

CORRECTED EVIDENCE

ELECTORAL MATTERS COMMITTEE

Inquiry into the conduct of the 2014 Victorian state election

Melbourne — 12 August 2015

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Mr Geoffrey Goode, president, and

Dr Jeremy Lawrence, treasurer, Proportional Representation Society of Australia.

The CHAIR — Mr Goode and Dr Lawrence, thank you so much for coming along to the committee to give further clarification of your very comprehensive submission. It is much appreciated. I advise you that you are covered by parliamentary privilege for these hearings, but parliamentary privilege does not apply to any interviews you may wish to give to the press — not that I think that would make a huge difference to your evidence. Could you please state your full name and business address, if you have a business address, just to clarify for the committee whether you are appearing as an individual or on behalf of your group. Then perhaps you might address some points in your submission, and then we will throw it open to some questions.

Mr GOODE — Geoffrey William George Goode. My address is 18 Anita Street, Beaumaris, 3193.

The CHAIR — You did not have to give your private address, but that is all right.

Mr GOODE — It is the address of our organisation.

The CHAIR — Okay. Thanks.

Mr GOODE — It is also my private address.

Dr LAWRENCE — My name is Jeremy Lawrence, and I am here representing the Proportional Representation Society's Victoria-Tasmania branch.

The CHAIR — Terrific. If you would like to walk us through your submission.

Mr GOODE — Yes. We have provided a resonant submission, which I did want to speak to in general terms, and I presume there might be some interest in questions towards the end of it. As the starting point, I would like to read out a quote, because it appears on the bottom of page 3 of our submission. It says that section 11 of the 2002 final report of Victoria's constitution commission, entitled, *A House for our Future — a Report*, included the following paragraph supporting the discontinuance of above-the-line voting and the adoption of Robson rotation. The report's paragraph reads as follows:

At a later stage, when voters have become accustomed to the system, abolition of 'above the line voting' combined with the Robson rotation would place a greater emphasis upon the personal responsibility of the individual voter. Both reforms would tend to decrease the influence of the party machines on the final outcome and contribute to a greater sense of independence by members of the upper house. However, any decision on either issue is one for the future and would need to be accompanied by a major voter education campaign.

They say it was one 'for our future', and I note that this was written in 2002. That commission's report greatly influenced the legislation that provided for a new system of election for the upper house.

Our submission is in several sections. Section 1, just an introduction, makes the fairly obvious point that because of the system of proportional representation the balance of opinion within the Legislative Council membership more closely resembles that of the Victorian community as a whole than does the Assembly. But we wish to go into a little more detail on some of the limitations of the upper house system that was adopted, because it did not, as the constitution commission suggested, give full emphasis to the benefits that the single transferable vote system of proportional representation is designed to give. Our point is that group voting tickets work to impede the proper operation of that system.

What happens, of course, with group voting tickets — and at the last state election it was very obvious, as it was at a Senate election before that — that a significant proportion of the voting population as a whole is not prepared to give a first-preference vote to either of the major parties or the third-largest party, the Greens. That was most marked, of course, in Senate elections in South Australia, where the combined vote of the Labor Party and the Liberal Party was just barely over 50 per cent. It was quite phenomenal, really, that nearly half that electorate decided to go to a smaller grouping.

In Victoria, however, the Legislative Council attracted the vote and it went to these non-traditional or less substantial parties, and in a sense it had to be dissipated among a lot of very small so-called micro-parties. The reason it, in effect, had to be dissipated is that the only way it could not be dissipated would be for

people to vote below the line, which apparently they were not inclined to do in large numbers. The above-the-line-thing is so rigid that if you do not give your vote to the Labor Party, The Nationals, the Liberal Party or the Greens — your first preference vote, that is — the structure of all those minor party group voting tickets has tended, through preference harvesting, to become such that they do not go back to the major parties. They will end up accumulating on some rather unpredictable minor party candidate.

By contrast we look at the well-established Hare-Clark system that has been electing the lower house of Tasmania for over 100 years. There are no above-the-line provisions and never have been. They have been mooted. The Parliament sought reports on the matter, and those reports have recommended not to adopt them. In fact they went further in the Hare-Clark system and moved away from what Dr Evatt called ‘regimented voting’. He used that expression when he was introducing the Senate electoral system. The parties hand out how-to-vote cards and urge voters who will, to some extent, do what the parties say, or perhaps are not interested in it and just want to get out of the place and will do what the party machine has ordered or recommended. Tasmania had the Hare-Clark system long before the modern parties even arose. There was an attempt to move away from the traditional practice at polling booths, which was not to hand out how-to-vote cards. Tasmanian voters would have been insulted by the idea that somebody was telling them which of the particular actual persons was to sit in their Parliament.

