

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into the conduct of the 2014 Victorian state election

Melbourne — 12 August 2015

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Witnesses

Mr Simon Frost, state director, and

Ms Donna Bauer, member, administrative committee, Liberal Party of Australia (Victorian Division).

The CHAIR — Welcome to the second day of proceedings of the Electoral Matters Committee. I welcome Simon Frost, the state director of the Liberal Party, and Donna Bauer, who is on the admin committee of the party, to the committee hearings. Thank you for your submission and for your appearance today. Can I just advise, given that there has been a little media interest in this, that you have parliamentary privilege for the occasion of these hearings, but you do not have parliamentary privilege outside these hearings. Mr Frost, and likewise Ms Bauer, could you state your full name and business address and advise the committee of the capacity in which you are appearing before it, either on behalf of an organisation or whether in the capacity of a private individual. Perhaps touch on the submission and then the committee will ask questions.

Mr FROST — Thanks, Chair. My name is Simon Jeremy Frost. My business address is level 3, 104 Exhibition Street, Melbourne, Victoria, 3000. Should I then proceed?

The CHAIR — And you are representing?

Mr FROST — I am here in my capacity as state director of the Liberal Party.

Ms BAUER — Donna Jane Bauer, I am a member of the administrative committee of the state Liberal Party, so the address there is the same — 104 Exhibition Street, Melbourne. I am also here as a former member for Carrum and giving a personal perspective on the state election.

The CHAIR — If you could address the submission, thank you.

Mr FROST — Thank you for the opportunity to appear today. As the committee is aware via the Liberal Party submission, I would like to touch on three main topics today. One is technical — that is, the authorisation of how-to-vote cards at the state election. Second, is the more comprehensive counting of votes on election night, which I understand was touched on by people yesterday. Third, I would like to address some themes around behaviour at polling booths at the last state election and some ideas that the Liberal Party has for improvements in administering that.

The first issue I wish to raise with the committee is the authorisation of how-to-vote cards. We believe the Electoral Act requirements relating to the authorisation of how-to-vote cards are excessive and bureaucratic. Current provisions require a how-to-vote card containing voting instructions for both a lower house candidate and an upper house candidate to have separate authorisations for each, even if they appear on the same page. Should the same how-to-vote card contain a political message or a voting instruction on the rear of the card or in another language on the reverse side, these additional elements must also carry a separate authorisation.

As members would be aware, at elections there are a number of voting centres which are shared between multiple districts and regions. How-to-vote cards for these centres contain many separate authorisations on the one card. For the benefit of the committee, I have brought examples of the current how-to-vote card.

The CHAIR — Would you like to hand them over?

Mr FROST — Yes. One, two — there are four.

I will just talk you through the authorisation. You will see that this is a split how-to-vote card for the districts of Box Hill, Burwood, eastern metropolitan and southern metropolitan; and you will note that each element — be it the how-to-vote card for the Box Hill district, the how-to-vote-Liberal card for the Burwood district or the two upper house districts — all have to have an authorisation line on them.

This gets even more complicated. I will not distribute that, but we have some booths that have multiple upper house and lower house districts. It is our contention that apart from maintaining the existing registration requirements for how-to-vote cards under the act we would like to see a similar authorisation regime as the one contained within the commonwealth electoral act. We humbly suggest that that be adopted here in Victoria.

The CHAIR — Which is just one.

Mr FROST — Yes. I have an example of a commonwealth Liberal Party how-to-vote card, which adheres to the act. You will see there is one authorisation line at the bottom and one on the back. While that is a technical argument, it has real-world applications in our division in particular and, I humbly would suggest, for how the Labor Party and other political parties handle their how-to-vote card material.

I will turn now to election night vote counting. At the 2014 state election, early voting increased to more than 25 per cent of the overall number of votes cast. This is a threefold increase over the last two electoral cycles. Despite the large increase in the number of people casting earlier votes, the commission currently makes no provision to count any of these votes on election night. Committee members may be aware in other Westminster jurisdictions, in particular in the UK, all votes are counted and results declared in a matter of hours after the polls are closed on election night.

