Submission to the Joint Standing Commission on Electoral Matters:

Inquiry into and report on all aspects of the 2016 Federal Election and matters related thereto

by Dr Kevin Bonham, submitted 1 November 2016

Summary

This submission largely concerns the changes to Senate voting that were implemented at the 2016 federal election. Senate reform of some substantial kind was necessary to repair a broken Senate voting system that was producing results unrelated to genuine voter intention at substantial risk to its own integrity.

The reform successfully addressed the core problems seen at the 2013-4 Senate elections. Many predictions were made that it would introduce substantial new problems. Every one of these predictions of which I am aware proved to be either false or vastly exaggerated.

The new system was highly successful in causing Senate results to reflect the will of the voters of each State and Territory, and enriched Australian democracy by showing that when able to freely make their own preferencing choices, voters respond in remarkably diverse and often unexpected ways. This in turn confirmed that under the old system, most voters had been coerced (by the impracticality of voting formally below the line) into delivering party preferences that did not reflect their real views, beyond their number 1 party vote.

Any introduction of a new system, particularly at short notice, is bound to be imperfect but problems with the new system were on the whole less severe, and uptake of its desirable functions more widespread, than even I expected. Nonetheless there is room for improvement and I hope the Committee will recommend fine-tuning of the new system to eliminate some of the minor problems that remain, or were in some cases newly created.

At the end of this submission I also comment briefly on some of the "particular reference" items for this Inquiry.

I am expecting to attend the scheduled Hobart session of the Committee on November 14 and at that time may comment verbally on issues raised in other submissions. I also refer readers to my website for further comment on the Senate results.[1]

Kevin Bonham, 1 Nov 2016

[1] Performance review pieces, on which this submission is largely based, are at http://kevinbonham.blogspot.com.au/2016/08/senate-reform-performance-review-part-1.html and http://kevinbonham.blogspot.com.au/2016/08/senate-reform-performance-review-part-2.html.

Recommendations

1. That the Inclusive Gregory system for surplus distributions be replaced by the Weighted Inclusive Gregory system, or with some other system that does not cause the undemocratic vote-value distortions that are caused by unweighted Inclusive Gregory.

2. That a progressively reducing quota be introduced for Senate elections, such that the quota is recomputed as the relevant share of all *non-exhausted* vote values after every count at which the total value of exhausted votes increases.

3. That Senate ballot papers prominently and explicitly instruct voters to vote either above or below the line and not both.

4. That savings provisions for below the line votes be expanded such that any vote that includes at least twelve numbers with a maximum of two sequence errors in the first twelve positions is formal.

5. That the costs and practicalities of rotating the order of parties on Senate ballot papers be investigated.

6. That display of Senate results in the Virtual Tally Room be improved such that there is one display of votes for each state that only includes those booths that have been fully processed into both votes for parties and votes for individual candidates.

7a. That authorisation be required for all electoral materials, including online and pre-recorded telephone materials *and including all opinion polls*, conducted within the campaign period, however:

7b. That legislation covering online material take into account the impracticality of including an authorising statement in tweets and other forms of "micro-blogging", and therefore classify a statement as authorised if the author's profile includes a link to a website on which an authorising statement is clearly visible.

8. That truth in electoral advertising legislation not be expanded beyond the limited and specific extent to which it already exists.

Author background

I am a Tasmanian-based political analyst with 28 years' experience as a scrutineer and analyst of preference distributions including Senate counts and other multi-member systems (especially Hare-Clark). I am also the author of a blog-form psephology, poll analysis and political comment website located at http://kevinbonham.blogspot.com.au/ and was widely interviewed in the local and national presses in the leadup to recent elections including the 2013 and 2016 Australian federal elections and various state elections. I was an appointed scrutineer of the vote entry process for the 2016 Tasmanian Senate count, spending around 15 hours observing vote entry in order to successfully project the outcome.

My professional background is mainly in an area of science unrelated to politics and elections, but my tertiary qualifications include a major in Political Science. A substantial minority of my paid work now relates to electoral and polling analysis, for electoral authorities and sometimes candidates. I am writing this submission in a private capacity and am not a member of, associated with or strongly supportive of, any political party.

1. Problems with the old Senate system: did the new system resolve them?

In my submission to the initial inquiry into the 2013 federal election, I argued that the previous system had a range of critical defects. Here I list these and note whether they were resolved.

