Allowing $^1/_{76}$th of the Voters to Appoint $^1/_{76}$th of the Senate

Upon invitation from the Joint Standing Committee on Electoral Matters conducting an investigation into the conduct of the 2013 federal election and matters related thereto I, Philip Lillingston, publisher of the website *Why Not Proportional Representation?* request that the following proposals be taken into consideration.

Proposals

Main Proposal: **Senators no longer state based**
That the committee suggest to Parliament to pass legislation to hold a referendum to change the Australian Constitution to effect the following:
  A. Section 7 be amended such that Senators of our Federal Government no longer specifically represent, or otherwise are for "each state", but instead are appointed by, represent and act for, the people of Australia as a whole, wherever the Senator, or Australian who voted for him/her, may reside.
  B. Section 7 be also amended to make Senators' terms of office the same as for the lower house.
  C. Section 13 to be amended to remove class distinctions amongst Senators.

Complementary Proposal: Choice of Senate ballot paper for voters
That if the reason the above proposals cannot be adopted is that it would make Senate ballot papers too large, the following suggestions be considered:
  A. Senate ballot papers be divided into two types:
      a. Small and user friendly 'above the line'.
      b. Traditional 'below the line', allowing the selection of candidates in preferential order but also allowing the option to cease marking wherever the voter should wish.
  B. Voters then having the option to take and fill in whichever ballot paper type they so choose.

Perceived Benefits

  1. With resultant lower quota derived from 76 Senate vacancies in only one zone at every election, so called "preference swapping" will become significantly less effective in candidates winning seats, while at the same time not denying any voter the opportunity for one of their direct vote preferences, if not the first, to still be effective.
  2. The fundamental democratic principle of "one person, one vote" will finally become part of Senate elections.
  3. Housing more parties, the Senate will better reflect the full spectrum of political viewpoints held by Australians.

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Supporting Arguments

Winning through Preference Deals

Over 40% of National Vote go to Preferences

One of the main criticisms of the 2013 Senate election related to the preferential system of voting utilised. Where a person's vote did not immediately become part of a quota to elect a candidate, it subsequently went into what may be called, a holding pattern of floating preference votes, which after various attempts, would eventually become part of a quota to elect someone, a candidate often way down on the list and not that well known, if at all, with the voting public. This, allegedly, is because small party preference choices are becoming motivated by strategy rather than what was previously ideological, where always giving your following preferences to the major party you were more aligned with, never won you a seat.

While suggestions of making it even harder for small parties have been made to remedy this perceived problem, possibly the simplest of all has been ignored.

Lower quotas = fewer preference votes

Many of the political parties engaged in preference swap negotiations garner less than 2% of popular support, and yet by current law, to win a seat in the Senate, a quota of 14.3% of the vote must be accrued. At the last election 21 of the 36 states' Senate vacancies were won on only primary vote quotas, meaning that the remaining 15 vacancies, over 40% of the vote, went into this preference-exchange, holding pattern, maze.

The Problem of the High Quota

But why does this quota have to be so high? Suppose there were a single zone, Australia-wide electorate for the Senate where all voters throughout the land were given the same white ballot paper to cast their vote. With 76 seats in the Australian Senate the natural quota is only 1.3%, a fraction of the existing artificial level, and small enough to ensure that almost all primary votes could in fact elect a candidate.

Yes, there would still be some preference votes left over, but far less than the current 41% of the total.

Reasons Given for High Quotas

Rotating Electoral Periods

A rotation system, as exists in most Australian PR electorates, is where at every election only half the seats are up of election, but for twice the electoral period, followed by at the next election, the remaining seats which would at that stage have completed their double electoral term.

