

Change that Counts

Submission to the Victorian State Parliament
Electoral Matters Committee

Inquiry into the Conduct of the 2014 Victorian State Election

by **Anthony van der Craats**
South Yarra

July 8, 2015

Statement of Guiding Principles

Open and transparent systems permit everyone to make informed choices, and give everyone access to information in an easily understood format

Accountability is acting responsibly and being answerable for actions taken

A lack of openness, transparency and insufficient accountability creates the conditions in which corruption flourishes

The Internet is the ideal medium for cost effective delivery of information maintaining open and transparent government (eGovernance)

Introduction

The current method of counting multi-member proportional representation is seriously flawed. The system in use was designed to facilitate a manual counting process and is outdated, disproportionate and fails to reflect the voters' intentions.

There is an urgent need for review and updating of the way the vote is counted.

With the adoption of computerised counting systems we need to reassess the method of counting the vote to maintain proportionality and fairness in the election results. This means starting again from scratch and removing the outdated process that distort the proportionality and outcome of the elections results.

The main guiding principles in any review of the counting system should be

- 1. All votes should be treated equally and in the same manner***
- 2. No vote should ever increase in value as the count progresses in any single iteration***
- 3. Preferences from excluded candidates should be redistributed as if the excluded candidate had not stood.***
- 4. All votes should be transferred in a single transaction without segmentation***
- 5. A full value vote should always be attributed to the first available continuing candidate – Without skipping or jumping elected candidates.***

In order to address the shortfall in way the vote is currently counted, too take advantage of the computerised counting methods and restore public confidence in the way our votes are counted we need to consider adopting the following:

- Weighted Surplus Transfer value
- Reiterative Distribution of Preferences Count
- Equal distribution of above-the-line voting
- Scrutiny of an Electronic Ballot Count -Publication of Preference Data files
- Review of the Recount provisions as apply to Local Government Elections
- Implementing a Representation threshold
- Deposits for Candidates

These changes should be considered and implemented prior to the 2016 Local Government elections and the 2018 Legislative Council Elections

Weighted Surplus Transfer value

There is an urgent need to implement a Weighted Surplus Transfer value to maintain the correct proportionality of the count.

Current formula

(The Total Value of Candidates Vote minus the quota) divided by
the number of ballot papers

Proposed change

(The Total Value of Candidates Vote minus the quota) divided by
The Total Value of Candidates Vote multiplied by the value of each ballot paper

Each ballot paper in any iteration is allocated a primary vote equal to one. As the count progresses ballot papers that have formed part of a candidates surplus is reduced in value proportionate to the total value and the value of the surplus that exceeds the quota

Under the current system a vote that held a value of one are transferred out at the same value of votes that hold a fractional value. This distorts the value and proportionality of the ballot as some votes are increased in value at the expense of others which are decreased in value

Under the proposed weighted Surplus Transfer value all votes maintain their value in proportion to the value of the vote received.

Western Australian has recognised the need for a weighted Surplus Transfer Value and have implemented a Weighted Gregory Transfer System in the counting of votes for the Western Australia Legislative Council

The adoption of a Weighted Surplus Transfer Value fulfils the following guiding principles

- ***All votes should be treated equally and in the same the same manner***
- ***No vote should ever increase in value as the count progresses in any single iteration***

Reiterative Distribution of Preferences Count

The current system of segmentation and distribution of preferences from excluded candidates was designed to facilitate a manual counting process to limit the time and effort required to determine the results of the election.

This process of segmentation combined with the method used in the calculation of the Surplus Transfer value distort the outcome of the elections results.

With the adoption and use of a computerised counting system and the proposed adoption of a Weighted Surplus Transfer Value we no longer can justify the need to distribute preferences from excluded candidates using a system of segmentation.

The adoption of a reiterative distribution count, where the count is reset and restarted on the exclusion of a candidate would validly give expression to the voters' intentions.

A reiterative counting system would repeat the cycle of allocation and distribution of preferences until all vacant positions are filled in a single iteration.

