



**Submission to the Electoral Matters Committee Inquiry
into the conduct of the 2022 Victorian state election**

Proportional Representation Society of Australia (Victoria-Tasmania) Inc. makes the following general points, which are discussed in more detail below.

This paper will also be at https://www.prsa.org.au/2023-06-14_electoral_matters_committee_submission.pdf.

- The Victorian Electoral Commission (VEC) and its staff appear to have conducted the election in an exemplary way, with the conduct of the election carried out in a ‘free and fair’ manner in the terms of the electoral system set out by Parliament.
- The result in the Legislative Assembly (Lower House) represents a considerable distortion of the voters’ will, in that 63.6% of the seats are held by candidates from a party that was supported by only 36.7% of the voters as their first preference. This means that a large majority of Victorians (63.3%) are not represented in the Legislative Assembly by the candidate they voted ‘1’ for.
- The Legislative Council (Upper House) is considerably fairer in its result, with a large majority of Victorians represented in the Legislative Council by a candidate (or party) that they voted ‘1’ for.
- PRSAV-T welcomes the way in which the VEC made considerable efforts to ensure that all voters were able to cast their vote, through the provision of access to postal voting, early voting and absent voting.

A. Principles of a good democratic system:

PRSAV-T asks the Electoral Matters Committee to report that the principles of a good democratic system include the following

- i) That the largest possible number of voters are represented in Parliament by MPs for whom they cast ballots,
- ii) That the diversity of opinions within the community is represented fairly in Parliament, and
- iii) That all MPs, including those filling casual vacancies, are directly elected by the voters.

These democratic principles are best achieved by proportional representation electoral systems with the ‘single transferable vote’ ([PR-STV](#)) being the preferred system for electing democratic bodies.

B. Recommendations:

To achieve the principles above, PRSAV-T asks the Committee to recommend the following changes:

- i) Introducing proportional representation using the single transferable vote ([PR-STV](#)) as the electoral system for the Legislative Assembly, to ensure that the House of Parliament in which government is formed most accurately represents the will of the voters
- ii) Introducing the rotation of the order of candidates’ names in the columns on ballot papers (sometimes termed ‘Robson rotation’) for both Houses of Parliament
- iii) Prohibiting ‘how to vote’ cards at voting centres, as they are in Tasmania and the ACT. Already an increasing percentage of voters are not accepting ‘how-to-vote’ cards when offered at such centres
- iv) Discontinuing any ‘above-the-line’ voting option including the ‘Group Voting Tickets’ that have already been discontinued for the Senate, and Legislative Councils in New South Wales, South Australia, and Western Australia
- v) To preserve the important principle of direct election, the Committee recommend that introduction of recounts for filling casual vacancies in the Legislative Council. Such systems apply for Tasmania’s House of Assembly, the ACT and the Western Australian Legislative Council.
- vi) The Committee needs to undertake a more thorough study into the decline in voter participation in elections and the increase in informal voting, and it should recommend measures to overcome these, which are threats to a viable democracy.

PRSAV-T notes that in the call for submissions, the Electoral Matters Committee advised those submitting that they may discuss any matter including “possible improvements to Victoria’s electoral system, including changes to the Upper House voting system”. While PRSAV-T does recommend some changes to the Upper House (Legislative Council) system, as it will clearly show, it is the electoral system for the Legislative Assembly (Lower House) that is failing to properly represent the voters’ will. Thus, changes to the system for the Legislative Assembly are more urgent.

The changes in points (ii), (iv) and (v) above were favoured by Victoria's Constitutional Commission. For details see https://www.prsa.org.au/cc/B_11_The_Voting_System.pdf.

C. Details of the submission:

1. Distorted result in the Legislative Assembly

By any analysis, the result of the Legislative Assembly election was a distortion of the voters' will. There was a 'two party preferred' (TPP) vote for the Australian Labor Party (ALP) of 55% in comparison with the principal opposition (Liberal-National Coalition) TPP of 45% and, as a consequence, the party supported by most Victorians in their expressed preferences formed the Government.

However, this analysis does not take into account the fact that nearly two-thirds of voters did not cast their first preference for a candidate from the Government party (ALP). This created what has been analysed as the most disproportionate result in a Victorian election in 50 years. See for example the analysis at 'The Tally Room' web page, <https://www.tallyroom.com.au/50513>, which claims that this result is on a measure of disproportionality on a par with the results between 1958 and 1973, when large majorities in the Legislative Assembly were held by a party gaining around 37% of the vote, very similar to 2022.

