

**Submission
No 39**

**INQUIRY INTO THE CONDUCT OF THE 2022 VICTORIAN STATE
ELECTION**

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Committee Secretary
Electoral Matters Committee
Parliament of Victoria

Inquiry into the 2022 Victorian state election

Thank you for the opportunity to make this submission regarding the 2022 Victorian state election.

In this submission, I run through a number of issues and make a number of recommendations.

The immediate focus of the Committee needs to be on finding a new electoral system for the Legislative Council. The group voting ticket system is discredited and produces outcomes that are out of step with the intentions of voters. It also encourages a proliferation of small political parties and encourages nominations of paper candidates that clog up ballot papers and make it harder for voters to make an informed choice.

While the actual result in the Legislative Council was not as disproportional as recent elections, the potential for distortion remains until reform is implemented.

More generally, however, it would be a mistake to focus solely on the electoral system of the upper house. The result for the Victorian Legislative Assembly was the most disproportional since 1967. The single-member electorate system has past its use by date and does a poor job of representing the votes of Victorians.

I would be available to participate in further conversations with the Committee if that would be helpful.

Regards,

Ben Raue
15 May 2023

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List of recommendations

Recommendation 1: The electoral system for the Victorian Legislative Council be changed to abolish group voting tickets and allow voters to mark multiple preferences above-the-line between groups, along the lines of the system used for the Senate.

Recommendation 2: That a new electoral system ensure that a single '1' above the line is sufficient for a vote to be formal, while still encouraging the marking of further preferences.

Recommendation 3: The Committee should consider options for reducing the number of electoral regions used to elect the Victorian Legislative Council, thus increasing the number of members elected per region, potentially going so far as electing the entire chamber as one statewide electorate.

Recommendation 4: The Victorian Legislative Assembly should be elected by a method of proportional representation.

Author background

I am an electoral analyst based in Sydney. I run a website called the Tally Room, as well as a podcast of the same name. Through this website, I analyse Australian elections (federal, state and local), writing seat-level guides for upcoming elections, analysing results and looking for trends in the data.

From time to time I also appear in other media publications analysing election results, including the Guardian Australia, the 7AM podcast, and various radio appearances. I was the on-air election analyst for ABC Radio's coverage of the 2023 New South Wales state election.

I am an adjunct associate lecturer in government at the University of Sydney, and I have written chapters on the results in the House of Representatives for three successive academic publications analysing Australian federal elections: *Double Disillusion*, *Morrison's Miracle* and the yet-to-be-published edition covering the 2022 federal election.

I have written this submission in a private capacity. I am not a member of any political party.

Group voting tickets – a short history

Victoria has used group voting tickets (GVT) for above-the-line voting for elections to the Legislative Council since 2006, which was the first election to use proportional representation by single transferable vote (PR-STV) to elect any part of the Victorian parliament.

The GVT system had first been implemented for elections to the Australian Senate in 1984 as a solution to the problem of a high informal rate whilst avoiding exhausted votes.

Proportional representation had first been introduced for the Senate in 1949. It was introduced for the state Legislative Councils in South Australia in 1975, New South Wales in 1978 and Western Australia in 1989.

Prior to the introduction of group voting tickets, voters could only cast what we would now call 'below-the-line voting'. In the case of the Senate, voters were required to number every box, which led to very high rates of informal. The group voting ticket provided a shortcut and thus allowed voters to avoid the risk of casting an informal vote while still ensuring that preferences flowed.

South Australia, New South Wales and Western Australia all followed the Commonwealth in implementing group voting tickets in the 1980s. But the problems with the system had already emerged before Victoria joined the club in 2006.

At the 1995 and 1999 New South Wales state elections, parties were elected with a tiny share of the vote on ballot papers that were simply enormous, with lots of parties running with misleading names and counter-intuitive preference instructions. While most of the seats were allocated proportionally, the final seats were decided by preference flows not based on the preferences of actual voters.

New South Wales moved away from GVTs after that 1999 election, instead moving towards a system where voters could mark their own preferences above the line. This still simplified the process and provided a shortcut, but while keeping flexibility in the hands of the voter.

These problems first emerged in New South Wales because their quota was so much lower. The New South Wales Legislative Council has a quota of about 4.55%, as compared to the Senate (14.3%), South Australian Legislative Council (8.3%), the Western Australian Legislative Council (12.5%-16.7%) or the Victorian Legislative Council (16.7%). But these same issues have emerged in all of these systems.

