

The Ministerial Expert Committee on Western Australian Electoral Reform: Inquiry into particular aspects of the voting system for the Legislative Council

Submission by Andrew Murray¹ May 2021

1 Note

This is a personal submission by Andrew Murray and does not represent the views of any other individual or entity.

2 Terms of Reference

Whereas

At the 2021 election for the Legislative Council:

The Daylight Saving Party won one seat in the Mining and Pastoral region, having received 98 first preference votes, which is equivalent to just 0.2% of all formal votes in that region;
And

The Greens in the North Metropolitan Region received 27,077 first preference votes, or 7.4% of all formal votes in that region, but did not win a seat;
And

In the Agricultural Region, the Nationals received 22,999 votes and won two seats;
And

In the South Metropolitan Region, the Liberal Party received 67,000 votes but won only one seat;

The Government now asks the Committee to review the electoral system for the legislative council and provide:

Recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council; and

Recommendations for the distribution of preferences in the Legislative Council's proportional representation system.

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3 Conclusions

Most important

Voting [1] for a single political party ‘above the line’ and the attendant Legislative Council lodged ticket voting system should be ended. Political party or group preferencing ‘above the line’ should be introduced instead. The Commonwealth system is an adequate template.

Without significantly disturbing the overall current Legislative Council metropolitan and rural/regional electoral representation, the Committee should determine three maximum variances allowable for divergent ratios of voters to representatives:

- between non-metropolitan (rural and regional) regions, so that electoral equality applies in non-metropolitan regions; and
- between metropolitan regions so that electoral equality applies in metropolitan regions; and
- between non-metropolitan regions as a group and metropolitan regions as a group

Other suggestions

Strengthened political governance laws are needed.

Much better application and, (particularly), enforcement, of rules of residence for candidates is required.

At each election registered political parties should be required to provide a short and relevant set of particulars that the Western Australian Electoral Commission must publish on its website.

At each election the Western Australian Electoral Commission should be provided with a minimum and relevant profile of each candidate that it must publish on its website.

Truth in political advertising (including social media) laws should be introduced.

4 The case for reform of the electoral system for the Legislative Council

The most fundamental democratic principle of all is that the members elected to the Parliament should genuinely reflect the voting intention of the electorate.

4.1 Electoral equality v Regional representation

Electoral equality

The terms of reference require the Committee to recommend ‘how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council’.

The Government has not asked the Committee to consider *whether* electoral equality *should* be achieved. It obviously thinks it should, because the Government has jumped that step and asked the Committee *how* to achieve it.

By requiring the Committee to make recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council, on a plain reading the Government wants the issue of Legislative Council malapportionment addressed to ensure electoral equality.

The Committee is not a cypher. It is not constrained from examining the ‘*should* question’, and in my view cannot consider the ‘*how* question’ without first dealing with the ‘*should* question’.

My Oxford dictionary defines equality as ‘The state of being equal, especially in status, rights, or opportunities.’

Such legal discrimination as there is in status, rights, or opportunities in Western Australian elections is well-established and mostly well accepted.

Democratic rights and freedoms are in place and respected.

Status is not an issue; as an example there is no resistance to the status of a child not permitting a vote (although there is occasional public debate on the age at which voting should be permitted).

Equality of opportunity is more contentious; one example would be the much greater campaigning advantage in elections enjoyed by incumbent candidates over non-incumbents²; another is the very different levels of funding available to various groups of political candidates that stand for election³.

² See Andrew Murray Submission November 2009 in response to the Australian Government’s September 2009 Electoral Reform Green Paper STRENGTHENING AUSTRALIA’S DEMOCRACY

³ Andrew Murray Submission February 2009 in response to the Australian Government’s December 2008 Electoral Reform Green Paper DONATIONS FUNDING AND EXPENDITURE

Equality of opportunity in representation is fully realised in an electoral system by proportional representation, so giving every political party or group representation proportionate to its vote.

The opportunity for equality (equal representation according to votes cast) by political party is not realised in the Legislative Assembly.

Single-member constituencies in the Legislative Assembly do not deliver proportional representation.

A popular demand for equality would translate into support for proportional representation in the Legislative Assembly, but there is no popular demand; such demand for change that there is is minor and is not reflected in significant political activism.

As pointed out in the terms of reference, the present preference voting system also means that proportional representation equality by political party is not realised within Legislative Council regions.

In democratic elections voters rights are equal if suffrage is universal (typically accepted exclusions are young persons below a set age, those of unsound mind, and those subject to a term of imprisonment).

