

Committee views and recommendations

- 4.1 This chapter concludes the report, summarising the Committee’s central view of the bill and making recommendations to the Parliament.

A ‘principles-first’ approach

- 4.2 The committee believes that a proper assessment of the merit of the bill must be based on whether the bill would deliver on the laudable principles that underpin it. These principles were clearly articulated in the Second Reading Speech and the Explanatory Memorandum to the bill. They are the same principles that underpinned the Committee’s recommendations in its May 2014 Interim Report. As the Minister stated:

The government is committed to an open and transparent voting system that has integrity, is simple and clear, and provides voters with the ability to express their will to the greatest extent possible and to have their voting intent upheld. The JSCEM is to be commended for its work in identifying the changes that need to be made in our current voting arrangements to achieve this objective in relation to Senate elections in particular.¹

1 The Hon. Scott Morrison, Minister representing the Special Minister of State, Second Reading Speech, *House of Representatives Hansard*, 24 February 2016, p. 23. Parliamentary Joint Committee on Electoral Matters, Interim Report, May 2014, p. 64.

- 4.3 The Committee emphasises that legislators must not be driven by the repercussions that reform may have for parties' place in the political landscape. It is the integrity of the electoral system and process that is paramount. The key issue is to ensure that voters can express the order and the sequence of preferences, simply and transparently.

A significant electoral reform

- 4.4 This bill represents an important and necessary reform to Australia's electoral system. The current system is flawed.
- 4.5 For three decades voters have been herded into the above the line option. The size of ballot papers has increased as more parties and more candidates have competed. Part of this increase reflects the effect of GVTs which have encouraged secretive preference deals leading to the registration of a large number of parties and a large number of candidates BTL.²
- 4.6 The crux of the bill, and its primary significance as a piece of electoral reform, is the abolition of GVTs. By abolishing GVTs, the bill will increase the transparency and integrity of the voting system by removing the complexity of preference harvesting and the secrecy associated with GVTs. Voters will know where their preferences flow – according to the order of candidates for each party according to the ballot paper. It will hopefully also serve to reduce the number of parties by eliminating the incentive for parties to be created for the purpose of preference harvesting.
- 4.7 Abolishing GVTs is, therefore, a highly significant reform that will directly address much of the criticism and disenchantment with the Senate voting system arising from the last federal election. The Committee commends the Government for taking bold and decisive action to end the virulent forms of preference harvesting that has resulted in what is known as 'gaming the system'. This is a powerful change that enfranchises voters.

Voting above the line

- 4.8 The Committee supports the relative simplicity and transparency of the proposed above the line arrangements along with the abolition of GVTs. Voters will now be able to clearly see where, and in what candidate order,

2 Joint Standing Committee on Electoral Matters, *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices*, May 2014 Interim Report, p. 7.

their preferences will flow above the line. The Committee argues that this is exactly as it should be.

- 4.9 The Committee agrees with Professor Antony Green that the bill's savings provision above the line is important. The reform should not render informal the votes of those who vote above the line as they have done (formally) in the past. It is important that the AEC conducts an effective campaign to educate voters in the lead-up to the next federal election. The focus of this campaign must be on what voters should do (number at least 6 boxes) rather than what they can do for their vote to still remain formal.

Below the line voting

- 4.10 The reforms proposed in the bill are not as far reaching as those the Committee proposed in May 2014. Several submitters noted that the bill would not change the current arrangements for below the line voting. The Committee's preferred position was for voters to number a minimum sequential number of preferences equal to the number of vacancies.
- 4.11 The Committee maintains that a system of partial optional preferential voting below the line is the best way to complement the bill's proposal of optional preferential voting above the line. Crucially, voters would be able to choose the same candidates in the same sequence both above and below the line. Further, compared to current arrangements, a partial system below the line would encourage the selection of candidates below the line.

Recommendation 1

The Committee recommends that the Government introduce a system of partial optional preferential voting below the line. It proposes that:

- voters should be instructed on the ballot paper to mark a minimum of 12 preferences to vote below the line; and
- a related vote savings provision for below the line votes be introduced to ensure that any ballot with at least six boxes numbered in a sequential order (starting at '1') be considered formal.

