

# **CORRECTED EVIDENCE**

## **ELECTORAL MATTERS COMMITTEE**

### **Inquiry into the conduct of the 2014 Victorian state election**

Melbourne — 11 August 2015

#### Members

Ms Louise Asher — Chair

Ms Ros Spence — Deputy Chair

Ms Lizzie Blandthorn

Mr Martin Dixon

Mr Russell Northe

Ms Fiona Patten

Mr Adem Somyurek

#### Staff

Executive officer: Mr Mark Roberts

Research officer: Mr Nathaniel Reader

#### Witness

Mr Peter James Marshall, state and national secretary, United Firefighters Union Victoria branch.

**The CHAIR** — I will start by welcoming you, Mr Marshall. Thank you so much for taking the trouble to write your submission and to appear before the committee today. I will just explain to you that what you say here — I am sure you would have read your pamphlet — is covered by parliamentary privilege, but should you take up the opportunity to do an interview with Ms Frances Bell after this, that is not covered by parliamentary privilege. I am sure a man of your experience will understand the difference, but you do have privilege for these particular hearings here.

My suggestion to you is that, as other people have done, you speak to your submission a little first, and then we will open it up for questions from the committee. I ask you to state your full name and business address, and obviously to indicate whether you are speaking in your individual capacity or on behalf of an organisation.

**Mr MARSHALL** — Thank you, Chair. My full name is Peter James Marshall. I am the state and national secretary of the United Firefighters Union of Australia. My business address is 14 Brunswick Street, Fitzroy, and I am speaking in the capacity of those offices that I hold. We provided a submission dated 8 July 2015. I assume that everybody has got a copy of that here.

**The CHAIR** — Yes, we all do.

**Mr MARSHALL** — We do appreciate the opportunity to appear before the committee of inquiry, because it gives us a chance to clear up some misapprehensions about our involvement in the last election as an organisation. First of all, Chair, can I say we were not quite sure of the terms of reference, because my understanding is it is an inquiry into the conduct of the election. We engaged in conduct in accordance with the Victorian Electoral Commission and conformed to that. I am quite happy to talk about the participation. Is there a difference between the two — conduct and the participation in the election?

**Mr SOMYUREK** — No.

**The CHAIR** — It is just basically an open-ended inquiry in statute under the Parliamentary Committees Act, which the government has replicated as a reference. It is basically to conduct an inquiry into the conduct of, meaning into the way the election was run, which is very broad. The government has removed from the reference ‘and other things thereto’, or something like that, which is in the act. Just in general you can talk about the election.

**Mr MARSHALL** — Thank you very much. The only reason I said that is that we have no control over the Victorian Electoral Commission. However, we did provide a submission and basically the submission outlines our organisation. It is a registered organisation under federal law and it has branches in Tasmania, South Australia, Victoria, the Australian Capital Territory, New South Wales, Western Australia and Queensland, and we have an aviation branch which has professional firefighters at most major airports around Australia.

We have a 95 per cent density in membership in most of those branches, which is fairly unusual for unions, but I think it talks volumes for the nature or the type of work we do. We look after professional firefighters, permanent and part-time, and we also look after other classifications employed by the fire services in the corporate sector, as well as some workshop personnel. We have appeared before many inquiries both at a Senate level and also during coronial inquests, and I think our bona fides have been made out in that regard.

Can I say to the committee that we do appreciate the opportunity. Essentially, professional firefighters had not participated at such a level as they did at the last election. Normally they are not that politically engaged. However, there were some significant issues at hand that warranted firefighters engaging in a campaign of information to the public. We understand that is in accordance with our constitutional right. That has been reaffirmed by Justice Dawson in a High Court decision — that is, *Levy v. Victoria*. I have got a copy of that decision if I can hand that up.

**The CHAIR** — Thank you.

**Mr MARSHALL** — In particular if I could take the committee to page 20 of 86, and its comments in reference to Justice Dawson's findings. It is halfway down and talks about sections 7 and 24 and related sections of the constitution essentially protecting the freedom of communication for people concerning political or government matters, which enables people to exercise their free and informed choices as electors. We submit respectfully to this committee that that is what firefighters were doing.