There are representative systems where voting is indirect, but the equality principle is best satisfied when members of a house of parliament are directly chosen by voters under universal suffrage, which is the case in Western Australia.

Voters are also considered equal if the process of and access to voters roll registration, voting information, and voting places is similar for all voters. Any impediments to this voting character such as literacy or language issues, needing assistance when voting, or living in rural and remote places are typically compensated for by special provision.

In Western Australia it would seem that by and large equality of voters in these terms is satisfied by both the law and practice.

However, equality in voting is also defined as to whether 'one vote one value' pertains. This principle calls for all electoral divisions in a house of parliament to have the same number of enrolled voters within a credibly and reasonably designated geographic area.

Voter numbers in each division cannot be exactly the same. The voters roll is dynamic in nature. Practical considerations for electoral administration and functioning make some variance provision essential, so allowing for divergent ratios of voters to representatives.

A specified and small percentage variance, such as 10 percent, between voters across electoral divisions is well accepted by the community.

(As an aside, it should be noted that there is no science attached to any variance figure decided on – it is always arbitrary, a result of experience judgement and negotiation as to what will be accepted at large as reasonable.)

That equality principle in this regard is satisfied (it was not always so) in the Legislative Assembly. It is not satisfied in the Legislative Council.

In Legislative Council elections fewer voters are needed to elect a member in the rural, regional and remote non-metropolitan regions than in the metropolitan regions.

This could mean that at the outer limit roughly four times fewer votes are needed to elect a member in one region than in another region, so giving those non-metropolitan region voters much more voting power than their fellow citizens in the metropolitan regions.

This means that a metropolitan vote does not have an equal value to a rural and regional vote, a discrimination defined as malapportionment.

Malapportionment is the creation of electoral districts with divergent ratios of voters to representatives.

Malapportionment is not necessarily contrary to democratic principles, especially when voters as a whole have agreed to such a system by popular vote.

The Legislative Council malapportionment was not agreed to by popular vote, but by the Parliament of Western Australia. However there has been no significant community dissent to, or disapproval of, that parliamentary determination.

Malapportionment is accepted and constitutionally enshrined in federal systems such as the United States of America and Australia. In the latter it is most pronounced in electors' voting power for the Senate in Tasmania, as compared to New South Wales.

This particular federal malapportionment would be very difficult to change, particularly as it was a condition of the union, and in any case there is to date little public pressure or political appetite for such change.

By contrast malapportionment in the Legislative Council of Western Australia is relatively easy to change through legislation, particularly if a government wishing to do so has the numbers in both houses of parliament.

The application of one vote one value to the Legislative Council would proportionally reduce country (rural/regional) representation

I have not detected recent or ongoing noticeable or meaningful public pressure or political activism for introducing the one vote one value principle to the Legislative Council, to apply across the board regardless of the region.

If there is no significant and persuasive public or cross-party agitation for one vote one value how could the Committee justify radically reducing rural and regional representation in the Legislative Council? On principle alone?

On the other hand is there strong public support to retain the present malapportionment? Would introducing one vote one value to the Legislative Council matter to voters?

The great majority of Western Australian voters are metropolitan. There is no way to confirm this suspicion, but it is possible that the metropolitan public in particular will not be engaged or activated much by imposing electoral equality (one vote one value) on the Legislative Council.

Disengagement from politics and disinterest in the populace is a feature of political life. There are surveys which identify the disengagement of citizens in our democracy, apparently an increasing trend.⁴

As an example, one survey has it that one in three Australians surveyed thought that ‘in some circumstances a non-democratic government can be preferable’ or ‘it doesn’t matter what kind of government we have’.⁵

Nevertheless, public concern does make itself felt when an issue stirs the Australian sense of fairness. There is no evidence of that happening in Western Australia with respect to regional vote weighting in the Legislative Council.

So, absent ‘a public clamour’ for change, the question for the Committee is whether there are sound grounds for not retaining the present practice of favouring rural and regional vote-weighting in the Legislative Council, given apparently broad public acceptance of that voting system.

Malapportionment itself is not the issue. Malapportionment or inequality is already justified in the Legislative Assembly by a percentage of variance in the number of voters per single-member constituency. That is a practical and understandable variance of the principle.

It is the scale of malapportionment that matters, and whether there is any real concern in the community. On both counts the Committee will need to make an informed judgement.

Regional Representation

The practice of enhanced regional representation in democratic parliaments, particularly in legislatures that have an upper house, is well established.

