

Submission to the Expert Committee on Electoral Reform

Electoral System Governing the Western Australian Legislative Council

From: Geoffrey Kenneth Binckes

Comments on the existing electoral system

The electoral system should achieve an outcome that reflects the will of enrolled voters.

This requires:

- Secret ballot;
- Compulsory voting;
- One vote, one value;
- Preferential/proportional voting (single transferable vote);
- The ability of voters to direct preferences as they choose.

With the exception of the four electoral districts in the Mining and Pastoral Region, the voting system of the Legislative Assembly generally complies with these principles.

The voting system for the Legislative Council is deficient.

- Firstly, while 6 members are elected from each Electoral Region there is gross malapportionment in the number of electors in each region. Based on the final boundaries of the *2019 Review of Western Australia's Electoral Boundaries*, votes in the Mining and Pastoral Region, the Agricultural Region and the South West Region have approximately 6 times, 4 times, and twice, respectively, the value of votes in the three Metropolitan Regions.
- Secondly, "above the line" voting for the Legislative Council does not allow voters to direct preferences as they choose.

Malapportionment

The existing malapportionment undermines democracy by giving undue influence to rural voters.

The predominant reason for the existing arrangement is that it advantages conservative parties which, hitherto, have maintained effective control of the Legislative Council: initially, by means of a property/income qualification on the franchise and then by malapportionment in favour of rural areas.

However, the usually stated argument for malapportionment is that rural electoral regions need to have fewer voters so that electoral regions can be kept to a manageable area. Modern communications and the enormous size of the existing Mining and Pastoral Region invalidate this argument.

The effect of the current malapportionment is that the legislative agenda of conservative governments is usually unconstrained; whereas conservative oppositions can usually obstruct or veto proposed legislation in the Legislative Council. This asymmetry is undemocratic and unjustifiable, and would be so if non-conservative parties were similarly advantaged.

While I live in the South West Region, I see no reason why rural voters should be able, in effect, to act as arbiters of what legislation the Parliament may or may not pass.

Preference allocation.

The existing provisions for allocating preferences are not satisfactory.

Voters in Legislative Council elections can allocate preferences only if they vote "below the line" and number every individual candidate: a difficult, time consuming and error prone process.

If electors vote "above the line", preference allocation is pre-determined by the candidate or party for whom the elector votes and may result in preferences being directed to candidates the elector does not support. It also allows so called "preference whisperers" to corrupt the ballot by co-ordinating preference distribution among minor parties so that candidates with very little primary support are elected, as happened at the recent election.

Suggestions for reform

1. As a matter of principle, each person's vote should have equal value in determining the outcome of deliberations in the Legislative Council and malapportionment should be abolished.
2. The existing proportional/preferential (single transferable vote) system should be retained for multimember Electoral Regions.
3. As the Legislative Council is intended to function as a "house of review", its composition should reflect the voting patterns.
4. The most effective way for the Legislative Council members to reflect the voting patterns would be for all Council members to be elected from a single Electoral Region encompassing the entire state. This would result in a quota of about 3% for election and minor parties would achieve fair representation. In most elections, neither major party would be likely to control the Council which is advantageous if the Council is to act as a proper house of review. If the government controls both the Assembly and the Council, the Council is superfluous.
5. If multiple Electoral Regions are retained, the ratio of members to electors in each Region should be the same. If, however, the number of members to be elected by a Region is small, only candidates of major parties are likely to be elected which may distort the intent of voters.
6. If malapportionment in favour of rural Electoral Regions is retained, the value of a vote in the Legislative Council by a member representing a malapportioned Region should be weighted accordingly. For example, if a rural Region has half the electors but the same number of members as a metropolitan Region, a rural member's vote in the Council should be counted as half that of a metropolitan member's vote. This is unorthodox but it would reduce the need for members to service large electoral Regions while ensuring equitable influence in the Council.
7. Pre-determined preference allocation in "above the line" voting should be abolished and the requirement to allocate preferences transferred to the voter. This means that all ungrouped candidates must appear above the line as well as below it.

8. Consideration should be given to setting a minimum number of preferences a voter must indicate for their vote to be formal (as for Federal elections). If this is done, the minimum number must be sufficient to assess the intent of the voter if their first preference is not elected and to minimise the likelihood that the vote will become exhausted.
9. Consideration should be given to setting a minimum percentage of the primary vote that a group or individual candidate must receive before they are considered eligible for election. Any group or candidate falling below this percentage would be eliminated at the commencement of the count and their preferences distributed. This would prevent the situation mentioned in the terms of reference where the Daylight Saving Party won a seat with just 0.2% of the primary vote. The minimum should not be more than 5% of the primary vote.

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