

Dear Mr McCusker,

Please find attached *Enhancing Democracy in Western Australia*, my submission to the review of the Western Australian Legislative Council electoral system.

I am happy for it to be made public.

Yours sincerely,

Chris Curtis

Enhancing Democracy

in

Western Australia

Chris Curtis

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The manufactured hysteria that greeted Ricky Muir's election to the Senate and that ultimately led to the Turnbull government's rigging the Senate voting system to favour the Greens over the micro-parties is getting an encore performance with the election of Wilson Tucker in Western Australia, despite the unremarked-upon election in both jurisdictions of many more candidates of major parties from even lower primary votes and with the added twist that most members of the panel established to investigate the matter have already endorsed, even promoted, the hysteria (<https://insidestory.org.au/an-affront-to-anyone-who-believes-in-democracy/>). While it is clear from this fact that submissions in support of logic and democracy have already been ruled out of consideration, it is worthwhile putting them on the public record for future historians to refer to and so that more reasonable politicians can revisit the issue if the hysteria dies down.

Purpose

The aim of this submission is to improve and constitutionally entrench a democratic and honest voting system for the Western Australian Legislative Council; i.e., one that is an improvement on the current system, not a move away from democracy that the disgraceful new Senate system is.

The new Senate voting system is a disgrace in that it misleads all voters and discriminates against some.

If the aim is to distort the system, undermine micro-parties and treat voters with contempt, the panel will recommend some variation of the Senate system.

If, on the other hand, the aim is to make the Western Australian Legislative Council more democratic, it will recommend at the very least:

a Legislative Council of five equally sized regions of seven members each,
optional preferences below the line after a certain number,
the continuation of group voting tickets with the number of preferences each expresses limited to the same number as that of the compulsory preferences below the line.

Summary

The single transferable vote is the world's best voting system, and Victoria's version of it is the best in the country, but it is not perfect. Western Australia ought to adopt an improved version of it.

The triumph of the micro-parties in the 2013 Senate election led to emotive and illogical outcries and a successful campaign to rig the Senate voting system to favour a small minority over a much larger minority and thus undermine the democratic will of the people.

The only problem with the pre-2016 Senate voting system was the difficulty of voting below the line. All that was required to fix that problem was to make preferences below the line optional after a certain number. Instead of taking that simple, honest, democratic course of action, the Coalition government, the Nick Xenophon Team and the Greens abolished the convenience of multi-party group voting tickets, brought in above-the-line preferences (i.e., group voting tickets within each party), required different voters above the line to express different numbers of real preferences from each other, required voters below the line to express a different number of preferences from those above the line and required the Australian Electoral Commission to give voters dishonest voting instructions.

The triumph of the micro-parties in the 2014 Victorian Legislative Council election led to similar emotive and illogical outcries, but the campaign to rig the Legislative Council voting system failed. The greater triumph of the micro-parties in the 2018 Victorian Legislative Council election led to similar emotive and illogical outcries, but the campaign to rig the Legislative Council voting system failed again.

The South Australian government fell for it. The Western Australian government has indicated that it intends to do the same. Only Victoria has continued to resist this appalling contempt for micro-party voters.

It is now necessary in Western Australia to defeat proposals which are oblivious to the democratic principles of the single transferable vote system, designed to advantage one particular party and/or deeply undemocratic.

The 2019 Senate results were less representative of voters than the 2013 results. The distortion rate more than doubled (*Table 1 2013 Senate Election Results* and *Table 2 2019 Senate Election Results* in *Appendix*).

The changes to the Senate voting system have led to an increase, not a decrease, in the number of informal votes (*Table 3 Senate Informal Votes* in *Appendix*). In every case, the informal vote has increased, not just in 2016 when there was a double dissolution but also in 2019 when there was a normal half-Senate election. In six of the eight cases, the 2019 informal vote even exceeded the 2016 one. The 2016 and 2019 informal votes would have been even higher if the Australian Electoral Commission had enforced its statement that voters had to mark 1-6 above the line or 1-12 below the line for their votes to count, but, under Sections 268A and 269 of the Australian Electoral Act, marking 1 above the line or 1-6 below the line was to be counted as formal. It used to be necessary to fill in almost all the numbers if voters voted below the line. This is no longer the case. The change in rules should have made the informal vote almost zero, not increase it, however slightly, to 3.94 per cent. in 2016 and 3.81 per cent in 2019.

Australia has the absurd situation that 1 above the line is a formal vote, with people who put 1 above the line for a party with two candidates having their votes regarded as formal but those who put 1-5 below the line having their votes dismissed as informal, with everyone who put 1 above the line having their preferences exhaust inside one party and with quite a few senators to be elected without even getting near a quota and in a completely random way.

The first thing to note is that while the “experts” claimed that people were horrified that micro-party candidates (voted for by 23.5 per cent of the national population in the 2013 Senate election) actually won seats, that they were appalled that they did not know where their votes had ended up, that they would realise their “mistake” and that they would flock back to the “proper” parties, the micro-party candidates actually gained votes in the Western Australian Senate election, showing that people were not horrified or appalled at all but pleased that the system allowed “outsiders” to be elected and relaxed about where their preferences went. The total WA micro-party vote was 25.5 per cent (<http://vtr.aec.gov.au/> (Sunday, 06 April 2014 03:11:32 AM), up 5.9 per cent on 2013.

Similarly, while 19.6 per cent of voters supported micro-parties in the 2014 Victorian Legislative Council elections, 22.10 per cent did so in 2018, demonstrating yet again that the voters as a whole are not outraged, appalled or horrified. They are pleased that their votes count, that if they want to elect “outsiders” the system lets them. It’s only certain of the losers that are outraged.

1. The federal Constitution requires that senators be “directly chosen by the people”, thus ruling out party list systems. This is a good principle and ought to apply to the Western Australian Legislative Council.

2. The single transferable vote upholds this principle in a highly democratic way.

3. The complaints about the results of the 2021 Legislative Council election are motivated by hostility to those elected, not by any principle, as shown by the silence in the far greater majority of cases in which candidates from major parties with tiny primary votes have been elected.
4. Setting a threshold for candidates to remain in the race is undemocratic.
5. Replacing below-the-line preferences with above-the-line preferences is irrational, while allowing above-the-line optional preferences along with below-the-line preferences is undemocratic, irrational and likely to produce random results.
6. Group voting tickets are perfectly democratic.
7. The only changes needed to the voting system are to decrease the number of compulsory preferences below the line and to restrict the number of preferences a group voting ticket can express. A Western Australian Legislative Council of five regions of seven members each would be more proportional and democratic than the current system.
8. The Western Australian Electoral Commission should assist voters to vote formally below the line via a website or app.
9. The Constitution should be amended to entrench the single transferable vote for Legislative Council elections.
10. Tightening deposit requirements would reduce the clogging the ballot paper by candidates who cannot be elected and encourage more voters to vote below the line.
11. Tightening party registration requirements would reduce the number of overnight parties with no long-term base and encourage more voters to vote below the line.

1. Principles

An electoral system should be fair and equitable; i.e., it should ensure:

- * that the elected body is as representative as possible of the way the voters voted;
- * that as many voters as possible have a vote that counted towards the result;
- * that no group can win a majority of positions without first winning a majority of the vote;
- * that all voters are treated equally; and
- * that all voters are treated honestly.

The only voting system that meets the first three criteria is the single transferable vote version of proportional representation. The previous Senate voting system and the current Victorian Legislative Council voting system meet the last two criteria. The current Senate system does not. It is also deficient in the first three principles.

Ideally, every candidate who stood for election would be genuine in his or her desire to represent the people and every voter would make the effort to learn the policies of all the candidates and rank them in a carefully considered order, no matter how many there were. That is unrealistic, and the more candidates there are the less likely a voter is to give a considered ranking to them all. Most people would happily or unhappily rank 12 candidates, few would rank 120 and almost no one would rank 1,200. It is therefore necessary to put

reasonable limits on the process of nomination and on the number of preferences a voter must mark, while it is essential to allow the marking of all preferences if a voter wishes to do so.