In its application to Western Australia that practice of enhanced regional representation is reinforced by geography and demographics, requiring regions in this vast state to be created to allow for good administration and communication.

⁴ See, for example, Mark Evans, Gerry Stoker and Max Halupka, *Trust and Democracy in Australia: Democratic Decline and Renewal*, Democracy 2025 Report no. 1 (2018), <https://www.democracy2025.gov.au/documents/Democracy2025-report1.pdf>.

⁵ Table 23 of the Lowy Institute survey shows that in 2012–2018 between 18 per cent and 26 per cent of people surveyed thought that ‘in some circumstances a non-democratic government can be preferable’ and between 12 per cent and 16 per cent responded that ‘it doesn’t matter what kind of government we have’. Alex Oliver, ‘[2018 Lowy Institute Polling](https://www.lowyinstitute.org/publications/2018-lowy-institute-poll#sec35296)’ (Sydney: Lowy Institute, 20 June 2018), www.lowyinstitute.org/publications/2018-lowy-institute-poll#sec35296.

Accordingly there are ten distinct development regions⁶, 144 local governments of which 30 are in Perth, and State departments like energy, health, police and education all have designated regions for organisational purposes.

On any measure there is no electoral equality between local government cities, councils and shires, but there is no political or community concern about that. Such concern as there is centres on the viability capacity and sustainability of low-population local governments.

Western Australia is roughly a quarter of the size of Europe and roughly the same size as the United States of America. It is vast. Just approx. 20 percent of Western Australia's population live in this vastness, especially concentrated in the south of the State.

Nearly 80 percent of Western Australia's population lives in the Perth metropolitan area.

Numbers count. Perth voters' needs dominate political discussion and policy. Usually, unless provoked by broader State considerations or experience, Perth voters might be expected to put their self-interest ahead of that of the regions' voters.

An iron law of democratic politics is that money follows the votes. Enhanced representation of rural and regional voters in the Legislative Council has not prevented Perth metropolitan interests dominating State politics and spending.

That is a prime reason for the initiation and introduction of the Royalties for Regions⁷ program, to secure a bigger share for rural non-metropolitan regions. The program was designed to address and partly remedy what was identified as an imbalance of government spending and investment favouring metropolitan Perth.

Enhanced representation of rural and regional voters in the Legislative Council has a very long history in Western Australia, dating back to the earliest years of representative government. In due course there were decades of political and public demand to address what became an exaggerated and unpopular voting inequality.

The last thorough review of this issue was by Western Australia's Commission on Government, and considerable reform resulted.

Harry Philips⁸ summarises Western Australia's 1995 Commission on Government recommendations on regional representation as follows:

COG recommended that the Legislative Council representational pattern take the form of five regions with seven electoral districts for each region, amounting to a new total of 35 seats, and that the Assembly should have its membership increased from 57 to 61 with the boundaries drawn in accordance with the 'one vote one value principle'.

The Commissioners were requested to place the primary emphasis on community of interest as a criterion for the allocation of voters to electoral districts, with secondary

⁶ Perth metropolitan can be considered one region. Nine country regions were established by the Regional Development Commissions Act 1993

⁷ Royalties for Regions Act 2009

⁸ Harry CJ Philips page 34 Electoral Law in the State of Western Australia: An Overview – the Third Edition; published by the Western Australian Electoral Commission

criteria to be:

- means of communication and distance from Perth;
- geographical features; and
- existing boundaries of regions and districts, including local government boundaries.

The political stakes were high and political debate and negotiation raged on the Commission's recommendations for a decade until a negotiated outcome was reached. Harry Philips again:

The Council was, from 22 May 2009, to be composed of six regions of six members, with 18 rural seats (agricultural, south-west and mining and pastoral) and 18 metropolitan city seats (north metropolitan, south metropolitan and east metropolitan)...⁹

One vote one value, modified by a variance tolerance, was confirmed for the Legislative Assembly, and malapportionment on a modified and reformed basis was confirmed between the Legislative Council's designated regions.

The Government has tasked the Committee with revisiting the latter arrangement.

In theory the Legislative Council regions could be abolished and members elected on a state-wide basis, as for the federal Senate, but this idea should be discarded. Inevitably this would result in the Legislative Council members being predominately Perth metropolitan residents,

For reasons long and well-argued elsewhere, the regional model for the Legislative Council should remain. There is no call for its abolition by politicians or the public.

There is no political or public demand of note for the numbers of Legislative Council members to be increased or decreased.