Additionally, if I could take you down to about halfway down the page under 56 there, it says:

It follows that in speaking of elections, the constitution is speaking of free elections which can only occur where there is freedom of communication about those matters which may properly influence the outcome of elections. The required freedom of communication is not confined to election periods and extends to all matters of government and politics.

As I said, firefighters are not normally as actively politically engaged as they were in the last election, but policy gave rise to them becoming actively involved and having a say as to what was happening in their industry as a result of the previous government. If I could submit that; I do not know whether this is a formal procedure.

**The CHAIR** — No, that is absolutely fine. If you want us to look at it, we will look at it.

**Mr MARSHALL** — We have read the submissions of other parties, and we appreciate the opportunity to clarify a number of things. When I talked about firefighters not involving themselves in such an extensive political awareness campaign, that is at paragraph 7 of our submission. Then it goes on at paragraph 8 to talk about their experiences. We actually spoke to our members about their experience, and it was a positive reaction from members of the public. Then we talk about our material. Our material that we utilised was factually based and backed up by annual reports, as well as transcripts of interviews from the then minister, Peter Ryan, in relation to budget cuts to the fire service. I have a copy of that which I can give to the committee members.

**The CHAIR** — If you want to hand it up, yes.

**Mr MARSHALL** — That was in relation to a \$65 million to \$66 million budget cut. I do not know if I have enough copies. Chair, will I proceed?

**The CHAIR** — Yes, please continue. It is your presentation.

**Mr MARSHALL** — This was 19 September 2012. It is an interview by Neil Mitchell with Mr Ryan. As you can see at paragraph 3 there, the interviewer, Neil Mitchell, asks:

How much is coming out of the CFA?

Mr Ryan responds by saying:

... in total ... in the order of \$40 million-odd and about \$25 million in relation to the MFB, but I emphasise, Neil, this is the second-biggest budget in the history of the CFA, exceeded only by last year's in the immediate aftermath of Black Saturday ...

And it goes on. Then Mr Mitchell puts a question to Mr Ryan in relation to the effect of those budget cuts. Mr Ryan, to be fair, says it is not a budget cut; it is a budget reduction — or Mr Mitchell responds it is a budget reduction. It talks about the various restrictions that were posed as a result of those budget cuts, such as firefighters having to recycle uniform, the ability to purchase *Melway* and other equipment, as well as training. I only say that because our material was based on factual information, and there has been some suggestion that some of it was misleading. So we just submit that, not for any reason other than just to clarify where the basis of our information came from.

We were also concerned, on paragraph 10, that if you have a look in our references, the MFB and CFA's annual reports, there was \$21 million spent on litigation over a period of four years. Most of that was in relation to, I then tack on, firefighters conditions of employment and the employment of more firefighters. That matter found its way to the full bench of the Federal Court, where unanimously the decision was upheld to employ those extra 342 firefighters as part of the outcome of the royal commission into Black

Saturday. But we submit very strongly, as we submitted to the public, that it is totally inappropriate that moneys raised under the fire services property levy be used for such litigation, in particular litigating against the number of extra firefighters that was deemed to be necessary. It actually states on the government website what the purpose of the fire services property levy was for. We go into that further on in our submissions.

If I go to a number of allegations that we understand to have been made — and we say this not to engage in an argument about them; we have just responded because we have been named — one of the first allegations is that career professional firefighters were participating in public political awareness campaigns while on duty. That is a falsehood. Not one career firefighter participated in the public political awareness campaign while they were on duty. If they had, they would have been charged under the various statutes for both the MFB and CFA. There was no report of absence or alternatively allegations of firefighters who were on duty engaging in that public political awareness campaign. That is just a matter of records from the agencies themselves.

The second allegation is that career professional firefighters were wearing Country Fire Authority and Metropolitan Fire Brigade uniforms while campaigning. Again, that is a falsehood. The uniforms were purchased by the United Firefighters Union. They were never, and never have been, CFA or MFB uniforms. They are indeed uniforms that designate that a person is a firefighter, but they are not agency specific. In fact, there is a directive from both the CFA and MFB that states a prohibition on members wearing their brigade uniform, being the MFB-designated or CFA uniform, at rallies or at political protests. Again, that was a falsehood. I can provide the receipt if necessary as to the cost of those uniforms. They were purchased by the union, if there is any doubt about that.

