

Voting systems

- 9.1 This chapter considers the nature of the voting systems used for Federal House of Representatives and Senate elections. Specifically, it discusses the arguments surrounding the complexity of preferential voting systems and the impact of such systems on voting behaviour and electoral outcomes.

Introduction

- 9.2 The *Commonwealth Electoral Act 1918* (CEA) governs the requirements for voting in Federal Elections.

House of Representatives voting

- 9.3 In accordance with subsection 240(1) of the CEA, a valid vote for the House of Representatives is cast 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.

- 9.4 The numbers placed in the boxes on the ballot form must be consecutive, and must not repeat any number.¹ Further, no more than one square may be left blank, and only where this reflects the voter's last preference.²
- 9.5 If a voter does not follow the requirements in section 240, the ballot paper will be informal, and the vote will not count, except in very specific circumstances.³

Senate voting

- 9.6 The processes used for voting for the Senate are different because of the different electorate structure. Rather than a number of candidates vying for one House of Representatives seat, a number of candidates compete for a number of vacancies (currently six for each State at a half-Senate election, or twelve in the case of a double dissolution election, and two for each Territory). Parties or groups of candidates can request to be grouped on the Senate ballot paper⁴, where preferences automatically flow to the candidates in a group, in the order in which they are printed on the ballot paper.
- 9.7 Subsection 239(1) of the CEA states that a person may vote in a Senate election 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.
- 9.8 Other provisions of the CEA, however, allow a valid vote to be cast above the line on the Senate ballot paper:

1 *Commonwealth Electoral Act 1918* (CEA), subsection 240(2).

2 Submission No. 165, (AEC), Attachment A, AEC, *Informal Vote Survey, House of Representatives, 2001 Election: Research Report Number 1, 2003*, AEC, 2003, p. 24.

3 For example, section 268, CEA provides that where there are only two candidates, and the voter has placed "1" in one box and left the other blank, the vote will still count as the blank box is deemed to reflect the voter's last preference, so the voter has indicated their preference for all candidates on the ballot paper.

4 See CEA, section 168.

A vote may be marked on a ballot paper by writing the number 1 in a square (if any) printed on the ballot paper under subsection 211(5) or 211A(6).⁵

Where a voter has marked a tick or cross in a square printed on a ballot paper under subsection 211(5) or 211A (6), the voter shall be regarded as having written the number 1 in the square.⁶

- 9.9 Voters may vote for a political party or group by putting the number “1” in one box only above the line on the Senate ballot paper. Each box above the line represents a group of candidates. By casting a vote this way, voters indicate that they adopt the Group Voting Ticket that the party or group has lodged with the AEC, so all the preferences will be distributed according to the Group Voting Ticket.
- 9.10 The registration of groups for above-the-line voting requires each party to lodge with the AEC at least one Group Voting Ticket, which outlines the flow of preferences upon their party receiving a single vote above the line. Parties and groups may lodge more than one Group Voting Ticket, indicating different preference allocations.
- 9.11 Where an individual, in error, votes accurately both above and below the line on the Senate ballot paper, the below the line vote takes precedence and will be counted. If the below-the-line vote is informal, then the vote will be counted as formal above the line.

The preferential voting system

- 9.12 As outlined above, elections for both the Federal House of Representatives and the Senate are held under compulsory preferential voting systems. Compulsory preferential voting is sometimes referred to as “full preferential voting”.
- 9.13 Under this system, voters are required to express preferences for each individual candidate on the ballot paper for their vote to be counted as formal. If a voter chooses to vote below the line in the Senate, they must provide preferences for every candidate on the ballot paper if their vote is to be formal. Note, however, that voting above the line in the Senate

5 CEA, subsection 239(2); Subsections 211(5) and 211A (6), govern the use of Group Voting Tickets in the Senate, where voters are allowed to vote above the line.

6 CEA, subsection 239(3).

requires the voter to provide only one preference (otherwise known as a Single Transferable Vote [STV]).

- 9.14 Preferences on the House of Representatives ballot paper and in below-the-line voting for the Senate operate to ensure that the candidate who is successfully elected is the one who received the highest combined number of votes, both primary votes and those flowing from preferences. The difference between a preferential voting system and “first past the post” voting is that the flow of preferences ensures that a candidate cannot be elected without securing at least 50% of the total formal votes for an electorate. It is for this reason that it is argued the preferential voting system most accurately represents the will of the electorate.⁷
- 9.15 In the Senate, the flow of preferences for above-the-line voting works differently. Under the STV approach, parties are required to lodge at least one (but up to three) Group Voting Tickets with the AEC before an election. These Group Tickets state how preferences will flow for each party in the event that a voter votes “1” only above the line. Votes cast for a single party above the line flow to the candidates as they appear below the line on the ballot paper.
- 9.16 The Liberal Party and the Nationals are of the view that the current Group Voting Ticket arrangements in the Senate work well, and that voters can be adequately informed about the lodgement of preference flows, or they can choose to vote below the line to redirect their preferences elsewhere.⁸ The Liberal Party of Australia commented that its position was that:

lodged tickets for Senate elections work well. We seek no change to that... simplicity with regard to the Senate ticket is important. The current system has been in place for a number of elections, and we believe it has worked well. We see insufficient evidence at the moment to give us concern to argue for a change.⁹

Concerns about the preferential voting system

- 9.17 Over recent times, a number of concerns have been expressed about the operation of compulsory preferential voting systems. Key issues raised with the Committee in this context were:
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7 Submission No 125, (Festival of Light Australia), p. 5.

8 Mr A Hall, Federal Director, The Nationals, *Evidence*, Monday, 8 August 2005, p. 64.

9 Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005, p. 30.

- informal voting;
- false preferencing;
- dictated Senate preferencing;
- preference harvesting; and
- disadvantaged independents.

