

Introduction

- 1.1 This report makes six recommendations for reform as guidance for legislative change. The purpose of these recommendations is to provide simplicity, integrity, transparency and clarity in the Senate voting system; to provide the people with the power to express and to have their voting intent upheld, and restoring confidence that the system of Senate voting reflects the will of the people.
- 1.2 The Senate voting system has come under intense scrutiny following the 2013 election. In Victoria the Australian Motoring Enthusiast Party representative was elected to the Senate having received only 0.51 per cent of formal first preference votes. In Western Australia, there was a 14 vote difference between two candidates at one exclusion point and a 12 vote difference at the same exclusion point during the recount.¹
- 1.3 The Motoring Enthusiast Party received only a total of 17 122 votes in Victoria, equalling just 0.0354 of a quota.² However, through manipulation of preference deals, the party was elected to the final seat with a transfer of 143 118 votes from the Sex Party, whose transferred votes themselves had been transferred from over twenty other parties, arguably coming from voters that had no idea that their vote would elect a candidate from such an unrelated party with such low electoral support.

1 This difference is due to the operation of the count. For further information about how the count and the transfer exclusion point operates see aec.gov.au/Voting/counting/senate_count.htm.

2 Australian Electoral Commission (AEC), results 2013 federal election, 2014, results.aec.gov.au/17496/Website/SenateStateFirstPrefs-17496-VIC.htm, accessed 20 January 2014.

- 1.4 A diversity of candidates and political parties is important in a robust democracy and any system that lessens the capacity for diversity in political representation would diminish our democracy.
- 1.5 However, the Australian community is rightly concerned about a system that allows results such as those that occurred at the 2013 Senate election.
- 1.6 The final composition of the Senate should reflect the informed decisions of the electorate and it is clear that the Senate from 1 July 2014 will not do that, it will reflect deal making and preference swapping.
- 1.7 The 'gaming' and systematic harvesting of preferences involving complex deals that are not readily communicated to, or easily understood by the electorate has led to a situation where preference deals are as valuable as primary votes.
- 1.8 A further concern expressed by many voters after the 2013 election is that they are being forced into above-the-line (ATL) voting due to extremely large ballot papers (110 candidates were listed on the NSW ballot paper). Once the ATL vote is cast, the voter loses all power over their preference flow. While Group Voting Tickets (GVTs) are technically available for electors to examine, very few do so due to the time involved and the complexity of these arrangements. The ability of parties to lodge up to three GVTs means that even if voters can follow the tickets, they do not know which one applies to their vote.
- 1.9 The 2013 Senate election results were a crucible in which some of the flaws of current arrangements merged: specifically, electors felt their votes had been devalued by preference deals and that they had been disenfranchised by being forced to prefer unpreferred candidates.
- 1.10 It is clear that status quo is simply not an option.
- 1.11 This report addresses those issues that need reform to bring balance back to the Senate voting system.
- 1.12 Reports of the Joint Standing Committee on Electoral Matters as far back as 2005 gave consideration to these issues as they were emerging.
- 1.13 Concerns have also been raised about the construction of Senate ballot papers and party branding contributing to voter confusion which resulted, most publicly in New South Wales, in votes going to the Liberal Democratic Party rather than the Liberal/Nationals.
- 1.14 This in part had to do with the position the party drew on the ballot paper in the first column, together with the size of the ballot paper resulting in the party name 'Liberal' and 'Democrats' being split across two lines, leaving 'Liberal' as the more prominent part of the party name.
- 1.15 A variety of suggestions have been raised aimed at addressing this issue including that sitting Senators/parties should be allocated the first

columns on the ballot paper; that Robson rotation should be implemented; that party logos should be printed on ballot papers.

Conduct of the inquiry

- 1.16 The Committee has examined Senate voting in the context of its wider inquiry into the conduct of the 2013 federal election, referred by the Special Minister of State on 5 December 2013.
- 1.17 The 2013 Senate results made it clear that Senate voting is the issue of most concern to voters and so the Committee undertook to address this issue as a matter of urgency.
- 1.18 The Committee conducted public hearings on this and other matters in Canberra, Sydney, Melbourne and Hobart and received a wide range of submissions and correspondence regarding this issue. The Committee also travelled to Perth and received private briefings on the conduct of the Senate election and the subsequent re-run. All transcripts and submissions are available on the Committee's website: www.aph.gov.au/em and a full listing will be available in the final report.

The 'Xenophon Bill'

- 1.19 On 12 December 2013, the Senate referred the Commonwealth Electoral Amendment (Above the line Voting) Bill 2013 to this Committee for inquiry and report.³ This bill is proposed by Senator Xenophon to address the concerns raised by the community in the wake of the 2013 election.
- 1.20 The bill proposes to reform the system for electing candidates to the Senate in light of perceived attempts to 'game' the system through preference deals at the 2013 federal election. The intention of the bill is to simplify the voting process to better allow voters to determine their own preferences.
- 1.21 The bill proposes an optional above the line voting system for electing candidates to the Senate. Electors would have the option either of numbering at least one group voting square above the line, or below the line at least as many candidates as there are to be elected at that particular election. Voters would then have the option to go on to number as many other squares as they wish. This would allow voters to express their preferences to the extent they wish.

3 Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013, <aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s934>, accessed 4 April 2014.

- 1.22 The Committee reported to the House on 24 February 2014 and the Senate on 3 March 2014 that it would consider the proposal as part of an interim report on the 2013 election rather than address individual reforms by way of private bills.
- 1.23 The substantive Senate voting issues raised by Senator Xenophon are addressed in this report.

Structure of the report

- 1.24 Chapter 2 discusses the history of Senate voting reform and how the current voting and counting system works.
- 1.25 Chapter 3 presents the evidence received by this inquiry from the community, political parties and experts in the electoral system.
- 1.26 Chapter 4 concludes the report and presents findings and recommendations for significant change to the Senate voting system.