



Additional Comments – Senator Nick Xenophon

Senator Nick Xenophon's Additional comments to the

Joint Standing Committee on Electoral Matters

Advisory Report on the Commonwealth Electoral Amendment Bill 2016

1. The current Senate voting system is in need of urgent reform. It must be reformed in order to take away the power from backroom political operatives and so called 'preference whisperers', and deliver that power back to the people
2. The reforms in the Commonwealth Electoral Amendment Bill (2016) will do that, particularly with the Committee's proposed amendment to allow for below the line optional preferential voting (in addition to a form of above the line OPV). This recommendation is consistent with a bill I drafted for Senate voting reform. Credible reform cannot only deal with above the line voting – it must include below the line – otherwise voters will, in effect, be railroaded into voting above the line.
3. I note that both respected electoral analysts and constitutional law experts have supported reform to below the line voting, including Adjunct Professor Antony Green, Professor George Williams and Dr Kevin Bonham. Their views are well set out in their submissions, their evidence to the Committee and in the Committee report.
4. Further, the proposed amendment to allow below the line voting will in all likelihood remove any lingering (albeit remote) prospect of a High Court challenge to the legislation.
5. I note that the Committee process has proceeded with much haste. Notwithstanding that, the previous Committee report into Electoral reform released in 2014 has canvassed the fundamental principles set out in this bill, the abolition of group voting tickets. I believe the changes recommended (compared to 2014) are a significant improvement in that it will encourage voters to consider choices other than the major parties. I also expect that the Senate's Committee stages of this bill to be appropriately robust, extensive and not time limited.
6. Given these are the biggest changes proposed to Senate voting in over 30 years I believe it is essential that the Government provide adequate resources to the AEC to publicise these changes extensively and to do a massive public education

campaign. The Government needs to spell out what those resources will be as soon as possible.

7. In terms of savings provisions and publicity I am in strong agreement with the views expressed by Dr Kevin Bonham in his submission to the inquiry, where he set out the following:

Savings Provisions and Publicity

A common issue surrounding the use of savings provisions is the potential for parties or commentators to advocate "just vote 1" style voting, which is contrary to the instructions on the ballot paper but formal as a result of the savings provision.

A balance has to be struck between freedom of political communication and protecting the system from actions that could increase differences in the exhaust rate between parties.

My suggestion is that the following be banned:

** Issuing any how-to-vote card that recommends that voters vote in a manner contrary to the instructions on the ballot paper (even if the instruction represents a formal vote).*

** Encouraging a voter to vote in a manner contrary to the instructions on the ballot paper.*

** Publishing or purchasing any advertisement that states that voters can vote in a manner contrary to the instructions on the ballot paper.*

While there has been some suggestion that even discussing the existence of the savings provision should be banned, I am strongly opposed to going that far. It is necessary that people be able to discuss a voting system and its operation for the purposes of research, analysis and debate.

8. The legislation ought to be amended to reflect Dr Bonham's reasoned approach.
9. This legislation will go a long way in restoring the electorate's faith in the Senate voting system. It will finally hand the power of preferences back to the people. It is long overdue and welcome.

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02 / 03 / 2016