



## **Submission to Electoral Matters Committee**

### **Liberal Democratic Party – Victoria**

Upon invitation from the Victorian Parliament Electoral Matters Committee conducting an investigation into all aspects of the 2014 State Election, the Victorian branch of the Liberal Democratic Party request that the following proposals be taken into consideration.

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# **Voluntary Voting**

## **Exercising a Right**

### **Rights ≠ Obligations**

The Liberal Democrats believe voting is a right rather than an obligation and that Australians should be given back their voting freedom.

The right to do something implies that you have a choice not to do that thing. It would be absurd to say that Australians have the “right” to pay tax. Paying tax is a legal obligation, not a right. Under current laws, voting is also a legal obligation rather than a right.

The right to vote is a civil freedom, like free speech or free association. But free speech does not imply a requirement to speak and free association does not imply a requirement to join clubs. Likewise, the freedom to vote should not imply a requirement to vote.

Proponents of compulsory voting argue that forcing people to vote improves the quality of the democracy. This is untrue. There is no evidence that countries with compulsory voting receive any benefit compared with voluntary voting countries such as New Zealand, Germany, Canada or the United Kingdom.

Indeed, it may be that compulsory voting makes the democratic process less responsive to the views of the electorate, as political parties can ignore their primary constituency (who are forced to vote) and instead concentrate solely on swinging voters. Under voluntary voting a candidate would need to appeal both to their supporters (who otherwise might decline to vote) and swinging voters (who might vote for other parties).

Under compulsory voting, representatives of safe seats face no democratic pressure. Voluntary voting would mean that no seat was truly safe as supporters may refuse to vote. This means that representatives need to be constantly aware of the views in their electorate and can take no victory for granted.

### **Voluntary Enrolment**

The Liberal Democrats oppose so-called “automatic enrolment” to vote.

Under legislation introduced by the Gillard Government in 2013, Australia’s compulsory voting laws were made more coercive by the introduction of provisions which allowed the harvesting of private citizens’ personal details from other government databases such as drivers licences and school leaving certificates for forced voter registration.

“Automatic enrolment”, which is actually just involuntary enrolment, corrupts the electoral database with repeat and/or erroneous enrolment of individuals who may be resident at other addresses, leading to increased likelihood of electoral fraud and multiple voting.

Involuntary enrolment, along with compulsory voting, seeks to force citizens to validate an electoral choice which freedom of action could otherwise reveal to be widely reviled.

By way of illustration, involuntary enrolment and compulsory voting were adopted by the former Soviet Union to give the illusion of popular support for a regime that subsequent history has revealed to be a hated tyranny.

The Liberal Democrats believe that the freedom to vote must also include the freedom to choose not to vote, where the choice of all political candidates is found to be unacceptable. For this, enrolment like voting, must be a voluntary act.

## **Restricting the vote to those who take an interest**

### **Voting Blind**

There is a fallacy that if we can just force people to the voting booths then we will end up with a government truly representative of the people.

This is questionable. The people who have to be forced are, in the main, people who have no opinion. In the political sphere they just don't know what's going on. This is not meant in an elitist condescending way, but just that all people have their own particular interests and for some work, relaxation, family, sport, charity etc. take precedence over others. The motive for many who don't vote could be that they are intelligent enough to know that their input into a decision making process in a subject they know next to nothing about would not only be useless, but possibly even harmful. Political pundits might find it hard to believe, but people can still be diligent, productive members of society while taking next to no interest in politics.

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**"I'M VOTING FOR THE GUY WITH THE COOLEST WEB SITE."**

## The Donkey Vote

The late Australian Senator Don Chipp once referred to non-voters as ‘morons’<sup>1</sup>. This might be rather a rash and unfair judgement. To imply that someone is a moron because they happen to lack nous in a particular area of knowledge is an unjustified judgement call: their fount of knowledge might well exist in other areas. Everyone will attract the ‘donkey’ classification in at least one subject.

Nevertheless, in the subject of civics and government, the undeniable truth is that many people of voting age *do* fall into this asinine category.

In 1994 ANOP Research Services Pty Ltd conducted a national survey to ascertain Australians understanding of government. Some of the specific survey results were:

- only 40 percent could name the two Federal Houses of Parliament;
- only 24 percent knew that Senators are elected on a State-wide basis;
- only 19 percent had some understanding of federalism;
- only 18 percent knew something about the content of the Constitution; and
- 60 percent did not know how the Constitution can be changed<sup>2</sup>.



