

After the close of poll

Conduct of the count

- 4.1 The delivery of federal election results is of necessity a complex and time-consuming process. There are a number of important checks and balances built into the electoral system that require specified time periods and procedures in order to deliver an accurate and legally sustainable outcome. Notwithstanding this, a number of legislative changes have improved the time frames in which a result can be obtained.¹

Distribution of first preferences

- 4.2 On the night of the election, and immediately after the close of the polls, the Australian Electoral Commission (AEC) officials perform a formality check on the preference markings of all House of Representatives ballot papers. Those ballot papers that pass the formality test are sorted into first preferences, and the results conveyed to the Divisional office. In very safe House of Representatives Divisions, this count may deliver an unequivocal result.²

Two candidate preferred count

- 4.3 In most Divisions the first preference count does not provide an immediate result. Rather than wait for a full distribution of preferences to determine the outcome of the Division, a provisional scrutiny, known as the two candidate preferred count, is implemented.

1 Submissions p S405 (AEC)

2 Submissions pp S405-S406 (AEC)

- 4.4 The two candidate preferred count involves the AEC providing all Divisions before polling day with the names of two candidates for each Division who, on the basis of historical voting trends, are most likely to be in contention in each Division. The Divisional Returning Officer (DRO) provides this information to the Officer in Charge of each polling place in a sealed envelope that is opened after the close of polls. After the distribution of first preferences, second or later preferences are distributed to only these two candidates to give an early indication of the winning candidate.³
- 4.5 In some Divisions it may be very difficult to select the correct two candidates for the two candidate preferred count without first proceeding to a partial or full distribution of preferences:
- ... This situation occurs most often in three cornered contests,... or where the order of exclusion of candidates unlikely to win cannot be determined with any certainty. In these circumstances, marginal Divisions are described as 'close seats'... and special arrangements are put in place by the AEC to manage the count and to provide progressive results.⁴
- 4.6 The two candidate preferred count was undertaken successfully in the 1998 federal election, providing the public and the candidates with an early indication of the likely winner in most Divisions. However, in a handful of Divisions it became clear that the selection of the two preferred candidates by the AEC was incorrect. To avoid misleading observers on possible outcomes, the AEC invoked a program known as 'Maverick' in the computerised Election Night System which repressed all results for those Divisions. This occurred in three Divisions on election night: Bendigo, Lowe and Moore. After election night, the AEC also invoked Maverick in another six Divisions: Hunter, Calare, Wide Bay, Mayo, Curtin and Kalgoorlie.⁵
- 4.7 Concern was expressed about delays in reaching a result due to a miscalculation by the AEC of the two candidates in the two candidate preferred count. Both the Australian Democrats and the Liberal Party were particularly concerned with regard to the Division of Mayo.⁶ The Australian Democrats South Australian Division argues that DROs should have the flexibility to determine which candidates enter the two candidate preferred count.⁷ The AEC indicates that DROs in fact do have the
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3 Submissions p S406 (AEC)

4 Submissions p S408 (AEC)

5 Submissions p S407 (AEC)

6 Submissions pp S228 (Australian Democrats South Australia Division) and S774 (Liberal Party)

7 Submissions p S228 (Australian Democrats South Australia Division)

flexibility to change the candidates in the two candidate preferred count,⁸ and with regard to the Division of Mayo:

...the AEC ... took the best guesstimate on the appropriate candidates for the provisional TCP [two candidate preferred] count using all relevant data. There will always be the possibility that such TCP guesstimates are wrong.⁹

- 4.8 Three submissions received from individuals who were either scrutineers or who spoke to scrutineers indicate some level of misunderstanding about the two candidate preferred count. Mr Don McNaughton, Mr Mark Roberts and the Patriotic Movement of Australia¹⁰ appear to mistake what is an attempt to provide an early indicative result for a Division with an effort by the AEC to reach a predetermined result for the Division by deciding which candidates are eliminated. In fact, as discussed below, the formal count with a distribution of preferences, called the fresh scrutiny, begins the day after the election.
- 4.9 On a matter related to election night, the Liberal Party reports that the AEC provides parties with cumulative results for Divisions based on the percentage of the vote counted. In order to arrive at this cumulative figure, the AEC has to add up the totals from each booth. The Liberal Party believes these individual booth results should be made available to the representatives of registered political parties as soon as the AEC receives the results to assist in the interpretation of election night results.¹¹
- 4.10 In response, the AEC appreciates the interest both the Liberal Party and other political parties have in individual booth statistics but reports that its primary responsibility and priority is to produce a definitive election result.¹² The Committee concurs with the AEC on this point. Delivering a definitive result is the primary goal on election night.

8 Submissions p S1147 (AEC)

9 Submissions p S1186 (AEC)

10 Submissions pp S237 (D.McNaughton), S692 (M.Roberts) and S1106 (Patriotic Movement of Australia)

11 Submissions p S779 (Liberal Party)

12 Submissions p S1189 (AEC)

Fresh scrutiny

4.11 The fresh scrutiny of ordinary votes begins on the Monday after election day, except in 'close seats' where there is pressure for a definitive result. In such cases, the AEC provides additional staff and extra resources to enable the fresh scrutiny to commence immediately.¹³ The fresh scrutiny involves rechecking the formality of the ballot papers and counting to a full distribution of preferences. The result of this scrutiny becomes the proper legal result of the election.¹⁴ The fresh check of formality was a significant factor in the Division of Dickson:

... Many ballot papers with the last square blank were incorrectly assessed at the polling booth on election night as informal, and did not enter the count. At the fresh scrutiny following election night, these ballot papers were correctly reclassified as formal under section 268(1)(c) of the Electoral Act and entered into the count, thus changing the progressive results.¹⁵

