

# CORRECTED EVIDENCE

## ELECTORAL MATTERS COMMITTEE

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

Melbourne — 19 June 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

Mr Antony Green, election analyst.

**Necessary corrections to be notified to  
executive officer of committee**

**The CHAIR** — I welcome you, Antony, to the public hearings of the Electoral Matters Committee inquiry into the future of Victoria's electoral administration and matters related thereto. All evidence given at this hearing is protected by parliamentary privilege, as provided by the Constitution Act 1975, and is 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 advise that any comments you make outside the hearing may not be afforded such privilege.

I have no doubt that you have read the guide to giving evidence at a public hearing that the committee has provided?

**Mr GREEN** — Yes, I have in the past.

**The CHAIR** — I thought as much.

**Mrs PEULICH** — It probably has not changed much.

**The CHAIR** — No. I would put money on it — a fair bit actually. Antony, would you be kind enough to state your full name and business address.

**Mr GREEN** — My name is Antony Green. I am an election analyst with the Australian Broadcasting Corporation, 700 Harris Street, Ultimo, though I am appearing in the capacity of a private citizen.

**The CHAIR** — Marvellous. As I am sure you are aware, your evidence will be taken down and become public evidence in due course. I now ask you, if you are so inclined, to say a few words by way of a verbal submission, and we will ask some questions after that.

**Mr GREEN** — Certainly. I was specifically asked to think about optional preferential voting, and I have just a few comments about that. I think one of the problems of compulsory preferential voting in Australia is that as it operates at the moment we have a high informal rate caused by errors. I think that we set too high a barrier for votes to be admitted to the count, that too many of our rules are written on the basis that we define at the start of the count what cannot be admitted rather than trying to look at what could be admitted. We have many votes with a perfectly valid first preference that get knocked out — votes that could count, that do not need their preferences examined but are excluded from the count.

That is apart from the idea of moving towards optional preferential voting where voters only have to put in what preferences they have. An advantage of optional preferential voting is that voters do not always rate all their preferences equally. With the increasing number of candidates we see in elections these days, people are just filling in preferences to have their vote counted when clearly they do not necessarily have these preferences. Just as a reference, in 1985 at the Victorian election there were only an average of 2.4 candidates per electorate in the lower house. At the last election in 2010 that number had increased to 5.7, and we are seeing similar increases all across the country.

The increase in numbers does tend to cause informal votes, and the more candidates you have the higher the informal vote you have. I would say that there are disadvantages. What we have seen in recent years in New South Wales and Queensland, where optional preferential voting is used, is a tendency for the parties to operate to try to force the system into a form of first-past-the-post voting, that the major parties have encouraged the operation of 'just vote 1' strategies, which has actually diminished the number of votes that exhaust after the first preference. I have some statistics on that, if you wish to ask me about that later. That has resulted in Queensland and New South Wales elections increasingly operating like first past the post, which is a bit sad given our long history of preferential voting.

What we are seeing is an increase in minor party votes at elections and a consequential increase in informal voting. Optional preferential voting is one solution to that, although it does result in more candidates being elected with less than half the vote. But an alternative strategy would be to simply change the formality criteria to allow more votes with a valid first preference to count, rather than having them all excluded, especially if we remember that some of the 1-only votes are being induced by the operation of the upper house ballot paper, where the instruction says you have only to give one vote above the line. I am open for questions now.

**The CHAIR** — Thank you very much for that. I am interested in the statistics that you alluded to with regard to the numbers of voters who just cast one vote in New South Wales and Queensland.

**Mr GREEN** — The statistics are taken from some reports by the Queensland electoral commission. They have done research in about a dozen electorates after every election for the last two decades since optional preferential voting was introduced. At the first election in 1992, in their sample, only 23 per cent of people voted 1-only and 20 per cent in 1995.

At the next survey in 2001, the Labor Party adopted a ‘Just vote one’ strategy as a way of encouraging One Nation voters, for instance, not to give preferences to the coalition. At that election the 1-only vote leapt to 60 per cent. And at the most recent election, in 2012, that figure rose to 70 per cent. I should point out that it actually varied by party. In 1992, 30 per cent of Labor votes were 1-only, and that leapt to 77 in 2001 with the introduction of the 1-only strategy.

In terms of the National Party vote in 1992, only 16 per cent of people voted 1-only, but in the most recent election that figure was 79 per cent, given they have now also adopted a 1-only strategy. Labor originally adopted a 1-only strategy at the start of last decade to try and plant in the minds of conservative minor party voters not to give preferences, and therefore that would disadvantage the coalition. In more recent elections the coalition in New South Wales and Queensland have adopted a 1-only strategy as a way of planting in the minds of Greens voters that they should not give preferences.

**Mr SOMYUREK** — Antony, I have a real problem with optional preferential voting with respect to what you have already identified — that is, it potentially becoming a de facto first-past-the-post system. You talk about informality. What is your view on the South Australian savings provisions model to tackle the informality issue?