Although our system of compulsory and preferential voting makes this type of outcome unlikely, it is time, we believe, to look at reform in the way votes are counted in Victoria on election night. If this trend in early voting continues, the Liberal Party believes there is a real possibility that a much higher number of seats will remain in doubt on election night and potentially only 50 per cent of total votes cast will have been counted. Such delays, as you would be aware, can lead to public uncertainty about who is rightfully in charge of executive government. This is a foreign concept in Victoria and in Australia. It is the view of the Liberal Party that the rapid increase in the number of early votes cast needs to be addressed by conducting at the very least a partial count of early votes on election night.

I now come to the third and most important issue I wish to raise with members, and that is the behaviour at polling booths throughout the course of the 2014 state election. It is our firm belief that the behaviour of workers at early voting centres and election day polling booth requires urgent attention from the committee to ensure scenes witnessed are not repeated in three and a half years time at the next state election. I have been involved in politics for over two decades, which is a long time for some. I can say unequivocally that the behaviour of workers on polling booths at the 2014 state election represented a new low in all my years of campaigning in Victoria.

In my role as campaign director for the south-east I witnessed firsthand bullying, intimidation, harassment and misrepresentation by booth workers in the seats of Narre Warren North, Cranbourne, Carrum and Bentleigh — firsthand! I also received many firsthand accounts of what transpired at both early voting centres and election day polling booths at the 2014 state election. I would like to bring to the committee's attention a poignant example, as told to me by a booth worker who volunteered for the Liberal Party at Our Lady of the Sacred Heart College, which is located on Jasper Road in Bentleigh:

I was there from 4.00 p.m. until close of polls at 6.00 p.m.

A female voter in her 40s came to vote in the afternoon and became visibly distressed at the aggressive tactics and approach of Labor, Greens and the union representatives. Once she had voted she returned and confronted them about their aggression.

One young male Labor representative assaulted her by taking her by the arm and inappropriately tried to physically escort her off the school grounds. He said loudly to her, 'You should leave because what you just said was very insulting.'. I saw this unfolding and was concerned for the female. Before I could intervene a male Labor supporter stepped aggressively in front of me and said, 'You're not going to get involved in that are you?'. I was shocked and felt quite threatened. Unfortunately there was no electoral commission worker monitoring outside the polling booth.

In all my years of electioneering this was the most aggressive, confrontational and threatening campaign I have ever experienced. Traditionally we have a cordial and courteous relationship with other parties and candidates but in my view this aggressive style of behaviour is simply unacceptable and must stop.

Committee members, unfortunately this description is similar to many other firsthand experiences of Liberal Party volunteers. I know all too well that in politics we play for keeps. The contest of ideas and the contest for public support is emotional and passionate; however, bullying, intimidation and standover tactics is not something that can ever be tolerated.

Here in Victoria and indeed throughout Australia we have a proud tradition of peaceful elections, thank God, and when it is the will of the people, peaceful transition from one political administration to another occurs. I submit to committee members that Liberal Party members of Parliament, candidates and volunteers were harassed or intimidated and threatened, in a deliberate attempt to hinder their ability to distribute how-to-vote cards and communicate with voters, and this impacted on the democratic process. I would be derelict in my duty as state director not to raise these concerns in such a manner as I am today. As a result of this, the Liberal Party recommends several urgent changes to electoral laws to give greater protection to representatives of all parties — not just Liberal Party members — and all candidates who are handing out how-to-vote cards at early voting centres and at polling booths.