Preliminary scrutiny of declaration votes

4.12 The preliminary scrutiny of all declaration votes begins the day after the election. Preliminary scrutiny involves ensuring the eligibility of each declaration voter by a comparison of the personal voter details on the declaration envelope with the Commonwealth Electoral Roll, before the ballot papers are entered into the count.¹⁶

4.13 As the *Commonwealth Electoral Act 1918* (Electoral Act) allows 13 days after polling day for the receipt of postal votes, the preliminary scrutiny process will continue until the last admissible declaration vote is received. This means that in a close contest, the result may hinge on the rate of receipt of outstanding postal votes, and may take up to a fortnight.¹⁷ According to the AEC a major impact on the speed of the count in many Divisions at the 1998 federal election was the unusually high number of postal votes. This meant that in many close seats the count could not be concluded until the 13 day period for the receipt of postal votes had passed.¹⁸

4.14 The 13 day period for the receipt of postal votes ended on Friday 16 October 1998. The Electoral Commissioner has the discretion to extend

13 Submissions p S406 (AEC)

14 Submissions p S406 (AEC)

15 Submissions p S408 (AEC)

16 Submissions p S406 (AEC)

17 Submissions p S407 (AEC)

18 Submissions p S408 (AEC)

this period if he feels that a significant number of postal votes have been delayed, but did not do so on this occasion. A number of outstanding votes were received from Lagos, but these would not have influenced the results in the particular Divisions they were intended for.¹⁹

Declaration of poll

- 4.15 Once all postal votes have undergone the scrutiny stage and been counted, the count is concluded. A full distribution of preferences is undertaken as a final check, and the poll is declared. In those Divisions in which the result is clear from the two candidate preferred count on election night and the declaration votes will have no effect on the result then the declaration can take place earlier.²⁰ The full distribution of preferences in these Divisions will still occur after the receipt of all postal votes.
- 4.16 The AEC recommends a technical amendment to the Electoral Act so that the declaration of the poll for House of Representatives Divisions can take place somewhere other than the Divisional office where nominations were received. This is primarily aimed at allowing enough space for interested parties to attend the declaration, which may not be available in the Divisional office, and reflects current practice for the declaration of the Senate poll.²¹ The Committee accepts this recommendation, although recommends such a decision be made in consultation with all candidates. Senate candidates are notified in writing of the date, time and place of the declaration of the poll.²² If this recommendation is accepted, the same method of notification should be adopted for the declarations of House of Representatives Divisions.

Recommendation 41

- 4.17 **That the *Commonwealth Electoral Act 1918* be amended to allow Divisional Returning Officers some discretion as to the location for the declaration of the poll. All candidates should be consulted prior to the selection of the location.**

19 Submissions p S409 (AEC)

20 Submissions p S407 (AEC)

21 Submissions p S415 (AEC)

22 Submissions p S2509 (AEC)

Recount procedures

- 4.18 At any time after the close of polls to the declaration of the seat, any candidate can request a recount of the votes. Section 279 of the Electoral Act also provides the Electoral Commissioner or the Australian Electoral Officer with a discretionary power to direct a recount. Any request from a candidate for a recount is assessed on its merits. On a general basis, a request for a recount that did not plead a specific case would be refused. In addition, there needs to be a possibility that the result in the Division would change.²³
- 4.19 The AEC had already factored in the possibility of a recount in the Division of Bass considering the history of the Division as a very close seat, and had put special arrangements in place to prevent any delays in reaching a result if a recount were required. In the event, the Australian Electoral Officer exercised his discretion and ordered a recount without a request being received on the basis that the result was so close. The recount took place on 13 October 1998 and the seat was declared on 21 October.²⁴

Scrutiny of Senate ballot papers

- 4.20 On election night, the Senate ballot papers are checked for formality, and the first preference above the line count is conducted after the two candidate preferred count for the House of Representatives. As the Senate is elected on a proportional representation system that requires the striking of a numerical quota based on the total number of votes cast, it is not possible to begin the Senate distribution of preferences until all votes, including postal votes, have been received. Even so, the formality check of ballot papers begins soon after polling day.²⁵
- 4.21 In the past, the Senate scrutiny has taken up to two months in the larger states. However, following amendments to the Electoral Act in 1998, the Senate scrutiny is now computerised, which allowed the delivery of all Senate results by 29 October 1998, about three weeks after polling day.²⁶
- 4.22 The computerised scrutiny of the Senate ballot has changed the traditional physical access scrutineers have had in the past to the striking of the quota and the allocation of preferences for the Senate as this occurs inside the

23 Submissions p S409 (AEC)

24 Submissions p S409 (AEC)

25 Submissions pp S409-S410 (AEC)

26 Submissions p S410 (AEC)

computer. Scrutineers are, however, provided with reports on the computerised scrutiny progress.²⁷

- 4.23 In the year leading up to the introduction of the computerised Senate scrutiny system, the AEC ensured that the major political parties and other interested parties were fully briefed on the computer program and relevant procedures.²⁸
- 4.24 The system inputs and verifies the information on each Senate ballot paper and determines formality. A large number of Personal Computers are installed in each state and territory to accommodate this. When all the ballot paper information has been entered, the system then distributes preferences to provide a list of Senators elected for each state and territory. The AEC reports there is a considerable saving in staff time and resources using this system.²⁹

National tally room

- 4.25 The AEC replaced both its telecommunication and hardware network before the 1998 federal election. At the time the AEC was developing this plan, the government released its initiative in relation to outsourcing of government IT. As a consequence, the AEC mainframe, mid range and desktop computer systems were successfully outsourced to Computer Sciences Corporation.³⁰
- 4.26 Computer Sciences Corporation provided a new telecommunications network for the AEC, and embarked on a program of upgrading all Personal Computers and printers. Prior to the election, the new system underwent significant testing, and the AEC was satisfied that it was more reliable than the system it replaced.³¹
- 4.27 The new system was used on election night to collect and transmit voting information to the media and others in the National Tally Room. The system also provided data feeds to the major television networks and Australian Associated Press, as well as providing terminals for the Prime Minister and Opposition Leader. The election system did not present any difficulties during the night and was able to provide enough quality information for the ABC to predict the election result by 8.00pm EST.³²