**Mr GREEN** — That is one solution. That is adopting the view that we cannot allow optional preferential voting, we cannot allow exhausted preferences, but we have to do something about the informal votes. It was introduced in 1985 after the experience of the 1984 federal election when above-the-line voting was introduced for the Senate, and that induced a high rate of 1-only votes in the lower house. When South Australia adopted the same upper house system in 1985, the preferencing system whereby you can just vote one by accident in the lower house — your vote is imputed to have the preferences of a lodged ticket — that was introduced to avoid this problem, and the informal vote in South Australia would be twice as high as it is if it were not for that savings provision. So it certainly saves a substantial number of votes. It is one solution.

I would also advocate another solution, which is what I call progressive informality. You start the count with all ballot papers with a valid first preference being admitted for the count. If during the process of the count a ballot paper has to have its preferences examined for preferences and it does not have preferences, then it would be excluded as informal, but that would allow more valid first preferences to stay in the count. It would advantage the two biggest candidates in most electorates, but some past research by the AEC, and estimates, if you look at how most contests finish, about 80 per cent of the valid first preferences could be admitted to the count, because it is for a candidate whose preferences will never need to be examined — those ballot papers will never be distributed — therefore they could be admitted to the count.

But that is only a solution if you are still convinced about keeping compulsory preferential voting. Optional preferential voting — if you go down that path, you remove all these constructed ways to allow more votes to be included in the count.

**The CHAIR** — In recent years we have had a number of very close elections. Clearly, the state election in Victoria and the federal election last time in 2010, they were very close and both preferential elections. If they had not been, if they had been subject to optional preferential voting, would that have impacted the result, do you think?

**Mr GREEN** — Certainly. Optional preferential voting — I will try to avoid getting too much into which parties are advantaged — always advantages the candidate with the most votes at the start of the count, because the operation of exhausted preferences under optional preferential voting means that the number of ballot papers available as preferences to a second-placed candidate is diminished compared to how it operates under compulsory preferential voting. Firstly, on some figures I have seen, probably the coalition would have won the

last federal election under optional preferential voting, and probably the current coalition government in Victoria would have a larger majority if optional preferential voting had applied.

But I would point out that these are short-term factors. If you went back to the 1960s, when the major minor party was the DLP, in those days the Labor Party would have won more elections if operational preferential voting had applied. Optional preferential voting always disadvantages the party that loses part of its core vote to a minor party, because more of those preferences will not come back under operational preferential voting.

**Mrs PEULICH** — Antony, two quick questions: first of all in relation to prepoll voting and the trend to extend that period of time — I think it is now two and a half weeks or thereabouts. What impact would that have on the informal vote? Secondly, and perhaps this may be a little bit outside the reference of this inquiry, how would that impact on the traditional campaigning of political parties?

**Mr GREEN** — I have not looked at the figures in Victoria, but traditionally the informal vote with postal votes and prepoll votes tends to be lower than on-the-day votes. Particularly with postal votes people have more chance to look at the instructions on the ballot papers before filling them in, and I think the same would apply to prepoll voting. People who make prepoll votes are actively making sure that they vote. I think you see a higher informal vote on the day than you do with prepolls and postals, particularly with postal votes. That is simply because they have more time to make sure they do it right. It is always a bit rushed in the polling place on polling day.

How it affects campaigns? Certainly I know many campaigners are concerned that more and more people are voting well before the election, so all those well-crafted campaigns that lead up to election day are completely wasted in some electorates. I think in Mildura nearly one-third of the people voted prepoll or postal at the last election. You are getting enormous prepoll votes at recent elections. It must be said that these people are making the effort to vote. Most of them would already have made up their minds, but I know it concerns people that if people are going out and voting two weeks ahead and something happens in the campaign, they cannot undo their vote because they have already voted. The more prepoll votes there are, we are moving away from the idea that an election is a snapshot of the country on one particular day when the people make up their mind who should govern them. We seem to be moving away from that single day towards more of a period of about two weeks during which polling takes places.

**The CHAIR** — Do you think that is a good thing?

**Mr GREEN** — I think it is getting harder and harder for people. Saturdays are getting busier and busier. You have shops open all day, more and more sport and people driving around. Life seems to be a bit busier than it used to be, and that is why people take advantage of other options for voting. I think with things like electronic voting we are going to find it potentially harder to conduct an entire election on one day because of the cost. The ACT electoral commission looked at how to conduct electronic voting a number of years ago. The only feasible way to do it, cost wise, was to spread the period of voting — so having fewer polling places taking electronic votes over a longer period. It was the only cost-effective way of doing that. Technology has moved on with things like internet voting, and perhaps that is more feasible to conduct on one day, but there are also security issues there and other issues that have to be looked at.

I find it hard to say that the amount of prepoll voting is bad. People are participating, but they are giving up the option of hearing the full campaign before making up their minds.

