

Joint Standing Committee on Electoral Matters
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Submission to the Joint Standing Committee on Electoral Matters

This is a submission to the Committee's Inquiry into the conduct of the 2013 election. My key message is that Australia needs to engage in another round of systemic electoral reform, on a par with the reforms of 1919, 1949 and 1983.

I believe that in general the Australian electoral system has served the country well, and that our unique post-war institutional combination of a majoritarian single-member preferential voting in the House of Representatives with a single transferable vote system of proportional representation in the Senate has been a good one. In particular, the Australian combination of winner-take-all and proportional models has been crucial to the emergence of a political system which has, for the most part, balanced the need for strong government in the lower house with broader representation in the Senate.

However, the unrepresentative, anomalous and in some cases almost random results evidenced at the 2013 Senate elections highlights a trend that has been apparent for some time, and which affects elections to the House as well. Ever-increasing candidate numbers, and a proliferation of minor parties, are combining to produce perverse results from an electoral system that was designed in an earlier era when a few large parties and a smaller number of candidates predominated. In particular, the long-standing legislative requirement that voters must express preferences between all candidates standing – either directly or via a ticket vote – is having increasingly perverse outcomes. The result is an electoral process which today does not serve or reflect the interests of the Australian public.

The most obvious manifestation of this trend is the proliferation of minor parties with no public profile, and miniscule first preference-votes, standing in elections – some of which were, in WA and Victoria, elected to the Senate. The underlying reason such micro-parties exist and are now able to succeed (albeit on a something like a random lottery basis) is, perversely, a result of the efforts over the years by both major parties in making the numbering of all preferences compulsory for a formal vote to be effected. In effect, the major parties are now reaping the effects of their previous efforts to manage the flow of preferences from minor-party voters.

Some history is in order here. Until the 1980s, compulsory preference marking was generally considered by most scholars to have relatively minor impacts on electoral outcomes in Australia (the DLP period aside), although it clearly aided the conservative parties in three-cornered contests when the Country/National Party, Liberal and Labor each stood candidates. Since the 1980s however, the partisan impact of compulsory preferences has switched, with preference flows from the Australian Democrats and the Greens aiding the Labor Party more than the Coalition.

Whilst the historical tendency has usually seen preference flows advantage the eventual winning party, making them effectively the beneficiaries of the system, this was not the case at the most recent federal election.

As a result of these shifting partisan impacts, successive governments have chosen to ignore the very real problems created by forcing voters to express preferences between candidates with whom they are unfamiliar or uninterested. These problems are many and varied, but have in common the cognitive challenges facing electors under compulsory preferential voting in cases of high candidate numbers. The 2013 elections, which saw easily the highest number of candidates ever recorded for both the House and the Senate, now make these pathologies impossible to ignore. These include:

- Informational pathologies: once candidate numbers increase much beyond the post-war average of 6 candidates per lower house electorate, even diligent and politically-aware citizens struggle to express a sincere rank-ordering of their preferences between all candidates. The 2013 election saw an average of almost 8 candidates per lower-house seat, with many urban electorates attracting more than 10 candidates (16 in Melbourne). This creates a situation in which even at lower house elections voters are being asked to express preferences that they do not, in fact, hold.
- These problems are much deeper in the Senate. There, total candidate numbers have effectively doubled over the past 20 years. The 2013 Senate elections saw record numbers of candidates standing in every state and territory: 110 candidates standing in NSW, 97 in Victoria, 82 in Queensland, 62 in Western Australia, 73 in South Australia, 54 in Tasmania, 14 in the ACT and 12 in the NT. Such numbers makes a sincere rank-ordering of preferences between all candidates an impossibility. There is not a single voter in Australia – including the members of this Committee – who would have sufficient information to make anything like an informed expression of preferences between all candidates in such circumstances. Yet that is exactly what the current electoral system requires voters to do.
- Manipulation of Group Voting Tickets (GVTs): votes: since 1983, the Senate ballot paper has included a 'ticket vote' option, which helps deal with the informational pathologies by allowing the political parties to direct the flow of their supporters' preferences. Because there is a major difference in the simplicity of the task facing a person wishing to cast a ticket vote, and that facing a person who wishes to determine his or her own preference ordering by rank-ordering every candidate, over 95 percent of all voters use ticket voting in the Senate, but very few of these voters have knowledge of the direction in which their tickets votes can flow. The result has been an increase in the importance of GVTs and a corresponding decrease in the need for smaller parties to develop a genuine campaign to the public.
- Deficiencies of electoral administration: Parties and aligned candidates lodge prior to the election a full preference schedule or GVT which directs their preference allocation. Polling places are required to display the GVTs for each party, but again the increasing numbers of parties and candidates and the informational challenges in processing information on all of them make it formidably difficult for even highly diligent voters to cognitively assess the likely impact of a ticket vote in terms of which parties may end up benefitting from their preferences. In my experience, few if any polling officials understand or can explain the importance of GVT's either. However, the combination of compulsory preference marking, candidate proliferation and ticket voting make GVTs necessary to the functioning of the existing system.