27 Submissions p S410 (AEC)

28 Submissions p S410 (AEC)

29 Submissions p S410 (AEC)

30 Submissions p S411 (AEC)

31 Submissions p S411 (AEC)

32 Submissions pp S411-S412 (AEC)

- 4.28 The 1998 federal election saw the National Tally Room returned to its traditional location at Exhibition Park in Canberra. There was greater representation by the media at this National Tally Room than at any previous election. The construction of the National Tally Room ran very smoothly, partially as a result of the consultations and briefings with the media organisations.³³
- 4.29 The AEC had various failsafe measures in place in the event of a computer breakdown. Communication links were duplicated through different Telstra exchanges, and the power source was also duplicated. In addition, there was a manual telephone and fax backup system should the computer system fail. The full computer and backup systems were tested at the AEC rehearsal for the election on the Thursday before polling day.³⁴
- 4.30 On the night at the National Tally Room there were approximately 400 members of the print and radio media; 300 members of the television media; 100 political party representatives; 130 AEC and other staff; and a group of 30 overseas electoral observers. During the evening 2,500 members of the public also visited the National Tally Room.³⁵
- 4.31 The Committee notes that there continues to be concern about the broadcast of election trends and results while Western Australian polling places are still open, a problem caused by the time zones across Australia. The problem is further exacerbated for elections held during daylight saving.³⁶ The Committee can see no simple solution to the problems caused by different time zones.

Compulsory voting

- 4.32 Compulsory voting was first introduced for federal elections in Australia in 1924. As a result, voter turnout increased from 57.9% in 1922, to 91.3% in 1925, and has not fallen below 90% since that time.³⁷ At the 1998 federal election, 95.34% of the 12,154,050 enrolled electors voted.³⁸
- 4.33 A number of submissions were received in the inquiry in regard to compulsory voting. G W Spence and Mr A Beeney advocate the retention of compulsory voting.³⁹ These submissions argue that it is the duty of

33 Submissions p S412 (AEC)

34 Submissions p S412 (AEC)

35 Submissions p S412 (AEC)

36 Correspondence (Senator A.Murray)

37 Submissions p S1203 (AEC)

38 Submissions p S327 (AEC)

39 Submissions pp S2 (A.Beeney) and S214 (G.W.Spence)

each citizen to vote to elect the government. Compulsory voting allows the entire electorate to feel they have a degree of ownership in government and its decisions. It therefore goes some way towards avoiding marginalisation, hostility and a sense of remoteness. The Liberal Party, the Australian Labor Party, the Australian Democrats and Pauline Hanson's One Nation Party also formally support compulsory voting at federal elections.⁴⁰

- 4.34 The majority of submissions received that canvassed this issue were in favour of repealing compulsory voting. There is a concern that indifferent and apathetic voters may alter the end result of an election.

... In the past, some political candidates have just scraped into parliament because of a sufficient number of apathetic and indifferent votes...⁴¹

Instead, these submissions argue that voting should be voluntary and therefore elections would be decided by those Australians who take a genuine interest in the outcome and are concerned about the direction and future of this country.⁴²

- 4.35 There is also concern that compulsory voting is not democratic.⁴³ It is argued that there are very few countries in the world where voters are compelled to vote and all citizens should have a democratic choice to vote or not vote. The Committee notes, however, that while s245(1) of the Electoral Act reads, "It shall be the duty of every voter to vote at each election", it has never been an offence under the Electoral Act to cast an informal vote in the privacy of the voting compartment. Whether the vote is cast formally or informally, the action involved can be regarded as 'voting' for the purposes of the Act.⁴⁴ Therefore, the voter effectively has the option of lodging a protest vote by lodging an informal vote.
- 4.36 Although there are strong views regarding compulsory voting, this Committee has no plans to pursue the issue of voluntary voting.

40 Submissions p S773 (Liberal Party); Transcript pp 33 (ALP) and 323 (Office of the Leader of Pauline Hanson's One Nation Party Qld Parliament); and Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, pp 138-146.

41 Submissions p S60 (A.Emms)

42 Submissions pp S60 (A.Emms), S138A (H.E.Morgan), S229 (R.Kowald), S230 (D.Kitto), S314, S1843 (A.Tuck), S651 (K.Lane), S709 (R.Provan), S1123 (J.Knoss) and Transcript p 315 (J.Stewart)

43 Submissions pp S141 (G.Maskell), S203 (G.Bradney), S207 (N.Kendall), S254 (L.Franzman), S261 (A.Adams), S667 (M.Goldstiver) and S674 (E.Hale)

44 Submissions p S1683 (AEC)

The full preferential voting system

4.37 Section 240 of the Electoral Act provides for full and consecutive marking of preferences on House of Representatives ballot papers. The section reads as follows:

- (1) In a House of Representatives election a person shall mark his or her vote on the ballot-paper by:
 - (a) writing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference; and
 - (b) writing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the person's preference for them.
- (2) The numbers referred to in paragraph (1)(b) are to be consecutive numbers, without the repetition of any number.

Misunderstanding of full preferential voting system

4.38 It is apparent from many of the submissions received that there is widespread misunderstanding amongst Australian voters about how the full preferential system of voting actually works. Common misconceptions include:

- a misunderstanding of how preferences are distributed after the first count, with a common belief that a voter's last preference can be awarded a full vote;
- the belief that the provisional two candidate preferred count on polling night immediately disqualifies all minor parties and independents;
- a belief that a voter must follow exactly the How To Vote card or their vote will be counted as informal;
- voting at federal elections is not compulsory for those over the age of seventy; and
- there also continues to be confusion amongst Australian voters about what constitutes a valid vote in a federal election, particularly in view of the differing voting requirements at state and local government elections.

