

Parliament of Victoria

Group voting tickets and Victoria

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Research Note

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Introduction

Many concerns have emerged over the years around so-called ‘group voting tickets’ (GVTs) at state and federal elections. Victoria and Australia feature bicameral parliamentary systems: dual chambers with governing lower houses and upper houses of ‘review’. Different election processes are often used for each.

GVTs emerged in the 1980s (initially with the Australian Senate) as part of reforms that simplified the voting process and reduced the previously high levels of informal voting.¹ On ballot papers allowing ‘above-the-line’ and ‘below-the-line’ voting, people opting for the former can number ‘1’ for their preferred candidate/group, with candidates and parties then allocating preferences according to registered lists (Figure 1). Those voting below the line allocate their preferences directly by numbering their preferred candidates. Various state-based upper houses adopted similar measures.

However, these lists or GVTs eventually became controversial, in part due to the election of candidates with very low primary votes. The Australian Parliament and most other states legislated to abolish GVTs.

The debates and controversies over GVTs reflect critical issues involving both lower and upper houses in parliamentary systems. At heart are the legitimacy of and public confidence in these institutions and their members. Much of their authority rests on the degree to which a Member is seen to be representative of the community that elected them.² In Australia most upper houses currently use proportional representation as their electoral system. It diversifies representation in upper houses and enlarges their ability to review a lower house’s legislation. GVTs pose a dilemma, however, as very marginal candidates and voices can purportedly manipulate the system to obtain representation.

One side of the argument over GVTs contends that voters can indirectly and legitimately allocate their preferences in ways that allow candidates with small initial votes to win seats. The other position questions the extent to which candidates with very low levels of support can reasonably claim to represent enough of the electorate to justify their presence in a parliamentary chamber. Underlying much of the debate is the question of whether voters are making informed choices when voting above the line. In other words, do voters understand what will happen with their vote when they vote above the line and do the GVTs reflect the preferences of people who vote above the line? Those arguing against GVTs contend that GVTs determined by behind-the-scenes negotiations by parties do not reflect all voters’ preferences.

As with other Australian states, Victoria implemented GVTs as part of reforms to Legislative Council elections and the implementation of proportional representation. GVTs had already become controversial in other jurisdictions, and Victoria’s Legislative Council quickly became the focus of recurrent criticism.³

The paper assesses these issues by discussing the role of upper houses in bicameral parliamentary systems. It explains the history and origins of GVTs, the controversies that emerged and Victoria’s experience.

¹ *Commonwealth Electoral Legislation Amendment Act 1983* (Cth).

² A. Lijphart (2021) *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. 2nd ed. Yale: Yale University Press, p. 109.

³ (2018) ‘Secret Deals Undemocratic’, *Herald Sun*, 27 November, p. 3; M. Murphy (2006) ‘“Backroom” Preferences Condemned: Party’s Ascent Sparks Call for Reform’. *The Age*, 14 December, p. 11; Electoral Matters Committee (2020) *Inquiry into the Conduct of the 2018 Victorian State Election*, Final report. The Committee.

Figure 1: Single Transferable Vote-Style Ballot Paper

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	← Number 1 above the line
Party 1	Party 3	Party 4	Party 5	Ungrouped	
<hr/>					
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	OR
Candidate 1	Candidate 1	Candidate 1	Candidate 1	Candidate 1	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	← Number all below the line
Candidate 2	Candidate 2	Candidate 2	Candidate 2	Candidate 2	
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
	Candidate 3	Candidate 3		Candidate 3	
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
	Candidate 4	Candidate 4		Candidate 4	
	<input type="checkbox"/>	<input type="checkbox"/>			
	Candidate 5	Candidate 5			

1 | Upper houses, GVTs and electoral reform

Various electoral reforms facilitated the emergence, disagreements over and decline of GVTs among Australian parliaments, and at the root of these developments has been our bicameral parliamentary system. Bicameral parliamentary systems usually involve different electoral systems for upper and lower houses, owing to their different roles. Being known as houses of review, the functions of Australian upper houses have been determined by both general principles and Australia's particular national experiences.

While most parliamentary institutions worldwide are unicameral (having only one chamber or assembly), around 80 countries have bicameral legislatures.⁴ It tends to be federal countries and polities where bicameralism predominates. A few countries also feature bicameral systems in sub-national jurisdictions, including in Australia and the United States and in a minority of states within Argentina, India and Ethiopia.⁵

Within these systems upper houses have a long history, with the British House of Lords being a notable case. Formed in the 13th century, it represented hereditary lords to check any legislation the House of Commons proposed.⁶ While the latter was selected through a restricted property-based franchise, the nobility still maintained a right to amend and reject the legislation. Victoria's Legislative Council maintained property-based restriction on voting until 1950.

However, the social class-based rationale for upper houses declined over the years, being replaced by two other justifications that remain today. Upper houses often now have a territory-based justification, and they also act as a 'house of review'. Under bicameralism,

⁴ E. Bulmer (2017) *Bicameralism: International IDEA Constitution-Building Primer 2*, Stockholm, International IDEA.

