

ELECTORAL MATTERS COMMITTEE

Inquiry into the Conduct of the 2022 Victorian State Election

Melbourne – Monday 5 February 2024

MEMBERS

Luba Grigorovitch – Chair

Wayne Farnham – Deputy Chair

Brad Battin

David Ettershank

Sam Hibbins

Emma Kealy

Nathan Lambert

Lee Tarlamis

Emma Vulin

WITNESSES

Ash van Dijk, Secretary, ACT Labor; and

Adam Wojtonis, Director, Canberra Liberals.

The CHAIR: I declare open the public hearings of the Electoral Matters Committee's Inquiry into the Conduct of the 2022 Victorian State Election. All mobile telephones should now be turned on silent.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

My name is Luba Grigorovitch, and I am the Chair of the committee and the Member for Kororoit. Other members of the committee here today are my Deputy Chair Mr Farnham and the Member for Berwick Mr Battin. David Ettershank and Sam Hibbins are both apologies. Ms Kealy is here – she will be joining us shortly; she is the Member for Lowan. Mr Lambert is on the screen. Mr Tarlamis is on my right-hand side, and there is Ms Vulin.

I welcome today – and I hope that I have got the pronunciation correct – Mr Ash van Dijk and Mr Adam Wojtonis. Welcome along today. Thank you for being here.

All evidence taken by this committee is protected by parliamentary privilege in Victoria. Therefore you are protected against any action for what you say here today, but if you repeat the same things elsewhere, including on social media, those comments may not be protected by this privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

I do not see any media present. I would now like to invite you both to introduce yourselves and make a brief introductory comment that you would like to make. I am thinking perhaps if we go Mr van Dijk first for 5 minutes and then we go over to Mr Wojtonis. I will hand it over.

Ash van DIJK: Thank you very much, and very well done, Chair, on my surname. I think that is one of the first times I have heard someone get it right the first time.

The CHAIR: There we go.

Ash van DIJK: My name is Ash van Dijk. I am the ACT Labor Secretary. I have been in this role – I started just a couple of months after the 2020 election but had a fair bit to do with the 2020 election. I understand the committee is interested particularly in the exclusion zones of 100 metres on polling days and candidate statements, so I am very happy to go to questions if there is anything in particular you are interested in. But that is me.

The CHAIR: Okay. Thank you very much. We might jump over to Mr Wojtonis – hopefully I have done as well with that one as well. Do you want to say a few words? And then we will go into questions.

Adam WOJTONIS: Thank you, Chair. I am Adam Wojtonis. I am the divisional Director of the Liberal Party here in the ACT. I only just started in the role about a month ago, so I am sort of getting my head around all the different parts of it, but obviously happy to discuss the particular issues that the Vic committee is wishing to canvass. Just for context, I have previously been the deputy director of the Victorian division of the Liberal Party, so I am happy to sort of put that in the legislative context of the Victorian regime as well. I am happy to answer any questions that you have.

The CHAIR: Alright. Fantastic. We will get on with it, then. We actually just heard from the Electoral Commissioner for the ACT. It is quite a vastly different system that we have got here in Victoria, so we appreciate both of you taking the time today. I will hand it over to my Deputy Chair to fire away.

Wayne FARNHAM: In regard to the 100-metre rule for polling places in the ACT and what is forbidden within 100 metres – it is probably open to either Ash or Adam; I do not mind who answers this – how do you (a) go policing that with your volunteers and your candidates et cetera, and how strictly does the ACT Electoral Commission actually police that rule?

Ash van DIJK: I am happy to kick off if it is helpful. We made a submission to the 2020 ACT election review for the ACT Assembly on the fact that it is very difficult to adhere to the 100-metre rule. The reality is that we do not usually end up that close to polling places; rather kind of local shops or wherever within the vicinity of a polling place but that people are at is where our candidates and volunteers end up, so that is a challenge in itself and almost gets to the point – I have got this anecdote from 2020 where there was this older man that came across me volunteering at a shopping centre and got quite grumpy with me because he could not find his how-to-vote at the polling place. He took a handful of how-to-votes out of my hand, and then he came back afterwards and said, ‘I was handing out how-to-votes at the polling station for you,’ which of course is actually not allowed. But he thought he was doing our job for us because he thought, I do not know, maybe we were just being lazy or something to that end.

