

IN DEFENCE OF THE PRESENT AUSTRALIAN SENATE ELECTORAL SYSTEM

By Malcolm Mackerras

The purpose of this paper is to enter a strong defence of the current Australian Senate electoral system. However, in opposing what I call "radical reform" I do not want it to be thought that I oppose all change. In fact, I do favour two minor changes. The first relates to the ballot paper. In my opinion there is one criticism of the present system which is correct: the elector is not given a reasonable opportunity to vote below the ballot line. My mantra is "Voting is a right not a burden" so I seek to reduce the burden on the voter.

Take two examples of ballot papers from the September 2013 Senate election. In New South Wales and the Northern Territory (indeed in all states and territories) above the ballot line and on the extreme upper left-hand corner it reads: "YOU MAY VOTE IN ONE OF TWO WAYS". Below that it reads: "EITHER", and below that "**Above the line**" and below that "By placing the single figure **1** in one and **only one** of these squares to indicate the voting ticket you wish to adopt as your vote" and then the parties and their squares are listed in rows to the right.

In New South Wales there were 110 candidates. Consequently the words below the line read "OR" and below that it reads: "**Below the line** By placing the numbers **1 to 110** in the order of your preference". In the Northern Territory there were 24 candidates so the words below the line read "OR" "**Below the line** By placing the numbers **1 to 24** in the order of your preference".

My proposal is that the words above the line remain the same. Below the line I would have (for all ballot papers) these words: "OR" "**Below the line** By placing the numbers **1 to 15** in the order of your preference. You may, if you wish, vote for additional candidates by placing consecutive numbers beginning with **16** in the squares opposite the names of those additional candidates in the order of your preference for them." For those who are interested I have sample ballot papers for New South Wales, the Australian Capital Territory and the Northern Territory from the 2013 Senate election which I can show to indicate exactly what I am proposing and how it differs from the ballot papers actually handed to electors in September 2013.

My second proposal for change relates to the registration of political parties. At present registration requires a party to demonstrate that it has 500 members. I propose that the number be raised to 2,000. I propose also to raise the required fee from \$ 500 to \$2,000. Also I think there should be stiffer documentation required to register a party. By making it more difficult to register a minor/micro party the size of the ballot paper could be reduced. I think also that Julia Gillard's late-January calling of the 2013 general election had the effect of increasing the size of Senate ballot-papers. I criticised that calling at the time on the ground of the disrespect it showed towards the Governor-General. As a good constitutional monarchist I cannot imagine that Tony Abbott would make the same mistake in 2016.

My defence of the current Senate system starts with the Australian Constitution which is quite clear on the kind of electoral system the future Commonwealth of Australia should have. Section 7 provides: "The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting as one electorate." Section 24 provides: "The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators."

The words to note are “directly chosen by the people”. Those words command that only candidate-based electoral systems are acceptable and that applies to both the Senate and the House of Representatives. Within that constraint the Parliament may make its own decision, in accordance with section 9 which provides: “The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing senators for that State.”

Technically speaking we have had three electoral systems for our House of Representatives and six for the Senate. These are described in Table 5 for the House of Representatives and Table 6 for the Senate, attached hereto. However, I think it is more sensible to say that we have had three Senate electoral systems which can be described as “winner takes all” (up to 1946), “single transferable vote/compulsory voting/compulsory preferences” (1949 to 1983, inclusive) and “single transferable vote/compulsory voting/ticket preferences” (1984 to 2013, inclusive). I argue that this third system, (the present one, which I call “the second STV system”), has been by far the most successful.

The effects of “winner takes all” were best illustrated by the general elections of 1910, 1943 and 1946. In 1910 Labor carried all six states and so won every one of the 18 seats then contested. In 1943 Labor again won all six states and so won every one of the 19 seats then contested. (The 19th seat was the consequence of a death in Western Australia. In that state the first three elected served the six-year terms. The fourth elected – Dorothy Margaret Tangney – filled the casual vacancy and was thus required to seek re-election in 1946). In 1946 Labor won five of the six states and so won 15 of the 18 seats then contested. The consequence was that, when the electoral system was reformed in 1948, the situation was one of 33 Labor senators sitting on the government benches and three Coalition senators (all elected from Queensland in 1946) sitting on the opposition benches.

So the first of our three systems was a failure. My task now is to demonstrate that the current system (the third) is superior to the second system which operated at general elections from 1949 to 1983, inclusive. At one level my task is easy. As is shown in Table 6 the informal vote has been very low under the current system.