4.39 The Committee acknowledges the extensive public awareness campaign carried out by the AEC prior to the 1998 federal election (outlined in Chapter 2 of this report), but believes there is a need for a more targeted

education campaign prior to the next federal election to alleviate some of the confusion which currently exists, particularly in relation to the full preferential voting system.

Recommendation 42

- 4.40 **That the AEC conduct targeted public education programs prior to the next federal election, to more fully explain the full preferential voting system for the House of Representatives.**

Concern with current voting system

- 4.41 Linked to this misunderstanding of the full preferential voting system, is concern by a large number of people that an electoral system that produced results such as those in the 1998 federal election is deeply flawed.⁴⁵ There is a strong belief that:

...something is radically wrong and unfair...⁴⁶

with the current system of full preferential voting. It is argued that:

...the present system is specifically designed to favour the major parties...⁴⁷

and is unfair to minor parties as can be proved by the fact that despite recording over a quarter of the vote, the minor parties received no seats in the House of Representatives. In other words, 25% of Australians who did not vote in favour of the major parties have received no representation in the House of Representatives under the present electoral system.⁴⁸

- 4.42 One Nation was a party singled out as the main victim of the current system. There was outrage by many submitters that One Nation polled third in the national primary count, taking 8.5% (approximately 1 million votes) of national primary votes, yet received no seats in the House of Representatives and only one seat in the Senate.⁴⁹ Over 120 letters which were of several similar styles were received during the 1998 federal election inquiry in relation to this issue. A list of these letters is at

45 Submissions pp S288 (A.Hine), S580 (A.Hoile), S640 (W.Latimer) and S1101 (J.Pilarcik)

46 Submissions p S673 (E.Hale)

47 Submissions p S540 (J.DeFredrick)

48 Submissions pp S1 (A.Beeney) and S602 (J.Johnson)

49 Submissions pp S10 (B.Usher), S53 (D.Haselgrove), S64 (B.Boag), S167 (Monarchist Association of South Australia), S188 (Argus International Pty Ltd), S231 (D.Kitto), S237 (D.McNaughton), S258 (O.Darmanin), S288 (A.Hine), S308 (J.McEwen), S314, S1842 (A.Tuck), S541 (J.Turner JP), S573 (L.Shields), S578 (J.Russell), S673 (E.Hale), S1118 (Pauline Hanson's One Nation South Australia) and S1824 (Office of the Leader of Pauline Hanson's One Nation Party)

Appendix B. The result of One Nation was contrasted to other minor parties such as the Democrats and Nationals who obtained a considerable lesser number of primary votes but gained a greater number of seats.

There is something desperately wrong with a voting system where a particular party could get 8.5% of the vote and have no one elected to Parliament and then on the other hand a party can get just over 5% of the vote and have 14 people elected to the House of Representatives...⁵⁰

...We all feel cheated and forgotten by all levels of government.⁵¹

4.43 There was a particular focus on what many consider an unfair result in the seat of Blair, in which Pauline Hanson led at the first preference count but was subsequently overtaken by the Liberal candidate during the distribution of preferences.⁵²

4.44 Many submitters strongly believe the current preferential voting system is open to manipulation and abuse by the major parties.⁵³ There is a common belief amongst many One Nation supporters that:

...this unfair election result was deliberately and skilfully orchestrated by the established parties to keep out One Nation...⁵⁴

Many One Nation supporters believe the current system enabled all the established parties to 'gang up' against the One Nation Party by directing preferences against them by putting One Nation last on their How To Vote cards and advocating publicly, via the mass media, to place One Nation candidates last on the ballot papers.⁵⁵

4.45 The Committee points out that because of single-member constituencies and the preferential voting system there is not necessarily a direct relationship between the total primary votes cast and the number of seats

50 Submissions p S1123 (J.Knoss)

51 Submissions p S254 (L.Franzman)

52 Submissions pp S64 (B.Boag), S138A (H.Morgan), S141 (G.Maskell), S174 (Pauline Hanson's One Nation Logan Branch), S253 (L.Franzman), S541 (J.Turner JP), S593 (P&E.Bingle), S596 (B.Hudson), S606 (C.Bevan), S615 (P.Read), S652 (E.Addision-Baker), S673 (E.Hale), S1109 (M.Horsburgh), S1118 (Pauline Hanson's One Nation Party South Australia) and S1338 (C.Turner)

53 Submissions pp S600 (V.Patricky) and S1343 (K.Lawson)

54 Submissions p S53 (D.Haselgrove)

55 Submissions pp S10 (B.Usher), S22 (A.Usher), S53 (D.Haselgrove), S64 (B.Boag), S182 (J.Nicholas), S207 (N.Kendall), S218 (H.Bolles), S258 (O.Darmanin), S276, S279, S293 (VALUE), S538 (L.DeFrederick), S539 (J.DeFrederick), S541 (J.Turner JP), S607 (Pauline Hanson's One Nation Victor Harbour Branch), S612 (Pauline Hanson's One Nation Brisbane Central Branch), S614 (K.McSweeney), S615 (P.Read), S652 (E.Addision-Baker), S689 (V.Stewart), S706 (G&M.Hoal), S709 (R.Provan), S1101 (J.Pilarcik), S1104-S1105 (Patriotic Movement of Australia) and S1109-S1110 (M.Horsburgh)

won. Each seat is determined according to the individual votes in that individual electorate.

Alternative voting systems

4.46 The concerns with the current voting system led many submitters to suggest alternatives to the current full preferential system of voting.

Optional preferential voting

4.47 The vast majority of submitters offering alternatives to the current system of voting argue in various ways for the introduction of optional preferential voting for both the Senate and the House of Representatives at federal elections.⁵⁶ Optional preferential voting means that the voter is required to put a '1' against the candidate of their choice, but is given the option to number preferences to the extent that they consider appropriate.