⁵ A. Malamud and M. Costanzo (2003) *Subnational Bicameralism: The Argentine Case in Comparative Perspective*, XIX World Congress of the International Political Science Association (IPSA) Durban, South Africa, June 29–July 4; R. Chattopadhyay (2011) *Sub-national Second Chambers and regional representation: International Experiences: Submission to Kelkar Committee on Maharashtra*, Submission to Kelkar Committee on Maharashtra.

⁶ A. Mughan (2020) 'Comparative Bicameralism: A Survey of Global Approaches'. *University of Oxford Human Rights Hub Journal* 3(2): pp. 117–22; M. Russell (2013) 'Rethinking Bicameral Strength: A Three-Dimensional Approach'. *The Journal of Legislative Studies* 19(3): pp. 370–91.

governments are usually constituted through a bloc of representatives in a lower house. Upper houses generally review legislation and have varying powers to amend or reject Bills.⁷

Given these rationales, the influential political theorist Arend Lijphart argues that an upper house's effectiveness often depends on three factors: 'redundancy' (whether it can effectively review and improve legislation); 'synergy' (whether it has the right amount of power to scrutinise and review legislation); and 'legitimacy' (whether the public has confidence in both its role and Members).⁸

Appointed and elite-based upper houses have given way to elected bodies. While often constituted differently from a lower house, an upper house's legitimacy stems from its representativeness. Elitist histories notwithstanding, the reform of upper houses has often seen them change toward being forums where hitherto marginalised voices can be included (see the discussion of the Victorian Constitutional Commission below).

Most discussions of bicameralism in Australia focus on the federal Senate, which was often used as a model for reforming state-based upper houses. All national parliamentary institutions differ slightly, and Australia has its own distinctive features.⁹ Australia's strong bicameralism originated in its federal constitution, with each state granted equal representation in the upper house. It later became an accepted convention that, while governments have a 'mandate' to govern, an upper house 'crossbench' can play a significant role in reviewing and improving legislation.¹⁰ The inclusion of more marginal voices and parties in decision making can help ensure legislation considers issues that may not be considered in a unicameral house.

Australia's state-based upper houses are inheritances from the colonial era when each colony adopted bicameralism. Like the settler colonies in the United States, 'responsible government' entailed emulating the Westminster institutions.¹¹ Legislative councils preceded the establishment of legislative assemblies and often retained property-based restrictions on franchises well into the 20th century. The Australian Labor Party originally favoured the abolition of these upper houses (only succeeding in Queensland in 1922), although this position shifted towards reform in the 1970s and 1980s. Labor adopted a policy of reforming the Victorian Legislative Council in 1981.¹²

Therefore, upper houses of review increasingly evolved away from their elitist origins towards being elected bodies.

⁷ G. Tsebelis and J. Money (1997) *Bicameralism*. Cambridge, Cambridge University Press. R. Albert, A. Baraggia and C. Fasone (2019) *Constitutional Reform of National Legislatures: Bicameralism under Pressure*. Cheltenham, UK, Edward Elgar Publishing.

⁸ A. Lijphart (2021) op. cit., p. 193.

⁹ S. Bach (2003) *Platypus and Parliament: The Australian Senate in Theory and Practice*, Department of the Senate, Canberra.

¹⁰ M. Goot (1999) 'Whose Mandate? Policy Promises, Strong Bicameralism and Polled Opinion', *Australian Journal of Political Science*, 34(3): pp. 327–52.

¹¹ B. Stone (2003) 'Australian Bicameralism: Potential and Performance in State Upper Houses', *Papers on Parliament* No. 41; S. Ganghof, S. Eppner and A. Pörschke (2018) 'Australian Bicameralism as Semi-Parliamentarism: Patterns of Majority Formation in 29 Democracies', *Australian Journal of Political Science* 53(2): pp. 211–33; J. Barnett (1915) 'The Bicameral System in State Legislation'. *American Political Science Review* 9(3): pp. 449–66.

¹² P. Strangio (2004) 'Labor and Reform of the Victorian Legislative Council, 1950–2003', *Labour History*, no. 86: pp. 33–52; B. Costar (2003) *Accountability or Representation? Victorian Bicameralism. Lectures in the Senate, Occasional Lecture Series 2000–2003*, Australian Senate webpage.

2 | Bicameralism and electoral reform in Australia

Various voting systems exist, the most prominent being the plurality-based and proportional representation-based approaches.¹³ The former can be preferential or ‘first past the post’, involving the voter selecting their preferred candidates (usually from a reasonably small number) for their locality. The candidate with either the largest share of votes or a majority wins. Proportional representation, on the other hand, involves several candidates competing for a quota of votes for a constituency.

The Australian Senate’s electoral system has changed several times. These changes have strongly influenced reforms implemented at state level. In the Australian Senate, a block preferential system replaced plurality-based first-past-the-post voting in 1919. This change, however, resulted in the governing party often having even more significant majorities in the upper house than in the House of Representatives.¹⁴ From 1948, therefore, the Senate used a ‘proportional representation/single-transferable vote’ (PR-STV) approach, where a combination of proportional representation and preference allocations determines if a candidate obtains the quota necessary to win a seat.¹⁵

For example, between 1949 and 1983 each state elected ten Members to the Senate for six-year terms, with five seats contested at each three-year election interval. A standard five-Member election required 16.67 per cent of votes and accumulated preferences.¹⁶ From 1983, each state became entitled to 12 Members, with six elected every term (requiring a quota of 14.29 per cent).