But going to your second point then is how well it is enforced. In our experience and in our submission we wrote that it is very hard to enforce because people are either doing it by accident somewhere in 100 metres around the polling place, which could be quite a vast area by that stage, or they are doing it on purpose, and so then the very kind ACT election staff or officials or volunteers or whatever it is are coming up against someone who is doing that on purpose. So our review was that we need to increase the deterrents or the fines or whatever it may be that would make it harder for people to flagrantly break those rules, because that was something that we experienced a fair bit in 2020. And then it is not only people handing things out but the mobile trucks with big signs on them constantly driving past on the street where the polling places are. You know, you could take a photo and send it to them, but by the time the electoral commission has the capacity, particularly on election day, to look into it, it is probably too late and the rule has been broken anyway. So I think, to your point, it is very difficult (a) to adhere to the rule and then (b) also wear the repercussions of breaking the rule, particularly when it comes to election day. It is very hard to see an outcome in time for it to make any impact.

The CHAIR: Okay. Great. Thank you. I will pass it over to Mr Tarlamis.

Lee TARLAMIS: Thank you for joining us today. I just was interested in any feedback around the candidate statements that were allowed for the first time at the last election – whether you think that worked well or poorly or whether that could be improved.

Ash van DIJK: Adam, did you – I took the last one.

Adam WOJTONIS: Look, I do not have anything to say on the candidate statements. I was just going to add to the point on the previous question, if anything, that it is a difficult thing to police in terms of the 100 metres. I think in Canberra it is a little bit easier than, say, it is in Melbourne to police the 100-metre rule because of the fact that polling places are much more spread out in Victoria. I know that in the past with 100 metres, you would have polling places in the vicinity of shopping centres and things like that, which would make it very difficult. But I think usually it is a case of people not knowing the rules or not knowing where the polling place is and driving into a zone with a mobile billboard or something like that. But anyway, I will let Ash answer the question.

The CHAIR: I apologise. I should have gone to you with that last question. Sorry.

Adam WOJTONIS: No, no. That is fine.

The CHAIR: Do you want to repeat your question, Mr Tarlamis?

Lee TARLAMIS: It was just regarding candidate statements and if there are any observations about – because I know that was new at this election – whether that worked well or whether there are improvements that could be made in that space and whether you see it as a valuable initiative.

Ash van DIJK: Sure. I think candidate statements are useful in respect of having a single source of truth. If someone is so keen that they want to go and check out who is running for election on Elections ACT's website and read their candidate statements, I think that is useful. But as I am sure everyone at the table on the committee or online is aware, we cannot win or lose elections on active participants going and checking things on websites; we have to take it out to them. So I think it is useful to have it for those really actively engaged constituents, but the reality of having to actually go out and talk to people about who we are and what we are doing is important as well.

The CHAIR: Perfect. Thank you. I am just going to go with first names, because it is easier. Adam, did you want to add in with that?

Adam WOJTONIS: Yes. I would just say it is always helpful to have some sort of official source of truth or something like that in terms of introducing candidates and the like. Knowing that local government elections in Victoria have candidate statements that get sent out to every elector, it does seem like a very helpful way of assisting the public to actually understand a little about candidates. I think it depends on how you actually deliver those messages to the public and to voters. If you are going to publish it on a website, someone has to physically go and search for that specific information, and from a party-political standpoint it is much more effective to go directly to the voter and speak to them and try to talk to them and find out about their concerns and talk to them about your vision and plans. So I think it is good and it has its positive impacts, but it is probably going to be very self-selective in the audience that actually views them.