4.48 The arguments for optional preferential voting have a long history. Two former Electoral Commissioners, Mr Brian Cox and Dr Colin Hughes, have put their personal support behind such changes in submissions to previous electoral inquiries.⁵⁷

4.49 Mr Antony Green argues that it is logically inconsistent to introduce voluntary voting without also introducing optional preferential voting.⁵⁸ The AEC concurs with this argument.

4.50 Mr Green is a strong advocate of optional preferential voting, arguing that the introduction of optional preferential voting may help to overcome some of the disenchantment with the political process and allow voters to express dissatisfaction with the major parties.⁵⁹ He also believes that full

56 Submissions pp S2 (A.Beeney), S38 (S.Gilchrist), S48 (A.Vaughan), S54 (D.Haselgrove), S63 (R.Shaw), S202 (J.Underhill), S205 (D.Carrington-Smith), S223 (G.Wadsworth), S261 (A.Adams), S277, 279, 293, 1835, 1901 (VALUE), S308 (J.McEwen), S313, S1841 (A.Tuck), S558 (A.Beckett) S568 (S.Jackson), S575 (P.Daly), S592 (H&M.Whitton), S595 (J.Thamm), S616 (W.MacMillan), S619 (G.Grant), S638 (L.Bauer), S640 (W.Latimer), S642, S1846 (J.Dwyer), S648 (C.Griffith), S651 (K.Lane), S673 (E.Hale), S680 (Pauline Hanson's One Nation Nambour and District Branch), S689 (V.Stewart), S691 (Office of the Leader of Pauline Hanson's One Nation Qld Parliament), S694 (F.Gregg), S695 (Pauline Hanson's One Nation Oakey Branch), S696 (S.Gregg), S707 (G&M.Hoal), S1107 (Patriotic Movement of Australia), S1823 (Office of the Leader of Pauline Hanson's One Nation Party) and Transcript pp 311 (J.Stewart), 322 (Office of the Leader of Pauline Hanson's One Nation Qld Parliament), 359-360 (J.Dwyer), 374 (Patriotic Movement of Australia), 379 (J.Hugo), and numerous letters listed at Appendix B.

57 Submissions p S1131 (AEC) and Transcript p 98 (B.Cox)

58 Submissions p S282 and Transcript p 399 (A.Green)

59 Submissions p S283 and Transcript pp 399-401 (A.Green)

preferential voting increases the likelihood of voters resorting to copying How To Vote cards or 'donkey' voting when faced with ten or twelve candidates.⁶⁰

- 4.51 The vast majority of submissions recommending the introduction of an optional preferential system are One Nation supporters who often mistakenly believe that the current system disadvantages their party. Many feel that:

... electors are being denied their choice of a representative in Parliament through the preference system. At nearly every election it can be seen that the candidate gaining the most primary votes in an electorate is beaten by the preferences.⁶¹

Many voters, therefore, object to the full preferential system as it allows their vote to indirectly elect a candidate from either of the two major parties as preferences are distributed.⁶²

As a voter I was angry and annoyed that I was forced to indirectly elect someone whom I consciously rejected...⁶³

... We wonder how many Australians know who they actually voted for?⁶⁴

- 4.52 A number of submitters also believe that full preferential voting is undemocratic and impinges upon freedom of political expression and freedom of choice as it forces voters to preference all candidates.⁶⁵ It is felt by many that the individual should not be required to give even their last vote to a party they are totally opposed to.⁶⁶
- 4.53 Ms Williams prefers optional preferential voting because it allows voters to vote only for those candidates about which they have some

60 Submissions p S282 (A.Green)

61 Submissions p S182 (J.Nicholas)

62 Submissions pp S187 (Argus International Pty Ltd), S204 (D.Carrington-Smith), S223 (G.Wadsworth), S571 (C.Gibson), S573 (L.Sheilds), S584 (L.Johnson), S620 (G.Grant), S669 (D.Perham), S670 (K.Briggs), S680 (Pauline Hanson's One Nation Nambour & District Branch), S690 (Office of the Leader of Pauline Hanson's One Nation Qld Parliament), S708 (M.Sawers), S709 (R.Provan) and S1105 (Patriotic Movement of Australia)

63 Submissions p S689 (V.Stewart)

64 Submissions pp S262 and S577 (Mr&Mrs Baker)

65 Submissions pp S29 (M.Fallis), S32 (S.Gilchrist), S43 (M.Domjanovic), S53 (D.Haselgrove), S59 (A.Emms), S138A (H.Morgan), S139 (D.Knochs), S141 (G.Maskell), S163 (E.Betteridge), S165 (Monarchist Association of South Australia), S202 (J.Underhill), S219 (A.Ellison), S229 (R.Kowald), S262, S577 (Mr&Mrs Baker), S538 (L.DeFredrick), S541 (J.Turner JP), S558 (J.Beckett), S578 (J.Russell), S616 (W.MacMillan), S647 (C.Griffith), S669 (D.Perham), S673 (E.Hale), S687 (M.Horne), S689 (V.Stewart), S694 (F.Gregg), S696 (S.Gregg), S706 (G&M.Hoal), S1123 (J.Knoss) and S1124 (B.Ingle)

66 Submissions pp S43 (M.Domjanovic), S540 (J.DeFredrick) and S699 (D.Holmes)

information. With the increasing number of candidates and the paucity of information about many of the smaller parties, Ms Williams feels that there is no reason why votes should have to preference these people.⁶⁷

- 4.54 Some people called for optional preferential voting to be introduced specifically when marking preferences below the line on the Senate ballot paper, particularly given that preferencing all candidates below the line is becoming increasingly more difficult and time-consuming.⁶⁸ As a result, there is an increased chance of an informal vote and, often, voters are taking the easier alternative and opting for above the line voting.
- 4.55 The Committee notes these arguments for optional preferential voting and particularly acknowledges Mr Green's argument regarding the consistency of introducing both voluntary voting and optional preferential voting at the same time. The Committee, however, believes that there is a strong chance that an optional preferential system will eventually lead to voters casting only one preference as the realisation sinks in to voters that, to indicate second and subsequent preferences, will decrease the possibility that their most preferred candidate will win. The Committee, therefore, is unconvinced that the introduction of optional preferential voting will not result in a defacto first past the post system where candidates can be elected with significantly less than half the vote.

