



SUBMISSION – INQUIRY INTO 2013 FEDERAL ELECTION  
Nick Casmirri

This submission discusses two issue areas which have become the subject of much attention following the unprecedented circumstances and outcomes of the 2013 Senate election – options for reform of the Senate voting system, and options for reform of party registration and candidate nomination requirements.

### THE SENATE VOTING SYSTEM

In my view there are three problems with the Senate voting system experienced in 2013.

1. The registered group voting ticket system causing the election of micro-party candidates from exceptionally low primary votes courtesy of extensive preference harvesting arrangements.
2. Record candidate numbers in effect reaching the capacity limits of current ballot paper designs, and generating associated difficulty and confusion for voters due to the large ballot papers and small font sizes.
3. The situation in NSW where voter confusion, exacerbated by the large ballot paper, obviously led to a significant percentage of voters mistakenly voting for the Liberal Democrats instead of the Liberal Party.

These problems have led to results which I'm not alone in believing may not have best reflected the genuine will of the electorate. Without reform we are almost certain to see these problems only escalate.

As widely discussed by others, introducing Optional Preferential Voting for the Senate, along the lines of that currently used in NSW for elections to the Legislative Council and local government, would seem the most straightforward and practical reform option. It is also a system that could be readily adopted in several other state jurisdictions in order to reduce voter confusion from different voting systems.

My personal preference would be to remove the 'above the line' voting option entirely, and require voters to mark at least as many preferences as the number of vacancies to be filled, but with a 'saving' provision that the vote can still be counted if at least a first preference is marked. Candidates could still be listed in groups, but parties/groups would only need to nominate as many candidates as they hope may be able to get elected. By contrast the requirements to qualify for group voting squares currently force smaller parties to nominate additional candidates when they are really only seeking to elect one. Similarly the current system also disadvantages independent candidates, forcing them to form groups in order to gain the 'above the line' square.

This is particularly a concern to me from the perspective of consistency of voting systems, since these issues are far more significant in NSW, where higher numbers of candidates are required in groups in order to qualify for group voting squares. This causes particular problems in local government elections where individual candidates are compelled to nominate slates of supporting candidates in order to form groups, which often means the vast majority of candidates on the ballot paper are really only there to 'make up the numbers'. It can sometimes result in the election of councillors

who did not actually want to get elected and had only nominated to support their lead candidate.

Since I strongly believe that 'above the line' voting should be abolished for local government elections in NSW, it is hence my preference that to keep the voting systems consistent, the same model be adopted at other levels. However I recognise that from a federal perspective these concerns do not appear so relevant, and the greater weight of support is behind a model that retains 'above the line' voting. The most important reform needed is to remove registered group voting tickets and give voters control over their own preferences. The widely supported proposals for optional preferential above and below the line voting are in my view significantly superior to maintaining the status-quo.

There has been some suggestion of imposing a threshold of a certain percentage of the the vote a party would need to obtain in order to be eligible for election. I don't support this option as I believe it is unnecessary. The optional preferential system proposed would in practice stop micro-parties winning seats ahead of parties with much higher primary votes courtesy of preference harvesting, but it would not deny seats to parties with a lower vote if there is a 'genuine' strong flow of preferences to them by the choice of voters.

Another option that could be considered, which would address the issue of ballot paper size, could be to re-orient the ballot paper so that groups were listed in rows instead of columns, and the group voting squares appeared in a column on the left-hand side. This would mean the ballot paper would never be wider than 7 columns (6 candidates in a group + group voting square) in a half-Senate election, or 13 columns in a double-dissolution, but may be able to accommodate far more groups in additional rows. Of course this may create voter confusion due to greater inconsistencies with ballot paper designs in other jurisdictions, unless other jurisdictions were to also switch to this approach.

With regards to the issue of party name confusion and the situation in NSW where the Liberal Democrats clearly gained from their ballot paper draw, I support proposals that the ordering of parties/groups on the Senate ballot paper be determined by the primary vote each party received at the previous election. Since regulating party names has proved difficult, this approach may largely solve the problem by ensuring the most recognised parties will always appear before any smaller parties with potentially confusing names on the ballot paper. A small party whose name could be confused by voters with that of a larger party would thus no longer have the potential to gain from a lucky draw that positions them before the larger party on the ballot paper.

I suggest that firstly parties be ordered according to their primary votes at the previous election, followed by any party with current parliamentary representation that did not contest the previous election (ordered according to the date on which the party was registered), any sitting independents seeking re-election, and then any other parties ordered according to party registration date, followed by unendorsed candidates. This would essentially solve the issue of party name confusion without having to find ways to more tightly regulate party names.

## **PARTY REGISTRATION AND CANDIDATE NOMINATION**

An unprecedented surge in new political party registrations occurred prior to the 2013 election, with still more registration applications since the election.

