Comments on the Consultation Paper of the Constitution Commission Victoria

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1 Introduction

The Victoria-Tasmania Branch of the Proportional Representation Society of Australia (PRSAV-T)[1] welcomes the opportunity to give feedback on the Commission's Consultation Paper. Our November 2001 submission, *Hare-Clark for the Legislative Council*, argues for the Hare-Clark voting method and constitutional entrenchment as discussed in sections 11 and 12 of the Consultation Paper. In this followup submission we restrict our comments to section 10, *Voting System for the Upper House*.

2 The five options

We first give our views on the five electoral models presented as options in the Consultation Paper.

1. We do not support this option, for reasons given in our 2001 submission (the district magnitude is too large). It would be our fourth preference. However, we disagree with the assertion that this option "provides no way to ensure that rural and regional areas are represented". Indeed, *any* interest group with at least 2.5% of voter support is guaranteed representation.

2. We strongly support this option — it would be our second preference. Our preferred model in our 2001 submission suggested seven member provinces, though a smaller number of them. Our proposal would make the Council size compatible with overlapping terms and slightly smaller than the current size (in line with the trend towards smaller Houses).

[1] Home page `http://www.prsa.org.au` http://www.prsa.org.au

3. We would support this option, though the district magnitude is smaller that we would prefer (see our 2001 submission). It would be our third preference.

4. We do not support this option — it would be our last preference. The district magnitude is too small in some of the provinces and the mixture of different district magnitudes is undesirable. It leads to different quotas (in absolute and percentage terms) in different provinces. For example, in the seven member provinces in this option, assuming no malapportionment, the quota would be $1/8 \times 7/45 = 1.94\%$ of the voters state-wide, whereas the three member provinces would have a quota of $1/4 \times 3/45 = 1.67\%$. The lower absolute quota in smaller provinces is matched by a higher percentage of wasted votes. A mixture of district magnitudes should only be used when no reasonable alternative exists. For example, when the size of the House is not to be changed and is such that division into electorates of reasonable and equal size is not possible (as was the case when Hare-Clark was introduced into the ACT).

   We believe it is a mistake to base the design of an electoral system on the perceived issues in the previous election or elections. Instead, it should be based on more fundamental democratic principles which do not change over time. Option 4 seems designed to assure rural and regional issues will be well represented, presumably because they are seen to have been under-represented recently. However, these issues are not likely to be the major issues in all elections in the lifetime of the electoral system. Furthermore, given the slow pace of change in electoral systems, the population of Victoria will probably significantly grow and shift before another major electoral system change takes place. The Hare-Clark system makes representatives responsive to voters whatever the important issues of the day are. It is not necessary or desirable for the system to be compromised by specially adjusting electorates for economic, demographic, ethnic, religious or any other reason.

5. We strongly support this option — it would be our first preference. We have a very slight preference for this option over option 2 because historically it has had more support and a slight decrease in the size of the Council is likely to be more popular than an increase. This option was the preferred option of the PRSA in our August 1985 submission to the Victorian Government, *Proportional Representation for the Victorian Legislative Council* and has been supported by the ALP in the past.

3 Other points

The Consultation Paper correctly points out that Hare-Clark works most effectively with an uneven district magnitude. However, the size of the House need not be uneven. Whether the House has an even size is an issue for the overall operation of the House, as are the rules concerning deliberative and/or casting votes of the President, but not the electoral system used in the individual provinces.

The Consultation Paper does not discuss the relationship between the sizes of the Assembly and the Council. Our 2001 submission argues for maintaining the nexus between Council Provinces and a whole number of Assembly Districts. It is therefore desirable for the Assembly size to be a multiple of the number of Provinces. In option 5, for example, the Assembly size could be reduced to 85 as suggested in our 1985 submission.

The five options set out in the Consultation Paper are proposed under the assumption that the whole Parliament is elected at one time, which is consistent with the views expressed in many submissions. We would like to stress that if agreement on general elections for the Council cannot be reached, the set of options must be reconsidered. Only options 1 and 3 are compatible with overlapping terms for the Council and, in our view, these are significantly inferior to the preferred model of our 2001 submission.