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Inquiry into the Future of Victoria's Electoral Administration  
Executive Officer, Electoral Matters Committee  
Parliament House  
Spring Street  
MELBOURNE VIC 3002

A copy has been emailed to [emc@parliament.vic.gov.au](mailto:emc@parliament.vic.gov.au)

## Submission to the Electoral Matters Committee of the Parliament of Victoria on its Inquiry into the future of Victoria's electoral administration and matters related thereto

### **Preliminary comments:**

PRSAV-T Inc. appreciates the opportunity to make a submission on the [Discussion Paper](#) of November 2012.

PRSAV-T Inc. supports the most democratic and representative conduct of elections that leads to elected bodies mirroring the will and political composition of the community.

To this end, PRSAV-T Inc. considers that if there is to be compulsory enrolment, that enrolment should be maintained at more or less corresponding proportions across all sections of the community – by age, by socio-economic status, by gender and by other criteria.

### **Discussion Point 1, Direct Enrolment:**

PRSAV-T Inc. does not offer a detailed submission on this point except to support fair means to ensure that the electoral roll is balanced across these different groups. Given that the youngest eligible Victorians (those that have turned 18 since the previous poll) are often less well-represented on the rolls when election time comes, PRSAV-T Inc. would support policies that make enrolment easier and more automatic and consequently make the rolls more balanced and representative.

### **Discussion Point 2, Compulsory Voting:**

PRSAV-T Inc. does not have any submission to make on this point except to indicate that it does not, and never has, opposed compulsory attendance at a polling booth, and does not consider this particular compulsion to be anti-democratic in any sense. The actual voting is secret voting, which is - by definition - not able to be made compulsory. The existing so-called compulsory voting provision justly ensures that citizens that do cast a formal vote do not have an extra burden placed on them relative to those that do not. It makes citizens that are tempted to not attend a polling booth - to avoid the effort involved, or to save time or money - aware that there is a statutory penalty, with the associated inconvenience involved, to be paid for failing to attend as required. That ensures that citizens are less likely to be deterred from voting by the effort of attending a polling booth - provided the prescribed penalty is high enough - yet it does not compel anybody to actually cast a formal ballot.

### **Discussion Point 3, Informal Voting:**

PRSAV-T Inc. shares the concerns expressed in the Discussion Paper about informal ballot-papers, and the view that 4.96% (the [overall percentage](#) for the Legislative Assembly at the 2010 general election) is too high. This is probably less of a concern, however, than the much larger number of Victorians that are not voting at all – particularly the high number of unenrolled voters (see Discussion Point 1).

A much greater concern is the fact that just over **ten times** that 4.96% of voters that voted informally (over 49.9%) did vote formally, but their ballots had absolutely no effect on the polls' outcome, as they were voters that voted for a candidate other than the candidate that was elected to the only position available for election, or that voted for the successful candidate but their votes were in excess of what was required to elect that candidate. Only 50% of the votes plus one vote are required to elect a successful candidate, so the remaining 50% less one vote are effectively wasted. That waste is a consequence of the use of single-member electoral districts for Legislative Assembly elections. In the Legislative Council, by contrast, at least 83.3% of votes cast in each Region actually elect an MLC, so that House is considerably more representative of voters.

As stated below, multi-member electoral districts with quota-preferential proportional representation counting would greatly reduce that nearly 50% of wasted votes that is cast in each electoral district under that single-member system, and would result in each MLA representing a significantly larger number of Victorian voters.

Informality Percentage was not greatly affected by the number of candidates per District: Worksheet No. 2 in the workbook at [www.prsa.org.au/2010\\_vic\\_leg\\_assembly.xls](http://www.prsa.org.au/2010_vic_leg_assembly.xls) lists the number of candidates per Assembly District at the 2010 polls in descending order. It shows against each group of Districts with the same number of candidates the median value of the percentages of informal ballots in the group. It is summarized in Table 1.