However, PR-STV voting requires electors to understand a more complicated ballot paper.¹⁷ While constituency-based voting usually involves a relatively small number of candidates, PR-STV often requires voters to sequentially rank a larger number of candidates. Between the 1950s and the 1980s, the complexities of the Senate’s voting system, combined with an increasing number of candidates, contributed to high levels of informal voting, with an average of 10 per cent.¹⁸

As a result, the Hawke Labor government reformed the Senate’s voting system in 1983 to simplify it.¹⁹ The new government established a Joint Select Committee on Electoral Reform and the idea of GVTs emerged through submissions by the then Australian Electoral Office. Labor also initially committed to optional preferential voting below the line, but the other parties insisted it remain exhaustive.²⁰ Voters that did not vote with a ‘1’ above the line became obliged to sequentially number all boxes below the line on the ballot paper. GVTs allowed the parties to fully allocate preferences for the above-the-line voters.²¹ The GVT system notionally still permitted voters to view these preference agreements and decide

¹³ A. Reynolds et al. (2005) *Electoral System Design: The New International IDEA Handbook*, Stockholm, International IDEA.

¹⁴ Australian Electoral Commission (2019) *A Short History of Federal Electoral Reform in Australia*, AEC website.

¹⁵ A. Green (2019) *Submission to the Victorian Parliament’s Electoral Matters Committee Inquiry into the Conduct of the 2018 Victorian State Election*, Electoral Matters Committee Inquiry into the Conduct of the 2018 Victorian State Election, Melbourne, The Committee.

¹⁶ 100 divided by five plus one. For an explanation of the ‘Droop’ system and PR, see K. Benoit (2000) ‘Which Electoral Formula Is the Most Proportional? A New Look with New Evidence’, *Political Analysis* 8(4): pp. 381–88.

¹⁷ A. Reynolds et al., op. cit., p 59.

¹⁸ M. Maley (2013) *Optional Preferential Voting for the Australian Senate, Electoral Regulation Research Network/Democratic Audit of Australia Working Paper 16*, Melbourne, p. 5; A. Green (2015) ‘The Origin of Senate Group Ticket Voting, and It Didn’t Come from the Major Parties’, ABC News, 23 September.

¹⁹ *Commonwealth Electoral Legislation Amendment Act 1983* (Cth).

²⁰ A. Green (2019) op. cit.; Joint Select Committee on Electoral Reform (1987) *Operation during the 1984 General Election of the 1983/84 Amendments to Commonwealth Electoral Legislation*, JSCER.

²¹ A. Green (2019) op. cit.

whether to accept them. Electors could assign their preferences by voting below the line if they did not.

Subsequently, several of Australia's states adopted GVTs and above- and below-the-line voting options for their legislative councils.²² Most states had gradually reformed their legislative councils away from restricted property-based franchises and adopted various forms of proportional representation.

A positive result of the Senate changes was that informal voting in the Senate declined to an average of 3.1 per cent. By the early 2000s, over 95 per cent of voters consistently opted to vote above the line.²³

However, three main difficulties eventually arose over GVTs. First, the number of Senate and state-based legislative council candidates and parties contesting elections increased. Larger ballot papers made full completion of below-the-line options even more time-consuming and unlikely.²⁴

Second, the heightened use of so-called 'tactical voting' generated increasing consternation amongst election observers and participants. GVTs allowed parties with minimal support to 'swap' preferences to accumulate enough support to (in some cases) obtain a necessary quota of votes to win seats. Questions emerged over the legitimacy of these candidates when successful. Can a candidate be considered representative if they attract a very low primary vote but, nevertheless, are able to accumulate enough preferences to win a seat?

Glenn Druery—the so-called 'preference whisperer'—initially founded the Outdoor Recreation Party and a range of other parties between 1996 and 1999. At first targeting the New South Wales Legislative Council, Druery helped one candidate get elected with just 7,264 initial votes (0.20 per cent) or 0.04 of the 4.5 per cent required quota.²⁵ Despite criteria tightening for the registration of parties, candidates with tiny primary votes continued to be elected (Table 1).²⁶ Druery also established a 'minor party alliance' and a consultancy service to facilitate similar agreements in other jurisdictions, eventually becoming an influential national figure.²⁷

Third, the Senate eventually became the focus of controversy when in 2013 five minor candidates were elected. The most contentious were Ricky Muir of the Australian Motoring Enthusiast Party in Victoria (with a 0.504 per cent primary vote) and Wayne Dropulich of the Australian Sports Party in Western Australia (0.217 per cent) (Table 1).