However, given the current propaganda against the system, a more general defence is clearly needed. So, what are the characteristics of a good electoral system? I argue that a good system should, while maintaining the sensible checks and balances of the Constitution, bring a reasonable level of harmony between the House of Representatives and the Senate. On this score the first STV system fell down. There were far too many double dissolutions. These occurred in 1951, 1974, 1975 and 1983. By contrast there has only been one double dissolution under the current system – and it occurred in 1987 which was early in the life of the system. From 1949 to 1983 every change of government occurred at a double dissolution election (1975 and 1983) or, if it occurred at a House of Representatives plus half-Senate election, it was next followed by a double dissolution election (1949 followed by 1951 and 1972 followed by 1974). By contrast under the current system all three changes of government have occurred at a House of Representatives plus half-Senate election, in 1996, 2007 and 2013. So far none of these has produced a double dissolution.

I am struck at how often I hear it said that the current Senate is dysfunctional and that it is all the fault of that dreadful system which first operated in December 1984. My response is to ask the

person to say whether he thinks Australian democracy has been more prone to choose bad policies since 1984 than it was in the period from 1901 to 1984. Almost always the response is that the reverse is the case. That seems a pretty good answer for me. The Australian Parliament has operated better since 1984 than was the case from 1901 to 1984. In that circumstance no reform is needed.

In defending the operation of the current Senate electoral system I begin by considering the Greens. They won three Senate seats in 2007 (one each in Western Australia, South Australia and Tasmania) with nine per cent of the Senate vote. Then in 2010 they won six Senate seats (one from each state) with 13 per cent. At this election they have won three Senate seats (one each in Victoria, South Australia and Tasmania) with 8.6 per cent. So their vote is down but the rotation of senators means they keep nine seats, Scott Ludlam (WA) being defeated but Janet Rice (Victoria) replacing him next July. Purely as an exercise in arithmetic I decided to add together the 1,667,315 Senate votes for the Greens in 2010 to the 1,159,502 in 2013 and express it as a percentage of the combined formal vote of the two elections. In other words over the two elections they won 10.8 per cent of the Senate vote. For that they are rewarded with nine senators which is 11.8 per cent of the Senate of 76. While I am personally sorry that Ludlam has been defeated I say that the Greens have no basis to complain that they have been treated unfairly.

However, the Greens are not the most unreasonable complainers. That title must go to the Liberals in New South Wales who complain that David Leyonhjelm has been elected using the title "Liberal Democrats". From the way they are carrying on one would think he had taken the seat of Arthur Sinodinos. Not so. Sinodinos (Liberal Party, third on the Coalition's joint ticket in NSW) has been elected through the well-worn process of preference harvesting so, in actual fact, Leyonhjelm will take a seat from Labor. Why, on earth, would the Liberals complain about that? It seems to me they should get used to the Liberal Democrats just as the Australian Labor Party has been compelled to get used to the Democratic Labour Party.

Senator Helen Kroger (Liberal, Victoria) and Senator Don Farrell (Labor, South Australia) have each been defeated and I am personally sorry about that. However, let's face it. They are party machine appointees to the Senate, Kroger an accountant from the most blue-ribbon Liberal seat in Melbourne and Farrell a trade union official from Adelaide. Both Kroger and Farrell will have no trouble re-entering the Senate at the next election or earlier if another vacancy arises. The most persistent complaint about the Senate electoral system, however, comes from those who think it is a wicked thing that Kroger should have been defeated by Ricky Muir of the Australian Motoring Enthusiast Party. I think this complaint is quite misguided – as I explain below.

A South Australian friend recently wrote to me an e-mail letter in which he said that "the SA Senate result was a complete shock to me and a clear case of people not getting what they voted for, and demonstrating the need to reform the system." I disagree with him completely and, next time we meet, I shall explain why and explain it in great detail. I go further, however. I assert that the South Australians have given themselves the most capable collection of senators elected for any state. In order of election the senators in question are Cory Bernardi (Liberal), Nick Xenophon (Independent), Penny Wong (Labor), Sarah Hanson-Young (Green), Bob Day (Family First) and Simon Birmingham (Liberal).

