

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into the conduct of the 2014 Victorian state election

Melbourne — 11 August 2015

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Mr Noah Michael Carroll, state secretary, Australian Labor Party Victorian branch.

Ms ASHER — Thank you, Mr Carroll, for your willingness to prepare a submission and appear before the committee. We are investigating the conducting of the 2014 state election. You would be aware that all evidence taken by the parliamentary committee is covered under privilege. There is a pamphlet that has been provided to you, I think, about giving evidence. I do not know whether you have had an opportunity to read it. I emphasise that privilege does not extend to what you say outside the hearing, but you are certainly covered by privilege at the particular hearing. I ask you to state your full name and your business address, and whether you are appearing on behalf of an organisation or as an individual.

Mr CARROLL — Noah Michael Carroll. My business address is 438 Docklands Drive, Docklands. I am appearing on behalf of the Australian Labor Party Victorian branch. I have sent in a written submission. I was planning to speak to that, and obviously if there are any questions or requests for more elaborate explanations, I am happy to provide them.

Ms ASHER — Please proceed.

Mr CARROLL — Firstly, thank you for the invitation. The Australian Labor Party is very happy to make its submission. Obviously we remain very respectful and very thankful for the Electoral Matters Committee's work both in the past and during the current process that it is undertaking.

There are three basic propositions that I put in writing. The first one is the one that compelled me to come here in person to elaborate on a bit more because there might be some questions surrounding it. Mr Gately, as the VEC commissioner, has in the past outlined to me some of the logistical constraints that he sees, and I am very cognisant of them, but I do not believe that they are insurmountable. Especially if preparatory considerations are taken into account at this early stage of the cycle, the Victorian Electoral Commission will be able to put them in place well ahead of the next election. I think it would avoid what prior to the conclusion of the 2014 campaign I and others were very concerned about, which was that it is fine to have potentially one seat in doubt, but if you have enough seats in doubt and if nothing is really commencing for a very large segment of the votes cast, which is early pre-poll voting and which is increasing with every election, there is no way to get any sense of the way those votes are breaking in the sense of which party is doing well or not and therefore you could very well have a suspended result for a long period of time. That does not help anything. Sometimes those circumstances cannot be avoided, but where they can be, I believe it is worth pursuing.

The basic proposition I have submitted in the first point is that a proportion of pre-poll and early voting ballots cast are somehow collected in an appropriate manner and secured in an appropriate manner. That does take preparatory consideration, I am conscious of that, and that has been Mr Gately's private concern when we discussed it, but I believe that with enough notice something can be done to ensure that. I am very conscious that you are not going to necessarily get the most representative sample by virtue of the nature of these ballots. Obviously it is over an extended period of time that these ballots have been cast as opposed to on election day. However, I think something is always better than nothing.

Certainly as a pragmatic experience, a number of electoral experts and even the media at times are good enough to go through these things, do the maths, and verify what political parties are doing as well. Generally I believe there are enough pretty smart people having a crack so that you are going to get a somewhat accurate picture of which way those votes might be breaking, and even if technically a vote has not been declared or a government has not yet been officially elected, it is pretty clear to the polity which way it is going, so things are not suspended for at least three days, if not longer. That is the first submission, and I am happy to elaborate a bit more on that.

I would be very interested to see Mr Gately's response to that. I want to emphasise that I only make this point in the most respectful manner. I do not believe the VEC in some respects really had a choice last time. I am very conscious of that. What the ALP is attempting to do is try to help as much as possible to put in place conditions whereby we can satisfy this concern for the 2018 state election.

The second consideration the ALP has felt the need to submit in this regard — because obviously political parties are at the coalface of this consideration, and it is easily underestimated in terms of its

importance — is the proficiency and professionalism of the Victorian Electoral Commission staff. It went from top to bottom in the sense of the quick turnaround times for queries and the quick assistance when it came to lodging tickets. The ALP, I am reliably informed, were not unique in this regard — all political parties had the same benefit. The reason why such things are terribly important is that they do so much to defuse tensions and concerns on so many different levels.

The best manifestation of that, I would say, would probably be at voting booths, where we have a number of very eager activists on behalf of the party. Other parties do also. There are a number of concerns and issues that arise from which confusion results. The VEC staff are not there to answer every query directly, and equally they often have to kick questions further up the chain to get a landing, and that is fine. Generally the political parties have been the interface on behalf of our activists to ensure that things do not get out of hand, but equally people are given reassurances that everything is where it should be and that processes are being followed. The quick turnaround time and the professionalism of the VEC was critical to that. I was very impressed with them in 2010 but even more so in 2014. I just thought it was worth commending them for that.