## User Friendly Early Voting Centres

### Institutional Discrimination against Small Parties

#### The Status Quo

“...majority or plurality [electoral] systems effectively reward strong parties and penalize weak ones...”<sup>3</sup>

On Election Day for Victorian elections, there are approximately 1,600 election centres scattered throughout the state. This would divide up into approximate 200 centres per

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<sup>1</sup> Research Brief, Parliament of Australia, Dept of Parliamentary Services, 31 October 2005, No 006, p. 9.

<sup>2</sup> ‘Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto’, *Joint Standing Committee on Electoral Matters* June 1997, p. 24

<sup>3</sup> “Proportional Representation” Encyclopaedia Britannica (on-line)

Legislative Council zone. Whereas it is a good thing that there should be many centres so as to minimise the travel difficulties for voters, an unfortunate by-product of this arrangement is that it makes it extremely difficult, if not impossible, for small political parties, with commensurate fewer supporters, to both adequately hand out 'how to vote' cards and scrutineer. If a small party had, on average, 250 potential supporters per election centre, 17% of the voters, that would guarantee legitimately winning a Legislative Council seat if all were handed a 'how to vote' card. But how could it manage the resources to man 200 election centres for their one zone, let alone further resources for the remaining seven zones of Victoria.

### **The right to exist and represent**

Whereas some might respond by saying that as a small party is, by nature, a less popular party and one that cannot win government, then it is par for the course, and not a problem that it may experience such difficulties.

However this may well be an incorrect judgement. Whereas a larger party will enter an election with the sole goal of winning government, the goals of candidates representing small parties, or standing as independents, is sometimes merely to win a seat (generally in the Legislative Council) and thus be a separate, independent voice in parliament, representing the distinct concerns of the supporters. While only the larger parties have the right to win, and populate, the executive branch of government, all parties have a right, subject to their popularity, to win at least one seat in the legislative branch, and the electoral and voting framework should not be engineered to inhibit that right.

## **Benefiting from Economies of Scale**

### **Early Voting Centres**

As compared to the approximately 1,600 Election Day centres, the VEC also mans 100 Early Voting Centres throughout the state for a week prior to the election, for those who would find it difficult to vote on Election Day. What has become surprising in recent elections is the popularity with voters of these centres, to the degree that it was noted in the last election they were utilised by almost one million Victorians.

### **Both Cost Cutting and Convenient**

In response to the increased popularity, rather than increasing the number of Early Voting Centres (EVCs), if the VEC were to instead establish larger EVCs it would be of dual benefit to the Victorian public.

### **Lower Costs**

Due to economies of scale, using larger centres to accommodate more people would minimise duplication of services and thus be a cost saver.

### **Voter Friendly**

A larger turnover of voters at each new station would attract minor political party representatives (who otherwise would be spread too thin on the ground) willing to explain their party's position on issues as well as handing out 'how to vote' flyers, thus decreasing the chances of voters voting 'blind' with no more information than what is on the VEC ballot paper.

### **No Loss of Local Access**

Voters who might have difficulties in travelling far to a voting booth would not be disadvantaged as the normal large number of voting booths/ stations would still exist for Election Day.

## **Allowing $1/40^{\text{th}}$ of the Voters to Appoint $1/40^{\text{th}}$ of the LC**

--Electing the Legislative Council (LC)--

### **Proposals**

#### **Main Proposal: Legislative Councillors no longer region based**

That the committee suggest to Parliament to pass legislation to change the Victorian Constitution to effect the following:

- A. Section 27 be amended such that Legislative Councillors of our state government no longer specifically represent, or otherwise are for "each of the eight regions", but instead are appointed by, represent, and act for, the people of Victoria as a whole, wherever the Councillor, or Victorian who voted for him/her, may reside.

#### **Complementary Proposal: Choice of LC ballot paper for voters**

That if the reason the above proposals cannot be adopted is that it would make LC ballot papers too large, the following suggestions be considered:

- A. Upper house Legislative Council (LC) ballot papers be divided into two types:
  - a. Small and user friendly ‘above the line’, single selection, group voting ticket.
  - b. Traditional ‘below the line’, allowing the selection of candidates in preferential order but also allowing the option to cease marking wherever the voter should wish.
- B. Voters then having the option to take and fill in whichever ballot paper type they choose.

