

# CORRECTED EVIDENCE

## ELECTORAL MATTERS COMMITTEE

### Inquiry into the future of Victoria's electoral administration

Melbourne — 12 March 2013

#### Members

Mr B. Finn

Ms D. Ryall

Mr A. Somyurek

Mr L. Tarlamis

Mrs H. Victoria

Chair: Mr B. Finn

Deputy Chair: Mr A. Somyurek

#### Staff

Executive Officer: Mr M. Roberts

Research Officer: Mr N. Reader

#### Witness

Ms A. Birrell, Port Phillip Greens.

**The CHAIR** — Welcome to the public hearings of the Victorian Electoral Matters Committee inquiry into the future of electoral administration in Victoria and related matters thereto. 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 you that any comments you make outside the hearing may not be afforded such privilege. Have you read the *Guide to Giving Evidence at a Public Hearing* pamphlet that the committee provided?

**Ms BIRRELL** — I have.

**The CHAIR** — Marvellous. Could I ask you now to state your full name and business address and which organisation you are from and the position you hold in that?

**Ms BIRRELL** — My name is Ann Christina Birrell, and I am from the Port Phillip Greens, which would be care of the Australian Greens, Victoria, 362 Little Collins Street, Melbourne, and I am speaking as a member of the Port Phillip Greens.

**The CHAIR** — Marvellous. The evidence you are about to give will be taken down and will become public evidence in due course. Could I now ask you to give a verbal submission, after which we will ask questions if necessary? Thank you.

**Ms BIRRELL** — Thank you. Thanks for the opportunity to speak. I would also like to say, as Noah did, that often the work of committees is a bit undervalued. I do not think the press or the public realise, but we think the work of these parliamentary committees in teasing out and articulating and then recording and making recommendations on these issues is really valuable. There are a lot of people who read your reports when they come out. There are also a lot who refer back to them, and I think it is a valuable contribution just of evidence-based policy-making in Victoria. So well done. That is the nice bit.

In relation to your discussion paper, I will just briefly run through the discussion points. Regarding discussion point 1, our experience is that direct involvement is well supported by the community. In fact we would go even further and say that many in the community assume this is the case and that direct enrolment sits with voters' expectations of how elections are administered in Victoria, and likewise with Victorian compulsory voting.

On discussion point 3, informal voting, we share your concern but we would like the committee to look at what is described in the AEC report. The AEC report and the VEC have reported that approximately half of informal votes are deliberate errors. We would like the committee to really research that issue — why are so many people deliberately voting informal? Perhaps you might have some researchers look at that issue — I have not seen research on that issue — and also look at steps to address it. In my submission I have set out a number of the reasons why we think there is a high level of informality and disenchantment. A lot of this comes out of local government elections, and I know you are not looking at that but I think it can also apply more broadly. The first example is the prevalence of misleading and deceptive statements. While we appreciate the reluctance of electoral commissioners to get involved in issues of substance on elections, we think that more could be done and the public really expects more to be done in stopping dirty tricks and misleading conduct.

I have made a suggestion in our submission to have perhaps a bit more advice in the candidates handbook about the sort of behaviour that is misleading. Someone said, 'You're going to provide a how-to guide', but it is not that. These are the sorts of things that people complain to us about. It would be good to have a page in the handbook saying, 'This is regarded as misleading behaviour'. It is not necessarily actionable, because it does not include that casting-a-vote element, but it is things like the misuse of logos and colours, confusing statements about residence and misstatements about independence or endorsement. This leads to serious voter cynicism when they see this sort of behaviour go unchecked. It would not be allowed in the commercial sphere. Under the trade practices act this sort of behaviour of passing off and misleading conduct is prohibited, so we should be exerting tighter control over it in the electoral sphere.

Secondly, as you would all know, a number of voters arrive at the polling booth furious and incredulous over a lack of neutral information, and they ask us — I do not know whether they ask Labor and the Liberals as well, but particularly in the local government sphere the Greens are a bit more transparent — we are always being asked, ‘Who’s that candidate? Who are they?’. We would like the VEC to look at the feasibility of having perhaps a 300 or 400-word set of questions that could be posted online or even inside the polling booth. It might include things like a candidate’s work history, community involvement, political, business, union or professional associations and also details, particularly in local government, of any professional, financial or personal relationship with other candidates. I think we need more neutral information out there, and we would like to see the VEC look at that.