1. Candidates being elected through methods other than genuine voter intention from very low primary votes.

No candidate won a seat in any state without their party polling at least 2.87% (0.373 of a quota) in that state. There only even were two cases of parties winning with around 3% of the vote because the election was a double dissolution and a very large number of "micro-parties" polled a high share of the vote between them. Contests between these parties were determined by the intention of voters casting their own preferences. There was no case of a candidate "snowballing" to victory based on preferences that voters would not have known about when voting.

There was an unusual situation in Queensland in which Sen Malcolm Roberts (One Nation) was elected to a second seat for his party from a surplus of 1.49% (.194 quotas) and with an extremely low personal below-the-line vote of 77 votes. This was, however, a result of the genuine intention of voters for many "micro-parties" to preference One Nation in comparison to their various lesser-known rivals for that seat, combined with sufficient numbers of One Nation voters voting above the line for the One Nation ticket rather than below the line for just Pauline Hanson.

It is also not unusual in double dissolutions using above-the-line voting for successful candidates who are not the lead candidate to poll small personal below-the-line votes, and rely on party votes to be elected. Four successful major party candidates polled between 150 and 210 personal votes in 1987. What is unusual is for a minor party to win a second seat in a state.

2. Election outcomes depending on irrelevant events involving uncompetitive parties early in preference distributions.

No such situation arose because of the relatively weak flow of preferences. If an uncompetitive candidate was excluded just before another uncompetitive candidate, it made no difference because the second candidate would themselves be soon excluded. There is still some potential for obscure "tipping point" scenarios to affect results, but it is greatly reduced.

3. The frequent appearance of perverse outcomes in which a party would have been more successful had it at some stage had fewer votes.

This issue in the 2013 election was strongly connected to the above issue, and disappeared in the 2016 election for the same reason. No such perverse result has been identified.

4. Oversized ballot papers, contributing to confusion between similarly-named parties.

Oversized ballot papers were again a feature of this election, because many micro-parties still contested the election individually although it would have been in their best interests to merge with other likeminded parties. However there was no repeat of the 2013 situation in which the Liberal Democrats attracted a vastly inflated vote caused by confusion with the Liberal Party. Whether this was because of the introduction of party logos or simply because none of the ballot draws in the large states were nearly as conducive to such confusion as in 2013 is unknowable.

It remains to be seen whether those involved in running uncompetitive micro-parties will realise that splintering the vote is pointless, or whether they might continue to run out of ideological purity, for fun, or as some kind of (apparently ineffective) co-ordinated strategy of flooding the ballot. The next election, especially if it is not a double-dissolution, should give us a much better idea of whether further measures to reduce micro-party numbers are necessary to avoid oversize ballot papers. I continue to support state-based nominator requirements to prevent parties from running in a state they lack significant support in.

5. Absurd preference deals and strategies, resulting in parties assigning their preferences to parties their supporters would be expected to oppose.

While some parties appeared to have determined preferences by a process of trading or by a co-ordinated strategy, it had no effect on the outcome, because voters generally did not follow advisory how-to-vote cards that were counter-intuitive or that preferenced obscure parties. Even attempts by, for instance, "traditional usergroup" parties such as Shooters Fishers and Farmers to preference, for instance, religious parties viewed as right-wing, were extremely unsuccessful.

Preference flows generally did not follow how-to-vote cards (see "How To Vote Cards" section at http://kevinbonham.blogspot.com.au/2016/08/senate-reform-performance-review-part-2.html). Especially, the preference recommendations of obscure parties with small supporter basis were generally ignored. The potential for preference-harvesting is greatly diminished, and to the extent that how-to-vote cards determined results (Senator Day in South Australia a probable case in point) they did so because voters freely chose to follow them. The voters could easily have voted differently had they not wanted to follow the card - the crucial difference with the reason that preference-harvesting worked under the old system.

6. The greatly increased risk of close results that are then more prone to being voided as a result of mistakes by electoral authorities.

