

ELECTORAL MATTERS COMMITTEE

Inquiry into Victoria's Upper House Electoral System

Melbourne – Monday 19 May 2025

MEMBERS

Dylan Wight – Chair

Chris Crewther – Deputy Chair

Jacinta Ermacora

David Ettershank

Emma Kealy

Nathan Lambert

Sarah Mansfield

Evan Mulholland

Lee Tarlamis

WITNESS (*via videoconference*)

Ben Raue.

The CHAIR: I declare open the public hearings for the Electoral Matters Committee's Inquiry into Victoria's Upper House Electoral System. All mobile phones 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 is gathered on today, and paying my respects to their ancestors, elders and families. I particularly welcome any elders or 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 Dylan Wight, the Chair and Member for Tarneit. The other members of the committee here today are Chris Crewther, the Deputy Chair and Member for Mornington; Jacinta Ermacora, Member for Western Victoria; Nathan Lambert, Member for Preston; Sarah Mansfield, Member for Western Victoria; and also Lee Tarlamis, Member for South-Eastern Metropolitan. I welcome Ben Raue.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what 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 it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

Ben, what we might do to kick it off is to get you to give a brief 5-minute opening statement to the committee, and that will be followed by questions up until about 5 to 10.

Ben RAUE: Great. Thank you to the committee for giving me the opportunity to testify today. I have got a few notes here. I have made a submission that does not specifically recommend any particular electoral model, because my role is not necessarily to say, 'This is what you must do.' But I think it is worth emphasising some guardrails and some academic research that are relevant when you make that decision, because we actually know a lot about, when you design an electoral system, the impacts that has on the outcomes you get – who gets elected, the diversity of who gets elected, all that kind of stuff. We know quite a lot there, and there is some stuff I can share with the committee that is useful.

I have made seven recommendations, and some of them are specific things – 'Don't do this', 'I think you should do this' – that kind of thing. But there are also just broad principles. The first thing I want to emphasise is the primary consideration when you are considering, 'Do you maintain the regions? Do you go to a statewide election?' is that the magnitude, which is the number of people elected per district, is the dominant factor in determining how much fragmentation you have in a political system, and there is an enormous amount of evidence for that around the world. Whether you elect one person, five people, 40 people or 120 people, it leads to more parties getting elected as the effective number of parties – the academic term – increases. Generally it changes how people vote as well – maybe a little bit less under preferential voting, because we have the opportunity to cast a first preference and then mark our preferences. But it encourages more parties to emerge, it creates more diversity within the system and it tends to produce more proportionality. I think that is the primary factor that should decide whether the committee, whether the Parliament, decides to stick with the five-member system or go to something with a higher magnitude.

I would argue that the benefits of regional representation that you are getting in the upper house are likely to be no worse off under a statewide system than they are now. I am happy to go into that further. I know the previous speaker mentioned some research I looked into, which I am happy to elaborate on further, but largely the evidence is that when you have electoral systems that have no geographical boundaries – I have looked at other people's work in Israel and the Netherlands, but I have also done my own research in New South Wales

and Western Australia – areas that have a strong political identity and that want local representation get quite well represented – if anything, over-represented.

Regional New South Wales is very well represented in their upper house, even though there are no electorates. In Western Australia regional WA is over-represented in the upper house – not as over-represented as they used to be when they had quite severe malapportionment, but over-represented. Then you also tend to have a lot of MLCs who live walking distance from Parliament House, very close to the centre of the city, and you do not have that many, usually, in the outer suburbs. You do not have as many in places that do not have a strong local identity that they want someone who is local. This is partly because voters can choose but it is also that the parties choose tickets that include those representations, and I see no reason why the major parties and the larger minor parties in Victoria would not likewise ensure that their tickets included regional representation. I think there is no evidence for that being a problem. So the primary consideration, the primary value, of those regions is to limit the fragmentation and limit the parties in the Parliament rather than actually providing that regional representation. There is not going to cease to be members from Ballarat and Bendigo and Geelong and the smaller towns in Victoria just because there is no specific regional requirement in the electoral system.

That is probably most of my time, but I just want to emphasise as well that there were some suggestions of having a 25-member district for Melbourne and maintaining the five-member districts elsewhere. I would really encourage the committee not to go down the path of creating an unequal electoral system for different parts of the state. There are countries that do that. It often creates a bit of an odd situation where you have much more fragmentation for one part of the country and less fragmentation for another, and it creates some really odd imbalances. I am happy to go into all the other points I have made, depending on the questions, but probably my main point is about that regional representation. The primary function of it is not actually regional representation; it is to reduce or increase fragmentation and diversity.