If one vote one value were introduced in the Legislative Council regions, and the same number of members retained, then the number of metropolitan members v non-metropolitan members would have to rise, and the latter would have to fall.

Why that is desirable is not clear, apart from simply honouring the principle of one vote one value.

Western Australia has some unusual features as a political entity, including a small population relative to its huge land mass, roughly 80% of its population living in one metropolitan area, and the contribution of its rural and regional areas to national and state gross domestic product being unusually high because of the resources sector.

Given these characteristics, enhanced regional representation due to vote-weighting has merit as an argument, but only if those regional representatives really do make a difference to the regions' access to influence, power and policy. While intuitively that should be so, it is

⁹ Philips *ibid* pages 40-1

difficult to judge, and it would also vary as politics and policy change in each parliamentary term.

Regional representation requires regional representatives to be genuinely regionally based prior to and subsequent to election, otherwise the benefit of local knowledge, regional experience and regional understanding is lost, and seriously undermines the case for enhanced regional representation.

As has happened, how someone living in the United States of America can be elected to represent the rural Mining and Pastoral Region defies understanding.

This particular case of non-residence might be unique, but the practice is not uncommon in Western Australia. Expectations that candidates be permanent residents of the constituency or the region are not always honoured by those standing as candidates.

The Committee should consider whether there should be much better application and, (particularly), enforcement of rules of residence.

Unquestionably, those representing a constituency or any region, or seeking to do so, must be permanent residents of the constituency or the region, and have a genuine attachment to their constituency or region.

There are a range of competing principles and circumstances.

I support proportional representation as a principle since it represents the height of electoral equality.

The single-member constituency Legislative Assembly does not have electoral equality through proportional representation. However there is little political or public interest in introducing proportional representation in the Legislative Assembly. No change is needed therefore.

The multi-member constituency Legislative Council is intended to have voting equality through proportional representation in each region, but that intention can be thwarted by manipulation of preference harvesting. That distortion must be corrected.

On the next rung of electoral equality I support the one vote one value principle, modified by a variance allowance, as in the Legislative Assembly. No change is needed in that respect for that house.

I support electoral equality within Legislative Council regions, which for political parties and groups is not realised because of preference harvesting. Change is needed to secure electoral equality.

I do not support electoral equality between the two groups of three metropolitan and the three non-metropolitan regions in the Legislative Council.

I support a degree of malapportionment favouring rural and regional non-metropolitan regions over the metropolitan regions in the case of Western Australia, because of Western Australia's geographical, economic and political characteristics and culture.

My support was strengthened in this regard by extensive exposure to regional development needs and my consequent belief that there are real dangers in reducing regional advocacy.

However, while there is a case for a divergence of voters to representatives between the two groups of non-metropolitan regions and metropolitan regions, there appears to be little rationale in there being significantly divergent ratios of voters to representatives in each of the three non-metropolitan regions.

Nevertheless, apart from breaching the principle of one vote one value, there is no evidence to indicate that the present system of malapportionment in the Legislative Council regions creates any concern for voters at large, nor is there any evidence that it has had deleterious effects on the functioning of parliament and government.

Prima facie there is reason to accept that there is merit in enhanced regional representation in Western Australia.

The precautionary principle should apply – if no harm is being done, and there are no benefits through major change, why risk harm being caused by that change?

There remains the question of what tolerance to exercise in breaching the principle of one vote one value in the Legislative Council.

The question for the Committee in my view is not whether the status quo should be retained, or for one vote one value to replace the current system, but what level of legitimate malapportionment can be justified as reasonable and warranted.

An end point is to establish the variance allowance. The Committee would be aware of the history of debate on this topic, with past proposals suggesting a tolerance of 15 or 20%.

Such a variance allowance would seriously disturb the current apportionment of seats and regions in the Legislative Council.

However a line must be drawn. Tolerating vote weighting that could give rural and regional voters four times fewer votes needed to elect a member in a non-metropolitan region than a metropolitan region has to be at the outer limit of tolerance.

If electoral equality is to be subordinate to malapportionment in the Legislative Council to enhance rural and regional representation, a variance allowance between Legislative Council regions needs to be set to limit the extent to which that can go.

If the Committee were to consider the current malapportionment justified, what is needed is a floor to reflect that, so that the current malapportionment does not increase in scale or scope.

There is a further possibility for the Committee to consider. In my view, a case for malapportionment can be made favouring the three non-metropolitan regions as a group over the three metropolitan regions as a group.