It is evident that the current Senate group voting ticket preference system has spurred the creation of many of these new parties. The Senate election results bear witness to the way the registered preference tickets give parties the ability to deliver bulk preference votes to other parties and significantly effect the election outcomes. Without reform of the Senate voting system the success of micro-party preference dealings, such as the activities of the Minor Parties Alliance (see here for list of members <http://www.abc.net.au/news/2013-09-05/bitter-dispute-erupts-over-senate-preferences-in-queensland/4939300>), at the 2013 Senate election is likely to further inspire the registration of numerous additional new political parties prior to future elections. We may also see a self-perpetuating cycle where, as more single-issue parties are created, other interest groups believe that they too need to set up a party so that their issue can better compete for political attention.

Although abolition of registered group voting tickets is in my view by far the most important measure that will remove the impetus fuelling much of the drive to register new parties, I do believe there is also a case to consider other reforms of party registration rules.

Whilst there is apparent evidence that many recently registered parties have connections with other parties and may have been largely motivated by the preference system, there are also other trends that have appeared in the recent crop of new party registrations and applications.

In examining the crop of new parties it is clear that the internet and social media has played a significant role in making it easier to recruit the 500 members necessary to register. Modern communication makes it easier than ever for prospective new parties to tap into networks of potential supporters, particularly people interested in specific issues. Many parties offered free membership, and since signatures of members aren't being required by the AEC for registration, these parties have made the joining process practically as simple as signing an online petition. Indeed, I am aware of at least two examples where online petition campaigns were used to harvest contact details of people who were then invited to sign up to help register a new party.

Political party membership in Australia is quite low, and as someone who believes democracy would be strengthened by higher levels of political party membership I would not wish to see party registration rules that would force parties to make their joining processes more difficult. However, given the demonstrated increased ease of recruiting members for new parties it seems appropriate that new parties applying for registration should have a higher bar to jump in terms of fulfilling the membership test. I believe that parties applying for registration should be required to submit signed declaration of party membership forms from each of the members they are relying on for registration, as is the current process in New South Wales.

There has been some discussion of raising the number of members required to register a party from 500 to 2000. Whilst an increase may seem warranted, an increase to 2000, or even 1000, may be a significant disadvantage to any parties based and focused in the territories or the smaller states. For example if a party required 2000 members to register, a Northern Territory based party would need to sign up more than 1.5% of all the enrolled voters in the NT! A requirement for members to sign a specific declaration, as is the case in NSW, would arguably provide a sufficient extra hurdle without creating extra disadvantage for parties from the smaller states and territories. Consideration could potentially also be given to establishing an integrated state/federal party registration system, where federal registration would be based on state/territory registration, with parties only able to nominate candidates in the states/territories for which they are registered. This would enable different membership thresholds in each state/territory that can reflect the differences in population sizes.

Amongst the party registration applications which were rejected by the AEC last year was one 'party' which appeared to be at least to some extent intended as a commercial marketing exercise (<http://www.brisbanetimes.com.au/queensland/election-warwick-capper-to-lead-burger-urge-party-20130726-2qpa5.html>) . This would be a recipe for chaos if such an idea was to catch on. Again a requirement for members to sign specific membership declaration forms may provide a sufficient obstacle to prevent such activities, but additionally some form of restriction on the use of business names in party names may be appropriate.

Another area of reform should be to prohibit a person from being the Registered Officer or Secretary of more than one unrelated party.

Lastly, following the 2010 election the Parliament attempted to raise the bar for candidate nominations by increasing nomination deposits. The massive increase in nominations at the 2013 election demonstrates that this was an ineffective measure. The higher deposit doesn't stop well-resourced parties and candidates, especially those who may be aiming to 'game' the system, but it makes it tougher for parties and candidates that may have deeper community support, but less financial resources. Financial resources are not in my view the most appropriate threshold that should be applied to nominations, rather, for Senate candidates at least, it would seem a more appropriate approach to increase the number of signatures required to nominate. Currently 100 signatures are required, which is the same as for the House of Representatives. Since being a credible candidate for the Senate would seem to require a far more extensive support base, it would seem reasonable that the required number of signatories should be increased to 200 (although on account of population size it may be desirable to keep it at 100 for the territories and Tasmania). The increased number of signatories is a much more direct indicator of a candidate meeting a minimum threshold of genuine support than a financial obligation.

I also believe that candidates endorsed by registered parties should also be required to have their nomination supported by a certain number of nominators enrolled in the relevant state/territory (Senate) or division (House of Reps). I suggest the numbers required be 20 for a House of Representatives seat and 50 for the Senate. In the 2013 election we saw many instances where parties fielded Senate candidates who were from out-of-state. It seems apparent that many of these parties nominated across extra

state/territories in order to participate in multi-state preference deals. Requiring party-endorsed candidates to also have supporting nominators means they have to demonstrate at least a minimum level of active community support in the electorates they are contesting. This seems appropriate and should not present a great difficulty for most parties, but may weed out some micro-parties who may have more difficulty mustering the required demonstration of support, and is again a more appropriate measure than capacity to pay a higher nomination deposit.

### **About the author**

Nick Casmirri is a former member of the Greens NSW (2009-2013) and the Australian Democrats (2003-2004). He has been involved in managing several federal, state and local government election campaigns in various capacities. He has an extensive interest in psephology and has twice been a place-getter in Crikey election tipping contests.