

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into whether the Electoral Act 2002 should be amended to make better provision for misleading or deceptive electoral content

Melbourne — 18 August 2009

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Witnesses

Mr S. Tully, Victorian electoral commissioner,
Ms L. Williams, deputy Victorian electoral commissioner, and
Mr P. Thornton-Smith, senior information and research officer, Victorian Electoral Commission.

The CHAIR — I extend a welcome to members of the public and the press to the parliamentary inquiry into whether the provisions of the Electoral Act 2002 should be amended to make better provision for misleading or deceptive electoral content. 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 inform witnesses that any comments they make outside the hearing may not be afforded such privilege. I understand you were given a guide to giving evidence at public hearings. Have you received and read that?

Mr TULLY — Yes, we have, Chair.

The CHAIR — Mr Tully, I will start with you. Can you please state your full name and business address?

Mr TULLY — Steven Tully, Victorian electoral commissioner, level 8, 505 Little Collins Street, Melbourne.

The CHAIR — And you are representing an organisation today?

Mr TULLY — I am representing the Victorian Electoral Commission.

The CHAIR — Thank you. Ms Williams, can you please state your full name and business address?

Ms WILLIAMS — Liz Williams; Level 8, 505 Little Collins Street. I am the deputy electoral commissioner of Victoria.

The CHAIR — And you are attending in your capacity as the deputy Victorian electoral commissioner?

Ms WILLIAMS — Correct.

Mr THORNTON-SMITH — Paul Thornton-Smith.

The CHAIR — Your full name and address, please.

Mr THORNTON-SMITH — Paul Bernard Thornton-Smith from the Victorian Electoral Commission, 505 Little Collins Street, Melbourne. I am a senior information and research officer at the Victorian Electoral Commission.

The CHAIR — The evidence will be taken down and become public evidence in due course. I now invite you to make a further submission.

Mr TULLY — Thank you, Chair. I brought this as a present, but it does not seem to have treated me that well. I just wanted to provide this to the committee; it is our Passport to Democracy kit. The VEC welcomed very much the findings of your report on electoral participation and also voter informality, where we raised the program and you supported the program. I have with me a full kit that is available to schools that includes ballot boxes, a full electoral polling booth fit-out and a range of other materials, which I would like to leave with your executive officer if that pleases.

The VEC also welcomes the opportunity to speak to its submission regarding misleading advertising. The VEC of course is clear in relation to its role of implementing all relevant electoral laws as passed by the Parliament, and it is also clear that it has a responsibility in reporting to the Parliament — that is a prescribed provision — and in raising relevant matters in its reports that may be useful to the Parliament to consider. We raised these matters, and we are pleased that the Parliament has taken on the issue of misleading advertising. We think it is timely for an inquiry such as this to consider those provisions. The VEC believes that Victoria's misleading advertising laws have been tested and that it is very much an opportune time for the Parliament to consider whether any variation is required.

Misleading electoral advertising attracts a wide range of opinions. With regard to that I note the submissions of the Port Phillip Greens and also the Jacomb submission. It is a broad topic: some believe that one candidate using another candidate party's symbols or colours is misleading; others believe that using different font sizes to highlight a point is misleading; and some people believe that a candidate using phrases to suggest, but not to

say, that they are endorsed by a political party for a local government election, for example, is misleading if they are not so endorsed. What is clear in our view from legal cases and senior legal opinion is that if there are misleading advertising laws, then the laws are interpreted very literally.

I have personal experience of a candidate being mortified by material from another candidate that said of him that he supported violent protests. The truth was that the offended candidate organised a protest that went ugly, against all plans. The legal interpretation, however, was that the statement was factual. Similarly I recall a candidate being offended by material that stated that this particular candidate, who was a member of Parliament, did not work full-time on his parliamentary duties. The candidate complained that they worked 80 hours a week on Parliamentary business. However, it was also true that they devoted some time each week to their other business interests and therefore, by definition, they did not work full-time on Parliamentary business. Furthermore the same candidate had material authorised on behalf of another candidate that included a picture of them with numerous bags and an accompanying statement suggesting that the candidate had spent time shopping overseas at public expense. The candidate explained that they worked extraordinarily hard and had hardly any time to do anything but work. However, under questioning the truth was that they had purchased toothpaste and other minor items and therefore, in truth, had shopped while overseas.

