

Outdoor Recreation Party Submission

Committee Secretary

Joint Standing Committee on Electoral Matters
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Committee Secretary

RE: Commonwealth Electoral Amendment Bill 2016

The Commonwealth Electoral Amendment Bill 2016 contains several provisions that can only be seen as an attack on the integrity of representative democracy in our federal parliament. Greater time for consideration and implementation is required to deliver changes that serve voters rather than incumbent political interests. Voter intent can be better reflected in alternative changes to electoral law.

Not Democratic!

At the 2013 federal election, several Senators were elected from parties other than the three major parties (Australian Labor Party, the Liberal/National Coalition and The Greens). This was a predictable result as for some time there had been a groundswell of support for minor parties as a reaction to the lack of differentiation between major party policies and dissatisfaction with recent governments decisions. Voters were looking for alternate representation and demonstrated this with nearly 25% of voters casting a vote for a Senate candidate from outside the three major parties.

More importantly, the minor parties have caught up with the preference negotiating skills of the major parties, following the long history of preference deals between major parties such as between the Liberals and Nationals, and between Labor and the Greens.

Furthermore, technological innovations now allow smaller parties, which receive little or no public funding, to get their message out to the electorate.

Complaints that the makeup of the Senate following the election is somehow undemocratic and unrepresentative of the voting intentions of the Australian public have led to proposals to change the voting system.

Amendments in the *Commonwealth Electoral Amendment Bill 2016* seek to address claims that the system needs to be “reformed”. One of the complaints arising out of the 2013 election is that the makeup of the Senate does not reflect the intentions of the voting public. *Figure 1* shows the Senate voting intentions of the public as expressed by valid, first preference votes cast at the 2013 Australian federal election.

The Liberal/National Coalition received 37% of the primary vote, followed by Labor with 30% and The Greens with 9%. While the three major parties account for more than three quarters of the primary vote, this still leaves nearly a quarter of votes for either an independent candidate or a candidate from a party

other than one of the three major parties.

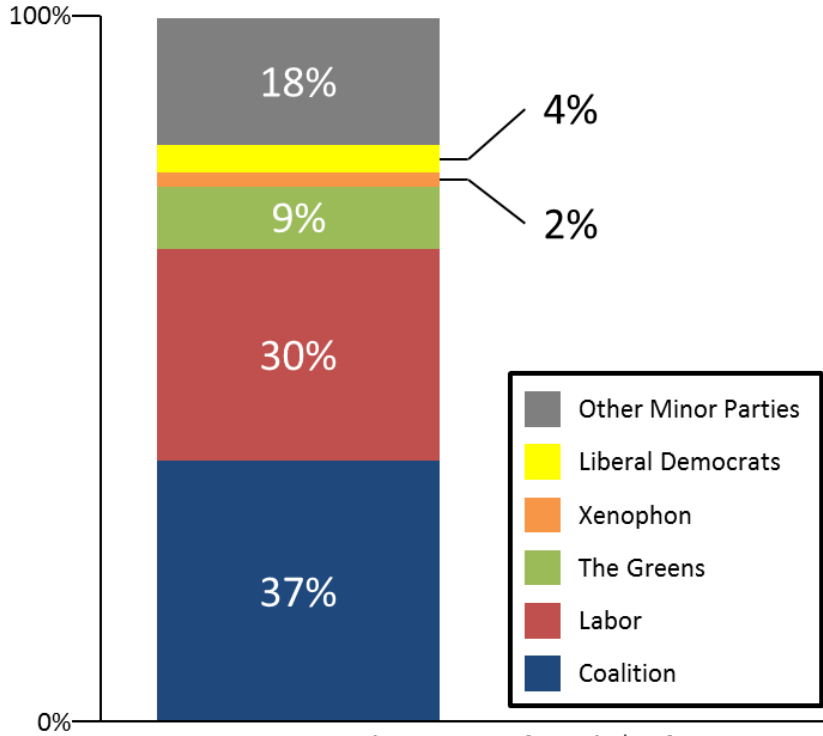


Figure 1: Voting Intention by Percentage of Formal 1st Preference Votes

For any result to be considered fair in terms of proportional representation, the makeup of the mix of senators entering parliament after an election should resemble, as closely as possible, the demonstrated voting intentions of the Australian public. *Figure 2* shows how the primary vote percentages shown in *Figure 1* would resolve to seat numbers if they were applied to the 36 state and 4 territory senators who entered parliament after the 2013 election.

