

Voluntary and compulsory voting

- 8.1 In earlier chapters the Committee has drawn out the obligations imposed on voters prior to and at election day. In this chapter the Committee examines the arguments advanced for and against both compulsory and non-compulsory voting.
- 8.2 The CEA states, under section 245 (1), that:
- it shall be the duty of every elector to vote at each election.
- 8.3 Because of the secrecy of the ballot, it is not possible to determine whether a person has filled out their ballot paper prior to placing it in the ballot box. It is therefore not possible to determine whether all electors have met their legislated duty to vote. It is, however, possible to determine that a voter has attended a polling booth (or applied for a declaration vote), and been issued with a ballot paper.
- 8.4 These arrangements are commonly described as being a compulsory vote. The Committee, like most voters, uses the term “compulsory voting” in that sense.¹

¹ Submission Nos 33 & 66. See also AEC Fact Sheet *Compulsory Voting*, www.aec.gov.au/_content/what/publications/factsheets.htm

Compulsory voting in Australia

- 8.5 Compulsory voting was advocated by Alfred Deakin at the time of Federation although voting was voluntary until after the First World War. Enrolment was compulsory from 1911.²
- 8.6 In 1915 consideration of compulsory voting arose in the Senate in connection with a referendum intended for later that year but never held.³ That year, too, compulsory voting for state elections was introduced in Queensland.⁴
- 8.7 The significant impetus for compulsory voting came from a sharp decline in voluntary voter turnout from more than 71% at the previous 1919 election to less than 60% at the 1922 elections.⁵ As Table 8.1 shows, this fall-off in turnout was an abrupt reversal of the steady trend to increasing voter participation which began with the election of 1903.
- 8.8 On 17 July 1924 a Private Member's Bill, based on the 1915 Senate proposals, was debated in the Senate. Five Senators spoke on the Bill and it was passed that day. In the House of Representatives only three members spoke. Significantly, for such a piece of far-reaching legislation, Mr Tony Smith MP, noted that:
- there were only a few speakers on each side and it went through on the voices.⁶
- 8.9 Thus did Australia acquire a compulsory vote for Federal Elections.
- 8.10 Subsequently Victoria established compulsory voting (in 1926), followed by NSW and Tasmania (1928); WA (1936); and SA (1942).⁷
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2 AEC Fact Sheet: *Compulsory Voting*,
www.aec.gov.au/_content/what/publications/factsheets.htm

3 Uhr J, "Making Sense of the Referendum", *Papers on Parliament No. 35*, June 2000,
www.aph.gov.au/senate/pubs/pops/pop35/c06.htm

4 AEC Fact Sheet, *Compulsory Voting*,
www.aec.gov.au/_content/what/publications/factsheets.htm

5 Submission No. 58, (Ms L Hill & Mr J Louth), p. 1. Overall figures hide wide differences—in the 1903 election, for example, the lowest House of Representatives turnout was 28% in WA and 30% in the Senate in the same state. *The Age*, 1 March 2004, quoted in www.echoed.com.au/chronicle/1904/mar-apr/national.htm

6 *Hansard*, Senate 17 July 1924, pp. 2179-2188; *Hansard*, House of Representatives, 24 July 1924, pp. 2446-2452; Mr T Smith MP, *Hansard*, House of Representatives, 10 February 2005, p. 125.

7 Elections ACT Factsheet, *Compulsory Voting*,
www.elections.act.gov.au/adobe/FactSheets/FactSheetCompulsoryVoting.pdf

Table 8.1 Voter turnout (%) Federal Elections 1901–1934

Election	Senate	House of Representatives
1901	54.34	56.71
1903	46.86	50.27
1906	50.21	51.48
1910	62.16	62.80
1913	73.66	73.49
1914	72.64	73.53
1917	77.69	78.30
1919	71.33	71.59
1922	57.95	59.38
1925	91.31	91.38
1928	93.61	93.62
1929	-	94.85
1931	95.02	95.02
1934	95.03	95.16

Source AEC, *Electoral Pocketbook*, 2005, p. 66.