In this submission, PRSAV-T shows that the extent of the distortion of the voters' will can be outlined in the following three ways, by comparing:

- (i) the percentage of votes for each party and the percentage of seats they gained in both houses,
- (ii) the percentage of voters across Victoria whose first preference elected a candidate in both houses and
- (iii) the percentage of voters across Victoria whose effective preference elected a candidate in both houses.

PRSAV-T can provide .xlsx spreadsheets that detail the basis of its calculations.

1.1 Comparison of votes and seats in both houses

Table 1 shows that the number of seats won by candidates of the ALP is considerably in excess of the support the voters gave that party, and the seats won by the Victorian Greens and 'others' are considerably fewer than their support would suggest. The reason for this distortion is primarily due to the nature of the 'single member electorate system', which routinely fails to meet the principles of good democratic systems outlined above. As Table 3 below shows, this level of distortion of the voters' will is not found in the Legislative Council, elected by the much fairer proportional representation system.

Table 1:

Victoria 2022				
Party	% of votes	No. of seats	% of seats	Over-representation or Under-representation
ALP	36.66%	56	63.6%	+73%
LNP	34.48%	28	31.9%	-8%
Green	11.50%	4	4.5%	- 61%
Others	17.36%	0	0.0%	-100%

When the votes for the two Coalition parties are distinguished, it is seen that the National Party is also over-represented.

Table 2:

Party	% of votes	No. of seats	% of seats	Over-representation or Under-representation
Liberal	29.76%	19	21.6%	-28%
NP	4.73%	9	10.2%	+115%

Note that a change to 'optional preferential voting', or the long discredited '*first past the post*' system, would not have led to a less distorted result. In Victoria, 85 of the 88 seats were won by the candidate that led on the first preferences. Full *first-past-the-post* would have elected the same number of ALP members (56), and while PRSAV-T cannot say what differences optional preferential voting would have made, the overall distortion of the result would not have been mitigated.

By comparison, in the Legislative Council, the representation of parties was much closer to the support their candidates received.

Table 3:

Victoria 2022				
Party	% of votes	No. of seats	% of seats	Over-representation or Under-representation
ALP	33.01%	15	37.5%	+ 13%
LNP	29.44%	14	35.0%	+ 19%
Green	10.32%	4	10.0%	- 3.2%
Others	27.23%	7	17.5%	- 36%

1.2 Comparison of the percentage of first preferences electing MPs in both houses

Another way of analysing the success of the current electoral system, in both the Legislative Assembly and the Legislative Council, to represent the will of voters is to calculate the percentage of voters whose first preference elected an MP. The results of this analysis are presented as Table 4.

Table 4:

	Percentage of first preferences electing an MP
Legislative Assembly	43.73%
Legislative Council	71.22%

To produce this table, PRSAV-T added up the first preferences for all successful candidates in the Legislative Assembly and expressed that as a percentage of the total formal vote. For the Legislative Council, it added up the preferences for all successful groups (above-the-line votes) in each region and all the below-the-line votes for individuals that were successful in each region, and expressed that as a percentage of the total formal vote. As can be seen, a very much larger percentage of the population is represented by someone they voted for in the Legislative Council than is the case in the Legislative Assembly.

Percentage of voters casting first preference votes for successful candidates by party of choice in the Legislative Assembly is set out in Table 5.

Table 5:

Votes for party	Percentage of first preferences electing an MLA
ALP	74.82%
Liberal	33.64%
National	96.81%
Green	14.96%
Others	0.00%

Note that the National Party stood candidates in only ten seats and won nine of those, hence a very large percentage of those voting for National Party candidates in the Legislative Assembly voted for a successful candidate.

By comparison, in the Legislative Council, **much high percentages** of the voters giving first preferences to candidates for each party led to the election of candidates as shown in Table 6.

Table 6:

Votes for party	Percentage of first preferences electing an MLC
ALP	98.79%
Liberal-National	98.79%
Green	61.68%
Legalize Cannabis	28.16%
Liberal Democrats	16.89%
Shooters, Fishers and Farmers	18.06%
DLP	16.34%
Animal Justice Party	12.54%
One Nation	22.27%
Others	0.00%

1.3 Comparison of the percentage of effective preferences electing MPs in both houses

Since Victoria uses a preferential electoral system, the Committee should examine the percentage of voters whose effective preference led to the election of a candidate. For the Legislative Assembly this involved adding up the count after the distribution of preferences for each successful candidate and expressing that total as a percentage of the total number of formal votes. For the Legislative Council, this involved adding up the quotas that led to the election of candidates for each elected MLC and expressing that as a percentage of the total number of formal votes. Note that because of the fractional nature of some of the votes leading to the quotas, the percentage of voters whose ballots contributed to the election of a candidate is probably larger than the 83.13% in Table 7.