The Federal Government responded with legislation before the 2016 election, allowing for optional and partial preference allocation rather than full preference allocation. It abolished GVTs and allowed voters to allocate on the ballot paper a minimum of six preferences above the line or 12 or more below the line.²⁸ Concerns over an increase in 'vote exhaustion'—where voters that number only a small number of candidates ceded any influence over results in latter stage counts—largely did not materialise.²⁹

²² *Electoral Act 1985* (SA); Parliament of New South Wales (date unknown) *The History of the Council*, PNSW; SA operated a 'party-list' style system between 1975-1985, although it adopted PR-STV after concerns over the former's constitutionality emerged. See Australian Broadcasting Commission 'Legislative Council Background' ABC Website.

²³ Australian Broadcasting Commission (date unknown) *Glossary of Election Terms - Federal Election 2007*, ABC Website.

²⁴ A. Wood (2015) 'Above the Line is their Preference,' *Daily Telegraph*, 22 March.

²⁵ A. Green (1999) *New South Wales Elections 1999 (No. 4/99)*, Parliament of New South Wales, p. 58.

²⁶ Electoral Commission of NSW (2015) *NSW State Election Results 2015*, ECNSW.

²⁷ S. Nicholls (2013) 'Micro-Manager behind Independents Strategist Is Able to Lobby Candidates He Helped Elect'. *Sydney Morning Herald*, 10 September.

²⁸ *Commonwealth Electoral Amendment Act 2016 (Cth)*; Electoral Council of Australia and New Zealand (date unknown) *Proportional Representation Voting Systems of Australia's Parliaments*, ECANZ.

²⁹ Australian Electoral Commission (date unknown) *Voter Exhaustion Senate Ballot Paper Study 2016*, AEC.

Other mainland bicameral states responded with their own legislation.³⁰ New South Wales had already implemented several changes—effectively eliminating GVTs—in response to the results of the 1999 election and its ‘tablecloth’-sized ballot paper. The criteria for electoral registration were tightened, and preference distribution rules changed.³¹ Above-the-line voters could place a ‘1’ in the column for their preferred party/group and have the option of allocating consecutive preferences to others. Below-the-line voters were able to number a minimum of 15 candidates in consecutive order. The state further modernised its electoral legislation in 2017.³²

South Australia changed its system to mirror the changes more closely to those in the Senate in 2017. Above-the-line voters could mark ‘1’, with an option to allocate preferences sequentially starting with the number ‘2’. Valid below-the-line ballots require the allocation of a minimum of 12 preferences.³³ A ‘savings provision’—whereby votes cast according to previous regulations would still be counted—allowed for the acceptance of ballots with at least six preferences.

In Western Australia the election of a Daylight Saving Party candidate with only 98 votes (Table 1) prompted new legislation in 2021.³⁴ The legislation also abolished the state’s zonal representation system and adopted optional preference voting. Voters now have a choice of selecting one or more parties above the line or a minimum of 20 below.

The reform of both the Senate and state-based upper houses involved an increased use of PR-STV. However, the changes made in the 1980s, aimed at simplifying the voting process, eventually led to problems. Adoption of the GVT mechanism, while convenient, led to questions over the legitimacy of some election results and subsequently to legislative reforms at both federal and state levels.

Table 1: Notable cases of GVT-influenced election results ³⁵

Year	Institution	Party	Candidate	Primary Vote
1999	NSW Legislative Council	Outdoor Recreation Party	Malcolm Jones	0.20%
2013	Senate	Australian Sports Party	Wayne Dropulich	0.23%
2013	Senate	Australian Motoring Enthusiast Party	Ricky Muir	0.50%
2018	VIC Legislative Council	Transport Matters Party	Rod Barton	0.62%
2018	VIC Legislative Council	Sustainable Australia	Clifford Hayes	1.32%
2021	WA Legislative Council	Daylight Saving Party	Wilson Tucker	0.23%

³⁰ Queensland, the Northern Territory and the Australian Capital Territory are unicameral. Tasmania’s Legislative Assembly is elected via the Hare-Clark system of proportional representation, while the Legislative Council uses partial preferential voting. See Tasmanian Electoral Commission (2023) *Voting Systems in Tasmania - A Summary*, TEC.

³¹ *Parliamentary Electorates and Elections Amendment Act 1999* (NSW); Parliament of NSW (2005) *Joint Standing Committee on Electoral Matters, Inquiry into the Administration of the 2003 Election and Related Matters*, p. 106.

³² *Electoral Act 2017* (NSW).

³³ ECANZ, op. cit.; *Electoral (Legislative Council Voting and Other Measures) Amendment Act 2017* (SA).

³⁴ *Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021* (WA); M. Drum et al. (2021) ‘The Long, Long Road: Western Australian Electoral Reform’, *Australasian Parliamentary Review* 36(1): pp. 39–60.

³⁵ Australian Electoral Commission (2021) *Election Results: Tally Room Archive*, AEC; Electoral Commission of NSW (2015) *NSW State Election Results 2015*, ECNSW.