The CHAIR: Amazing. Thank you, Ben. We will move into some questions now. I think Nathan Lambert, who is online, may have a question to kick us off.

Nathan LAMBERT: Thank you, Chair and Ben. It is good to see you again. You might remember, Ben, we had an exchange when you were last before this committee. I will not repeat that, but I do think in a way that you have come in this morning – I appreciate that – and said, ‘I’m going to give you some vague guidelines here,’ which is helpful but only so helpful. At the end of the day we have to really do three things: we have to set a minimum quota, we have to set the number of people in the upper house and we have to set the number of people that they represent, and typically that is divided up geographically for reasons that I still think have strong merit. Would you agree perhaps that, given we have to be quite specific about those things, it is not exactly helpful to have vague advice, because ultimately I do not think we are about to decide to have 3000 people in the upper house or we are not going to resolve to have a quota of 50 per cent? We all know that there are probably some bounds to our thinking, but how would you advise us to get down to precise answers to those three questions?

Ben RAUE: Look, I think it would be perfectly acceptable and functional to have an upper house that did not have any regions and was elected at large. I also do not think that it would be considered acceptable in this day and age to create a new parliamentary chamber that elected members for an eight-year term. I think there are a lot of democratic legitimacy issues that come up. There is always the possibility that a member of Parliament will resign from their party mid term, and that is always the case, but when people are elected for six years or eight years people can be in Parliament for a very long time after any connection to their old party has gone. I think probably the choice is primarily between leaving it alone, because ultimately, with going to a model like seven by seven, eight by four or 10 by four – one of those ones – it would be a lot of effort to have a referendum for not a lot of change and not a lot of progress. I think really the choice before you is ideally either going to the 40-member district system or having the eight existing five-member districts. Maybe you want me to say, ‘I think this one or that one,’ and probably if I was to choose I would go for the statewide district. I know the previous person was asked a question like, ‘Do you think that this is important enough that it should wait to do group voting tickets reform at the same time?’ I am not an advocate for that. I think group voting ticket reform should happen as soon as possible, even if there are other things that you want to do later that require a referendum. In that sense I am comfortable with the five-member districts, but I think if you do want to maintain some diversity in the system, going to a 40-member statewide district would work quite well. We have a precedent for it around the country. I am not going to jump down and say I would prefer one or the

other, but I think probably all the other ones are a bit of a distraction. I think it comes down to one or the other of those two.

Nathan LAMBERT: All right. That is a good answer. Perhaps just as a follow-up question, would you agree that in choosing between those two things we are choosing between the lower quota the statewide system has versus the purported benefits of more geographic accountability that the status quo system has? I put it to you, just from my own conversations with people that work in the New South Wales system or the Victorian system – and I think you have alluded to this in your testimony – that there is greater geographic accountability in the Victorian system. This is from those who know them both. I particularly see it in Preston. If we have a more niche issue – a particular local road or something needs fixing or a particular kindergarten has an issue – when I go back and read the history of those things right back through *Hansard* it is often that they have been picked up by an upper house member. Often it is an upper house member of the opposition, no matter which party is in government. I can definitely see the value in having an upper house member, even if they are in the opposition or any of the opposition parties, and I get the sense in Victoria that, because MPs have the Northern Metro Region and obviously adding in smaller regions before that, they do feel that they have to reply and follow up things from constituents that are within that region in a way that New South Wales upper house members do not do. So my question to you is: do you think there exists an advantage to tighter geographic accountability?

Ben RAUE: There might be some of that, and I can also see how it does provide a convenience for an MP, in a sense, to know who your voters are and to know who you are responsible to, because millions of people in a state is a hell of a lot of people to have to deal with. So I think it is perfectly reasonable for MPs to want to do that. You know, Western Australia has only just introduced this system. They have not had experience with it. In New South Wales, generally if you are a member of a party that has more than one member, they usually divide the state up between themselves; they have turf, they have duty regions. The Greens usually have four members in the upper house, and amongst their portfolios they also have the north coast, the south coast, western New South Wales and western Sydney. They will divide the state up geographically as well as in terms of policy areas, and the major parties do that too. Usually it is more in terms of upper house MPs taking on areas where they do not have a lower house MP; rather than covering the whole state by MLCs, the MLCs will not bother covering areas where there are lots of lower house MPs from their party, but they will focus on the areas where there are not. I believe that is also a thing that happens in the Senate as well to a certain extent. So those things can happen, and I can see that there is a geographical convenience for the MP and maybe even for the voter in knowing who to go to. For example, if there are a dozen coalition MLCs in a Labor government, which one do you contact? I can see that being an issue. So there is a certain diffuseness that happens.

