

ELECTORAL MATTERS COMMITTEE

Inquiry into the Conduct of the 2022 Victorian State Election

Melbourne – Friday 11 August 2023

MEMBERS

Will Fowles – Chair

Evan Mulholland – Deputy Chair

Brad Battin

David Ettershank

Sam Hibbins

Emma Kealy

Nathan Lambert

Lee Tarlamis

Emma Vulin

WITNESS (*via videoconference*)

Dr Kevin Bonham.

The DEPUTY CHAIR: I declare open the public hearings for the Electoral Matters Committee's Inquiry into the Conduct of the 2022 Victorian State Election. All mobile telephones should now be turned to silent.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us are gathered on today, and pay my respect to their ancestors, elders and families. I particularly welcome any elders and community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

I am Evan Mulholland, Member for Northern Metropolitan, and the other members of the committee here today are –

Emma VULIN: I am Emma Vulin, the Member for Pakenham.

Nathan LAMBERT: Nathan Lambert, Member for Preston.

Lee TARLAMIS: Lee Tarlamis from South-Eastern Metropolitan Region.

Sam HIBBINS: Sam Hibbins, Member for Prahran.

David ETTERS HANK: David Ettershank, Western Metro.

Brad BATTIN: Brad Battin, Member for Berwick, online.

The DEPUTY CHAIR: I welcome Kevin Bonham here today.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege.

The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as possible. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

I invite you to proceed with a brief, 5-minute opening statement to the committee, which will be followed by questions from the committee.

Kevin BONHAM: Thanks very much. Most of my submission concerns group ticket voting. The only part that does not is that I mentioned that I would like to see in future all the lower house results thrown to completion as an official result, so that you get a final margin where so-and-so was first and so-and-so was second and these were the number of votes cast, so that the results for all divisions are subject to a similar level of scrutiny and accuracy for future figures.

Concerning group ticket voting, you have heard a lot about the problems with group ticket voting. My view, together with that of many others, is that group ticket voting must go, and the question is just what you replace it with. The biggest problems with group ticket voting in my view are, firstly, that it denies the voter the ability to easily distribute their preferences between parties as they now can do in the Senate. You can vote below the line, but for preferencing multiple parties, that is extremely inefficient. Secondly, it elects MPs who do not have a real mandate from the region that elected them even if, as in this case, the result might sometimes be proportional statewide. A party that gets a certain percent of the vote might get a certain percent of the seats, but you cannot guarantee that they will be the same people. The people who are elected on low vote shares are reliant for their future re-election on preference deals and on a lot of luck, which was evidenced in the previous

Parliament: almost all of the MLCs elected on very small vote shares via group ticket voting were defeated. Some of them got even less votes than the very tiny number of votes they got in the first place.

Group ticket voting creates scandals. I think that there should be very, very great concern about the fact that we have had a preference consultant saying that they were holding MLCs to ransom, in effect, in that if an MLC proposed axing group ticket voting, then that was the end of future assistance for that MLC. That should be viewed as a corruption scandal of the highest order and should be discussed in Parliament regularly. Group ticket voting also places the safe conduct of counts at risk, as we saw in the WA Senate 2013 problem where the loss of ballot papers at a certain point, sort of a small thing that might happen in any count, caused the whole count to be void. Look, it is something that would not have mattered in any other election.

Regarding solutions, we heard from the Labor representatives yesterday that they were in principle in support of group ticket voting but wanted to see the model. I believe very strongly that the government must take the lead on this, that the government must say what its model is, and that the government must try to get that model through the Parliament. I believe this for three reasons. Firstly, that the government has a majority in the lower house, so nothing is going to pass if the government does not prefer it; secondly, that there is this political scandal arising from group ticket voting that is on this government's watch, so this government should fix it; and thirdly, because it was a Labor government that entrenched the eight-by-five system, which has created this problem where it is now difficult to get a truly proportional system without a referendum. If there is no will for a referendum, then the system should be changed to a Senate-style system under eight by five, and that just means that it will be very difficult for small parties to get representatives, although occasionally they will, and a few of them would have won at this election, but they will not get representation that is anywhere near proportional.

I think that is all I have to say for starters and will take questions.

The DEPUTY CHAIR: Thank you so much for your insights in your introduction. Just on simple terms, you kind of referenced it, but why do you think it has taken so long for the government and indeed the Labor Party to finally acknowledge that group voting tickets are an actual issue?