Members of the public complained that a candidate had an election poster that included a photo of them and the words 'Independent Labor' underneath. From a distance, the word 'Independent' could not be read, and all that could be seen was the photo, the candidate's name and 'Labor'. It was said this was misleading. However, when read in full, it was not.

Of course there was the American case that came to get some publicity where a candidate in good faith returned what they thought was a legitimate call asking for information, only to find it was a saucy line. Another candidate got hold of that telephone record to support their claim that the first candidate was not a good person because they rang saucy lines.

This leads many to conclude that misleading advertising is all just too hard and needs to be largely left unregulated, and that the media will raise the issues from time to time, which will lead to subsequent debate and will assist electors in making their decisions.

The VEC's major issue at this stage relates to preferences and statements that a vote for one candidate is in fact a vote for someone else. Again, personal experience reveals that many people interpret such statements very literally and that some people also believe that an informal vote, for whatever reason, ends up with whoever the government of the day is.

The VEC submission has highlighted relevant cases — which we are more than willing to expand on if the committee wishes — and suggested some options for considering these matters. For example, the VEC is of the view that if there were to be any statement regarding preferences, it be mandatory to include on that particular voting advertisement that for lower house districts preferences are allocated in the way that the voter allocates them and that for upper house regions above-the-line preferences follow the party's preferences but below-the-line preferences are allocated in the way the voter allocates them, and that on all how-to-vote material that makes any references to preferences those statements be required. That is one option if the Parliament is of the view that a change is necessary.

A further option is a code of conduct for candidates which would list the types of protocols and statements they would make. We realise the difficulties that this particular topic brings. We offer some options for you to consider. We have provided you this morning with what we think are the crucial cases and some crucial experiences of how broad the topic of misleading advertising can be in various people's minds. We reiterate that our major concern is statements made in relation to preferences and statements that a vote for one candidate is a vote for another. We also note that this is not a behaviour confined to one particular political party. There is evidence in Australia of a number of parties using that as a tactic to make a statement.

We would be pleased to respond to any questions that the committee may have in relation to what I have said this morning or in relation to our submission.

The CHAIR — Thank you, Mr Tully.

Mr DAVIS — I just wanted to immediately pick up your concluding comment — that is, in relation to a code of conduct, which is a reflection of your written submission. Do you envisage that the code of conduct would have some sanction, or would it simply be a code of expectation to be complied with?

Mr TULLY — I would think that it would be a code of expectation that would be available to commentators and to the media, and that if there were any breach, the commentators or media would be able to draw attention to that breach, so it would be regulated in that way.

Mr DAVIS — I am sure members of the committee found your introductory remarks interesting, informative and to some degree amusing because of the anecdotes you recorded, although I am sure for the individuals concerned it was not amusing at the time.

Mr TULLY — No, it wasn't.

Mr DAVIS — But it shows the conundrum that we have within our society with honesty, and I am not sure how a code of conduct which is simply an expectation has any value if there is no sanction attached to it. Can you tease that out?

Mr TULLY — Through you, Chair, I would say that the code is there and that people follow it, and that if they do not follow it in their campaigns, they are called to account for it. It would become part of the political debate and a test of the policies or of the character of the person who is allegedly breaching the code. I would have thought that was a fairly fundamental and strict test rather than leaving it to an electoral commissioner or someone else to decide whether there is a breach or not.

Mr DAVIS — But the trigger for this inquiry is exactly the sort of opprobrium which you are referring to. Don't you think that occurs in any event? If somebody behaves really badly and the community is concerned and complaints are lodged — as a complaint has been lodged which has led to this inquiry — don't you think that poor behaviour, which some would view to be unethical or morally bankrupt, would actually lead to public exposure and humiliation? Because surely that is exactly what this inquiry is about. You do not need the code. I am just challenging the premise that you need a code for that exposure. It is happening now. That is what we are here for.

Mr TULLY — That is a view. All I am trying to do is provide some options. I have related what the VEC's primary concerns are in relation to misleading advertising — there can be wider community concerns than the VEC might hold — and some options for considering it. Doing nothing and saying 'The current arrangements are in place' is one option. I think that what tends to happen is that if you have a code, you have something that is concrete and formal that everyone can read and everyone can agree to, whereas at the moment there is no such document or charter, so people will keep pressing the boundaries. We understand that.