Langer-style voting

- 4.56 In 1983, a wide ranging review of the Electoral Act was conducted by the Joint Select Committee on Electoral Reform. One result of this review was an amendment to s270 of the Electoral Act to allow a House of Representatives ballot paper to be counted as formal if a full set of preferences were expressed by the voter, but there were non-consecutive numbering errors. In order to prevent this clause from being used as an excuse to deliberately cast an optional preferential vote, s329(3) was also added to the Electoral Act to make it an offence to encourage such a vote. During the 1996 federal election, Mr Albert Langer attempted to exploit s270 of the Electoral Act by encouraging this form of voting as a way of casting an optional preferential vote.⁶⁹

67 Submissions p S86 (H.Williams)

68 Submissions pp S31 (S.Gilchrist) and S668 (M.Goldstiver)

69 Australian Electoral Commission. 1998. *Electoral Background, No 7*. Canberra, AEC, pp 2-3.

- 4.57 Many submissions call for a Langer-style vote.⁷⁰ These calls are often based on a misunderstanding that the changes made to the Electoral Act on 17 July 1998 to make illegal the Langer-style vote, were passed deliberately and quietly just before the 1998 federal election with no publicity, public debate or media analysis, to keep out One Nation.⁷¹ Many believe the change to the Electoral Act had a detrimental effect on One Nation's ability to win seats.⁷²
- 4.58 The fact is that Langer-style voting was a way of voting which formerly exploited a loophole in the Electoral Act. It has been an issue for several elections now and was considered by the JSCEM inquiry into the conduct of the 1996 federal election, involving extensive written submissions and public hearings over a period of about a year. Langer-style voting was explicitly addressed in the recommendations for legislative amendments contained in the 1996 federal election inquiry report, and the Bill to amend the legislation was introduced in Parliament on 3 December 1997 and passed on 17 July 1998. That is, the Langer amendments were analysed and debated, on the public record, over a period of two years before they were made into law.⁷³
- 4.59 In addition, immediately on the passage of the *Electoral and Referendum Amendment Act 1998* on 17 July 1998, the AEC published an Electoral Backgrounder (No 7) entitled "Langer-style voting", which explained the concept of full preferential voting and its legislative history, including the effect of the amending legislation on Langer-style voting. The AEC went to considerable lengths to try to ensure that information on the legislative

70 Submissions pp S163 (E.Betteridge), S199 (A.Thornely), S202 (J.Underhill), S203 (G.Bradney), S223 (G.Wadsworth), S230 (D.Kitto), S260 (E.Vaughan), S262 (Mr & Mrs Baker), S272 (J.Dobson), S288 (A.Hine), S313 (A.Tuck), S539 (J.DeFrederick), S577 (L&B.Baker), S584, S2075 (L.Johnson), S598 (A&E.Betteridge), S673 (E.Hale), S677 (A.DiSanto), S690 (Office of the Leader of Pauline Hanson's One Nation Party) and S1094 (P.Cork)

71 Submissions pp S53 (D.Haselgrove), S165 (Monarchist Association of South Australia), S174 (Pauline Hanson's One Nation Logan Branch), S199 (A.Thornely), S204-S205 (D.Carrington-Smith), S223 (G.Wadsworth), S237 (D.McNaughton), S253 (L.Franzman), S261 (A.Adams), S262, S577 (Mr&Mrs Baker), S263 (D.Bruderlin), S289 (J.Hugo), S313 (A.Tuck), S538 (L.DeFrederick), S539 (J.DeFrederick), S541 (J.Turner JP), S558 (J.Beckett), S570 (K.Briggs), S573 (L.Sheilds), S578 (J.Russell), S580 (A.Hoile), S584 (L.Johnson), S592 (H&M.Whitton), S593 (P&E.Bingle), S596 (B.Hudson), S597 (D.Bruderlin), S598 (A.Betteridge), S606 (C.Bevan), S607 (Pauline Hanson's One Nation Victor Harbour Branch), S615 (P.Read), S618 (Pauline Hanson's One Nation Wavell Branch), S647 (C.Griffith), S649 (R.van de Wiel), S651 (K.Lane), S667 (M.Goldstiver), S669 (D.Perham), S677 (A.Di Santo), S687 (M.Horne), S694 (F.Gregg), S696 (S.Gregg), S697 (G.Williamson), S704 (I.Nelson), S709 (R.Provan), S1105 (Patriotic Movement of Australia), S1123 (J.Knoss) and S1124-5 (B.Ingle)

72 Submissions pp S53 (D.Haselgrove), S237 (D.McNaughton) and S311 (J.Stewart)

73 Submissions p S1132 (AEC)

changes was widely distributed and understood by the electorate at large.⁷⁴

- 4.60 The Committee feels this issue has been dealt with sufficiently and does not intend to pursue it any further.

Above the line voting in the Senate

- 4.61 Above the line ('group ticket') voting was introduced in 1984 allowing the voter to mark one preference for a particular party above the line rather than marking preferences for all candidates below the line. Such a vote would automatically follow the party's set distribution of preferences.