As three quarters of the votes were cast for the three major parties, it would be expected that the major parties hold three quarters of the available seats. The Coalition would receive 15 seats, Labor 12 and the Greens 3. The remaining ten seats would be distributed among the independents and minor parties

according to the flow of preferences.

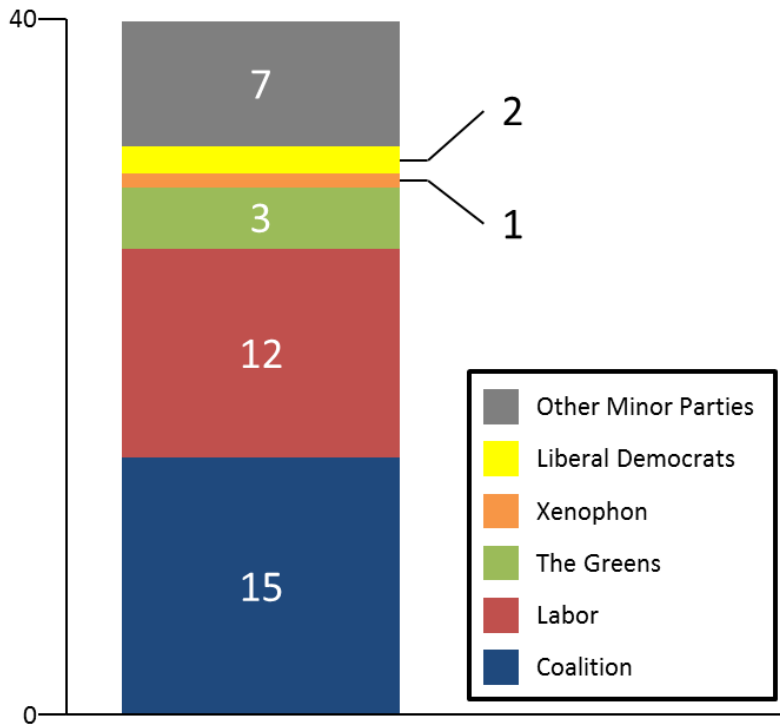


Figure 2: Projected Senate Seats as per Voting Intention

Figure 3 shows the actual makeup of the senate cohort entering parliament after the 2013 election.

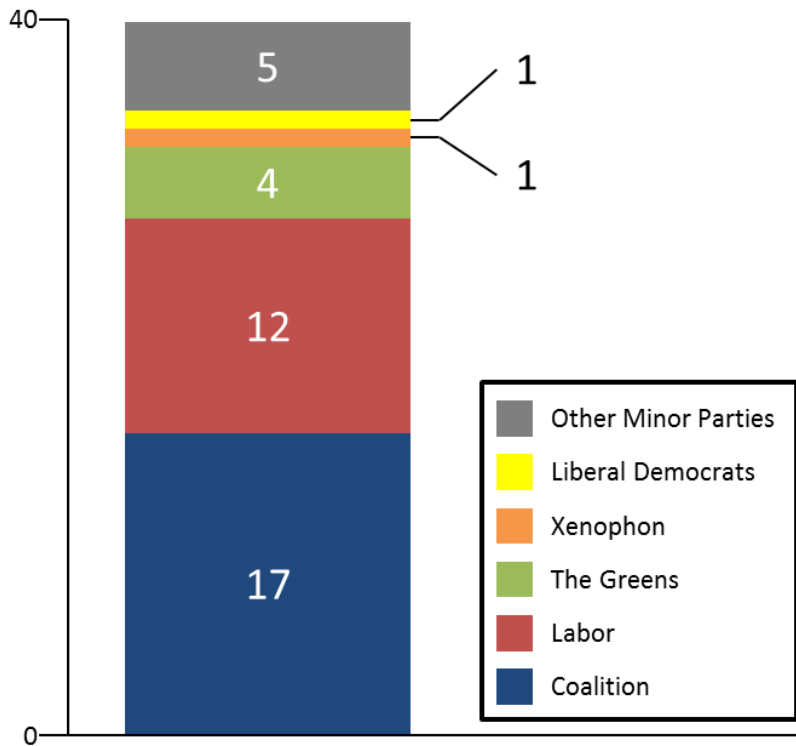


Figure 3: Actual Senate Results Following 2013 Election

It is clear that the primary beneficiaries of any discrepancies between voting intention and Senate seats are the major parties at the expense of minor parties. After the 2013 election the Coalition took 17 seats when it would be expected to take 15, while the Greens took 4 where they would have expected to win only three.

