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To: [Committee, EM \(REPS\)](#)

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10th February 2014

**Attention: Joint Standing Committee on Electoral Matters  
Inquiry into 2013 Federal Election**

**Re: AEC Error in 2013 Federal Election Pre-polling at Port Douglas  
Community Centre, Electorate of Leichhardt Queensland:  
NSW Senate Voting Paper Distributed to Queensland Voters**

**The Incident:**

1.1. On Thursday 5th September 2013 at approximately 12 mid-day I attended the Port Douglas Pre-polling Centre at the Port Douglas Community Hall to cast a pre-poll vote in my electorate of Leichhardt Queensland;

1.2. During that process I was incorrectly given a NSW Senate Voting Paper by the AEC Officer at the registration desk (I later learned that she was the Officer in Charge of the Centre);

1.3. While voting I was confused by the lack of conformity between the Voting Paper and the How-to-Vote card that I had brought into the booth with me, however, not being aware that the Pre-polling Centre carried Senate Voting Papers for each State, I assumed that the How-to-Vote card was wrong, voted for the candidates that nearest seemed to represent the party that I wished to support, and lodged my completed papers in the appropriate House and Senate ballot boxes;

1.4. I then immediately went to a nearby friend's house (I live some 30 minutes from the Pre-polling Centre, and I wished to clarify my confusion as quickly as possible) to check the Queensland Senate Paper on-line and to call the electoral office of Warren Entsch, the sitting Leichhardt House of Representatives Member, to advise his office that the Liberal/National Party How-to-Vote cards for the Senate were wrong (as I thought);

1.5. To my surprise, I found that the Queensland Senate Voting Paper that was viewable on-line was not the Senate Voting Paper that I had been given and had used at the Pre-polling Centre, and my friend and I identified it as a NSW Senate Voting Paper; concurrently, the staff at Mr. Entsch's electoral office confirmed to me that the L/NP How-to-Vote card was indeed correct;

1.6. The obvious conclusion, drawn by both myself and the staff at Mr. Entsch's electoral office, was that I had been given the wrong Senate Voting Paper - a NSW Senate Voting Paper - at the Pre-polling Centre;

1.7. I immediately returned to the Pre-polling Centre, arriving approximately 50 minutes after I had previously left, and advised the AEC Officer then on duty at the registration desk (a different person) of this error; initially the Officer did not accept my advice, arguing that such an error was not possible; however, I then stepped around the desk at which she was seated and looked over her shoulder to the stack of Senate Voting Papers on the table behind her, and pointed out that the Senate Voting Papers situated there and which she was currently handing out, were in fact NSW Senate Voting Papers, as I had just confirmed on-line; the Officer then, realising that I might be right, immediately "went on the defensive"

claiming that this "would have only just happened", which was clearly not the case; 1.8. The Officer in Charge had obviously overheard this conversation and appeared from behind me; acting professionally, she immediately took up the stack of NSW Senate Voting Papers from the table and went off to find the correct, Queensland, replacements; at this time a number of voters in the Centre who had been casting their votes in the booths allocated, and who had also overheard the conversation, came to the Officer at the desk to ask if they had the correct Senate Voting Paper or not - none did!

1.9. When the Officer in Charge returned with the correct Queensland Senate Voting Papers, I and the other voters present asked for, and were given, correct Queensland Senate Voting Papers; I then raised the point that the box holding the executed Ballots up to that moment should be marked in some way and put aside, and the Officer in Charge took the box away replacing it with another, and assured me that that box would be "handled separately" when delivered to Cairns for processing - she did however make the comment that they had only a limited number of boxes available and that "taking one out of circulation" would present a problem; I then voted on the correct Voting Paper, and put that correct Queensland Senate Voting Paper into the new ballot box;

