

To the Hon Louise Asher MP,
Chair
Electoral Matters Committee
Parliament of Victoria

Dear Chair,

Please accept this submission to the Electoral Matters Committee's inquiry into the conduct of the 2014 State Election.

I welcome the opportunity to make a contribution to thoughts on the functioning of our democracy.

In my recent studies at Swinburne University of Technology, I had the privilege of working alongside some of the best election watchers and political scientists in the State, among them Prof. Brian Costar of the Democratic Audit of Australia. While the views expressed in this submission are my own and do not necessarily reflect those of Prof. Costar or the Democratic Audit, I must do Brian and other teachers at Swinburne in for imbuing me with a passionate concern for the mechanics of democracy. I believe it's the duty of all citizens to help maintain, tweak, fix and police our electoral system. I therefore enclose a brief personal submission speaking to a couple of issues I feel to be of import to State.

I invite any opportunities to speak to this submission further or to provide further information expanding upon it.

I wish the committee good luck in its work.

Yours,

James C. Murphy.

1.) **Upper House Preferencing**

The voting system currently in use for Legislative Council elections is one of the world's more enlightened ones, striving as it does to save as many votes as possible.¹ Nonetheless, it is far from perfect. The results being produced are growing increasingly unexpected and unrepresentative. Changes need to be made to restore the public's faith in the system.

The results for the 2014 State Election illustrate some of the problems with the system as it stands. Take, for instance, the 'micro-party' candidates that won election off the back of miniscule primary votes. None of the successful candidates from Shooters & Fishers, the Sex Party, DLP or Vote 1 Local Jobs won more than 3.5% of the vote – a far cry from a quota of 16.7% (Beaumont, 2014). Local Jobs won just 1.3% of the vote in the Western Victoria Region. More than 80% of their quota came not from voters but from preference flows directed by the parties.

These kinds of results are not mere flukes – it is now generally accepted that the final seat in every Region election will be filled in this way, leading to the glut of registered parties and the gargantuan ballot papers confronting voters. Some voters, overwhelmed by the ballot, give up and return a blank vote. Others make mistakes. Others still are simply disillusioned by their lack of efficacy they feel in this process. In all sorts of ways, the full preference system is driving up the informal vote and weakening the legitimacy of our electoral outcomes.

It's time for Victoria to switch to Optional Preferential Voting.² First, this system will produce more representative results. Preferences will not wander off somewhere entirely unexpected by the voter that cast the initial ballot. Parliament will be made up of candidates that actually received major backing in the community, as opposed to those that luck-out 40 counts into preferences. Second, it will make voting simpler. Undoubtedly this will weaken the incentive for micro-parties to swamp the ballot paper. Once voters acclimatise to the new system, it will reduce accidental informalities. Deliberate informalities will also be tackled, at least partially. OPV hands over greater discretion to the voter and with it a stronger sense of efficacy – exactly what's needed to combat the rising tide of voter cynicism.

¹ Take, for example, the egregious waste of the UK's first-past-the-post system. According to the Electoral Reform Society (2015), half of 2015's successful candidates won with less than 50% of the vote. Over 100 MPs were elected with less than 30%. All up, 74% of the vote was 'wasted' in the 2015 General Election.

² Specifically, I would favour the proposal put up by JSCEM (2014) for Senate elections of ~~also specifically preferential voting above the line but also JSCEM (2014) for Senate Elections~~ allowing preferential voting above-the-line, but also abolishing Group Voting Tickets altogether. This means a '1-only' vote above the line equals a vote for that party's candidates only.

OPV isn't perfect. It leads to more 'exhausted' votes and a large percentage of elected candidates will in fact receive less than a full quota. But this is more of a worry for statisticians than it is for the general public. What's important for most is a result that's easy to understand, a process that's transparent, and a vote that they feel has some efficacy. This is what is lacking in the full preference system and this is what OPV provides.