2. The Single Transferable Vote

It is essential to democracy that houses of parliament represent the voters. Otherwise, there is no democracy. It is essential to good governance that a government be allowed to govern. There is tension between these two principles. The most representative parliament would be one elected at large by the single transferable vote. The larger that parliament was, the more representative it would be. However, the larger it was, the more fragmented it would be and thus the harder the task of forming a stable and lasting government would be. In Australia, this tension is usually resolved by having one house elected by preferential voting from single-member seats and the other elected by the single transferable version of proportional representation from multi-member electorates or from the whole state as one electorate. The house elected from single-member electorates usually provides a majority to one major party or the other and allows that party to remain in government for a full term, thus aiding stability. The house elected by STV is always the more representative one and usually means the governing party does not have a majority in it and must negotiate with representatives of other parties or independents to get legislation through. Governments whinge about this, but it is wonderfully fair as it forces them to be more responsive to the whole community, a particularly useful imperative given the woeful conformity of MPs to party directives in Australia, compared with, say, the United Kingdom's House of Commons, where voting against your own party does not lead to ostracisation or expulsion as is the practice in Australia's archaically authoritarian parties.

There are good arguments for introducing STV to both houses in bicameral systems, but this submission is restricted to the lonely task of advocating the best system for the Western Australian Legislative Council against those who like to dress up partisan advantage in great principles. In the case of the rigging of the Senate, it was the Greens who hypocritically responded to the outrage that parties that were not the Greens won the balance of power by working out how to stir up the superficial commentators and then the public to discount the votes of micro-party supporters. In the case of the Western Australian Legislative Council, it is the Greens again.

The single transferable vote allows voters to vote for any candidate they wish in any order they wish. The addition of above-the-line voting and group voting tickets makes the practical operation of the system similar to a party list system. The above-the-line addition gives particular party-chosen sets of preferences an advantage over the trillions of other possible sets of preferences possible, but every voter has the right to choose one of those non-party-chosen sets of preferences, even though few do so.

The system means that at each stage of the count a choice is being made between those candidates with sufficient support to be left in the count. It is in effect a series of elections. It is the same as there being an election on one day among 100 candidates, followed by an election the next day among 99 candidates, followed the next day by an election among 98 candidates, followed the next day by an election among 97 candidates, and so on. At each election, the candidate with the least support drops out and the voters make a choice from the remaining candidates. Instead of having 99 days of elections, the STV system has one day

and simply recounts the votes as each candidate drops out – just as in preferential voting in single-member seats.

Another way of looking at it is to imagine 10,000 voters in a room, moving initially to the candidates they most prefer and then moving from the least supported candidate to the one they next support until it is clear which candidates have the support to be elected.

At the end of the process, we have the candidates elected that have the most support and thus a Legislative Council that is most representative of the people.

Victoria's system is the country's best because, unlike most others, it does not have above-the line preferences and it retains group voting tickets for the convenience of voters, and, unlike Western Australia's, it is not "gerrymandered".

The principle of the single transferable vote system seems not to be understood even by politicians, given the articles and remarks by them after the last 17 years of micro-party victories. There is still a widespread emotive and irrational belief that there is something wrong with someone being elected from a tiny initial vote (unless they are the No. 2 or 3 candidate of a major party, in which case it is held to be perfectly reasonable).

To clarify the issue, let us imagine a hypothetical election among 276 voters for a single-member seat with the following first preferences:

Bowfingle	8
Stringer	3
Holdfast	125
Somerfelt	10
Bentle	10
Meanfare	20
Smith	40
Enfled	60

Holdfast has most votes, but not a majority (141), so the counting of preferences commences.

On the second count, Stringer's 2nd preferences go to Somerfelt:

Bowfingle	8
Holdfast	125
Somerfelt	13
Bentle	10
Meanfare	20
Smith	40
Enfled	60

On the third count, Bowfingle's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	21
Bentle	10
Meanfare	20
Smith	40
Enfled	60

On the fourth count, Bentle's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	31
Meanfare	20
Smith	40
Enfled	60

On the fifth count, Meanfare's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	51
Smith	40
Enfled	60

On the sixth count, Smith's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	91
Enfled	60

On the seventh count, Enfled's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	151

Somerfelt wins the seat, despite polling only 10 votes out of 280 to start with, and there is no issue because we know that the principle of the preferential voting system is that no one wins until they get a majority of the vote; i.e., 50 per cent plus one. We know it does not matter what they start on. It matters what they finish on, and Somerfelt has finished with more votes than Holdfast because at each stage of the count the voters of the candidate with the lowest number of votes chose her as their next choice. She was genuinely the most preferred of those available.

Now imagine a hypothetical election among 840 voters (with five seats to be filled and a quota of 141 votes), with the following first preferences:

GROUP A

Margoyles	290
Wheel	0
Bowfingle	0

GROUP B

Pastertime	285
Coreflute	0
Toadle	0

GROUP C

Holdfast	125
Fernden	0

GROUP D

Somerfelt	10
Flowere	0

GROUP E

Bentle	10
Deedsful	0

GROUP F

Meanfare	20
Jumper	0

GROUP G

Smith	40
Wessen	0

GROUP H

Enfled	60
Gefless	0

On the first count, Margoyles and Pastertime are elected, with their surplus votes going to Wheel and Coreflute respectively, with the following changes to Groups A and B and all other groups unchanged:

GROUP A

Wheel	149
Bowfingle	0

GROUP B

Coreflute	144
Toadle	0

On the second count, Wheel and Coreflute are elected, with their surplus votes going to Bowfingle and Toadle respectively, with the following changes to Groups A and B and all other groups unchanged:

GROUP A

Bowfingle	8
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GROUP B

Toadle	3
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On the third count, all those with zero are eliminated with no preferences to go anywhere, leaving the following result:

GROUP A

Bowfingle	8
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GROUP B

Toadle	3
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GROUP C

Holdfast	125
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GROUP D

Somerfelt	10
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GROUP E	
Bentle	10

GROUP F	
Meanfare	20

GROUP G	
Smith	40

GROUP H	
Enfled	60

Each group has only one candidate in it, so let's remove the group headings to save space:

Bowfingle	8
Stringer	3
Holdfast	125
Somerfelt	10
Bentle	10
Meanfare	20
Smith	40
Enfled	60

On the fourth count, Stringer's 2nd preferences go to Somerfelt:

Bowfingle	8
Holdfast	125
Somerfelt	13
Bentle	10
Meanfare	20
Smith	40
Enfled	60

On the fifth count, Bowfingle's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	21
Bentle	10
Meanfare	20
Smith	40
Enfled	60

On the sixth count, Bentle's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	31
Meanfare	20
Smith	40
Enfled	60

On the seventh count, Meanfare's 2nd preferences go to Somerfelt:

Holdfast	125
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Somerfelt	51
Smith	40
Enfled	60

On the eighth count, Smith's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	91
Enfled	60

On the ninth count, Enfled's 2nd preferences go to Somerfelt:

Holdfast	125
Somerfelt	151

Somerfelt wins the seat, despite polling only 10 primary votes out of the 276 left to determine the last seat (564 being used up as four quotas to fill the first four seats) because she has passed the quota of 141 votes (i.e., 16.67 per cent) or, to put it another way, she has passed the target of 50 per cent plus one of the votes left in the count, just as in the single-member seat example. At each stage of the count, the voters of the candidate with the lowest number of votes chose Somerfelt as their next choice. She was genuinely the most preferred of those available.

There was no issue when Somerfelt won a single-member seat with exactly the same initial vote because the principle of the preferential voting system is that no one wins until they get a majority of the vote; i.e., 50 per cent plus one. But now that Somerfelt/Muir/Tucker has won one seat in a multi-member electorate, outrage erupts across the land.

