

WHEN DEMOCRACY MEETS POLITICS

RECENT PROPOSALS FOR ELECTORAL REFORM COMBINE DEMOCRATIC IDEALS WITH POLITICAL REALITIES, WRITES POLITICAL SCIENTIST PROFESSOR JOHN WARHURST.

Australians are justly proud of our achievements as a nation in the field of electoral democracy. David Farrell and Ian McAllister open their recent definitive study, *The Australian electoral system: origins, variations and consequences*, by saying: “In the pantheon of representative democracy, Australia has its name stamped on many of the major advances in electoral system design as well as steps towards democratising electoral laws.”¹

When Australia’s contributions are noted they usually include women’s suffrage, the secret ballot, preferential voting and compulsory voting. As Farrell and McAllister point out, it is somewhat ironic, given Australia’s reputation, that we stand out from the pack on a number of matters, including having compulsory voting and the short, three-year term of office of national governments.² Whether this is to Australia’s credit or whether we should fall in with the pack is a matter for debate.

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Professor John Warhurst. Photo: AUSPIC

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Nothing is proved, in any field of public policy, by showing that Australia is out of step with international practice. We could still be right or wrong.

Since 1983 the Joint Standing Committee on Electoral Matters (and its predecessor), in its reports following federal elections, has made a significant contribution to electoral system debate. It has a very broad brief and matters related to the federal election are interpreted widely. The report on the 2004 election follows in this tradition. It includes not only six chapters on the conduct of the 2004 federal election but eight further chapters on “Australia’s electoral system in the new millennium”, including parliamentary terms, voluntary and compulsory voting, voting systems, geographical challenges, technology, campaigning, funding and disclosure, and electoral education.

The content and argument of this report shows that electoral matters, because they are at the heart of democracy on the one hand and of politics on the other, are complex. They can involve both technical discussion of electoral design (“turning votes into seats”)ⁱⁱⁱ and philosophical discussion of the proper relationship between citizens and the state.

This report is about both democracy and politics. It is also about electoral design and political philosophy. It is a mine of information about both the conduct of the 9 October 2004 federal election and contemporary discussion of electoral systems. While few will agree with all of the recommendations (and some will be infuriated)^{iv}, all readers will learn from its technical discussion and informative tables. The whole report, including the minority report and the supplementary comments by two members, should be read together as that is where the most gripping disagreement takes place. For all its virtues probably only a small number of people will read the whole report.

Unfortunately many of these matters are only of minority interest. There is a case for two reports: one specifically on the federal election and another on general matters.

The committee had the Liberals’ Tony Smith (Member for Casey, Vic) as chair and Labor’s Michael Danby (Member for Melbourne Ports, Vic) as

the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 that was introduced into the House of Representatives on 8 December. So it should certainly not be regarded as a dry and dusty document of little consequence.



The 2004 federal election. Photo: AAP

deputy chair. There were five Liberal Party members, four Labor and one Democrats member. As parliamentary insiders, all have a clear self-interest. Within the committee there is a major party disagreement, reflected in two competing reports, and a minor party representative.

The report is a blockbuster document of 465 pages that is difficult to summarise. It includes a majority report of 14 chapters which makes 56 recommendations, as well as a 23 page minority report by the Labor members, a thoughtful two page supplementary by Sophie Panopoulos MP (Liberal) and an extremely broad and very informative 40 page supplementary by Senator Andrew Murray (Democrats). The committee received 221 submissions and conducted public hearings in Dalby, Longreach, Ingham, Brisbane, Tweed Heads, Melbourne, Adelaide, Perth, Canberra (two days), and Sydney. Before too long a number of its recommendations were incorporated in

The report and the bill should be read side by side as they each reflect the governing party’s thinking. They are part of the same mind set and there is no major disagreement, though a number of recommendations, such as four year terms for the House of Representatives and compulsory preferential voting above the line for Senate elections and the abolition of group voting tickets, were not taken up. The bill, as the second reading speech makes clear, contains some reform measures arising from the report as well as some others considered a priority by the government.

The major matters arising from the report that feature in the bill include: the general close of the electoral rolls on the day on which writs for an election are issued (rather than the existing seven days afterwards); removal of voting rights from all prisoners; increase of tax deductibility for donations to political parties from \$100 to \$1,500; numerous provisions to tighten proof of identity for electoral

enrolment; increase the disclosure thresholds for election donations to political parties from \$1,500 to above \$10,000; and disclosure requirements for third parties (non-party groups) that participate in election campaigning. Overall ordinary citizens are treated firmly, while the bigger players are treated generously.

might be called the electoral matters policy community. First and foremost there are the political parties themselves as well as more than a dozen individual parliamentarians. The ghost of the parties walks through the pages. To some extent it is a dialogue within the political party family. Nevertheless, for all the common criticisms of

representing the blind and the disabled made submissions on the benefits of electronic voting. But notably, more general interest groups, such as the business community, are distinguished by their absence although the subject matter is potentially of enormous community significance.

Despite its breadth there are some matters not discussed at sufficient length. These include the wider politics of the timing of the election during school holidays. The choice of election date is the prerogative of the prime minister and thus elections clashing with school holidays may happen again and again unless fixed terms and therefore a fixed election date is adopted. The question of preference deals between parties in the Senate, brought to attention by the surprise election of the Family First Party in Victoria, despite its small primary vote, is only lightly touched upon.

The rights of international travelers and temporary international residents are given almost no attention compared with the difficulties of domestic travelers and rural residents, though the interests of the Australian Defence Force and Australian Federal Police overseas and of scientific teams in the Antarctic are kept in mind. And the discussion of disclosure of donations is unconvincing. The argument for higher levels of non-disclosure is couched in terms of the unlikelihood of donations below \$10,000 “buying influence” when the question really is more of public perception that insiders have greater access to the political process than average citizens.