Informal voting

- 9.18 Some witnesses suggested that the current compulsory preferential voting system in both the House of Representatives and below the line in the Senate is related to a high incidence of informal votes.¹⁰
- 9.19 There has been a trend to increased informal voting in the House of Representatives over the past 20 years (see Table 1.5 in Chapter 1).¹¹ The level of informal voting in the Senate appears to have declined because of the increased prevalence of the above-the-line vote, which does not require the direction of preferences.
- 9.20 This section largely discusses House of Representatives voting, but these issues also have currency for below-the-line votes in the Senate.
- 9.21 The compulsory preferential voting system is considered a factor in informal voting because its application is inconsistent between the House of Representatives and the Senate, and also with some voting arrangements at State, Territory and local government levels.¹² The different arrangements are outlined in Table 9.1 below. The outcome is that not all voters know how to record their vote when they come to a Federal Election.
- 9.22 The differences in the systems employed by the House and the Senate are considered to be a cause of informal voting.¹³ Requiring voters to use two different voting systems on the same day will almost inevitably lead to mistakes in votes and, therefore, a higher informal vote. It is possible, for example, that some voters vote only “1” on their House of Representatives ballot paper because they complete the Senate ballot first and then mistakenly complete the House ballot in the same way.¹⁴ According to Mr

10 See Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 2; Submission Nos 69, 170, & 145.

11 See also Submission No. 69, (Prof. C Hughes), pp. 2-3; and Submission No 73, (Mr A Green), pp. 21-34 for details of voting formality by State at the 2004 Federal Election.

12 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 40; Submission No. 73, (Mr A Green), p. 10.

13 Submission No. 118, (Mrs D Vale).

14 Mr T Smith, *Transcript of evidence*, Friday, 12 August 2005, p. 42.

Antony Green, the ABC's expert election analyst (who submitted and appeared in a private capacity):

the ticket voting system applying in the Senate is what is causing people to vote just No. 1 in the lower house, because they are using the same voting system.¹⁵

Table 9.1 Voting systems for Australian parliaments

Jurisdiction	Legislature	Method of voting
Commonwealth	House of Representatives	Compulsory preferential
	Senate	Single preference above-the-line OR compulsory preferential below-the-line
NSW	Legislative Assembly	Optional preferential
	Legislative Council	Optional preferential proportional: one or more preferences above-the-line OR at least 15 preferences below-the-line
Victoria	Legislative Assembly	Compulsory preferential
	Legislative Council	Proportional representation: single preference above-the-line OR at least 5 preferences below-the-line
Queensland	Legislative Assembly	Optional preferential
South Australia	House of Assembly	Compulsory preferential
	Legislative Council	Single preference above-the-line OR compulsory preferential below-the-line
Tasmania	House of Assembly	Hare-Clark: STV with at least 5 preferences marked
	Legislative Council	
Australian Capital Territory	Legislative Assembly	Hare-Clark: STV with preferences numbering at least the number of vacancies
Northern Territory	Legislative Assembly	Compulsory preferential

Source Australian and state electoral office websites¹⁶

9.23 There is also evidence of a higher incidence of voting "1" only on House of Representatives ballot papers in New South Wales and Queensland when compared with other states.¹⁷ As outlined in Table 9.1 above, New South Wales and Queensland employ optional preferential voting systems for their state elections, where voters may vote only "1" if they choose to do so.

15 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 44.

16 See also Submission No. 97, (Democratic Audit of Australia), pp. 9-10.

17 See Mr A Green, *Evidence*, Friday, 12 August 2005, p. 40; and Submission Nos 52, 97, 143, 165 (Attachment A), & 97.

- 9.24 Thus, in Queensland and New South Wales, voters are required to use different voting systems for each Parliamentary chamber which they elect: compulsory preferential voting for the House of Representatives and below-the-line Senate voting; voting by placing a single digit "1" for above-the-line Senate voting; optional preferential voting for the State Legislative Assembly and (in New South Wales), a limited compulsory preferential voting for the Legislative Council. This is a recipe for confusion.
- 9.25 Given the disparity amongst voting systems, it is not surprising to see a relatively high level of informal voting in these states with systems that are different from those in Federal Elections. According to Mr Max Mathers, a Liberal Party booth worker with over 50 years' experience:
- where you have different systems involved, they become used to one system and perhaps endeavour to apply that system subconsciously to the one which they are currently voting in, which may happen to be the wrong system and often in this case contributes to an informal vote.¹⁸
- 9.26 This high informal vote appears to occur in spite of attempts to clearly explain how to vote via material in the polling places and campaigns to educate voters in these states.¹⁹
- 9.27 This concerned the Committee as it suggests that confusion arising from the differences in voting systems may prevent some people from exercising the democratic right to vote, and have that vote counted.²⁰ The will of the electorate can be distorted by such unintentional informal voting, particularly in close elections.²¹
- 9.28 One remedy proposed has been for more consistency between the various State voting systems, with more calling for the optional preferential systems in New South Wales and Queensland to be replaced by compulsory preferential voting. This argument is furthered by evidence that Victoria has a lower informal voting rate for the Federal House of

18 Mr M Mathers, *Evidence*, Wednesday, 6 July 2005, pp. 17-18.

19 Submission No. 18, (Prof. P Bayliss).

20 Submission No. 92, (The Nationals); the presence of different systems in Tasmania and the Australian Capital Territory does not reveal a similar level of informal voting, possibly because these systems are different enough to the federal system to avoid confusion. See also submission No. 118, (Mrs D Vale MP); Mr A Hall, Federal Director, The Nationals, *Evidence*, Monday, 8 August 2005, pp. 57-58; and Mr L Ferguson MP, *Transcript of evidence*, Monday, 8 August 2005, p. 98.

21 Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005, p. 24.

Representatives than do other States, even though it has a compulsory preferential voting system.²² Uniformity of voting systems, it is argued, would reduce confusion amongst voters about which method to use when they come to an election.²³

- 9.29 This, however, would be difficult to achieve as the New South Wales optional preferential system in the lower house is constitutionally entrenched and would require a referendum to make any change.²⁴ Further, as Professor Hughes²⁵ advised, it would be more likely that other states will try optional preferential voting before those states could be convinced to change their system.²⁶

False preferencing

- 9.30 Another often stated criticism of the compulsory preferential voting system is that it requires voters to vote for candidates even when they prefer not to record a vote against certain candidates.²⁷ This can be because they have not heard of a candidate, or they do not wish their vote to flow to certain candidates. Mr C Bayliss stated:

a significant cause of voting dissatisfaction, as any polling booth official can attest is the Commonwealth voting requirement of total ballot paper numbering, rather than optional preferential. Voters with strong, ideological feelings, object to having to preference parties, whose policies they dislike, in some cases intensely. This attitude is often expressed to polling booth officers.²⁸

Dictated Senate preferencing

- 9.31 As discussed above, voters can choose to vote above or below the line when voting in the Senate. If voters do not wish to vote below the line for
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22 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 3.

23 Note that Prof. Hughes argues that the problem of contamination between differing systems is less likely when there is sufficient time between State and Federal Elections: Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p.10; a gap between state and federal elections is not easy to predict due to the disparity of Parliamentary terms throughout Australia (see Chapter 7 above for further discussion).