Eventually the Labor Party chose to try to break that mould, but they chose the wrong time because Doug Lowe was the Premier, and the group in the Labor Party that tried to do it was a relatively small group. But it had enough control to make that happen. In other words, the Labor Party in Tasmania resolved to hand out how-to-vote cards. The Labor Premier realised that this was a threat to the good practices that the Labor Party had developed. It had succeeded in having government in Tasmania for a long time by letting the voters choose which Labor candidates they wanted, not a little party machine. However, the party machine did meet. Apparently there were 56 people in a room in Hobart who decided what the ticket would be. They put Neil Batt — who at the time was the national president of the Australian Labor Party and a minister who had been in Doug Lowe’s government — at number four, which was effectively an unwinnable position, in I think Denison.

What happened was that Doug Lowe allowed a private member’s bill. A Liberal member, the late Neil Robson, moved the bill, and the Premier encouraged it. It was passed unanimously in both houses. The bill was to provide for Robson rotation, a system of making sure that the various candidates in the columns — you would probably be quite familiar with it — have different positions in equal incidences at various points on the ballot paper. When that election was held, the actual election, the first election under Robson rotation, Mr Batt topped the poll, although the party ticket, which was faithfully handed out and promptly rejected, was unsuccessful. The person who had been put at the top of the ticket and who was probably regarded as a principal engineer of the whole idea of having tickets, in putting himself at the top, was not elected — John Green.

I have got onto the influence of Robson rotation and the influence of group voting tickets. When you look at the last two public elections in Tasmania, the last one was the state election and the one before that was the Senate election in Tasmania. In the Senate election in Tasmania the Palmer United Party was successful. It succeeded in having Jacqui Lambie elected as a senator for Tasmania. The Palmer United Party of course blitzed Tasmania with all sorts of yellow CDs and yellow propaganda material. It did the same at the state election, but at the state election people cannot tick boxes for fancy names or catchy names for parties or names that are linked with prominent individuals; they actually have to think about the merits of the individual people they want to have elected. The Palmer United Party was not successful. They got a much lower vote.

Just contrasting those two, there seems to be no reason why we would not be better off with the two principal reforms that we are recommending. I do not know how much time is left.

The CHAIR — Would your colleague like to say something? Or you can just have a couple more minutes to conclude.

Mr GOODE — I have got a couple more minutes, have I?

The CHAIR — If you would like to have a couple more minutes, you can have a couple more minutes.

Dr LAWRENCE — I will just wrap up by saying that I commend our recommendations to the committee. I feel it is a win for the voters, a win for the candidates who are standing for election and a win for even the major parties, because it increases the perceived legitimacy of the elected representatives and the bond between them and the people who elect them, and the reputation of their profession. I think in the long term it is a win, win, win and we should move to that system.

Mr GOODE — I did have the pleasure of meeting a former upper house leader in Tasmania, Sir Geoffrey Foot, who had a nice discussion with me about these various matters. He quoted a remark that a former Labor Premier had made to him when there were negotiations between that Premier controlling the lower house and Sir Geoffrey as the leader in the upper house. Reece's comment was, 'Hare-Clark saves us from our own mistakes'.

I will just touch on the last two points. The main one of those last two is no. 5, the problem with thresholds. No. 6 is the need for adoption of a better transfer method. It is highly technical, and we hope you read it and even perhaps take our recommendation to consult with the Victorian Electoral Commission on this, because they have great expertise in these matters and would give sound advice about them. But the problem with thresholds has risen up because people think that it is outrageous that somebody gets into the upper house of Victoria with 2 per cent of the first preference vote — a very small first preference vote.

The fact is of course that 19 out of the 40 members got in with very small first preference votes — tiny first preference votes. The ones that were non-traditional parties, micro-parties, managed to get 2 per cent or so and accumulated the rest from other micro-parties. The other of the 19 that got in with 0.1 per cent, or very tiny percentages, were those on the major party tickets. That is not surprising, given this regimentation of the vote or this stage management of the electoral system.