- 4.62 There are some concerns about the above the line voting system in the Senate with a number of submitters arguing for the elimination of above the line voting. It is felt that independents are discriminated against under such a system.⁷⁵ An ungrouped candidate is unable to have a box above the line and is also not included in the ballot draw for a position on the voting papers below the line but is automatically placed at the right-hand corner of the ballot paper. Mr Jonathon Polke, who ran as an independent candidate in the Northern Territory at the 1998 federal election describes the system as:

...appallingly undemocratic because it was impossible for me to attract the votes of those who did not wish to vote below the line.⁷⁶

- 4.63 There is also concern that such a system gives political parties a great deal of power to direct preferences to not only select their own party candidates, but also to influence who else gets into the Senate, with the ability to exclude or favour a particular candidate. This results in the majority of Senate vacancies being filled by the will of the political parties rather than the voters.⁷⁷

- 4.64 Another common concern with the above the line voting system is raised by J Moller who points out that:

...to vote above the line for a specified group of candidates is often a blind vote since many voters may be unaware of the group's proposed preference distribution.⁷⁸

74 Submissions p S1132 (AEC)

75 Submissions pp S15 (D.Gudgeon), S48 (A.Vaughan BE), S294 (M.McClure), S628 (E.Lockett), S1467 (J.Polke), S1471 (N.Jamieson) and S1849 (VALUE)

76 Submissions p S1467 (J.Polke)

77 Submissions pp S15 (D.Gudgeon), S30 (M.Fallis), S48 (A.Vaughan), S96 (Australian Democrats Gold Coast Branch), S571 (C.Gibson), S630 (E.Lockett), S668 (M.Goldstiver), S1471 (N.Jamieson) and S1843 (A.Tuck)

78 Submissions p S251 (J.Moller)

It appears information on group voting tickets is not reaching many voters despite the requirement under the Electoral Act for Senate group voting tickets to be prominently displayed, in a poster format, at each polling booth.

- 4.65 The AEC believes the poster format is not appropriate any longer given that the ever-increasing size of the poster makes it both difficult to handle and display in the 7,775 polling booths across Australia, all varying in size and design, and difficult for voters to consult conveniently. Further, it is impractical and expensive to post group voting ticket posters to each individual voter who does not cast a vote in a polling place.⁷⁹
- 4.66 The AEC is of the view that posters should be replaced by group voting tickets in a booklet format. Instead of the Senate ballot paper format, the AEC would prefer a simple column arrangement with candidate names down the left side and party/group name and ticket number across the top, with the preferences shown accordingly in each column. Such a booklet would be much easier to display at the polling booth, could be provided on request to voters for easy consultation, and could be posted to voters who are unable to attend a polling booth.⁸⁰
- 4.67 The Committee notes the acceptance of the above the line voting system, that was preferred by 94.9% of voters in the 1998 federal election.⁸¹ The Committee does, however, believe that voters need to have more ready access to where above the line voting preferences are to be distributed. An effective first step in providing voters with easier access to group voting ticket information would be the AEC's suggestion of displaying group voting tickets in a booklet format. Such a booklet could more easily be provided to electors who request it on or before polling day and to those who are unable to attend a polling booth.

Recommendation 43

- 4.68 **That section 216 of the *Commonwealth Electoral Act 1918* be amended so that group voting ticket information can be provided in booklet format rather than in poster format.**

79 Submissions p S380 (AEC)

80 Submissions p S380-S381 (AEC)

81 Australian Electoral Commission. 1999. *Election Results – National Results Vol 1*, AEC, p 80.

Other alternative voting systems

- 4.69 A number of submissions were received proposing various other alternative voting systems to replace the full preferential voting system.

First past the post system:

- 4.70 A number of submissions were received advocating the introduction of a 'first past the post' voting system where the candidate with the most primary votes wins.⁸²
- 4.71 The Committee points out that under such a system a candidate can be elected even if a majority of voters regard that candidate the worst in the ballot. The Committee, therefore, agrees with Mr Spence who argues that the first past the post system is undemocratic as a member may be totally unrepresentative of the majority of an electorate.⁸³

Proportional voting system:

- 4.72 A number of submissions argue that a system of proportional representation should be introduced into the House of Representatives to ensure that each political group's share of the total vote is more accurately reflected in the composition of the House of Representatives.⁸⁴
- 4.73 The Committee does not believe that a proportional representation system in the House of Representatives would be conducive to the stability of government. In addition, the Australian public is very accustomed to having a local Member of Parliament who is easily accessible and readily available to them.

Primary vote quota system for the Senate:

- 4.74 Mr Antony Green is concerned that since the introduction of ticket voting, the electoral system in the Senate has the potential problem of allowing minor parties to gain election through engaging in complex preference deals despite receiving only a fraction of a quota of primary votes. To avoid such a situation arising, particularly in the event of a double dissolution, Mr Green suggests another step be included in the Senate count, after the initial distribution of surpluses, at which stage all candidates of parties which had less than half a quota would be excluded.

82 Submissions pp S14 (D.Gudgeon), S45 (M.Damjanovic), S138A (H.Morgan), S203 (G.Bradney), S258 (O.Darmanin), S600 (V.Patricky), S651 (K.Lane), S699 (D.Holmes), S706 (G&M.Hoal), S1094 (P.Cork), S1100 (E.Farear) and S1348 (K.Lawson)

83 Submissions p S213 (G.Spence)

84 Submissions pp S22 (A.Usher), S94 (N.Peck), S95-S96 (Australian Democrats Gold Coast Branch), S181 (E.Laurilla), S207 (N.Kendall), S230 (D.Kitto), S308 (J.McEwen), S596 (B.Hudson), S606 (C.Bevan), S656 (The Electoral Reform Society of South Australia) and S707 (G&M.Hoal)

Such a minimum quota system would reward minor parties that build support by agreeing on common platforms and candidates, and campaign for votes instead of preferences.⁸⁵

- 4.75 The AEC has responded by stating that the problem with thresholds of this type is that the level at which they are set is essentially arbitrary. A consequence of such thresholds is that a body of opinion in the community may fail to be represented purely because votes in support of that opinion are divided among two or more parties, none of which reaches the threshold.⁸⁶
- 4.76 The Committee cannot see that introducing such an arbitrary quota system would be an effective solution to the problem. Instead, the measures recommended in Chapter 5, which if implemented will make it more difficult to register as a party, should assist in preventing the mushrooming of numbers of political parties that has taken place at the state level. The Committee could revisit this issue in a future inquiry if the recommendations in Chapter 5 to strengthen the process of registering as a political party prove to be ineffective.

