

February 25th 2016

Submission to the Committee with reference to the Commonwealth Electoral amendment Bill-2016

In my previous submission after the 2013 election and the metre long Senate ballot paper, I stated that the system needed to be reformed both above the line and below the line. I stated that I wished to vote for people not parties. In all my years of voting those who appeared on the Senate ballot paper were names chosen mostly by Party organizations. I doubt if that will ever change. Unlike my local member in the House of Representatives, Queensland Senators are mostly unknown to me!

I was born in the 1930's and until 1948 the Australian Senate appeared mostly irrelevant. It was a rubber stamp for the government and was called the 'House of Sleep'. In 1946 the ALP had 33 senators and the Coalition 3. This result was 'grotesque'. It was no longer a State's House or a House of Review for Legislation. The intent of those who framed the Constitution was to have a Westminster lower house with a Senate modelled on the US constitution to maintain a concept of 'Federalism' with devolved powers to the States. We should not forget that the USA designed a system to be a check and balance to limit the arbitrary use of Executive Power by a President. This concept almost died in Australia with the two World Wars and the growing divide between the Coalition and Labor.

The Chifley Act (1948) changed the method of voting to proportional representation and introduced a system to ensure that the Senate result was not a 'winner take all' like 1946. Since then we have had a Senate which is more than just a mirror of the lower house. We have seen the rise of the DLP, the Australian Democrats, the Greens and this last election brought in micro-parties and with independents now hold the balance of power. They achieved this by 'legally' 'gaming' the same system the major parties used to their own advantage, with the distribution of preferences to give voice to small minorities. They reflect a growing disenchantment with the major parties and they represent some 3 million voters. The faces of Senators Xenophon, Lambie, Lazarus, Madigan etc. are 'known' to the electorate through the media and they have made the system more transparent on reflection since 2013.

My submission after the 2013 election wanted to see both above and below the line reformed. When I read 'The Guardian online last week it broke the story that a deal had been done between the Coalition, Greens and Senator Xenophon. I sent an e-mail to Senator Xenophon's office to confirm if the deal involved voting below the line. There was no reply. Judith Ireland in the SMH Tuesday confirmed that all squares would have to be filled in below the line with an allowance for error for a vote to be valid. I presume this acknowledges that most people now vote above the line and that it is a waste of time to vote below the line. Senator Dastyari of the ALP in debate with Senator Xenophon on Lateline on Monday night made it clear that the ALP would oppose the bill on the grounds that what is being proposed will disenfranchise 3 million voters who do not wish to vote for either of three major parties.

I want members of the committee to answer...Is it possible if this half-reform goes through, for an individual who does not want to be a member of a Political Party to be elected to the Senate? Is it possible for people like Stan Grant and Noel Pearson who have little faith in the major Parties to progress Indigenous issues like 'closing the gap', and constitutional recognition to stand for election?

They are like John the Baptist..voices in the wilderness outside of Parliament because the only way they could be elected is to stand as Independent Senators in their state. Above the line does not provide for ungrouped individuals. Will Independents who have been in the Senate since 1961 disappear?

SUMMARY...One solution I would suggest is that the Committee recommend abandoning below the line voting and have a ballot paper which lists Parties without the names of Senators but gives the right for individuals to stand and be listed as ungrouped Independents. This would match what happens in an electorate of the House of Representatives, and would allow a state as a whole to decide whether an Independent senator should to be elected on the basis of Proportional representation.

We should not forget there is value in Independent members. When Robert Menzies was elected PM in 1940 the balance of power was held by two Independents in the 'lower house'. They supported him and then Arthur Fadden. Finally they begged John Curtin to give real leadership to Australia. Reluctantly he agreed just prior to the outbreak of the Pacific War. Curtin then led this country through its greatest crisis and he only had a workable majority after the next election in 1943. Two independents supported good government in Australia in its darkest hour

I am advised that a vote will still be considered formal if voters just mark 1 square above the line. Will this skew the result to eg the Coalition as Labor claims? Has modelling been done to show what would happen if voters just marked 1 above the line and not fill in six squares as the bill suggests they may do? How would this affect the quota required? Voters for the Senate must fill out a mandatory number of squares for a vote to be valid. This is required in the House of Representatives. There should not be an option to vote just 1. I would also rule out seeking to validate votes which would normally be declared informal. This in my view could lead to litigation and another election like the recent one for the WA Senate. Concerns about informal voting need to be balanced by the fact that Australia has compulsory voting unlike the USA, UK, Canada and New Zealand and would not in my view change the overall result.

Optional preferences could lead to the demise of Proportional Representation which is a balance against 'winner take all'. I have seen in Queensland the perils of 'winner take all' with both Coalition and Labor ramming legislation through in the night without the check and balance of an Upper House.

There is no 'perfect' system of government. I do hope the Committee will consider the value of having independents listed on one ballot paper. The 'cross bench' Senators have made the Senate more 'transparent' to the public. This proposed reform involves 'the heart' of our Parliamentary system. In closing, as a voter I protest at the lack of information and limited number of days until February 29 for submissions and public discussion. Will voters be fully informed about changes before an election ?

Our present system of democracy has many faults. It may be slow. On reflection since my previous submission, Democracy in my view is strengthened when the rights of minorities are protected and given a voice in the Parliament by allowing voters to select their own preferences .The system where Parties arrange their own preferences should never happen again.

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