All surplus votes can and should be transferred in a single transaction. There should be no skipping or jumping of votes that retain a full value and otherwise would flow to an elected candidate.

A full value vote would always be allocated to the first available "non excluded" candidate in the order of preference indicated on the voters ballot.

A reiterative counting system also accounts for *Optional Preferential Voting* where a ballot no longer expresses a vote for a continuing candidate. The Quota for election would be recalculated on each iteration.

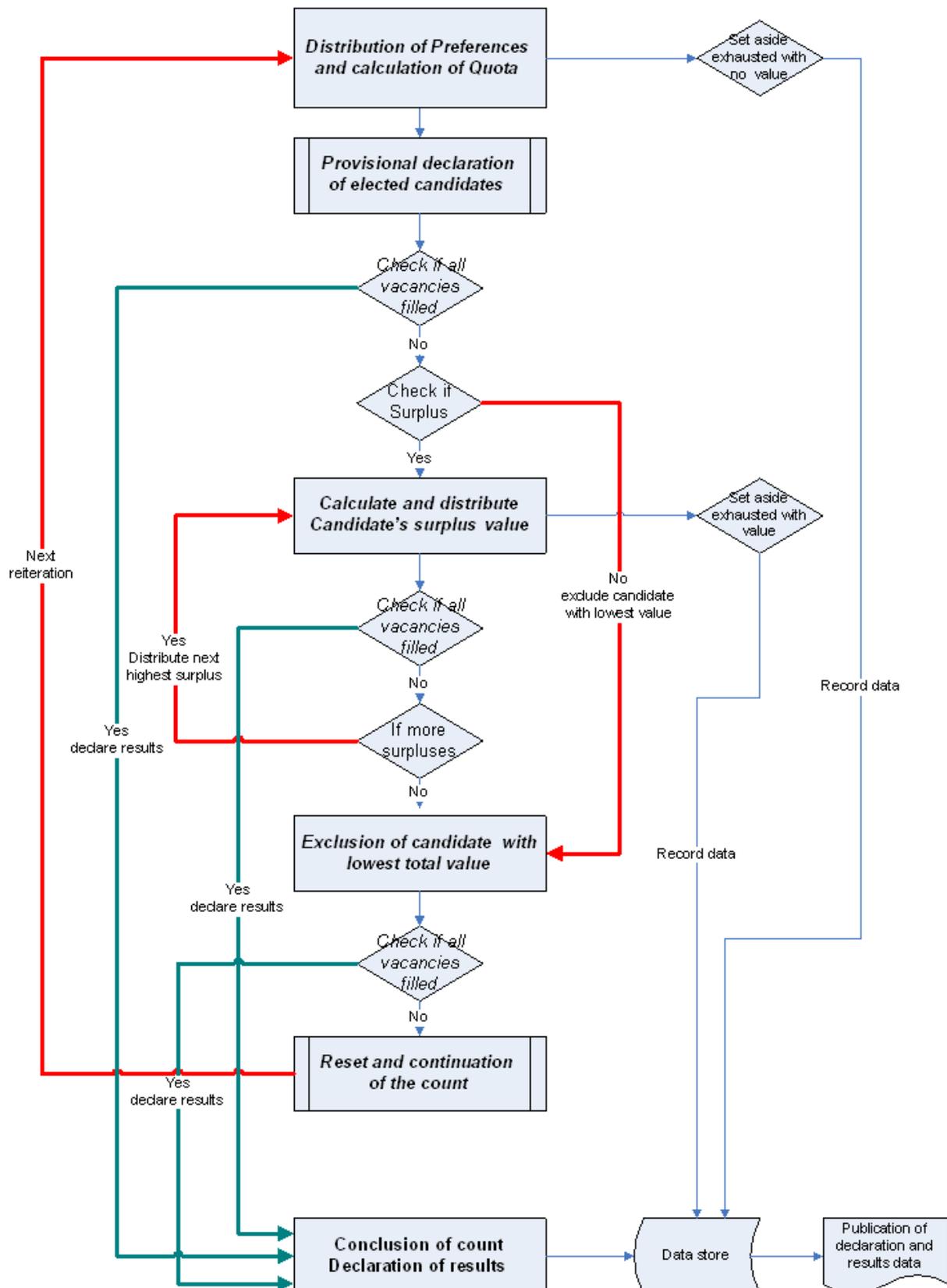
With the aid of computerised counting system a reiterative count would take approximate 3 hours to complete (Depending on the number of candidates)

Unlike a segmented count a reiterative "count is easier to follow as the count progresses. The last iteration determining the results of the election.