Here I must divert myself. I wrote above as though it were a fact that Senator Scott Ludlam had been defeated and would certainly not be a senator from 1 July next year. What actually has happened to me was that I asked my word-processing lady to type up two sets of tables, one to apply if the count

announced on Wednesday 2 October were confirmed and another to apply in the event that the recount reversed the position. Then the debacle of the missing 1,375 votes occurred, the recount did change two places but the High Court is now thought virtually certain to declare the recount result to be absolutely void. Certainly that is my view. There will be a Senate by-election early next year. There is a good chance that the first count will be confirmed and virtually no chance that the recount will be confirmed. Thus Table 2 was drawn up at the time when the order of election for the six senators for Western Australia was David Johnston (Liberal), Joe Bullock (Labor), Michaelia Cash (Liberal), Linda Reynolds (Liberal), Zhenya Wang (Palmer United Party) and Louise Pratt (Labor). I have added the word "predicted" to the table because that is what I predict the by-election will give the result to be.

That result was entirely defensible in democratic terms. However, had the missing votes incident not occurred I would have had no difficulty defending the recount result in democratic terms. As it is I shall have no need to do so. Suffice it to say that on Monday 4 November the positions were declared and Zhenya Wang and Louise Pratt were not among the winners. Instead their places were taken by Scott Ludlam and Wayne Dropulich of the Australian Sports Party. I give Dropulich no chance of winning a seat at the by-election and Ludlam only about one chance in five. For that reason I think it is sensible to treat Ludlam as though he had actually been defeated.

Those who demand radical reform to the system seem to me to be in two categories. On the one hand there are those who are very steeped in the details of the system. I think they are too much preoccupied with individual trees so that they cannot appreciate the beauty of the forest. Then there are those who are peeved for some reason. They think senators who are party machine appointees of the big parties are more worthy than the blacksmith from Ballarat or the sawmill operator from central Gippsland.

Two types of reform have been proposed. One is to place a threshold below a party's vote and cut out any party with less than, say, three per cent. The trouble with that proposal is that it would be unconstitutional. My basis for that assertion is section 7 of the Constitution: "The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting as one electorate." The words "directly chosen" command a candidate-based election. Few people seem to understand this point but the fact is that the present system is candidate-based. Once you put in a threshold you change it to a party-list system and senators would then no longer be directly chosen by the people.

The other proposed reform is to import the system operating for the New South Wales Legislative Council, the details of which I do not have the space to elaborate. I think that is a goer but I shall oppose it. It is true that when it was implemented in New South Wales I did not oppose its introduction so I had best explain why. There have been three successful elections under that system, in 2003, 2007 and 2011, each for 21 members at a half-Council election.

Take the 2003 result. There were 15 groups and 284 candidates. The result of the election was the return of ten candidates from the Labor group, seven from that of Liberal/National and two from the Greens. Then there were elected John Tingle from Group C (Shooters Party) and Gordon Moyes from Group N (Christian Democratic Party). The point is that with 21 to be elected the quota for election is only 4.6 per cent of the vote. Consequently the NSW system does not discriminate against minor parties. Indeed in the present Legislative Council there are 19 from the Coalition, 14 Labor, five Greens, two Shooters and Fishers and two Christian Democrats.

Once you import that system to a Senate election for only six places you WOULD discriminate against minor parties. I do not dispute that radical reform is supported by distinguished electoral analysts. Indeed I seem to be the only one opposed. Nevertheless I still think it is just a means whereby big party machines would take back seats they have lost to smaller parties.

People might think me unreasonable to use the term "radical reform". I say a reform is radical if it is unconstitutional. In the case of New South Wales the system for their Legislative Council is consistent with their optional preferential vote for their Legislative Assembly. It is not consistent in principle with the full preferential vote for the federal House of Representatives which has operated successfully since 1918.

The reality of our recent election (September 2013) is that it showed the existence of a substantial body of Australians who intensely dislike all of the Liberals, the Nationals, Labor and the Greens. That is why there will be eight "other" senators come July 2014. So let me quote the overall percentages and the seats compared with the 1996 election, the last time a Labor government was thrown out of office. (For more detail see Table 8). In 1996 the Coalition won 44 per cent of the Senate vote and 20 of the 40 seats and Labor won 36.2 per cent and 14 seats. That left six for "others". In 2013 the Coalition won 37.7 per cent of the vote and 17 seats and Labor won 30.1 per cent of the vote and 13 seats. That left ten for "others", three Greens, three Palmer United Party, Leyonhjelm, Muir, Day and Xenophon.