The final point I wanted to submit would, in some respects, have been more appropriate in response to the 2010 inquiry into voting booth administrative procedures. I am not sure if that is the technical title, but that was certainly the gist of the inquiry the previous incarnation of this committee undertook in that space. With all of the various duties that the VEC staff had to undertake, there was sympathy for them in the sense that we felt that more out of convention and out of compassion for those lining up that those handing out how-to-votes gave priority to the disabled and the elderly in the voting queues. There are enormous complications and constraints with this; we are very conscious of that. I guess the concern we have is that we received a number of reports anecdotally from our members and volunteers that they would sometimes have to intervene to request that people be conscious of that. Naturally we found that the vast majority of Victorians never blinked in allowing that to occur.

If there is any way we could codify that a bit more in procedures and/or make the polite request to the VEC to on top of their many other duties be conscious of this consideration, I think that would be beneficial just because if it were not for a number of volunteers across the political parties being cognisant of it, I think there would have been a number of people in this category who would have been standing and waiting in pretty uncomfortable circumstances for much longer than they were. Again, I emphasised in what I wrote in the submission that this is not in any way a reflection on the VEC staff having a lack of compassion. I think it is more of a manifestation of the various tasks they have to undertake, so I think anything we can do to simplify the prioritisation of these tasks would be a good thing.

The CHAIR — Thank you very much both for your submission and for your appearance. Could I exercise the chair's prerogative, as I want to fully understand what the Labor Party is seeking to resolve with the count of pre-poll, because it will not surprise you that a number of other submissions, and they are all online, have asked for some form of counting of pre-poll on election night. So you would be happy to get, like with postal voting, 2000 done?

Mr CARROLL — Yes. It is a very good point. It is more about getting a representative sample that can then be projected to reflect the broad direction of how the votes are breaking, for want of a better term. So if there are 2000 submissions for postal votes, the concern would also be — and I certainly defer to the committee in relation to this consideration — that the early pre-poll voting contingent might very well be much larger than the postal. Therefore you might need a much larger sample to be somewhat representative statistically when you extrapolate the base to the overall result.

I know that people will say that it is not actually a result; it is a projection. But if we have crossed the bridge in terms of that principle for postal, I do not really see what the constraint is to also exercise that with the pre-polling, early voting, category. Considering it is a progressively growing contingent of the votes cast, I am increasingly concerned that if we do not do something in this space, we are almost walking straight into a scenario in which invariably, even if there is quite a bit of daylight between the winner and loser, the vote will be suspended for a period of time with everyone scratching their heads trying to work out what it is.

Ms PATTEN — Just following on from what you were talking about with the elderly and disabled in particular at early polling, a number of submissions have suggested that, considering the volume of early polling now and the length of time it takes — the VEC is probably not well enough resourced to do it — we shorten the early polling period. Would that be something that the ALP has considered?

Mr CARROLL — We have considered it, but we are also very conscious that it is being increasingly utilised by an ever-growing part of the community. The ALP is always inclined to support anything that ensures that the franchise is as large as possible. We also make the point that the one thing that we have found beyond doubt after a lot of research — as you would expect this wonderful party to do — is that there is a propensity for somebody who has exercised an early or pre-poll vote at a previous election to be exceptionally more likely to do it at a subsequent election. That is the one clear relationship we have found.

That to me spells out a pretty simple truth, and that is that people are finding it exceptionally convenient and much more preferable to showing up on election day, for whatever reason. That is not the why, it is the what, but that is what people are doing. I think if we are serious about ensuring that we have representative results in which all of the community feels they have had a say and have contributed to, I would not be in favour, and nor would the party, of pre-polling and early voting being constrained in any way.

Ms PATTEN — Can I just ask a supplementary to that one? Another of the criticisms that has come through a number of submissions is that the VEC was not necessarily exploring the reasons why people are voting early. The legislation says that they are not able to vote on election day. Considering the notion of trying to get as many people to vote, as you just mentioned, would you consider us relaxing that part of the legislation so that it did not ask a voter if they were unavailable to vote, just if they preferred to vote early?