I just want to really emphasise that it does not actually mean that the regions do not get represented, which I know comes up a lot. It was a conversation that happened a lot in Western Australia. If country voters suddenly stop caring about having representatives from the country, yes, it could happen, but that is not going to happen anytime soon. Country voters like to have local representation, and so the parties will address that. They will run candidates who are from those regions. I know in the case of New South Wales Labor, they have explicit quotas when they do their preselections. Mechanisms develop, but dividing the electorate up so you can only vote for certain candidates who run in your area has other effects on the electoral system in terms of reducing who can get elected. I just want to emphasise, it is not simply a tool to ensure that there is local representation in an area, it also has those effects on the mechanics. By saying you are electing five people in an area rather than electing 40, it changes who gets elected.

Nathan LAMBERT: I could ask plenty more questions, but [Zoom dropout]

Ben RAUE: We clearly need to have a longer conversation separately, Nathan.

Nathan LAMBERT: [Zoom dropout] always a pleasure.

The CHAIR: You guys can take that one offline. I will go to the next questioner, who is the Deputy Chair, Chris Crewther.

Chris CREWTER: Thank you, Chair, and thank you, Ben, for your submission and giving evidence today. In your analysis of other countries and states where parliaments are elected from the nation or state as a whole, the greater representation from the capital cities and the rural areas where they are well represented

versus suburbs and smaller cities that are under-represented – and you have spoken about that today – do you think that is more so because of party preselections, the system or both? And do you think there is a system that would actually help to ensure that not just capital cities and rural areas are represented but also the suburbs and smaller cities?

Ben RAUE: Yes – something else I want to say about that of course, which is also worth emphasising: even under the current electoral system, there is no guarantee that an MP will actually live in the area that they represent, and there are examples of that as well. Part of it is about party preselection, because largely voters are not choosing one person, they are choosing amongst parties. That is true even now with the upper house that currently exists. You know, very few people vote below the line and it functionally does not have an impact on the outcome. So in that sense it is a thing where, when a party is choosing a ticket, they can only use so many different ways of chopping up their ticket before they cannot divide it up any further.

The Greens and Labor usually have gender quotas for affirmative action. I know in New South Wales Labor has regional quotas. You could theoretically divide the state up into lots of little areas. I know the New South Wales Liberal Party effectively divides the state up into single-member districts, where each place preselects one winnable seat on the ticket. But for some reason right now it is true that the New South Wales upper house does not have any representatives from Newcastle and Wollongong at all, but that does also reflect that mechanically the parties have gone, ‘Which are the areas where voters care about this, and which are the areas where voters do not care as much?’ Those parts of the state have plenty of local representation in the lower house and have plenty of ministers from those areas. So that is true, and it is a combination of parties preselecting and responding to public pressure if they were to run a ticket that consisted entirely of MPs who lived in the inner city. It is convenient to live next to Parliament House when you are an MP. I can imagine it is an attractive part of the state to live in. You do not have much of a commute. I think if there was no pressure for a member of Parliament to be from a particular part of the state, you would have a lot of people there, but that pressure does exist. And it ensures the party chooses people who are both from different parts of the state and based in different parts of the state, and when they choose the location of their electorate office, they tend to spread those out, because it is not efficient or helpful for a party to have all of their electorate offices centred in the middle of the capital city.

Chris CREWITHER: Just on the second part, do you think there is a system that would ensure that suburbs and smaller cities are better represented?

Ben RAUE: Look, it is a trade-off between how much you prioritise geography over everything else. As the previous speaker said, when you do not prioritise geography so much, it makes it easier for people to choose other criteria. Generally, in a statewide system like this, people are choosing on the basis of party, but we see this in local council where people are not choosing on the basis of parties. When you do not have wards, you can choose all the candidates who are women or young people or you agree with on planning policy or whatever. There are all those other criteria. When you divide the state up, you reduce those choices in favour of geography. So single-member electorates and smaller regions do create greater enforcement of that, but there is a trade-off in terms of how many other parties can get elected. We know that when you get to a point where you are only electing five people per region, without the unusual nature of group voting tickets, in most places it is going to be Labor, coalition, Greens and maybe someone else if they do well in the local area. In the same way in the Senate it is mostly Labor, Greens, coalition and One Nation, and Jacqui Lambie gets a foot in the door somewhere. There is not an enormous difference between the six-magnitude Senate and the five-magnitude Victorian upper house. I am just saying there is a trade-off, and that is again why have not come into this saying, ‘You must do this.’ I am also aware I am not a resident of Victoria. I am here to give you advice about how these mechanisms work rather than saying as a constituent, ‘This is what I think you should do.’

