INQUIRY INTO THE 2015 NSW STATE ELECTION

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Submission to the Joint Standing Committee on Electoral Matters

The results of the March 2015 New South Wales State election do not reflect the considered verdict of the people of New South Wales.

In every electorate large numbers of voters are unrepresented and, by the very nature of single member electorates, this will always be the case.

It is unreasonable that Members of Parliament should be expected to support policies held by voters who did not, and probably will never, vote for them. Yet we still maintain the fiction that a Member of Parliament represents all the voters in his or her electorate.

Only a genuine proportional representation system can overcome this dilemma.

We recommend that the NSW Parliament

1.   Seek ways to introduce a genuine single transferable vote (STV) model for the Legislative Assembly, and

2.   Reform the flawed STV model currently in use for the Legislative Council.

The Single Transferable Vote (STV)

STV is the purest of all proportional representation systems as it is designed to make every vote as effective as possible. STV is a single vote that is sometimes transferred and at the end of the count an individual vote will, in effect, end up in one bundle primarily helping to elect one individual candidate; either a winning candidate or the first runner-up. The vote does not elect teams, groups or multiple candidates.

In this computer age the Meek Method for counting a proportional representation ballot should be used as it allows the fairest distribution of preferences.

Legislative Assembly

We accept that in the short term it is not possible to introduce an STV system for the Legislative Assembly, but even with single member electorates the method of election is flawed and can be improved.

To make the single member electorates for the Legislative Assembly as democratic as possible we recommend the following changes.

a.   The draw for positions on the ballot paper.

It is a truth universally acknowledged that there is an advantage to be gained from winning, or being given, a favourable position on the ballot paper. Anyone who has been at the draw of candidates' names will have heard the whoop of joy from the candidate whose name is drawn first.

Electoral Reform Australia believes that luck should play no part in the election of our representatives.

In single member electorates, such as for the Legislative Assembly, the issue is simple. Political parties preselect a single candidate and then campaign to have that candidate elected. Occasionally, and probably increasingly, thirteen or more candidates will contest a single electorate.

To avoid the donkey vote's deciding the result in close contests, a simple rotation of candidates on the ballot paper will allow all candidates to share the top position equally.

We recommend the following process:

> Randomly draw the names of the candidates to give an initial order. This is the first ballot paper.
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> Take the name of the candidate last on this list and place that candidate's name first and move every other candidate down one place. This is the second ballot paper.
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> Repeat this process until every candidate has been placed in the first position. With thirteen candidates there will be thirteen ballot paper variations.
>
> Then, reverse the initial order of the candidates and repeat the above process. With thirteen candidates there will be twenty six ballot paper variations.

Such a procedure can work for any number of candidates. The rotation of candidates ensures that those voters who do donkey vote down the ballot paper will not favour any one candidate. The reversal of the order will ensure that any preferences from such voters will also not favour any one candidate.

To lose a close election may be disappointing. If it was the will of the voters then the result is probably bearable. But to lose an election simply because of an unfavourable ballot draw brings the result into dispute and undermines the integrity of the whole election.

Who wants to be the person who advises a colleague that they lost the election because the Parliament failed to reform this unfair provision?

b.   Optional Preferential Voting.

Electoral Reform Australia supports the retention of fully optional preferential voting for the Legislative Assembly. There is a clear reduction in informal voting and the rights of voters are respected.

c.   Electoral Deposits.

The electoral deposit should be increased to $2,500. The Christian Democratic Party in running nine candidates for the Bradfield by-election in 2009 has indicated that this is an acceptable amount for parties that are unlikely to retain their deposit.

No candidate should stand for election unless they wish to be elected. It is insulting that voters should have to consider the merits of candidates who have no wish to be elected.

This increase in the electoral deposit, whilst it will not prevent, will inhibit unscrupulous groups from running candidates simply to confuse voters, such as candidates with the same or similar name as a prominent opponent.

Furthermore, the presence of multiple candidates makes it harder for genuine Independent candidates to get their message across.

Legislative Council

The current proportional representation system in use for the Legislative Council with its use of above-the-line voting produces results that are neither democratic nor proportional.

Give back to the electorate the right to freely choose their own representatives.

Do this by reverting to basic voting procedures -

1.   Abolish above-the-line voting.
2.   Allow fully optional preferential voting.
3.   Increase electoral deposits.
4.   Rotate the candidates within party groups.
5.   Use the Meek Method of counting an STV ballot.

1.   Abolish Above-the-Line Voting

Above-the-line voting as practised by the NSW Legislative Council allows optional preferential voting for different groups. However, voters trained by thirty years of above-the-line voting in Senate elections predominately just vote for one group. At the 2015 Legislative Council election many votes exhausted (eventually over 7%,) as the last candidate in each group was excluded.

The election is supposed to be proportional but at the 2015 Legislative Council election the last four candidates were elected without a quota in a manner similar to election by the first past the post method of voting and one of the elected candidates could not even reach 2% of the formal vote.

Above-the-line voting, with the requirement that groups run fifteen or more candidates, encourages voters to vote only for one group. Voters get the impression that by voting for such a group they have completed their task and have elected a full slate of candidates. Even with the ease of preferential voting above-the-line no group has a majority of its voters continuing their preferences to another group.