It is much more difficult to justify malapportionment between the three metropolitan regions themselves, or between the three non-metropolitan regions.

The question to be asked is why, for instance, should the Mining and Pastoral Region have significant divergent ratios of voters to representatives to the Agricultural region, or to the South West region?

Without significantly disturbing the overall current Legislative Council metropolitan and rural/regional electoral representation, the Committee should determine three maximum variances allowable for divergent ratios of voters to representatives:

- between non-metropolitan (rural and regional) regions, so that electoral equality applies in non-metropolitan regions; and
- between metropolitan regions so that electoral equality applies in metropolitan regions; and
- between non-metropolitan regions as a group and metropolitan regions as a group

4.2 The Preference system

The terms of reference require the Committee to provide ‘recommendations for the distribution of preferences in the Legislative Council’s proportional representation system’.

The most fundamental democratic principle of all is that the members elected to the Parliament should genuinely reflect the voting intention of the electorate.

As the terms of reference clearly indicate, this is presently not the case in the Legislative Council.

Multi-member constituencies within each region in the Legislative Council are designed to deliver proportional representation in each region. However, that design is presently not fully realised.

The discrimination in voting weight applicable to Legislative Council regions, largely determined by geography, means that proportional representation equality is not realised in the Legislative Council as a whole.

An informed vote

Electoral equality is assisted if as wide a populace as possible can exercise an informed vote. This is made even more important if voters are required to preference candidates in addition to their first choice, on which it is reasonable to assume they are best informed.

‘Voting intention of the electorate’ in aggregate means that votes cast by each voter go to the political parties and candidates intended by the voter, and when aggregated are an accurate reflection of the electorate’s overall choice.

‘Voting intention of the electorate’ does not mean that all voters are well informed, or some even partially informed, either about the political party/parties they are voting for/giving preferences to, or the candidate they are voting for/giving preferences to.

To ensure as much information is available as possible a free and diverse press and readily available and easily accessible party and candidate material are essential. Plus necessary law and regulation is needed governing political parties and candidates, which is, most importantly, enforced.

It would help if truthfulness was required.

Legislation to impose penalties for failure to accurately represent the truth in political advertisements (including social media) would advance political standards, promote fairness, improve accountability and help restore trust in politicians and the political system.

The private sector is already required by law not to engage in misleading or deceptive conduct. Why should politicians or political parties (whose ‘product’ on offer is political policies and personalities) be any different? Especially since the political sector plays a very powerful role in our society.

In 1985 the South Australian Parliament enacted the *Electoral Act 1985 (SA)*, of which Section 113 makes it an offence to authorise or publish an advertisement purporting to be a statement of fact, when the statement is inaccurate and misleading to a material extent.

This legislation has been tested in the Supreme Court of South Australia, where it was held to be constitutionally valid. Further, it was found not to infringe the implied guarantee of free political communication found by the High Court to exist in the Commonwealth Constitution.

Truth in political advertising (including social media) laws should be introduced.

It is the members of the Legislative Council who guard its integrity, that determine Council activity and decide contested legislation. That makes who becomes a member of the Legislative Council important.

A liberal democracy is itself a safeguard on character - if elected politicians are later found to lack integrity and to have weak principles they will be subject to scrutiny by our free press and to the judgement of voters.

That is after an election. At the outset, can we improve the functioning and integrity of political parties¹⁰ that select candidates, can we improve the ability of the voters to make informed choices, and can we improve the functioning of the system?

It is open to the Committee to decide whether it takes such considerations into account, as affecting both electoral equality and preference decisions. See footnote 10 below if the Committee is so minded.

It is obviously preferable that a vote is an informed one. That becomes harder in a multi-party, multi-candidate system.

Legislative Council elections produce very large numbers of contesting candidates, registered political parties and registered groups.

Below-the-line voters select and rank in preference Legislative Council candidates individually.

Try looking up Legislative Council registered political parties candidates in an election to assess their attributes. It is impossible, even on well-established parties' websites.

At each election registered political parties and groups should be required to provide a short and relevant set of particulars that the Western Australian Electoral Commission must publish on its website.

Reducing candidate numbers could possibly lessen voter confusion over who candidates are and what they stand for.

¹⁰ See *Can Better Political Governance Give Australia an Improved Political Class?* Andrew Murray, 2009; Agenda vol. 16, issue 3, 63-70 2009 - A Journal of Policy Analysis and Reform (from the Australian National University, College of Business and Economics, School of Economics).