As can be seen, taking into account preferential voting, a **much higher percentage** of effective preferences elected Members of the Legislative Council.

Table 7:

House	Proportion of effective preferences electing an MP
Legislative Assembly	58.36%
Legislative Council	83.13%

1.4. Examining possible changes to the Legislative Assembly electoral system

The analysis presented in the previous section clearly shows two things:

- i) The electoral system in the Legislative Council is much more faithfully representing the voters' will than is the system for the Legislative Assembly, and
- ii) The electoral system in the Legislative Assembly is not representing the voters' will effectively.

The main problem with the Legislative Assembly's system is its 'single member districts'. By their nature, 'single member districts' mean that minority opinions in a particular district are not represented at all and, with an increasing number of small parties and independent candidates standing in the Legislative Council, the percentage of voters that are represented by someone that they cast a number 1 vote for (first preference) is decreasing.

This distortion of the voters' will in the Legislative Assembly will **not** be remedied by measures such as changing from full compulsory preferential marking to optional preferential marking, or by adopting 'first-past-the post' voting. First-past-the post (FPTP) is one of the least satisfactory systems for fair elections because it routinely leads to the election of candidates with nowhere near absolute majority support in a district. Australia has used preferential voting for over a century, and this system means that voters do not waste their ballots for candidates that have no chance of election, as they can be transferred as the voter indicates if needed. Nor do Australian voters have to 'second guess' the result of an election to decide who to vote for.

PRSAV-T notes that, during the last period of greater disproportionality in the Victorian Legislative Assembly (1958-1970), it was the then Liberal and Country Party (LCP) that was able to govern with large absolute majorities of MLAs despite having minority support (37.18% in 1958, 36.44% in 1961, 39.63% in 1964). The LCP, later renamed the Liberal Party, was able to achieve this because a very large majority of voters for the two minor parties (Country Party and Democratic Labor Party or DLP) gave preferences to the LCP. At that time, the LCP strongly supported compulsory preferential marking of ballots. The opposition Labor Party (ALP) received more votes than the LCP in both 1958 and 1961, but very few preferences. At that time, the ALP was opposed to compulsory preferential marking of ballots.

In recent years, in Legislative Assembly elections, the ALP has received a much higher percentage of the preferences of minor candidates, and the ALP changed its opinion to support compulsory preferential marking and the Liberal Party might be toying with changing its view to support 'optional preferential marking'. Such a switch in support between the 1960s and 2023 would be motivated by expedient political self-interest, and not what is best for electoral arrangements. PRSAV-T points out that the large number of minor parties in the 2022 election led to an increase in the percentage of preferences flowing to Liberal candidates in marginal seats. Consider, for example, the seat of Pakenham, which was extremely close but in which a majority of preferences of the 'minor candidates' went to the Liberal candidate, who almost overturned the ALP candidate's lead on first preferences.

PRSAV-T strongly suggests that any changes to the electoral arrangements for the Legislative Assembly should not be based on perceived short-term advantages for one major party or another, but rather on the sound principles of electing Parliaments based on the will of voters. The best system for the Legislative Assembly will be a proportional one, similar to that in use in Tasmania and the ACT.

As a matter of urgency, PRSAV-T recommends that the Committee institute a more detailed inquiry into how the voting system for the Legislative Assembly can be made more democratic and reflect the 'principles of a good democratic system' outlined above.

2. Ballot paper rotation

One reform that could be more easily achieved is the rotation of candidates' names within columns on ballot papers, known in Tasmania as 'Robson Rotation', and first enacted for its State elections in 1979.

For details see <https://www.prsa.org.au/tasearob.htm>. Rotation of candidates' names within columns on the ballot paper removes the advantage that some candidates enjoy when selected (by a double-random process) to appear at the 'top' of the party column on the ballot paper, enabling the so-called 'donkey vote'. If introduced for the Legislative Council, it would also remove the advantage that candidates at the 'top' of a party's column have. The voters, and only the voters, should decide the order in which candidates are elected. Rotation of names within each column on the ballot paper has removed this 'chance' advantage for all candidates, and it works without difficulty in the ACT and, in Tasmania, for both houses and for municipal polls.