In comparison, the majority of voters in every group in ACT Legislative Assembly elections, which do not have above-the-line voting, will continue preferencing beyond their favourite group.

2.	Allow Fully Optional Preferential Voting.

Firstly, the number of informal votes will drop. It is a violation of civil rights to declare votes informal simply because voters fail to number sufficient preferences.   There is no justification in saying to voters "even though you have made a clear and unequivocal choice we will not count your vote."

There is no research that demonstrates that forcing voters to number multiple preferences is either necessary or beneficial. Electoral Reform Australia[1] has produced a number of papers that demonstrate that fully optional preferential voting increases voter participation by reducing the net number of informal and exhausted votes.

No more votes will exhaust than is currently the position. Votes that fail to give a second preference will be treated in the same way as the thirteen votes allocated to John Ajaka that did not have a continuing second preference; that is fewer votes transferring, but each with a slightly higher transfer value.

Secondly, the ballot paper will be greatly reduced in size as the above-the-line voting boxes and the big distracting line will disappear and, as parties will no longer be required to run makeweight candidates, the number of candidates contesting the election will drop from over three hundred to fewer than one hundred.

It should be noted that in 2015 three candidates received no votes and over two hundred received fewer than 50 votes. All these candidates can save their electoral deposit by not running.

The ACT Legislative Assembly, with no above-the-line voting and fully optional preferential voting, has a minimal percentage of both informal voting and exhausted votes.

3.	Increase Electoral Deposits.

The Tasmanian requirement that electoral deposits are payable on the candidate's vote not the party's vote should be implemented. Deposits should be refunded if the candidate at the final count has gained at least 50% of the quota. In a Legislative Council election this would be 2.28% of the vote. Determining the deposit in this manner will deter parties from running excessive numbers of makeweight candidates.

Currently the electoral deposit is $5,000 for a group between 11 and 21 candidates. This should be changed to be $5,000 per candidate. As with the Legislative Assembly no candidate should stand for election unless they wish to be elected. It is insulting to the Australian electorate that voters should have to consider the merits of candidates who have no wish to be elected.

4.	Rotate the Candidates within Party Groups.

The rotation of candidates within groups is essential to ensure that the result of the election is proportional. Parties with over a quota are able to have their party's vote shared amongst their several candidates. Rotation of candidates keeps the candidates from popular parties in the count longer and

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[1] Largest remainder No 17 February 2013 Electoral Reform Australia
Largest remainder No 20 September 2013 Electoral Reform Australia
Largest remainder No.21 February 2014 Electoral Reform Australia

helps prevent unpopular and particularly opportunistic groups from being elected on preferences leftover from the more popular parties.

Without the rotation of candidates Party A with 2.4 quotas will win two seats and Party B with 0.6 quotas will win one seat, despite the fact that Party A received four times the support of Party B. With the rotation of candidates Party A is able to spread the votes of its supporters amongst all its candidates and will most likely win three seats.

The Robson rotation is practised in the Tasmanian House of Assembly and the Australian Capital Territory Legislative Assembly but even a simple rotation in which the party's given list is rotated so that each candidate has an opportunity shares the top position equally would be very beneficial.

The fear that parties will lose the ability, given to them by the current fixed order of ballot papers, to determine that their "favourite sons" be elected is misplaced. Parties retain control of advertising and most publicity. It would take very little differential support of the individual candidates to determine their placing within the group and hence the order of their election.

The big losers with the rotation of candidates are those groups with less popular support that fail to reach a quota.

5.   Use the Meek Method of counting an STV ballot.

Electoral Reform Australia recommends that Meek be used to count the STV ballot for the Legislative Council.

New Zealand, a country with no previous experience of proportional representation voting, decided to use the Meek method of counting an STV ballot when they introduced proportional representation for their Local Government. They did this because in a computer age it is the fairest system devised.

With Meek, as votes exhaust the quota is reduced and candidates who already have a quota are able to release more of their surplus to other candidates. At the conclusion of the count every candidate is elected with a quota and can claim equal status with all the other elected candidates.

General Observations.

Voting in Australia is a right and a privilege – it is not a chore. It is also an opportunity to be involved in the community - an opportunity to meet with one's neighbours and to support the cake stall at the local school. Finding a polling booth is not hard; there will be one in each town or suburb at least every kilometre.

Electoral Reform Australia believes that the constant pandering to people who are "too busy" undermines this community spirit and we call on the Parliament to stop the ever increasing trend to expand pre-poll and electronic voting.

Conclusion

Australia is fortunate in having in one of its jurisdictions, the Australian Capital Territory, an electoral system that demonstrates that proportional and democratic results can be achieved simply by trusting the voters.

The Joint Standing Committee should look at the ACT model and recommend a system that abolishes all forms of above-the-line voting and allows fully optional preferential voting. This, together with

the rotation of candidates, an increase in the electoral deposit and the use of the Meek counting method, would immediately reduce the number of candidates to more manageable levels. Over time, as the genuine micro parties reverted to their proper role as lobby groups and the political gamers disappear, the number of parties contesting the election would also reduce.

Electoral Reform Australia believes these reforms will make the Parliament more representative of the considered views of the people of New South Wales.