

Please find attached a submission on the reform of voting for the western Australian Legislative Council.

Stephen Lesslie

## Submission to the Ministerial Expert Committee on Electoral Reform

### Principles

- Every citizen's vote must have the same weight as every other citizen's.
- Every citizen must be free to vote as they choose and to the extent that they choose.
- The principle of proportional representation which allows minor parties and/or groups to be represented must be respected. The voting system should support the principle that preferences from candidates representing unpopular parties or groups should elect candidates from more popular parties.
- Topography, geography, population density and political expediency should not be allowed to override these principles.

Matters to be considered.

1. Legislative Council electorates should as far as practicable have the same number of voters.

#### **In this modern world the geographic size of an electorate is irrelevant.**

Voters do not walk, catch the bus or drive to the electorate office to see their parliamentary representatives. They use modern communication methods such as a phone or email and the postal service is still available. Members of Parliament are able to communicate with their constituents via Facebook and other social media platforms - they do not drop in for a cup of tea and a chat.

In Western Australia Senators represent the whole State and their electorate is the whole State and every Western Australian citizen is able to contact any Senator that they choose. Local representation is probably the least important reason to contact a parliamentary representative. A Labor voter in Broome is more likely to contact a Labor Senator in Perth than the Liberal Senator who lives down the street and vice versa.

2. All forms of above-the-line voting should be abolished.

#### **No reforms are possible whilst above-the-line voting remains in place.**

When given the opportunity to freely choose their representatives voters will do so. It is sophistry to pretend that allowing the option of voting below the line gives voters that choice. This especially applies in Western Australia which currently requires all below-the-line preferences to be filled in. This requirement and the format of a ballot paper is so dominant that voters feel compelled to use the above-the-line option. The very small percentage of voters voting below the line in the recent WA election will confirm this.

In Tasmania and the ACT where there is no above-the-line option voters readily fill in their votes. In fact the extra few seconds required is probably quite satisfying.

In the ACT where a single No.1 is a formal vote fewer than 100 people will only put a single [1] on the ballot paper. An examination of the transfer value determination of those

candidates who receive a quota of first preference votes will confirm this. These votes never exhaust. (see below)

Without the confusion of two separate voting instructions and two sets of voting boxes and the big black line, the ballot paper becomes simpler, cleaner and voting for multiple candidates in order becomes very obvious.

A sample ballot paper from Australian Capital Territory.

3. Fully optional preferential voting should be allowed.

**As in the ACT, a single No. 1 should be allowed as a formal vote.**

In a proportional representation election compulsory preferencing to any degree increases both the number of informal votes and the number of exhausted votes. The number of voters effectively participating in the election falls. Compulsory preferencing combined with group voting tickets causes different, but even greater, problems.

In NSW Legislative Council elections 2011, 2015 and 2019 every unsuccessful group had a majority of their preferences exhausted when the last candidate from the group was excluded, because every group had to run a full slate of fifteen candidates and many ran twenty one candidates. This happened despite having the option of giving preferences via above-the-line voting. After years of just vote [1] above the line it is impossible to persuade voters to utilise the above-the-line preference options.

After voting [1] above the line or voting for 15 below the line voters believed that they had fulfilled their task and stopped numbering squares.

In ACT elections the opposite applies, voters readily give preferences to other groups after filling in all the squares for their preferred group or party.

Keeping any above-the-line option in Western Australia will result in an unsatisfactory number of exhausted votes. An examination of NSW Local Government elections will also confirm this.

With optional preferential voting, the formula for calculating transfer values will need to change to -

$$\text{Transfer Value} = \frac{\text{Total Votes} - \text{Quota}}{\text{Total Votes} - \text{Non transferable votes}}$$

With this formula fewer votes transfer, each at a higher transfer value, but the total number of votes in the count remains the same. This formula is used in proportional representation elections where fully optional preferential voting is used.

With compulsory preferencing the rare single No.1 votes, despite making a clear unequivocal choice, don't transfer or exhaust - they are declared informal.

At the other end of the count as candidates are being excluded, these single No.1 votes remain in the count adding to their preferred candidates tally. We have seen in the 2021 Western Australian election how the order in which candidates are excluded can change the result. If the candidate is never excluded these single No.1s never exhaust.

4. Without changing the number of members the obvious divisions for a Legislative Council with 36 Members are -

Six six-member electorates - quota 14.3%

Four nine-member electorates - quota 10.0%

Three twelve-member electorates - quota 7.7%

Two eighteen-member electorates - quota 5.3% (each electorate should include both metropolitan and regional areas)

The number of candidates to be elected from each electorate sets the quota and the percentage of the vote that guarantees the election of a candidate.

The Ministerial Expert Committee on Electoral Reform should therefore chose an electorate size that they believe ensures adequate representation for minority groups and interests.

**But, once that is done, then the quota chosen should be respected** and the electoral system developed to ensure as far as possible that successful candidates have a majority of their own quota either as first preference votes in their own right or as preferences directly received via transfer from another member of their own party. This transfer can be either from another candidate's surplus or after the exclusion of their less successful party colleagues.