**Mrs PEULICH** — I have another question if I may. Just returning to optional preferential voting, one of the messages that comes out time and again from people who have presented evidence to the committee is the need for electoral processes to be consistent and to be simple, and I think you emphasised the need for consistency as well. In view of that, how would optional preferential voting impact upon the type of voting that we have in our multimember electorates in the upper house, where there is currently proportionate representation?

**Mr GREEN** — Well, I think if you did go down the path of optional preferential voting in the lower house, that would be considered more for the upper house. The perils of full preferential voting are actually more obvious in the upper house. As an example, coming up to the Senate election this year some of our ballot papers for the Senate may have 40 columns of candidates —

**Mrs PEULICH** — Yes, as big as a tablecloth.

**Mr GREEN** — And the final seats can only be determined by preferences. If you were to allow it, one solution to that is a degree of optional preferential voting, which would remove the power of the full preference tickets, and I think that has to be considered.

If you move down the path of optional preferential voting for upper houses, there are some changes to the formulas that should be made, which means that ballot papers with preferences stay in the count and ballot papers that run out of preferences are left with the candidate that they elected, where currently both types of votes are sampled to proceed on through the count. You cannot have optional preferential voting in the lower house and then just ignore the upper house; I think you have to look at them both together.

**Mrs PEULICH** — Yes, thank you.

**Ms RYALL** — Antony, I just want to clarify your views on optional preferential voting; you obviously have specific views on it. Your concerns were that it could end up a virtual first-past-the-post system and that the 1-only campaigns by various parties will certainly increase their specific vote or might deter others from otherwise giving preferences. What would be your suggestion for countering the negatives of OPV in those instances?

**Mr GREEN** — One option would be to simply encourage, with instructions on the ballot paper, full preferences. As an example, in the ACT, which uses the Hare-Clark electoral system, they have five and seven-member electorates. Their formality rules are that you can vote with a single '1'; you do not have to give any preferences. But the instructions on the ballot paper say 'Number 1 to 5' or '1 to 7'. It is an instruction to encourage people to give preferences, because the more preferences people fill in, the more effective their vote can be.

If you went down the path of optional preferential voting, both New South Wales and Queensland — I cannot think of the exact wording, but you can find it out from the commission — stress that you must put one preference, and then you can go on and give others. I think that if the instructions on the ballot paper push more towards giving preferences, it will help to overcome tactical advantages in encouraging 1-only voting.

**Mr SOMYUREK** — Antony, I think in South Australia you are actually prohibited from running a campaigning that voters should just put number 1. Is that right?

**Mr GREEN** — That is right. The point of the South Australian ticket system is it is a savings provision. It is still a full preferential voting system. You are not allowed to advocate a 1-only vote, because if you have this ticket voting system and you tell people to just vote '1', then effectively if they follow that system, your vote goes by their registered ticket. It is not a system they are encouraging people to use; it is a savings provision.

If you have optional preferential voting, then it is a bit hard to ban people from advocating a 1-only vote. That is actually a valid vote and a valid form of voting.

**Mr SOMYUREK** — Right. That is fine.

**The CHAIR** — Are there any other questions? Antony, just on another matter, one area that we are looking at of which you may be aware is the possible name change of the Legislative Council to the State Senate. I understand there is a private members bill currently before the New South Wales Parliament. I am just wondering if you know much about that. If you do, could you share your insights with us?

**Mr GREEN** — I know many MLCs find it rather hard to get people to understand what an MLC is — —

**The CHAIR** — That is the truth, absolutely.

**Mr GREEN** — For some of us of a certain age, it sounds like an insurance company.

**Mr SOMYUREK** — Yes, that is exactly right.

**The CHAIR** — That sounds familiar, yes.

**Mr GREEN** — I can understand why state members of the upper house would like that. I am a bit connected to some of these old names; they have always been legislative councils. I am just trying to think

about overseas. In Canada most of the provinces have abolished their upper houses over the years, where we have managed to keep ours, except for Queensland. I think more and more people know what the Senate is; I think fewer and fewer people know what the Legislative Council is. If it helps people know that there is a state upper house, it would help raise understanding. But I do not have a particularly strong view either way on that legislation.

**The CHAIR** — But you think a name change to the Senate would actually help the general population understand what we do up here?

**Mr GREEN** — Yes, I suspect it would. People have a better understanding of what the Senate is than they do of the Legislative Council.

**The CHAIR** — Antony, thank you very much for your assistance once again. We appreciate it enormously. You will receive a copy of the transcript of this afternoon's proceedings in about a fortnight. Typing errors may be corrected but not matters of substance, of which I am sure you are also fully aware. We thank you most gratefully for your time.

**Mr GREEN** — If the committee wants a couple of the tables I have referred to, I can provide them as well.

**The CHAIR** — That would be great. Marvellous. Antony, thanks very much.

**Mr GREEN** — Thank you.

**Committee adjourned.**