### **Perceived Benefits**

1. With the resultant lower quota derived from 40 LC vacancies in only the one zone at every election, so called “preference swapping” will become significantly less effective in candidates winning seats, while at the same time not denying **any** voter the opportunity for one of their direct vote preferences, if not the first, to still be effective.
2. Housing more parties, the LC will better reflect the full spectrum of political viewpoints held by Victorians.

## **Supporting Arguments**

### **Winning through Preference Deals**

#### **Over 30% of State LC Votes go to Preferences**

One of the main criticisms of the 2014 LC election related to the preferential system of voting utilised. Where a person’s vote did not immediately become part of a quota to elect a candidate, it subsequently went into what may be called a holding pattern of floating preference votes, which after various attempts, would eventually become part of a quota to elect someone, a candidate often way down on the list and not that well known, if at all, with the voting public.

While suggestions of dubious democratic legitimacy, such as instituting quotas, have been made to remedy this perceived problem, possibly the simplest of all has been ignored.

#### **Lower quotas = fewer preference votes**

Preference votes have become such a big issue in contemporary times because, as they now tend to be directed elsewhere than to the major parties, much more counting of them is needed, and their counting often leads to surprising results which leads analysts to surmise that party preference choices are often motivated by strategy rather than ideology. Many of

the political parties engaged in the preference swap negotiations garner less than 2% of popular support, and yet by current law, to win a seat in the LC, a quota of 16.6% of the vote must be accrued. At the last state election 27 of the 40 Legislative Council seats were won on only primary vote quotas, meaning that the remaining 13 seats, over 30% of the vote, went into this preference-exchange, holding pattern, maze.

## **The Problem of the High Quota**

But why does this quota have to be so high? Suppose there was a single zone, Victoria-wide electorate for the LC where all voters throughout the state were given the same ballot paper to cast their vote. With 40 seats in the LC the natural quota is only 2.44%, a fraction of the existing artificial 16.6% level, and small enough to ensure that significantly more primary votes could in fact elect candidates. Yes, there would still be some preference votes left over, but far less than the current 33% of the total.

## **Reasons Given for High Quotas**

### **Multiple Electoral Zones**

The reason for not having the whole state as a single zone for proportional representation (PR), but instead dividing it up into multiple member electorates, (apart from where commentators and politicians unashamedly declare it is to raise the quota so as to deny “extremist” and single issue parties representation) is allegedly to give the voter a compromise between PR and maintaining a (somewhat) local member.

[It is interesting to note that the proportional representation house is always the one set aside for compromise and not the other. No major party politician has ever suggested that the upper house should have pure, one-zone proportional representation, while the lower house should use a compromise system of local member representation where, instead of one member per local electorate there should be, perhaps three, to accommodate differing points of view.]

But why do we need this compromise here? The very meaning of compromise is to accommodate the interests of both parties. Are not the interests of single member voting and local area representation already fully accommodated in the legislative assembly anyway? In fact doubly accounted for considering it has more than twice as many representatives as the LC.

## **Summary**

The argument made to defend high quotas, the “need” for multiple zoning, tend to ignore not only the loss of political representation for minorities but also the clarity and confidence gained from elections where preference dealing would play such little effect.

## **New Legislative Council Ballot Papers**

### **Problem of Tablecloth Papers**

If the electoral system for the LC were to be changed such that the natural 2.44% quota became the real and effective quota, then this would lead to a significant increase in the size of the LC ballot paper (the so-called tablecloth paper) to accommodate the expected increase in the number of candidates contesting future elections.

To address this problem a solution could be to:

- Maintain two types of LC ballot papers, either of which could be chosen by the voter to fill out: one for the below-the-line voter and the other for the more common above-the-line.
- For 'below the line' preferential, allow voting to be optional so that voters, if they so choose, would not have to complete the sequence of a possible 100 plus, names to mark off.

### **Below-the-line ballot papers**

These would be similar to traditional ballot papers except that they could accommodate more names as the section for 'above the line' voting would have been removed.