No. of candidates per Assembly District	No. of Assembly Districts	Median % of informal ballots
10	1	5.80%
9	4	5.40%
8	5	5.48%
7	14	5.18%
6	19	4.07%
5	26	4.88%
4	16	4.41%
3	2	5.89%
2	1	3.16%

Table 1: Distribution of Assembly Districts and Median % of Informal Ballots vs. No. of Candidates per District

It is normally undisputed that Assembly Districts generally have a base level of informal ballots that is not likely to be readily reducible much below a certain percentage. It is notable that the District with the median percentage for the 19 Assembly Districts with **four or fewer** candidates, was Ballarat East with 4.31%, yet the median percentage for the 19 Assembly Districts with exactly **six** candidates was Geelong with 4.07%. The median percentage for the 25 Assembly Districts with exactly **five** candidates was Yan Yean with 4.88%. The informality percentages for the 24 Assembly Districts with more than **six** candidates was distributed rather desultorily, although the median for each of the four groups involved remained above 5.7%. It would appear that, with full preferential voting, a base level of informal ballots for contests with more than two candidates is likely to be about 4%, which topped the first quartile in the 2010 distribution of informality percentages.

Informality Percentage is Markedly Higher in ALP Districts: Worksheet No. 3 lists the percentage of informal ballots in the Assembly polls in 2010 in descending order, showing that the percentage of informal ballots ranged from 8.31% in Niddrie District to 2.94% in Hawthorn District, with a median of 4.70%. That worksheet shows a distribution of the 88 Assembly Districts, and the party affiliation of the MLAs elected, grouped in seven ranges of the percentage of informal ballots, which is summarized in Table 2 below. Of the 36 Assembly Districts where the informal percentage exceeded 5%, three-quarters elected Labor MLAs.

Ranges of percentages of informal ballots	Assembly Districts in that range		Median % of Labor MLAs in that range	Median % of Coalition MLAs in that range	Median % of Other MLAs in that range
	No.	%			
8-9%	1	1.1	100	0	0
7-8%	8	9.1	100	0	0
6-7%	8	9.1	88	12	0
5-6%	20	22.7	60	40	0
4-5%	30	34.1	39	61	0
3-4%	20	22.7	16	84	0
2-3%	1	1.1	0	100	0

Table 2: Distribution of Assembly Districts and Median Percentages of MLAs' Parties vs. Ranges of Informal Ballots

Worst Case Scenarios if Informal Votes were all for the Other Side: Worksheet No. 5 (*MLA's 2PP percent vote less percent informal*) lists, in descending order, the MLA's **2 Party Preferred** (2PP) vote less his or her District's informal percentage vote. The bottom 26 Districts listed in that worksheet are the 26 Districts where the MLA that was elected would not have been elected if, under different rules of formality, all of the presently informal votes - in a highly unlikely worst case scenario - had been cast for the other side. Of those 26 Districts in which the 2010 result would, under that hypothetical scenario, have been the opposite, 18 were won in 2010 by the ALP, with only 8 won by the Coalition then.

No data is available on the possible tendency of those actual informal ballots, but the exercise suggests that, if enough of them were to be made formal under fully optional preferential voting rules, one could expect more impact on the ALP's parliamentary numbers than on the Coalition's, simply because there is a much higher percentage of Districts electing Labor MLAs among those 26 Districts than there is for the Coalition. Some observers might suspect, because the informal percentages are generally higher in Districts with a high ALP vote, that voters supporting the ALP are more likely to vote informal, and that the reduction of informal voting might be more in the ALP's interest than the Coalition's, but that can only be conjecture until more is known.

Opposition to Any Deeming of Votes: While supporting measures to increase community education about the electoral processes, and about the avoidance of informal voting, PRSAV-T Inc. is very strongly opposed to any attempt to introduce in Victoria the so-called '*Ticket voting/savings provision voting*' that has been introduced for elections to the South Australian House of Assembly.

Preferential voting was introduced in Australia to give voters the power to rank candidates according to each **voter's own preference**. This is a democratically-sound principle, whereas the so-called '*Ticket voting/savings provision voting*' allows the surrendering of voters' preferences to a pre-ordained 'ticket' that is determined by a political party – essentially for its own advantage – and imputes to the voters, nearly all of whom are not known to the party - intentions that the voters cannot, and should not, be assumed to have. If the voters choose not to provide a Returning Officer with details of their views on any candidates, there should never be any case where a Returning Officer should ever be empowered to attribute views not explicitly revealed by a voter.