On allegations that firefighters who were wearing uniform for the public political awareness campaign were not real professional firefighters, we pride ourselves on being a registered organisation with accountability under the rules. We have a register of members who actually participated. With respect, I think the committee would understand why we do not put forward those names. However, we had a very rigid system as to who received our material. In fact, we had a roster of members who were off duty who actually participated, both during doorknocking as well as on polling day. Again, I emphasise that we do not see that we have done anything wrong. In fact, we were just exercising our constitutional right, in accordance with the Australian constitution, to engage in the political process and to have a say in relation to political matters that affected firefighters as well as the public.

On the allegation of the use of operational fire appliances on election day, we understand that there have been some issues in that regard. I respectfully submit — and again I can provide the evidence of the receipt — that we hired a decommissioned fire appliance and that fire appliance was utilised by members of my union, who are firefighters, in part of their public awareness campaign. Again, as I said to the committee, I can provide the receipts for that, but there was not one state resource used in relation to this process at all. In fact again there is a prohibition and it is an offence for a member to do so, for which they could be charged and dismissed. There has been no allegation by the fire services themselves as to the utilisation of their fire trucks for that purpose, so I am not quite sure where that came from, other than someone seeing a fire truck who did not inquire as to where it had come from. We actually hired it. On a lighter note, most of the time it is hired out for children's parties, but on this day it was something more serious for us.

On allegations that career professional firefighters were intimidating state election candidates and volunteers, we strongly dispute that. Professional firefighters not only abide by a code of conduct that is enshrined in public sector management but also they pride themselves on their appearances. I think the community would realise that firefighters are continually held in high regard by the community through surveys as to being the most respected profession — sorry, either second or the most respected profession — continually. They pride themselves on that reputation, and certainly the allegations are unsubstantiated.

We did experience — and we used the proper authorities to report such — a few isolated incidents where people were probably overcome with their emotions, as normally happens, and there was verbal bantering.

On one occasion there was a crossing of the line, and we referred that matter to the police as well as writing to the director of that particular party as to, 'Look, that is just not appropriate. These people have a right to do what they are doing, and that the behaviour was totally inappropriate'. But we strongly dispute, and we challenge anyone to produce, any evidence of our members, firefighters, engaging in intimidating behaviour. In fact it is probably very offensive, given the work they do.

They are some of the allegations, Certainly the how-to-vote cards that were issued that firefighters handed out on that day — and again I say this with respect to all the committee members — this was about our concerns about the government's policies of the day. If another government has bad policies, we will express those concerns as well, irrespective of party. They were actually registered with the Victorian Electoral Commission, and I will hand them to you. It illustrates the type of uniforms that the firefighters were wearing, and you can see them clearly identified by the union's T-shirts. Anyone who suggests otherwise, I would like to see the evidence on that. They are clearly distinguishing, I think.

The concern in particular was, apart from the \$65 million budget cut, the employment of 342 extra firefighters that were predominantly marked for the black spots as identified as a result of the 2009 royal commission. They were announced by the previous government, prior to the Napthine government, in October 2010. In November 2010 there was a change of government. In February or March 2011 the CFA decided that they were not to be bound by employing those 342 firefighters. They were not about union numbers; they were about fire safety on the fireground. In particular they were about having enough firefighters to do the job safely. As a result of that, legal action in accordance with the laws of this land was taken on behalf of the firefighters by the union, and that decision was upheld as to those firefighters having to be employed on 15 January 2015 by the full court of the Federal Court. Again, as I say, these matters were legitimate.

Additionally we had concern about cancer laws. It is now a fact that firefighters have a higher chance of contracting certain types of cancers because of the work they do. There was a Senate inquiry in 2011 with a full Senate examination of the incidence of cancer amongst professional firefighters and that of the rest of the public based on the science. As a result of that Senate inquiry, unanimously the federal Parliament of Australia enacted legislation called fair protection for firefighters and that identified 12 cancers as being work related for professional firefighters as a result of their accumulated exposure. Many of your committee members have probably received and are probably sick of my presentation on that particular issue, but we have lobbied very extensively for that. The particular legislation after 2011 was then rolled out in Tasmania, Western Australia and South Australia and is now in place in the Northern Territory, and I am appearing before an inquiry in Queensland on Thursday.