### **Above-the-line ballot papers**

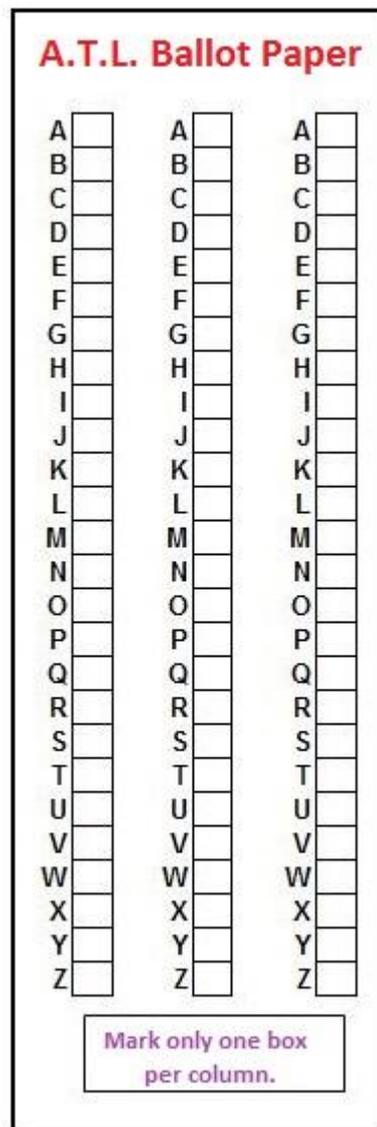
The ballot paper would be of high gsm, hard paper similar to a TAB or Tattsлото card, where the voter would fill out only three boxes (see diagram), from three listings of the alphabet, to indicate a three letter code representing the candidate or political party he or she chooses. (eg. ALP, LIB, NAT, GRN, LDP)

Votes could be counted by the traditional manual method, or by machine counting.

If machine counting, cards would be read and sorted by optical character reader (OCR) sorting machines as in Post Office letter distribution centres, and grouped into bundles of (perhaps) 50 according to their respectively marked party. After sorting and counting, scrutiny would then consist of party scrutineers randomly choosing a bundle of fifty for a VEC checker to take to a table and, under scrutiny of interested parties, manually recount and check for affiliation.

## Points of Note:

- Administration Costs
  - o According to best estimates, approximately only 9% of voters vote below-the-line. Thus even though the new below-the-line paper would become even larger, probably only nine of them will have to be sorted and counted out of every hundred of total ballot papers.
  - o Costs of elections for the VEC and candidates would be cheaper due to:
    - Economies of scale in printing state-wide, rather than previously region specific, for both LC ballot papers and political party how-to-vote flyers as well as media advertising.
    - The average LC paper would now be the smaller 'above the line' (A.T.L.) one, entailing decreased printing and distribution costs.
  
- User Friendly
  - o For those who had forgotten what code to input or who were not carrying a 'how to vote' card, a wall of the voting booth could be filled with an AEC poster listing the political parties and candidates together with their three letter code.
  - o For Election Day a simple OCR machine (not a sorter) could be installed at each polling station and be programmed to indicate whether a marked card was formal or informal, without actually indicating who had been voted for. Voters who were not sure if they had marked their card correctly would have the option to run their card through the machine so as to confirm that their vote was valid.
  - o With the aid of OCR sorter machines and computers to distribute party preference placements, the choice of 91% of the voters could be ascertained on the night of the election, leaving only the manual counting of the remaining 9% for a later time.
  
- Integrity
  - o Less chance of human error with machine counting.
  - o Small hard paper ballot papers, being easier to handle, would allow for greater numbers per hour to be randomly checked under scrutiny.



- A Board could be established to distribute codes to political parties / candidates. Preference would be given to those who could already prove voter recognition. (eg ALP for Labor and GRN for the Greens). Where no recognition could be proved and more than one party applied for a certain code, the preference would be given to the larger party to be judged by such indicators as membership lists or size of petitions to the AEC. Such 'user friendly' codes as ABC, AAA or ZZZ should probably be denied to all.
- Due to costs of optical character reader sorting machines, ballot papers would probably need to be taken to central sorting halls for counting rather than be done at each individual voting station.
  - This would also make scrutiny easier for smaller parties who normally don't have the resources to cover every voting booth.

## Concluding Summary

- "Geography has, however, become less relevant to political identity... It was largely supplanted early in the [last] century by the strong party identification that became characteristic of Australian politics."<sup>4</sup>
- To quote an argument from Encyclopedia Britannica: "The case for proportional representation is fundamentally the same as that for representative democracy. Only if an assembly represents the full diversity of opinion within a nation can its decisions be regarded as the decisions of the nation itself."
- The Victorian Legislative Council should, as much as feasible, represent all political/social interests of the Victorian people rather than representation be skewed by geographical / regional limitations, areas of which are already accommodated by the Legislative Assembly anyway.
- To intentionally engineer, or refuse to reform, an electoral system which denies minorities political representation violates the principle of the democratic ideal as well as the Australian 'fair go' ethic.

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<sup>4</sup> Marian Sawer, *Dilemmas of Representation*, Australian National University