24 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 45.

25 Prof. C Hughes is a former AEC Commissioner and Emeritus Professor, School of Political Science and International Studies at the University of Queensland.

26 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 3.

27 Submission No. 73, (Mr A Green), pp. 7, 9, 20.

28 Submission No. 40, (Mr C Bayliss).

the reasons outlined in considering forced preferencing above, they may vote above the line. There the flow of their preferences is determined according to the Group Voting Tickets of the parties (voters having ceded their right to direct their preferences). Neither option may be particularly palatable to the voter, resulting in a lack of real voting choice.²⁹ Further, as Mr Green pointed out:

the only way an elector can overcome a preference deal they disapprove of is to vote below the line. But parties offer no assistance in doing this, as how to vote cards for all parties only recommend an above the line vote.³⁰

- 9.32 It is often difficult for ordinary voters to understand how preferences will actually flow from their “1” vote to other political parties.³¹ The complexity of the Group Voting Ticket does not assist voters in understanding where their vote will eventually rest.³² In reality, the effect of the Group Voting Ticket system is that only the very few above-the-line electors who bother to inquire will have the faintest idea where their Senate preferences are going. That is so notwithstanding the provisions of s216 of the Commonwealth Electoral Act, which requires Group Voting Tickets to be displayed at polling places. Indeed, the Committee heard evidence³³ that the provisions of s216 are often not observed.
- 9.33 Furthermore, one would expect that electors who do take a careful interest in preference allocation would be likely to be those who go to the trouble to vote below-the-line. The Group Voting Ticket system for above-the-line Senate voting lacks transparency, and results in electors ceding their preference allocation decisions to the political parties themselves.
- 9.34 The issues highlighted above suggest that people are ceding their preferences to the political parties without a true understanding of the impact of their vote on preferences,³⁴ resulting in a Senate voting system that does not necessarily reflect voter intentions.³⁵ Mr A Green stated:

29 Submission No. 22, (Ms I Renwick).

30 Submission No. 73, (Mr A Green), p. 42.

31 Mr A Green, *Evidence*, Friday, 12 August 2005, pp. 54-55; Submission No. 73, (Mr A Green), pp. 39-41.

32 Prof. C Hughes also considers that the size of the voting tickets for large states can be such that they cannot be easily displayed in polling places, and are therefore not obviously available for voters. See *Evidence*, Wednesday, 6 July 2005, p. 8.

33 Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Tuesday, 26 July 2005, p. 29.

34 Submission No. 97, (Democratic Audit of Australia), p. 13.

35 Submission No. 90, (Mr D Risstrom), p. 1.

I think at the moment ... the way the ticket voting system works means that there are serious questions about whether Senate elections are now reflecting the will of the electorate or a series of deals done in the background without the voters' knowledge.³⁶

- 9.35 There is, however, a view that the STV system for voting above the line does not prevent voters from choosing their preferences. If a voter chooses to vote above the line, it is assumed that they are happy for their preferences to flow according to the voting ticket. If a voter is unhappy with the preference flow chosen by the party, they have the freedom to preference all candidates below the line.³⁷
- 9.36 Further, Professor Hughes advises that the current system for Senate elections is simple enough for most voters to understand, even if it does require voters to pass on their preference choice to their chosen political party.³⁸

Preference harvesting

- 9.37 As outlined above, when a voter votes only "1" above the line for the Senate, their preferences are determined according to the Group Voting Ticket of the parties.
- 9.38 The Group Voting Ticket system is susceptible to manipulation via a practice known as *preference harvesting*. Broadly speaking, this is a form of strategic behaviour where parties manoeuvre to keep preferences away from other parties, often the major parties, through arrangements with minor or micro parties. These deals often taken place between parties with little ideological affinity, with micro parties arranging preference deals with a number of more prominent parties in order to "harvest" their preferences as they are eliminated in the count.
- 9.39 Preference harvesting can also occur where a micro-party is registered and subsequently obtains a group box above the line in the Senate.³⁹ The names of these parties usually reflect a specific policy issue, and some voters will be attracted to these names and cast their vote in that direction. There is some evidence, however, that voters are deceived about the true

36 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 40.

37 Mr S Ciobo, *Transcript of evidence*, Wednesday, 6 July 2005, p. 6; see also Submission No. 207, (Dr K Woollard).

38 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 3.

39 On possible solution to problems associated with micro parties would be to only provide an above-the-line box to those parties running at least the number of candidates as there are vacancies: see Submission No. 56, (Mr J Kilcullen), p. 2.

nature of these parties, and wrongly believe their preferences will flow in a certain direction.⁴⁰ The Festival of Light stated:

for example, if a political party wants to change the flag – as a hypothetical illustration – they run a stooge party on ‘save the flag’ and get people who would vote against them to vote for them and then their ticket can be used to direct preferences to their own party. It is really fooling the voters into garnering votes. The voters, if they knew what was happening, would not vote for them.⁴¹

9.40 As well, it was alleged parties may engage in the practice of “assisting” the creation of minor parties, in order to harvest preferences from them.⁴² Even if this has not actually happened, there is the opportunity for it to occur under the present system.

9.41 There is, therefore, a general lack of understanding of how preference deals work in the Senate election. Mrs Susanna Flower stated:

a lot of people will just follow the card: they think, ‘Okay, that sounds good to me.’ A lot of people follow that without realising.⁴³

9.42 Complementing this view, Mr Peter Andrew stated:

it is all but impossible for even informed electors to juggle the complexities involved in working through the preferences of the minor parties and independent candidates.⁴⁴

9.43 Many voters may believe that following a voting ticket will ultimately assist a party from the same side of the political spectrum, or with similar policies, as their primary vote. This may not be the case because preference deals are based on electoral self-interest, where a party will receive certain preferences because it will assist a certain party to be elected, or cause another not to be elected.⁴⁵

9.44 Essentially, therefore, it is party discussions, not voter desire, that controls the above-the-line vote for the Senate, resulting in a situation where a

40 Submission No. 125, (Festival of Light Australia), pp. 5-6; Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, pp. 26-27; See also Submission No. 73, (Mr A Green), p. 38.

41 Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, pp. 13-14.

