

# **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

## WITNESSES

Dr Jim Murphy, Lecturer, School of Social and Political Sciences, University of Melbourne; and

Dr Rob Hoffman, Lecturer, Department of Humanities and Social Sciences, Swinburne University of Technology.

**The CHAIR:** I declare open the public hearing for the Electoral Matters Committee's Inquiry into Victoria's Upper House Electoral System. 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 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 committee Chair and also the Member for Tarneit. The other members of the committee here today are the Deputy Chair Chris Crewther, 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 Region. I welcome Dr Jim Murphy and Dr Rob Hoffman to the hearing.

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 the same 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. It 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.

What we will do is a brief 5-minute introduction or run-down of your submission, which is sort of like an opening statement, and that will be followed by some questions from committee members.

**Jim MURPHY:** Thank you very much. I might introduce the two of us, if that is okay. Thanks so much to the committee for having us and for having a look at our submission. I might summarise some of it, but just before I do I want to introduce Rob and me. I met Robert in a third-year class at Swinburne. He was tutoring. It was Brian Costar's class on elections. Maybe some people in the committee have heard of Brian Costar. He is a famous face. The final assignment for that class was a mock submission to the EMC, which had an inquiry going at the time. I do not remember how I went on that particular assignment, but hopefully Rob has marked some of this and can say I have done a better job of it now. The reason why I found the passion to make a submission to this inquiry comes from Brian, who has inculcated me with a tendency to be a nuisance and make submissions to parliamentary inquiries, so blame Brian.

I want to summarise four points from our submission. Number one, we are making the argument that reform is necessary to the upper house electoral system. We think that there are some very serious public concerns around legitimacy of Parliament. It is not catastrophic, but it is becoming an increasing problem. It is reflected in low trust in democracy. The scores for that are getting lower and lower as time goes on. It is reflected in concerns about corruption from the public, which is going up for public institutions. It is reflected in grim polling sometimes on the honesty and ethical behaviour of state politicians. Roy Morgan has got some sour figures on that, which we can talk about more later. We think that there are a number of serious problems that need to be rectified. We know that this is not necessarily the forum for us to talk about group tickets. We do think group tickets need to be abolished. We know that the committee has already made recommendations about that, and that is excellent. But it is symptomatic of a broader crisis of faith in the electoral system that people are becoming so upset about the results that we are getting that that sort of reform is necessary, and we think that deeper reform is necessary as well.

Point 2 is about balance. We make this argument in our submission – that all electoral systems have to balance a few different goals in order to reach the end product of legitimacy. In our submission we threw at you too many different categories of thing to balance, so let me make it a little bit simpler. There are a few broad categories that we think you need to balance when you are thinking about these sorts of things. These are not perfectly zero-sum things where you lose one necessarily while chasing the other, but it can work out like that. (1) is simplicity for the voter. Voters need to understand how their vote figures in the count. They need to understand what they are voting for. (2) is proportionality. The distribution of seats needs to look like the distribution of votes. (3) is accountability. That is accountability for individual representatives, but it might also be accountability for parties as a whole.

**Rob HOFFMAN:** And governments.

**Jim MURPHY:** Governments indeed. (4) is durability. Governments need to be able to form and to serve their functions, ideally for a full term. Hopefully you can see that some of those are connected together and that accountability for a government might flow from simplicity. I know how I can cast a vote for the government or against the government, right? That is helpful. Sometimes if you improve simplicity, you might improve accountability at the same time, but they can also cut against one another. If you go aggressively for accountability, it might come at the cost of durability. Governments might become so paralysed by accountability that they collapse before they go full term. Or you might chase proportionality at the cost of durability as well, yes? So there are some tensions here, and we think that any mission to try and chase down just one of these to the exclusion of the others will result in a bad electoral system at greater cost to the other factors. It is about balance, and we think that even if you end up disagreeing with the structure that we think is the best structure, if the committee simply takes on board this idea that you need to balance these things, we think that is a good outcome – that you are considering balancing things, not chasing one at the expense of all the others.