I referred above to the blacksmith from Ballarat and the sawmill operator from central Gippsland. There I was referring to John Madigan (elected in 2010, defeating Liberal incumbent Senator Julian McGauran) and Ricky Muir (elected in 2013, defeating Liberal incumbent Senator Helen Kroger). I have met Madigan and was most impressed by him. I have not met Muir but, no doubt, I shall. They are the senators who are disparaged because, it has been alleged, they enjoyed so little electoral support. When radical reform comes they would be out of their seats and replaced by suitable party machine appointees from the Liberal Party who would be lawyers, accountants or merchant bankers living in Kew, Brighton, Malvern or Toorak – unless, of course, Labor takes one of the seats in which case the new senator would be yet another trade union official.

Let me stress again that our Constitution commands we have a candidate-based electoral system. And what were the votes for Ricky Muir and Helen Kroger? Here they are: 17,083 for Muir and 1,456 for Kroger. Who is to say that Kroger has been unfairly done out of her seat? I think the reality is that both Kroger and Muir engaged in preference harvesting – but Muir beat Kroger at that game. I am not offended. I do admit a threshold of three per cent would cut Muir out – since the Australian Motoring Enthusiast Party received only 0.51 per cent of the formal vote in Victoria which was 0.0354 of a quota. Those statistics cut no ice with me.

The reality is that Victoria has become the weak link for the federal Liberal Party. This is true for both the Senate and the House of Representatives. In 1975 the Fraser-led Coalition defeated the Whitlam government in a landslide, while in 2013 the Abbott-led Coalition had the weakest win of the three, with John Howard's 1996 victory coming in the middle. (For those interested in percentages, 36 Labor seats in 1975 constituted 28 per cent of 127, 49 seats in 1996 constituted 33 per cent while 55 seats in 2013 is 37 per cent.)

What is striking about Tables 7, 8 and 9 is that in 1975 there was no state giving Labor a majority of seats in the House of Representatives. In 1996 there was one, the smallest state, Tasmania. By contrast, in 2013 Victoria did give Labor a majority. The Labor and Greens total in 2013 is 20 seats - or 54 per cent of the Victorian seats. The four seats won by Labor in 2013 but not won in 1996 are Ballarat, Bendigo, Chisholm and McEwen. Melbourne is now Green where it was Labor in 1996. It is true that the Liberals in 2013 did re-gain three seats (Corangamite, Deakin and La Trobe) which Labor had won in August 2010 but these were blue-ribbon Liberal back in the days when Victoria was the jewel in the crown of the Liberal Party. (The reason why there are 14 Victorian Liberal seats now compared with 19 in 1996 is that the Liberals in 2013 failed to win Ballarat, Bendigo, Chisholm, Indi and McEwen.)

The reality of Victoria in 2013 is stark for the Liberal Party. Back in November 2007 (an election the Liberals lost nationally) they were able to get three Victorian senators elected, Mitch Fifield, Helen Kroger and Scott Ryan. Then in September 2013 (an election they won nationally) they were not able to get the three elected. Only in Victoria did the Liberals suffer such a humiliation, one which was unimaginable back in the days when Menzies, Fraser and Howard were winning elections. There is a simple explanation. In 2013 the Liberals received only 40 per cent of the Victorian vote which was 2.8 quotas. On the votes they did not deserve to get three senators elected.

Table 10 gives the percentages of Senate votes since 1949 for the Coalition and Labor together with the differences between them. It can be seen from that table and from the various comments I have made above that, if there is one group of people for whose complaints I have no sympathy it is those who support the Coalition. I explain this by pointing out that their Senate vote has declined at each recent election – from 45.1 per cent in 2004 to 39.9 per cent in 2007, to 38.6 per cent in 2010 and, finally, to a mere 37.7 per cent in 2013. As a consequence of their 2004 vote they actually won a Senate majority in the 41st Parliament, John Howard's last term. They were not asking for sympathy then. Their clear over-representation was their right! As a consequence of their 2007 vote they had 37 senators in the Rudd Parliament (from 1 July 2008) so they had 48.7 per cent of the seats for 39.9 per cent of the votes. As a consequence of their 2010 vote they had/have 44.7 per cent of the seats for 38.6 per cent of the votes – 34 senators out of 76 in the Gillard Parliament. As a consequence of their 2013 vote they will have, from 1 July 2014, just 43.4 per cent of the seats for their miserable 37.7 per cent of the vote – 33 senators out of 76. Consequently their over-representation has diminished slightly, from 8.8 per cent in the Rudd parliament, to 6.1 per cent in the Gillard parliament to 5.7 per cent in the Abbott parliament. However, they remain, as always, over-represented.