First, we recommend changes to electoral laws to prevent anyone handing out election material at polling booths who is not authorised by a registered political party or candidate. I submit for the committee's consideration that anyone handing out material at an early voting centre or polling booth must at least submit on arrival a written form identifying themselves, similar to those that are used to register scrutineers. At a minimum, this would allow returning officers some point of reference and evidence to use in adjudicating on an incident at a polling booth, or if police are called, which is often the case, providing evidence for them to investigate. Secondly, the Liberal Party recommends changes to the electoral laws to prevent volunteers at early voting centres or polling booths from impersonating any profession or indeed any interest group to which they do not legitimately belong.

In my earlier remarks I discussed the authorisation of how-to-vote cards and the need for thorough checking of the veracity of such documents. I refer the committee to section 84 of the Victorian Electoral Act 2002, which discusses misleading or deceptive matter. Section 84, subclause (1) states:

(1) A person must not during the relevant period —

(a) print, publish or distribute; or

(b) cause, permit or authorise to be printed, published or distributed —

any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the vote of that elector.

Committee members, given the unprecedented behaviour at polling booths during the 2014 state election, I submit that the committee must give careful and thorough consideration to amending this clause to not only cover printed, published or distributed material but also to ensure deceptive conduct is not undertaken by those canvassing support from voters on the day. This strong action must be taken to ensure the integrity of our electoral system.

Finally, the Liberal Party recommends the Victorian Electoral Commission provides more comprehensive training on electoral laws to polling booth and election staff to allow them to adequately enforce the law at early voting centres and at polling booths. In conclusion, Chair, the Liberal Party would like to place on record its thanks and appreciation to the Victorian Electoral Commission and its staff for conducting the 2014 state election. I thank you for the opportunity to attend and discuss these matters today, and I would like to introduce my colleague, Donna Bauer, to make some further comments. Thank you.

The CHAIR — Please proceed.

Ms BAUER — Thank you, Chair and committee members, for the opportunity to appear before you today. I would like to note from the outset that I am here today as a member of the Liberal Party's administrative committee, in full acceptance of the result of the 2014 state election, and respectful of the determination of the people of Carrum.

Today I would like to share with you key reflections and my firsthand experiences from the 2014 state election. First, at the 2014 election I noticed that there was a noticeable shift and change in behaviour at polling booths. I have participated in numerous past state and federal elections as a volunteer, as a candidate and also as a member of Parliament. In my experience candidates and volunteers in past elections have been predominantly cordial with each other with a level of mutual respect for each other's political beliefs. At the 2014 poll I am of the firm view that there was a definite shift in the polling booth

and the pre-poll behaviour. Never before have I witnessed such levels of aggression and inflammatory behaviour, to the point of bullying, during voting periods. I am aware that at the Carrum early voting centre the police were called on two separate occasions by the Victorian Electoral Commission due to a paid campaigner becoming aggressive and intimidating not only towards other volunteers but, alarmingly, also towards electors attending to cast their vote.

Secondly, I am concerned about campaigners who purported to be something that they were not. As Mr Frost has discussed in his presentation, the Electoral Act prohibits misleading and/or deceptive material from being printed, published or distributed during the course of the campaign. Over the course of the early voting period and on election day I witnessed people arriving to hand out cards in their regular clothes, only to reach into prepacked tubs provided by supporters of the then opposition and to change into their costume yellow overalls designed to impersonate Victorian firefighters. When asked by members of the community about which brigade they belonged to, they would become defensive, they would become agitated and even aggressive towards other CFA volunteers who were inquiring, as well as electors who were coming to vote. Senior elected officials and supporters of my opponents witnessed this behaviour and condoned it through their refusal to insist that such behaviour cease, even when it was clearly upsetting and threatening.

During the early voting period and on election day I was approached by the local Carrum electorate CFA volunteers who were highly embarrassed that they were being misrepresented, as paid and volunteer campaigners from the left were impersonating them. I am in full agreement that the act should be amended to ensure that deceptive or misleading conduct is not undertaken by those canvassing for support on the day from voters.