Kevin BONHAM: I am personally more interested in the way forward than what has happened in the past. I want to see this fixed. There is a history of relatively few MLCs raising concerns about it. Even after the Senate disaster in 2013, there was a wait-and-see approach taken instead of fixing the problem immediately. I mean, the politics of it is that I think that the Labor Party does prefer to be dealing with a diverse crossbench than to be dealing with a crossbench composed mostly of Greens. I think that that has been a factor, but during the previous Parliament there was also insufficient support from the coalition for change. There were some positive statements from the coalition in favour of change, but also when there was a symbolic motion moved by the Greens, the Liberal leader in the Legislative Council at the time made some statements against that, so it has been just something on which I think there is a lot of blame to go around.

The DEPUTY CHAIR: I want to ask you about the inclusive Gregory method of counting votes. The Liberal Party in its submission has called for a change to the counting system for the Legislative Council from the inclusive Gregory to the weighted inclusive Gregory. Is it possible to have a change for this system independently of consideration of group voting tickets?

Kevin BONHAM: Yes, it is. While the change in that system is a relatively minor thing compared to the issues caused by group voting tickets, it is nonetheless a change that I would strongly support because the current inclusive Gregory system is a violation of one vote, one value, and it should be changed for that reason alone even if you do not fix group voting tickets. I echo what Antony said in his comments earlier about that. I also agree with what Malcolm Mackerras said about it last night. This is an unfair system for distributing surpluses that is a relic of the paper ballot days, that we can get rid of now that we have actual computers and that we should get rid of immediately everywhere.

The DEPUTY CHAIR: I understand from some of your social media yesterday – and I do follow you intently and your blog in regard to election counting – where you pointed out about models and particularly for group voting tickets in terms of models that were canvassed, yes, proceed with it. But what are your thoughts on, say, a seven-by-seven model proposed by the Greens as well as the idea of two regions, one metro, one regional, or going to a single statewide electorate like WA?

Kevin BONHAM: I think that seven by seven makes so little of an advance in terms of chances for the smaller parties to get seats that I do not see the point of going to seven by seven if you would have to have a referendum to get there. It is just fiddling around the margins in terms of how proportional the outcomes are likely to be. It is still going to be very difficult for parties getting 3 or 4 per cent of the vote to get 3 or 4 per cent of the seats. In terms of an urban–rural system where an urban region might have 25 or 28 seats and a rural region might have 12 or 15, depending on where you draw the boundaries, I am open to that. I do not see a problem with that if that is considered desirable. What I would say about that is that in the New South Wales Parliament the National Party are in fact over-represented in the upper house compared to their lower house vote share. They do not actually get a raw deal out of the system; they do well out of it based on the coalition arrangement. There is not really a critical need for upper houses to embody regional representation. They can, but that is really what the lower house is for. It is an optional extra. But if it would help with the politics of it, then I would support going to a system with one or a small number of urban electorates plus one regional electorate, but then again this is again something that needs a referendum.

The DEPUTY CHAIR: No worries. I will move to Lee or Nathan.

Nathan LAMBERT: Happy to jump in. Thank you, Kevin. Thanks for your submission, which was succinct and helpful. I am just interested, you talk about the eight-by-five system entrenching over-representation by the Greens. Now, we all understand obviously that as you add more and more members to a region you increase the chance that smaller parties are elected. You can do so ad nauseum – if you had 1000 members, well, you would have full proportionality down to very, very small parties. So that is obviously trivial. But how is it that the Greens, as you shrink the number of members, you favour those with large numbers of votes? How does doing so favour the Greens over Labor, Liberal or the Nationals, specifically?

Kevin BONHAM: It is just a thing that when you have got a quota of around – there is a quota of 16.6 per cent for eight by five – a party that gets about 10 per cent of the vote statewide has a good chance to be far enough ahead of all the little parties to pick up seats more or less everywhere, and this is partly because of fragmentation among right-wing minor parties. They have not worked out yet that under systems like the Senate the best thing for a lot of them to do is merge. If they put aside their various differences and joined with all your One Nations and United Australia Parties and Shooters, Fishers and Farmers and so on, they could in theory merge into something that would be like a parallel version of the Greens and would probably have similar levels of success. But for whatever reason they have not done that, and so the Greens tend to be over successful under this sort of system. We are starting to see this a bit in the Senate as well.

Nathan LAMBERT: Right, so you are sort of stating that the Greens sit on one quota and they have less variance around that than the major party surpluses with whom they are competing?