Finally, this paper has been based upon the assumption of the certainty of a Senate by-election early next year in Western Australia. In the highly unlikely event that it does not occur I shall issue a fresh paper in which Table 2 will include the Sports Party and will not include the word "predicted". I shall also defend the democracy of the result and discuss the decision of the Court. This will be the tenth Senate by-election. Earlier cases were in 1908 (one seat in South Australia), 1963 (one seat in Queensland), 1966 (one seat in each of New South Wales and Queensland and two seats in each of Victoria and Western Australia), 1969 (one seat each in Victoria and South Australia) and 1972 (one seat in Queensland). The 2014 event will be the first case in which half the senators for a state will be elected.

Further Reading

Malcolm Mackerras, 2004, "Prime Ministers and Reform of the Senate", *Upholding the Australian Constitution*, Volume 16, Proceedings of the Sixteenth Conference of the Samuel Griffith Society: 17-50.

Malcolm Mackerras, 2006, "Howard's Strategy for Senate Control", A paper prepared for the Conference *John Howard's Decade* held at the Australian National University, Canberra, on Friday 3 March and Saturday 4 March 2006, pp. 38.

The Parliament of the Commonwealth of Australia, 2009, *Advisory Report on the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008*, Joint Standing Committee on Electoral Matters, Canberra, June 2009, pp 25.

Table 1: State of Parties in the Senate to June 30, 2014

Party	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Labor	5	5	5	4	4	6	1	1	31
Liberal	4	4	4	6	5	4	1	—	28
National	2	1	2	—	—	—	—	1	6
Greens	1	1	1	2	2	2	—	—	9
Xenophon	—	—	—	—	1	—	—	—	1
Democratic Labor	—	1	—	—	—	—	—	—	1
Total	12	12	12	12	12	12	2	2	76

Table 2: Predicted State of Parties in the Senate from July 1, 2014

Party	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Labor	4	4	4	4	3	5	1	1	26
Liberal	4	3	4	6	5	4	1	—	27
National	2	1	2	—	—	—	—	1	6
Greens	1	2	1	1	2	2	—	—	9
Palmer United	—	—	1	1	—	1	—	—	3
Xenophon	—	—	—	—	1	—	—	—	1
Democratic Labor	—	1	—	—	—	—	—	—	1
Liberal Democrats	1	—	—	—	—	—	—	—	1
Family First	—	—	—	—	1	—	—	—	1
Motoring Enthusiasts	—	1	—	—	—	—	—	—	1
Total	12	12	12	12	12	12	2	2	76

Table 3: Formal Senate Votes Cast “Above the Line” and “Below the Line” by Election Year

Election	“Above the Line”		“Below the Line”		Total Formal
	Votes	%	Votes	%	
1984	7,583,583	85.3	1,310,517	14.7	8,894,100
1987	8,125,846	86.7	1,245,835	13.3	9,371,681
1990	9,077,731	91.4	852,034	8.6	9,929,765
1993	10,075,278	94.4	599,527	5.6	10,674,805
1996	10,283,560	94.4	615,477	5.6	10,899,037
1998	10,640,235	94.9	571,668	5.1	11,211,903
2001	11,074,008	95.2	553,521	4.8	11,627,529
2004	11,457,261	95.8	496,388	4.2	11,953,649
2007	12,249,344	96.8	407,461	3.2	12,656,805
2010	12,229,091	96.1	493,142	3.9	12,722,233
2013	12,943,852	96.5	470,329	3.5	13,414,181

Table 4: Formal Senate Votes Cast “Above the Line” and “Below the Line” by Jurisdiction, September 2013

Jurisdiction	Number of Candidates	“Above the Line”		“Below the Line”		Total Formal
		Votes	%	Votes	%	
New South Wales	110	4,284,102	97.9	92,041	2.1	4,376,143
Victoria	97	3,291,314	97.3	90,215	2.7	3,381,529
Queensland	82	2,540,933	97.0	78,528	3.0	2,619,461
Western Australia	62	1,262,010	96.2	49,430	3.8	1,311,440
South Australia	73	970,581	93.5	67,853	6.5	1,038,434
Tasmania	54	302,119	89.7	34,834	10.3	336,953
ACT	27	197,708	80.1	49,034	19.9	246,742
Northern Territory	24	95,085	91.9	8,394	8.1	103,479
Total	529	12,943,852	96.5	470,329	3.5	13,414,181