The third point I wish to raise with the committee is of the deliberate campaign of intimidation perpetrated by supporters of the then opposition. As committee members would be aware, over the course of the 18 months leading up to the state election I faced a personal health battle, and a battle in particular with cancer. My political opponents from the left employed deliberate tactics to denigrate and humiliate me due to my battle with cancer. I found this to be distasteful and shameful. One of the most distressing incidents of these attacks on me, because of my health battle, was by a union firefighter handing out cards at Carrum early voting centres. The individual, standing within my earshot, sought to deliberately mislead electors about my health and how my health should make me view certain policies and my position on such things.

Besides the misleading attacks on me due to my health, during the course of 2014 supporters of the then opposition engaged in a concerted campaign of intimidation of community members and supporters with inappropriate protests, picket lines, standover tactics and verbal abuse at both community and supporter events. Before appearing today I had cause to speak with former colleagues who echoed a belief that there was a disproportionate targeting of female Liberal members of Parliament and candidates by opponents —

The CHAIR — Excuse me for a moment. I have pulled up other witnesses giving very long presentations because there does need to be an allocation of time for questions.

Ms BAUER — Last page.

The CHAIR — So if you could conclude, I would be very grateful.

Ms BAUER — by opponents, through tactics I have just described, and such things as stalking through Facebook and other electronic mediums.

Committee members, I understand that politics at all levels is a rough-and-tumble affair; there will always be winners and there will always be losers. I am of the firm opinion that the conduct displayed during the course of the 2014 state election set a new low for politics in this state. Over the course of your hearings and deliberations I urge you to reflect upon these examples, as you have a great responsibility and opportunity to ensure the pursuit of politics in Victoria can again be noble and respectful. I ask the committee to think carefully about how we can ensure that the early voting centres and polling booths for the 2018 state election can be better managed and controlled. Democracy is a battle of ideas and contested

positions. The process of voting, however, should not be a field of battle. Thank you again, Chair and committee members.

The CHAIR — Thank you very much.

Mr DIXON — Simon, did the people coming along to vote feel intimidated, or is the main issue with volunteers handing out how-to-vote cards? Where was the aggression that was reported to you mainly directed?

Mr FROST — We had people complaining to us at Liberal Party headquarters, ringing up afterwards and complaining about how they were treated.

Mr DIXON — They were voters?

Mr FROST — Voters. We also received dozens, maybe hundreds, of reports from the field from very early in early voting centre days about a menacing tone that was being picked up by our volunteers and which continued throughout the two weeks of the early voting centre period and then on election day in some parts of the state.

Mr DIXON — So you are saying that voters, just the Joe Blow voter, rang and said ‘I felt threatened or intimidated’ or whatever?

Mr FROST — You would have to talk to the electoral commission, but I understand they received some feedback from the field from voters as well. As part of our state election review, we received over 400 submissions from people who were talking about a wide range of issues to do with how the Liberal Party ran its campaign, but a constant theme was a menacing, intimidating polling day and early voting centre tone.

Ms BLANDTHORN — We heard from the secretary of the firefighters union yesterday that only career professional firefighters were issued with the union-purchased costumes. What would you see as the difference, then, between union members and supporters wearing those costumes and campaigning and declaring effectively who they are — they are career professional firefighters expressing a political view about the policies that were being put forward in the lead-up to the election — versus party political campaigners, whether they be Liberal Party, Labor Party, Sex Party or whoever, wearing the party political T-shirts?

Mr FROST — I might hand over to Donna for an example, but we believe that our suggestion that booth volunteers be registered would eliminate any possibility of misrepresentation.

Ms BAUER — On a daily basis I witnessed down at pre-poll and on election day people arriving in their citizens clothes and then reaching into a tub that had obviously been provided and pulling out the overalls and putting them on. In one instance at the Carrum pre-poll there was even a Greens volunteer who ran out of how-to-vote cards, went over to the union box and pulled out the pants, put them on and started handing out as a firefighter. That was noticed by several people on the day.

