
The Parliament of the Commonwealth of Australia

Interim report on the inquiry into the conduct of the 2013 Federal Election

Senate voting practices

Joint Standing Committee on Electoral Matters

May 2014
Canberra

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ISBN 978-1-74366-155-0 (Printed version)

ISBN 978-1-74366-156-7 (HTML version)

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Foreword

The 2013 federal election will long be remembered as a time when our system of Senate voting let voters down.

Combined with pliable and porous party registration rules, the system of voting for a single party above the line and delegating the distribution of preferences to that party, delivered, in some cases, outcomes that distorted the will of the voter.

The system of voting above the line has encouraged the creation of micro parties in order to funnel preferences to each other, from voters who have no practical way of knowing where their vote will ultimately land once they had forfeited it to the parties' group voting tickets.

The current rules for party registration have provided the means and unacceptable ease to create the parties in the first place to garner primary votes above the line and then harvest the preferences in a whirlpool of exchanges.

This has resulted in voters being required to contemplate and complete a difficult to manage ballot paper a metre long. At the last election 44 parties or groups were listed above the line and 110 candidates below the line on the NSW ballot paper. At a metre long, the Senate ballot papers were the maximum printable width, which meant the printed size of the names of parties and candidates was unacceptably small. As a result the AEC was required to provide voters with plastic magnifying sheets.

Many voters were confused. If they voted above the line, the choice of where their vote would go was effectively unknown, and accordingly in many cases their electoral will distorted.

If they voted below the line they needed to complete preferences for each and every candidate - in many states, a very complex and time consuming exercise.

The 'gaming' of the voting system by many micro-parties created a lottery, where, provided the parties stuck together in preferencing each other (some of whom have polar opposite policies and philosophies) the likelihood of one succeeding was maximised.

Instead of a lottery ball popping out of a machine, in Victoria, a micro-party candidate popped out as the winner of a Senate seat.

The Australian Motoring Enthusiasts Party received just 0.51 percent of the primary vote, but their candidate was elected to the Senate through 'gaming' the system. Clearly, given the circumstances, this election did not represent the genuine will of the voters.

In some other States similar outcomes almost occurred.

While such 'gaming' of the system is legal, it has nonetheless distorted the will of voters, made Senate voting convoluted and confusing, and corroded the integrity of our electoral system.

These circumstances demand reform from this Parliament.

That is why for five months this Committee has worked in a bi-partisan way to suggest a course of action that will restore the will of the voter and ensure more transparency and confidence in Senate elections.

We have heard all the arguments, analysed all the evidence, and ensured every view has been evaluated.

We are conscious that in proposing any substantive reform the Committee must ensure its recommendations are fair and effective, and will represent a significant improvement to current electoral practice. That is why we have sought to produce a considered, robust and unanimous report – and we have.

We believe that retaining the current system is not an option.

We make six recommendations for reform as guidance to the parliament and the government for legislative change.

The current system of Senate voting above the line, and its reliance on group voting tickets, should be abolished and replaced with a new system that puts the power of preferencing back in the hands of the voter.

Our considered view is that the new system should be an optional preferential voting system, where the voter decides whether to preference and to how many parties or candidates to preference.

We also suggest consequential reforms to below the line voting to remove the need for voters to complete every box.

We also believe that party registration rules need to be enhanced to ensure that parties are real and genuine, rather than vehicles for electoral manipulation.

We have held three hearings in Canberra, and other hearings and briefings in Sydney, Melbourne, Hobart and Perth. The Committee has met for many days to consider the issues.

As Chair I want to place on record my thanks to the permanent members of the Committee, Senator the Hon John Faulkner, Ian Goodenough MP, Hon Gary Gray MP, Alex Hawke MP, Senator Helen Kroger, Senator Lee Rhiannon, Senator Anne Ruston, Senator Mehmet Tillem as well as three participating members from the Senate, Senator Bridget McKenzie, Senator Barry O'Sullivan and Senator the Hon Ian Macdonald who all showed a deep interest during the inquiry.

