

**Submission
No 11**

INQUIRY INTO THE 2015 NSW STATE ELECTION

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Date Received: 24/08/2015



Joint Standing Committee on Electoral Matters

Inquiry into the 2015 NSW State Election

Submission by NSW Labor

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Mr Jai Rowell MP
Chair
Joint Standing Committee on Electoral Matters
Parliament House
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SYDNEY NSW 2000

**NSW Labor Submission to the Joint Standing Committee on Electoral Matters
Inquiry into the 2015 NSW State Election**

Dear Mr Rowell

Thank you for allowing NSW Labor the opportunity to comment on the conduct of the 2015 NSW State Election.

We would like to acknowledge the work of the staff of the NSW Electoral Commission for their professional conduct throughout the whole election process.

In our submission, we make recommendations to improve engagement with the electoral process in NSW.

We look forward to your response in due course.

Yours sincerely



Kaila Murnain
Assistant General Secretary

On behalf of Jamie Clements, General Secretary

1. EARLY VOTING

1.1 iVOTE

NSW Labor notes the increasing popularity of the iVote system, with more voters using this system to cast a vote in NSW State Elections. While NSW Labor supports the use of modern technology to conduct elections, NSW Labor supports the implementation of further security measures to ensure the iVote system is maintained with integrity and is, as much as possible, beyond manipulation.

Recommendation: NSW Labor recommends the continuation of the iVote system, and notes the need for continuous improvements to security and the need for political parties to have more opportunities to scrutinise the iVote system.

1.1.1 Order of Ballot

There can be no doubt there is a major ballot order effect in iVote. The first four groups on the LC ballot paper all polled more than twice as well under iVote compared to other ballot types.

For example, No Land Tax in Group A polled 3.7% with iVote compared to 1.76% on all ballot papers. Animal Justice in Group C polled 3.51% under iVote and 1.68% with all ballot papers. The effect persists as far as Group G.

NSW Labor notes that because of the smaller screen size this effect is likely to be worse for electors voting on a smartphone rather than a computer.

Recommendation: NSW Labor recommends randomisation of the position on the ballot the screen initially lands when a voter is first presented with the ballot. This allows the columns to remain in the same order and to match the printed ballot papers, compared to the other option, of randomizing the column order.

1.1.2 Human Error

Due to a human error, two boxes were missing above the line on the iVote system.

Recommendation: NSW Labor recommends that political parties be invited to appoint scrutineers to scrutinize the iVote system online before the system launches to the public.

1.1.3 Data Collection

Section 138 of the *Parliamentary Electorates and Elections Act 1912* allows political parties to access information about in person voting and postal voting. While iVote is included, it is not a standalone category. In addition, NSW Labor recommends that the Electoral Commission investigate methods to inform political parties of those who register for iVote or postal votes, in real time.

Recommendation: NSW Labor recommends that the data collected through the iVote process, is shared with political parties in the same way Postal vote data is collected, as a separate category through section 138 of the *Parliamentary Electorates and Elections Act 1912 (NSW)*. Further, that the Commission investigate methods of real time data sharing with political parties for iVote and postal votes.

1.1.4 How to Votes

Political parties should have the opportunity to display how to votes on the iVote system as a hyperlink to a website of the political party's choosing.

Recommendation: NSW Labor recommends that each political party is given the opportunity to display their How To Vote card or webpage as a hyperlink through the iVote system.

1.2 PRE-POLL

NSW Labor reinforces support for accessibility to pre-poll locations. Pre-poll is crucial in removing barriers to voting, particularly for those who work on Election Day, people who live in remote communities, and for those who care for elderly family members or people with a disability.

Over the past decade, there has been a significant rise in the number of people voting pre-poll.

In the vast majority of NSW State electorates, pre-poll is now the largest polling booth. It is reasonable to expect that pre-poll voting will continue to increase in popularity, and individual voters who begin to pre-poll vote will become habitual pre-poll voters.

Recommendation: NSW Labor reinforces support for pre-poll and recommends no changes to the current legislation pertaining to pre-poll.

2. THE ELECTION CAMPAIGN

NSW Labor notes the support and guidance from the NSW Electoral Commission in relation to the 2015 NSW State Election, and in particular in their approach to complaints about alleged breaches of the *Parliamentary Electorates and Election Act 1912 (NSW)*.

2.1 Complaints about compliance

At the 2015 NSW State Election, there were a number of alleged breaches of the *Parliamentary Electorates and Election Act 1912 (NSW)* in the NSW State seat of East Hills.

These complaints include (but are not limited to) the distribution of unauthorised material attacking the Labor candidate, Mr Cameron Murphy. Mr Murphy was the victim of a sustained attack that included stickers with defamatory and derogatory statements on campaign corflutes around the electorate.

NSW Labor encourages the Commission to continue to develop mechanisms to investigate such complaints during the election period itself, enforce breaches of the Act and to stop future breaches of the Act.

Recommendation: That the NSW Electoral Commission strongly enforce any breaches of the *Parliamentary Electorates and Election Act 1912 (NSW)* and be given the resources to stop any future breaches of the Act.