We have reflected in our submission that electoral stakes are high. Campaigns such as the ones that I mentioned earlier, despite what individuals might think of them, must work, otherwise why would candidates or parties employ them? I think there is a broader issue, which I am not capable of answering, as to what impact that has on public engagement and public recognition of the good of democracy. I think there are some issues there that you might well want to test, but in terms of campaign strategy these strategies must work, otherwise they would not be used.

I think in defence of what I have put I would say that it is written, it is clearly available to all who participate in the process and they make their judgements based on that, whereas at the moment you will get continual pushing at the edges. I have no issues with the political parties at all. I understand the dilemma and the position they are in and that they need to continue to look for advantage in selling their messages. I just think that it would be more useful to have something that was written and well understood as a document that could be referred to rather than just someone's imaginary views of what is good or bad.

Ms BROAD — Thanks, Mr Tully, for your submission. Can I take you to your statement in the submission that the Victorian Electoral Commission's view of the statement 'A vote for Les Twentyman is a vote for the Liberals' is that it did not breach the misleading advertising provisions of the Electoral Act 2002. Can you just confirm that that is your view?

Mr TULLY — It certainly is. It is a view that I put in the report to Parliament on the Kororoit by-election, and it is a view that I have again expressed in the VEC's written submission to the Parliament. From my reading of other submissions, that does not seem to be contentious.

Ms BROAD — In going on in your submission and requesting Parliament to decide whether legislative amendment or other actions are required there is some canvassing of approaches in other jurisdictions. Perhaps I can characterise those as a spectrum of approaches, with a reference on page 8 of the submission to the Australian Parliament and the Australian Electoral Commission's approach in determining that the act should not regulate the content of political messages, that rather the intent of the act is to ensure that electors are informed about the source of political advertising and that it is not misleading or deceiving about the way in which a vote must be cast. I am paraphrasing that obviously. New South Wales has a similar approach, and then if we go through the spectrum to the South Australian experience, there is the case law around an approach which seeks to go beyond that of the Australian Electoral Commission in taking a view about the content of statements. Victoria's approach, I think it is reasonable to characterise based on this submission, is very close to the approaches of the Australian Electoral Commission and New South Wales to these matters.

Mr TULLY — Yes.

Ms BROAD — Coming back to your report on the Kororoit by-election and understanding what I have just summarised, the report makes a statement that legal opinion is that the pamphlet in relation to the advertising is misleading in its suggestion of an affiliation or agreement between Mr Twentyman and the Liberal Party. Given that in order to, I think, make that judgement and make that statement there needs to be a view, legal or otherwise, about the facts of the matter, can you explain to the committee how you came to the conclusion that that statement was misleading, and, by implication, that there was no affiliation or agreement? How could you come to that conclusion?

I take you literally to the statement in your report on the matter of the complaint about this particular election material. The statement is made on page 13 of your report that legal opinion — and I do not know what legal opinion you are referring to there — is that the pamphlet is misleading in its suggestion of an affiliation or agreement between Mr Twentyman and the Liberal Party, which by implication means that there was no affiliation or agreement. Can you explain the basis of that legal opinion and that conclusion?

Mr TULLY — The legal opinion was from the Victorian government solicitor's office after receiving submissions from interested and relevant parties. I rely on the law, which has been tested in a court in South Australia, that says that if a statement is inaccurate or misleading to a material extent, then it is an offence. In my view there was an almost identical case that went to a Court of Disputed Returns in South Australia before Judge Prior in which it was alleged that that statement misled electors into believing that if they voted for a Democrat or an Independent, it was going to be a vote for Labor. The judge decided that that statement was misleading to a material extent. He believed there was a breach of the legislation and said that at the time it could have been open to the court to set the election result aside because of that breach.

Subsequently I took the matter to a magistrates court and the party concerned pleaded guilty to misleading advertising. I should add that the judge had said that in his view the margin was so great that it was not likely to affect the outcome of the result. That judgement was later overturned in the Featherston matter where Justice Bleby said that misleading advertising in itself could not lead to an election being set aside. So in terms of that case there is no doubt in my mind that had that advertisement occurred in South Australia it would have been prosecuted successfully as a misleading advertisement. But in Victorian law it relates to the casting of the vote, and that is the critical issue that affected my judgement as to whether there was an offence or not. In that case I relied, as did the Victorian government solicitor and as did every other submitter that I have read, on *Evans v. Crichton-Browne*, which goes into some detail when talking about the casting of the vote.