- 8.11 As Table 8.1 indicates, following the introduction of compulsory voting, voter turnout increased well beyond the previous maximum of 78.30%. The Senate voter turnout of 91.31% in 1925 proved to be the minimum in the history of compulsory voting. Since then, the median turnout has been 95.1%, with a maximum of 96.31% (in the 1943 Senate election). The turnout for the 2004 Federal Election was 94.82% for the Senate and 94.32% for the House of Representatives.⁸
- 8.12 However, it is also noteworthy that, prior to the introduction of compulsory voting, the voter turnout rose in every election following that of 1903 (50.27%) to 78.30% in 1917.
- 8.13 One of the reasons would undeniably have been the introduction of compulsory enrolment in 1911. Between 1911 and 1924 Australia had a combination of compulsory enrolment and voluntary voting, as occurs currently in New Zealand. Another factor affecting turnout in the elections after 1913 was the controversial nature of the events of the day, such as the conscription referenda.

8 AEC, *Electoral Pocketbook*, 2005, p. 66.

Considering compulsory voting

- 8.14 The Committee's post-election reviews of the preceding elections are generally considered to be focussed on examining and responding to problems. They therefore attract few arguments for accepted aspects of the status quo. Consequently, in those reviews, the Committee heard from comparatively few proponents of the compulsory voting regime.
- 8.15 Conversely, those wishing to challenge the status quo take the latter part of the Committee's term of reference (matters relating thereto) as an opportunity to place voluntary voting on the Committee's agenda. The Committee therefore heard arguments against compulsory voting in its review of the 2004 Federal Election, as it had in its previous reviews of the Federal Elections of 1993, 1996, 1998 and 2001.⁹
- 8.16 The Committee notes that the Prime Minister has said that the abolition of compulsory voting will not occur before the next election.¹⁰
- 8.17 A number of submissions commented on compulsory voting. Mr Don Willis stated:
- Australians are used to, and have widely accepted, compulsory voting and they would rightly be apprehensive of the motives of any government that sought to abolish it without first seeking their endorsement for any such proposal....any move to abolish compulsory voting...would need to be underpinned by a high degree of popular acceptance and support. Consequently, if the Government intended to move in these respects it would be essential for it to obtain the explicit approval of the Australian electorate.¹¹
- 8.18 The Public Interest Advocacy Centre stated:
- for any Government to move to alter this fundamental character of elections in Australia without lengthy discussions and consultation with the Australian people would be to risk acting in a way that could be seen as being
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9 See the Committee's reports on those elections.

10 "Coalition Set to Change the Way We Vote" *Age*, 11 June 2005; also *Sunday Sunrise* interview with Prime Minister John Howard, 21 November 2004: "I want to make it clear there will be No. attempt made by this Government in this term to change that system...But I speak from term to term".
http://seven.com.au/sundaysunrise/politics_041121_howard

11 Submission No. 157, (Mr D Willis), p. 2.

essentially undemocratic. It is not enough even for a party to seek control of the Parliament on the basis of a platform that includes the introduction of 'voluntary voting'. Public support for a general raft of policies proposed by a political party ought not to be seen as a clear endorsement of a specific intent to undertake radical electoral reform... such changes must be preceded by widespread community debate on the single issue of electoral reform. This would be akin to a proposal being submitted to referendum.¹²

The Committee's view

- 8.19 With compulsory voting on the political agenda, the Committee decided to take the opportunity in this report to stimulate deeper consideration and debate on issues associated with voluntary and compulsory voting.
- 8.20 In doing this, the Committee believes that the focus of the debate should be on:
- which arrangement delivers the best reflection of the electorate's wishes; and
 - the implications of each arrangement for the legitimacy of the resulting government's mandate.

Reflecting the will of the electorate

- 8.21 The supporters of the current arrangements and proponents of voluntary voting all agree that the outcome of the poll should be a genuine reflection of the views of the electorate.¹³
- 8.22 But they differ significantly in identifying how that view should be collected: compulsorily or voluntarily.

A voluntary or compulsory mirror?