The figures are exactly the same. The process is the same. The result is the same. But the reaction is not. We also know that Pastertime and Wheel were elected from even fewer initial votes than Somerfelt, as were eight major party candidates in the real 2021 election, but not a word of complaint greeted their election because they were number 2, 3 and 4 candidates of the major parties.

The election of micro-party candidates from tiny initial votes is perfectly democratic because those elected were the most preferred of the remaining candidates.

3. The Irrational Complaints

It is monumentally easy to demonstrate the utter hypocrisy of the critics. Wilson Tucker was elected from 98 primary votes. Yet, the following eight major party candidates were elected from even fewer primary votes:

Jackie Jarvis of the ALP (South West Region) elected from 66 primary votes,
 Klara Andric of the ALP (Southern Metropolitan Region) elected from 88 primary votes,
 Kyle McGinn of the ALP (Mining and Pastoral Region) elected from 32 primary votes,
 Peter Foster of the ALP (Mining and Pastoral Region) elected from 18 primary votes,
 Rosetta Sahanna of the ALP (Mining and Pastoral Region) elected from 23 primary votes,
 Shelley Payne of the ALP (Agricultural Region) elected from 36 primary votes,
 Sandra Carr of the ALP (Agricultural Region) elected from 37 primary votes, and
 Martin Aldridge of the National Party (Agricultural Region) elected from 64 primary votes
 No outrage greeted any of these electoral victories.

Six further candidates were elected from fewer than 200 primary votes each:

Stephen Pratt of the ALP (Southern Metropolitan Region) elected from 186 primary vote,
 Martin Pritchard of the ALP (North Metropolitan Region) elected from 199 primary votes,
 Daniel Caddy of the ALP (North Metropolitan Region) elected from 155 primary votes,
 Tjorn Sibma of the Liberal Party (North Metropolitan Region) elected from 136 primary votes,
 Matthew Swinbourn of the ALP (East Metropolitan Region) elected from 196 primary votes,
 Lorna Harper of the ALP (East Metropolitan Region) elected from 126 primary votes,
 No outrage greeted any of these electoral victories.

Wilkson Tucker was not elected until he had 7,661 votes, 651 more than the quota of 7,010 and more votes than anyone else had at that stage of the count. Yet outrage greeted his victory.

These comparisons are all that are needed to show that the hysteria that greeted Mr Tucker's election was totally manufactured. There is no objection whatsoever to the election of a candidate from a very low primary vote – and never has been. The objection to Mr Tucker's election must obviously be for another reason. Two possibilities come to mind.

One objection is that Mr Tucker's preferences came from candidates of other parties, whereas the preferences of the other 14 came largely from candidates of their own party. No one who makes this objection can understand the principle of the single transferable vote, which is not designed to elect parties at all, but individuals. It is not a party list system. Voters are entitled to vote for candidates within and across parties in any order they like and on any basis they like.

The second objection is that Mr Tucker's preferences came via a group voting ticket (as did everybody else's by the way), or, to put it more bluntly and honestly, that the parties that organised group voting tickets came to arrangements that the objectors do not like, that they dared to preference candidates from parties that the objectors did not like or that the objectors thought did not belong together.

Mr Tucker started with 98 votes. When Cameron Gardiner was excluded, he received 1 more taking his total to 99. Is the voter who passed on that preference to be treated as illegitimate, to have their preference ignored or discounted?

When Giz Watson was excluded, he received 1 more taking his total to 100. Is the voter who passed on that preference to have their preference ignored or discounted, to be treated as illegitimate?

When Christine Kelly was excluded, he received 49 more taking his total to 149. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Simon Martin was excluded, he received 78 more taking his total to 227. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Nathan Webb-Smith was excluded, he received 101 more taking his total to 328. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Brian Mollan was excluded, he received 149 more taking his total to 477. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Robbie Parr was excluded, he received 190 more taking his total to 667. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Tayla Squires was excluded, he received 157 more taking his total to 824. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Emmara Cole-Darby was excluded, he received 384 more taking his total to 1,208. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Andrew Middleton was excluded, he received 1 more taking his total to 1,209. Is the voter who passed on that preference to have their preference ignored or discounted, to be treated as illegitimate?

When Curtis Greening was excluded, he received 533 more taking his total to 1,742. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Jacky Young was excluded, he received 2 more taking his total to 1,744. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Dave Grills was excluded, he received 700 more taking his total to 2,444. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When James Brown was excluded, he received 1,245 more taking his total to 3,689. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Robin Scott was excluded, he received 7 more taking his total to 3,696. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Kimberly Smith was excluded, he received 2,288 more taking his total to 5,984. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Rosetta Sahanna, who started with only 23 votes, was elected on preferences and had her surplus distributed, he received 23 more taking his total to 6,007. Are those who passed

on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

When Matt Priest was excluded, he received 1,654 more taking his total to 7,661 and was elected because he had more than a quota, just like every other candidates who was elected. Are those who passed on those preferences to have their preferences ignored or discounted, to be treated as illegitimate?

At every stage of the count, the candidate whose voters passed preferences to Mr Tucker had fewer votes than Mr Tucker did, which is why that candidate was excluded.

It should also be noted that three other candidates in Mr Tucker's electorate – Kyle McGinn, Peter Foster and Rosetta Sahanna, all of the ALP – were elected from far smaller primary votes than he was. Voters whose preferences helped to elect Mr Tucker are not inferior to voters whose preferences helped to elect Messrs McGinn and Foster and Ms Sahanna.

Is there a higher authority that can ban particular preference allocations, that can rule voters' second, third, fourth, etc, choices invalid because they are inconsistent with specific ideologies? If such an authority exists or is to be created, then can it also rule their first preferences invalid?

The arrogance of such a stance is breathtakingly undemocratic. Voters are free and must remain free to vote for candidates in any order they like, no matter how badly the election losers feel about their choices.

The single transferable vote is designed to elect individuals. It does not matter from which party's candidates the preferences come. Sometimes two parties run on the same ticket. Thus, in other jurisdictions, National Party MPs or senators are often elected on Liberal preferences. There is no difference in principle between preferencing within a ticket or between tickets. The groupings of candidates are a convenience for voters, but the system is designed to elect individuals. To preference a candidate in a different party is as valid as preferencing another candidate within the same party. Voters are entitled to vote on whatever basis they like: to vote for all the candidates of one gender before voting for any candidate of the other; to vote for all those who are not lawyers before those who are; to vote for pro-Life candidates before pro-abortion candidates; to vote for pro-freeway candidates before anti-freeway candidates. The party groupings are a convenience in that they put supposedly like-minded candidates together, but voters may vote on particular issues that split those candidates. The value of each voter's vote must be the same whether the preferences are within a party group or passed outside a party group.

Once you understand the voting system, there is nothing undemocratic in a person's being elected from even zero initial votes (which is theoretically possible if the candidate on zero votes moves above zero through the transfer of another candidate's surplus). No one is elected to the Legislative Council until they reach a quota – 14.3 per cent. It does not matter what vote they start on. Once candidates with quotas are elected and their surplus votes distributed, the process is a contest to reach a quota of 14.3 per cent (just as in single-member seats the contest is to reach 50 per cent plus one). The candidates are ranked from the highest to lowest in votes and the lowest is eliminated because, obviously, the lowest has the least support. The votes of the lowest then move to their next choice. This may mean that the second-lowest jumps ahead of the third-lowest, which is telling us that the originally third-lowest actually has more support than the originally second-lowest. The maths may be

complicated, but the principle is simple. It's a contest to reach a quota. The initial vote is irrelevant because each count is a new stage in which the least preferred is rightly eliminated in order to find out the most preferred.

The voting system worked exactly as it is meant to. That is why suggested changes, such as imposing a threshold (common in list systems and mixed-member systems) and allowing preferences above the line (with or without the choice of voting below the line) are unjustified.