Having an open field is a fundamental democratic principle. There are already restraints in place that limit the field somewhat. I do not propose more.

What I do propose is that at each election, in the nomination process the Western Australian Electoral Commission should be provided with a minimum and relevant profile of each candidate that it must publish on its website.¹¹

Preference voting

Without preferential voting a multi-member constituency would mean those with the highest number of votes cast would be elected to fill the number of designated seats, and the rest of the candidates would be excluded and their votes ‘wasted’.

The preferential voting system used for the Legislative Council means there are multiple counts of ballot papers to determine which candidates have achieved the required quota of formal votes to be elected.

Votes are transferred according to the preferences marked by voters. Transfer occurs when candidates who have reached the necessary quota on their vote are declared elected and their surplus votes are transferred, and when candidates with the least votes are progressively excluded from the count.

Preferential voting is well established accepted supported and understood in Western Australia and Australia.

As a rule the majority of voters vote for candidates of a political party rather than for the candidate as a person. There are of course candidates who carry a considerable personal vote.

The preference voting system has led to a practice known as preference harvesting, whereby a political party (or experts acting for them) make deals with other political parties to arrange preference flows in a manner which benefits both parties to the deal, and their respective candidates.

Alternatively, some political parties or groups do not make deals with others but decide on their own how to favour their candidate/s most by a preference vote distribution.

This is a legitimate practice if voters use a ‘how to vote’ card and so know where their preferences go, and when they have the freedom to alternatively determine their own preference ranking.

Legislative Assembly ‘how to vote’ cards distributed at polling booths by political parties do harvest preferences, but the practice is open and transparent and voters need not take those cards or follow them.

¹¹ This section on an informed vote is adapted from a section from: Andrew Murray, ‘The Senate—the Struggle Continues’, *Papers on Parliament* 70 (December 2019), https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/pops

Legislative Council election voting papers present voters with a ranked or ordered list of candidates for each registered political party or independent group.

Election statistics show that voters overwhelmingly vote for a political party ‘above the line’ rather than preferencing all the candidates ‘below the line’.

On the Legislative Council voting paper, voters can vote ‘above the line’ for just one political party. In doing so, that political party or group’s lodged ticket means preferences for other candidates are automatically triggered.

The political party or group has pre-lodged a ticket pre-election which has their own list candidates and other candidates for the Legislative Council region listed in preference order. These tickets are published on the Western Australian Electoral Commission website.

When voters cast their vote for a single political party ‘above the line’ that vote is allocated as a first preference to the lead candidate on the party list. Very low primary votes are therefore common for those not ranked first on a political party’s list.

By their very nature small and micro political parties and independent lead candidates generally attract a low primary vote.

Preference flows for voters voting ‘above the line’ are determined by the party and not by the voter.

Legislative Council lodged tickets violate the essential democratic principle that there should be no deception and voters must know who they are voting for.

Despite lodged tickets being public documents, voters ‘en masse’ do not know the preference flow the party has chosen for them.

Voters can do their own preferencing by ranking individual candidates ‘below the line’.

Because voters in most cases vote for political parties rather than for individual candidates, and because there are large numbers of Legislative Council candidates in each region, voters by a great majority vote [1] on a party basis on a lodged ticket ‘above the line’.

Therefore solving the problems raised in the terms of reference by simply abolishing the voter-preferred political party vote ‘above the line’, is unwise and inadvisable.

The solution is for preferential voting ‘above the line’ by political party to be introduced, and lodged tickets abolished. Political parties would still be required to register a list of their own candidates as at present.

If such a system were introduced there would be no need to introduce voting thresholds to prevent Legislative Council candidates being elected even with very low primary votes as a result of ‘preference harvesting’, because ‘preference harvesting’ would no longer be feasible.

Neither would there be any need to abolish voting ‘above the line’. The overwhelming voter choice for voting by party list legitimises preferential voting ‘above the line’.

There is a recent precedent. A very important reform was to ensure Australians did not get Senators they did not vote for.¹² The 2016 double dissolution federal election ended the practice of preference harvesting and backroom negotiations delivering Senators by a dodgy lottery.

Such a reform in Western Australia would ensure that the members elected in each region to the Legislative Council will genuinely reflect the voting intention of the electorate.

The Commonwealth template is a good one for the Committee to consider. Commonwealth election experience indicates that problems for voters transitioning from the one electoral process to a revised one have been minor.

¹² *Commonwealth Electoral Amendment Act 2016*.