Ms BLANDTHORN — I respectfully suggest that we heard otherwise from the secretary of the firefighters union yesterday who told us that the costumes that were bought were only worn by career professional firefighters.

Just to explore further the suggestion of registration of volunteers, I am interested in where you would draw the line between somebody who is handing out how-to-votes specifically at a polling booth on election day versus somebody who might just be expressing a democratic view, whether they are a member of a political party, a union organisation or any other organisation, or whether they are just Joe Blow in the street suggesting to people that they think they should vote in a particular way for a particular policy reason. Where, if you had a registration process, would you draw that line?

Mr FROST — Through the registration process people would be authorised to hand out a how-to-vote card.

Ms BLANDTHORN — You do not think that would curb people's democratic freedoms to express a political view if they were not registered?

Mr FROST — If they were not handing out how-to-vote cards, they could still attend a polling booth and talk, yell or scream.

Ms BLANDTHORN — What about those people who take the how-to-vote cards home and give them to their families? At what point do you draw the line between somebody who is registered to hand out the how-to-vote card in front of a polling booth and where those how-to-vote cards might end up by virtue of other volunteers, community members, organisations or family members taking them elsewhere?

Mr FROST — We would have to work with the Victorian Electoral Commission on establishing a minimum zone around a booth, I guess, in the same way that they currently do not allow party political material within 3 metres of a booth.

Ms BLANDTHORN — So once it was outside of the booth it would be okay for other people to then distribute it? An organisation — for example, an environmental organisation — could then take those how-to-vote cards and distribute them to their members via email and say, 'Here is your how-to-vote cards to take with you on election day if you want to support the same things we want to support'?

Mr FROST — Obviously we do that presently too.

The CHAIR — I have a question for you, and it is the same question I asked the ALP. I wrote to every independent candidate, so the submissions that have come back are dominated by independent candidates and small party candidates, and the constant theme is that the whole system is skewed towards the major parties. The recommendations have been a range of suggestions from banning how-to-vote cards at polling booths and just having them within the booth to the abolition of compulsory voting. Limits on the number of volunteers outside booths have also been suggested. Does the Liberal Party have any response to those sorts of claims that the independents have put up?

Mr FROST — We respectfully believe that a how-to-vote card is a useful tool to have at a polling booth. I know they are banned in some states, but we have no desire to go down that path. In terms of the number of volunteers that assemble at an early voting centre on election day, our submission is all about better control, better rules and better training so that electoral staff can ensure that the democratic process is not impeded. In terms of the number of volunteers, we do not see that we need to regulate the number of volunteers at polling booths, just their behaviour.

Ms SPENCE — I am concerned about your allegation of people impersonating firefighters and drawing that conclusion based on them getting changed at the polling booth. Did you have any communication with people where they said they were not firefighters? How have you drawn that conclusion?

Ms BAUER — I was at pre-poll setting up and packing up every day, and I had a lot of conversations with all sides of politics that were there. Most of the time there were three or four supporters of mine, and sometimes there were up to 20 Labor and union supporters there from a range of different unions. People, when questioned — and not only by me, but I had conversations with people — would say, 'No, we are just here supporting, we believe in the cause'. If questioned further, even by members of the public coming to vote — I overheard numerous members asking, 'Which brigade do you belong to?' or, 'Are you a paid firefighter or a volunteer firefighter?' — the people would get quite aggressive in their responses, be very evasive or would not say.

I am a pretty reasonable person, and from my personal experience, I believe that I saw quite a few people who were handing out. As I said, in one example I saw one of the Greens' volunteers handing out and then hopping into the clothes. When I went to get my phone out to take video footage, because often the

electoral commission would say to take a photo if there was anything, I felt intimidated and even threatened. In one instance I was actually shirtfronted by someone who saw that I was trying to take a photograph. In my experience, I would absolutely say that there were people who were not career firefighters or even volunteer firefighters handing out. I think a good example is when my local CFA volunteers came up; they went and asked some of the firefighters where they worked, and they would not tell them. They were highly offended.