Having demolished the illogical claim that the election of candidates from low primary votes is of itself illegitimate and the arrogantly undemocratic claim that voters may express only approved runs of ideologically consistent preferences, as decided by the critics, we can turn to the question of group voting tickets.

We have clear evidence from the adoption of group voting tickets in 1984 for Senate elections that they are extremely effective in cutting the informal vote and thus allowing more voters to have a say in who represents them.

Let us return to first principles and seek the best practical method for electing a House of Parliament that accurately represents the voters. It is obvious that a proportional representation system is far more accurate than any single-member system. List systems have the disadvantage of making parties dominant. Even those that allow voters to choose individual candidates from their own party's list do so in random and ineffective ways. It is clear that the single transferable version is best because it allows voters to choose candidates within and across parties in any order they like and it does not impose random thresholds, whose total effect on the electorate can vary dramatically according to how many parties fall below the threshold and how far below it they fall. In one election, four parties could fall below a 5 per cent threshold and deprive 10 per cent of voters of any say in the result. In the next election, 10 parties could fall below a 5 per cent threshold and deprive 30 per cent of voters of any say in the result. The STV system sets the same percentage for every election, according to the number of seats to be filled – c16.7 per cent in the case of a five-member seat, c12.5 per cent in the case of a seven-member seat, c11.1 per cent in the case of a nine-member seat. Voters who prefer a candidate with little support are not automatically excluded from the count but have their next preference passed on.

4. Party Preferences

It is argued that the system we have is distorted because of group voting tickets. It is not. It is distorted because the only alternative to the group voting ticket is to number all the preferences below the line and thus run the risk of casting an informal vote. If the alternative to the group voting ticket were optional preferences below the line, voters would not be intimidated into choosing a group voting ticket but would do so freely.

If voters do not want to accept the party's preference allocation, they are free to vote below the line. If they vote above the line, they have chosen to accept their party's preference allocation. They can make the effort to find out where the party's preferences go, or they can choose to trust their party. If they choose to trust their party, their vote is not inferior. If their party chooses to swap preferences with a party with different ideas, that is also perfectly acceptable.

It is true that choosing the party's preference allocation has the advantage of making a formal vote above the line far easier than filling out all the preferences below the line. The answer to that problem is not to distort the single transferable vote by thresholds or above-the line preferences, but by making preferences below the line optional after a certain number, as in Victoria.

To eliminate from the count and distribute the preferences of the lead candidate of a Legislative Council group or an ungrouped independent unless he or she secures in excess of any set percentage of the first vote one would be a disgrace. This proposal, one way of dealing with the "fact" that the "wrong" people got elected to the Legislative Council, is profoundly undemocratic. That it is so is on plain display in the wording for the number two and number three candidates of the major parties who do not secure the set percentage – whatever it may be – are not to be eliminated.

Under STV, all votes are equal. The vote of someone who supports a minor candidate is not of less value than the vote of someone who supports a major candidate. That voter is entitled to have his or her vote remain in the count until the end. To exclude it or discount it or remove it out of sequence because it went to a minor party candidate is the antithesis of democracy.

It is also an infringement of the democratic rights of other voters to have candidates excluded because they fall below a certain threshold as those other voters may prefer them to others allowed to remain in the race and yet would be denied the right to have their true preferences counted. To eliminate the second-lowest because of an arbitrary threshold would thus distort the result.

The party system has been grafted onto the STV system. Years ago, Tasmanians understood the full power of the Senate voting system. In 1949, they elected the No. 4 Liberal candidate before the No. 1 Liberal candidate and the No. 4 Labor candidate before the No. 3 Labor candidate. They still understand that power in their state elections.

If anyone suggested a threshold for single-member seats, it would be immediately obvious that it was undemocratic. One suggested threshold for a five-member electorate is 4 per cent. The equivalent threshold for a single-member seat would be 20 per cent. No one has yet suggested that we deny the right of a candidate with 20 per cent of the vote to stay in the race for a House of Representatives seat. Those who say no one could ever win from such a low vote should look at the 1972 result in the seat of McMillan, in which the winning candidate scored an initial 16.6 per cent.

There would be nothing undemocratic even for a person to win a seat from an initial zero per cent. No one wins a Legislative Council seat until they reach a quota – 14.3 per cent for everyone. The vote they start on is immaterial, as is whether or not they get their preferences from their own party or another one.

The micro-party candidates got 11.8 per cent of the vote, so it is perfectly democratic that they end up with three MLCs. It could be argued that the prime complainers, the Greens, with 6.4 per cent of the vote, are underrepresented because they have only one seat, but that is a consequence of the requirement to have six regions with six members each. If the micro-parties had scored 5 per cent in total, no number of preference swaps would have seen any of

them elected. If they had scored 5 per cent in total and received preferences or surplus votes from major parties, that would simply show that those micro-party candidates were preferred at that stage of the count to other candidates still in the race and would be perfectly legitimate and democratic. The way to make the overall system more proportional is to increase the number of seats in each region.

5. Imposing a Party List System

Another change suggested is to allow preferences above the line, which is the NSW Legislative Council system.

Providing preferences above the line is contrary to the spirit of the federal Constitution, which compels that senators be “directly” elected. It acts like a party list system and thus entrenches the party system. It makes it less likely that voters will vote for individuals and is thus contrary to what the Constitution intends. The same principle ought to apply in Western Australia because it suggests to the voter that he or she is electing persons, not parties.

Providing optional preferences above the line also distorts the proportional nature of the single transferable vote.

If group voting tickets are abolished and the option remains to put only the first preference above the line, preferences would be exhausted within one party group. The more this happens, the fewer votes are left in the count to determine the last Legislative Council positions, making the result random. The number of preferences expressed for individual candidates would vary according to how many groups the voter preferred above the line and how many candidates were in each group that the voter preferred.

If group voting tickets are abolished and a set number of preferences above the line is required for a formal vote, the issue becomes the number of preferences required to make a vote formal. Party groups do not run the same number of candidates. Thus, whatever number is set would also have different effects in that one set of, say, six preferences above the line would result in preferences to 30 candidates below the line while another set of six preferences above the line would result in preferences below the line to only six candidates. No justification for such a discriminatory system has ever been presented.

If group voting tickets remain and optional preferences above the line are allowed, the issue becomes the number of above-the-line-preference that must be counted to cancel out the group voting ticket; e.g., a single preference above the line could be counted as support for the group voting ticket, while 2 above the line would count as overriding the group voting ticket. In such a case, the voter who put a single preference above the line would effectively have preferences counted all the way, while the voter who expressed two preferences above the line would have his or her vote exhausted after only two groups (which could be four candidates or 10 candidates – or any number in between – in a Legislative Council election).

Having preferences below the line allows a voter to go 1, 2, 3 for one party, 4, 5, 6 for the next, and so on, but it also allows the voter to go 2,3,1 for the first party and so on. Having preferences below the line incorporates preferences above the line, but vice versa does not apply.

Political parties change electoral systems for their own advantage. Liberals loved preferential voting when DLP preferences helped them win seats, and the ALP hated it for the same reason. Now that Greens preferences help Labor win seats, Liberals don't like it. In Queensland, optional preferential voting was introduced by Labor to stop the National and Liberal parties gaining seats on One Nation preferences in 1998.

The Greens like preferences above the line because they remember that the Victorian branch of the ALP used preferences to put Family First into the Senate in 2004 and the DLP into the Victorian Legislative Council in 2006, and they think they will get preferences from Labor voters who think the Greens are Labor's friends. Thus, having preferences above the line is to the political advantage of the Greens in that it is likely to increase the chances that the Greens gain the balance of power in the Legislative Council and reduce the chances of other parties even winning seats. If it were a democratic and rational proposal, we would have to accept that result. However, it is an undemocratic and random proposal that would distort the proportional nature of the result, so we ought not support it.

We have grafted a party list system on top of it with the above-the-line system, but we should not remove the right to elect individuals. It would be confusing to have two sets of options involving optional preferences (which would have different sets of numbers in any case), so we ought to keep the system that is most in line with the integrity of the system, which is to have preferences below the line.