With the Labor party taking its expected 12 Senate seats it is obvious that two Coalition Senators and one Greens Senator have been elected contrary to the voting intention of the public. In proportional terms, those seats should have gone to Senators from outside the major parties. But, after winning 76% of the primary vote, the major parties have been allocated 82.5% of the available Senate positions. While it is apparent that the system is not perfect, it is equally apparent that blaming minor parties for these distortions is fallacious.

The key consideration for the committee is the removal of group voting tickets, to be replaced by preferential voting above the line. Due to the 'savings' provisions, this will default to optional preferential voting and is likely to follow the same course as in NSW, where voting for the Legislative Council is primarily determined on first preferences.

Figure 4 shows the projected makeup of the Senate, following implementation of the proposed changes to Senate voting. Far from correcting any imbalance between voting intention and proportional

representation, the changes will serve to further entrench the bias toward the major parties.

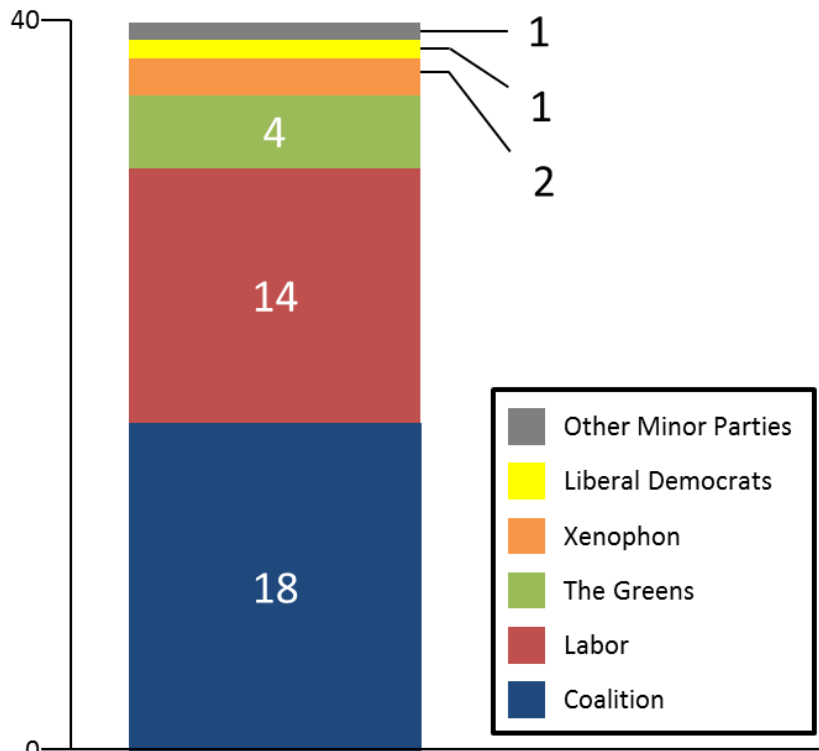


Figure 4: Projected Senate Results Using Proposed System

Consequently, a significant number of votes cast - especially those cast for parties other than the three major parties - will simply exhaust instead of being allocated according to preferences. Where those votes would previously have helped to elect minor party candidates, they will simply not count toward any vote tally once the six candidates that the voter preferred are eliminated from the contest, *ie* the votes will be discarded. As an elector, the idea that your vote will be discounted if you do not vote for the government's preferred candidates should be horrifying.

As a result, the ratio of major party votes to non-major party votes will be artificially shifted in favour of the major parties. Instead of occupying the 76% of seats that would be a fair representation of the population's voting intentions, the major parties will have engineered a system whereby they would occupy a full 90% of senate seats. Effectively the government is attempting to disenfranchise nearly a quarter of Australian voters simply because they don't vote the way the government would like them to.

The Oxford dictionary defines Democracy as "a system of government in which all the people of a state or polity are involved in making decisions about its affairs". For a government to call itself a representative democracy while simultaneously moving to disenfranchise a quarter of electors on the basis of the representatives they might choose makes a mockery of both terms.