3. Prohibition of 'how-to-vote cards'

Related to the issue of ballot paper rotation, is the issue of 'how-to-vote cards'. At the 2022 elections there were often five or more candidates at polling booths handing out how-to-vote cards, and more at early voting centres, so that the ALP, Liberals, Nationals (in country seats), Greens - but also parties like One Nation, United Australia Party, Animal Justice Party, Victorian Socialists, Reason Party, DLP and others - were handing out material. The use of such cards is rendered futile by Robson Rotation, as discussed in the previous section. For details see https://www.prsa.org.au/htv_cards.htm.

PRSAV-T believes that 'how-to-vote cards' are problematic for a range of reasons. Firstly, they give an impression to voters that a formal vote for the candidate of their choice is only achieved when the 'how-to-vote card' is followed in full. That, of course, is not the case, because voters can cast a formal ballot with candidates listed in any order, so long as they fulfil the requirements of formality. PRSAV-T recommends that parties and candidates be prohibited from using words 'How to vote for X' on any communications with voters, as this implies that only a party's or candidate's suggested preferential ordering is formal. Secondly, large numbers of people handing out 'how-to-vote cards' at polling booths is clearly an annoyance to many voters, and thirdly, the amount of paper being used to print them is huge, and it creates significant waste disposal and litter problems.

An increasing percentage of voters are not taking these 'how-to-vote cards', and given that the party affiliations of candidates are printed on the ballot paper, voters do not need 'how-to-vote cards' in order to cast formal ballots.

PRSAV-T therefore recommends the prohibition of handing out 'how-to-vote cards' at voting centres. It does not object to candidates or parties making their own recommendation of preferences in advertising that is paid for by candidates or parties. However, if ballot paper rotation was introduced, the method of communicating those preference recommendations would need to be changed.

4. Discontinuation of any above-the-line voting option

After the 2018 election, there were a large number of submissions concerned about the system of 'Group Voting Tickets' (GVT) in the Legislative Council. These GVTs have been discontinued in all the other jurisdictions that had them (the Senate and the Legislative Councils of New South Wales, South Australia and Western Australia).

The preferred position of PRSAV-T would be to alter the electoral system for the Legislative Council to match that of the ACT and Tasmania, including the implementation of Robson Rotation, to transfer full control of preferences to the voters. The electoral systems for the ACT Legislative Assembly and Tasmanian House of Assembly meet the principles of a good democratic system and, by eschewing any above-the-line option, use much less cluttered and confusing ballot papers, and do not gratuitously create two different classes of voter.

However, PRSAV-T considers that the changes introduced to the Senate electoral system in 2016, so voters explicitly preference Groups rather than preferences being decided via 'Group Voting Tickets', were nevertheless a worthwhile improvement in the Senate voting system. For details see <https://www.prsa.org.au/history.htm#gvt>.

PRSAV-T wants to make it clear that there is no problem with a candidate receiving relatively few first preference votes being elected to the Legislative Council, provided that particular candidate is supported by sufficient effective preferences and gains a quota thereby. As has already been pointed out, the membership of the Legislative Council far more effectively represents the diversity of opinions expressed at the 2022 election than is the case for the membership of the Legislative Assembly. For details see https://www.prsa.org.au/1st_pref.htm.

The principal objection to the Group Voting Ticket system is that GVTs express an order of preferences that individual voters do not control, and in most cases are not aware of. There was considerable concern expressed after the 2018 election because candidates of some parties with very small first preference support (such as Mr Barton of the Transport Matters Party in Eastern Metropolitan Region and Mr Hayes of Sustainable Australia Party in Southern Metropolitan Region) were elected as MLCs. The preference deals put together by Mr Glen Drury clearly played a role in these candidates being elected, but it must be pointed out that both candidates achieved quotas because a significant portion of the voters cast ballots for smaller parties and their votes gradually amounted to a quota. Different deals were done in the 2022 election, so Messrs Barton and Hayes were defeated.

PRSAV-T's objection to GVTs is not that candidates like Mr Hayes or Mr Barton were elected, but that voters were not aware when casting ballots what the effect of their ballot was. The current system in the Legislative Councils of NSW and SA also leads to the election of candidates from smaller parties, but they do so because voters intentionally cast ballots that give effective preferences to the candidates of those parties.