Another cause of cynicism is party involvement in postal votes. Then there is also general cynicism about political donations, caps on electoral expenditure, and stricter limits on the sort of conflict-of-interest-type situations that MPs can engage in. There are a whole cluster of reasons why we think there is voter cynicism, and we think they may be contributing to higher levels of informality. We would really love you to do a section of your report on that issue, and it can be addressed.

On discussion point 4, which is the early voting one, we also supports the VEC recommendation that early voting not commence immediately after nominations close. It is interesting to see the commonwealth equivalent of your body has made similar recommendations. We would also like to see a limit on and review of early voting, and I have set out some of the reasons our campaign helpers have given. We are asking for it to be limited to two weeks; you asked what might be a good period. There are very few voters in the early stages. It is an unnecessary expense for the VEC and candidates. It is an added burden that discourages candidates from standing.

You also asked a question about whether we are trying to suit the candidates or the electors. I think if we have too many early voting centres the candidates do not have the resources to have people there handing out literature, which also disadvantages the voters: they turn up and they do not know anything about anyone and get even more cross. Extended early voting also provides an unfair advantage to the better resourced candidates. As Noah said, it is a distraction from policy discussion and the political campaign. It complicates the election process and involves candidates in a significant amount of red tape for no significant public benefit. Voters turn up in the first couple of weeks; they are angry, they have not received any information, and there is no information at the polling booth. We would like you to have a good look at that. I would also like to support the submission of Dr Nigel Caswell, regarding disability access.

Finally, on the point of social media, you have probably read that our branch has been involved in a case of unauthorised Google advertisements. We have had long-running discussions with the VEC about freedom of information applications. The matter was reported in the 2010 VEC report to state Parliament. I have had informal legal advice from two QCs that the VEC can act. We are at a bit of a loss to know as to why the legislation is not being enforced. We are also at a bit of a loss as to why, if the legislation is unenforceable, the then Labor government was unwilling and the now Liberal government is unwilling to give the VEC the legislative power to do so. The incident I am talking about is these fake Google ads. I was the candidate. If you typed in my name, you got an advertisement defaming an independent candidate. If you then clicked on that ad, it took you to the Greens website, so it looked like the Greens were defaming this independent. It was a minor issue but one boasted about in the circles of those who did it saying, ‘How smart are we?’. It is a minor issue but it sets a concerning and serious precedent. It is over two years since we raised this matter with the VEC. The VEC has asked for powers to address the issue, and we ask your committee to do what you can to facilitate it.

I would just like to sum up by saying that the failure to address these issues is unfair. Our experience is that there is overwhelming community support for these tricks to be tackled. It is demoralising for candidates, but in terms of your committee’s interests it encourages cynicism among voters, and it diminishes respect for and confidence in the administration of our electoral system. That is all I have to say.

**Mrs VICTORIA** — At page 3 of your submission, you say:

- (c) statements that a candidate is *independent* when they currently are or until recently were a member of a political party (it is our experience that voters consider membership a relevant issue, not just endorsement) ...

Can you give us a time frame for an exclusion, if you like, for non-disclosure?

**Ms BIRRELL** — I would imagine something like five years, but I do not have a particular time frame in mind. I mean, six months ago is obviously too close. We had a candidate stand who had been a Liberal 17 years ago. We had someone else who was not one of our candidates who had been a Trotskyist at uni. You know, people can change. Maybe five years is a reasonable period.

**Mrs VICTORIA** — At point (g) of the same part of the submission, one of the things that you are looking for is clarification or standing of non-genuine, or dummy, candidates. How do we police that?

**Ms BIRRELL** — We would be looking at having the VEC and the EMC look around to see what might have been done.

**Mrs VICTORIA** — I guess the question is more how we identify that somebody is not just standing as an independent who has a general interest in the area — not us, but how the VEC ascertains who is non-genuine or dummy.

**Ms BIRRELL** — I suppose by the sorts of questions I was referring to. As in the case of non-attendance elections we now have a candidate statement, one of our suggestions is that you have a set of standard questions, and one of those questions would be: do you have any professional, financial or personal relationship with any other candidates?