It was reported that in Western Australia 105 Senate ballots were deemed informal because voters were given the wrong state's ballot papers.[2] In two cases in the Western Australian count, final candidates for major parties were excluded by less than this margin. Under the old system, had either of these exclusions affected the

[2] http://www.abc.net.au/news/2016-07-07/pearce-voters-given-victorian-senate-ballots-election-2016/7575982

result (because of issue 2 above) then the WA Senate election would probably have been voided. However because results under the new system are not sensitive to early exclusions, and the final-seat margin exceeded 25,000 votes, the result survived any challenge based on this issue.

A, by chance, extremely close result for the final seat in Tasmania (141 votes) still highlights that there is some risk of an election being voidable when any errors are made in the process.

In conclusion, the new system has addressed five of the six problems identified while further experience will be needed to determine to what extent it addresses the sixth.

2. **Predicted problems with the new Senate system: did they actually occur?**

Numerous claims were made that the new Senate system would create various problems. At the time of writing I do not have time to specifically attribute these claims and I do not think it is necessary to do so. This section discusses whether the predicted problems actually happened.

1. That the new system would exhibit gross disproportionality in favour of one major party (typically argued to be the Coalition)

In assessing the proportionality of any Senate outcome it is important to bear in mind that the Senate is not a proportional house because it elects equal numbers of Senators from six states with very different populations. Distortions are to be expected if, for instance, voters in small states vote differently to those in large states. It is also important to bear in mind that proportionality cannot be assessed by primary votes alone because our system allows for preferences.

For the record, the following table shows the proportion of all Senate seats won nationally by competing parties[3] compared to their primary vote share.

	%votes	Seats	%seats
Coalition	35	30	39.5
Australian Labor Party	29.79	26	34.2
The Greens	8.65	9	11.8
Pauline Hanson's One Nation	4.29	4	5.3
Nick Xenophon Team	3.3	3	3.9
Liberal Democrats (LDP)	2.16	1	1.3
Derryn Hinch's Justice Party	1.93	1	1.3
Shooters, Fishers and Farmers	1.39		0.0
Family First	1.38	1	1.3
Christian Democratic Party	1.17		0.0
Animal Justice Party	1.15		0.0
Australian Sex Party	0.97		0.0
Australian Liberty Alliance	0.74		0.0
DLP - Democratic Labour Party	0.68		0.0
Health Australia Party	0.62		0.0
Jacqui Lambie Network	0.5	1	1.3
Australian Christians	0.48		0.0
HEMP	0.48		0.0
Drug Law Reform	0.44		0.0
Katter's Australian Party	0.38		0.0
Australian Motoring Enthusiast Party	0.38		0.0
Marriage Equality	0.33		0.0
Glenn Lazarus Team	0.33		0.0
Others (26 parties + Ungrouped)	3.54		0.0

[3] In the case of minor joint tickets that did not represent formal coalitions, such as Sex/HEMP and Science/Cyclists, I assign the votes separately to each party as they were actually received. Note also: "The Nationals" on next page = Nationals WA.

While I believe this to be a very proportional outcome indeed, a still more proportional outcome is seen if seat shares won in the six states are compared to the average statewide percentage across the six states, which I believe is a much better way to assess proportionality[4]:

	AVE	Seats	%Seats
Coalition	34.64	28	38.9
Australian Labor Party	29.59	24	33.3
The Greens	8.79	9	12.5
Nick Xenophon Team	5.14	3	4.2
Pauline Hanson's One Nation	4.11	4	5.6
Family First	1.62	1	1.4
Liberal Democrats (LDP)	1.58	1	1.4
Jacqui Lambie Network	1.58	1	1.4
Derryn Hinch's Justice Party	1.43	1	1.4
Shooters, Fishers and Farmers	1.35	0	0.0
Animal Justice Party	1.04	0	0.0
Australian Sex Party	0.96	0	0.0
Christian Democratic Party	0.89	0	0.0
Australian Liberty Alliance	0.71	0	0.0
Australian Christians	0.50	0	0.0
DLP - Democratic Labour Party	0.49	0	0.0
HEMP	0.42	0	0.0
The Nationals	0.42	0	0.0
Health Australia Party	0.40	0	0.0
Katter's Australian Party	0.32	0	0.0
Drug Law Reform	0.29	0	0.0
Australian Motoring Enthusiast Par	0.29	0	0.0
Marriage Equality	0.29	0	0.0
Others (26 parties + ungrouped)	3.17	0	0.0

Strikingly, out of the 72 state seats, every party that has averaged over 1/73rd of the vote per state has won at least one seat, and every party that has averaged less has won none. NXT won three seats instead of a proportional four (mainly because outside SA its 1.8% average vote was too evenly spread between states) and One Nation has won four instead of three (on superior preferencing performance by collecting votes from a lot of right-wing micro parties that each won nothing).