Table 5: Informal voting at House of Representatives elections

Election	Total votes	Informal votes	Per cent
<i>First-past-the-post/voluntary voting</i>			
1901	514,440	8,468	1.6
1903	739,401	18,463	2.5
1906	988,553	36,865	3.7
1910	1,349,626	27,044	2.0
1913	1,955,723	55,354	2.8
1914	1,726,906	40,143	2.3
1917	1,934,478	51,044	2.6
<i>Preferential/voluntary voting</i>			
1919	1,977,843	68,612	3.5
1922	1,646,863	74,349	4.5
<i>Preferential/compulsory voting</i>			
1925	2,987,200	70,562	2.4
1928	2,728,815	133,730	4.9
1929 ^a	2,957,547	78,297	2.6
1931	3,286,474	114,440	3.5
1934	3,677,723	126,338	3.4
1937	3,699,269	95,928	2.6
1940	3,979,009	102,023	2.6
1943	4,245,369	122,878	2.9
1946	4,453,941	109,197	2.5
1949	4,697,800	93,390	2.0
1951	4,654,406	88,507	1.9
1954 ^a	4,619,571	62,283	1.3
1955	4,525,774	130,239	2.9
1958	5,141,109	147,616	2.9
1961	5,384,350	138,317	2.6
1963 ^a	5,575,977	101,264	1.8
1966 ^a	5,892,327	182,578	3.1
1969 ^a	6,273,611	159,493	2.5
1972 ^a	6,747,244	146,194	2.2
1974	7,535,768	144,762	1.9
1975	7,881,873	149,295	1.9
1977	8,127,762	204,908	2.5
1980	8,513,992	208,435	2.4
1983	8,870,174	185,312	2.1
1984 ^b	9,295,421	630,469	6.8
1987	9,715,428	480,342	4.9
1990	10,225,800	326,126	3.2
1993	10,900,861	324,082	3.0
1996	11,244,017	360,165	3.2
1998	11,545,201	436,138	3.8
2001	12,054,458	580,383	4.8
2004	12,354,983	639,851	5.2
2007	12,930,814	510,822	4.0
2010	13,131,667	729,304	5.6
2013	13,726,088	811,130	5.9

a Separate House of Representatives election.

b Election for the House of Representatives first accompanying the system of ticket preferences for the Senate.

Table 6: Informal voting at Senate elections

Election	Total votes	Informal votes	Per cent
<i>Multi-seat plurality/voluntary voting</i>			
1901	531,428	58,504	11.0
1903	887,312	32,061	3.6
1906	1,059,168	67,318	6.4
1910	1,403,976	64,603	4.6
1913	2,033,251	114,947	5.7
1914	2,042,336	86,649	4.2
1917	2,202,801	86,011	3.9
<i>Preferential block majority/voluntary voting/optional preferences</i>			
1919	2,032,937	175,114	8.6
1922	1,728,224	163,137	9.4
<i>Preferential block majority/compulsory voting/optional preferences</i>			
1925	3,014,953	209,951	7.0
1928	3,224,500	318,667	9.9
1931	3,468,303	332,980	9.6
<i>Preferential block majority/compulsory voting/compulsory preferences</i>			
1934	3,708,578	420,747	11.3
1937	3,921,337	416,707	10.6
1940	4,016,803	383,986	9.6
1943	4,301,655	418,485	9.7
1946	4,453,941	356,615	8.0
<i>Single transferable vote/compulsory voting/compulsory preferences</i>			
1949	4,697,800	505,275	10.8
1951	4,763,915	339,678	7.1
1953 ^a	4,810,964	219,375	4.6
1955	4,914,094	473,069	9.6
1958	5,141,109	529,050	10.3
1961	5,384,350	572,087	10.6
1964 ^a	5,556,980	387,930	7.0
1967 ^a	5,889,129	359,241	6.1
1970 ^a	6,213,763	584,930	9.4
1974	7,410,511	798,126	10.8
1975	7,881,873	717,160	9.1
1977	8,127,762	731,555	9.0
1980	8,513,992	821,628	9.7
1983	8,872,675	875,130	9.9
<i>Single transferable vote/compulsory voting/ticket preferences</i>			
1984	9,331,165	437,065	4.7
1987	9,766,572	394,891	4.0
1990	10,278,830	349,065	3.4
1993	10,954,258	279,453	2.6
1996	11,294,479	395,442	3.5
1998	11,587,365	375,462	3.2
2001	12,098,490	470,961	3.9
2004	12,420,019	466,370	3.8
2007	12,987,814	331,009	2.5
2010	13,217,393	495,160	3.7
2013	13,822,999	408,818	3.0

a Separate Senate election.