- 8.23 Proponents of the current arrangements argue that all qualified electors must participate in the poll. The Festival of Light stated:

12 Submission No. 144, (Public Interest Advocacy Centre), p. 6.

13 Submission No. 119, (ACT Government).

the practical reality is that compulsory voting produces a better indication of the opinion of the people than voluntary voting.¹⁴

8.24 Proponents of voluntary voting argue that compulsory voting fails to achieve this. Mr Michael Doyle stated:

with compulsory voting, we do not know how many people give consideration to their votes.¹⁵

8.25 Senator the Hon. Nicholas Minchin, Minister for Finance and Administration, with overall responsibility for electoral matters, is of the view that "voluntary voting is an important barometer of the health of a political system". He would like to see the Government seek a mandate to change the compulsory voting laws at the next election.¹⁶

8.26 There is a variety of evidence which the respective proponents adduce in support of their interpretation. The main arguments centre on:

- engaging the electorate; and
- considering the full electorate.

Engaging the electorate

8.27 The compulsory voting system *per se* is said to encourage voters to engage in the political process. Mr John Kilcullen stated:

this obligation makes more people listen seriously to the election campaign and follow politics between elections, since they recognize that they have a civic duty to try to decide. The existence of the obligation seems to move many people to seek information. It helps toward a better informed electorate.¹⁷

8.28 Even if the obligation did more than "seem" to move people to seek information there would, according to Mr Doyle, be a component of the electorate which decides by:

14 Submission No. 125 (Festival of Light Australia), p. 5.

15 Mr M Doyle, *Evidence*, Monday, 25 July 2005, p. 72.

16 "Minchin Seeks End of Compulsory Voting", *ABC News Online*, 19 September 2005, www.abc.net.au/news/newsitems/200509/s1463769.htm

17 Submission No. 56, (Mr J Kilcullen), p. 7.

making a toss-of-the-coin decision...or one based on a how-to-vote card pushed into their hand.¹⁸

The Committee's view

- 8.29 The cross-party membership of the Committee acknowledges that "donkey voting", which is particularly apparent under compulsory voting, reveals that the alleged intrinsic engagement of electors by compulsory voting is incomplete.
- 8.30 However, the Committee also noted that in the 2005 New Zealand election eight out of ten voters exercised their democratic right to vote, one of the highest rates of voluntary voting in the world. This, the Committee remarked, was under a voluntary voting/compulsory enrolment electoral regime.

Considering the full electorate

- 8.31 Supporters of voluntary voting and those urging compulsory voting both accuse their opponents of not taking into account the needs of the whole electorate when campaigning for their votes.
- 8.32 Compulsory voting is claimed to encourage policies which collectively address the full spectrum of elector values, because all voters have to be wooed. Mr Martin Mulvihill, in support of compulsory voting, stated that it:
- makes sure minority migrant groups are enrolled and participate in the political process.¹⁹
- 8.33 This is contrasted with what could happen under voluntary voting when it might only be necessary to target those most likely to vote or, alternatively, according to Ms Beverley Stubbs:
- [to] use covert practices to discourage certain people from voting whilst facilitate voting by electors who favour their policies.²⁰

The Committee's view

- 8.34 Under both voluntary and compulsory systems of voting the imperative is for parties to maximise their votes. It is not in their

18 *Perspective*, ABC, 13 June 2003, Guest: Michael Doyle, member of the Liberal Party, www.abc.net.au/rn/talks/perspective/stories/s879162.htm

19 Submission No. 167, (Mr M Mulvihill).

20 Submission No. 33, (Ms B Stubbs).

interest to neglect groups so it could be argued that the voluntary system would lead to more intensive campaigning.

- 8.35 Overall, the Committee considered that the two sides of the debate were succinctly put in two quotations. One, an article in the *Sydney Morning Herald* commented:

Compulsory voting...the bigger the vote, the more representative the government, the healthier the democracy.²¹

- 8.36 A second quotation was from Mr Doyle who stated that, under a:

voluntary system... all of those who voted, did so because they wanted to vote and had given consideration to their choices. 'Quality is always better than quantity'.²²

- 8.37 The Committee considered that the question about which form of voting produced a more reliable indication of the electorate's will should be subject to a wider debate.