Under Robson rotation the first preference vote is spread. There are good technical reasons for this, which I set out in an article that was published in the *Canberra Times* before the ACT referendum that adopted Hare-Clark for the ACT. That spreading of the first preference vote goes on in Tasmania. Most serious members get rather similar first preference votes, because people are not fixated on one particular person. It is a fiction that somebody is sort of all there dominating everybody else and the other candidate is almost worthless.

In Tasmania there is only one person in the history of the lower house who has ever won an absolute majority of first preference votes. That is in 100 years. That was Doug Lowe, and that was for very peculiar reasons. He came in at a time when instead of the original alphabetical ordering of names on the ballot paper they had for one or two terms switched to a random distribution, not Robson rotation but a simple random lot, as you use still.

The CHAIR — In the lower house, yes.

Mr GOODE — He happened to win that on the top position. Being a Premier and being on the top position he managed to get enough for 50 per cent, but no-one else has done it, and since Robson rotation nobody else probably will. The thresholds are, as explained here — and the reference is given to the German system — highly damaging and insulting actually to voters, because they simply deem that their votes are not to be taken any further.

The CHAIR — Thank you very much for your very good, comprehensive and well-thought-out paper and for your presentation. I might start off by asking you a question, and you would expect it from me, given I am a creature of a political party. I cannot speak for the Labor Party, but the Liberal Party's rationale for when it chooses people to be 1, 2 or 3 on a ticket, be that either in the Senate or in our upper house in Victoria, generally our preselectors want to put the best candidate first, the person who has most capacity to be the minister it normally is. Then someone else might be a young up-and-comer or someone else might be suitable to be a presiding officer or whatever. But generally there is a view — in very, very large preselections I might add — that the person who is on the top of the ticket has at that point of time a

greater degree of merit than the others on the ticket. That is fortuitous for parties in the sense of forming a ministry; for example, if the person is certain to get elected, and you generally are if you are no. 1 on the upper house ticket here, that you are going to be the potential minister for the party or a potential key shadow minister or whatever. Now a Robson rotation does not allow that sort of filtering to take place at a party level. Is that your point, that voters decide? Are you able to give me some sort of response to that?

As I said, I am very familiar with the way that my party preselects candidates, and they are very, very large preselections made up of delegates of all sorts of branches right across the 11 lower house seats that constitute the region. You are not going to roll up and make a smart speech and get preselected. There is a lot of familiarity, there are a lot of delegates and so on, because parties do feel a responsibility to populate the houses with people who can be potential ministers and not just have people who could not do that job. Are you able to give me some sort of response to that in relation to your support for the Robson rotation?

Mr GOODE — Yes. I appreciate the question and I will do what I can. First of all, I will just mention that your party is the Liberal Party of Australia and it includes the Tasmanian division. The Tasmanian division does not operate in the way you say.

The CHAIR — It has a different view from the Victorian one.

Mr GOODE — For instance, Senator Peter Rae, after he had left the Senate, became a Tasmanian government minister, but he actually lost his seat under Hare-Clark. He had performed as a Tasmanian government minister and people were aware of his value. I have met him and think he is an impressive person. I have not met many of the others, but I happen to have met him — in Melbourne. But that is what the voters said. He could not sustain or could not attract a quota.

Now, in Tasmania — and I apologise for saying this but it is our best example — the parties, rather than meet in a room and give their assessment and make their assessment effective, actually advise the people they are representing of their judgement. It is not kept hidden. Each of the candidates campaigns with material. They have sent out material and they put advertisements in the paper before election day — well before election day — and at the bottom they are usually authorised by somebody. Now, if they are authorised by the Premier or the Leader of the Opposition, that is taken as a hint that those particular candidates have ministerial ability and are trusted and worthwhile. Ones that are authorised by unknown or obscure people can nevertheless attract a quota if those people do their work or convince people that they are newcomers worth supporting. The composition of the house can fluctuate in terms of the actual people, but the party balance stays on, because that is not affected.

Dr LAWRENCE — And maybe it is in all the major parties' long-term interests to use the system to weed out the bad performers, encourage the good and really accept the perception of legitimacy that the Council is not really jobs for their mates. You know, you are not just meant to get a ring in and a job for life. You have to work for it and convince the electorate every time, and if that cycle was at every electoral cycle and the people knew that, then that would I think serve to decrease the negative perception and increase the professionalism or respect of the profession and of the representative person.