The so-called '*Ticket voting/savings provision voting*' is similar in principle to the 'above-the-line voting' in Upper House elections in Victoria and federally, which provides a facility whereby political parties can, and normally and blatantly do, encourage voters to authorize the Returning Officer to accept a preference order registered in advance by a political party in lieu of an order of preferences that they explicitly mark on the ballot-paper themselves, which latter order might generally give its earliest preferences for the same party, but might involve a different order of preference for certain candidates of that party, or might involve a different order of preferences for parties that the voter prefers less than his or her most preferred party.

Above-the-line voters, who only need to mark a single box to authorize the Returning Officer to treat their vote as being identical to that of a particular registered Group Voting Ticket, are unfairly rewarded, in comparison with below-the-line voters, in not being compelled to take more trouble and time and risk voting informally by engaging in what would be a more explicit registration of their preference order in a 'below-the-line' vote, because of the unnecessary requirement that nearly all preferences be marked. Official provision for voters of information about the complex Group Voting Tickets is perfunctory and minimal.

The [introduction](#) of 'above-the-line voting' for the Australian Senate in 1983, which was opposed by the Coalition parties in the Senate, but passed with Australian Democrats support, was certainly the most backward step in terms of democratic accountability in Australian electoral law in the last 50 years. The election, in 2004, of a Family First candidate, [Steven Fielding](#), as a senator for Victoria, on the basis of the Group Voting Ticket preferences lodged by the Australian Labor Party, shocked a large number of Labor voters, who had no idea that their preferences were being directed in the way that they were. The so-called '*Ticket voting/savings provision voting*' operates in much the same way, and should definitely not be adopted.

Liberal Party members of the Federal Joint Standing Committee on Electoral Matters, in their Dissenting Report on the [Committee's Inquiry](#) into the Conduct of the 2010 Federal Election, articulated very well-founded arguments against the Committee's recommendation for the adoption of a so-called '*Ticket voting/savings provision voting*' arrangement for Commonwealth elections.

That hyperlink also gives access to the Additional Comments lodged by Senator Scott Ryan, a Liberal senator for Victoria, whose arguments against a so-called '*Ticket voting/savings provision voting*' arrangement are also supported by PRSAV-T Inc, although as stated in the next paragraph, it does not support fully preferential voting in single-member districts.

Partial Optional Preferential Voting: Concern about informal voting would be better dealt with by instituting for Victoria's Assembly a system of quota-preferential proportional representation, along the lines of that used for the Tasmanian House of Assembly, or the ACT Legislative Assembly. That should be coupled with the introduction – as in Tasmania and the ACT – of partial optional preferential voting, where the formality requirement is that a ballot is formal if as many preferences as there are candidates to be elected are marked.

If Victoria is to maintain the less representative single-member system for its Legislative Assembly, PRSAV-T Inc. considers that its present unnecessarily onerous formality requirement for marking all but one preference should be replaced with the partial optional preferential voting requirement specified in [Section 102](#) of Tasmania's *Electoral Act 2004* for voting in the single-member system used for elections for its Legislative Council. That established requirement provides that the number of unique consecutive preferences, beginning with a first preference, that are required to be marked for a ballot-paper to be formal is one less than the number of candidates, except that where there are more than three candidates, a ballot-paper need only be marked with the unique preferences 1, 2 and 3, in order to be formal.

The advantage of that proven requirement is that it is a sensible compromise between the extreme position of the [fully optional preferential voting](#) used in [New South Wales](#) and [Queensland](#), which risks the count degenerating into an unrepresentative plurality (*first-past-the-post*) count in which an MLA is elected by a distinct minority of votes, and the opposite extreme of Victoria's fully preferential voting, which imposes an unreasonable task on voters, especially in over a quarter of Victoria's Legislative Assembly Districts in which there were seven or more candidates at the 2010 polls.