**DEFEAT OF FEDERAL LABOR GOVERNMENTS 1975, 1996 AND 2013: SEATS
IN THE HOUSE OF REPRESENTATIVES**

Table 7: Seats Won, 1975

State/Territory	Labor	Liberal	NCP	Independent	Total
New South Wales	17	19	9	—	45
Victoria	10	19	5	—	34
Queensland	1	9	8	—	18
Western Australia	1	9	—	—	10
South Australia	6	6	—	—	12
Tasmania	—	5	—	—	5
Australian Capital Territory	1	1	—	—	2
Northern Territory	—	—	1	—	1
Total	36	68	23	—	127

Table 8: Seats Won, 1996

State/Territory	Labor	Liberal	National	Independent	Total
New South Wales	20	19	10	1	50
Victoria	16	19	2	—	37
Queensland	2	17	6	1	26
Western Australia	3	8	—	3	14
South Australia	2	10	—	—	12
Tasmania	3	2	—	—	5
Australian Capital Territory	3	—	—	—	3
Northern Territory	—	1	—	—	1
Total	49	76	18	5	148

Table 9: Seats Won, 2013

State/Territory	Labor	Liberal	National	Others	Total
New South Wales	18	23	7	—	48
Victoria	19	14	2	2	37
Queensland	6	16	6	2	30
Western Australia	3	12	—	—	15
South Australia	5	6	—	—	11
Tasmania	1	3	—	1	5
Australian Capital Territory	2	—	—	—	2
Northern Territory	1	1	—	—	2
Total	55	75	15	5	150

Table 10: Labor and Liberal-Country Party-National Party Senate Percentages

Election	Labor	Lib-CP-Nat	Excess Lib-CP-Nat over Labor
1949	44.9	50.4	5.5
1951	45.9	49.7	3.8
1953	50.6	44.4	-6.2
1955	40.6	48.7	8.1
1958	42.8	45.2	2.4
1961	44.7	42.1	-2.6
1964	44.7	45.7	1.0
1967	45.0	42.8	-2.2
1970	42.2	38.2	-4.0
1974	47.3	43.9	-3.4
1975	40.9	51.7	10.8
1977	36.8	45.6	8.8
1980	42.3	43.5	1.2
1983	45.5	39.9	-5.6
1984	42.2	39.5	-2.7
1987	42.8	42.0	-0.8
1990	38.4	41.9	3.5
1993	43.5	43.0	-0.5
1996	36.2	44.0	7.8
1998	37.3	37.7	0.4
2001	34.3	41.8	7.5
2004	35.0	45.1	10.1
2007	40.3	39.9	-0.4
2010	35.1	38.6	3.5
2013	30.1	37.7	7.6
Average	41.2	43.3	2.1

Note: cases where excess is 10 per cent or more are shown in bold.

A SUPPLEMENTARY NOTE TO THE PAPER "IN DEFENCE OF THE PRESENT AUSTRALIAN SENATE ELECTORAL SYSTEM"

In my recent paper of the above name released in November 2013 by the Public Policy Institute of the Australian Catholic University there were Tables 3 and 4 dealing with "Above the Line" and "Below the Line" Senate Votes. It has been drawn to my attention that in those tables I used the first count in Western Australia in 2013 when I should have used the second count. It makes very little difference but here are the updated tables using the second count. It is worth noting that "Below the Line" votes in the second count were 701 greater than in the first, 50,131 compared with 49,430.

I decided to ask the Australian Electoral Commission for tables dealing with the 2007 and 2010 elections as well. Here they are.

The AEC included this note to the tables they provided: "The number of 'Above the Line' and 'Below the Line' votes is the number of votes that were counted as formal in that manner i.e. some ballot papers were marked both ATL and BTL: for those ballot papers where the BTL marking is formal, the ballot paper is counted BTL and where the BTL marking is not formal it is counted as ATL if the ATL is formal. It is not possible to provide the number of ballot papers marked both ATL and BTL."

A SUPPLEMENTARY NOTE ON THE WESTERN AUSTRALIAN SENATE COUNT

The final outcome was determined by the count at what is known as the "choke point". The critical candidates were Jamie van Burgel of the Australian Christians and Murray Bow of the Shooters and Fishers.