This is not a new proposal. The Electoral Matters Committee (2014) made a formal recommendation for this in the last Victorian Parliament. Respected figures such as the ABC's Antony Green (2013), the Conversation's Adrian Beaumont (2014) and other election watchers have been recommending this switch for years. At the Federal level, the Joint Standing Committee on Electoral Matters (2014) has released an interim report calling for these kinds of changes for Senate elections. Other jurisdictions – Queensland and New South Wales – have already adopted OPV for some time. Victoria has slipped behind. This change is overdue and should be implemented ahead of the 2018 Victorian State Election.

RECOMMENDATION 1 – Adopt Optional Preferential Voting for Legislative Council elections.

2.) Early Voting

Early voting has been growing at each election for some time, but last year's early turnout took everybody by surprise (Cook, 2014). In my electorate of Northcote, voters queued around the block nearly every day to vote early. In both urban and regional electorates, between a quarter and a third of eligible voters voted early (Dowling, 2014). Across the State over a million citizens – 30% of the vote – voted before polling day. That's over double the numbers recorded in 2010 (Cook, 2014).

This is a seismic shift, one that poses some big problems. To name a few:

- i. The VEC does not have the resources to cope with a third of the electorate turning out early. While they claim to have been prepared for the 30% early vote in 2014, long queues in electorates across the state suggest otherwise (Cook, 2014). Substantially more planning and funding would be required to absorb that kind of demand on a regular basis, particularly if we want to start counting these votes on election night.
- ii. Smaller parties and independents are heavily disadvantaged by early voting, as they often don't have the resources to man booths for two weeks ahead of polling day. This constitutes a structural disadvantage for some

candidates, a bias that shouldn't be perpetuated.

- iii. Early voters cast their ballots with less information than their polling day compatriots. Many policies, debates, pamphlets and speeches are not released until the final weeks and days of the election campaign.
- iv. Polling day is one of a shrinking number of mass community events held in contemporary Australia. On top of deciding the composition of Parliament, it is also a major community-building exercise involving schools, churches, charities, and many civil society groups. The social capital generated by polling day is lost when it is stretched out over two weeks.
- v. The experience of polling day also helps establish a sense of efficacy and legitimacy around the result. It is important that voters actually see the rest of the community turning out to vote. It helps them place themselves within a wider electorate and indeed a whole polity.

These problems might be tolerable if the bulk of early voters had valid reasons for voting ahead of polling day. But this, we can safely assume, is not the case. We don't need exit polls or a mass study to tell us that the bulk of early voters simply find polling day to be a bit inconvenient. We need to decide if this is a good enough reason.

I argue strongly that it is not. Certainly it's not good enough to account for the costs, be they financial, political or cultural, outlined above. But more than this, it is simply an unhealthy attitude to encourage. If we want to maintain a strong and resilient democracy, we need to ensure we combat the notion that voting is a minor irritation to be squeezed into the least-problematic corner of the schedule. We need to remind people that voting is a central part of democratic citizenship in Australia. It is a core responsibility, not something to be side-stepped or shuffled around.

Early voting needs to be restored to its proper role – giving a second chance to people who *cannot* vote on polling day, rather than an option for those who'd *prefer* to be elsewhere.

This could be done by raising the burden of proof for early voters. Currently, all that's required is an oral declaration from the elector that they cannot vote on polling day. A reason is not required, nor is evidence.³ It couldn't be easier – we ask more of students taking a sick day from school.

³ In the EMC's (2012; 20) discussion paper on the future of Victoria's electoral administration, the VEC confirms that, 'In practice, when an elector attends an early voting centre VEC officials... ask the elector... "Are you unable to vote on election day". If the elector's answer is "Yes" they are issued a vote... The VEC cannot require electors to provide specific reasons for their inability to vote on election day.'

We can afford to strengthen the requirements to include a written declaration from the elector *and* one from their employer, doctor, school, church or other body confirming their reasons for being unable to appear on polling day, pursuant with the reasons laid out in s98 of the Victorian Electoral Act.

With plenty of warning about the changes for voters, this could immediately arrest the early voting trend and avoid serious costs to our State's treasury, culture and democracy.

RECOMMENDATION 2 – Increase the burden of proof on those wishing to vote early.

References:

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