- 8.38 It also noted that an important consideration in that debate was the question of the legitimacy of the government which emerges from the compulsory or the voluntary ballot.

Legitimacy

- 8.39 The AEC advises that the current electoral regime aims to ensure that:

there are as nearly as practicable the same number of electors in each electoral division for a given State or Territory.²³

- 8.40 Compulsory voting attempts to ensure that all qualified citizens do in fact have a say in the creation of their government. Mr Willis noted that consequently, the legitimacy of the outcome of the election benefits from the fact that:

- a government is elected on the basis of the support of the majority of the population;²⁴ and

21 "An Obligation to Democracy", *Sydney Morning Herald*, 7 March 2005.

22 Submission No. 175, (Mr M Doyle).

23 AEC, *Redistributions - Frequently Asked Questions*, www.aec.gov.au/_content/why/redistributions/faq.htm#6

24 Submission No. 157, (Mr D Willis), p. 2.

- each Member of Parliament is elected as the result of the collective decision of (“as nearly as practicable”) the same numbers of electors as any other MP.

8.41 In contrast to the previous points Mr Willis noted that, under:

voluntary voting systems...low voter turnout can affect the confidence of a government to proceed with implementing its election platform.²⁵

8.42 Ms Ilona Renwick summarised the implications of low voter turnout, saying that :

with voluntary voting it is possible that a government may be elected with less than 50% of Australian adults voting. There is no way that such a government can claim a mandate for its programs if it has maybe only 25% or less support from the Australian people.²⁶

Further components of the debate

8.43 In addition to these central issues, evidence to the Committee raised a number of points pertinent to voluntary and compulsory voting:

- Australia's adherence to compulsory voting is unusual;
- voting as a civic duty;
- popular support for compulsory voting;
- resource implications;
- partisan advantage;
- quality of the vote; and
- unintended consequences.

Australia is unusual

8.44 Australia has a democratic tradition that is largely based on the Westminster system, with the inclusion of some elements of the United States system. Given this heritage from two regimes that employ voluntary voting, it is unusual for Australia to have compulsory voting, particularly considering that voting at the first nine Federal elections was voluntary.

25 Submission No. 157, (Mr D Willis), p. 2.

26 Submission No. 22, (Ms I Renwick).

- 8.45 Further, Australia is also unusual when compared with other democratic governments. At present, Australia is one of some 32 democracies worldwide to have compulsory voting. Only 19 actually pursue it through support and enforcement.²⁷ Australia, it is argued, is therefore out of step with the world.
- 8.46 In a counter argument, Mr Mulvihill noted that:
- the notion... that Australia is 'out of step'... is a nonsense: each of these countries has its own individual take on democracy.²⁸
- 8.47 Furthermore, some 6,314 million people, or 9.6% of the world population, use compulsory voting in determining their government.²⁹

The Committee's view

- 8.48 The value of this exchange of opinion, in the Committee's eyes, was that it highlighted the fact that each nation adapts its democratic arrangements to suit its own particular requirements. Therefore the practices of other countries are neither directly comparable nor necessary precedents for Australia. Indeed, as the Committee Chairman, Mr Tony Smith MP, has noted:
- we did not just follow the world in electoral reforms; we led it. We led the world in universal and free voting, we led the world in the right to vote for women and we led the world with the introduction of the secret ballot.³⁰

Voting as a civic duty

- 8.49 Debate on this point centred on whether, in a democracy, it is acceptable to compel citizens to vote. A *Sydney Morning Herald* article noted that:

27 Those that pursue it through support and enforcement comprise Argentina, Australia, Austria (two Länder only), Belgium, Brazil, Chile, Cyprus, Ecuador, Fiji, Greece, Lichtenstein, Luxembourg, Mexico, Nauru, Peru, Singapore, Switzerland (one canton only), Turkey and Uruguay. Others in which non-enforcement or enforcement actions are unknown, include: Bolivia, Cost Rica, Dominican Republic, Egypt, France (Senate only), Gabon, Guatemala, Honduras, Italy, Netherlands, Paraguay, Philippines and Thailand. See IDEA, *Compulsory Voting*, www.idea.int/vt/compulsory_voting.cfm