**The CHAIR** — Excuse me, but could I just indicate to you that this is a half-hour presentation and we have asked people just to give a summary of their presentation, which you have. Obviously we would like to have an opportunity to ask you some questions, so is it possible for you to conclude your presentation?

**Mr MARSHALL** — Chair, there is an old saying: never give a union official a microphone.

**The CHAIR** — Nor a politician!

**Mr MARSHALL** — I am happy to answer any questions.

**The CHAIR** — Thank you very much. Again, thank you for appearing before the committee and for the submission you have given. Can I just absolutely check on your point 4, that the UFU hired one decommissioned fire appliance in this campaign, just one?

**Mr MARSHALL** — Absolutely. Yes, that is correct.

**The CHAIR** — So the one we saw in multiple electorates is the same one going between all of those electorates.

**Mr MARSHALL** — 100 per cent, yes.

**The CHAIR** — Alright. Any further questions?

**Ms SPENCE** — I have a question. You would have noticed from the submissions that the big issue of the UFU members participating came through on a few occasions.

**Mr MARSHALL** — Yes, kind of noticed that.

**Ms SPENCE** — Kind of noticed that! Why do you think that that participation was considered so offensive to people?

**Mr MARSHALL** — As I stated and as I respectfully submitted to this committee, the firefighters have never been as actively politically engaged. I also stated that firefighters are held in very high regard by the public. They felt so strongly about what was happening to their fire service, to their own safety as well as that of the community, and they engaged with the public, and it is a powerful message. I think some people have taken offence to the fact that that is a very powerful message. That is why I pointed out it was factually based.

**Ms PATTEN** — Yes, you got more of a mention than we did in the submissions.

**Mr MARSHALL** — Is that good or bad?

**Ms PATTEN** — For me, good. Looking at the uniforms that you as a union supplied, would you concede that they were very similar to the volunteer uniforms? I note that the volunteer fire association are saying that they felt that you were imitating them.

**Mr MARSHALL** — With respect to the volunteers, we do not need to imitate volunteers. We have our own political capital. I say that with respect, and I do not want to get into an us-and-them conversation here. All firefighters serve the community well, but firefighter uniform is generic around the globe. If anyone starts trying to tell me they can distinguish between one classification and another by the type of uniform they wear, it would be interesting to know, because just as uniforms are similar or different in New Zealand, they are similar or different in the US and the UK as they are here in Australia, depending on what state you are in. I can understand that allegation, but it is not made out when you look at the facts.

**The CHAIR** — My question goes to your point 5, the allegation that the behaviour of the firefighters on pre-poll and possibly polling booths was intimidating. I suppose intimidation is in the eye of the beholder. You say that you were not, and you categorically deny it.

**Mr MARSHALL** — Absolutely.

**The CHAIR** — That is fine, but can I put it to you that if you are a small female candidate and you have got a range of very big, tough men in fire uniform standing in close physical proximity to you at a polling booth, could you rationally understand why that woman might feel intimidated?

**Mr MARSHALL** — With all respect, no, for this simple reason — that is, that the make-up of the fire service is not the stereotype large, big men. It is mixed-up with gender as well as nationality, ethnicity base, and all shapes and sizes. It reflects the community. Additionally to that, I have been firefighter for 30 years. I have never had a member of the community say that they were intimidated by the presence of a firefighter, even at the worst possible time, where they are panicking or whatever. So I do not accept that. You are right, it is in the eye of the beholder, and if someone had that perception, they only would have had to ask or have a discussion. But I think you need to distinguish again between what the firefighters were doing, and that is that they were exercising their constitutional right and in a professional manner. If someone was perceived to be intimidated by that, that is a bad thing, but I cannot see how they could come to that conclusion, with respect.

**The CHAIR** — Alright. Any further questions? Mr Marshall, thank you very much for coming before the committee. It is much appreciated. Can I indicate to you that you will have a transcript from Hansard sent to you within the next fortnight or so, or in about a fortnight or so, and you are free to amend it if you

think there are some factual errors, and obviously then that will form part of the public record of the of this committee.

**MR MARSHALL** — Thanks, Chair, and thank you, committee.

**Witness withdrew.**