The third point that I want to make is about considering upper house reform in the context of Victoria's bicameralism. There are certain things that the Assembly on these points of balance does very well, but it does less well on others. The upper house can be used to balance some of the excesses of the Assembly, so when you are considering what kind of electoral system would be best for the upper house you should consider the fact that we have a lower house that is excellent at durability, very good at individual accountability, not too bad at party accountability as well – could be better – but terrible at proportionality and okay with simplicity. It means that there is quite an opportunity for the upper house to compensate for the lack of proportionality in the lower house, for the entire legislature to meet more of these goals together. Having looked at the structures, Rob and I think that structure 2 is the best. Maybe we can talk a little bit more about that. We have got detailed notes about this. We think it does the best job of striking this balance, but I will throw it to Rob to see if there are any other points that he wants to make in opening.

**Rob HOFFMAN:** I just want to reiterate James's point about thinking of the system as a whole and the way the different parts complement one another and how different pieces may pull against each other. I think that is the core of our submission, really.

**Jim MURPHY:** I think we are happy to just throw it over to you and take questions.

**The CHAIR:** Fantastic. Is there somebody online that would like to kick it off? Sarah, yes.

**Sarah MANSFIELD:** Thanks very much for your submission and for your presentation today. I am interested in, and I asked this of a previous witness: do you feel that reform of the upper house should be done in a two-stage process or should we wait to do GVT reform at the same time as potentially reforming any structure, given that GVT reform can happen basically with legislation passed through the Parliament; however, upper house reform requires a referendum, which practically speaking could not take place until at the earliest the next state election? The outcome would be uncertain. So do you think the two things should happen together or can it be a two-stage process?

**Rob HOFFMAN:** I will answer that one. I think group voting tickets have to go as an absolute first priority. Victoria is a laggard in a national sense. I think everyone else has gotten rid of them now. They are a fundamental problem that produces perverse, often anti-democratic outcomes, so I would not wait. I would not worry about bundling them in with something else. I would not risk putting them in with a referendum that

might fail, because I think it is so important that we get rid of those. I would just deal with that and then consider longer term what an ideal system looks like in the absence of those.

**Sarah MANSFIELD:** Thank you. You have put forward model 2 as a preferred option. I guess I am interested in your views on where the sort of sweet spot lies with the quota. Obviously model 2 lifts the quota a little bit compared to model 1, where it is every four years a statewide ballot. Are there risks with having too low a quota to achieve a seat in the upper house?

**Rob HOFFMAN:** There are two strengths I think to a half-council system. One is of them is the slightly higher quota. In terms of the perfect quota, I think that is open to debate. It is contextual. It depends on the fracturing of a party system. If you have fewer, more popular parties, then a higher quota is more attainable. If you have a very fractured system, perhaps a lower quota is more appropriate so that there is less reliance on preferences. Looking at the minor parties in Victoria I think only the Legalise Cannabis Party would reliably approach a half-council quota, which is not necessarily a bad thing. It demonstrates that you need to get some degree of enduring support, broader penetration, to reliably win seats. The other benefit of a half-council election is distinct from quotas and is the lag of the make-up of the house. Half a council being elected each time means it is less subject to swings in voter support, which I think helps maintain a bit of stability in Parliament – lowers the chances of double majorities and the risks those bring – and I think that is a desirable outcome. James?

**Jim MURPHY:** Yes, I would add that something that caught us by surprise initially when we were looking at the different models was that, even though the quota as a per cent goes down when we go to a statewide half-council election, the raw number of votes actually goes up, because we are shifting from a small region to the whole state, and so it is sort of less black and white than the percentage going down. In some senses the threshold for election goes up for very small parties or whatever. So it is less a case of necessarily making it easier for everyone to get elected and more a case that proportionality does improve but the threshold for election goes up a little bit –

**Rob HOFFMAN:** In a half election.

**Jim MURPHY:** Yes, in a half-council election.

**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Chris?

**Chris CREWITHER:** Firstly, thank you for your submission and your evidence here today. You mentioned throughout your submission and argued that the two houses can complement each other by achieving different goals. Would you agree, firstly, that it is arguable that in the Assembly you potentially have an over-representation of city or metropolitan interests and perhaps an under-representation of Victoria's diversity as a whole? Would you agree with that assessment to start with? Secondly, do you think then the upper house needs to counterbalance for that to complement the lower house in terms of balancing regional interests and ensuring greater diversity that reflects the population?