In sum, the combination of compulsory preference marking with the rise of minor parties has given rise to very serious deficiencies in the Australian electoral process. So, what can be done?

In my experience, an important guiding principle of electoral system design is the need for simplicity and transparency, so that voters can understand the basics of how the system works and can also see the relationship between an overall vote share for different parties and candidates. This does not mean that voters have to understand every intricacy of an electoral system, but they do need to be able to see the link between votes cast and seats won.

As the Australian electoral system has evolved, it has become less and less able to meet this test. The 2013 Senate election in particular evidenced outcomes that have little apparent connection to the overall vote share of the parties, particularly micro-parties. The key reason for this is that preference flows resulting from creative GVTs are distorting electoral outcomes by introducing both an element of randomness into the system and also allowing parties to direct preferences in ways that bear no relationship to established political connections based on policy or ideological affinity. In some well-known cases, parties have used their GVTs to deliberately direct preferences away from other like-minded parties in ways that their voters could not possibly have expected or welcomed.

The solution thus requires a simplification of the electoral system to restore public confidence and return a degree of predictability to electoral outcomes. The easiest way to do this would be to adopt optional preferential voting for both Houses of parliament, as is used at state elections in NSW and Queensland. I believe the Tasmanian requirement that voters should express as many preferences as there are vacancies to be filled is a good one. This would require voters to express just one preference for lower-house seats, and either 6 or 12 preferences at half and full-Senate elections respectively, but of course leave open the option for them to number as many subsequent preferences as they wished.

The Committee will hear many suggestions for more complicated reforms, I am sure. But the heart of the problems facing the electoral process is the link between increasing candidate and party numbers and compulsory preference marking. Breaking this link is necessary for the health of our political system, and to restore public confidence in election outcomes. It would also encourage parties to focus more on convincing the public of their merits rather than relying on cute or misleading names, or side-deals on preference allocations. And while it would no doubt make preference-expression less prevalent, it would maintain the ability of informed electors to use their preferences sincerely. It would also continue to enable parties to campaign for secondary preferences from other parties, and would not restrict parties from making preference-swapping deals. Unlike today, however, they would have to sell these deals to the electorate too.

It is vital that the Parliament does not miss this opportunity to reform the electoral system. As in other important and contested areas of public life, the past decade has seen a reluctance to campaign and push through reforms which are in the public interest if they upset vested interests. It is inevitably the case with electoral reform that there will be winners and losers from any reform, and partisan resistance will certainly be evident if a move to optional preferential voting is recommended by this Committee. Yet today the real loser is the Australian voter and by extension the Australian democratic system.

In sum, it is necessary not just to re-establish public confidence in the electoral system but also confidence in our ability to reform our system where necessary. Recent years have seen numerous calls for a move to optional preferential voting by respected electoral experts in the media, the bureaucracy and academia, and quite specific warnings prior to the 2013 election about the likely consequences of candidate proliferation. These were all ignored, with successive governments unwilling to grasp the nettle of electoral reform. Indeed, it is hard to escape the conclusion that the Parliament itself has been complacent in recent years in its stewardship of the electoral system. This has to change, and this Committee should lead this process of change.

This submission is based on my experience of advising on electoral reform in over 20 countries, as a scholar working on issues of electoral system design, and my professional experience working on issues of democratic representation with the United Nations, the International Institute for Democracy and Electoral Assistance, and the Centre for Democratic Institutions, amongst others.

Yours sincerely

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