Large numbers of voters in those many Districts are highly unlikely to know enough about the seven or more candidates (*up to ten in one case*) that appeared on the ballot-paper to make an informed ranking of them in their genuine order of preference. A truer expression of those voters' views - which is surely what good electoral legislation should be seeking - would be obtained by requiring them to mark no more than their three earliest preferences, and then letting them decide how many more consecutive preferences they wanted to mark.

Adopting that Tasmanian Legislative Council provision for a ballot to be formal would result in the same actual maximum number of preferences (three) having to be marked by all voters where there are more than three candidates, thus limiting the difficulty of marking consecutive preferences for those for whom that could be a problem, to a definite, but modest standard maximum of just three preferences for all voters. That would replace Victoria's present arrangement, which is vulnerable to opportunistic interests that are presently able to flood a ballot-paper with candidates' names and have many voters, perhaps in a critical District, cast informal ballot-papers by failing to accurately mark an unpredictably high number of preferences in consecutive order.

Victoria's present onerous insistence on a full marking of preferences fails to prescribe a particular number beyond which further preferences may, but do not have to be, marked for a formal vote (for Tasmania's Legislative Council polls the limit is three preferences). The result of that failure is that, unlike the Tasmanian situation, there is no upper limit on the number of preferences that a voter might be called on to mark on a ballot-paper to ensure it is marked formally, as the number required is just one less than the number of candidates, which is an unlimited and unpredictable number. In Victoria's 2010 Assembly elections, the maximum number of preferences required to be marked by voters to ensure a formal ballot-paper ranged from 1 to 9, depending on the vagaries of the number of candidates that happened to have nominated in particular Assembly Districts.

If the Committee decides not to support amending the rules for formality, PRSAV-T Inc. suggests that a gradual move to electronic voting, which would include software that clearly warned a voter when their ballot was not formal, would help to reduce the problem of accidental informal voting.

This will not prevent the deliberate informal voting, but such voting should continue to not be an offence.

**Discussion Point 4, Early Voting and Discussion Point 7, Social Media:**

PRSAV-T Inc. does not have any submission to make on Points 4 or 7.

**Discussion Point 5, Community Engagement with Electoral Processes:**

Although Victoria has compulsory enrolment and compulsory voting, the percentage of the enrolled votes that do not cast any kind of ballot remains at around 7%. Figures from the Victorian Electoral Commission website for the last four Victorian elections show that the percentage of those enrolled that cast a ballot has remained static, viz. 1999: 92.3820% 2002: 93.1511% 2006: 92.7266% 2010: 92.96%

In 2010 that amounted to over 250,000 people that did not vote out of nearly 3.6 million voters enrolled (<https://www.vec.vic.gov.au/Results/state2010resultsummary.html>).

In addition to that, the [Discussion Paper](#) (Page 7, Discussion Point 1, Paragraph 2.11) estimates that around 1.5 million eligible Australians are not on the electoral roll, which PRSAV-T Inc. estimates amounts to around 400,000 eligible Victorians not on the roll. One can thus estimate the total fraction of eligible Victorians that did not vote in the 2010 election at around 660,000 out of approximately 4 million, viz. around 16.5%. This represents a substantial 'democratic deficit', and is a matter of serious concern for those that believe that Parliament should reflect the will, and the range of political views, of the eligible electors as a whole.

If there is dissatisfaction in the community with the political process, PRSAV-T Inc. considers that much of this arises because a large percentage of the voting population is unrepresented by Members of Parliament that they favour. This dissatisfaction is inevitable with the 'single-member' electoral system that applies for the Legislative Assembly; where only 50% of votes plus one vote are necessary for election and the remainder are effectively 'wasted', and in most cases the Assembly District is held securely by one political party or another.

PRSAV-T Inc. argues for electoral systems that produce elected bodies that genuinely represent the range of opinions within a given community. The [statement](#) on the PRSA website encapsulates this:

“The underlying principle of *democracy* is that decisions that affect the people should largely accord with the will of the people. One way to improve the prospects of that is for representatives to be *elected*. The basis of representative democracy is that the collective and varied views of the elected representatives reflect the collective and varied views of the people that elect them. Proportional Representation (PR) is simply a more accurate statement of that ideal: the percentage of representatives that hold a particular view should correspond closely to the percentage of the people that hold that view. Note that if there is only a single representative that is impossible.”

