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The first part of my submission for consideration in the State Government's review into Tasmania's Electoral Act 2004, relates to the misleading and confusing wording on House of Assembly ballot papers.

I submit that Section 100 of the Act should be repealed.

Section 102 covers the essential matters dealt with in Section 100, except the instruction in Section 100(a) requiring electors to vote for all candidates in order of choice (My emphasis).

Although there is no legal requirement for electors to vote for all candidates, there is this legal requirement in Section 100 (a) for ballot papers to contain instructions that electors are required to do so.

The effect of this conflict creates obvious problems which are aggravated by the layout of the wording on the ballot papers.

By way of example, on the top of the ballot papers for the electorate of Bass in the last State election, was the following misleading instruction: (My emphasis)

*"Number the boxes from 1 – 20 in order of your choice".*

At the bottom of the ballot papers, below the names of all candidates, there was the following accurate statement:

*"Your vote will not count unless you number at least five boxes".*

Many, perhaps most, electors would not see the second valid statement at the bottom of the ballot paper until they have concluded their actual voting. These conflicting requirements have no doubt caused much confusion, leading to many invalid votes being cast.

In 2009 I attempted to have this problem remedied by means of a Private Members Bill in the Legislative Council. Unfortunately it did not receive sufficient support, with some Members taking the view that it was not necessary to have legislative change to cure the problem and arguing that this could be rectified by administrative action by the Tasmanian Electoral Commission.

Clearly that is not possible. The main problem is caused by the wording of Section 100(a) of the Act. As that is a legislative provision it can be repealed or amended only by legislation.

I must express surprise that this problem has not been remedied long before now at the instigation of the Tasmanian Electoral Commission. I urge the State Government to take the necessary action to correct this obvious problem.

Such legislative change is required as will ensure that the wording on the top of the House of Assembly ballot papers is to the following effect:

“To record a valid vote you must mark the ballot paper by placing, without omission or duplication, the numbers 1, 2, 3, 4 and 5 in the boxes next to the names of candidates, in order of preference and you may place further consecutive numbers in any or all of the boxes next to the names of the remaining candidates”.

There should be no suggestion or any instructions or requirement for electors to vote for all candidates.

I forward herewith an attachment containing the provisions of Sections 100 and 102 of the Electoral Act 2004.

# Electoral Act 2004

Version current from 31 March 2017 to date (accessed 19 July 2018 at 15:28)

## 100. Instructions on ballot papers

Instructions on the ballot paper are to indicate that –

(a) the elector is to number the boxes from 1 to a number (being the number of candidates) in order of choice; and

(b) the elector's vote will not count unless the elector numbers –

(i) in the case of an Assembly ballot paper, at least five boxes; and

(ii) in the case of a Council ballot paper, at least the number of boxes required under section 102(2)(a) .

## 102. Marking of ballot papers

(1) In respect of an Assembly election, an elector –

(a) must mark the ballot paper by placing, without omission or duplication, the numbers 1, 2, 3, 4 and 5 in the boxes next to the names of candidates in order of preference; and

(b) may place further consecutive numbers in any or all of the boxes next to the names of the remaining candidates.

(2) In respect of a Council election, an elector –

(a) must mark the ballot paper by placing, without omission or duplication –

(i) if there are more than 3 candidates, the numbers 1, 2 and 3 in the boxes next to the names of the candidates in order of preference; or

(ii) if there are 3 candidates, the numbers 1 and 2 in the boxes next to the names of the candidates in order of preference; or

(iii) if there are 2 candidates, the number 1 in the box next to the name of the candidate of first preference; and

(b) may place further consecutive numbers in any or all of the remaining boxes next to the names of the remaining candidates.

The second part of my submission relates to the Legislative Council Electoral Boundaries Act 1995.

The Act makes provision for the appointment of a Redistribution Committee, comprising the Electoral Commissioner, the Surveyor-General and a representative of the Australian Statistician.

This committee makes the initial redistribution proposal and is then merged with the Chairman and the third member of the Tasmanian Electoral Commission. The resulting five member body is known as the Redistribution Tribunal.

The Redistribution Tribunal (including of course, all three members of the Redistribution Committee) examines the Committee's initial proposal and any submissions made in relation to that. The Tribunal then makes and publishes a further proposal, and, after considering any further representations, it is tabled in Parliament.

One would expect the three members of the Redistribution Committee would defend their initial redistribution proposal once they become members of the five member Redistribution Tribunal. They are well situated to do so as they have 60 percent of the membership of that latter body.

This is not a structure to guarantee a genuine independent review of the Committee's initial proposal. Nor is the Tribunal regionally balanced with, I understand, only one of five representatives from the north in such a decentralised State as Tasmania.

The whole system should be reviewed and steps taken to eradicate these and other impediments. No longer should a Redistribution Committee be able to review its own proposal, especially on a body in which it controls 60 percent of the vote. Further, the composition of both bodies needs to be changed to ensure independent reviews and competent, balanced proposals following basic redistribution principles.

In the most recent redistribution of Legislative Council boundaries, such principles were trashed. It is recognised that, in the interests of the community's awareness of boundaries in any redistribution, there should be the minimum change made to existing boundaries.

Notwithstanding this, the boundaries of the new electorate of McIntyre bear little resemblance to those of the former electorate of Western Tiers, contrary to the aforesaid principle. This is particularly alarming in view of the fact that before the redistribution the number of electors in Western Tiers was, incredibly, just 6 away from the target set for each Legislative Council electorate to achieve. Yet, the final results saw the boundary of the electorate of Western Tiers mutilated.

Looking at the new boundaries it is hard to imagine that the Committee and Tribunal paid any regard to the principle of community of interests – or any other principle as far as that is concerned. No member who supported the final proposal could feel proud of the results.

One result is that the new electorate of Prosser becomes a southern based seat, meaning that a majority of Legislative Council seats are southern based, whereas the majority of Tasmania's population is in the North.

This seriously, and unnecessarily, alters the regional balance of statewide representation in the Legislative Council.

The decisions made as to representation in the new electorates seriously prejudice the options of a distinguished and effective former Member [REDACTED] and a number of prominent community members who would have been potential candidates, if the election scheduled for 2018, had not be deferred for four years.

Thousands of electors in northern Tasmania are seriously disadvantaged in that they will have a ten year gap between Legislative Council elections in their area – a denial of democratic rights.

The whole system of Legislative Council boundary redistributions should be reviewed to ensure established principles are followed, and to prevent the grossly unsatisfactory features of the last redistribution recurring.

Regards

Don Wing