42 Submission No. 125, (Festival of Light), p. 6.

43 Mrs S Flower, Federal Candidate 2004, the Greens, *Evidence*, Thursday, 7 July 2005, p. 34.

44 Submission No 179, (Mr P Andrew), p. 1.

45 Submission No. 97, (Democratic Audit of Australia), p. 14.

party with a significantly lower vote than another party may secure a Senate seat when the other has the higher primary vote.⁴⁶ As a result, voters can feel frustrated with their Senate vote as the political parties use the lack of specified preferences above the line to manipulate the true choices of voters.⁴⁷ The Democratic Audit of Australia stated:

‘above the line’ ticket voting for the Australian Senate is not living up to the justifications for its introduction in 1984. It was meant to be an efficient and easy way for voters to register their votes, but increasingly today leads to distortion of those very preferences.⁴⁸

- 9.45 Furthermore, the Group Voting Ticket system encourages manipulation of preference flows which may lead to outcomes which do not reflect the electors' intentions. In other words, it encourages parties to make deals, for strategic reasons, which results in their voters being committed to preference distributions of which they are unaware and would not knowingly endorse. The decision of the Family First Party in some states to favour a preference distribution to other minor parties which advocated policies radically at variance with Family First's declared core values, may be an example of this type of strategic behaviour, and its consequences.

Disadvantaged independents

- 9.46 The problems associated with above-the-line voting are compounded by the significant proportion of voters who choose to vote “1” only above the line, which has an effect on the election success of independent candidates.⁴⁹ The size of the Senate ballot paper arising from the number of Senate candidates arguably encourages voters to vote “1” above the line, as it is not easy to consecutively number every square below the line without making a mistake.⁵⁰ Such mistakes make a vote informal.⁵¹
- 9.47 If people want to vote for an ungrouped independent in the Senate, they are required to vote below the line. This method of voting can be time consuming (especially in the larger states where more candidates tend to run) and there is some evidence to support the view that below-the-line

46 Submission No. 97, (Democratic Audit of Australia), p. 12; see also Submission No. 90, (Mr D Risstrom) for a discussion of the 2004 Senate election in Victoria.

47 Mr B McRae, Vice-President, One Nation, WA, *Evidence*, Wednesday, 3 August 2005, p. 48.

48 Submission No. 97, (Democratic Audit of Australia), p. 12.

49 Submission No. 90, (Mr D Risstrom), p. 3.

50 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 41.

51 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 56.

voting can result in a higher risk of informality.⁵² This makes it difficult for ungrouped independents to obtain many votes as the only method that gives them votes is unpalatable.

9.48 There is also evidence that voters do not like completing preferences for every candidate below the line, which further disadvantages ungrouped independents. Mr A Green stated:

no logic or reason is attached to such an exclusion, it is simply a provision of the act that *all* preferences must be correct for *any* preference to count.⁵³

Possible options for change

9.49 This section deals with suggestions that have been made aimed at:

- reducing the informal vote; and
- improving voter engagement in the election system by allowing them to express their true voting preferences.

9.50 These options may also avoid some of the other difficulties in the current systems outlined above. Note that the options outlined below are not mutually exclusive, so consideration of a combination of these options may have merit.

Option 1: Consistent voting systems throughout Australia

9.51 Some are of the view that the Commonwealth and the States should work together to establish a common voting system nationwide, matching the compulsory preferential voting system for the House of Representatives and other lower houses throughout Australia.⁵⁴ Others suggest introducing optional preferential voting at both the State and Federal levels to achieve this desired consistency.⁵⁵

9.52 These options, however, may be difficult because of the constitutionally entrenched nature of the New South Wales optional preferential system, and the fact that the majority of states would be required to change, were

52 Submission No. 97, (Democratic Audit of Australia), p. 10.

53 Submission No. 73, (Mr A Green), p. 9.

54 Submission No. 92, (The Nationals); see also Submission No. 89, (Mr E Jones); and Submission No. 52, (Mr P Brun).

55 Submission No. 118, (Mrs D Vale).

the optional preferential system adopted as the national model.⁵⁶ It is likely this would increase, rather than reduce, voter confusion and vote informality.

Option 2: Relaxing formality requirements in the Act

- 9.53 The incidence of informal voting could potentially be reduced through some relaxation of the overly strict formality requirements in the CEA governing House of Representatives. This would allow votes where the voter has made a genuine mistake to be included in the count, where currently such votes are classed as informal.⁵⁷
- 9.54 Similar changes could be made to the CEA to allow for ballots marked with a non-numerical indication (such as a tick or a cross, for example) also to be counted as formal.⁵⁸

Option 3: A savings provision

- 9.55 Another mechanism which could reduce the rate of informal voting is a savings provision (such as that currently employed in South Australia), which allows votes clearly cast in error to be included in the count.⁵⁹
- 9.56 This approach requires candidates to lodge at least one ticket of preferences (akin to the one lodged in the Senate) which allows certain informal votes to be “saved” and included in the count.⁶⁰ In South Australia, how-to-vote cards are posted in each polling booth, so voters are aware of how they can direct their preferences when voting for one party. Mr A Green stated:

basically, if someone has just voted No. 1 then the vote for that ballot paper will be saved and will default to the registered ticket of the party. A party cannot recommend that people just vote No. 1; it is not a way of encouraging people to just vote No. 1 and capture the preferences.⁶¹

56 See also Submission No. 97, (Democratic Audit of Australia), p. 11.

57 Submission No. 73, (Mr A Green), pp. 6, 12.

58 Submission No. 97, (Democratic Audit of Australia), p. 12; and Submission No. 73, (Mr A Green), pp. 3, 11, 13-15.

59 See Mr A Green, *Evidence*, Friday, 12 August 2005, p. 42; and Submission No. 181, (Mr S O'Brien).

60 Submission No. 73, (Mr A Green), pp. 13-15.

61 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 42.

- 9.57 The use of this system in the South Australian election increased the formal vote by four per cent compared with voting without the savings provision operating. This contributes to South Australia being the only Australian state where the lower house informal vote is lower than the upper house.⁶²
- 9.58 The benefit of this approach is that it provides a mechanism for turning an informal vote into a formal vote where the voter's intention is clear. This system does not allow votes to be counted where their preferences cannot be counted, so the problems of an optional preferential system becoming a *de facto* "first past the post system" are not encountered.⁶³
- 9.59 The operation of this system is not widely advertised, which means that it is unlikely that voters will vote informally knowing that their vote will still count.⁶⁴ It is also not permitted to publish a how-to-vote card, which advocates voting only "1", so people are not encouraged to vote informally (even though this may be very difficult to police).
- 9.60 This system, however, does raise some concerns. A savings provision effectively constructs a voter's preferences, when if a voter knew about the operation of the system in "filling in" the empty preference boxes (which it appears they do not, as it is not widely advertised), they may have directed their preferences elsewhere.

