

# Submission to Ministerial Expert Committee on Electoral Reform for Western Australian Legislative Council

Any electoral system has to take account of what is intended to be achieved by the body to be elected: Form follows function. This submission, that the State should be the single electorate for Legislative Council members, is made *only* on the basis that in association with the changes to the electoral system, the Attorney General presents to the Parliament provisions similar to the Parliament Acts 1911 and 1945 of the UK.

## *Role of the Legislative Council*

In Western Australia, the members elected to the Legislative Assembly determine who will form government. The second chamber, the Legislative Council, has no role in this and is a House of Review.

This is to a large extent following the basic concept of the UK House of Lords. The Lords is a non-elected chamber but fashioned to provide a second view on proposed legislation from a different group of people and to provide some scrutiny of the activities of government. That House does provide for a wide range of views to be represented and that is a desirable thing. Members of House of Lords do not have electorates and therefore do not involve themselves in electorate issues.

Ensuring that the people of Western Australia have the direct role of electing members of the Legislative Council does not mean that Council members need to have individual or group electorates apart from the State as a whole. Those Council members do not need to replicate the activities of Assembly members in their electorate representation and activity, and they should not.

## *One vote, one value*

The ideal basis of present-day electoral systems is one-vote, one-value. No person's vote should be more or less valuable than any other. With multiple electorates there will always be variations through population change, boundary setting and other matters. Having the whole State as a single electorate provides a one-vote, one-value system, eliminates these issues.

Modern day communications and transport do away with the argument that vast areas of the State with few people should not have to comply with a one-vote one-value premise because compared to urban areas it is more difficult to contact and represent constituents. This is even more important when it is recognised that Council Members should not have the individual electorate responsibilities of Assembly members. If it is considered that arguments about distance have any real substance at all, then those perceived issues can be addressed by resourcing for the Member, rather than skewing the value of some votes above others.

Arguments that the Senate system of representation currently supports significant vote value variations between States which should also apply to regional issues in WA should be dismissed in relation to the Western Australian Council because there is no federation consideration at play in electing Council members in WA.

### *Preference Harvesting*

As many people have identified, the existence of the system of group voting tickets where all candidates are listed in order of preference is regarded as a main reason for the problems noted by the Attorney General. Plainly it is the co-ordination of preferences between minor and micro which can lead to the election of a candidate with very few first preference votes.

### *Electoral System*

Of the various systems for election of second chambers around Australia, the one that appeals as allowing major and minor representation, with members being elected across the State as a whole, is New South Wales. The NSW Legislative Council Members are elected for two terms of the Assembly, so at each 4-year election 21 of the 42 seats are up for election. The system uses a single transferable vote and it is necessary to lodge a group vote or a preferential vote for at least 15 candidates. Candidates who receive a quota of just over 4.5% are elected. As this does not elect people to all the 21 seats, the system then transfers preferences from candidates with the least primary votes. Where a candidate has more than the quota of votes required, the 'surplus' votes are distributed according to preferences. Not all seats are filled by candidates reaching a quota and perhaps the last couple determined to be elected have not received a quota. If this system were applied in Western Australia and if the number of Council members remained at 36, the quota for electing 18 members every 4 years would be about 5.2%. Obviously electing only half the number of members at each election doubles the quota and significantly reduces the possibility of electing a candidate who has very few first preference votes. Having only half the Council members elected every 4 years also makes the ballot paper much more manageable.

The process of a vote becoming exhausted because of a partial preferential system reduces the possibility of election of candidates who either individually or as part of a group have received few first preference votes, and eliminates the current requirement for people to vote for all candidates in order.

Casual vacancies are filled at a joint meeting of both Houses, similar to the way WA elects a person to a senate casual vacancy. In order to maintain the proportionality achieved by the voters at the previous general election, it is appropriate to have the candidate for the casual vacancy proposed by nomination of the party or group from which the departed member came. A joint sitting of the first and second chambers approves that nomination.

### *Directly Associated Issues*

If the UK Parliament Acts provisions did not accompany these changes, the result would be to make the Legislative Council less of a House of Review and encourage it to be more of a competitive challenger to the Government of the day. That is not desirable.

If the State as a whole is the electorate for the Legislative Council, as in NSW, Council members would not require electorate offices apart from Parliament House accommodation and there are a number of other practical issues which the Attorney General and the Parliament would need to consider, but those are somewhat outside the scope of the Expert Committee's review, and this brief submission.

Peter McHugh