Kevin BONHAM: I do not think I would put it in exactly those terms. It is more that under this system when the major party primary votes are relatively low, a minor party that gets even half a quota, 0.6 of a quota, very often that is enough to get a seat.

Nathan LAMBERT: And have you reached that conclusion on the basis of modelling or some sort of Monte Carlo simulation, or have you reached it on the basis of looking empirically at previous results?

Kevin BONHAM: Just on the basis of awareness of what happens with the Senate voting preferences. What I have just done – Adrian Beaumont has done this as well with similar conclusions – is just taken the vote shares and tried to work out what happens to them if you run it under the Senate system. And to a degree I have looked at things like preferencing flows in different parts of the state. For instance, there are parts of the state where preferencing flows from various minor parties to the Shooters, Fishers and Farmers are much stronger than others if you use a Senate-style system. There are some cases where they are just a little bit more competitive than they might appear based on their primary vote if you switch to a Senate-style system.

Nathan LAMBERT: Yes. All right, we might just follow up a little outside the committee on the exact calculations there. But if we can turn quickly just to a separate matter, and we sort of picked up this with the previous witness: on weighted inclusive Gregory versus inclusive Gregory, has anyone actually gone to the trouble of compiling a list of those cases where it has made a difference?

Kevin BONHAM: There are not very many cases where it has made a difference to the winner. I believe that all the clear-cut cases have actually been in the Victorian Legislative Council, and I think that there were

two this election and there was at least one previously. But the number of them is too small for any conclusion to be drawn based on what has happened in them; rather, there are conclusions that can be drawn based on the theory of it – based on the fact that you are more often having diluted major party votes having an influence and swamping the counts.

Nathan LAMBERT: Thank you. Deputy Chair, I am probably up against my time there.

The DEPUTY CHAIR: Mr Hibbins.

Sam HIBBINS: Thank you, Chair. Thank you, Mr Bonham, and I bet I have spent a few elections spending a few hours on your website post election, I will admit – but yes, it has been very, very helpful over the years. I wanted to get to just some clarity in terms of your recommendations around the change to abolishing group voting tickets. You have rightly pointed out in your submission that there is no guarantee of any proportionality occurring with the retention of group voting tickets that we might have seen in 2022 and that an eight-by-five system without group voting tickets is preferential to what we have now. But then you have also indicated that it might be necessary for group voting tickets to persist in 2026 as a transitional measure. Can I get some clarity around that, because obviously we could abolish group voting tickets now in time for the next election and move to a different upper house region at any particular time post that. Can I get some clarity around your submission in that regard?

Kevin BONHAM: Well, I do not know where the politics sit in terms of the positions of the various parties. You might have a situation where the Labor Party really wants to abolish group voting tickets but at the same time wants to make the system more proportional and the only way to get that through the Parliament is to prefer it for one electoral cycle, because the small parties have the power on the crossbench to reject that if the Greens and coalition do not support it. But on the other hand, it might be completely unnecessary. It might be that the major parties can both reach agreement on moving to a Senate-style model and that can just be passed through the Parliament straightaway.

Sam HIBBINS: Right, so it is a matter of just what can actually get through the Parliament.

Kevin BONHAM: What can actually be done. My priority is that group ticket voting should go. If it happens that the path to getting rid of group ticket voting involves it surviving for one more election, provided that it definitely dies at the end of that, I do not mind. But group ticket voting should go.

Sam HIBBINS: Okay. Thank you, Mr Bonham.

The DEPUTY CHAIR: Mr Battin or Mr Ettershank.

Brad BATTIN: I am all good. You can leave it to David on this one if you like.

The DEPUTY CHAIR: Yes.

David ETTERS HANK: Thanks. Look, I think everything I have been interested in has been asked. Mr Bonham, thank you very much, both for your submission and your presentation, and like Mr Hibbins said, I am also a keen watcher of your blog. It has been very informative. Thank you very much.

The DEPUTY CHAIR: Thanks so much, Kevin, for your insight and your very thoughtful submission. I think a lot of us can agree that we are keen followers of your blog, particularly for those few days after our elections. You must get a lot of traffic directly post-election. Certainly, as members of Parliament, we appreciate all the good work that you do in informing the Australian people on different election results. We do thank you for your submission. It goes a long way to helping us and informing us as we review the 2022 Victorian state election and hopefully give some momentum to policy change. Thank you.

Kevin BONHAM: Thanks. You are very welcome.

The DEPUTY CHAIR: We will close the meeting.

Witness withdrew.