6. The Value of Group Voting Tickets

It is argued that the existence of group voting tickets is undemocratic in that people do not know for whom they are voting and end up with preferences going to people whom they would not choose to support. This ignores the facts that all group voting tickets are on the web and available at polling stations and that no one has to vote above the line. No one has to endorse a group voting ticket. Everyone is free to vote below the line.

When a voter votes above the line, he or she is choosing one set of preferences over all others and doing so in the knowledge that his or her party has made an arrangement that it believes is in the interests of his or her party. That is a legitimate choice for the voter to make, especially given the reduction in informal votes that the introduction of above-the-line preferences achieved in Senate elections. The proportional, and thus representative, nature of the voting system is enhanced by the current above-the-line voting and group voting tickets because preferences go to all candidates; i.e., no votes are exhausted, which they would be with above-the-line optional preferences.

It is argued that the system we have is distorted because of group voting tickets. It would be if it were compulsory to choose one of them, but it is not. If voters do not want to accept the party's preference allocation, they are free to vote below the line. If they vote above the line, they have chosen to accept their party's preference allocation. They can make the effort to find out where the party's preferences go, or they can choose to trust their party. If they choose to trust their party, their vote is not inferior. If their party chooses to swap preferences with a party with different ideas, that is its right.

It is said that parties make deals with diametrically opposed parties and that the "wrong" people won in 2021. The simple answer is that voters are well aware of the system: it was in

operation for the Senate for almost 30 years and has been in operation for the Legislative Council for even longer. If voters were disturbed by it, the micro-party vote would have decreased over the years, yet that is not the case. Micro-party voters are pleased with the system. It is only their major party and Greens opponents who don't like it – for obvious reasons.

It is true that choosing the party's preference allocation has the advantage of making a formal vote far easier than filling out all the preferences below the line. The answer to that problem is not to distort the single transferable vote by thresholds or above-the line preferences, but by making preferences below the line optional after a certain number, which has always been the case in the best system, Victoria's.

There is superficially attractive but illogical argument made that the number of compulsory preferences should equal the number of seats to be filled. This seems to be based on the belief that each voter is electing five candidates in a five-seat electorate, six candidates in a six-seat electorate, seven candidates in a seven-seat electorate, and so on, but in every case the voter is electing precisely one candidate. There is absolutely no reason in principle or mathematics that suggests the number of number of compulsory preferences should equal the number of seats to be filled.

In an electorate of 100,000 with five seats and 25 candidates, the average number of votes per candidate would be 4,000. If voters were compelled to mark only five preferences and all did so, the total number of marks on the ballot paper would be 500,000, or 20,000 per candidate.

In an electorate of 100,000 with 5 seats and 50 candidates, the average number of votes per candidate would be 2,000. If voters were compelled to mark only five preferences and all did so, the total number of marks on the ballot paper would still be 500,000, or 10,000 per candidate. If voters were compelled to mark 10 preferences and all did so, the total number of marks on the ballot paper would be 1,000,000, or still 20,000 per candidate.

In an electorate of 100,000 with 10 seats and 25 candidates, the average number of votes per candidate would be 4,000. If voters were compelled to mark only 10 preferences and all did so, the total number of marks on the ballot paper would be 1,000,000, or 40,000 per candidate.

In an electorate of 100,000 with 10 seats and 50 candidates, the average number of votes per candidate would be 2,000. If voters were compelled to mark only 10 preferences and all did so, the total number of marks on the ballot paper would still be 1,000,000, or 20,000 per candidate. If voters were compelled to mark 20 preferences and all did so, the total number of marks on the ballot paper would be 2,000,000, or still 40,000 per candidate.

The speed with which votes would be exhausted is not related to the number of seats but to the number of candidates. The more candidates that there are, the more likely that votes would be exhausted. So, if you think the number of compulsory preference should vary, it should do so on the basis of the number of candidates in the electorate not the number of seats to be filled.

It is far simpler not to have the number vary, to set it low enough that almost everyone can count to it but not so low as to destroy the proportionality of the system by mass exhaustion of ballots.

Should the panel recommend a statewide electorate with 35 or 36 members, the ridiculousness of setting the number of compulsory preferences at the number of positions to be filled would become obvious. Even taking advantage of such a size to have half the members elected at each election, and thus evening out temporary voter enthusiasm in the interests of stability in the political system, would leave around 18 compulsory preferences and thus continue to intimidate voters into voting above the line. Should the panel adopt a statewide electorate, the number of compulsory preferences should remain at 12 for the reasons already explained.

7. The Real Issue and the Solution

There is no problem whatsoever with a candidate's election to the Legislative Council from a tiny initial vote as no one gets there until they reach the quota, 14.3 per cent. The issue is not the size of the initial vote. It is not the election of the "wrong" people to the Legislative Council. It is not group voting tickets. It is not the existence of above-the-line voting. The issue is the difficulty of voting below the line. It is the duty of every citizen to vote and, by the same reasoning, the duty of every citizen to vote all the preferences there can be. However, this has become unrealistic with Legislative Council ballot papers with large numbers of candidates. The duty remains but is unenforceable. We solve the problem by making preferences below the line optional after a certain number.

That number in Victoria is too low and is chosen for no better reason than that it equals the number of seats to be filled. The earlier votes become "exhausted" in the single transferable vote system of proportional representation, the less proportional the system becomes and later seats are filled by people who do not even reach a quota. In the Victorian Legislative Council, where that rule applies, parties typically run five candidates (the number of seats to be filled) even though they have no hope of winning five. This locks up below-the-line votes inside the party and means the above-the-line group voting ticket has more influence on the result.

It is possible to be faced with two or three or four unpalatable candidates on a ballot paper and no one worth electing; yet, the voter is legally required to vote for one of them (it's a furphy that turning up at the polling place is all that is legally compulsory, though the secret ballot makes strict enforcement of the law impossible). It follows that at every stage of the count, there is a set number of candidates remaining to choose from. The compulsion to choose at each stage is no different from the compulsion to choose in the first place. The only reason to move away from insisting on this principle is the huge number of candidates and the practical reality that the overwhelming number of voters will not make any effort to distinguish between them all. A relatively high number of preferences is necessary to decrease the number that exhaust and thus the likelihood of the last or the last few candidates being elected on less than a quota.

It is better to have the same number of compulsory preferences for the nation, states, territories and local councils and for both houses of parliament. That is why the federal parliament should reverse the changes it has made to the Senate voting system and simply prescribe 12 compulsory preferences below the line. That is why the Local Government Act should prescribe the single transferable vote, unsubdivided councils and 12 compulsory preferences in all council elections. The key is the simplicity of one message on voting.

Preferences should not be locked up inside one party, so we should have 12. If the number were too low, you would still see the micro-party candidates elected, not from low initial votes as now, but from low final votes because preferences would be exhausted early and the winner of the final position would become truly random. If the number were too high, the informal vote would be high. A balance is needed between the two competing imperatives – the need to keep a proportional system and the need to maximise the formal vote. As above-the-line voting and group voting tickets would remain available and there should be a mechanism for assisting voters to ensure their votes below the line are formal (see below), setting 12 as the minimum number of preferences below the line is reasonable.

The same number of preferences required for the Legislative Council should also be applied to the Legislative Assembly for consistency, though, if it is high, it will have no practical effect given that Legislative Assembly seats do not attract dozens of candidates. The other states and the federal parliament should also amend their laws to require the same 12 preferences in elections for both Houses. Having the same voting system for the marking of preferences (which is not the same as the method of counting the votes) in all jurisdictions and for both Upper and Lower Houses would reduce confusion and increase the formal vote.

There is no problem with above-the-line votes remaining, as this has reduced the informal vote and people are free to choose it (because they trust that their party has done the best deal) or not choose it, but there is a case of sorts for restricting the number of preferences a group ticket may have to the same 12. That would be an incentive not to create phoney parties that last one election and are heard no more because parties would not be able to control the preferences all the way to whatever excessive number a future election may produce.