Evans was the Democrat candidate, and Crichton-Browne was the Liberal candidate who claimed that a vote for one was a vote for something else. So there were similar circumstances. It is the way the laws operate. On the question whether the pamphlet is misleading in its suggestion of an affiliation, I think there is an affiliation or agreement that says that a vote for one is a vote for someone else. That is just my view, and it was also the view of the solicitor.

I am not sure how much more I can answer you other than to say that the critical part of the legislation in Victoria that made this not an offence was the fact that it did not influence the casting of the vote. It was not saying, 'Vote informal' or 'If you want to vote for Twentyman, you put a 2 in this square and a 1 in the Labor square'; that would have been misleading. This was misleading in the general sense, but not a breach of the legislation.

Ms BROAD — Thank you for that, Mr Tully. Although I am not a lawyer I am reasonably familiar with those cases, particularly the situation in Victoria. In seeking to make the connections between my questioning and the summary that I introduced my questions with, if the Victorian Parliament is to consider going down the road of going beyond making judgements about misleading in relation to how an elector actually cast their vote and decides to take positions in relation to the content of political advertising, then these matters do then get to be tested in a court as to what the facts are about whether the content of political advertising is accurate or misleading. The statement that you have made in your report on the by-election seems to indicate that you have made an assessment of facts which has led you to the conclusion on the content of the advertising, not on the law as it stands in Victoria, that there was no affiliation or agreement here. What I am asking you to explain to the committee is how you could have come to the conclusion that there was no affiliation or agreement in these circumstances, given that clearly the pamphlet that was distributed was indicating that there was.

Mr TULLY — I do not know what you are trying to get me to say. In my view it is clear. The Liberal Party stood a candidate. You have another party saying that a vote for this candidate is in fact a vote for the Liberal Party. The Liberal Party had an endorsed candidate who was contesting that election. There is a clear suggestion that if you vote for this candidate — if you vote for Twentyman — you are voting Liberal. If you cannot see that, I cannot help you, because I see that.

Ms BROAD — Not to be disrespectful, Mr Tully, but the pamphlet referred to a deal between Mr Twentyman and the Liberal Party.

Mr TULLY — I am not being disrespectful either, but the slogan was 'A vote for Les Twentyman is a vote for the Liberals' — a vote for Les Twentyman. So if I vote for Les Twentyman, that will translate into a vote for the Liberals. That is the actual slogan that I am drawing attention to. It is not the other; each statement stands on its own. It is the statement that says, 'A vote for Les Twentyman is a vote for the Liberals'; that is the statement. It is not clear to me how that comes into account. If you wanted to vote for the Liberals, you would vote for the Liberal candidate, I would have thought.

Ms BROAD — I will draw a line — —

Mr TULLY — What it is saying is that if you want to vote Liberal, you vote for Twentyman. I am drawing it to your attention. I am saying there is no breach of the law. I am drawing it to your attention. If that is what you want as legislation, I can see a situation where people can say anything they like, particularly in regard to the upper house.

I think you need to be mindful of this as well. Is a vote a vote for Labor? Someone could have said it is a fact in one of the regions that a vote for Labor is a vote for the DLP. I am sure the Labor Party would have taken offence at that. You can say anything you like. It is the way the proportional representation system works. It is not just the direct transfer of votes, it is also what happens to other transfer values in the equation. If I am left to administer that, that is fine; I can live with that. I am saying I can see the day where people will be saying all sorts of things like 'A vote for Labor is a vote for Family First'. They could say anything. Is that the sort of system you want in Victoria? If it is, I will administer it. If it is not, here is your opportunity to do something about it. If you are happy to have statements like this in existence, I am not saying they are wrong; I am saying that the law says they are right. Is that what you want?

Mr O'BRIEN — Perhaps just to get some of the facts on the record, it is true, as you said, that the Liberal Party stood a candidate in the Kororoit by-election. If somebody wished to support the Liberal Party, presumably they would have voted for the Liberal endorsed candidate. Was that your thinking in coming to your conclusion?

Mr TULLY — My role here is not to get drawn into the political debate. My submission is simple. These are the types of statements that the law allows; I think that is clear, and I have said that. The simple question the Parliament is going to consider, and I am glad it is going to consider, is: does it need changing? I am not here to

say the Labor Party or the Liberal Party has done the wrong thing or that one is right and one is wrong. I am here to look into the future and to say that in upper house elections you can almost say whatever you want — that a vote for Labor is a vote for whoever, or a vote for Liberal is a vote for anyone you want it to be, and it could be practically true. What I think is enormously important and what the VEC strives to do with every elector is to say that it is the way you cast your vote and you make your preferences that makes your vote count. That is the critical issue in a preferential system.