A reiterative count is the same process as the preferential count used in a single member election.

“The Wright System”

Procedures for a Reiterative Proportional
Single Transferable Vote – Count Process flow chart



The adoption of a reiterative counting System fulfils the following guiding principles

- *All votes should be treated equally and in the same manner*
- *No vote should ever increase in value as the count progresses in any single iteration*
- *Preferences from excluded candidates should be redistributed as if the excluded candidate had not stood.*
- *All votes should be transferred in a single transaction without segmentation*
- *A full value votes should always be attributed to the first available continuing 'non-excluded' candidate – Without skipping or jumping elected candidates.*

Equal distribution of above-the-line voting

Consideration should be given to distributing Above-the line votes equally to all members of the group. This would reflect the voters' intention to support the group as opposed to an individual candidate. IN order to avoid gaming of the system the order of exclusion with a group should be the reverse order of candidates listed within the group.

Scrutiny of an Electronic Ballot Count - Publication of Preference Data files

It is fundamental and important that the electoral process is open and transparent and subject to independent analysis and review. Unlike a manual counting system the transfer and distribution of an electronic computerised count cannot be viewed or properly scrutinized without the publication and availability of the transcribed preference data-file.

Whilst the VEC and other authorities have published copies of the preference data files following the conclusion of the ballot much more needs to be done to ensure that this information is readily available without undue delay.

It is noted that the VEC did provide access to copies of the preference data files in a CSV data format as the count progressed. This allowed scrutineers to undertake independent analysis of the data set and provided a limited means to verify the content and integrity of the data used to tabulate the results of the election.

The rules, regulations and process of related to the publication of the preference data-file needs to be clarified to ensure that this information is published and publicly available-- Ideally this information should be published in real time as the count progresses this providing an audit trail and clear record of any changes to the data files.

Currently informal votes (excluding blank votes) are not included in the preference data-file. This information should also be included and available for review

Copies of the preference data files that are available where published and provided by all jurisdictions including the Australian Electoral Commission (Senate Count), All States and Territories, The Victorian Electoral Commission (Legislative Council), The City of Melbourne and some Local Government Councils. The City of Melbourne Act specifically identifies and requires that this information be made available to Scrutineers.

Unfortunately copies of the electronic preference data-files for all other Victorian Local Councils are only available through the Freedom of Information process.

The City of Kingston in 2013 provided copies of their preference data files following an FOI request (See attached FOI decision)

It is with great concern that the City of Stonnington in response to an Freedom of Information (FOI) application have refused to make available copies of the Preference data files pertaining to the 2012 Victorian Municipal elections. (See attached FOI decision dated 19 February 2015))

The Victorian Local Government regulations (Election) 2005 requires that at least two copies of the Preference data files be “kept safe and secret”.

The City of Stonnington had formed the view that the requirements in the Local Government Act and Regulations was intended to prevent public gaining access to this information.

Contrary to the claims made by the City of Stonnington the reference to “Safe and Secret” relates to the **location of storage** and not the content of the information recorded. Information that in all other respects and jurisdictions is rightly publicly available. (*This matter is current before the Victorian Civil Administrative Tribunal on review pursuant to the FOI Act*)

The provisions of the local Government Act and associated Regulations need to be reviewed to ensure that copies of the preference data-files are published and available to the public in order to protect and maintain an open transparent electoral process. Copies of the preference data files can be easily generated and published in a CSV format which is readily available and accessible and independent review and analysis.

The publication of the certified detailed preference data should form part of the process and requirements of the declaration of the elections.