Option 4: Optional preferential voting

- 9.61 Voting for the Federal House of Representatives and below the line on the Senate ballot requires voters to number every box if the vote is to be counted as formal. One commonly suggested solution to the problems associated with this voting system is to allow for optional preferential voting.⁶⁵
- 9.62 Optional preferential voting, as the name suggests, allows voters to only indicate those preferences they wish to give, rather than having to allocate a preference to every candidate in their electorate. Preferences are exhausted with the last preference expressed, so the onus would be on the voter to ensure they expressed all desired preferences.⁶⁶

62 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 44.

63 Mr D Melham, *Transcript of evidence*, Wednesday, 6 July 2005, p. 10; and Submission No. 181, (Mr S O'Brien), p. 1.

64 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 42.

65 See for example, Submission No. 73, (Mr A Green), p. 4.

66 Submission No. 144, (PIAC), pp. 11-12.

Disadvantages of optional preferential voting

- 9.63 One commonly cited disadvantage of an optional preferential voting system is that it has the potential to become a *de facto* “first past the post” system.⁶⁷ A “first past the post” system is where the candidate who receives the highest proportion of the primary vote is elected, even if this proportion is less than 50%. This is because candidates are entirely at the mercy of the voter and their decision whether or not to include preferences, so preferences can be quickly exhausted where a large number of voters choose to vote “1” only.
- 9.64 This is particularly problematic where a large number of candidates are contesting a seat. In such a circumstance, it would be possible for a candidate to be elected with only a very small proportion of the vote, which could leave the majority of the population unrepresented.⁶⁸
- 9.65 A potential feature of campaigns run under optional preferential systems is the encouragement of voting only “1”, when the option exists to express further preferences. This effectively encourages a result based on “first past the post”, as the number of preferences that can flow to other candidates is reduced when more people just vote “1”.⁶⁹ Whilst this is not illegal *per se*, it is seen by some as being undesirable.
- 9.66 The most significant issue in instances of a vote “1” only campaign is the higher level of informal voting which may result in subsequent federal elections. This may be because voters have become used to using the optional preferential system and do not realise that voting in a Federal Election uses a different system.
- 9.67 There is a suggestion that the higher level of informal voting in Queensland in the 2001 Federal Election was directly related to the Queensland Labor Party’s “Just Vote 1” campaign in the preceding state election.⁷⁰ Analysis of the 2001 Federal Election informal vote reveals that 46.42 per cent of all informal votes in Queensland were those where the

67 See for example, Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, pp. 34, 35. Note, however, that in many safe electoral seats, the current preferential system effectively works as a “first past the post system” because one candidate is likely to receive more than 50 % of the primary vote: see Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 11.

68 Mr B McRae, Vice-President, One Nation, WA, *Evidence*, Wednesday, 3 August 2005, p. 50.

69 See Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 7; and Submission No. 73, (Mr A Green), p. 17.

70 Mr T Gartrell, National Secretary, Australian Labor Party, *Evidence*, Monday, 8 August 2005, p. 41.

voter recorded only the number 1 on their ballot paper, the largest recorded category of informality.⁷¹

- 9.68 Mr A Green, however, argues that encouragement to voters not to direct their preferences to other candidates is just as valid as deliberate preference deals between political parties, which engineer election results that may not necessarily reflect the will of the electorate.⁷² Mr M Mathers stated:

I feel that [the strategy of encouraging people to only vote '1' in state elections] has been a method of confusion, and it may well have been designed in that respect. But specifically it is because the system is different from that of other situations that you find that people have become confused. In particular, if you look at people, say, from Victoria, where they follow the firm preferential system right through, who then come to Queensland, where they do not have that system, they do certainly become confused and do not understand the reason for the differences. That is why, in my opinion, we had quite an increase in informal votes in the last federal election.⁷³

- 9.69 There are also concerns that encouraging people to vote "1" through a publication without placing any other preferences may constitute a misleading electoral publication under section 329 of the CEA.⁷⁴ Professor Hughes is of the view that whilst such a publication may be undesirable, it should be left to the discretion of the AEC to decide whether it encourages a single vote is misleading.⁷⁵
- 9.70 Objections about optional preferential voting becoming a *de facto* "first past the post" system can be addressed through the *partial preferential* variant of optional preferential voting. Under this arrangement, the voter is required to number a minimum number of preferences (say, three, for example), but can then choose whether they wish to complete the remainder of the ballot paper.⁷⁶ Mr Brian McRae stated:

71 Submission No. 165, (AEC), Attachment A, AEC, *Informal Vote Survey, House of Representatives, 2001 Election: Research Report Number 1, 2003*, AEC, 2003.

72 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 47; and Submission No. 73, (Mr A Green), p.35

73 Mr M Mathers, *Evidence*, Wednesday, 6 July 2005, p. 19.

74 Senator G Brandis, *Transcript of Evidence*, Wednesday, 6 July 2005, p. 12.

75 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 12.

76 Mr B McRae, Vice-President, One Nation, WA, *Evidence*, Wednesday, 3 August 2005, p. 49; see also Submission No. 98, (Mr G Ebbage), which advocates a partial preferential system, but one where the first preference is given three points, the second preference two points and the third

if voters were only required to fill in a certain number of boxes to qualify for a formal vote, then this would encourage those informal voters to at least have some input, while at the same time give them the option of not giving a preference to someone they are totally opposed to. The question is; how many boxes to fill in, and I would suggest (3).⁷⁷

9.71 Other identified disadvantages associated with optional preferential voting include that major parties can no longer assume that preferences from parties on the same side of the political spectrum will automatically flow to them.⁷⁸ Mr Antony Green is of the opinion that it is unusual for a party on the left or right fringes to not direct their preferences to another party on the same side of the political spectrum; this can be thwarted under an optional preferential system if the major parties do not actively seek preference deals with other parties on the same side as them. Effectively, the optional preferential system gives parties the choice of not directing their preference anywhere.