I particularly want to thank the Deputy Chair, the Hon Alan Griffin MP for his willingness to go the extra mile and work with me to gain the evidence and produce the best report we could.

The staff of the Secretariat have demonstrated the very best qualities of our public service; appreciating the importance of the issues confronted by the Committee and working tirelessly to support our deliberations with the aim of assisting to produce this report within a very tight time frame.

The Committee Secretary Glenn Worthington, together with Siobhan Leyne, Jeff Norris, James Bunce, Katrina Gillogly and Jessica Ristevska worked extremely hard in gathering the evidence and liaising with the range of individuals, groups and parties making submissions. They deserve thanks and recognition, as do their colleagues who supported all of us we travelled and worked.

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.

It is critically important that the Parliament considers these recommendations for reform – and legislation to enshrine them into electoral law – as a very high priority.

Hon Tony Smith MP
Chair



Membership of the Committee

Chair Hon Tony Smith MP

Deputy Chair Hon Alan Griffin MP

Members Ian Goodenough MP

Hon Gary Gray AO MP

Alex Hawke MP

Senator the Hon John Faulkner

Senator Helen Kroger

Senator Lee Rhiannon

Senator Anne Ruston

Senator Mehmet Tillem

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Terms of reference

On 5 December 2013 the Special Minister of State, Senator the Hon Michael Ronaldson, requested the Committee to conduct an inquiry with the following terms of reference:

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 2013 Federal Election and matters related thereto.



List of abbreviations

| | |
|------|---------------------------------|
| AEC | Australian Electoral Commission |
| AEO | Australian Electoral Officer |
| ATL | Above the Line |
| BTL | Below the Line |
| CSS | Central Senate Scrutiny |
| DRO | Divisional Returning Officer |
| EIMS | Election Management System |
| GVT | Group Voting Ticket |
| IVT | Individual Voting Ticket |
| LPV | Limited Preferential Voting |
| OIC | Officer-in-Charge |
| OPV | Optional Preferential Voting |



List of recommendations

Analysis and recommendations

Recommendation 1

The Committee recommends that section 273 and other sections relevant to Senate voting of the *Commonwealth Electoral Act 1918* be amended to allow for:

- optional preferential above the line voting; and
- ‘partial’ optional preferential voting below the line with a minimum sequential number of preferences to be completed equal to the number of vacancies:
 - ⇒ six for a half-Senate election;
 - ⇒ twelve for a double dissolution; or
 - ⇒ two for any territory Senate election.

The Committee further recommends that appropriate formality and savings provisions continue in order to support voter intent within the new system.

Recommendation 2

The Committee recommends that sections 211, 211A and 216 and any other relevant sections of Parts XVI and XVIII of the *Commonwealth Electoral Act 1918* be repealed in order to effect the abolition of group and individual voting tickets.

Recommendation 3

The Committee recommends that the Government adequately resource the Australian Electoral Commission to undertake a comprehensive voter education campaign should the above recommendations be agreed.

Recommendation 4

The Committee recommends that sections 126, 132, 134 and any other relevant section of Part XI of the *Commonwealth Electoral Act 1918* be amended to provide for stronger requirements for party registration, including:

- an increase in party membership requirements to a minimum 1 500 unique members who are not relied upon for any other party in order for a federally registered party to field candidates nationally;
- the provision to register a federal party, that can only run in a nominated state or territory, with a suitable lower membership number residing in that state or territory, as provided on a proportionate population or electorate number basis;
- the provision of a compliant party constitution that sets out the party rules and membership process;
- a membership verification process;
- the conduct of compliance and membership audits each electoral cycle; and
- restriction to unique registered officers for a federally registered party.

The Committee further recommends that the Government adequately resource the Australian Electoral Commission to undertake the above activities.

Recommendation 5

The Committee recommends that:

- all new parties be required to meet the new party registration criteria; and
- all currently registered parties be required to satisfy the new party registration criteria within twelve months of the legislation being enacted or the party shall be deregistered.

Recommendation 6

The Committee recommends that the Government determine the best mechanism to seek to require candidates to be resident in the state or territory in which they are seeking election.