A slight skew to the "big three" (Coalition, Labor, Greens) and against parties on 1% or so of the vote is evident. This makes sense partly because big parties strongly outperformed most micro-parties on preferences, and partly because the Greens benefited from having three good states and three weak states rather than getting just over a quota across the board. Again, I argue that this is a good thing anyway, as a parliament that allows too many parties with very low support levels to win seats is unmanageable. The seat result seems to have slightly favoured "the left", if anything, but "the left" were very lucky not to drop a seat to One Nation in Tasmania.

Comparing proportionality between this system and the old system is not very useful because double dissolutions cannot be compared readily with half-Senate elections

[4] Any disproportionality caused by results in the Territories is a product of them only electing two Senators rather than of the electoral system used to select them.

and the only double dissolution under the old system was at a time when the vote was more concentrated in a few parties. It is also pointless because disproportionality was not the problem with the old system, beyond that there was a potential for parties with virtually no public support to win. And it is unnecessary because it is sufficient that the new system is not unfairly disproportional.

2. That the new system would make it too easy for the Coalition to win a blocking majority thus potentially preventing an incoming Labor government from ever passing legislation

Adherents of this claim have generally made it in the context of half-Senate elections, at which they argued the Coalition might easily win enough of the vote to win 3/6 seats in every state and thereby a blocking majority. (The quota for 3/6 seats is lower than for 6/12 seats at a double dissolution).

The most likely result of the 2016 election as translated to a half-Senate election with the same candidates contesting would have been that shown in the Section 282 recounts: 17 Coalition, 14 Labor, 4 Green, 2 NXT plus Senators Hanson, Lambie and Hinch. To win a blocking majority at half-Senate elections a party needs to average 20 seats (not 19) at two consecutive elections, because the Territory Senate seats are vacated every election. Had the new system operated for half-Senate elections in 2013 and 2016 the Coalition would have won around 35 seats at these two elections combined, five short of the number needed for a blocking majority, as a combined result of a landslide win and a narrow win in the House of Representatives. The idea that it would currently be easy for the Coalition to hold a blocking majority following a Labor win is therefore extremely fanciful.

For it to become a significant issue in the future, the vote for combined fourth parties (parties other than Labor, Coalition and Greens) would need to crash such that these parties no longer won what would have been the third Coalition seat in any state. In this unlikely case, deadlocked Senates would be likely to be an issue for both sides as a result of the election of an even number of Senators per state at a half-Senate election.

3. That the new system would eradicate minor parties (excluding the Greens) from the Senate, thereby "disenfranchising" "25%" of Australians who voted for such parties

This claim failed spectacularly with eleven Senators from parties other than the "big three" winning, thus increasing the size of the non-Greens portion of the crossbench. It was wrong because:

* Minor parties (again excluding Labor, Coalition, Greens) won four seats on raw quotas, and would have won these seats whatever the preferencing rules.

* Six minor party candidates were in the top twelve positions after the distribution of initial surpluses, mainly because the share of votes going to all minor parties meant that major party remainders did not always compete with them.

* Five of these six won after preferences, while a further two minor party candidates won by overtaking someone in the top twelve positions at this stage on preferences. (One overtook another micro-party candidate and one overtook a major party candidate.)

Even had the election been a half-Senate election, one such candidate would have won on primary votes while another four would have won mainly because of the second factor above.

It may seem that fourth parties, with 11/76 (14.4% of) seats, are underrepresented compared to their 26.4% combined share. However it is only fair to expect the total fourth party seat share to be close to their vote share if it is assumed that the voters for each such party prefer all other such parties to the "big three". As I predicted based on House of Reps results, the evidence shows extremely strongly that this isn't the case - many voters for parties with tiny vote shares choose to preference Labor, the Coalition and the Greens ahead of other parties with tiny vote shares. Indeed the voter who prefers every other party to all of the "big three" is probably extremely rare.