**Rob HOFFMAN:** I would agree that the lower house under-represents the diversity of Victoria, but that is not exclusively in the sense of regional Victoria. Any interest or any voter bloc that is not a majority in a localised seat is going to be under-represented, and geographically distributed minorities are more under-represented than geographically concentrated minorities. For example, the National Party are quite capable of winning seats in the lower house in a way other minor parties are not. The Nationals will do better in the lower house than the Greens do, despite broadly comparable vote shares, because Greens support, for example, is more distributed. So I do not think we should privilege regional interests necessarily in terms of a broader electoral system. I think we have to take the interests of all Victorians as a whole or aggregated in terms of the variety of interests being expressed.

**Chris CREWITHER:** If you look at, say, Australia's system, where in the Senate Tasmania has 12 representatives and New South Wales has 12, despite the population difference, that in part is to counterbalance the lower house in terms of the lower house having more representatives from New South Wales and Victoria to ensure that all the states of Australia are represented, with not just New South Wales and

Victoria being prioritised. Do you think that reflects the way we need to structure our upper house system in Victoria?

**Jim MURPHY:** I can speak to that. I talk to my Australian politics students about this problem of malapportionment and bring up Tasmania, and I say I am very pleased that Tasmania is in the federation. My wife is from Tasmania and so is my father-in-law. I like to visit him, and to go through passport control to get in there would be rubbish. They make our chocolate; it is an important part of the nation. But that is what that was about; it was about whether the small states were going to be in or not, and we gave a lot of malapportionment to bring small states in.

Given that we do not exactly have the problem of dealing regional areas in or out from the jurisdiction, full stop, and we are already in a polity that is working, I think we can afford to think about other forms of minority status other than the geographic, as Rob has been saying. Having a more proportional upper house elected statewide, I think gives a whole range of different minorities an opportunity to get representation, not just geographically concentrated minorities like in the regions but people who suffer from other minority status and are flooded out by the Assembly. I totally agree that there is some compensation to happen in the upper chamber. It is just that I think geographic minority status does not need to be privileged over other forms, as Rob said.

**Rob HOFFMAN:** Yes, but proportionality will also defend representation of that.

**Jim MURPHY:** Yes. If you are a geographically concentrated minority but you are together enough and organised enough and care enough, you will still find representation. The quota is going down. There will be opportunities for you to find representation in the chamber.

**Chris CREWETHER:** Just to follow up that, it is not one of the example structures, but I think structure 3 talks about four 10-member regions. The inverse of that could be 10 four-member regions consisting of eight lower house MPs within each of those regions. What would be your view on a potential structure like that?

**Rob HOFFMAN:** There is an inverse relationship between district magnitude and proportionality of outcomes, and our argument is that the Council should be pursuing proportionality because the Assembly does not. That is not a bad thing about the Assembly, it is just pulling in different directions to satisfy competing goals. Shrinking district magnitude would be a regressive step in my view, because it does not improve the breadth of principles that the Parliament can represent as a whole.

**Chris CREWETHER:** You do not think, though, that by having more regions, each upper house MP for a region is more likely to then travel within that region and represent the interests of that region, versus the statewide system where, say, 40 upper house MPs are more likely to perhaps stay in those city areas or stay in certain areas instead of getting out to the whole state? If you have, say, 10 or eight regions, they are more likely to travel within those regions and ensure that those regions are represented.

**Rob HOFFMAN:** There is a risk there. I remember the famous story of Greg Barber being the member for Carlton, because he was not keen on travelling to the rest of Northern Metro. I will put that under parliamentary privilege.

**Chris CREWETHER:** You are safe here. Just do not share it.

**Rob HOFFMAN:** I am sympathetic to the point raised in your discussion with the previous witness on the lack of geographic representation for parts of the state within the house. I think to some degree, though, that is a matter for voters rather than Parliament to resolve. If a proportion of the state, in sufficient numbers, want representation in the Council, they can vote for that representation. They can vote for candidates who campaign on representing a particular region. I do not know that it is strictly necessary that the Council provide representation on a geographic basis as opposed to an ideological basis or an issues basis, in the sense that we already have that in the Assembly and voters can make a decision on what it is that they want represented through their councillors.

**Jim MURPHY:** I might add to that as well. The state of Victoria federally, like, manages. We have all these senators; none of them have a particular area, but they still end up representing particular parts of the state. There is the duty senator system that the parties have started to use. I think structures will emerge that allow

members to have a level of geographic attachment to particular areas, even if it is not formal, even if it is not baked into the way that we elect people. I think you will find that senators get constituents finding them, finding their offices. I am sure they are inundated with people trying to talk to them. I think people will still find their upper house members, I think people will still feel like there is some kind of level of local connection, even if we do not put it into the electoral system. I think that will emerge, as it does with the Senate.