If you move to optional preferential, it may not be so important. But when every vote will end up possibly with a major party it is incredibly important that people understand their preferences. I see many candidates get elected on the fourth, fifth, sixth and seventh preference. That is my submission. I am reluctant to get involved in the political debate. I think the position is clear.

Mr O'BRIEN — Commissioner, it was not a trick question. I am just trying to ask what might appear to be very obvious questions so that on the record we can get your answers to those questions, so bear with me for a little bit if you will. It is true that the Liberal Party stood an endorsed candidate in the Kororoit by-election.

Mr TULLY — Yes, they did.

Mr O'BRIEN — It is also true that Mr Les Twentyman was a candidate in the Kororoit by-election.

Mr TULLY — He was an Independent. He had no affiliation on the ballot paper.

Mr O'BRIEN — It is also true, is it not, that Mr Twentyman had a how-to-vote card submitted which your organisation registered for that by-election.

Mr TULLY — That would be true.

Mr O'BRIEN — It is also true, is it not, that on that how-to-vote card that was registered the Labor Party was preferenced above the Liberal Party.

Mr TULLY — That is my recollection.

Mr O'BRIEN — So it would be fair to say that the statement 'A vote for Les Twentyman is a vote for the Liberals' — you have said in your submission that it was concluded that the pamphlet in question was misleading — is misleading not only because if you wanted to vote for the Liberals, you would vote for the Liberal candidate, but also because even if you voted for Mr Twentyman and followed his how-to-vote card, your vote could not wind up with the Liberal Party ahead of the Labor Party.

Mr TULLY — That is true in that sense, but my major submission again is that in the lower house it is electors who determine their preferences.

Mr O'BRIEN — That brings me to my next question. You also state in your submission in regard to that statement that 'A vote for Les Twentyman is a vote for the Liberals' that 'without legislative amendment, the above statement will form a benchmark for political advertising'. If I interpret that statement as saying you are concerned in terms of content, it means that parties can flat out lie. Is that an accurate summary of your concerns as commissioner, that in the absence of legislative amendment these sorts of lies can be retold?

Mr TULLY — My concerns in a nutshell are that it is important that every elector understands that it is their marks on the ballot paper that determine where their preferences go. That is the crucial part for me. That is the crucial part of all of our education and public information programs, which I will have to change somewhat if I have to look at that, because I do not want to be in the position of calling candidates or parties liars when they say, 'But the party said this' or 'The how-to-vote card says this'. The crucial thing that I have to get across to electors is that it is their preferences that are the ones that count. What people believe literally is, 'If I put a 1 in Les Twentyman's box, that means that is a vote for the Liberals or that will somehow end up as a vote for the Liberals'. That is how that is seen.

Mr O'BRIEN — Can you just explain what you meant then in your submission when you said 'without legislative amendment, the above statement will form a benchmark for political advertising'?

Mr TULLY — I think I tried to cover that earlier in that candidates, particularly in the upper house, can say whatever they like. I am aware that the great majority of people are happy for their preference to go where the party places that in the upper house. They put a 1 and they follow the party line. What I also know is that people who attempt to vote below the line vote more informally than they do if they vote above the line. So if we get a massive swing of people voting below the line, informality rates are going to go up, which is relevant to your previous inquiries.

Mr O'BRIEN — Just finally, would you say that in the absence of legislative amendment, essentially what you as commissioner and what the public are relying on is the honesty and the integrity of those parties that are issuing publicity to act in an honourable way?

Mr TULLY — Yes, and I am not questioning if they are acting within the rules. I am just asking: is the Parliament happy with the current rules? I have put my view. My emphasis is always with the elector and the people who believe that if they vote for one person, that somehow that translates into a vote for another. All of my emphasis is on the elector. That is one of the suggestions I have made to you; by putting that on every time a party mentions preferences, it reinforces that the elector makes the decision. The media uses shorthand and says, 'Such and such preferences are going to someone else'. People misinterpret it. They do not know what that means. They take it literally. They do not say it on how-to-vote cards.

