

30 June 2015

Mr Mark Roberts
Executive Officer
Electoral Matters Committee
Parliament of Victoria
Parliament House
Spring Street
East Melbourne Vic 3002
Email: emc@parliament.vic.gov.au

Re: Submission relating to the conduct of 2014 Victorian State Election.

Dear Mark,

Please accept the following submission relating to the **Victorian Parliament's Electoral Matters Committee** enquiry into the conduct of the **2014 Victorian State Election**.

Thanks to Party impolicy, either by design or a indifference, the Victorian State Parliament via The Victorian Electoral Act (2002) which presents the structure and guidelines of the Victorian State (Legislative Council) Electoral Ballot system [s 74 3 (AA) Schedule 1(B)] has dealt 'Independent Candidates an "uneven hand".

The Partitioning of Democracy and the Infringement of Liberty

In November 2014, I contested as an Independent Candidate for the Legislative Council of Victoria in the 29 November 2014 State Election. After the release of the election ballot paper (Friday 14 November) I felt it necessary to raise the following concerns relating the Ballot paper structure, which I believed served to marginalise independent candidates and undercut democratic values. I sent the following complaint to VEC on 28 November 2014.

The Legislative Council Ballot Paper is prejudicial and undemocratic.
Independents suffer under an unequal and unfair Legislative Council Ballot Paper in the following ways -

1. Terminology (misleading/unexplained)

The use of the term, '**grouped**,' and '**ungrouped**' candidate/s I believe is prejudicial and confusing to voters who are generally unaware of the terminology and structure of the 'grouped' and 'ungrouped' ballot system. In my experience, voters when confronted with the term 'ungrouped' are often confused and left unsure on how to cast their vote, due to the terminology of 'grouped' and 'ungrouped' not being defined/explained on the ballot paper. The feedback I have received from voters is that they are unsure of what "grouped" and "ungrouped" means and were further perplexed by why the word "independent" was not used instead.

Further to this, I would also like to ad, independents who form groups (unregistered parties) by definition are not independent. If a an independent forms a group with other independents - the voting public have a right to know what exactly this group is called and what it stands for. Unfortunately the Ballot paper fails to provide the public with this information.

In sum, the Ballot paper fails to explain basic terms and structures resulting in a prejudicial and undemocratic voting system.

* In my discussion with independence who have formed a group, the reasoning for doing so was because they could not or did not choose to register as a 'party'. In other words 'grouped independents are 'unregistered parties' - this should be explained to the ballot and to the voter in pre-election material.

** I would propose the following amendments -

1. Amending the terminology from '**ungrouped**' to '**independent**' candidate/s.
2. Amending the terminology from 'grouped' to 'informal/unregistered' party

2. Format

The presentation and layout of the ballot paper is prejudicial on two counts-

(i) The current format unfairly segregates/partitions parties and candidates. The current format places 'parties' above the line, with 'grouped' and 'ungrouped' candidates below the line. This format may lead the voter to believe a hierarchal order is in place - with 'ungrouped' candidates appearing as an inferior selection due to the structure of the ballot paper (candidate placed under the line). In my anecdotal post poll interviews, voters confirmed they were confused by the line and the legitimacy of voting below the line.

* I would propose removing the 'partition' line, which would allow all candidates to be represented (in terms of format) on equal terms.

(ii) The system for placing a number one above the line with the alternative of marking 1 to 5 (in sequential order) below the line suggests a preferential system is in place instead of a proportional system (as intended by the Electoral Act). To be fair, there should not be a line division between 'parties' and 'grouped' / 'ungroup' candidates. All candidates regardless of their status (party, group or ungrouped status) should need to receive 1 to 5 (sequential) vote in order for the vote to count.

3. Victorian Compulsory Voting infringes the liberty and rights of it's citizens.

The Victorian Electoral Act says 'voting is both a right and a responsibility'. However, I believe the 2014 Victorian Election highlighted that Compulsory voting adopted in 1926 and 1935 by the Victorian Parliament took away the rights of the citizen to exercise choice. Forcing citizens to vote for an election system using unexplained terminology and format is an affront to the democratic rights of Victorian citizens. Enforcing a Ballot system formatted to serve the Party Elites is cynical and undemocratic. Forcing citizens to vote for policies and politicians which may not represent their views is an infringement on liberties of a free citizen. Moreover, forcing citizens to vote on Ballot paper which offers no clear reason for its structure or terminology is underhanded and disrespectful to the Victorian public.

The Victorian public are beholden to the Party elites and will remain so, so long as this voting system which offers a confusing mixture of unexplained terms and preferential treatment - forcing parties to the top with everyone else sequestered to the lower folds of the ballot paper. The current system only ensures the partitioning of democracy and the debasement of civil liberties/independent rights - some of these rights are:

- the right to vote in a free and fair election
- the right of personal liberty [freedom from coercion]
- The right to vote without penalty [the right to vote is not the same as everyone must vote].

Addendum:

I have already put forward these comments to VEC for consideration. I hold the VEC office and staff in the highest regard. These comments are not a criticism of their objectivity nor am I questioning their efforts to run an open and fair election. I believe future governments will benefit from reviewing The Victorian Electoral Act (2002) voting system to ensure terminology, process and structure evenly represent all candidates. Further, I would propose that the Victorian Constitution be amended to restore the rights of Victorian citizens.

If it be in the Committee's favour, I would kindly request the opportunity to speak before the Electoral Matters Committee at the public hearings in August 2015.

I appreciate both yours and the Committee's consideration of the views and insights I have raised.

Regards,

Darren M Bain
Independent Candidate
Legislative Council
Northern Metropolitan Region