The removal of group voting tickets eliminates an easy mechanism for electors to enter a formal, fully preferred vote without having to number up to 110 boxes. The single transferable above-the-line vote is a mechanism that has only increased in its usage by electors since its introduction. It is a nonsense to expect all electors to be fully informed of the policies and positions of up to 50 disparate political parties to the point where they could effectively rank their candidates from 1 to 110. However, voters regularly place their trust in political parties to act in a manner consistent with their underpinning philosophies.

This is the fundamental rationale behind representative democracy. Voters recognise that the single transferable vote model is a vote along party lines. This is borne out regularly by the results of preference flows which clearly show preferences flowing among parties with similar philosophies before trickling to parties with more divergent platforms. A recent example would be NSW Liberal Party Senator Arthur Sinodinos being elected rather than a Greens candidate on the back of preferences from the Climate Change Sceptics, Motoring Enthusiasts, One Nation, Christian Democrats, Shooters and Fishers, and the Fishing and Lifestyle Party. The voters for each of these parties would expect their vote to be used to elect Senator Sinodinos rather than a Greens candidate, and that is what occurred.

While a move toward optional preferential voting is not a bad thing in its own right, if it is introduced at the expense of a simpler and more exhaustive approach (ie the use of group voting tickets) then the net effect is to make voting in the Senate more complex and less comprehensive.

It is telling that the Government’s proposal is to introduce optional preferential voting in the senate, but not in the house of representatives. If the move was in the interests of fairness, then one could only assume that it would be equally fair to allow optional preferential voting in both houses of parliament. As it stands it can only be understood that advocating optional preferential in one house while retaining full preferential in the other equates to the changes being made to secure an electoral advantage for the government rather than a sincere attempt at instilling fairness in the electoral system.

It is also telling that the Government proposes to limit to two the number of party logos that can be displayed in a column, despite there being no limit on the number of parties that can agree to be presented in the one column. This proposal seems tailored to improve the prominence of the Liberal/National Coalition on the Senate ballot.

If we take into account the population discrepancies between states, it becomes increasingly clear that the idea of minor-party Senators somehow being unrepresentative or having too small a voter base to stake a legitimate claim to a Senate seat is demonstrably untrue. *Figure 5* shows the number of Senators per 100,000 voters for each party elected to the Senate after the 2013 election.

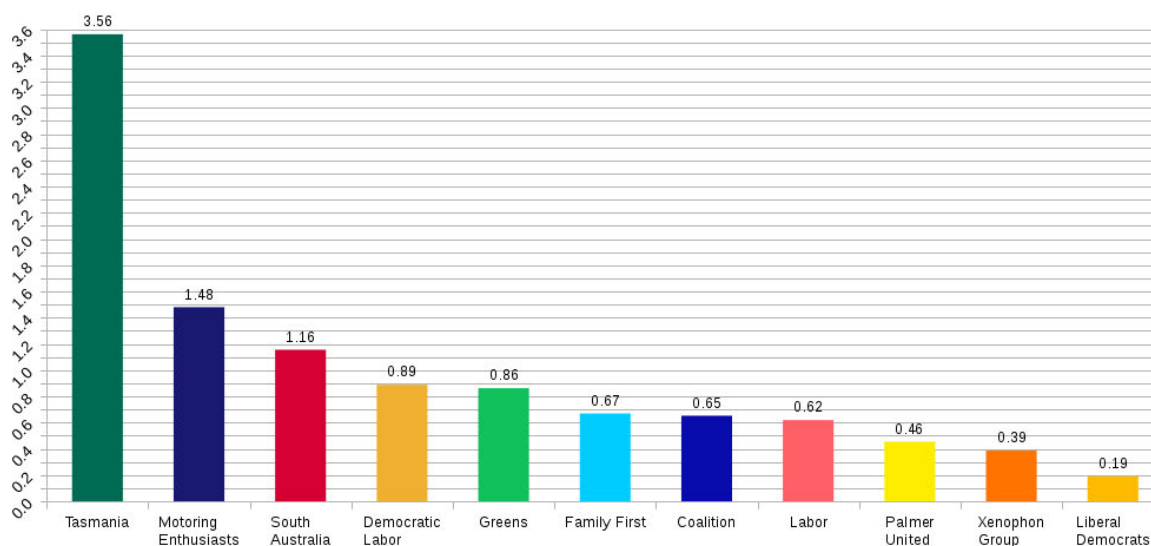


Figure 5: Senators per 100,000 electors, parties contrasted with Tasmania and South Australia