3 | The Victorian context

Victoria is now the only state where GVTs continue to operate. Stricter property-based qualifications on voting (until 1950) and later plurality-based voting and maldistribution caused recurrent controversy over the chamber's composition and role.³⁶

By the 1980s, political pressure emerged to reform the Legislative Council's anachronistic electoral system. Several attempts to legislate change during the Cain and Kirner governments (1982-92) failed to obtain majority support in the chamber. Labor's election as a minority government in 1999 with the support of a crossbench of independents revived impetus for change. One of the conditions for the latter's support was a commitment to reform the upper house. The Bracks Labor government subsequently established the Constitution Commission of Victoria in 2001. After extensive public consultation, it advocated several changes.³⁷

The commission's report, *A House for Our Future*, noted that the 'present system was designed before the growth of the highly organised and strictly disciplined party system, which has influenced and changed the context in which Government and the Parliament operate'. The Legislative Council needed many changes for it play the roles of 'effectively reviewing legislation and administration; enhancing policy formation; holding government to account; acting as a brake on ill-conceived or hasty legislation, action or decision making; protecting human rights; and providing a voice for the community at large and for regions and interest groups within it'.³⁸

It followed that changing the electoral system was one of the report's 'major recommendations', with an explicit aim to increase the number of parties with Members elected through an 'Australian Senate system of proportional representation'.³⁹ While originally proposing a system of six regions with seven Members each, the Labor government revised the commission's recommendations and subsequently passed legislation in 2003, adopting eight regions with five Members each, each requiring a quota of 16.67 per cent.⁴⁰

In introducing a PR-STV-based system, the commission—and the associated legislation—also accepted GVTs. The commission explicitly argued for both 'optional preferential' and above-the-line voting, as there were 'some voters who only want to vote for a smaller number of candidates'.⁴¹ Therefore, their adoption of the Senate's system was modified to allow the option of below-the-line voting that only required a minimum of five choices. It was, therefore, different to the full-preference approach adopted by other states and in the Senate. Yet the single-choice above-the-line option still entailed the allocation of preferences via GVTs.

Initially election results for the Legislative Council did not cause many concerns, although GVTs were the subject of some early criticism alleging that they allowed 'political parties to potentially corrupt and manipulate votes through preference deals'.⁴² As Table 2 outlines, the proportional vote obtained by minor parties (other than the Coalition, Labor or the Greens) rose progressively from just under 10 per cent in 2010 (after falling slightly from 2006) to over 27 per cent by 2022. Minor parties won seats but secured votes above 1 per cent. The Coalition also managed to secure a majority of seats in the chamber in the 2010 election.⁴³

³⁶ B. Costar *op. cit.*

³⁷ Constitution Commission of Victoria (2002) *A House for Our Future: A Report*. Melbourne, Constitution Commission Victoria.

³⁸ CCV, *op. cit.*, pp. 8–9.

³⁹ CCV, *op. cit.*, p. 40.

⁴⁰ [Constitution \(Parliamentary Reform\) Act 2003](#) (VIC).

⁴¹ CCV, *op. cit.*, pp. 71 & 75.

⁴² M. Murphy (2006) 'Backroom' Preferences Condemned: Party's Ascent Sparks Call for Reform'. *The Age*, 14 December, p. 7.

⁴³ P. Rodan (2012) 'Not Quite as Expected: Victorian Labor and the Legislative Council 2010.' *Australasian Parliamentary Review* 27 (1): 34–43.

Table 2: Victorian Legislative Council election results, 2006-2022⁴⁴

Party	Percentage Vote					Seats				
	2006	2010	2014	2018	2022	2006	2010	2014	2018	2022
Labor	41.45	35.36	33.46	39.22	33	19	16	14	18	15
Liberal	34.55	43.04	20.82	17.16	16.97	15	18	14	10	12
Liberal/Nationals	-	-	15.32*	12.27*	12.48	2	3	2	1	2
Greens	10.58	12.01	10.75	9.25	10.3	3	3	5	1	4
Legalise Cannabis Victoria	-	-	-	-	4.08	-	-	-	-	2
Democratic Labour Party	1.97	2.33	2.32	2.1	3.50	1	-	1	-	1
Liberal Democrats	-	-	-	2.5	2.64	-	-	-	2	1
Pauline Hanson's One Nation	-	-	-	-	2.05	-	-	-	-	1
Shooters, Fishers & Farmers Vic	-	-	1.65	3.02	2.04	-	-	2	1	1
Family First Victoria	-	-	-	-	2.01	-	-	-	-	-
Derryn Hinch's Justice Party	-	-	-	3.75	1.53	-	-	-	3	-
Animal Justice Party	-	-	-	2.47	1.51	-	-	-	1	1
Victorian Socialists	-	-	-	-	1.39	-	-	-	-	-
Fiona Patten's Reason Party (Formerly Sex Party)	-	1.91	2.63	1.37	1.25	-	-	1	1	-
Freedom Party of Victoria	-	-	-	-	1.06	-	-	-	-	-
Sack Dan Andrews Restore Democracy	-	-	-	-	0.83	-	-	-	-	-
United Australia Party	-	-	-	-	0.83	-	-	-	-	-
Health Australia Party	-	-	-	-	0.58	-	-	-	-	-
Sustainable Australia Party—Stop Overdevelopment/Corruption	-	-	-	0.83	0.47	-	-	-	1	-
Other	7.02	5.22	12.84	7.55	1.45	-	-	1	1	-

*The Nationals ran together with the Liberals in non-metropolitan regions.