Parties' ordering of candidates

- 4.12 The Committee is aware of concerns that the bill does not end the influence of parties in the Senate voting system. Specifically, it has been noted that the order that candidates appear is effectively a form of

preference harvesting with a subtle form of preference harvesting within parties still allowed.³

- 4.13 The Committee does not accept this view and did not accept this view in its earlier discussion on this issue.⁴ Candidates standing for election with the support of a political party are chosen to represent the views of that party. It is not unreasonable that parties should wish to decide the order in which candidates appear on the ballot paper.

Registered officers

- 4.14 The Committee is pleased to note the restriction to unique registered officers for federally registered parties. The 2013 federal election raised concerns for the voting public about the legitimacy and intent of some of these parties, their manipulation of election outcomes and their contribution to the excessive size of Senate ballot papers.
- 4.15 As the Committee noted in its interim report:
- The combination of ATL voting with GVTs encourages preference deals, which in turn has provided the incentive for the registration of a large number of parties. As a consequence this has also led to a large increase in the number of candidates BTL.⁵
- 4.16 In its interim report, the Committee made a significant recommendation aimed at improving the transparency and integrity of the party registration system. The Government has chosen to only address one part of this recommendation in this bill. This amendment will fix an important omission in the Electoral Act.
- 4.17 Given the scope of the proposed voting reforms, the Committee is satisfied that there is no immediate need to also enact changes to the party registration system. However, this recommendation may need to be revisited after the 2016 federal election.
- 4.18 The Committee urges its successor to review the necessity of these measures in its review of the conduct of the 2016 election.

3 Professor Antony Green, 'Senate reform: why bother enforcing BTL votes to be fully preferential', <http://blogs.abc.net.au/antonygreen/2016/02/senate-reform-why-bother-enforcing-btl-votes-to-be-full-preferential.html#more>

4 Joint Standing Committee on Electoral Matters, *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices*, May 2014, p. 50.

5 Joint Standing Committee on Electoral Matters, *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices*, May 2014, p. 7.

Party logos

- 4.19 The Committee commends the Government for proposing measures to allow for party logos to be printed on ballot papers. In its final report on the conduct of the 2013 federal election, the Committee recognised the merits of this proposal, not only for clarity on ballot papers, but to assist voters with language or literacy issues.⁶ However, it was reluctant to recommend for the inclusion of party logos on ballot papers without having an opportunity to assess the associated copyright and printing ramifications.
- 4.20 The Committee is pleased that these issues have been addressed to the Government's satisfaction and this measure can proceed. This will be a significant improvement to ballot papers particularly for those with literacy difficulties, and for whom English is not a first language, including many Indigenous Australians.

Concluding comment

- 4.21 The Committee highlights its support for the amendments proposed in the bill. The Committee commends the Government for bringing this reform to the Parliament.
- 4.22 However, it retains its view that the will of the voter is best optimised through a combination of 'partial' optional preferential voting below the line and optional preferential voting above the line.
- 4.23 A candidate with a strong policy position who is well known in their community has every chance of being elected. However, a candidate who wishes to be elected on preference deals that 'game' the system will no longer have this opportunity. The Committee believes that this is in line with community expectations.
- 4.24 The Australian Constitution requires that Senators for each state be directly chosen by the people of that state by a method determined by the Parliament.⁷ The Committee is of the view that these reforms place the power for electing senators directly into the hands of voters. This is to be commended.

6 Joint Standing Committee on Electoral Matters, *The 2013 federal election: report on the conduct of the 2013 election and matters related thereto*, April 2015, pp 92-93.

7 *The Constitution*, Part II, section 7, section 9.

Recommendation 2

The Committee recommends that the amendments proposed in Recommendation 1 are incorporated into the *Commonwealth Electoral Amendment Bill 2016*, and that the bill is passed.

David Coleman MP

Chair