Chris CREWITHER: One final question, Chair. I am interested in your view on this: would you support a system of equal territorial regions with an equal number of upper house MPs regardless of population or the number of lower house MPs in each region? What would be your view be on such a system?

Ben RAUE: You are saying upper house regions that are not based on the number of people in them?

Chris CREWITHER: Yes. Let us say there were five equal territorial regions across Victoria which all may have the same amount of upper house MPs representing them but regardless of the population or the amount of lower house MPs within each of those territorial regions.

Ben RAUE: That is what Western Australia used to have until the last election, and I would not support that. I would say that that would create quite a significant skew in terms of the party representation you would have in the upper house, because there are certain kinds of parties that do better in the cities or do better in the country. We should ensure that every voter's weight is equal, and the quality should be based on the number of voters, not based on the separate regions. I would not be a supporter of that. I know there are countries where they have a certain amount of malapportionment in the regions, but it is resolved by having a top-up on top. For example, in Norway the rural regions tend to have more representation per person than the urban regions, but then there is also a national top-up. Those national top-ups effectively create a balance that ensures those urban voters are not under-represented. If you created a system like that, it would effectively mean a minority of the state, dominated by the regions, would be able to win a majority of the upper house, and the upper house does not sit with the lower house. It is not like the two merge together and create one big pool. They sit separately. It would create a situation effectively where when you have a conservative government, you would have an upper house that would be very dominated by conservatives to the point where it would not really play its role as a house of review, and when you had a Labor government, you would have an upper house that would have a conservative majority such that it would be very hard to get anything passed.

That actually reminds me of another point I made, which is that we have this system that is often referred to as semi-parliamentary in Australia, where we have an upper house that has its own separate democratic legitimacy but is not forming government, so it does not have the same pressures of responsible government in terms of maintaining support for a government. That system works as long as you have an upper house that is neither fully dominated by the government nor fully obstructionist to the government. Ideally, you want an upper house that is broadly of the same flavour as the lower house but has more parties in it so that the government does not have a majority. If there is a Labor government in the lower house, ideally the upper house should have a progressive majority but not a Labor majority. If you have a coalition government in the lower house, ideally you would have a conservative majority in the upper house but not a coalition majority. I think if you do it that way, that is the way that you ensure that committees are able to fulfil their function independently, legislation is reviewed but ultimately things get done.

The CHAIR: Thank you. I will just ask one final one from me, Ben, if that is okay. We have used New South Wales as an example a fair bit in respect to a situation where it is one electorate for the upper house, with no regions, and you said yourself that there is no evidence that that means that regions and different parts of the state will not necessarily be represented in the upper house. But that is not foolproof, is it? When we look at New South Wales as an example, your submission says that there is no upper house representation from Western Sydney and from the Hunter, I believe. I think it would be incredibly important that there is upper house representation from those two parts of New South Wales. So in a situation where there are no regions, a system similar to New South Wales, ultimately we are going to have parts of Victoria or parts of the state that are not represented by upper house members. That is a given, isn't it?

Ben RAUE: I would not say it is a given, but I would say that it is a function of what the voters prioritise. The upper house in New South Wales has representation from a wide array of parties that would probably not get elected in Victoria if you maintained the current regional structure but got rid of the group voting tickets – which I think is crucial; the group voting tickets have to go. So there are trade-offs here. By giving voters the ability to elect someone from all over the state, you will get more small parties elected, more parties being able to get their foot in the door and probably a more proportional result overall, but it will mean that parties will decide to prioritise which parts of the state are most concerned about having someone who is a local representative. As someone who lives in Western Sydney I would like to see the parties have more representatives from Western Sydney, but that reflects the reality right now that for voters in Western Sydney that is not a thing. We do not have a great deal of local identity that pressures that. I would also note that for the Victorian upper house, four of the five metropolitan regions get quite close to the city centre. The only one that is properly outer suburban fully is South-Eastern Metro. Western Metro you could also make a case for, but the other four regions –

The CHAIR: I am the Member for Tarneit, which is in Western Metro, and it is a good hour outside of the city.

Ben RAUE: Of course, but there are parts of Western Metro that are closer to the CBD, is my point. All of the other regions have little bits of outer metro and bits of inner metro, which means there is no guarantee – all those four regions could have most of their MLCs being close to the city centre. I know there is spread around

those regions, but that is already a bit of a factor – that these regions are already so large that they are covering the spread. Northern Metro goes from the Yarra River right up to the northern edge of Melbourne. There is quite a great deal of variety within those regions already.

The CHAIR: All right. Thank you, Ben. Thank you so much for your submission. Thanks for giving evidence. If you have got anything more to add, please by all means send it through to the committee.

Witness withdrew.