The alleged justification for this system is the stability it offers to the parliamentary house it is attached to. "An upper house elected by rotation, with only half of the members facing re-election each time, provides greater continuity of experience and stability. Elections [only] every three years can lead to short-term thinking and planning which may not be in the best interests of the nation"

There are a number of problems with this defence:

1) The premise the argument is based upon is that the public are a fickle lot who are forever changing their representatives at the first whim of displeasure. But history has shown that this is simply not the case. For the Australian House of Representatives, which has three year terms, well in excess of 50% of incumbents at every election, unless retiring after a long period in Parliament, retain their seats. In fact in some democracies the opposite often appears to be the problem. In the United States, constitutional amendments known as *term limit initiatives* have been attempted, with some success, to specifically limit, rather than extend, the tenure of democratic representatives.
2) If indeed the voters are fickle and dismiss an incumbent due to their "short term thinking", cannot those same voters at another time be equally fickle and appoint, for a double period, a representative who quickly turns out to be quite unacceptable? In that case the solution to the first problem undeniably becomes the cause of the second.
3) Stability is very important with regards to executive government: the Prime Minister and cabinet and senior public service. It is not a good sign for foreign investment, domestic business or foreign relations to have the occupants of senior government offices regularly changing hands. However to claim that the seats of the legislature possibly changing political texture every three years, or even less, should be a problem, does seem to be pushing the envelope. Compared to the executive, the actions of Parliament have quite less a direct effect, where often enacted legislation will take a year or more before coming into effect, and then only after being approved by the crown as well as being consistent with the constitution.

Whether or not Parliament attains greater "needed" stability, one thing without doubt is that having only half the seats available at every election doubles the quota needed to win a seat.

Multiple Electoral Zones

The reason for not having the whole country as a single zone for proportional representation, but instead dividing it up into multiple member electorates, (apart from where commentators and politicians unashamedly declare it is to raise the quota so as to deny "extremist" and single issue parties representation) is allegedly to give the voter a compromise between PR and maintaining a (somewhat) local member.

> [It is interesting to note that the proportional representation house is always the one set aside for compromise and not the other. No major party politician has ever suggested that the upper house should have pure, one-zone proportional representation, while the lower house should use a compromise system of local member representation where, instead of one member per local electorate there should be, perhaps three, to accommodate differing points of view.]

But why do we need this compromise here? The very meaning of compromise is to accommodate the interests of both parties. Are not the interests of single member voting and local area representation already fully accommodated in the House of Representatives anyway? In fact doubly accounted for considering it has twice as many representatives as the Senate.

Summary

The arguments made to defend high quotas, the "need" for both multiple zoning and rotating electoral periods, tend to ignore not only the loss of political representation for minorities but also the clarity and confidence gained from elections where preference dealing would play such little effect.

One Person - one Vote, Not

Here: One Person - one Vote,   There: One Person - Fourteen Votes

In 1992 then Prime Minister Paul Keating described Senators as "unrepresentative swill". Whether or not they were swill, he was certainly correct in describing them as unrepresentative. Allegedly to prevent the more populous states dominating the others, Section 7 of the constitution was included to ensure all states shall have equal numbers of Senators. In practice what this has meant is that a state such as Tasmania with a population of 500,000 has as many Senators as NSW with a population 14 times larger. This blatant violation of the tradition democratic concept of

300,000 Tassie voters represented by 12 Senators
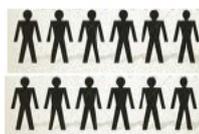
300,000 NSW voters represented by almost 1 Senator

one-person-one-vote was meant to allow more members of parliament in the so called house of review to specifically act for and defend the smaller states. However in practice this has not happened. Politically alignment in the Senate for the last 60

years, if not longer, has strictly been with the nationally established political parties whether from small state or large. In name or in policy platform, there has rarely, if ever, been a "Small States Defender Party" represented in the Senate.

Summary

So if the Constitution were to be changed to rid us of these undemocratic sections we could have an electoral system for the Senate which not only granted every Australian citizen equal voting power, but also granted truly proportional and fair representation to both large parties and small. This done at the moderate cost of removing a constitutional attribute that has never been utilised anyway.

New Senate Ballot Papers

Problem of Tablecloth Papers

If the electoral system for the Senate were to be changed such that the natural 1.3% quota became the real and effective quota, then this would lead to a significant increase in the size of the white Senate ballot paper (the so-called tablecloth paper) to accommodate the expected increase in the number of candidates contesting future elections.