The Commonwealth abolished group voting tickets in early 2016, and South Australia achieved the same prior to the 2018 state election. Western Australia has now abolished GVTs for their next election due in 2025. Victoria stands alone using this system.

All of these jurisdictions now use similar electoral systems. They have maintained "above-the-line" voting as a shortcut, but allow voters to mark multiple preferences. Each

preference allows the vote to flow to all of the candidates of that group in order, but it does not dictate preferences between groups.

Group voting tickets – why it doesn't work

There are a number of issues with GVTs and they have been documented at length. At my website I have written numerous pieces pointing out issues with this system,¹ but I will summarise some of the key problems.

Firstly, GVTs tend to produce a notable disconnect between the share of the vote and the share of seats for particular parties. While GVTs can help small parties win seats where they otherwise wouldn't, only some parties benefit, and the losers can be concentrated.

As an example, in 2018 the Greens polled 9.2% of the primary vote and won one seat, the Derryn Hinch Justice Party polled 3.75% and won three seats.

While Transport Matters won a seat on 0.6% of the statewide primary vote, six other parties polled a higher vote and did not win any seats.

The use of GVTs – which make the flow of preferences far more reliable than when voters must mark the preferences themselves – also encourage the registration of more political parties and the nomination of full slates of candidates.

If preference flows were less reliable, parties would have more of an incentive to merge, or to focus their efforts on regions where they are strongest.

But when preference flows are automatic, parties have an incentive to run candidates in all eight regions, in order to be able to swap preferences in other regions. This leads to significantly larger ballot papers in each region.

We have seen a decline in the number of parties running candidates, and the size of Senate ballot papers, at federal elections since 2016.²

Group voting tickets also change the dynamics of how preferences flow, due to the bloc nature of preference allocation. Preferences decided by individual voters don't all flow in the same way – they tend to spread around, and can't be tightly directed in line with a party's strategy.

Comparisons between elections conducted using GVTs and those using voter-allocated above-the-line voting shows that voters for minor parties tend to give their preferences to better-known parties with similar ideological positions. Voters for small left-wing parties

¹ You can find my analysis of group voting tickets at <https://www.tallyroom.com.au/tag/group-voting-tickets>

² *Nominations close, 2022 edition*, 23 April 2022 at <https://www.tallyroom.com.au/47463>

tend to give preferences to Labor and the Greens, rather than other small left-wing parties, let alone minor parties with different political platforms.³

In contrast, GVTs often encourage a strategy of keeping preferences away from Labor, the Coalition and the Greens and giving preferences to a wide range of minor parties.

The bloc nature of GVT preferences also allow for parties polling a very small vote to leapfrog numerous other parties, continuing to pile up votes. These parties are often unknown to the voters whose preferences favour them, but that doesn't matter with GVTs.

This increases the danger of very small vote margins being crucial to the result. Famously the first count for the 2013 Western Australian Senate election saw a very close result. The Shooters, Fishers and Farmers defeated the Australian Christians by 14 votes at a crucial point in the count, resulting in the Christians being excluded from the count. This resulted in Labor and the Palmer United Party winning the last two seats. If that margin had been reversed, the Greens and the Australian Sports Party.⁴ Such outcomes are much less likely under the voting system now used for the Senate.⁵

The absurdly disproportional results we have seen in the past were less noticeable in 2022 because of a change in preference strategy from the minor parties. These parties split into at least three separate groups, preferencing amongst themselves but then favouring larger parties over the other minor party groupings. In particular a number of small left-wing minor parties included Labor and the Greens in their preference arrangements, although still favoured each other over their larger ideological neighbours.

Yet there is no reason to be confident that the change in strategy in 2022 will be repeated in the future. Indeed the fact that slightly fewer members were reliant on GVTs to win election suggests there may be a window now when it is slightly easier to change the system.

When comparing the current GVT system to an alternative system using the same eight regions but with a preference system closer to the current Senate system, I estimate that just one seat would have changed hands in 2006 and 2010, six seats in 2014, nine in 2018 and seven in 2022.⁶

³ Antony Green analysed how voters marked preferences at the 2019 Senate election at his blog on 17 September 2021 at <https://antonygreen.com.au/2019-wa-senate-election-ballot-paper-and-preferences-analysis/>

⁴ *Numbers point to WA Senate by-election*, 2 November 2013 at <https://www.tallyroom.com.au/17192>

⁵ Antony Green demonstrated how such a phenomenon has completely disappeared at the 2022 Senate election at his blog on 20 July 2022 at <https://antonygreen.com.au/record-minor-party-vote-at-the-2022-senate-election-and-how-the-senates-electoral-system-performed/>

⁶ *Who might have won under other Victorian upper house models?*, 19 December 2022 at <https://www.tallyroom.com.au/17192>

Changes in seat outcomes without GVTs

Who would've likely won seats in Victoria's Legislative Council if GVTs were abolished and a system similar to the current Senate electoral system was used, and who would've lost those seats?