On the first count van Burgel was excluded, the count being as follows:

Bow	23,515
van Burgel	23,501

That led ultimately to the election of Zhenya Wang of the Palmer United party to the fifth vacancy and of Senator Louise Pratt (Labor) to the sixth vacancy, the votes being:

Pratt	188,718
Ludlam	185,346

On the re-count Bow was excluded, the count being as follows:

van Burgel	23,526
Bow	23,514

That led ultimately to the election of Wayne Dropulich of the Australian Sports Party and of Senator Scott Ludlam of the Greens, the votes being:

Ludlam	200,866
Pratt	166,551

In his blog dated 8 November, and referring to the 1,370 "missing" ATL votes Antony Green wrote: "The new tallies at the critical count would be Shooters and Fishers Party 23,532 and the Australian Christians 23,531."

Since this is a candidate-based election I would express it thus:

Bow	23,532
van Burgel	23,531

The Electoral Commissioner, Ed Killesteyn, this morning on ABC radio referred to "a one-vote difference". That suggests he accepts Green's figuring. Clearly a Senate re-election will occur and I am tipping it will take place on 12 April 2014.

Malcolm Mackerras
9 December 2013

Table 1: Formal Senate Votes Cast "Above the Line" and "Below the Line" by Election Year

Election	"Above the Line"		"Below the Line"		Total Formal
	Votes	%	Votes	%	
1984	7,583,583	85.3	1,310,517	14.7	8,894,100
1987	8,125,846	86.7	1,245,835	13.3	9,371,681
1990	9,077,731	91.4	852,034	8.6	9,929,765
1993	10,075,278	94.4	599,527	5.6	10,674,805
1996	10,283,560	94.4	615,477	5.6	10,899,037
1998	10,640,235	94.9	571,668	5.1	11,211,903
2001	11,074,008	95.2	553,521	4.8	11,627,529
2004	11,457,261	95.8	496,388	4.2	11,953,649
2007	12,249,344	96.8	407,461	3.2	12,656,805
2010	12,229,091	96.1	493,142	3.9	12,722,233
2013	12,941,989	96.5	471,030	3.5	13,413,019

Table 2: Formal Senate Votes Cast "Above the Line" and "Below the Line" by Jurisdiction, November 2007

Jurisdiction	Number of Candidates	"Above the Line"		"Below the Line"		Total Formal
		Votes	%	Votes	%	
New South Wales	79	4,116,995	98.2	76,239	1.8	4,193,234
Victoria	68	3,117,212	97.9	65,157	2.1	3,182,369
Queensland	65	2,352,518	97.3	66,389	2.7	2,418,907
Western Australia	54	1,170,380	97.3	32,370	2.7	1,202,750
South Australia	46	937,905	93.2	68,904	6.8	1,006,809
Tasmania	28	275,112	84.2	51,734	15.8	326,846
ACT	16	186,570	82.8	38,751	17.2	225,321
Northern Territory	11	92,652	92.1	7,917	7.9	100,569
Total	367	12,249,344	96.8	407,461	3.2	12,656,805

Table 3: Formal Senate Votes Cast "Above the Line" and "Below the Line" by Jurisdiction, August 2010

Jurisdiction	Number of Candidates	"Above the Line"		"Below the Line"		Total Formal
		Votes	%	Votes	%	
New South Wales	84	4,059,558	97.8	92,966	2.2	4,152,524
Victoria	60	3,122,603	97.0	96,148	3.0	3,218,751
Queensland	60	2,374,789	96.9	75,722	3.1	2,450,511
Western Australia	55	1,196,446	96.9	37,773	3.1	1,234,219
South Australia	42	950,000	94.1	59,578	5.9	1,009,578
Tasmania	24	263,944	79.8	66,747	20.2	330,691
ACT	9	174,086	75.9	55,186	24.1	229,272
Northern Territory	15	87,665	90.7	9,022	9.3	96,687
Total	349	12,229,091	96.1	493,142	3.9	12,722,233

Table 4: Formal Senate Votes Cast "Above the Line" and "Below the Line" by Jurisdiction, September 2013

Jurisdiction	Number of Candidates	"Above the Line"		"Below the Line"		Total Formal
		Votes	%	Votes	%	
New South Wales	110	4,284,102	97.9	92,041	2.1	4,376,143
Victoria	97	3,291,314	97.3	90,215	2.7	3,381,529
Queensland	82	2,540,933	97.0	78,528	3.0	2,619,461
Western Australia	62	1,260,147	96.2	50,131	3.8	1,310,278
South Australia	73	970,581	93.5	67,853	6.5	1,038,434
Tasmania	54	302,119	89.7	34,834	10.3	336,953
ACT	27	197,708	80.1	49,034	19.9	246,742
Northern Territory	24	95,085	91.9	8,394	8.1	103,479
Total	529	12,941,989	96.5	471,030	3.5	13,413,019