1.10. I then went home, where, being concerned that a considerable number of voters could have been disenfranchised - both Queensland voters who had used the NSW Senate Voting Paper as well as out-of-State voters who might have put their completed Voting Papers into that same ballot box that contained the "erroneous" NSW Senate Papers - at about 2:30pm I contacted the local ABC Radio station in Cairns and the "Newspost" on-line Douglas Shire "newspaper", both of whom I considered to offer the best method of quickly communicating this error to the public in the Douglas Shire area, in order to alert people who had voted to the fact of the error and to advise them that, if possible, they should return to the Pre-polling Centre to ask for a correct Senate Voting Paper and to recast their Senate vote (having incorrectly voted through no fault of their own, but through an error of the Australian Electoral Commission);

1.11. The Newspost article appeared the next morning, and can be viewed at the following link:

<http://www.tourismportdouglas.com.au/Invalid-votes-cast-in-Douglas.10152.0.html>

### **Suggested Changes to Procedures:**

The suggestions that I offer as a result of this unfortunate and unprofessional, though I am quite sure accidental, incident are as follows:

2.1 Each State Senate Voting Paper should be clearly and immediately recognizable BY STATE via something such as a coloured border (Maroon for Queensland, for example) or a large, coloured watermark showing the letters of the State (eg. QLD); none should be plain white and thus subject to mistaken identification and distribution as happened in this instance;

2.2 Ballot Boxes should also be clearly colour-coded or otherwise recognisable by State (or in-State and out-of-State if all out of State ballots go into the same box), AND located such that out-of-State voters cannot place their completed ballot into an "in-State" Ballot box or vice-versa (in this instance, this would have ensured that no out-of-State ballots were invalidated by having been mixed with the "erroneous" NSW ballots);

2.3 AEC staff should be trained in a clear procedure to be followed in the event

that a similar incident recurs; in particular, as to how to treat voters who have been disadvantaged through no fault of their own and/or through an error of the AEC's making; in this instance, I requested and was given a correct Queensland Senate Voting Paper which I believe was the correct process, as the "vote" that I had cast was clearly incorrect because of an error of the AEC itself, being on a NSW Senate Voting Paper; however a Brisbane AEC representative subsequently interviewed on ABC Radio, criticised the fact that I had requested and had been given a "second" paper; my opinion is that NO voter should be disenfranchised due to an error of the AEC!

2.4 I later learned that all of the votes in the ballot box that had been put aside by the Officer in Charge of the Port Douglas Pre-polling Centre were subsequently declared invalid - meaning that both Queensland *and* legitimate NSW-voter ballots that were placed in that box were lost; also, in line with the initial "knee-jerk" reaction of the AEC staff at the Pre-polling Centre, the Brisbane AEC representative asserted that "only a few votes had been affected" by this error;

2.5 I do not know how many votes were invalidated by this error nor how many incorrect votes "slipped through" the system and were counted as valid (two opportunities come to mind: Queensland-voted NSW Senate Voting Papers could have been put into the "Out-of-State" ballot box, and hence ultimately counted as valid votes; more than one "in-State" ballot box may have received Queensland-voted NSW Senate Voting Papers - to my knowledge only one ballot box was taken out of circulation), but I do know that this error persisted for at least ONE HOUR - from my initial arrival at the Pre-polling Centre at approximately 12 mid-day until my return around 1pm to bring the error to the Officials' attention - but there is nothing to indicate that the incorrect distribution of NSW Senate Voting Papers to Queensland voters had not been occurring since the Centre opened at (I believe) 8am that morning, or indeed on previous days (Monday through Wednesday that week, I believe).

2.6 Due to the ease with which this error could have been made due to the poor State identification of the Senate Voting Papers, the question of this error having occurred to greater or lesser degrees at potentially every other Pre-polling Centre IN THE COUNTRY must be asked.

I trust that this recitation of my experience regarding a fundamental failure in the voting procedure at the 2013 Federal Election will lead to:

- a) changes at all AEC-controlled elections that considerably reduce, if not eliminate, the risk of such an error recurring in future, and,
- b) to the implementation of procedures and training to ensure that voters are given every opportunity to cast a valid vote which might otherwise be denied due to an error of the Australian Electoral Commission and/or its staff.

Sincerely,

*signed*

Malcolm McKellar