Single-member district systems' failure to let nearly half the ballots cast in each of the 88 Districts elect an MLA is very disengaging. More disengagement is likely if the 19% of first preferences for “others” increases further. Quota-preferential PR systems allow for [direct election](#) of MLAs, and let a wider range of viewpoints be heard. Having more voters able to elect an MLA will reduce frustration, and satisfy the community better.

Suggested renaming of the Legislative Council: It is hard to deny that the original decision to use the word “Council” in the name of the deliberative body whose approval and support was necessary to enact laws in the territory now known as Victoria, and also to use the same word “Council” in the name of the deliberative bodies in local government municipalities in the same territory, would have led to less possible confusion between those two different types of body if the same word had not appeared in the title of each. Nevertheless, the more senior of those two types has always been distinguished from the other by the adjective “Legislative”, and the word “Council” is solidly established for both uses, so a change in name would be undesirable.

The concurrent use of those titles in the territory that is now the State of Victoria began in 1842 when the New South Wales Legislative Council passed a law creating the Town of Melbourne and its governing body, which it termed the “Council”. That Legislative Council created the Borough of Geelong and its “Council” in 1849.

When the Colony of Victoria was established in 1851, the Legislative Council of Victoria was also established and that body, and its name, have existed for the 162 years since, as has the practice of terming the governing bodies of municipalities in Victoria “Councils”.

A similar terminology has applied in all six Australian States, but for varying periods of time. Despite the similarity between the titles of the two types of body in those States, which has remained, in most States, for over 160 years, with little resulting difficulty being experienced, any confusion that might have arisen has not been considered sufficient to warrant a change of nomenclature.

The terminology is uniform for all the State Upper Houses, which assists in discussions and comparisons between the States. If a new name were to be adopted, it would add another source of potential new confusion and errors in referring to those Upper Houses, particularly collectively. If such a new name were not adopted simultaneously in all the present five States with Upper Houses, a further confusing aspect would arise.

A distinct advantage in not renaming either body is an avoidance of confusion of the historical record, with students and researchers having to deal with an extra name, and to remain aware of when the change was made.

The postwar name used for the new Federal Upper House in Germany, the "Bundesrat", which sits in Berlin, is the German word for "Federal Council", yet every German municipality has its "Rat", which means "Council". Those Councils meet in their local "Rathaus"- the German word for Town Hall, which means "Council House". Although the Bundesrat is not directly elected by German voters, its activities are very important to German citizens, but the similarity in nomenclature does not seem to have caused significant difficulty in Germany.

Many voters, who might be less charitable than our members are, might voice an opinion that a move for MLCs to change their title from plain "Mister" or "Ms" to "Senator" is motivated more by some MLCs' self-importance and a desire for self-aggrandizement than it is for the benefit of the voters the MLCs serve.

The suggested new names of "Senate" instead of "Legislative Council", and "senator" instead of "Member of the Legislative Council", would merely remove a minor possibility of confusion for a few people, but introduce a new and more serious possibility of confusion with a far more important single body, Australia's existing Senate, and its members, who represent not just Victorians, but also nearly all other Australians.

#### **Discussion Point 6, Electronic Voting:**

PRSAV-T Inc. supports a move towards increasing the use of electronic voting. Electronic voting has the potential to reduce and mitigate informal voting, by providing clear audible and visual warnings of when a voter may be on the point of casting an informal ballot (see above), and moreover it makes the counting of elections much easier and faster and more accurate – in particular those elections that use the more representative and democratic quota-preferential proportional representation systems.

PRSAV-T Inc. also supports the introduction of electronic roll mark-off, as a way of avoiding unintentional (or even intentional) plural voting. The issue of voter verifiability is important, and PRSAV-T Inc. suggests that, as electronic voting is introduced more widely, voter print-outs should be given on all occasions.

For, and on behalf of, Proportional Representation Society of Australia (Victoria-Tasmania) Inc.

Geoffrey Goode  
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