Mr GOODE — A final comment is that they are not radically different, in the sense that the voters in Tasmania do actually tend to follow the reputations of the people. They are in the media, they are talked about, they are known — and they by and large get re-elected, but not always. And of course sometimes that happens in the present system in the rest of Australia.

Mr DIXON — Just on the Robson rotation, just a bit more detail about what the ballot paper looks like. Does it identify party, an independent or where they might come from? What information is actually on it?

Mr GOODE — I should have brought a ballot paper along.

Mr DIXON — Yes. It would be interesting to see one.

Mr GOODE — I will just simply describe it. It is effectively the same as our ballot papers. It has no above-the-line contrivance, as Malcolm Mackerras describes it. It is really similar to the pre-1983 Senate

paper, where they are listed in columns. But there is a party name at the top of each, which we support. We think it is perfectly proper to know the connections of people, but not for the party to set it up so that it is almost inevitable that the people will mark it in a regimented manner.

Mr DIXON — So the parties are listed in columns, you said?

Mr GOODE — The parties are listed in columns and the names of the candidates within each column are not in the same order down any given ballot paper. On the ballot paper you get as a voter it is not predictable who will be at the top. It might be Will Hodgman, but he shares that top position equally with all the other candidates. The same with all parties, of course — all the columns are rotated. There is a large number of permutations. Under modern computer printing that costs nothing extra. You can understand that. It is like a mail merge letter. You can have hundreds of thousands of letters all with different names on them, and the computer effortlessly sorts them out. There is a little more difficulty at the scrutiny, but I believe the method is simply to sort them into piles as to the different permutations so that they are more easily counted. That is something the electoral office in Tasmania has mastered well and truly, because it has been around for 30 years.

Mr DIXON — So what is the difference between that and just having it totally rotated, where you might have their party but they are not in party columns, for example? I presume if somebody is running as an independent, they are the only name in the column, are they? Have they got their own column?

Mr GOODE — Yes, there would be one person. Independents really do not do very well or very rarely in the Hare-Clark system, whereas in South Australia, which does not have a Hare-Clark system, they are popping up all the time. The reason is that bringing in a whole field of different people and not stage-managing it means people do not have to jump across to strange groups. There is usually such a range of people for people to select somebody they like, whether they be a rural person or a city person or whatever.

Mr DIXON — To finalise this, say there are 20 names on the ballot paper. In Tasmania, for example, what is a formal vote? Do they all have to be ordered 1 to 20?

Mr GOODE — No, the formality requirements are incidentally the same as in the upper house here — that is, just five, because there are five to be elected, as in the upper house here.

Ms BLANDTHORN — Do you think that five is sufficient or do you think there should be more than five?

Mr GOODE — Our organisation believes that there is no need for more than five. Voters will and can be encouraged by the parties to mark more. The parties are very effective at encouraging people to do things. If the parties set their mind to it and hand out how-to-vote cards urging you to vote for 10, people will vote for 10 and then go on further. But the law should not waste people's votes by imposing impossibly hard tasks. The present system in Victoria is very good. It differs from the Senate in that respect, but we do not have to argue that case.

The CHAIR — Thank you very much for appearing before the committee, Mr Goode and Dr Lawrence. You probably had expected to see Ms Patten here.

Mr GOODE — Yes, I thought so.

The CHAIR — She would have been very interested in your submission, obviously. She has another committee hearing on today and has a perfectly legitimate excuse. She was here yesterday. Please do not think she has not got an excuse. There is a legitimate reason why she is not here.

Mr GOODE — Do give her our regards. I should have mentioned earlier that I am sorry that Dr Stephen Morey was not able to attend here, because he did a lot of work in preparing this. He is overseas on a work assignment.

The CHAIR — It was a very, very clear submission, and for that we are very grateful.

Mr GOODE — Thank you.

The CHAIR — You will receive a copy of the Hansard transcript in about two weeks. If you think there are some factual errors, you can amend the transcript, but obviously only for factual errors and not in terms of substance of the presentation. Again, thank you so much for coming along to the hearing. It is much appreciated.

Mr GOODE — Very good. Thank you.

Witnesses withdrew.