Legislative Acts and Regulations governing public elections in Victoria **must** be amended to ensure copies of the preference data files are published and available to the public without the need or requirement to submit an application under the provisions of the Freedom of Information Act.

This information should be published and accessible via the Victorian Electoral Commissions web site.

The right of access to this information must be unequivocal and assured in the public interest.

Implementing a Representation threshold

Should the committee consider the implementation of a for minimum Representation threshold it is recommend that the threshold be 5% of the total formal vote or 25% of the nominated quota.

The adoption of a reiterative counting system would facilitate the implementation of a representation threshold. All candidates who fall below the threshold (following the distribution of primary votes and any surplus votes) would be excluded and the count reset and restarted.

Deposits for Candidates

In order to limit the number of candidates seeking nomination it is recommended that a nomination fee of \$5000 per candidate be required for nomination to Legislative Council. Further that refund of any candidates nomination fee only apply to those candidates that reach or exceed the representation threshold outlined above

Robson Rotation

There has been suggestions made in other submission that Victoria should adopt the Robson Rotation system of printing ballot papers.

It is my view that this would be counter-productive time consuming and to little benefit., Robson Rotation should only be considered if and when the Parliament adopts a system of “online electronic voting”

Quota – Droop vs Pure Proportional

Victoria currently uses what is referred to as the “Droop Quota” where the quota for elction is determined by calculating the Total number of votes divided by (the number of vacant positions plus one) plus one.

A pure proportional Quota is calculated by calculating the Total number of votes divided by the number of vacant positions. (x/y)

There are a number of arguments as to the validity of the Droop quota in a propoer5tional electoral system, ten Droop quota distorts the proportionality of the election in that there is created what is referred to as a “Wasted Quota” The Droop quota was introduced to limit the number of steps required to complete a manual count.

The replacement of the Droop Quota with a pure proportional Quota would more accurately reflect the voters’ intentions.

Each vote under a pure proportional quota would be treated equally in determining who is elected

A pure proportional quota system means that all ballot papers would be equally distributed. With the use of a computerised counting system a pure proportional system is no longer prohibitive.

Review of the Recount provisions as apply to Victorian Local Government Elections

The current procedures and method of the count-back procedures contained within the Local Government Act are in need of urgent review. The method of count back needs to ensure that all votes are treated equally and in proportion to all other votes.

The methods outlined in the Victorian Local Government Act Schedule 3A) distort the proportionality of the elections results.

Votes that retain a value as a result of the implementation of the “Droop” quota that form part of the so called “Wasted Quota” must be taken into consideration when determining which candidate should be elected to fill a casual vacancy.

All votes that are attributed to a vacating candidate’s election must be included at the value they were received multiplied by the calculated transfer value. (*Quota divided by Total value of votes allocated that elected the vacating candidate*)

Clause 12 of Schedule 3A of the V LG Act is in need of urgent review.

Preliminary analysis of the City of Stonnington South Ward “recount” election indicates that had all votes been treated equally Steve STEFANOPOULOS would have been elected with a margin greater than 60 votes.

Publication of the detailed preference data files would allow more analysis on the impact of the current procedures and the extent of distortion in the adopted method of counting the election vote.

This change should be implemented prior to the 2016 Municipal elections.

Attach Ref.

1. FOI Determination City of Kingston (dated 29 July 2013)
2. FOI Determination City of Stonnington (dated 19 February 2015)
3. VCAT VAN DER CRAATS v CITY OF MELBOURNE 2000 447
4. ELECTORAL [ACT](#) 2002 - SECTs 114A, 122, 123
5. ELECTORAL [REGULATIONS](#) 2012 – Reg 45
6. LOCAL GOVERNMENT ACT 1989 - [SCHEDULE 3A](#)
7. LOCAL GOVERNMENT (ELECTORAL) [REGULATIONS](#) 2005 - reg 111-113
8. CITY OF MELBOURNE ACT 2001 - [SCHEDULE 1](#) Clause 17
9. CITY OF STONNINGTON (SOUTH WARD) [COUNTBACK](#)