Mr CARROLL — I will leave that to the committee in relation to their view on that. There are a number of considerations in that space, and the VEC also understands that there was a challenge recently in the courts in relation to this question, and that is presumably why you are also asking me about it. As I understand it, the VEC discharged all of its obligations in that space, the polity obviously exercised its view, everyone was happy and went home. We do not have a burning view in this particular space. The committee can very much exercise its own judgement on that.

It stands to reason as to the reasons why people are exercising it. There are some pretty clear demographic changes, in our view, that are driving this, and one of them is clearly part-time shiftwork. The reality of it is that people are also casting ballots in some pretty strange places that really do not bear a hell of a lot of resemblance to where they live. Research says that a lot of people do cast their vote in a way that is a direct correlation to where they are working as opposed to where they are living in the early voting space. That to me also suggests a relationship between the nature of people's work in the modern era versus where they were even 10 years ago. In that space, that is certainly a reason, in our view, as to why people are exercising their vote increasingly in pre-poll early.

Ms PATTEN — Yes. An interesting point.

Ms SPENCE — Do you have a view as to counting on the Sunday?

Mr CARROLL — I do know that people are pretty exhausted on the Sunday. That is certainly borne out in my experience. I know a number of people on this committee could certainly relate to that as well. As you would expect, everyone is working pretty hard on a party level and on a volunteer level. The concern, I guess, on a Sunday would be whilst I am always loath to delay a result, I am also conscious that the one thing that also does so much to assuage any concerns about any of the processes is that scrutineers are allowed to be present and can be present, that they are well rested, they are not niggly, preferably they are also not hung over — —

The CHAIR — That depends on whether they have won or lost.

Mr CARROLL — Correct. Sometimes it does not. That is a slight problem compared to, in my view, the pre-poll consideration of doing a projection of the count, which you can actually do on the night of the

election; in fact you can do it well ahead. Just like you do with the postal, you do it before you throw the actual ballots cast on election day. As to a firm view that let us never count on Sunday, again I defer to the committee in relation to that space.

Ms BLANDTHORN — Just to pick on the point that you raised about elderly and disabled people having to wait in queues, obviously pre-poll grew exponentially and far more than people expected that it would. Do you have a view about how resources could be better aligned in the future between the pre-poll and polling day itself and whether or not the growth in pre-poll means that we need to perhaps be investing more resources in the pre-poll period rather than on polling day itself?

Mr CARROLL — Yes, it is a very good question. It is always problematic because, as I said, the VEC has demonstrated time and time again that they are very professional outfit and there is always a consideration of how much the legislation intervenes in and codifies what should otherwise be operational calls. But in the same vein obviously there is always a concern that if more money or resourcing is provided to any particular authority, also there is a request that there is a bit more oversight of a particular space where it is prioritised by the same body granting those resources.

We always anticipated that early voting and pre-poll voting would grow pretty aggressively. We did not expect it to grow as aggressively. I think we were a bit more optimistic about that growth than potentially others. In hindsight it is always easy, and I am not suggesting that you are for a second — —

I am just saying that I think even the VEC acknowledged in the media at the time that they probably did underestimate how much the growth would be. I think everyone was a bit guilty of that, including us. I would be surprised if everyone got caught out again. There is always a risk that you then overdo it, and then on election day you find that you have got problems. That said, the upside of that is that you can monitor pretty quickly whether or not the early voting pre-poll is on target and you are getting the number of bodies through the door that you need to get to ensure that election day itself is not going to be a zoo.

If you frontload it, there is a much greater benefit to be able to compensate at the back end to ensure that you have got election day covered as well and you are very clearly not getting the traffic that you otherwise need to make election day a bit easier. The concern of course is that pre-poll early voting spikes so precipitously in the final three days of voting, so you would know only at the last moment and obviously it is a huge task logistically to hire people and have them ready to go. I guess all I can really say is you guys have my sympathy in trying to find a way to get there. So does Mr Gately in the sense that it is not easy.

I would be encouraged, however, in terms of the public acknowledgement on his part and the commission's part that they probably underdid it last time, so I would have thought their inclination would be to certainly amp it up again. But the concern has been obviously that with every election we have it grows so aggressively. I would be somewhat loath to suggest any sort of codification at our end as to what that might be, but in terms of the committee's liaison with the commission maybe there might be a way to find another way to allocate more resources in a more codified manner. It is just that the one thing would be — —

As I said, the propensity of somebody who has voted before in this space means they are much more likely to vote at early pre-poll again. I am sure a number of models can be worked up mathematically that could give a pretty healthy projection of where it is going to head next time. As to the point at which we see a plateauing of the way people exercise their vote in that space, then you are probably going to get a much better aligning of resource allocation. I think until then we are basically trying to do our best guess with as many mathematical models to inform us as possible.