Not everyone follows the how-to-vote card. Our research on that shows around 50 per cent of people follow how-to-vote cards. So a lot already know about it, but most of them are unaware of how preferences work, despite our best efforts. To be frank, I think sometimes when the media makes simple statements and others make simple statements it confuses the issue and it puts us in a difficult position.

Mr SCOTT — I have two questions. Firstly, just to expand on the issue you were raising before, is your understanding as electoral commissioner that there is widespread ignorance regarding the preferential voting system?

Mr TULLY — 'Ignorance' is not a word I would use. I think people fundamentally believe and understand that if they put a 1 for one candidate, a 2 for a second candidate and a 3, they have an understanding that one is more favoured than the other. So I do not believe they have a misunderstanding about preference. I think they have a misunderstanding, and a misguided understanding sometimes, about how the preferences are calculated. We have got stuff everywhere that we can put up to show that. But I still fear that if we got 300 people in a room and asked them how proportional representation works, not a lot would answer in a manner that would give them a pass. There would be more that would understand how bottoms up fully preferential would work, but I would hazard a guess that it would be less than 50 per cent. Advertising such as 'Such and such is giving their preferences to someone else' feeds on those 50 per cent or more who do not understand how their preference is so important in calculating who is elected, particularly in the lower house.

Mr SCOTT — The second issue I wanted to raise is that one of the options you have suggested is the South Australian model of legislation — I think it is section 113 of the Electoral Act in South Australia. I note that during the Frome by-election there were a number of complaints made about different candidates and that created administrative issues for the electoral commission. What was your experience of the administrative issues that arose through sort of tit-for-tat complaints? I understand you were previously the South Australian electoral commissioner.

Mr TULLY — That is true; I was the South Australian commissioner when the law was introduced and for the subsequent election after that, so for two elections under that particular legislation, which went further and actually involved the electoral commissioner in making decisions about whether, prima facie, material was misleading or not. If on the face of it it looked like it was, the commissioner had the authority to ask for the authoriser of the advertisement to print a retraction and to identify the font size and the words to be used in that retraction.

That was administratively testing. Everybody wanted to complain about everything. Some of the wider examples that I have given you earlier came to the fore, where they were not misleading to a material extent. People were saying, 'We did not overspend by \$5 million; it was only \$3.8 million'. That is not material. So there was a tremendous amount of administrative work that went into that, particularly the first election.

Following the first election there were successful prosecutions made, and subsequently there have not been any since.

I think once everybody got used to how the law operated there was more acceptance of how the misleading advertising provisions could be worked with. Since that time there has been a change of registered officers in the major parties in South Australia, and I think there was a bit of rediscovery about what the law is all about. I suspect that is the case, because in the second election I conducted there issues had settled quite considerably.

But you are absolutely right. The administrative overhead for not only the commission but also the parties in generating the material was enormous. I am not at all suggesting that that part of the model be followed. It is there as an option, but it clearly involves the commissioner in the hurly-burly of the debate making decisions on the spot and on the run as to whether material is misleading or not. I think Professor Costar in his submission has made his views known on that particular legislation.

There are difficulties. There are practical difficulties with that model, but the impact has been that there have been no prosecutions since the first round, so there has been a modification of behaviour. I suspect that modification of behaviour could have been achieved in other ways, and I have put some of those suggestions to you.

Mr SCOTT — I noted in the example you gave during the Frome by-election — and I am not particularly aware of the day-to-day cut and thrust of South Australian politics — there was a large number of complaints. Could it be that where there is a system of complaint that is available, that process itself becomes part of the political process?

Mr TULLY — It does.

Mr SCOTT — Complaints were made in order to generate publicity adverse to a candidate in order to influence events, even though the complaint may not have a great likelihood of success.

Mr TULLY — Indeed, and that happens in Victoria in state and local government elections. The VEC maintains a position of not making any comment to any media. We treat all complaints seriously, we correspond with the person being complained about and the complainant, and we do not enter into any public debate. Because that will happen: the commissioner will be forced into the hurly-burly of the debate and be seen as being a sympathiser to one side or the other. We purely make no comment. We do our job but do not enter into media or public debate.

The CHAIR — Thank you, Commissioner. We have run out of time. You will receive a copy of the transcript in about a fortnight's time. You are entitled to correct typographical errors but not matters of substance.

Mr TULLY — Thank you.

Witnesses withdrew.