Random/rotated ballot papers:

- 4.77 Some submitters advocate random listing of candidates and names rotated on the ballot papers⁸⁷ as it is argued that:
- ...there would appear to be no valid or unbiased reason to set the placement of candidates names, or groups, on the ballot paper in a preferential way.⁸⁸
- 4.78 The Committee notes in response that the adoption of the 'Robson Rotation' system on ballot papers was considered and rejected by the previous JSCEM on the grounds that:
- ...the provision of effective How To Vote material is the reason why the Committee is not enthusiastic about rotation of names on ballot papers, often put forward as a means of minimising the effects of 'donkey' voting (whereby uninterested voters simply mark '1,2,3,4...' straight down the ballot paper)...⁸⁹
- 4.79 The Committee concurs with this finding and sees no reason to change the current system.

85 Submissions pp S284-S287, S1913 (A.Green)

86 Submissions p S1151 (AEC)

87 Submissions pp S49 (A.Vaughan), S212 (G.Spence) and S1472 (N.Jamieson)

88 Submissions p S49 (A.Vaughan)

89 Joint Standing Committee on Electoral Matters. 1997. *The Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*. Canberra, AGPS, p 94.

'None of the above' box:

- 4.80 Three submissions were received suggesting that voters be offered a separate box at the bottom of each ballot paper called 'none of the above' which would be counted separately from the informal vote.⁹⁰

The 'none' vote would force the major contenders to think seriously about ways to reach people like me, who aren't happy with any of the options on offer.⁹¹

Citizens initiated referendum:

- 4.81 A number of submissions called for some form of Citizens Initiated Referendum such as is practiced in Switzerland.⁹² It was suggested that, especially on moral and ethical issues, such a system, using some form of phone-in voting, would allow for direct input into new laws.⁹³

Weighted preferential system:

- 4.82 A number of submissions suggested a weighted preferential voting system, allocating a weighted value to each preference vote a candidate received based on where that preference was on the ballot paper.⁹⁴

Electronic voting:

- 4.83 A number of submitters feel that the use of a fully computerised system with electronic voting will reduce costs and staffing required, improve efficiency, accuracy and security and prevent fraud.⁹⁵ Quite a large number suggested the AEC make use of the TAB electronic betting grid which is available in every state and territory in Australia for voting electronically.⁹⁶
- 4.84 The Committee does not believe that a computerised system would be an effective measure against security, fraud and efficiency concerns at this time. The concerns voiced by the AEC in their submission to the inquiry into the 1996 federal election are still valid.

With the current levels of technology and a full preferential voting system in Australia, computerised voting is less practical than

90 Submissions pp S26 (P.Norris), S591 (D.Jones) and S710 (R.Provan)

91 Submissions p S26 (P.Norris)

92 Submissions pp S188 (Argus International Pty Ltd), S200 (A.Thornely), S224 (G.Wadsworth), S667 (M.Goldstiver), S710 (R.Provan), S1350 (K.Lawson) and S1472 (N.Jamieson)

93 Submissions pp S188 (Argus International Pty Ltd) and S200 (A.Thornely)

94 Submissions pp S30 (M.Fallis), S248-S251, S1856 (J.Moller) and S1307 (A.Belford)

95 Submissions pp S275 (G.Lee), S276, S278, S292 (VALUE), S308 (J.McEwen), S1095 (P.Cork), S1308 (A.Belford), S1348 (K.Lawson) and S1358 (M.Maleki)

96 Submissions pp S1095 (P.Cork), S1308 (A.Belford) and S1349 (K.Lawson)

paper-based methods. To devise a computerised voting system which could accommodate full preferential voting would require sophisticated and totally reliable computing facilities. In addition, voters would have to handle the equipment, which, even in its simplest forms, would be difficult for a great many voters, especially the elderly and those with poor literacy and numeracy skills.⁹⁷

- 4.85 In addition to this, while computerised voting may ensure the result of an election being known within minutes of the poll closing, the Committee cannot justify the level of public expenditure required to computerise the voting system given that the result in the House of Representatives was clear by 8pm on election night, only two hours after the close of poll for the 1998 federal election.

Independent candidates elected to Senate:

- 4.86 Ms Jamieson suggests that the Senate, as the government's house of review, would best serve Australia if all members were elected as independents, thus unbiased and unfettered by party politics and, preferably, party affiliation. Scrutiny of legislation, policies and administration would be more effective, with less chance of party policies being 'rubber-stamped.'⁹⁸

Conclusion

- 4.87 The Committee notes the contributions of many of the submissions suggesting alternative voting systems, particularly those suggesting optional preferential voting for the House of Representatives, but has not been persuaded that any of the proposed systems would prove more suitable than the full preferential system currently in place. The current system provides for stable majority government in the House of Representatives, coupled with a Senate elected by a proportional representative voting system, with each State having equal representation. While the single-member constituency system in the House of Representatives does not necessarily ensure a direct relationship between seats won and percentage of primary votes across the country, it does have the advantage of offering all Australians ready and easy access to a local Member of Parliament. The Committee therefore agrees with the view of G W Spence who said:

...while our proportional representation and preferential voting systems together with compulsory voting is not perfect, they are

97 Submissions p S1229 (AEC)

98 Submissions p S1471 (N.Jamieson)

probably the best systems available to achieve, as near as possible, a majority view of who should form the government of this country.⁹⁹