There is never any appetite for increasing the number of MPs, so we need a system that keeps the total number reasonably close to what it is now. There is also a good reason for keeping an uneven number of MPs. A Western Australian Legislative Council of 35 members is thus reasonable. Five regions of seven members each would provide a good balance between a highly representative chamber and a coherent one. Each Legislative Council region should have as far as practical the same number of voters. It follows that the current 59-member Legislative Council would have to change to a number divisible by seven; i.e., down to 56 or up to 63. 63 would be better as it is an uneven number. The Legislative Council has been reduced by one and the Legislative Assembly increased by four, giving a total increase of only 3 in a Parliament of 95 members. This is a reasonable price for a more democratic system overall. It would become more palatable if the electoral system were entrenched in the WA Constitution so that only a vote of the people could change it in the future.

Should the panel be unwilling to recommend the constitutional referendum necessary to change the size of the Legislative Council to implement this recommendation, the only reasonable option is to have four regions of nine members each. If the panel is unwilling to recommend a constitutional referendum to change the size of the Legislative Council, it will be unwilling to recommend a constitutional referendum to change the size of the Legislative Assembly, meaning that a malapportionment of Legislative Council regions would likely continue. However, such a malapportionment can be minor if three of the Legislative Council regions have 15 Legislative Assembly seats in them and the fourth has 14. If the WA government persists in its intention to maintain the sort of Legislative Assembly malapportionment that every other jurisdiction got rid of decades ago, it would be possible to

divide the state into regions based on having as far as possible an equal number of voters in each rather than an equal number of Legislative Assembly seats.

8. Personal How-to-Vote Website

Given the concern that voters have about getting the numbers right below the line, it would be prudent for the Western Australian Electoral Commission to establish a website and provide an app that allowed voters to determine their own preferences. Such a site would allow voters to rank candidates and would advise them if their vote was formal or not and print any formal how-to-vote card for them to take into the polling booth.

9. Constitutional Entrenchment of Democratic Voting

Given the willingness of political parties in different jurisdictions to change voting systems to favour themselves, the Constitution ought to be amended to mandate the single transferable vote for Legislative Council elections. This ought to go with other constitutional reforms, such as a referendum for any legislation passed by one House and rejected twice by the other and recall provisions, though these are probably outside the terms of reference of the panel.

10. Reducing the Number of Candidates Democratically

The knee-jerk reaction to the Legislative Council having people elected to it whom other people do not like is to reduce the voters' democratic rights, via thresholds or above-the-line preferences. There are several steps that can be taken outside of the voting system itself to reduce the number of candidates without reducing voters' democratic rights.

Groups run more candidates than can ever be elected. This can be tackled by a sliding scale of nomination fees: \$2,000 for one candidate in a Legislative Council election (i.e., an independent not in a group) and for the first candidate in a group, \$10,000 for the second candidate in a group, \$20,000 for the third candidate in a group, \$40,000 for the fourth candidate in the group and \$60,000 for the fifth candidate in a group. No group could have more than five candidates in order to protect against one-party rule. No deposit would be lost for any candidate elected, no matter their initial vote. A group of one would have to poll 4 per cent of the primary vote not to lose its deposit. A group of two would have to poll 12 per cent of the primary vote not to lose its \$10,000 deposit. A group of three would have to poll 25 per cent of the primary vote not to lose its \$20,000 deposit. A group of four would have to poll 37 per cent of the primary vote not to lose its \$40,000 deposit. A group of five would have to poll 50 per cent of the primary vote not to lose its \$60,000 deposit. The very low 4 per cent is designed not to discourage candidates from small parties competing. The other figures are set as one quota for two candidates, two quotas for three candidates, three for four and so on, ignoring the digits after the decimal point in the basic quota for simplicity's sake.

These moves would stop parties padding their ticket with people they know will never be elected and thus make voting below the line less daunting.

11. Ensuring Political Parties Are Real

Parties should have to be registered for at least two years to run as a group. This move would cut out phoney parties that appear for one election and then disappear. This is not to stop individuals from standing. It is to stop pretend parties.

The way to ensure parties are genuine is to ensure that they have long-term registration and a number of members (say, one in every 2,000 voters) registered in each region in which they run. It is more sensible to relate party membership to the number of voters to allow for population changes.

If the proposal for increased deposits for additional candidates is adopted, it would also be necessary to ban political parties from running in more than one group as, if there were not such a ban, they would run two groups of two candidates each rather than one group of four in order to reduce the deposits they would have to pay.

Conclusion

Improving the integrity of the party system combined with optional preferences below the line would make it easier for voters to have a meaningful say.

However, the debate is not really about giving voters a say. It is about a political and media elite wanting to ensure that outsiders do not get elected.

MPs ought to protect the democratic system, even to the disadvantage of their own parties. Above-the-line preferences have no place in our constitutional system as they would introduce randomness to the result, discriminate in the number of preferences different voters must express to have their votes counted and distort the proportional nature of the Legislative Council. Thresholds are anti-democratic and show contempt for all voters, not just those who have chosen micro-party candidate, because they remove from the contest candidates who in the end would have more support than candidates allowed to remain in the contest.

There is no problem in the micro parties' ability to influence the outcome of the election by "gaming" the preferential system. They have as much right as the major parties and the Greens to influence the outcome of the election by whatever rules exist. There is no problem with the preferential system at all. It ensures that at each stage of the count the candidate with the least support is excluded until at the end the candidates with the most support are elected.

If voters' rights are to be enhanced, then making it easier to vote below the line is the only change to voting that can be countenanced.

The real issue is the ease of voting below the line. Contemptible attempts to devalue the votes that Western Australians cast for the candidates of micro-parties should be resisted.

Chris Curtis
31/5/2021

Appendix: The 2016 Senate “Fix”

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A comparison of the 2013 and 2019 election results shows how much the move to above-the-line preferences has made the Senate less representative of the way people vote.

Table 1 2013 Senate Election Results

Party	Vote	Seats Won	Seats Percent	(Distortion)
Coalition	37.0 per cent	17 seats	42.5 per cent	(5.5 per cent overrepresented)
ALP	29.6 per cent	12 seats	30.0 per cent	(0.4 per cent overrepresented)
Greens	9.2 per cent	4 seats	10.0 per cent	(0.8 per cent overrepresented)
Others	24.2 per cent	7 seats	17.5 per cent	(7.7 per cent underrepresented)
Total distortion			14.4 per cent	

(<http://psephos.adam-carr.net/countries/a/australia/2013/2013senate1.txt> - 18/9/2019)

Table 2 2019 Senate Election Results

Party	Vote	Seats Won	Seats Percent	(Distortion)
Coalition	38.0 per cent	19 seats	47.5 per cent	(9.5 per cent overrepresented)
ALP	28.8 per cent	13 seats	32.5 per cent	(3.7 per cent overrepresented)
Greens	10.2 per cent	6 seats	15.0 per cent	(4.8 per cent overrepresented)
Others	23.0 per cent	2 seats	5.0 per cent	(18.0 per cent underrepresented)
Total distortion			36.0 per cent	

(<http://psephos.adam-carr.net/countries/a/australia/2019/senate.txt> - 18/9/2019)

The 2019 results are less representative of voters than the 2013 results. The distortion rate has more than doubled. That the Coalition has benefited most does not mean that it will benefit every time. It is bad policy to implement systems that seem to favour one side rather than another at one point.

Some may argue that the votes for others should not be aggregated because the parties and independents in that aggregation have different ideologies. If the previous system allowed them to gain representation their differences in ideology did not matter to their voters.

A comparison of the 2013, 2016 and 2019 percentages of informal votes shows that the new system, despite claims it was to empower the voter, has reduced the percentage of voters whose votes count.