4. That very large numbers of voters would just vote 1 for a party, causing their votes to exhaust

While I would be very happy to argue the case that the new system would be an improvement even if nearly every voter had chosen to just vote 1, the percentage of all voters who gave just a single 1 above the line was extremely low compared to predictions - below 5% in NSW (where this form of voting is common in Upper House elections) and below 2.5% in every other state:

	%LNP ATL	%ALP ATL	%ALL
NSW	4.4	5.8	4.7
VIC	1.8	3.4	2.4
QLD	1.9	2.1	2
WA	2	2.7	2.2
SA	2.3	2.7	2.3
TAS	1.1	1.1	1.1
ACT	1.7	1.2	1.3
NT	1.9	2.1	2.3

The reason for this is that voters generally at least try to follow the instructions.

5. That there would be a very high exhaust rate (estimates were frequently into double digits)

Critics of the new system overestimated the exhaust rate greatly because they made the following errors:

* They failed to realise that just because a vote has the potential to become exhausted doesn't mean it actually will (at least, not at anything near full value).

* They assumed large numbers of voters would just vote 1.

* They assumed micro-party voters would preference other micro-party voters more strongly than in fact happened.

* They assumed all micro-parties would be eliminated.

Just over a million vote-values formally exhausted nationwide, but over 300,000 of these exhausted during preference throws that had no impact on the election outcome in that state and could only influence the order of election of candidates, if anything. Of the remaining votes, an easily missed point is that much of the exhaust consists effectively of portions of a vote that has already been used to elect one or more candidates.

In Tasmania, for instance, the final exhaust vote value was 9531 votes. However this included just 5412 papers that exhausted at full value having not helped to elect anybody, and 103,205 papers that each contributed an average of 4% of a vote to the exhaust pile.

In Victoria, 1,802,642 papers formally exhausted at a combined value of 300,283 votes, but only 467,067 papers had exhausted at a value of 178,770 votes at the point where the winners of the election were beyond mathematical doubt (the completion of Meredith Doig's full-value preferences).

Overall the meaningful exhaust rate of about 5% (depending on exactly how it is defined) was not as high as predicted and the proportion of voters whose vote exhausted in full was even lower than that.

As I have noted in the past it is not possible to have a system that perfectly conserves all of full preferencing, high formality and voter control over preferences.

6. That the system would be effectively first-past-the-post on quota remainders

This was connected to the expectation of a high just-vote-1 rate. As it happened preferencing had a major impact in some states with Bob Day overtaking two other candidates on preferences to win and Senator Malcolm Roberts overtaking five. In Victoria the lead Family First candidate overtook five candidates before losing by a moderate margin and in Western Australia the Greens greatly stretched their lead for the final seat on preferences (and hence would have won had they started somewhat behind). In Tasmania preferences, both above the line and below the line, had a major impact on the count, even though the leading parties on quota remainders did (very narrowly in one case win). Preferencing as a factor influencing outcomes is therefore alive and well, except the voters can all readily decide their own preferences.

7. That informal voting would increase massively, perhaps to around 10%

Informal voting did increase by around one percentage point. However the informal voting rate of 3.94% was still lower than at the first two attempts at the previous (and simpler) system. There was a curiously strong link between electorates with a high informal vote increase and electorates where the Palmer United Party polled well in 2013, so it would not surprise me if some of this increase was deliberate.

In the rapid implementation of the new system, the potential for an increase in informal voting and the desirability of addressing it fairly was one aspect that was overlooked. For instance I saw one Tasmanian vote where the voter had numbered every box below the line but had unfortunately skipped the number 6, making their vote entirely informal. Under the old system such a vote would have been valid for the first five candidates.

I hope that there will be comprehensive reporting on the level and causes of informal voting at this first run of the new system. It is worth noting that if informal voting is seen as an important issue, a much higher priority is addressing it in the House of Representatives. The informal vote in the House of Representatives is still over one point higher than in even this first attempt at the new Senate system, because the House of Representatives lacks adequate savings provisions.

8. That the system would advantage parties perceived as extreme and divisive because the exhaustion of votes would prevent them from being caught on preferences by more moderate candidates

This theory was espoused by some journalists and some left-wing writers claiming that the new system would make it easier for Pauline Hanson's One Nation (as a party expected to poll a good primary vote but struggle to attract preferences) to win seats in the Senate. The theory relied partly on outdated assumptions that major parties could still have effectively prevented One Nation from winning seats under Group Ticket Voting. The fact that Senator Hanson would have been Senator Hanson three years earlier off a primary vote of 1.22% had the 2013-election votes been cast at a double dissolution under the old system discredits this.

