to get hold of upper house information by booths turn into an absolute requirement that that be done by the electoral commission. The computing power that is required to do that then impinges upon just the general reporting process which is done for the media on election night.

The count in Victoria, to me sitting on camera on the night, was slow compared to other states, or my experience in the past. I presume that was because it was the first time a Legislative Council count had been done. Therefore the Legislative Council count does have the possibility of impinging on the speed that results are transmitted in the lower house. That was my observation that did occur this time. One simple reason is they have to empty both ballot boxes looking for ballots for the other house that have been put in the wrong box. I mean, Queensland elections are always very quick because there is only one chamber to count, so there are delays in having two chambers. I would just hate to see that the reporting process on the lower house, which is really about who is going to form government and therefore tends to attract most interest, I would hate to see that being delayed or interfered with or the transmission of votes being slowed down simply to produce an audit trail of booth information for the Legislative Council. However, it is important that it be there afterwards.

Mr SCOTT — This is by way almost of comment here. We have had some discussions with the VEC. I note you raised issues around the computer process, and so had we about the validation of data entry. There have been further processes that have been developed by the VEC in order to improve scrutineering processes which are now in place at council election level where they do computer counts. From the discussions we have had with the VEC, they are intended to be used at actual state elections as well. I suppose I would just like you to flesh out some of the issues that you have raised in your submission regarding the infallibility of computer systems. I had brief studies in electronic engineering and I am always very wary of any system whereby people assume that because something has been done by an automated process that it is infallible, because human beings design it, therefore it is fallible. Would you have any comment, because you alluded to it in your submission, about any processes that you would like to see to improve the verification process or the accuracy of data entry and computer count processes?

Mr GREEN — Much of the process in the end is about the manual side of this. It is about the batching and how totals are entered. I mean, clearly the fact that there were too many votes entered in — the absent votes, I am not sure what the detail was — north metropolitan showed there were not enough checks on validating the data on the way in. A figure was put in which was a hundred or a thousand times bigger than it should have been — an extra point before the decimal place. That is the sort of thing you build into your data entry process.

With the actual count itself, there was an error in north metropolitan but there was an error in one of the tickets, the Australian Democrat ticket, on the first count that was provided to me — the preferences went the wrong way. I pointed it out to the commission, then they went away and investigated and discovered there had actually been a calculation error at that point. I understand the Labor Party had also spotted that error but did not say anything because it did not help them win the final seat. Sometimes scrutineers will spot errors and actually not talk about them because

if it does not help their cause, they are not interested in having it corrected. But I think the key point to make is the election process is not just about the electoral commission, the scrutineers are also a part of that process.

Scrutineers are there also to try to ensure the process is accurate. The process by which scrutineers are given information needs to be looked at to ensure the scrutineering can be done properly and that they have some input on proof checking that the totals are put in correctly. I would also say one of the difficulties is often there is very little scrutineering of these upper house counts. I mean, you do not normally see scrutineers at Senate counts, there is not much point. It just so happened at this election there were three extremely close counts in the end; one caused by an error, the other two caused by the fact that the count was close. Therefore, when the scrutineering pressure came on, I gather that the procedures were not in place well enough to do the scrutineering properly. I was not there at the scrutineering itself so I would not want to be held up as an expert on that, but my observation is that this is something you review, you fix up and get it right next time. I think we all learn from experience and this was the first time this electoral system had been used.

The CHAIR — Finally, if you were to make two recommendations to the committee, what would they be?

Mr GREEN — One would be that the commission produce more details on the ticket votes in their reports afterwards. We need to know exactly what was entered. I think there needs to be some more distinction made between the way the ticket votes interacted with below-the-line preferences.

Secondly, in terms of what I do for a living in terms of election night, I would really ask the electoral commission to review what they did with their vision centre booths. They created hundreds of new booths which in fact were not used in the end. In fact because only one person might vote at some of these booths, they actually come close to breaching the secrecy of the ballot. If only one person votes at this vision centre and that one vote is recorded in the results, you breach the secrecy of the ballot. I would recommend that the commission find another way of actually providing reporting on those vision centre booths. Also, would they reconsider the way they do pre-polls and postals. I think there is sometimes an attempt by commissions to count too many votes on the night. With those pre-polls and postals, the commission was counting them progressively throughout the night. The deal we did was that those would not be provided until the end of the night because the last thing we wanted was a progressive pre-poll and postal vote count, because we have nothing historically to compare it too. When we get a booth result in, that booth is the final count for that booth and we can compare it with the historical votes last time. From the media's point of view, I would suggest the commission look at some of those non-polling day booths and the way they report them on the night.

I will make a third point, again, which is about the batching and reporting for the Legislative Council. I cannot make a firm recommendation on that, but I am certain that the committee and the commission itself will be having a good look at the way those procedures work at the general election and how they should work next time.

Ms CAMPBELL — Antony, could I just say in relation to the vision centre, I am one of the candidates that was able to identify a booth where there was one voter and I know how they voted. I could only endorse your comment.

Mr GREEN — In other states, I think in Queensland, where they have a very small number of voters who cast certain types of declaration votes like provisional votes and there are only two or three votes, they roll that booth into another booth. I think they used this provision in the commonwealth electoral act; if there was a booth where everybody voted for the same candidate, that used to include that total in another booth. There are some ways to do that. As I said, it did create a lot of confusion. They were going to be included and then they were not

included, and after the election they were not included for well over a week, which meant there were all these booths marked as not having been reported. I really would recommend to the commission that they deal with the vision centres in a different way.

The CHAIR — Thank you, Antony. You will receive a copy of the transcript in about a fortnight. Typing errors may be corrected but not matters of substance. Thank you very much.

Mr GREEN — Thank you.

Witness withdrew.