Table 3 Senate Informal Votes

Percent	2013/14	2016	2019
NSW	3.32	4.53	4.28
Victoria	3.37	4.20	4.02
Queensland	2.16	3.40	3.26
WA	2.86	3.35	3.40
SA	2.65	3.33	3.50
Tasmania	2.46	3.48	3.64
ACT	1.98	2.21	2.32
NT	2.67	3.33	3.64
	2.96	3.94	3.81

(<https://results.aec.gov.au/17496/Website/SenateInformalByState-17496.htm> - 28/8/2019)

(<https://results.aec.gov.au/20499/Website/SenateInformalByState-20499.htm> - 28/8/2019)

(<https://results.aec.gov.au/24310/Website/SenateInformalByState-24310.htm> - 28/8/2019)

This table does not include informal votes that have been converted to formal votes by the “savings” provisions. Even so, the changes to the Senate voting system have led to an increase, not a decrease, in the number of official informal votes. Had all the informal votes been counted, the rate would be higher. Given that in 2016, 6.56 per cent of the ballot papers were informal but counted as formal because of the “savings” provisions (https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/2016_election_report/section?id=committees%2freportjnt%2f024085%2f26059 – 19/9/2019), we can expect the real percentage of informal votes to be as high as such was prior to 1984. To claim to empower the voter by tripling the percentage of informal votes but not counting two thirds of them as informal is not honest.

In every case, the informal vote has increased, not just in 2016 when there was a double dissolution election but also in 2019 when there was a normal half-Senate election. In five of the eight cases, the 2019 informal vote even exceeded the 2016 one. The 2016 and 2019 informal votes would have been even higher if the AEC had enforced its statement that voters had to mark 1-6 above the line or 1-12 below the line for their votes to count, but, under Sections 268A and 269 of the Australian Electoral Act, marking 1 above the line or 1-6 below the line was to be counted as if it were formal. It used to be necessary to fill in almost all the numbers if voters voted below the line. This is no longer the case. The change in rules should have made the informal vote almost zero, not increase it, however slightly, to an official 3.94 per cent and a real 10.50 per cent in 2016 and an official 3.81 per cent and probably much higher real per cent in 2019.

An examination of the Senate results in each state reveals that most major party candidates in every state were elected from tiny primary votes and that some were elected without reaching a quota.

Table 4 2019 Senate Election Results by State**NSW**

Total	4,905,326 votes	
Informal	210,146 votes	(4.28 per cent)
Formal	4,695,326 votes	

Elected from tiny primary vote

Andrew Bragg (LP)	0.05 per cent
Perin Davey (NP)	0.06 per cent
Tim Ayres (ALP)	0.04 per cent
(https://results.aec.gov.au/24310/Website/SenateStateFirstPrefsByGroup-24310-NSW.htm - 29/8/2019)	

Calculations

Quota	670,761 votes	(14.29 per cent)
Exhausted	261,967 votes	(5.34 per cent)

Elected without Quota

Mehreen Faruqi (AG)	642,326 votes	(13.09 per cent)
Perin Davey (NP)	653,541 votes	(13.32 per cent)
https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-NSW.pdf		
29/8/2019)		

[In 2013, David Leyonhjelm (LD) was elected with 653,512 votes (14.93 per cent) from a primary vote of 9.50 per cent.

(<https://results.aec.gov.au/17496/Website/External/SenateStateDop-17496-NSW.pdf> - 6/9/2019)]

Victoria

Total	3,896,236 votes
Informal	156,793 votes (4.02 per cent)
Formal	3,739,443 votes

Elected from tiny primary vote

Jane Hume (LP)	0.11 per cent
David Van (LP)	0.04 per cent
Jess Walsh	0.16 per cent
(https://results.aec.gov.au/24310/Website/SenateStateFirstPrefs-24310-VIC.htm - 12/9/2019)	

Calculations

Quota	534,207 votes	(14.29 per cent)
Exhausted	260,032 votes	(6.95 per cent)

Elected without Quota

David Van (LP)	497,224 votes (13.30 per cent)
(https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-VIC.pdf - 12/9/2019)	

[In 2013, Ricky Muir (AMEP) was elected with 489,652 votes (14.48 per cent) from a primary vote of 0.50 per cent.

(<https://results.aec.gov.au/17496/Website/External/SenateStateDop-17496-VIC.pdf>)]

Queensland

Total	2,999,372 votes
Informal	97,908 votes (3.26 per cent)
Formal	2,901,464 votes

Elected from tiny primary vote

Susan McDonald (LNP)	0.20 per cent
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Gerard Rennick (LNP)	0.04 per cent
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(<https://results.aec.gov.au/24310/Website/SenateStateFirstPrefs-24310-QLD.htm> - 16/9/2019)

Calculations

Quota	414,495 votes	(14.29 per cent)
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Exhausted	113,296 votes	(3.90 per cent)
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Elected without Quota

Larissa Waters (AG)	397,065 votes	(13.68 per cent)
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(<https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-QLD.pdf> - 16/9/2019)

[In 2013, Glenn Lazarus (PUP) was elected with 408,050 votes (15.58 per cent) from a primary vote of 9.86 per cent.

(<https://results.aec.gov.au/17496/Website/External/SenateStateDop-17496-QLD.pdf> - 16/9/2019)]

Western Australia

Total	1,497,532 votes
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Informal	50,909 votes	(3.40 per cent)
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Formal	1,446,623 votes
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Elected from tiny primary vote

Slade Brockman (LP)	0.06 per cent
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Matt O'Sullivan (LP)	0.11 per cent
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Louise Pratt (ALP)	0.21 per cent
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(<https://results.aec.gov.au/24310/Website/SenateStateFirstPrefs-24310-WA.htm> - 16/9/2019)

Calculations

Quota	206,661 votes	(14.29 per cent)
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Exhausted	48,949 votes	(3.38 per cent)
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Elected without Quota

Nil

(<https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-WA.pdf> - 16/9/2019)

[In 2014, Zhenya Wang (PUP) was elected with 201,846 votes (15.80 per cent) from a primary vote of 12.23 per cent.

(<https://results.aec.gov.au/17875/Website/External/SenateStateDop-17875-WA.pdf> - 16/9/2019)]

South Australia

Total	1,134,556 votes
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Informal	39,733 votes	(3.50 per cent)
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Formal	1,094,823 votes
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Elected from tiny primary vote

David Fawcett (LP)	0.21 per cent
Alex Antic (LP)	0.06 per cent
Marielle Smith (ALP)	0.10 per cent

(<https://results.aec.gov.au/24310/Website/SenateStateFirstPrefs-24310-SA.htm> - 16/9/2019)

Calculations

Quota	156,404 votes	(14.29 per cent)
Exhausted	35,267 votes	(3.22 per cent)

Elected without Quota

Nil

(<https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-SA.pdf> - 16/9/2019)

[In 2013, Bob Day (FFP) was elected with 180,670 votes (17.40 per cent) from a primary vote of 3.75 per cent.

(<https://results.aec.gov.au/17496/Website/External/SenateStateDop-17496-SA.pdf> - 16/9/2019)]

Tasmania

Total	365,272 votes	
Informal	13,284 votes	(3.64 per cent)
Formal	351,988 votes	

Elected from tiny primary vote

Claire Chandler (LP)	0.48 per cent
Catryna Bilyk (ALP)	0.45 per cent

per cent

(<https://results.aec.gov.au/24310/Website/SenateStateFirstPrefs-24310-TAS.htm> - 16/9/2019)

Calculations

Quota	50,285 votes	(14.29 per cent)
Exhausted	6,627 votes	(1.88 per cent)

Elected without Quota

Nil

(<https://results.aec.gov.au/24310/Website/External/SenateStateDop-24310-TAS.pdf> - 16/9/2019)

[In 2013, Jacqui Lambie (PUP) was elected with 55,571 votes (16.49 per cent) from a primary vote of 6.47 per cent.