The CHAIR — The committee wrote to everyone who stood at the past election, so we have had a lot of submissions from independents and certainly smaller parties. A lot of the independent submissions are arguing that the whole electoral system is skewed towards the major parties and are suggesting a range of remedies for this, ranging from restricting the number of volunteers the large parties have at pre-poll and polling booths and going through to the abolition of how-to-vote cards, with the VEC being allowed to just

have a card at an individual polling booth. I will ask the same question of the Liberal Party, obviously. Does the ALP have a view on the role of volunteers in handing out how-to-vote cards and indeed how-to-vote cards themselves?

Mr CARROLL — The ALP has always believed that anything that sits in the space of trying to somehow constrain the exercise of free speech, of ideas, at the voting booth — outside of the statutory requirements of how close you can be to the actual casting of the ballot of course — the idea that somehow we have a system that constrains people's ability to exercise their view politically in relation to an election, it is, firstly, in my view completely inappropriate as far as all the laws of the land — common and statute — apply, but equally, I think there is something quite strange about trying to constrain a polity from exercising its views and explaining and conversing with each other in that space just at the time that they are trying to cast a ballot as to who they support for whatever reason.

I note that a number of parties are increasingly struggling to put enough people on booths. They have my great sympathy, but it is really not something that that would provide a fix for. I think the biggest danger there would be if you start constraining the exercise of free speech at that space, you are opening the door to a pretty dangerous precedent where suddenly we are regulating where people can have their say and where they cannot. We have made the call as a polity quite some time ago that you obviously cannot get too close to the casting of the physical ballot when you are handing out cards. I think that is appropriate. If there are discussions about how that is enforced and whether there is enough resourcing in relation to that particular thing, we are not opposed to that. But beyond that our firm view is that the idea that I can constrain any member of this committee, for example, on election day having a say to somebody just before they are about to cast their ballot on the pavement outside of a voting booth is a very dangerous precedent.

I also make the point that a number of people just come out of the voting booth and talk to somebody who is about to go into the voting booth, and they are talking about whether they are going to be able to drop their kids off to them on Tuesday night. They are not talking about politics. Where does that begin and end, for example? Who is there to regulate them? Who is there to stop them? I think it is a very strange approach. I also make the case that there are always people who will have a view that a particular system or electoral landscape is somehow slanted against them. The fact is that they are able to nominate and a number of independent candidates have been successful, certainly in the Senate in recent times federally but equally in the upper house with smaller parties. If ever there has been an argument that it is really not slanted, I would just point to the proliferation on non-major parties in the Parliament right now. I do not think the electoral reality stacks up with that perception.

Mr SOMYUREK — In fact I doubt whether this Parliament has the legislative power to be able to stop or cap volunteers. Clearly there are constitutional issues there. There are certain things that might be able to be done through campaign finance reform, which might stop in-kind or paid volunteers — they are not volunteers if they are paid really — but I think there will be used constitutional issues with trying to stop people from volunteering. As you have pointed out, there is freedom of speech, freedom of association et cetera.

The CHAIR — Again, I thank you, Mr Carroll, for coming along to this inquiry.

Mr CARROLL — Through you, Chair, my apologies, I should have mentioned this before. There is one other thing that we would suggest just in the pre-polling and debating space. Our recollection was that there was only one late evening provided for the pre-poll early voting for casting of the ballot. We would respectfully request that consideration be given to more such evenings. I point to that on the basis of what I indicated earlier, which is that we do see a correlation and a relationship between the increasing propensity of flexible and shift-related work hours for people, and we see a relationship between where people work and where they cast their ballot. We think a few more late-night, pre-polling early voting would be a good suggestion.

Mr SOMYUREK — Could I ask one more question?

The CHAIR — Yes, but bear in mind that we need to get the next witness in. We did start late.

Mr SOMYUREK — Just a quick one. Federally they do count the pre-polls early on the night now too. I think that is a good point to make as well.

The CHAIR — Thank you for coming along. You will receive a Hansard transcript of these hearings in about a fortnight. The rules are that you cannot change your evidence, but if there is some obvious error or there has been a mishearing of something, you will get a chance to amend the transcript before it is published. Thank you very much.

Mr CARROLL — Thank you very much.

Witness withdrew.