The report includes fascinating discussion of several controversial aspects of the 2004 election. The first of these was the well-publicised failure of the administration of postal voting in regional Queensland. Several thousand voters were disadvantaged and many were distressed, though ultimately not too much harm was done. The discussion of the administration of postal voting is the best available description of the whole process, including technicalities of which few people would be aware. The report concludes that the AEC management processes were at fault and should be reviewed. The AEC had already begun

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The National Tally Room on election night. Photo: Newspix

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The provenance of the report is crucial to understanding its contents. A great deal of the material was provided in the submissions of the Australian Electoral Commission, which itself was able to present the results of on-going AEC-funded academic projects as well as a consultant's report prepared immediately after the election by Minter Ellison on the vexed question of the delivery of postal votes. While the AEC received pointed criticism of its performance, the committee relies heavily on its input and pays tribute to its frankness.

Perusal of the list of submissions and a reading of the report also shows the reliance of the committee on what

political parties it shows how much democracy and political life is reliant on them at all levels, including the often neglected local electorate level.

Secondly, there are the relatively small number of academic experts on electoral systems, including Prof Brian Costar, Assoc. Prof Malcolm Mackerras, Prof George Williams, Dr Sally Young, the Democratic Audit of Australia at ANU, former Australian Electoral Commissioner Dr Colin Hughes, and ABC commentator Antony Green. There are also special interest groups such as the anti-fraud H.S. Chapman Society, and the Festival of Light. The experts, some of whom have been contracted by the AEC to investigate specialist topics, are quoted extensively in the report but by and large appear to have slight impact, as the subsequent disgruntlement of some of them shows.

Participation by the wider general public is difficult to gauge, though some individuals reported on their difficulties in casting a vote. Groups

to do that with the assistance of a report from Minter Ellison.

The second controversy occurred in the electorate of Richmond, where National Party minister Larry Anthony was narrowly defeated by 301 votes. The Nationals complained to the committee that voters were misled by a Liberals for Forests how-to-vote card that directed preferences away from the Nationals' sitting member. The committee decided that "on the balance of probabilities, the misleading of voters by the Liberals for Forests how-to-vote card caused the defeat of Mr Anthony" (p. 115). Labor's minority report rebuts this conclusion. This case shows that in a close run race misleading of voters may occur, but ultimately voters are responsible for casting their own vote and understanding the consequences.

In this and other cases discussed involving how-to-vote cards the report's presentation would have been vastly improved if the relevant how-to-vote cards had been reproduced for all to see. Furthermore, voters may be misled not just by a how-to-vote card but also by the dress and comments of those party workers who are distributing the cards (as alleged in Melbourne Ports). Such behaviour is impossible to police. Nevertheless the committee is right to confirm (p.123) that how-to-vote cards enhance polling day by "mobilizing democratic participation".

Informal voting for the House of Representatives has been rising consistently since 1993.

Thirdly, the committee rejected complaints made by Labor about allegedly misleading Liberal advertisements and by Greens' leader Senator Bob Brown about allegedly misleading media reports. Ultimately party advertising and media coverage may be misleading in a more comprehensive sense than how-to-vote cards, though the political system has proved itself unable to tackle such problems, as Senator Murray laments.

A fourth issue of considerable wider concern is informal voting. Table 6.1 shows a "concerning



Voting in Antarctica. Photo: Mark Healy, AAP

trend", that informal voting for the House of Representatives has been rising consistently since 1993 and is now 5.2 per cent. In NSW the informal vote was 6.1 per cent. Among the reasons for informal voting appear to be the difference in voting systems between the federal and state levels (for instance, compulsory preferential voting at federal elections and optional preferential voting at NSW elections) and the lack of proficiency in English among some ethnic communities. The AEC is encouraged to increase its existing efforts to reduce informal voting by educational programs.

The general discussions in the second half of the report are often about longer-term matters, although the committee recommends that the proposal for a four year term be put to the Australian people via a referendum at the next federal election. Also recommended, but this time for the committee itself, is a future inquiry by the Electoral Matters Committee into voluntary versus compulsory voting. Perhaps there is life in this perennial issue given some support within the government for the introduction of voluntary voting. The report recommends a trial of electronic voting for blind and visually impaired voters and of remote electronic voting for some Australians serving overseas.

The concluding chapter on electoral education is just a beginning and the committee seeks a brief from the parliament for a

further study of electoral education. This would be welcome so long as too much weight is not put on electoral education as a way of solving all the dilemmas inherent in democracy. Such matters are not a first priority for most citizens and a certain amount of ignorance among citizens is just a fact of life.

This ambitious report is recommended reading, so long as this is kept in mind. Many people will find a lot to chew over in this report, though they may come to the conclusion that the committee has bitten off too much and the quality of its output may have benefited from a somewhat narrower ambit. ■

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- i David M. Farrell and Ian McAllister, *The Australian electoral system: origins, variations and consequences*, University of New South Wales Press, 2006, p. 1
- ii *Ibid*, p.2
- iii B. Costar and D. Woodward, "The party and electoral systems", in *Government, politics, power and policy in Australia*, eds J. Summers, D. Woodward and A. Parkin, Pearson Education, 2002, p. 153
- iv Costar, "Integrity of electoral system not in doubt", *Canberra Times*, 8 December 2005; M. Mackerras, "An informal approach to electoral reform", *Canberra Times*, 23 December 2005