The voting system should also allow popular parties and popular candidates to benefit from their popularity. The definition of a popular party is very simple - a popular party is the party that gets more votes.

**Both these aims can be met by the rotation of the order of candidates within groups on the ballot paper so that all candidates have an equal share of the lead position.**

Even a cursory examination of preference counts in Tasmanian and ACT elections demonstrate that both these requirements are almost universally met. In these jurisdictions at the exclusion phase of preference counts the preferences of unpopular candidates elect the more popular candidates.

#### Traditional Fixed Order Ballot Paper

| Candidates | Vote        |
|------------|-------------|
| A1         | 1.49 quotas |
| A2         | 0           |
| B1         | 0.51 quotas |
| B2         | 0           |

After preferences -

| Candidates | Vote        | Seats |
|------------|-------------|-------|
| A1         | 1.0 quotas  | 1     |
| A2         | 0.49 quotas | 0     |
| B1         | 0.51 quotas | 1     |
| B2         | 0           | 0     |

With traditional ballot papers, and especially with above-the-line voting, the above result gives each party one seat despite the fact that Party A has almost three times the support.

#### Rotation Ballot Paper

| Candidates | Vote        |
|------------|-------------|
| A1         | 0.74 quotas |
| A2         | 0.75 quotas |
| B1         | 0.51 quotas |
| B2         | 0 quotas    |

After preferences -

| Candidates | Vote                   | Seats |
|------------|------------------------|-------|
| A1         | 0.74 quotas + B1 votes | 1     |
| A2         | 0.75 quotas + B1 votes | 1     |

|    |          |   |
|----|----------|---|
| B1 | 0 quotas | 0 |
| B2 | 0 quotas | 0 |

Note that Party A received exactly the same number of votes as in the fixed order ballot and gained both seats despite all the votes in Party B being concentrated on one candidate. This is the perfect split for Party A; but it does not need to be perfect. All that is required is for both of Party A's candidates to have more votes than the combined vote for Party B.

There is no necessity to overcomplicate this rotation of candidates by the use of the Robson rotation with its multiple variations. Political parties, an integral component of the political process, should have the right to try to ensure the election of their more favoured candidates.

All that is required is that each political party supplies -

1. A list of candidates in the order that they choose. This is the first ballot paper.

The most sensible order would be most favoured to least favoured as with the current fixed order ballot papers. If the party is confident of electing multiple numbers then there is room for the party to arrange candidates in a different order. The party may place the only female candidate immediately after a popular sitting member but this should be the party's choice.

2. Take the name of the candidate last on this list and place that candidate's name first and move every other candidate down one place. This is the second ballot paper.
3. Repeat this process until every candidate has been placed in the first position. There will be as many variations as there are candidates.

By arranging the ballot paper this way the party is able to promote the leader of the team, perhaps a current Cabinet Minister or Opposition spokesperson, and individual voters may choose to vote for this candidate. In many instances this candidate will gain a quota and be elected. Preferences will, unless the voter specifically exercises their democratic right to vote differently, generally flow to the next candidate on the list. This next candidate has not been chosen randomly as with the Robson rotation but deliberately, by the Party, and the likelihood of their election is enhanced.

The rusted-on voters who don't know or care who the candidates are but just want to vote for the party will start at the top and vote down the party ticket. It is these voters who make the rotation system work by spreading the party vote across all the candidates in the group and helping prevent candidates from being excluded early in the count.

5. Meek

In this computer age the Meek method for counting a proportional representation ballot should be used as it allows the fairest distribution of preferences. New Zealand, a country with no history of proportional representation, implemented the Meek method when it reformed its local government elections. New Zealand did this because it had no preconceived ideas and therefore chose the best system available.

What the rotation of candidates on a ballot paper achieves without changing the method of counting an STV ballot paper, Meek achieves by using a different counting protocol. There is no reason why both Meek and the rotation of candidates cannot be implemented.

Meek allows the quota to be reduced, when votes exhaust, throughout the count. As candidates are eliminated and votes exhaust the computer recounts the ballot as though those excluded candidates had never contested the ballot in the first place. This allows the remaining candidates to be treated equally.

This reduction of the quota also means that the more popular candidates are able to successively pass on more of their surplus as the count proceeds and no candidate is elected with the largest remainder. Effectively popular candidates do not unnecessarily pile up and waste their votes in their quotas leaving unpopular candidates to sneak in without ever having achieved a quota.

## 6. Electoral Deposits

**Electoral deposits should be payable per candidate and not per group and should be increased substantially.**

Elections are to give voters the opportunity to choose between candidates who actually want to be elected. Voters should not have to consider the merits of frivolous candidates who are standing for election for other motives, such as promoting a business or to cause confusion by having a similar name to a leading candidate. An increase in the electoral deposit will discourage this practice.

Having the deposit payable per candidate is yet another way to discourage frivolous groups from running lots of candidates simply because they can.

All elected candidates should have their deposit returned. Unsuccessful candidates should have their deposit returned if at the point of their exclusion, or if at the conclusion of the count, they have gained at least 50% of the quota. The rotation of candidates on the ballot paper will help genuine parties and groups to achieve this 50%.

Stephen Lesslie