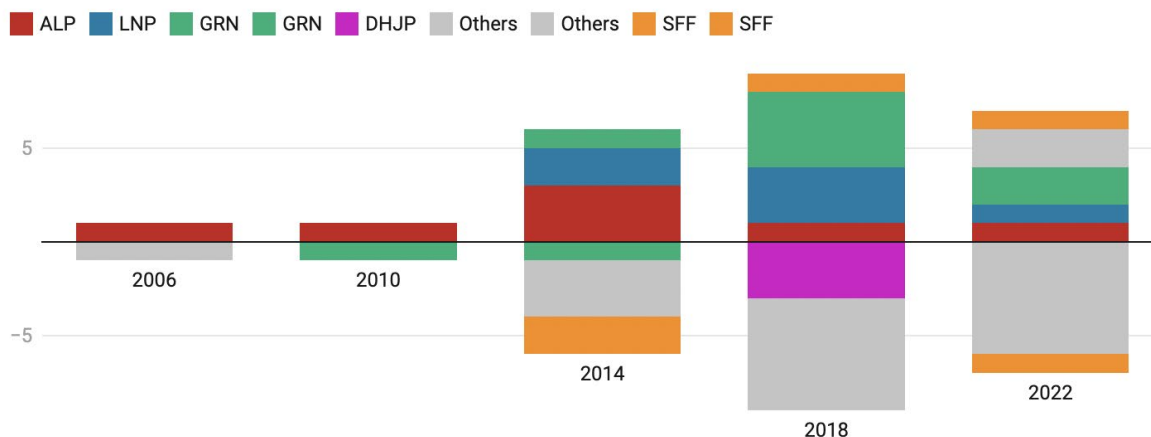


Chart: Ben Raue • [Get the data](#) • Created with [Datawrapper](#)

When the Senate voting system was changed in 2016, there was a great deal of concern about the number of votes that would exhaust under the new system, whereas GVTs ensured that every above-the-line vote stayed in the count right until the end.

While there has been some exhausted votes at Senate elections since the change in system, the evidence is that most voters mark at least the six preferences recommended, and the proportion of votes that end up exhausting is quite low.⁷ Exhaustion rates tend to be higher for the New South Wales Legislative Council, but preference flows have been increasing since the Senate moved to the current system.⁸

The experience of the Senate system suggests that advising voters to mark multiple preferences is effective at ensuring that most voters number multiple boxes. While this doesn't guarantee that a vote won't exhaust, but it reduces the rate significantly. This can be done in a way which doesn't mislead any voters as to what counts as a formal vote.

Recommendation 1: The electoral system for the Victorian Legislative Council be changed to abolish group voting tickets and allow voters to mark multiple preferences above-the-line between groups, along the lines of the system used for the Senate.

Recommendation 2: That a new electoral system ensure that a single '1' above the line is sufficient for a vote to be formal, while still encouraging the marking of further preferences.

⁷ Exhausted votes in the Senate drop in 2019, 9 September 2019 at <https://www.tallyroom.com.au/38979>

⁸ NSW 2023 – upper house preference rates continue to climb, 29 April 2023 at <https://www.tallyroom.com.au/51512>

Abolishing the regions to allow for more diversity

The removal of group voting tickets alone will likely reduce the diversity within the Legislative Council, even if it is more proportional than the results under the current system.

There is extensive research looking into the effect of the number of members elected per electorate (district magnitude), and it has found that the district magnitude, combined with the total size of an assembly, tends to have a strong influence on the effective number of parties in the parliamentary chamber.⁹

Simply removing GVTs and replacing them with a Senate-style system would likely reduce the number of parties in the Council. Modelling the 2022 results under such a system suggests Labor and the Coalition would have each gained one seat and the Greens gaining two. Victorian Socialists would have won a seat, while Legalise Cannabis, Liberal Democrats, One Nation and Animal Justice missing out.

It's not worth focusing too much on a particular hypothetical election, but generally the current constitutional structure of eight regions electing five members each would likely result in a smaller number of parties than the current arrangements.