One Nation did do very well under the new system, but if anything for the reverse reason to that claimed by this theory. They won a seat in Queensland and nearly another in Tasmania by overtaking other parties (in Tasmania it is possible, but not as obvious as it may seem, that exhaust cost them the seat.) In both NSW and Western Australia they won going away from all parties that might have beaten them to the seat (the Greens made some ground on them in WA but both won). In Queensland they won their first seat on primaries.

Far from One Nation performing strongly on primaries but weakly on preferences, in several cases they performed modestly on primaries but strongly on preferences. They succeeded because voters chose them, not because voters did not choose to stop them.

9. That the AEC would be unable to implement the system correctly and educate the public in time

The implementation of the new system was not absolutely trouble-free, and it was slightly disappointing to hear numerous reports about booth staff telling voters to vote "1-6 above the line or 1-12 below" instead of using the magic words "at least". It was very disappointing to hear of a very small number of cases of booth staff telling voters they had to number only that number of squares.

One other aspect of confusion I noticed in scrutineering was a small proportion of voters (though I've not tried to establish the exact figure) numbering boxes both above and below the line, often for completely different parties. Some of these voters cast an informal vote as a result, or more often a vote that would exhaust prematurely.

Nonetheless the election was - from what I could tell - delivered very smoothly given the massive changes involved and the limited time available to implement them, and concerns in this regard also generally proved groundless.

In summary

Every one of the concerns I have mentioned above that was raised by opponents of the new system, and that it is within my ability to assess, has turned out to be either vastly exaggerated or completely false.

3. Other Senate issues

1. Inclusive Gregory

Distortion caused by the unweighted Inclusive Gregory system for surplus distributions did not alter any seat result at this election as far as I know, but since I last addressed the Committee about this undemocratic relic of the manual count days, it has affected a result in the Victorian upper house.[5] In that case the undeserving winner won at the expense of a candidate who would have won by preference-harvesting so it might be argued that no harm to democracy was done. But someday this system will cause the wrong Senator to be elected, and there is simply no excuse for this when the legislative and computer coding changes required are relatively minor.

Western Australia made the switch from Inclusive Gregory to Weighted Inclusive Gregory following the 2001 election at which some papers were found to have increased in value at transfers at which they should have decreased. The same happened in Tasmania at the 2016 Senate election, and the number of papers involved was substantial.

In total, by my calculations, 3214 papers that were primary votes for Senator Lambie (either above or below the line) reached Senator Bushby at a remaining value of .064 votes per paper. Most of these arrived on the exclusion of Steven Martin. As Senator Bushby had 1.41 quotas. in the Weighted Inclusive Gregory system the value of these papers remaining from his surplus would have been reduced to .026 votes per paper. Instead, rather than having their value reduced at all, these papers were passed on at a new value of .091 votes per paper. This meant that if a voter voted for Lambie and then Bushby they got 6.5% of an extra vote for their vote. Other voters would have lost vote value to this problem.

Overall almost 1% of Tasmanian voters had their votes increased in value after already helping to elect two candidates, and the net value of the distortion exceeded the final seat margin. However I expect the scattering effect with the preferences was such that this did not change the final seat margin by much.

2. Desirability of progressively reducing quota

In the previous Senate system, with an exhaust rate of close to zero, it made sense to keep the same quota for the whole count. In the new system, as exhaust increases through the count, keeping the quota the same means that candidates will keep receiving votes even after their election may be mathematically assured, until they hit the original quota. It also means that the elected candidate retains more votes than they need in order to secure election, and hence that preferences flowing to them do not carry as much value as they could.

In Tasmania, for instance, Senator Singh had a surplus of four votes, but was 1304 votes over what she needed to be mathematically certain of victory. A similar

[5] http://blogs.abc.net.au/antonygreen/2014/12/transfer-values-in-northern-victoria-region.html

disparity applied to Senator Bushby. The system should ideally have allowed for these extra votes to be released to remaining candidates. A system in which the quota for remaining candidates was progressively reduced as votes exhausted would do this. (I realise a more radical change, for instance to the Meek System with constant recalculation of previous transfer values, is not likely to occur!)