9.72 Mr Michael Danby MP, however, had a contrary view:

it would be, in fact, to enhance the power of people further out to the right and further out to the left, which is one of the principal reasons that I do not favour optional preferential voting.⁷⁹

9.73 Optional preferential voting systems also tends to favour the candidate with the highest primary vote,⁸⁰ and there are suggestions that independent candidates have difficulty polling first via primary votes, with the majority of independents being elected via the flow of preferences.⁸¹

9.74 It is suggested that the interests of minor parties and independents can also be hindered under this approach, as the system for organising preference flows loses significance where voters do not have to indicate preferences. Mr Green, however, is of the opinion that the preference bargaining power of independents and minor parties actually increases under optional preferential voting. Under such a system, the major parties

preference one point, with the successful candidate being the one with the highest number of points. This system would ensure that the second preferences of all voters would be counted.

77 Submission No. 42, (Mr B McRae).

78 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 51.

79 Mr M Danby, *Transcript of evidence*, Friday, 12 August 2005, p. 52.

80 Submission No. 73, (Mr A Green), p.18.

81 Senator A Murray, *Transcript of evidence*, Friday, 12 August 2005, p. 50; and Mr A Green, *Evidence*, Friday, 12 August 2005, p. 50.

will have to lobby more effectively to obtain the preferences of minor parties because they have the freedom not to direct their preferences.⁸²

Benefits of optional preferential voting

- 9.75 The major benefit of optional preferential voting is the potential for reduction of error-induced informal voting. It is easier to vote correctly if a voter is not required to record preferences for all candidates.⁸³ Under this system, the high incidence of informal votes for the Federal House of Representatives in New South Wales and Queensland would be reduced. This is because votes where only the first preference is expressed would be counted as formal.⁸⁴
- 9.76 This system would also allow Langer Style votes to be counted as formal.⁸⁵ This voting approach is where ballot papers requiring compulsory preferences are numbered non-consecutively, for example, 1, 2, 3, 3, 3. At present, such votes are informal, but under optional preferential voting, preferences accurately numbered could be distributed to the point of the error, thus increasing the formal vote.⁸⁶
- 9.77 This simplification in preferential voting should increase participation in the electoral system by allowing people to express their true intentions,⁸⁷ which could, in turn, encourage the election of more representative governments.
- 9.78 Another advantage of optional preferential voting is that it captures only those preferences that people actually hold, rather than requiring them to express preferences for candidates about which they know nothing.⁸⁸ One suggestion takes this desire to allow people to make political statements

82 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 50.

83 Submission No. 22, (Ms I Renwick).

84 Submission No. 18, (Prof. P Bayliss).

85 Langer Style Voting is known as such as a result of a campaign throughout the 1990s in Australia where an individual, Mr Albert Langer, advocated this form of voting as a means of making a political statement. This system effectively allowed people to express only preferences they wished to include, and was possible as a result of amendment to the CEA intended to reduce informality in House of Representatives votes. Such votes are now considered informal (and it is an offence under the Act to induce voters to vote in such a way). See Submission No. 73, (Mr A Green), pp. 12–13 for a detailed discussion of this style of voting.

86 Submission No. 165, (AEC), Attachment A, AEC, *Informal Vote Survey, House of Representatives, 2001 Election: Research Report Number 1, 2003*, AEC, 2003, pp. 2–3.

87 See Submission No. 56, (Mr J Kilcullen), p. 2.

88 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 45.

via their votes further by including a “none of the above” option on the ballot paper.⁸⁹

9.79 In response to claims that the optional preferential system creates a “first past the post” election result, supporters of this system argue that whilst this voting system can result in a candidate without majority support being elected, the same is possible under a compulsory preferential system, where parties manoeuvre their preferences to construct a majority.⁹⁰ This is because the party that is ranked third in an electorate is in a position to arrange a preference deal resulting in the candidate with the lower primary vote being elected. Mr Green stated:

the bronze medallist is determining who is winning gold and silver in every case.⁹¹

9.80 Further, Professor Hughes has undertaken analysis of election results from Queensland and New South Wales to measure the impact of optional preferential voting on election outcomes. His study reveals that in only one instance would there have been a different result under a compulsory preferential system.⁹² Anecdotal evidence also suggests that people who vote for minority parties in the New South Wales optional preferential system tend to number all their preferences anyway. This generally does not cause a “first past the post” result.⁹³

9.81 Other practical benefits of the adoption of optional preferential voting include removal of the need to decide preference distribution, a lesser need for electoral staff to educate voters on how to vote, easier scrutineering and counting of votes and it saves voter time.⁹⁴

Option 5: Above the line preferential voting in the Senate

9.82 One option to rectify concerns about the Senate voting system would be to introduce preferential above-the-line voting on the Senate ballot paper in combination with the current compulsory preferential voting below the

89 Mr B McRae, Vice-President, One Nation, WA, *Evidence*, Wednesday, 3 August 2005, p. 47; see also Submission No. 56, (Mr J Kilcullen), p. 1, which suggests the inclusion of a comment box on the ballot paper where voters can make statements if they wish to do so.

90 Submission No. 18, (Prof. P Bayliss).

91 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 47.

92 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 2.

93 Submission No. 18, (Prof. P Bayliss).

94 Submission No. 18, (Prof. P Bayliss).

line.⁹⁵ This could take the form of optional or compulsory preferential voting, both of which are discussed below. Former Senator Mr John Cherry stated:

people should be able to allocate their preferences above the line or below the line. It should be compulsory preferential but it can be above the line or below the line. You would recall how many ... got lost numbering between one and 70 on the old Senate tickets in the early 1980s. If you gave people the option of voting above the line and numbering the boxes with their party preference I think that would be a reasonable compromise.⁹⁶

9.83 The Festival of Light stated:

above-the-line voting [is] a simple, achievable compromise that is a workable solution and it eliminates all the problems associated with ticket voting.⁹⁷

9.84 If preferential voting was introduced for above-the-line voting in the Senate, section 168 of the CEA would have to be amended to automatically allocate an above-the-line voting square upon a request to the AEC for grouping under this section.⁹⁸

9.85 Table 9.2, overleaf, outlines the possible combination of voting systems for the Senate. Discussion of the components of these options follows.

95 Mr A Green and Senator A Murray, *Transcript of Evidence*, Friday, 12 August 2005, pp. 53-54; see also Submission No. 22, (Ms I Renwick); Senator B Brown, *Evidence*, Monday, 8 August 2005, p. 89; and Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, p.14.

96 Mr J Cherry, *Evidence*, Wednesday, 6 July 2005, p. 73.

97 Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, p. 35.