But it would be possible to achieve a greater level of diversity while still ensuring a fair and proportional result, by abolishing the current regions.

Upper houses elected in New South Wales, South Australia and (as of 2025) Western Australia are elected at large to represent the entire state.

If the New South Wales system was used to elect 40 members at large based on the 2022 results, every party that is currently in the Council would have won a seat, as well as Family First, the Hinch Justice party, the Socialists and Reason.

If supporters of GVTs are serious about political diversity, this is the path to take. It would ensure a diversity and representative upper house, where parties win seats based on the votes they actually poll, not based on preference deals, although preferences could still play a role in deciding the final seats.

There would undoubtedly be complaints about regional areas lacking representation under such a system, but the experience of the New South Wales upper house suggests that regional areas are well represented. Under the current system, voters don't have a choice – geography is prioritised over other criteria. Under an at-large system, voters would have the choice of prioritising geography if that is important, but it wouldn't override other factors. In New South Wales, regional areas are well represented, while the outer suburbs are less strongly represented.¹⁰

⁹ The Seat Product Model is produced by multiplying the district magnitude (M) by the assembly size (A), as developed by Matthew Shugart and Rein Taagepera in the book *Votes from Seats*
<http://www.mshugart.net/votes-from-seats-info.html>

¹⁰ *Local representation in the NSW upper house*, 9 February 2023 at <https://www.tallyroom.com.au/50892>

If the option of electing the entire chamber as a single electorate is a bridge too far, you could still improve the diversity by reducing the number of regions – for example by electing eight members in each of six regions, or ten members in each of four regions.

Recommendation 3: The Committee should consider options for reducing the number of electoral regions used to elect the Victorian Legislative Council, thus increasing the number of members elected per region, potentially going so far as electing the entire chamber as one statewide electorate.

Results under alternative models, Victorian LC 2022

How many seats would each party have won based on 2022 election results with various models? "Statewide" assumes 40 seats elected to represent the state at large. "S-L" refers to Saint-Lague allocation, which produced the same result as single transferable vote (STV).