If we take the ultimately-elected Coalition government as the baseline, we posit that a ratio of 0.65 Senators per 100,000 voters constitutes a reasonable degree of representation. The opposition Labor party having 0.62 Senators per 100,000 voters would lend weight to this correlation. From the graph it becomes

apparent that any distortions in representation tend to be a factor related to the population discrepancies between the states rather than from the use of group voting tickets. In 2013 the Family First Party and the Liberal Democratic Party each had one Senator elected. Where Senator Leyonhjelm of the Liberal Democrats was elected in the most populous state of New South Wales, the effective representation of the Liberal Democrats is only 0.19 Senators per 100,000 voters. Meanwhile, Senator Day of Family First was elected from the nation's least populated mainland state of South Australia giving Family First an effective representation of 0.67 Senators per 100,000 voters. Even so, the Greens at 0.86 Senators per 100,000 voters remain less representative than most of the parties elected in 2013.

Contrasting the representation of parties with the representation afforded the least populous states in the nation shows that the people of South Australia are represented by 1.16 Senators per 100,000 voters while the least populous state of Tasmania, having a voter turnout of just over 345,000 electors, ends up having representation of 3.56 Senators for every 100,000 voters, more than double the number afforded the oft-complained-about Australian Motoring Enthusiasts Party.

Hasty consideration! Premature implementation!

The introduction of new voting procedures requires a great deal of work. Not only must the electoral commission retrain staff and reproduce thousands of booklets and other instructions to voters, the voters themselves will require sufficient time to acclimate to an unfamiliar system. The current system with group voting tickets was introduced more than 30 years ago. For any voter under 50 it is the only federal senate voting system they have ever used.

The Joint Standing Committee on Electoral Matters provided its First Interim Report in May 2014, stating "This report has been produced at this time to not only provide the Parliament with the time to legislate change, but to enable thorough and adequate information, education and explanation of the improvements to the voting public well in advance of the next election". Clearly the Government has not heeded the advice of the Committee. A handful of sitting days between introduction and voting on the Bill does not represent "time to legislate". And a handful of weeks between passage of the Bill and the potential calling of an election prevents "thorough and adequate" engagement with voters. The vision of the Committee is clearly being perverted. This seems indicative of a desire to capitalise on voter confusion rather than to make the system fairer.

A future field day for political lobbyists

The electorate comprises many "special interest" groups who have felt that in the past, their needs and requirements for funding or more relaxed legislation, were not being met by government. Indeed, many groups have become frustrated with the complete lack of awareness, as to the particular problems they faced. The cry is often heard that "we're not being listened to" targeted at governments. In the case of Outdoor Recreation Party, our members are involved in four-wheel driving (off road), camping, hunting, fishing, horse riding, fossicking, recreational flying etc. They are met with ever-increasing restrictions, or expensive permits and have felt the need to get politically active.

Similar "specific issues" have motivated other groups to get politically active, such as Voluntary Euthanasia Party, Sex Party, etc

In the past the democratic process was best served by having such groups focus on their particular minor party Senator, who may have been elected through an exchange of preferences, but who sits in Parliament ready to represent those groups.

If, as will surely happen, minor parties no longer represent those groups, those special interests will be lost within the power/policy structure of one of the three major parties.

So, this will surely lead to more active (and aggressive) approaches from political lobbyists, beating a path to the doors of various elected Senators, in the hope that their problems will be heard and addressed.

Recommendation 1:

That the bill in its current form be rejected.

Recommendation 2:

That any changes to the electoral system be deferred until 2017 to allow a sufficient timeframe for AEC staff training and general voter awareness.

Recommendation 3:

That in all instances, group voting tickets be retained as an option for voters, to maximise voter choice and continue to empower the voter to delegate their preferences to the party if they choose to do so.

Recommendation 4:

To again empower the voter and maximise voter choice as above, that the formality requirements for below the lines be relaxed to require a unique first preference only, and that a recommendation on the ballot paper to those who choose to vote below the line to vote from at least 1 to the number of vacancies.

Yours sincerely,

Peter Whelan

President

Registered Officer

Outdoor Recreation Party