98 Submission No. 182 (AEC), p. 26.

Table 9.2 Possible Senate voting systems

Above the line		Below the line
Option 1 (current)	Single transferable vote	Compulsory preferential
Option 2	Single transferable vote	Optional preferential (at least one preference) OR Partial preferential (at least X number of preferences)
Option 3	Compulsory preferential	OR Compulsory preferential
Option 4	Compulsory preferential	
Option 5	Optional preferential (at least one preference) OR Partial preferential (at least X number of preferences)	Optional preferential (at least one preference) OR Partial preferential (at least X number of preferences)

Disadvantages of preferential voting above the line

- 9.86 The introduction of compulsory preferential voting above the line has the potential for increased complexity and informality when compared with the existing STV system. The requirement to complete more voting boxes above the line would result in increased opportunity for mistakes, and would also require voters to express preferences for parties for whom they have no interest in voting (the optional preferential voting system does not encounter this problem).⁹⁹
- 9.87 The introduction of compulsory preferential above-the-line voting in the Senate could also act to disadvantage minor parties and independent candidates in a variety of ways.¹⁰⁰
- 9.88 It is commonly thought that when voters are required to provide preferences, they usually follow how-to-vote cards, rather than exercising their choice. It is arguable that minor parties would not have sufficient resources or polling booth presence to be able to indicate where their

99 Submission No. 207, (Dr K Woollard).

100 Mr D Crabb, Secretary, Electoral Reform Society of South Australia, *Evidence*, Wednesday, 26 July 2005, p. 43; Submission No. 144, (PIAC), p. 11.

above-the-line preferences should flow and may be disadvantaged as a result.¹⁰¹

- 9.89 On the other hand, some witnesses believe that the people who would exercise their preference choice would be more likely to vote below the line, so it is unlikely that minor parties will be dramatically disadvantaged by this option.¹⁰² It is notable that the principal minor party which addressed this issue in its submission to the Committee, the Australian Greens, supported compulsory preferential above-the-line voting.¹⁰³
- 9.90 The Festival of Light believes that any increased complexity in Senate voting arising from the introduction of this system would be minimal, as the Senate voting mechanism would simply reflect what voters are required to do when voting for the House of Representatives.¹⁰⁴ It is likely that the registered parties entitled to an above-the-line voting box on the Senate ballot will largely reflect the average number of individual candidates standing for the House. While a higher number of independent, ungrouped candidates do stand for the Senate, unless these individuals have the standing to be a registered party, they would not enter the equation of above-the-line voting.
- 9.91 The Electoral Reform Society advocates the abolition of above-the-line voting for the Senate, with optional preferential voting below the line being the only option for voters.¹⁰⁵ This option does not appear to have widespread support.

Benefits of preferential voting above the line

- 9.92 Above-the-line preferential voting would remove some of the existing confusion about how preference deals on group voting tickets affect the election outcome. Voters would be in a better position to know where their votes are going because they would have the capacity to control where their preferences flow without having to resort to completing the below-the-line section of the ballot paper.¹⁰⁶

101 Senator G Brandis, *Transcript of evidence*, Wednesday, 26 July 2005, pp. 27, 85–88 and *Transcript of evidence*, Friday, 12 August 2005, p. 57.

102 Ms R Banks, Chief Executive Officer, PIAC, *Evidence*, Friday, 12 August 2005, p. 87.

103 Greens (State and Federal) Submission Nos. 39, 103, 107, 111 & 124.

104 Dr D Phillips, National President, Festival of Light Australia, *Evidence*, Wednesday, 26 July 2005, p. 26.

105 Submission No. 100, (Electoral Reform Society), p. 3; see also Submission No. 56 (Mr J Kilcullen), p. 2.

106 Submission No. 90, (Mr D Risstrom), p. 3.

- 9.93 Some commentators feel that if a voter chooses to vote above the line, then they should be required to provide a preference for every group.¹⁰⁷ Under this option, the power of the Group Voting Ticket would be removed and people would be forced to direct their preferences according to either their own desires or according to the party's how-to-vote card.¹⁰⁸ This compulsory preferential approach would also avoid the problems associated with the high level of exhausted preferences under optional preferential voting in New South Wales.¹⁰⁹
- 9.94 More importantly, compulsory preferential voting above-the-line would significantly reduce the capacity of parties to manipulate or "game" the system by making strategic deals of which the electorate, for all practical purposes, is unaware, and of which their own voters may not approve. It would, in the Committee's view, considerably advance the value of transparency, without causing undue complexity.
- 9.95 Compulsory preference voting above the line, and the subsequent abolition of Group Voting Tickets, would also remove the distortion of election results caused by preference harvesting. The Festival of Light stated:
- corruption of the Senate election process by stooge parties and candidates could be eliminated by removing preference tickets and requiring voters to indicate their own preferences.¹¹⁰
- 9.96 This option is supported by the Greens, as evidenced by Senator Bob Brown's proposed Bill to create compulsory preferential voting above the line.¹¹¹ This approach would avoid the exhaustion of preferences apparent in the New South Wales system which creates the impression of a "first past the post" system. This system could require the provision for voters to make up to a small number of mistakes in their preference ordering without invalidating their vote.¹¹²
- 9.97 Optional preferential voting for above-the-line Senate voting is also suggested as possible solution.¹¹³ This system has the benefit of allowing voters to truly express their preferences, without being forced to cast a
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107 See, for example, Submission No. 89, (Mr E Jones).

108 Submission No. 96, (Mr J Cherry), p. 23; and Submission No. 84 (Ms S Russell).

109 Submission No. 96, (Mr J Cherry), p. 23.

110 Submission No. 125, (Festival of Light Australia), p. 6.

111 *Senate Voters' Choice (Preference Allocation) Bill 2004* cited in Submission Nos 75, 77, 82, 85, 87, 100, 103, 107, 112, 116 & 139.