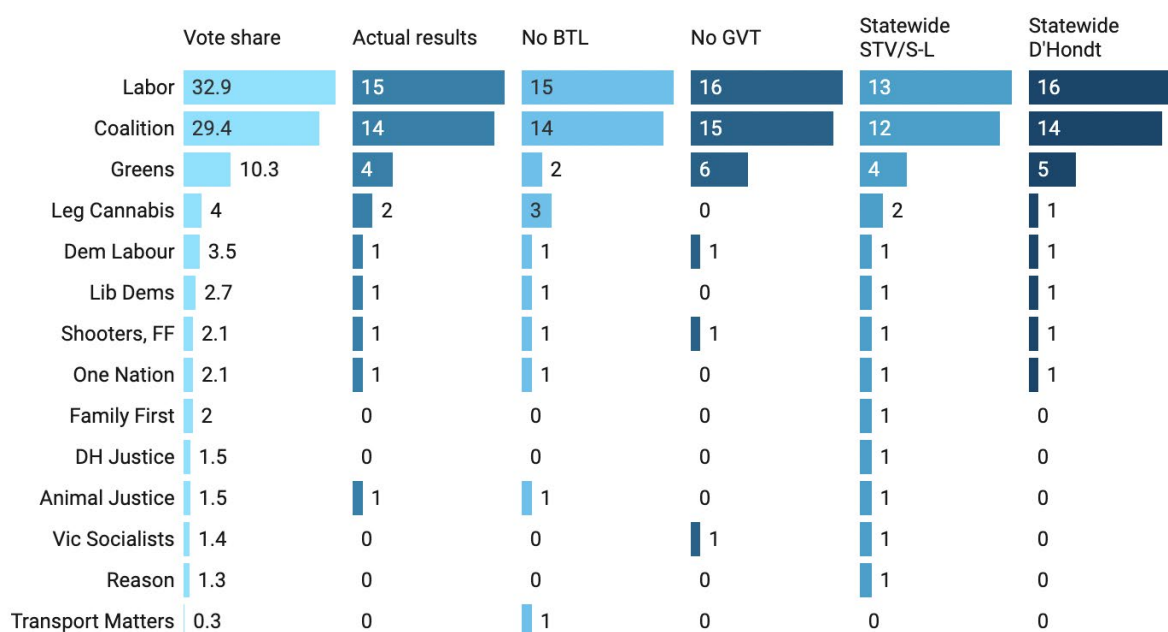


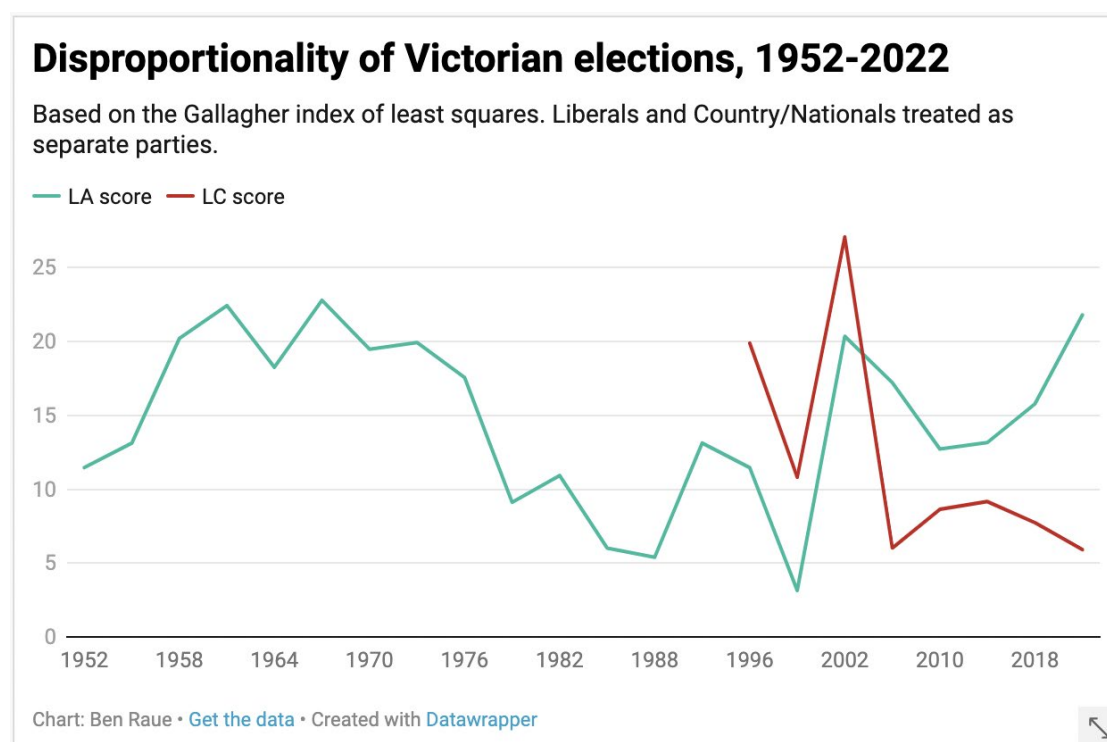
Chart: Ben Raue • [Get the data](#) • Created with [Datawrapper](#)

Proportional representation for the Legislative Assembly

Group voting tickets draw the attention and can make it easy to forget that issues of representativeness and proportionality are also present for the Legislative Assembly, indeed I would argue these issues are much worse.

While the Victorian Legislative Council has issues with the final seat in each region being potentially decided based on undemocratic preference deals, most of the seats are still proportional and overall the chamber ranks quite well on measures of proportionality. The same cannot be said for the Assembly.

The Gallagher Index measures how proportional a result is – a score of 0 would indicate that each party's share of seats exactly matches their share of votes.



The previous Legislative Council system generally was less proportional than the Assembly, but the reforms prior to the 2006 election significantly improved its proportionality, and the 2022 election scored best under this system.

In contrast, the Assembly result was the most disproportional in over 50 years, falling just short of the 1961 and 1967 elections, which both saw a very high vote for the Democratic Labor Party and a lopsided majority for the Liberal Party.¹¹

¹¹ *Victorian lower house election the most disproportionate in 50 years*, 16 December 2022 at <https://www.tallyroom.com.au/50513>

Labor polled 37% of the primary vote, the second-worst result for the party in many decades, and the worst in an election where they won government. Yet despite such a low vote, Labor won a solid 56 seats.

Labor did win a majority of the two-party-preferred vote, but even on this metric there was a disconnect between voting trends and seat results. There was a 2.3% swing from Labor to the Coalition, yet Labor gained one seat.

In the long run this sort of result is unsustainable. A party winning less than 40% of the vote should not be winning majority government. Ultimately the only real solution is to institute some form of proportional representation so that all of the major groups who receive votes in Victorian state elections can win seats in proportion to their vote share.

Recommendation 4: The Victorian Legislative Assembly should be elected by a method of proportional representation.