3. Display of results

The Tasmanian count was very sensitive to the totals of specific candidates rather than parties. Races between candidates within each major party affected not only which candidates would be elected for each party but also which party would win how many seats. The unsatisfactory manner in which the AEC Virtual Tally Room displayed the process of gradually processing below-the-line votes from booths and assigning them to candidates caused vast public confusion in Tasmania and a very large amount of work indeed for amateur observers aiming to project the results.

Initially votes are treated as unapportioned - that is a vote is counted to a party and not a candidate on the night; it may be either above or below the line. As the process unfolds, votes are sorted as ticket votes for each party and below the line votes for each candidate.

However, frequently in the Tasmanian count, the ticket votes for a party from a booth would unfold as such while the below-the-line votes from that booth would remain shown as unapportioned in the total. This made it constantly look like candidates Singh and Colbeck were polling a much lower share of the vote than they were.

A simple solution would be to have a screen that only included results for those booths for which results had been completely processed with no unapportioned votes remaining.

4. Below the line voting

The below-the-line voting changes were a major success at this election, greatly increasing below-the-line voting rates and permitting Tasmanian voters to overturn a contentious demotion of a sitting Senator by her party. Under the previous system this form of democracy would not have been practical. Indeed Senator Singh was elected entirely on below the line votes with not one single above the line vote reaching her.

There is some push based to scrap above-the-line voting entirely and move to an entirely candidate-based system such as Hare-Clark. Quite aside from this making voting more difficult for those voters who are quite happy to just preference a number of parties above the line, I believe the recent ACT and Tasmanian elections should indicate some risks to proportionality in such systems. The last two ACT elections and the last Tasmanian election all saw cases in which a single remaining candidate for a party was closer to a quota than two combined candidates for another party were to two quotas. Yet in these cases (Ginninderra 2012 and 2016 and Braddon in Tasmania 2014) the party with two candidates won because its candidates were too evenly split for the opposing candidate to overtake either.

If, for instance, Party A has two candidates with 1.7 quotas combined and Party B has one with 0.8, then in my view one seat for each party is more proportional than two seats for party A and no seat for party B. Or, to give a more extreme case, a party with 4.0 quotas spread between five candidates may get all five home while a competing party with 1.5 or even 1.7 quotas might only get one seat. There is a risk that adopting Hare-Clark with Robson Rotation for all Senate elections, whatever else might be said about it, would disadvantage non-major parties.

4. Particular reference items

I have the following comments regarding the particular reference items listed for this inquiry.

1. Truth in advertising

I concur with submission 19 by Professor George Williams concerning truth in electoral advertising. Aside from the many excellent points made by Prof Williams, I am concerned that the difficulty of drawing a line between clearly false statements and statements that are not quite clearly false is a serious one. It can compromise not only the independence of electoral authorities but also of the judiciary. It is best to allow the voters to decide for themselves whether claims being made are true or false, and to punish those making false claims if they believe that they should be punished. We should also respect the right of voters to elect candidates who persistently make false claims, however little we may think of such voters or such candidates.

I also believe that in general voters have a low opinion of the honesty of political candidates, and are cautious about claims they make about each other except when those claims are by candidates they would support anyway, or against candidates they would oppose anyway. And when false claims by a party about another are effective, it is often so because they draw attention to a valid criticism, even if through exaggeration. Parties that achieve momentary success with scare campaigns may also pay a price for that later.

2. Authorisation

I support the aim of extending authorisation requirements to as many forms of political communication as possible, provided that this does not compromise the medium being used to communicate. For instance, it is not realistic to expect a person using Twitter to authorise every tweet within that tweet or even within their profile. An authorisation statement on a webpage linked from their profile should be sufficient.

I strongly support authorisation requirements for campaign robocalls, especially so that voters who find such calls irksome can judge those accepting responsibility for them accordingly.

I would also like to see all opinion polls conducted during campaign periods - whatever the medium - be covered by authorisation requirements. Some sources that commission polls employ dubious question-design practices to generate a skewed response which they can then use to publicise their cause, to "message-test" or even to advertise a position. People who take polls should have a right to know who commissioned or authorised the poll so they can hold political parties accountable for their polling practices, and also to make it easier to trace the source of poll results that may be selectively reported.