5. Introducing 'countback' for filling of casual vacancies in the Legislative Council.

A very important principle of democracy is the 'direct election' of members of Parliament. The current system of filling casual vacancies by members of the same party means that individuals that may never have appeared on a ballot paper are being appointed to Parliament, rather than being elected. All members of the current Parliament (as at 14th June 2023) were elected by the voters in the 2022 election, but during the previous Parliament there were members that were sitting in the Legislative Council that had never been chosen by voters, and in some cases had never been on any ballot in the region they represented in Parliament.

The recount systems used in the Tasmanian House of Assembly, ACT Legislative Assembly, and WA Legislative Council, mean that if a casual vacancy occurs, the elected MP filling that vacancy was normally a person that the voters had a chance to cast a ballot for. For details see <https://www.prsa.org.au/countbac.htm>.

6. Need for a deeper inquiry into the informal vote and the decline in participation in elections

The level of informal vote was quite high in many districts and PRAV-T considers that the Committee should have a close examination of why this is and make recommendations to avoid it. While some voters that vote informally are clearly intending to put in an informal ballot, still others might be as a result of errors or misunderstandings of the electoral system. The Committee should request the VEC to make a thorough study of informal ballots and establish, as best as possible, what was the cause of that informality.

One reason that has sometimes been suggested for the high informality rate is the number of candidates in some districts. Although there was an increase in the number of candidates for the Legislative Assembly from 507 in 2018 to 740 in 2022, the incidence of informal ballots decreased from 5.83% to 5.54%. So the number of candidates would not appear, on the face of it, to be the explanation for the informal voting rate.

Informal ballots are not good for our democratic system; the higher the percentage of voters that are actively engaged in the electoral system, the better. This is exemplified in two problems, slowly decreasing turnout, and the level of informal voting. In the recent Victorian election, 740,260 people either failed to vote at all or cast an informal ballot in the Legislative Assembly, as set out in Table 8:

Table 8:

	Numbers	Percentage
Informal ballots (Legislative Assembly)	214,410	4.88%
Did not vote at all	525,850	11.97%

In many districts in the 2022 elections, the informal vote was higher than that for most of the minor candidates. Thus, in the district of Kororoit, with 9 candidates, the informal vote of 3,683 was higher than the first preferences for 7 of the 9 candidates.

A similar situation occurred in Lowan, with 7 candidates, where the informal vote of 2,612 was higher than the first preferences for 5 of the 7 candidates, though in Lowan the sitting member had a very high first preference vote of 59.0%. These two electorates are compared because they are very different in their geographical location and social make-up. Consider Table 9, which compares informal voting in the ACT election of 2020 (where how-to-vote cards are not permitted) and the Victorian Election of 2022.

Table 9:

Election	Percentage of informal votes
ACT election 2020	1.4%
Victorian election 2022 (Legislative Assembly)	5.53%
Victorian election 2022 (Legislative Council)	3.22%

The incidence of informal voting in the ACT is much lower than in Victoria, and also the incidence of informal voting in the Legislative Council is much lower. This is because the optional preferential nature of ACT elections and elections for the Legislative Council, combined with proportional representation, means that it is easier to avoid casting informal ballots.

PRSAV-T recommends that the Committee examine the issues of informal voting and the turnout of voters. In the 1982 election, the turnout for the Legislative Assembly was 93.97%, in 1992 it was 95.13%, and in 2002 it was 93.16%. This compares to 88.03% in 2022. The reason for the decline in voter participation ('turnout') is clearly not that voters feel they do not have sufficient choices. The range of choices available to voters in the 2022 election was significantly greater in both Houses than at any time in the history of Victoria.

An inquiry into informal voting might also examine whether there is any difference between the levels of informal voting among those voting for candidates that handed out 'how-to-vote cards' with recommendations for all preferences, versus those voting for candidates that handed out 'how-to-vote cards' without such recommendations. One example was in Mornington District, where one candidate, Dr Kate Lardner, did not make such a recommendation (https://itsitecoreblobvecprd.blob.core.windows.net/public-files/State/HTVC/7b3a9f42-c67c-471c-9489-71fdbd27f9d7/lardner_kate.pdf). If, for example, it were found that a higher percentage of those voting for Dr Lardner marked a simple 1 in comparison to the other candidates with large number of votes (Chris Crewther and Georgia Fowler), that would show such a difference.

PRSAV-T also asks the Committee to recommend that - if there are to be fines for not voting - the Electoral Act prescribe those fines in 'penalty units', like most fines, and not prescribe them as sums of money, which rapidly become less substantial with inflation.

D. Willingness to appear at a Hearing:

PRSAV-T Inc. would be pleased to be invited to appear at a Hearing if requested by the Committee.

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