⁴⁴ VEC (2022) op. cit.

Table 3: Victorian Legislative Council party results 2022⁴⁵

Party	Vote	Per cent vote	Members
Australian Labor Party	1,238,822	33.00	15
The Liberals	636,828	16.97	12
Liberal/Nationals*	468,421	12.48	2
The Australian Greens - Victoria	387,283	10.32	4
Legalise Cannabis Victoria	153,184	4.08	2
Democratic Labour Party	131,464	3.50	1
Liberal Democrats	98,901	2.63	1
Pauline Hanson's One Nation	76,790	2.05	1
Shooters, Fishers and Farmers Party Victoria	76,772	2.05	1
Animal Justice Party	56,805	1.51	1

*The Nationals ran together with the Liberals in non-metropolitan regions.

4 | The 2018 state election

Debate in Victoria over GVTs has increased following recent electoral results in the Legislative Council. The 2018 Victorian election outcome was of particular interest, with the Transport Matters Party's (TMP) Rod Barton winning a seat with a 0.62 per cent primary vote. Sustainable Australia's Clifford Hayes also obtained a seat with 1.32 per cent.⁴⁶ The 'preference whisperer' Glenn Druery played an active role, facilitating reciprocal preference deals between a significant number of parties across regions.⁴⁷

The Reason Party's Fiona Patten introduced a Private Member's Bill in the Legislative Council to amend the Electoral Act in 2020. The Bill was intended to 'provide for offences in relation to voting preference harvesting where there is a payment or benefit', but it did not progress. Fiona Patten later described the purpose of the Bill as being to render the 'pernicious practice unlawful.'⁴⁸

Figure 2 summarises the preference distribution in the case of Eastern Metropolitan Region for 2018, where the TMP candidate was successful. With 418,532 ballot papers issued, successful candidates required a quota of 69,756 votes (16.67 per cent of the total votes, based on five candidates plus one, as specified by the Droop method of counting). Labor and the Liberals each secured just over 36 per cent of the vote, securing two quotas and two Members each.

⁴⁵ *ibid.*

⁴⁶ Victorian Electoral Commission (2022) *State Election Results*, VEC; EMC (2020) *op. cit.* p. 11.

⁴⁷ M. Mackerras (2019) *Supplementary Submission No 12a*, Parliament of Victoria Electoral Matters Committee Inquiry into the Conduct of the 2018 Victorian State Election, Melbourne, The Committee.

⁴⁸ F. Patten (2022) 'Beat the Cynical Sullyng,' *Herald Sun*, 18 November; F. Patten (2020) 'Electoral Act Amendment (Preference Harvesting) Bill 2020,' *Debates*, Victoria, Legislative Council, 26 November, p. 4231.

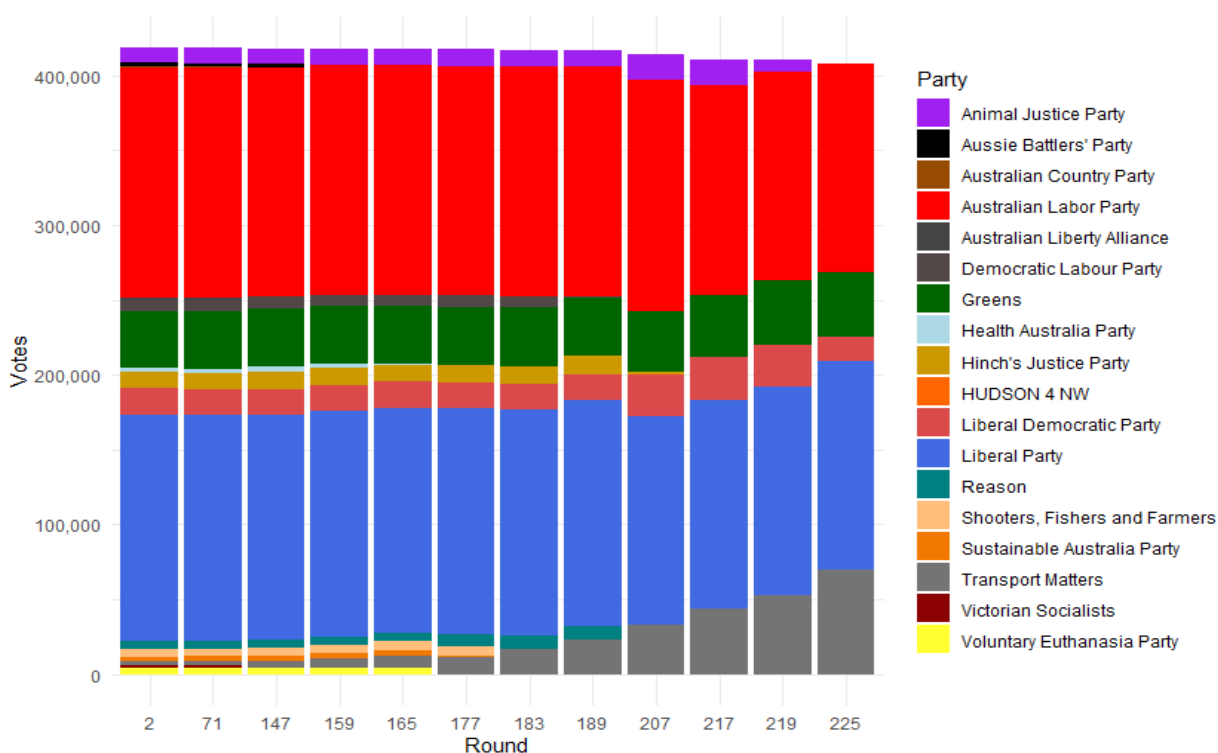
The Greens trailed with 9.1 per cent support, followed by the Liberal Democrats with 4.2 per cent. In contrast, the TMP group only won 2,630 votes, or 0.62 per cent.