Ms SPENCE — Just to follow up, is it fair for me to say, then, that it is your opinion that they were not firefighters rather than that you have evidence that they were not? It is your opinion?

Ms BAUER — Certainly, as I mentioned from my experience and from conversations that I overheard, I believe — and if you would like to say that, it is my opinion — that there were people who were not firefighters handing out. Do I have evidence of that? I do not have photographic evidence. But I think it has been widely reported, and even yesterday Peter Marshall mentioned that the costumes were actually used. So I do believe that it was a problem and that people were dressing up and deliberately trying to mislead the electorate and the community.

Mr DIXON — Simon, do you think the electoral commission staff were overwhelmed and underprepared for the heavy numbers of pre-polling and also the sort of behaviour that seems to have happened at a number of the booths? In fact I witnessed it, because I worked in some of the pre-polling outside my own electorate and that was sort of the atmosphere there. But in a general sense, were the electoral commission staff prepared and trained for the numbers and the behaviour of pre-polling?

Mr FROST — As per our submission, we think that there needs to be better training of returning officers so that they are able to act or are empowered to act on complaints from booths, because that process seemed to fall down, in our opinion.

Mr DIXON — Was it inconsistent? Was it effective?

Mr FROST — It is a very busy time, and we probably made 40 or 50 phone calls to the Victorian Electoral Commission to report behaviour. In the end, because those responses were not being followed through, we actually wrote to them on, I think, 10 occasions, but the response received back was in many cases inadequate, or often the case was that the issue had moved on and the point of confrontation had moved on. Perhaps we need to look at actually better empowerment at the coalface, which is the early voting centre or the polling booth, so that those returning officers are empowered and trained in how to act on any reports as they are occurring rather than after the fact.

Ms BLANDTHORN — Just one last follow-up to the issue of what we are referring to as the costumes. The secretary of the UFU was quite specific they were costumes purchased by the union because they would not have their career, professional firefighters out there in their actual uniforms, hence that was why they would need to get changed into those costumes at the polling station. You said that it is your opinion or you believe, in answer to Ms Spence's question, but you also referred just then to it being widely reported that they were not firefighters. Is there other evidence that you can direct the committee to that they were not actually firefighters, or again is that just your opinion or your interpretation of what you have heard out there?

Ms BAUER — It is my interpretation, but it has been widely reported through different electorates, not only in Carrum but through Bentleigh, through Mordialloc, that this was occurring, and through conversations with, as I suggested, even CFA volunteers. As they were coming up to ask, 'Which brigade are you with?', they were even informed that, 'No, we're just here helping today', or, 'We have a particular family member that we're here supporting'. So I cannot refer you to any official reports, but I would stand up in court and testify that these are the conversations that were had, and I am of the firm belief that this was a widespread problem, not only in Carrum but across many, many electorates.

The CHAIR — I would like to ask another question on a very important issue that we have not touched on yet, and that is counting of the pre-poll votes. Again, there has been a lot of evidence before this committee or requests to this committee that we should recommend that there be pre-poll votes counted on

election night. You have referred to a recommendation of a portion of early votes being counted on election night. Do you want to walk the committee through what proportion generally you would like to see counted? And if you have a suggestion for a count method for the VEC, you might like to place that on record.

Mr FROST — I think that they should look carefully at what the Australian Electoral Commission do. Perhaps a sample of 3000 votes would be a good starting point.

The CHAIR — I am conscious of the fact we went a bit over time on that. Thank you, Ms Bauer and Mr Frost, for coming in and giving your evidence before the committee. You will receive a transcript within about two weeks. Ms Bauer would be familiar with the system. You are free to make amendments to facts, not obviously to do a rewrite. So you will receive a copy of the transcript within about two weeks. Again, thank you very much for your presentation and for coming along today.

Witnesses withdrew.