**Mrs VICTORIA** — And if they did, and obviously they were not truthful, then it would be classified as fraud.

**Ms BIRRELL** — It could be something that other candidates could draw attention to, and the political process could sort itself out. I am not suggesting a prescriptive rule but more an informing of the community. You know, setting up structures so it is more difficult to do these things.

**Mrs VICTORIA** — On page 2 of your submission it says, ‘On the issue of intentional informality we ask that the committee also look at voter disenchantment as a means to minimise informality’. I do not know how we ascertain that short of stopping people outside a polling booth and saying, ‘Did you vote informally? If so, why?’. Have you got some idea as to how we come up with those sorts of ideas or answers?

**Ms BIRRELL** — Some sort of survey could be a start. I am not sure.

**Mrs VICTORIA** — A survey at the booth, or afterwards? Obviously afterwards is fairly loose. People could just say yes because they wanted to be part of a survey.

**Ms BIRRELL** — I think there are a number of ways it could be done.

**Mrs VICTORIA** — If there are some suggestions, obviously the point of us having these hearings is we would like to actually try to come up with some answers to improve the system, so if there are suggestions, we would love to have them.

**Ms BIRRELL** — I would have thought perhaps your research staff could see whether such research has been done elsewhere. If not, perhaps it would be possible to do some sort of analysis like that.

**Mrs VICTORIA** — I guess the question is what happens if our research staff say, ‘We have had a look and nobody else has done this sort of work’? For example, it may well be that nobody has wanted to do it, or it may well be that it has been too difficult. So if we said to the VEC, ‘This is something we would like to do. We think it is worthwhile information. We would love to have this sort of information; all parties would love to have that sort of information — that is, how we change some of the informals to formal’, what sort of thing would you be asking and where?

**Ms BIRRELL** — I suppose you could just do a general community survey asking people if they voted informally. Then of those who did, ask them why.

**Mrs VICTORIA** — If we look at those who voted informal, some may not know. If it is about 50-50, obviously those who voted deliberately in an informal manner would be able to say something; but we would not necessarily get that other 50 per cent because they obviously would not understand that they have made a mistake or had incorrectly labelled or something like that. Do you think then that would be a fair analysis, because in fact we would not be getting a true cross-section of those who voted informally, intentionally or not?

**Ms BIRRELL** — Presumably the ones that were deliberately informal would know they were deliberately informal.

**Mrs VICTORIA** — Yes.

**The CHAIR** — Could I just jump in here. It is a secret ballot, so how would we know?

**Mrs VICTORIA** — What I am trying to understand is where we would do this survey.

**The CHAIR** — Whether they had done it deliberately or otherwise, given that it is a secret ballot, how would we find out that these people had voted informal? We do not actually know who has voted informal or otherwise until such time as we open the box at the end of the day and start counting.

**Ms BIRRELL** — I am not a researcher, but I suppose you would do something like some sort of general community survey and you would have all sorts of provisions to sort out anomalies and inconsistencies. You know, would it be quantitative or qualitative research? I think it would be interesting to know. Is it because I felt bad on the day, and I was cross that I had to vote, or because I cannot stand the lot of you? We are spending all this money, and it would be interesting to know why people are deliberately voting informally. If half the voters are doing it, it would be good to know why they are actually doing it. Is it because they do not like compulsory voting? Is it because they do not like the politicians? Is it because they have had a bad hair day and nothing to do with anything we are concerned with? I think it would be useful information to have.

**Mr TARLAMIS** — The VEC have done some research, which they have put in their submission, with regard to informal ballot papers and specifically looking at different ethnic communities and the rates of unintentional informal votes and things like that. In some communities they have established that up to 50 per cent of those informal votes were unintentional. I am not sure of all of the parameters and how far they have gone with that research, but they have done some research. There might be scope to build on some of that further as well. It might be worthwhile talking through that type of research they have already undertaken and whether we can take that further.

**The CHAIR** — Yes, sounds good. No more? Thank you very much indeed.

**Ms BIRRELL** — Thank you.

**The CHAIR** — Within the next fortnight or so you will receive a copy of the transcript. If you could just correct any typos and resist any temptation to change content, that would be a marvellous thing. Thank you very much for coming in today.

**Witness withdrew.**