The first 147 preference allocation rounds of vote counting resulted in the elimination of lower-scoring candidates within each listed group on the ballot paper. Then the first set of more significant preference flows saw TMP's votes grow as other minor parties were eliminated. Most parties were still in contention at round 147, when the elimination of Hudson 4 NV's candidate saw an additional 1,571 preferences flow to TMP, taking TMP's total to 4,451. Preferences accumulated from the Australian Liberty Alliance, the Aussie Battler Party and Health Australia Party until the TMP reached 8,594 votes at round 165. The exclusion of the Sustainable Australia Party at round 176 took TMP to 12,118. TMP, having overtaken both the Shooters, Fishers and Farmers Party and the Democratic Labour Party, absorbed the bulk of their preferences at rounds 183 and 189, taking the party to 22,961 votes. Finally, having overtaken Derryn Hinch's Justice Party, TMP obtained over 9,500 of their preferences, amounting to a tally of 32,704 votes.

The next crucial stage involved the allocation of Labor's residual preferences at round 213. The Greens were ahead of the TMP with 41,137 votes until the exclusion of Labor's third candidate, Nildani Gadani. The flow of 10,992 of Labor's preferences brought the TMP to 43,842, overtaking the Greens on 42,091. Finally, the TMP absorbed 8,918 preferences from the Animal Justice Party and 16,631 preferences from the Liberal Democrats to finish with 75,390 votes (above the quota). The Greens finished with 43,342.

Similar patterns occurred with Sustainable Australia's Clifford Hayes in South-Eastern Metropolitan Region. The combination of minor party preferences and the allocation of the major party's residual votes allowed for the election of low-scoring candidates.

Figure 2: Eastern Metropolitan Region Legislative Council preference distribution, 2018⁴⁹



⁴⁹ *ibid.*

5 | The Electoral Matters Committee

Perhaps not surprisingly, GVTs subsequently received considerable attention in the Electoral Matters Committee's Inquiry into the Conduct of the 2018 Victorian State Election.⁵⁰ The report devoted a chapter to the Legislative Council, and many submissions heavily criticised GVTs (and other aspects of the upper house's voting system). A minority defended the existing system or proposed modest changes.⁵¹

However, given the complexity of the issues and that 'there was no consensus about what (if anything) should be changed', the EMC recommended that 'the Parliament refer an inquiry into possible reforms of the Upper House electoral system to the Electoral Matters Committee'.⁵² The Greens' representation in the chamber had been reduced from five to one, despite the party obtaining 12.9 per cent and 8.4 per cent in two regions. Tim Read, the Greens Member for Brunswick, said the system was 'opaque' and 'unrepresentative' and called for more immediate reforms.⁵³ Leader of the Victorian Greens, Samantha Ratnam, moved a motion in the Council for electoral reform on 5 May 2021. The motion described the use of group voting tickets as 'unfair and unrepresentative' and condemned the practice of 'preference whispering'. A vigorous debate ensued, but the motion was negated.⁵⁴ No further electoral reform measures took place during the term of the 59th Parliament.

6 | The 2022 state election

Therefore, the 2022 state election proceeded without changes to the PR-STV system. Table 2 outlines the 40 Members elected in 2022 and their initial group primary vote. Four main trends were evident. First, considerable public discussion occurred over GVTs in the lead-up to the elections, with many stakeholders again urging electors to 'vote below the line' in the poll.⁵⁵ Many items to this effect were also published in Victorian and national media and were widely circulated on social media.⁵⁶ *The Age* newspaper urged concerned electors to vote 'below the line'.⁵⁷ Then Leader of the Opposition, Matthew Guy pledged to reform the GVT system if elected.⁵⁸ Other sources claimed that minor parties' electoral agreements were secretly reneged upon.⁵⁹

Second and accordingly, increased reporting of Glenn Druery's activities influenced public opinion, increasing opposition to GVTs. Allegations that payments were received for brokering these deals caused further concern as not all parties could afford to pay, creating a further 'uneven' playing field in the election.⁶⁰

Below-the-line voting increased marginally from 7.05 to 9.4 per cent of total ballots cast.⁶¹ It is plausible that public discussion around the issues contributed to this trend. The extent to which these changes impacted on results is unclear.

⁵⁰ EMC (2020) op. cit.