**Chris CREWETHER:** Thank you.

**The CHAIR:** Jacinta, online. I might throw to you for a question.

**Jacinta ERMACORA:** Hi, and thank you for your submission. I really enjoyed the core principles you put forward. I cannot help but look at this from a historic perspective. I do not claim to know very much history in this space at all. What I am saying is what was important to the Victorian community 100 years ago and then 50 years ago is perhaps not as important today, and that is because governments and communities are facing different issues and values change. If you look at climate change being the biggest issue, how do you try and get, as you say, all of that simplicity, proportionality, accountability and durability without accidentally populating your model with current values and current issues?

**Jim MURPHY:** Thanks for the question. It is a good point. You are right that parliaments are routinely kind of biased towards the current and have a bit of trouble seeing long term, I think – I mean, it happens from time to time – but I think that is a problem of any democratic system. You are going to have reps that are trying to put out the current fire in front of them. They are trying to deal with the cost of living for people because that is what voters are caring about, or they are dealing with this issue or that issue because that is what voters are caring about. We do think that having the half-council election system with eight-year terms does open up a little bit more possibility for upper house legislators to be considering the longer term and not just thinking to the next election. That is something that we think we have going for that particular option.

**Jacinta ERMACORA:** Can I just clarify: I am more thinking of the model that we have been discussing and that we do not accidentally create a model that addresses current issues rather than the best balance, as you were saying.

**Rob HOFFMAN:** A proportional system will reflect the present interests of the electorate. That is what it is going to do. It is not going to privilege parties who, through their established presence and history, happen to have a dominant position at the moment. That is a function of proportionality; that is a balance against the Legislative Assembly. And that is not to say the major parties are not entitled to be there or do not deserve their success as parties of government, but there is a broader multitude of views. Now, does it give a greater voice to representatives of particular ideological or policy focuses? I would strongly dispute that. I understand the argument that a proportional system can leave a crossbench who are able to bargain on particular policy issues. But there are another 20 people in the Legislative Council whom you are welcome to negotiate with. The government is welcome to negotiate with the opposition. They are not beholden to only working with the Animal Justice Party or the Greens or the Legalise Cannabis Party or whatever the party may be who occupy the crossbench at any given moment.

**The CHAIR:** Thank you, Jacinta. Does anybody else want to ask a question, either online or in person?

**Nathan LAMBERT:** I am happy to, Chair, if we have got time.

**The CHAIR:** Yes, fire away, Nathan.

**Nathan LAMBERT:** Thanks a lot for your testimony and submission, James and Rob. I am just wondering, in your response to Dr Mansfield earlier, I think it might have been the word ‘abhorrent’ that you used to describe group voting; anyway, it was strong language. It is interesting, if you look back through both *Hansard* and Google Scholar, that prior to 2019, criticism of group voting tickets existed but was very muted. It is hard to find people using that sort of language prior to 2019. Group voting tickets of course existed in the Senate for decades – probably not, but anyway, certainly as long as I have been voting in the Senate. Do you have an explanation for why it is that criticism of group voting tickets was so muted for 30 years and is so strong now?

**Rob HOFFMAN:** If I can abuse privilege again, I think it is because Australians are slow learners. It took quite a while to figure out how to game them, to do the preference-whispering and preference-harvesting and

have preference lotto where a party dropped out the bottom with a seat from a quarter of a per cent or half a per cent of the vote. I think once that started happening, became recognised and routine and that model started getting copied in the various jurisdictions that had group voting tickets, that is where the problem became very apparent. You know, we did not have the multitude of minor parties and we did not have the recognition that the system could be gamed like that. Once the recognition was there, you saw this proliferation of parties with shared preference ticketing that started to produce those outcomes and raised it as a problem.

**Chris CREWETHER:** You are going to have to watch for a 25 million-person class action now.

**The CHAIR:** If there are no other questions, we might wind it up. Thank you so much, both of you, for your submission. Thank you for appearing today and giving evidence. It has been really insightful. If you have got anything more to add, please send it through to the committee.

**Witnesses withdrew.**