3. ELECTION DAY

3.1 Freedom of Political Communication

NSW Labor strongly objects to any move by any Government to restrict third party campaigning outside of polling places. NSW Labor acknowledges the role of third party campaigners in our electoral system, and notes the positive steps to manage third parties through the *Election Funding, Expenditure and Disclosures Act 1981 (NSW)*. NSW Labor will oppose any move to prohibit legitimate third party campaigns from participating in the electoral process.

Recommendation: NSW Labor recommends no changes to the current legislation pertaining to polling places and notes the importance of freedom of political communication.

3.2 Cultural and Linguistically Diverse Communities

Reports from local Labor campaigns indicate significant issues where Liberal scrutineers inside polling booths were behaving inappropriately, particularly where staff from the Electoral Commission did not speak the language of the scrutineers within the booth. While the Commission acted swiftly to resolve these issues, NSW Labor supports the hiring of people who speak languages other than English, in areas of significant cultural and linguistic diversity. At this Election, the NSW Electoral Commission made significant attempts to recruit staff for such roles, and NSW Labor supports further expansion of this approach.

Recommendation: NSW Labor recommends that where a significant proportion of people within a polling place catchment speak a specific language other than English, the Electoral Commission make particular efforts to hire staff who speak those languages.

3.3 Payment of workers on polling booths

NSW Labor is aware of reports that political parties paid their booth workers to hand out how-to-votes at pre-poll and on Election Day. The most notable case was the promised payment of booth workers for the No Land Tax Party.

As was widely reported, the 'No Land Tax' party advertised for Election Day workers, directing them to a website: electiondaywork.com. Workers would be paid \$30 an hour. Many applicants incorrectly believed they were signing up to work as a Polling Day Official for the Electoral Commission.

NSW Labor is also aware of anecdotal reports from our campaigns over many years that Liberal booth workers are often also paid.

The payment of booth workers raises a number of issues to be addressed, including the need for candidates' and parties' funding disclosures to accurately reflect the payments that have been made.

Recommendation: NSW Labor recommends that the Electoral Commission establishes regulations as part of the *Election Funding, Expenditure and Disclosure Act 1981 (NSW)* and the *Parliamentary Electorates and Elections Act 1912 (NSW)* to ensure that there are appropriate rules in place when it comes to the payment of booth workers. These regulations should be designed to ensure payments are correctly disclosed and that workers' rights are protected.

3.4 Restrictions on voting

The previous Newman government in Queensland introduced a requirement for electors to prove their identity in order to cast an ordinary vote. NSW Labor opposes any attempt to introduce such a restriction.

The stated rationales for identification (ID) requirements are simply not sound.

As the ABC's election analyst Antony Green has said, "voter ID is an answer trying to find a problem".

A substantial proportion of the electorate lack driver's licenses or other forms of photo ID. Elderly voters may also lack birth certificates and be unable to prove their identity. Therefore substantial numbers of people would risk being disenfranchised.

In Australia, voting is compulsory and every adult citizen is expected to cast a vote. There should be no arbitrary restrictions on eligible citizens exercising their democratic rights in NSW.

Recommendation: NSW Labor opposes any move to force voters to show photo ID or other documents before they are issued with a ballot paper.

4. THE COUNT

4.1 Carriageworks

NSW Labor commends the professionalism and capacity of the NSW Electoral Commission during the counting phase. In particular, the significant work undertaken at the Carriageworks counting facility. The Commission staff are to be commended for the way in which they conducted themselves and for the levels of security that were put in place.

Recommendation: That future counts, after the initial election night count in the seat and the check count, be conducted at Carriageworks or a similar venue, and that the movement of ballot papers be minimised as much as possible.

5. ELECTION FUNDING, EXPENDITURE AND DISCLOSURES ACT

5.1 On-line Disclosure System

Since the commencement of the current legislative scheme governing political donations in NSW, NSW Labor has invested significant resources into developing our own internal systems and processes to ensure compliance with the *Election, Funding Expenditure and Disclosures Act 1981 (NSW)*.

NSW acknowledges that not all political parties have access to these resources and often paper-based systems can be administratively cumbersome. Accordingly, NSW Labor supports the development of a centralised online system that can be used for processing of donations in real time.

This system should be administered by the NSW Electoral Commission and should be readily available to all registered political parties. We believe that this will ensure consistency between political parties in the way donations are disclosed, will enhance transparency and will increase compliance with the Act. NSW submits that the development of this system should be publicly funded.

Recommendation: That recommendation 23 of the Schott Review, calling for an online centralised disclosure system be implemented as soon as possible.

5.2 Penalties for Non-Compliance

NSW Labor maintains its support for the harsher penalties introduced by the *Electoral Funding, Expenditure and Disclosure Amendment Bill 2014 (NSW)*. Specifically, we support the role these new offences play in acting as important deterrence from breaching the Act and thereby preserving the integrity of the political funding and disclosure system in NSW.

Recommendation: That the penalties introduced in October 2014 by the *Electoral Funding, Expenditure and Disclosure Amendment Bill 2014 (NSW)* be maintained.