(<https://results.aec.gov.au/17496/Website/External/SenateStateDop-17496-TAS.pdf> - 16/9/2019)]

No outrage greeted any of these victories, in stark contrast to the hysteria that greeted the election of the micro-party candidates in 2013.

Table 5 2013/14 Micro-party Victors

In the 2013/14 Senate election, the following six micro-party candidates were elected from tiny or just smaller than usual primary votes:

	Primary Vote	Vote on Victory
David Leyonhjelm (LDP)	9.50 per cent	14.93 per cent
Ricky Muir (MEP)	0.50 per cent	14.48 per cent
Glenn Lazarus of the PUP)	9.86 per cent	15.58 per cent
Zhenya Wang (PUP)	12.23 per cent	15.80 per cent
Bob Day (FFP)	3.75 per cent	17.40 per cent
Jacqui Lambie (PUP)	6.47 per cent	16.49 per cent

Outrage greeted these successful micro-party candidates, even though they were not elected until they each reached a quota.

Table 6 2013/14 Established Party Victors from Tiny Primary Votes

In the 2013/14 Senate election, the following 13 established party candidates were elected from tiny primary votes:

NSW

Doug Cameron (ALP)	0.04 per cent
John Williams (NP)	0.02 per cent
Arthur Sinodinos (LPA)	0.03 per cent

Victoria

Scott Ryan (LPA)	0.02 per cent
Jacinta Collins (ALP)	0.05 per cent

Queensland

James McGrath (LNP)	0.02 per cent
Matthew Canavan (LNP)	0.01 per cent
Claire Moore (ALP)	0.08 per cent

Western Australia

Michaelia Cash (LPA)	0.04 per cent
Linda Reynolds (LPA)	0.05 per cent

South Australia

Simon Birmingham (LPA)	0.10 per cent
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Tasmania

Catrina Bilyk (ALP)	0.20 per cent
David Bushby (LPA)	0.40 per cent

No outrage greeted the election of any of these major party candidates even though their primary vote percentages were less in every case than those of the successful micro-party candidates at the same election

Table 7 2016 Micro-party Victors

In the 2013/14 Senate election, the following three micro-party candidates were elected from tiny primary votes:

David Leyonhjelm (LDP)	3.08 per cent
Malcolm Roberts (ONP)	0.00 per cent
Bob Day (FFP)	2.86 per cent

Table 8 2016 Established Party Victors from Tiny Primary Votes

In the 2016 Senate election, the following 44 established party candidates were elected from tiny primary votes:

NSW

Arthur Sinodinos (LPA)	0.07 per cent
Fiona Nash (NP)	0.13 per cent
Concetta Fierravanti-Wills (LPA)	0.02 per cent
John Williams (NP)	0.05 per cent
Jenny McAllister (ALP)	0.10 per cent
Deborah O'Neill (ALP)	0.07 per cent
Doug Cameron (ALP)	0.09 per cent

Victoria

Stephen Conroy (ALP)	0.09 per cent
Jacinta Collins (ALP)	0.09 per cent
Gavin Marshall (ALP)	0.03 per cent
Bridget McKenzie (NP)	0.07 per cent
Scott Ryan (LPA)	0.04 per cent
James Paterson (LPA)	0.04 per cent
Jane Hume (LPA)	0.03 per cent
Janet Rice (AG)	0.09 per cent

Queensland

Anthony Chisholm (ALP)	0.06 per cent
Claire Moore (ALP)	0.02 per cent
Chris Ketter (ALP)	0.04 per cent
Matthew Canavan (LNP)	0.08 per cent
James McGrath (LNP)	0.05 per cent
Ian Macdonald (LNP)	0.07 per cent
Barry O'Sullivan (LNP)	0.05 per cent

Western Australia

Glenn Sterle (ALP)	0.06 per cent
Patrick Dodson (ALP)	0.14 per cent
Louise Pratt (ALP)	0.19 per cent
Rachel Siewert (AG)	0.06 per cent
Michaelia Cash (LPA)	0.10 per cent
Dean Smith (LPA)	0.04 per cent
Linda Reynolds (LPA)	0.05 per cent
Chris Back (LPA)	0.03 per cent

South Australia

Don Farrell (ALP)	0.06 per cent
Alex Gallacher (ALP)	0.03 per cent
Stirling Griff (NXT)	0.01 per cent
Skye Kakoschie-Moore (NXT)	0.01 per cent
Cory Bernardi (LPA)	0.19 per cent
Anne Ruston (LPA)	0.08 per cent
David Fawcett (LPA)	0.08 per cent

Tasmania

Helen Polley (ALP)	0.58 per cent
Carol Brown (ALP)	0.32 per cent
Catryna Bilyk (ALP)	0.33 per cent
Nick McKimm (AG)	1.82 per cent
Stephen Parry (LPA)	0.59 per cent
Jonathon Duniam (LPA)	0.19 per cent
David Bushby (LPA)	0.38 per cent

No outrage greeted the election of any of these established party candidates, yet in every case but three their percentages of primary votes are less than those of every successful micro-party candidate in 2013/14.

Table 9 2019 Micro-party Victors from Tiny Primary Votes

In the 2019 Senate election, the following micro-party candidates were elected from tiny primary votes:

Nil

This elimination of “outsiders” is evidence of the “success” of the 2016 “reforms”. The aim was not to empower the voter, but to remove as many micro-party voters from being represented as possible, and the system made sure only established party candidates could be elected from tiny primary votes and that the overall representation of the almost one quarter of Australians who voted for the micro-parties was cut by almost three quarters on 2013/14.

The 2019 election had even more major party candidates elected from tiny primary votes than the 2013 election.

Table 10 2019 Established Party Victors from Tiny Primary Votes

In the 2019 Senate election, the following 16 established party candidates were elected from tiny primary votes:

New South Wales

Andrew Bragg (LP)	0.05 per cent
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Perin Davey (NP)	0.06 per cent
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Tim Ayres (ALP)	0.04 per cent
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Victoria

Jane Hume (LP)	0.11 per cent
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David Van (LP)	0.04 per cent
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Jess Walsh (ALP)	0.16 per cent
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Queensland

Susan McDonald (LNP)	0.20 per cent
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Gerard Rennick (LNP)	0.04 per cent
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Western Australia

Slade Brockman (LP)	0.06 per cent
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Matt O’Sullivan (LP)	0.11 per cent
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Western Australia

Louise Pratt (ALP)	0.21 per cent
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South Australia

David Fawcett (LP)	0.21 per cent
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Alex Antic (LP)	0.06 per cent
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Marielle Smith (ALP)	0.10 per cent
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Tasmania

Claire Chandler (LP)	0.48 per cent
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Catryna Bilyk (ALP)	0.45 per cent
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No outrage greeted the election of any of them, yet in every case their primary votes is less than the primary vote of every successful micro-party candidate in 2013/14, and two of them, Perin Davey (NP) and David Van (LPA), did not even reach a quota.

In the 2013/2014 Senate election, David Leyonhjelm (LD) was elected with 653,512 votes (14.93 per cent); Ricky Muir (AMEP) was elected with 489,652 votes (14.48 per cent); Glenn Lazarus (PUP) was elected with 408,050 votes (15.58 per cent); Zhenya Wang (PUP) was elected with 201,846 votes (15.80 per cent); Bob Day (FFP) was elected with 180,670 votes (17.40 per cent); Jacquie Lambie (PUP) was elected with 55,571 votes (16.49 per cent). Outrage greeted these successful micro-party candidates, even though they had each reached a quota.

In 2019, Mehreen Faruqi (Greens) was elected with 642,326 votes (13.09 per cent); Perin Davey (NP) was elected with 653,541 votes (13.32 per cent); David Van (LP) was elected with 497,224 votes (13.30 per cent); Larissa Waters (AG) was elected with 397,065 votes (13.68 per cent). No outrage greeted the election of any of these established party candidates even though none of them reached a quota and all of them achieved victory with a lower vote than all the 2013/14 micro-party candidates had done.

The hypocrisy and dishonesty are astounding!