To address this problem a solution could be to:

❖ maintain two types of Senate ballot papers, either of which could be chosen by the voter to fill out: one for the below-the-line voter and the other for the more common above-the-line.

❖ For 'below the line' preferential, allow voting to be optional so that voters, if they so choose, would not have to complete the sequence of in excess of a hundred names to mark off.

Below-the-line ballot papers

These would be similar to traditional ballot papers except that the section for 'above the line' voting would have been removed.

Above-the-line ballot papers

The ballot paper would be of high gsm, hard paper similar to a TAB or Tattslotto card, where the voter would fill out only three boxes (see below), from three listings of the alphabet, to indicate a three letter code representing the candidate or political party he or she chooses. (eg. ALP, LIB, NAT, GRN, DLP)

Cards would be read and sorted by optical character reader (OCR) sorting machines as in Post Office letter distribution centres, and grouped into bundles of (perhaps) 50 according to their respectively marked candidate. After sorting and counting, scrutiny would then consist of party scrutineers randomly choosing a bundle of fifty for an AEC checker to take to a table and, under scrutiny of interested parties, manually recount and check for affiliation.

Points of Note:

❖ Administration Costs
  ➢ According to the ABC Elections website, *Australia Votes 2007*, approximately only 5% of voters vote below-the-line. Thus even though the new below-the-line paper would become even larger, probably only five of them will have to be sorted and counted for every hundred of previous elections.
  ➢ Costs of elections for the AEC and candidates would be cheaper due to:
    ▪ Economies of scale in printing nationwide, rather than previously state wide, both Senate ballot papers and political party how-to-vote flyers as well as media advertising.
    ▪ The average Senate paper would now be the smaller 'above the line' (A.T.L.) one, entailing decreased printing and distribution costs.

❖ User Friendly
  ➢ For those who had forgotten what code to input or who were not carrying a 'how to vote' card, a wall of the voting booth could be filled with an AEC poster listing the political parties and candidates together with their three letter code.
  ➢ For Election Day a simple OCR machine (not a sorter) could be installed at each polling station and be programmed to indicate whether a marked card was formal or informal, without actually indicating who had been voted for. Voters who were not sure if they had marked their card correctly would have the option to run their card through the machine so as to confirm that their vote was valid.
  ➢ With the aid of OCR sorter machines and computers to distribute party preference placements, the choice of 95% of the voters could be ascertained on the night of the election, leaving only the manual counting of the remaining 5% for a later time.

❖ Integrity
  ➢ Less chance of human error with machine counting.
  ➢ Small hard paper ballot papers, being easier to handle, would allow for greater numbers per hour to be randomly checked under scrutiny.
  ➢ A Board could be established to distribute codes to political parties / candidates. Preference would be given to those who could already prove voter recognition. (eg ALP for Labor and GRN for the Greens). Where no recognition could be proved and more than one party applied for a certain code, the preference would be given to the larger party to be judged by such indicators as membership lists or size of petitions to the AEC. Such 'user friendly' codes as ABC, AAA or ZZZ should probably be denied to all.

A.T.L. Ballot Paper

Mark only one box per column.

➢ Due to costs of optical character reader sorting machines, ballot papers would probably need to be taken to central sorting halls for counting rather than be done at each individual voting station.
  ▪ This would also make scrutiny easier for smaller parties who normally don't have the resources to cover every voting booth.

Concluding Summary

❖ As the Encyclopedia Britannica has stated: "The case for proportional representation is fundamentally the same as that for representative democracy. Only if an assembly represents the full diversity of opinion within a nation can its decisions be regarded as the decisions of the nation itself."

❖ The Australian Senate should, as much as feasible, represent all political interests of the Australian people rather than representation be skewered by geographical / regional limitations, areas of which are already accommodated by the House of Representatives anyway.

❖ To intentionally engineer, or refuse to reform, an electoral system which denies minorities political representation violates the principle of the democratic ideal as well as the Australian 'fair go' ethic.

Philip Lillingston