⁵¹ C. Curtis (2019) *Submission on 2018 Victorian Election to Electoral Matters Committee*, The Committee; Fiona Patten's Reason Party Victoria (2019) *Submission on 2018 Victorian Election to Electoral Matters Committee*, The Committee.

⁵² EMC (2020) op. cit., p. 222.

⁵³ T. Read (2020) *Electoral Matters Committee Continues to Fail Victorians by Delaying Voting Reform*, media release, 20 August.

⁵⁴ S. Ratnam, (2021) 'Electoral Reform,' *Debates*, Victoria, Legislative Council, 5 May, p. 1578-1581.

⁵⁵ Field & Game Australia (2022) *Parties That Support Hunting and Shooting beyond 2022*, FGA.

⁵⁶ M. Johnston and M. Warner (2022) 'Seats on Sale for Just \$55K'. *Herald Sun*, 17 November; M. Johnston and M. Warner (2022) 'I Had Clive Eating Out of My Palmer', *Herald Sun*, 18 November.

⁵⁷ Editorial (2022) 'A Voting System in Dire Need of Reform', *The Age*, 18 November.

⁵⁸ A. Middleton (2022) 'Guy's Call to Group up over Tickets'. *Herald Sun*, 19 November.

⁵⁹ B. Kolovos (2022) *"It Was a Charade": Preference Whisperer Glenn Druery Falls for Animal Justice Party's Victorian Election Sting*. *The Guardian*, 14 November.

⁶⁰ M. Warner & Johnston, M (2022) *'Election fixer Glenn Druery caught out lifting the lid on manipulation of Victoria's voting system.'* *Herald Sun*, 17 November.

⁶¹ VEC (2002) op. cit.

Third, no ‘micro-parties’ succeeded in the 2022 election (Table 3). Of the successful candidates, the only somewhat low primary vote went to the Animal Justice Party in Northern Victoria Region, and their 1.55 per cent result was above the much smaller instances outlined in Table 1.

Fourth and finally, there were other trends in the outcomes for minor party representation. The Greens, on the one hand, obtained four seats in the Legislative Council after winning only one in 2018. Many of the smaller successful parties from 2018, on the other hand, received much less electoral support (Table 2).⁶² The Derryn Hinch’s Justice Party’s proportion of the primary vote fell from 3.75 to 1.53 per cent and Sustainable Australia’s from 0.83 to 0.47 per cent. TMP’s primary vote fell from 0.62 to 0.28 per cent. Yet the number of parties represented in the chamber only decreased marginally from 11 to 10.

Early in the 60th Parliament, the Legislative Council passed a motion on 22 February 2023, initiated by Samantha Ratnam, that called for electoral reform. It called on the government to ‘urgently establish an independent expert panel to review Victoria’s undemocratic group voting system and make recommendations to Parliament on options for reform’.⁶³ The main contribution in the debate from the Government came from the Labor Member for North-Eastern Metropolitan, Sonja Terpstra, who argued that the ‘Electoral Matters Committee is the appropriate place to determine those things.’⁶⁴

Summary

Any assessment of electoral reform should be made in the context of the Legislative Council’s role as a house of review. In this light, arguments over the pros and cons of the current PR-STV system and GVTs ultimately rely upon public perceptions of the effectiveness and legitimacy of institutions.

Both international and Australian experiences suggest that a well-functioning upper house requires the right level of powers to review a government’s legislation. The increased use of PR-STV has enabled a diversification of representation, and crossbenches can scrutinise legislation and help improve policy outcomes.

However, PR-STV can pose problems, owing to the complexity of the voting process. The adoption of GVTs in the 1980s, therefore, simplified the Senate and other upper houses’ election processes, although it eventually led to controversy, dissension and debate. When candidates with very small initial votes learned to ‘trade preferences’ with one another to obtain a necessary quota, the Senate and many states, in response, changed their electoral processes to allow for optional preferential voting both above and below the line and abolished the need for GVTs.

The reforms to Victoria’s Legislative Council in 2003 introduced PR-STV and GVTs, with one of the explicit aims being to diversify party representation in the chamber. This has had success, even if the 2018 elections featured the success of some candidates with tiny initial votes. Despite widespread expressions of dissatisfaction, no changes occurred during the 59th Parliament, and subsequently none of the successful candidates in the Legislative Council election 2022 received votes as small as candidates in the previous state election. It could also be argued that, with optional preference voting (requiring the numbering of a minimum of five candidates below the line), voters already have the choice to not rely on GVTs. While the proportion of below-the-line voting increased in 2022, most voters still opted to vote above the line.

⁶² *ibid.*

⁶³ S. Ratnam (2023) ‘Motions: Electoral reform,’ *Debates*, Victoria, Legislative Council, 22 February, p. 391.

⁶⁴ S. Terpstra (2023) ‘Motions: Electoral reform,’ *Debates*, Victoria, Legislative Council, 22 February, p. 402.

GVTs pose a challenging dilemma. Diversity in upper house representation is seen as an important facet of a contemporary upper house's role. Mechanisms intended to simplify elections, however, have arguably led to distortions in election outcomes. It remains to be seen whether Victoria will respond in the same way as other jurisdictions.

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