112 Senator B Brown, *Transcript of evidence*, Monday, 8 August 2005, pp. 89, 93.

113 Submission No. 97, (Democratic Audit of Australia), pp. 14-15.

vote about candidates they do not know about or have no wish to vote for. The Public Interest Advocacy Centre stated:

we were concerned about the level of confusion in the last election that arose from the way in which preferential deals affected the outcome in ways that people who voted would probably never have anticipated. It is an issue that we think needs to be resolved to enable the electoral process to be more transparent, so we would encourage a move to something in the order of an above-the-line preferential voting system.¹¹⁴

- 9.98 Either the optional or compulsory preferential system would arguably improve the correlation between voter intentions and the final election of candidates when compared with current systems.¹¹⁵

Option 6: Ticket voting in the House of Representatives

- 9.99 Another possible option for reducing voting complexity in the House would be to introduce ticket voting, where people could simply vote “1” for their preferred party, and rely on the party preferences as outlined in their voting tickets, or choose to number candidates individually.¹¹⁶
- 9.100 This would mirror the system applied in the Senate, so would potentially reduce the level of informal voting caused by confusion about the two Federal voting systems. It would also be physically manageable as fewer candidates would be on each ballot paper.¹¹⁷
- 9.101 This system, however, will be difficult to implement as there are not generally groups of candidates running in the House.¹¹⁸ This means the ballot paper would have one column with the parties and the other with the candidates, and would not be entirely consistent with the Senate ballot paper.¹¹⁹
- 9.102 Further, Professor Hughes suggests that whilst there may be some merit in introducing ticket voting in the House, optional preferential voting would be a better option to attempt to reduce the informal vote.¹²⁰

114 Ms R Banks, Chief Executive Officer, PIAC, *Evidence*, Friday, 12 August 2005, p. 84.

115 Submission No. 90, (Mr D Risstrom), p. 1.

116 See, for example, Mr M Mathers, *Evidence*, Wednesday, 6 July 2005, p. 18.

117 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 11.

118 See Submission No. 73, (Mr A Green), p. 12 for a more detailed discussion of the problems attached to this system.

119 See Mr D Melham, *Transcript of evidence*, Wednesday, 6 July 2005, p. 20.

120 Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 3.

Option 7: Limited number of possible preferences

9.103 Mr A Green feels that another mechanism that would alleviate the existing problems in the Senate voting system would be to retain the current single above-the-line vote, but impose a limit on the number of other parties that a single party can direct their preferences to.¹²¹ This would make it more difficult for parties to enter into complex strategic preference deals and would prevent preference harvesting. Mr A Green stated:

the standard method of voting in the Senate is that you vote for the candidates in the order you want to see elected. My argument against ticket voting as it applies at the moment under compulsory preferential voting is that parties do not have to behave that way. They can deal and gamble on the way preferences work, and that is what is distorting the system. The voters have got no say in this.¹²²

9.104 The best solution, according to Mr Green, would be to combine above-the-line preference voting, with limitations placed on the number of parties that can receive preferences on ticket votes. This option would mean that if a voter were to make a mistake in the numbering of their preferences above the line, the vote would still be counted as it could default back to the voting ticket for the intended preferences.¹²³

Option 8: Registration of political parties

9.105 Independent of any changes made to voting systems in the Federal House of Representatives and the Senate, potential limitations on the number of candidates standing for election is an important electoral issue. The increasing number of political parties standing for the Senate appears to be closely related to some problems identified with the ballot paper for the Senate.

9.106 Fewer candidates could result in fewer informal votes and would perhaps nullify the need for reforms to the Federal voting systems.¹²⁴ There is a relationship between the high numbers of candidates standing in individual electorates and complexity in how-to-vote cards. This makes it difficult for voters to clearly understand where preferences could flow.¹²⁵

121 Submission No. 73, (Mr A Green), pp. 4, 46; Mr A Green, *Evidence*, Friday, 12 August 2005, p. 56.

122 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 56.

123 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 60.

124 Submission No. 73, (Mr A Green), p.10.

125 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 42

This problem could be avoided through improved mechanisms to limit the number of candidates and parties in a single electorate. There could arguably, therefore, be some tightening of requirements for registration as a political party.¹²⁶

- 9.107 More stringent requirements on party registration would also have the benefit of excluding so-called “stooge” parties from adding to the complexity of the above-the-line vote for the Senate.
- 9.108 Professor Hughes, however, expresses the converse view based on an analysis of the informal vote in the New South Wales and Queensland in the 2004 Federal Election. He feels that possible methods for discouraging candidacy (such as limitations on registration as a political party) are unlikely to reduce informality as much as would optional preferential voting.¹²⁷

Option 9: Improved pre-election advertising

- 9.109 A number of submissions provided to the Inquiry suggested that the rate of informal voting could be reduced through more effective advertising about how to vote in federal elections.¹²⁸ Specifically, attention could be drawn to the distinction between the different systems in the House and in the Senate. Further, a concerted campaign could be run in New South Wales and Queensland to highlight the differences between their State systems and the Federal system. Mr McRae stated:

the television advertisements shown before the previous election encouraging all voters to have their say is a good idea. This however needs to be continued on a semi permanent basis with an emphasis on how the system works, and the basic philosophy behind the preferential system of voting.¹²⁹

- 9.110 The Liberal Party of Australia stated:

the absolutely critical need for a public information campaign on the operation of preferential voting and about the importance of this campaign, particularly in those states where optional

126 Mr A Green, *Evidence*, Friday, 12 August 2005, p. 55; see also Prof. C Hughes, *Evidence*, Wednesday, 6 July 2005, p. 2.

127 Submission No. 69, (Prof. C Hughes), p. 9.

128 Mr B McRae, Vice-President, One Nation, WA, *Evidence*, Wednesday, 3 August 2005, p. 50.

129 Submission No. 42, (Mr B McRae), p. 1.

preferential voting is conducted for state elections and for local government elections.¹³⁰

The Committee's view

9.111 Having regard to the foregoing consideration, and in particular the importance of the principle of transparency, the Government members and Senator Murray have concluded that compulsory above-the-line preferential voting should be introduced for Senate elections.

Recommendation 37

9.112 **The Committee recommends that compulsory preferential voting above the line be introduced for Senate elections, while retaining the option of compulsory preferential voting below the line. Consequently, the practice of allowing for the lodgement of Group Voting Tickets be abolished. This would involve amendments to the Commonwealth Electoral Act, in particular the repeal of ss.211, 211A, 216, 239(2) and 239(3).**

Recommendation 38

9.113 **The Committee recommends that the system of compulsory preferential voting for the House of Representatives be retained.**

Recommendation 39

9.114 **The Committee recommends that the AEC be resourced to conduct a public education campaign, in advance of the next Federal Election, to explain the changes to the above-the-line Senate voting system.**

In those States where the Commonwealth and State voting systems are different (i.e. New South Wales and Queensland), the AEC's education campaign should emphasise the necessity, in Federal Elections, of voting by the compulsory preferential, as opposed to the optional preferential, method.

130 Mr B Loughnane, Federal Director, Liberal Party of Australia, *Evidence*, Monday, 8 August 2005, p. 22.