The CHAIR: Okay. Thanks for those views. Mr Battin, did you –

Brad BATTIN: I have only just got one quick one. I think you have both had experience down here in Victoria in the past, and one of the things we have had raised in this hearing is around group voting tickets. We have had various views on group voting tickets – how they operate or the potential for interference. Just speaking from experience from you both being involved in Victoria, what would your views be on group voting tickets and the future of them and how they operate in other states – where do you think it would be a positive for a change?

Adam WOJTONIS: If you would like, I can go first, Ash. Look, I would say that group voting tickets have some benefit overall, but I think there has been a more recent trend to try and move away from them to empower voters to be able to actually provide their own preferences and say where they want their vote to go. I think that has been a very positive move that empowers voters with their vote, given that group voting tickets can at times be very opaque in the way they actually distribute preferences and you can have candidates winning that receive a very small fraction of the vote purely because they have done deals with others in backrooms. The experience of looking at the federal level – in terms of the Senate voting system being changed to get rid of group voting tickets and just getting voters to vote above the line for groups in their order of preference, I think that has been a positive change and has improved outcomes. In the context of the ACT elections, ACT elections are Hare–Clark, so there is a proportional ballot, similar to the Legislative Council in Victoria, and the end result is that basically you can have a proportional voting system that actually is very reflective of voters intentions. The only thing I would say is the ACT election voting system also includes Robson rotation, which randomises the order of candidates. So it has an impact on potential voting patterns and groups putting in their order of preferences. Given the traditional way that Victorian elections are run, where you actually have tickets by registered political parties to give the order of election for their preferred candidates, it does pose challenges to be able to actually say that this is the order that the party would intend on these people being elected if there was a group vote. But at the same time it also impacts the ability to have how-to-vote cards or provide information to voters on how they should vote for a particular party if they want to support that party, primarily because the reality is with Robson rotation, if you give a specific how-to-vote card providing an order of preference for a party's candidates, it can potentially lead to an increase in informal votes purely because of the fact that the order on the ballot cannot be predicted. There is something there. If you are looking at abolishing group voting tickets in the Victorian context simply by just getting rid of the preference deals in the background and purely going to above-the-line voting, similar to the Senate, I think that is a positive change. But I think Robson rotation in the Victorian context would probably be quite a stretch to implement and educate voters on.

The CHAIR: Great, thank you. Ash, did you want to add to that?

Ash van DIJK: I do not have a background from Victoria, so I could not really go to the points of group voting tickets and those sorts of things. But I would just echo Adam's sentiments about the challenges of how-to-votes, Robson rotation and Hare-Clark.

The CHAIR: Great. Thank you. Ms Vulin, I know you had a question.

Emma VULIN: Thank you. With the candidate statements, do you think the commission are the best option for providing them? Do you think they have an impact on the commission's impartiality or perceived impartiality?

The CHAIR: Do either of you have anything to say?

Adam WOJTONIS: I am happy to say in terms of the electoral commission being the medium through which this gets published, I think from an operational standpoint it is probably the most appropriate because they hold the electoral roll. They can disseminate this information to voters effectively, and they are usually the publisher of information around elections. So it would seem to me to be the most logical organisation to do this. In terms of impartiality I think voters are discerning enough to realise that these are statements from candidates, not from the electoral commissioner. But I do understand there is a risk that voters might perceive that there is some sort of endorsement where certain candidates do not put in a candidate statement and it is left blank. I think that there are issues around that, but I think overall voters are discerning enough to understand the source of this information is candidates, especially if there are clear disclaimers given on the material.

Emma VULIN: Thank you. I have got one other one, if we have got time.

The CHAIR: Yes. Ms Vulin.

Emma VULIN: I was just going to ask: what prompted the introduction of the truth-in-ads legislation? Do you think they go far enough or too far? Did the electoral commission have any involvement in formulating the process or the enforcement process for these?

Ash van DIJK: I am happy to go to a couple of those points. I have to admit I am not entirely sure what prompted the introduction of the legislation, as the party official that manages the organisation of the party as opposed to the parliamentary wing. However, Labor and the Greens have been in coalition together at some points, and we have a parliamentary and governing agreement that was agreed at the start of the term in respect of what we would put forward. I would not be surprised, if I had to hazard a guess, that it would have come through that process.

Truth in political advertising is a real challenge because of the nature of an electoral campaign and how quickly things move. The electoral commission has so much on. They have got to run the election and do truth in advertising and all the other things that come with that. I suspect there will be challenges, this being our first election in which it has been in place, with how much time and resources they can put into an investigation and how quickly they can turn one around. Then if something is found to be untruthful or damaging, how do you wind that back? They do have legislation and some of the guidelines that the electoral commission have put out set the frame of what that looks like, but it will be very interesting to see how that will work in practice. I am conscious as the closer you get to an election, the more heated things become, the more quickly the media cycle works. How is the electoral commission going to catch up?

Emma VULIN: Thank you.

The CHAIR: Thank you. Mr Lambert, are you still online?

Nathan LAMBERT: Yes.

The CHAIR: Do you have a question?

Nathan LAMBERT: Yes. Thanks, Chair. Again it is for either of you, Ash or Adam. As you might be aware, we had a 2022 election in Victoria at which we had some real challenges at polling places, with very assertive, at times outright aggressive, behaviour by volunteers on behalf of certain candidates and certain parties. I suppose for all of us it raised this issue of how you trade off the obvious desire to give people the opportunity to campaign at a polling place with the fact that you want to provide a safe and secure place for

people to go and vote and also of course for the candidates and campaigners and VEC staff who are there. So that has been top of mind for this committee in a lot of our discussions. Banning people outright at the polling place, as the ACT has done, is probably the most comprehensive solution, if you like. It obviously comes with costs. I am just wondering: has there been a debate about it in the ACT? Is there pushback where people are saying, 'Let's make it 50 metres. Can we have three people inside the area?' Is there any sort of discussion at the moment about maybe winding things back?

The CHAIR: Do either of you want to comment on that?

Adam WOJTONIS: I am not aware of any conversation about that as any sort of policy priority or any use of political debate around that. The one thing I would say to that is it is always a case of balancing the right to political communication and being an active participant in the political process with the risk of other negative consequences. We are liberal democracy. We have an inherent right to political communication in Australia, and I think that should be a very important thing that is maintained. Overall, I would say that it is a matter of the way the law works and how enforcement works above the law, whether it is the *Crimes Act* or even any sort of criminal liability in common law. I think that is where there should be more focus put on these things. It is an issue that needs to be addressed, I think. In the ACT context I have not personally encountered anyone who has complained about the fact that they do not stand on a polling place on election day at the ACT level. It is a potential solution in Victoria, but at the same time I think it has to be counterbalanced against other political liberties that people have.

Nathan LAMBERT: Thank you.

The CHAIR: Wonderful. Ash, did you want to add to that?

Ash van DIJK: Yes, just briefly. At the 2020 ACT election review there was an inquiry held by one of the ACT committees. That was part of our submission. I think it was part of the discussion as well in the committee hearings a couple of years ago now. So it may be worthwhile, if it is helpful to the committee, potentially to reach out to the committee. I do not know about their deliberations and how far they can go on that, but there was discussion at the time, if I recall correctly, along the lines of whether we go as far as banning all electioneering on the day – is 100 metres useful, and if it is not useful, then why do we do it on the day? – all the way to moving it closer to 10 metres or something like that. So it may be useful for the committee to look into the deliberations of the ACT committee from the 2020 ACT election.

Nathan LAMBERT: Thank you.

The CHAIR: That is a great suggestion, thank you.

If we do not have anyone else that wants to raise anything, I will again say thank you so much to the two of you for coming along and speaking to us today. As mentioned at the beginning, you will be sent a proof copy of the transcript to check as soon as it is available. The session has now concluded.

Committee adjourned.