28 Submission No. 167, (Mr M Mulvihill).

29 See Appendix G: *Countries with Compulsory Voting*.

30 Mr T Smith MP, *Hansard*, House of Representatives, 10 February 2005, p. 125.

the argument is, essentially, between rights and obligations. Opponents argue that in a free society, citizens should be free not to vote.³¹

- 8.50 Much of the evidence to the Committee focussed on this point, bringing forth a variety of arguments for and against compulsory and voluntary voting, such as the burdensome nature of voting and international and domestic obligations.³²

Burdensome

- 8.51 One argument against compulsion is that it can be an onerous imposition on some citizens.³³
- 8.52 This claim, however, is countered by observations such as expressed by Mr Christopher Bayliss:

all our voting system requires is for a voter to attend a polling booth and mark some papers as they wish, approximately every three years. This does not seem to be an insurmountable burden to be part of a democracy.³⁴

The Committee's view

- 8.53 As already discussed in other chapters, special arrangements such as postal and mobile polling exist to minimise the burden for specific groups. The Committee Chairman has determined therefore that the focus should be on:

the privilege of the right to vote and the importance that people exercised their right rather than on the burden of voting for some.³⁵

International obligations

- 8.54 One argument against compulsion to the polls looks beyond Australia to its obligations under international agreements. Both the United Nations Universal Declaration of Human Rights and the United Nations International Covenant on Civil and Political Rights refer to

31 "An Obligation to Democracy", *Sydney Morning Herald*, 7 March 2005.

32 Submission Nos 13, 33, 40, 125, 144, 157 & 167.

33 Submission No. 66, (Mr M Wilson).

34 Submission No. 40, (Mr C Bayliss).

35 Smith T, "Your Vote, Your Voice, Your Choice", *Herald Sun*, 24 February 2005.

people's right to "freely chosen representatives".³⁶ On this basis, Mr Doyle argues that:

to state the obvious, there is no way that a voting system based upon compelling people to vote or attend polling booths can be considered in terms of free expression.... Indeed, far from the United Nations agreements mentioning the 'duty' of people, the act of selecting a political representative is regarded as a 'right' something which a person possesses and uses (or does not use) according to choice. It is not something to be produced on demand.³⁷

8.55 Against this could be set Article 29 of the Universal Declaration of Human Rights which states that rights and freedoms are, however subject to:

Everyone has duties to the community...In the exercise of...rights and freedoms...limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society..³⁸

8.56 In short, obligations may be imposed on an individual for the benefit of the society generally, Mr Tony Smith MP stated:

It is contrary to the underlying democratic spirit and the foundation of voting itself to force someone to exercise the vote against their will.³⁹

The Committee's view

8.57 The Committee noted that the tension between perceived freedoms and obligations was paralleled in consideration of domestic obligations.

36 Submission No. 13 (Mr M Doyle), quoting UN Universal Declaration of Human Rights: Article 21 (1): "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives"; and UN International Covenant on Civil and Political Rights: Article 25 "Every citizen shall have the right and the opportunity...To take part in the conduct of public affairs, directly or through freely chosen representatives".

37 Submission No. 13, (Mr M Doyle).

38 *Universal Declaration of Human Rights*, www.un.org/Overview/rights.html

39 Smith T, "Your Vote, Your Voice, Your Choice", *Herald Sun*, 24 February 2005.

Domestic obligations

8.58 Arguments about freedoms and obligations within Australia were presented as contrasts between compulsory voting and other government-imposed obligations. Mr Willis contended that:

the primary argument... against compulsory voting appears to be that people should not be compelled to vote and that they should be able to choose not to vote. However, this is not a strong argument given that citizens are compelled to perform many other duties, such as to pay taxes.⁴⁰

8.59 Such analogies were rebuffed by a contrary interpretation from Mr Doyle who stated that:

being available for Jury Service or paying taxes... have no relevance or parallel to the electoral process and yet they are often raised as justifying compulsory voting. It seems that the 'logic' is that paying taxes and Jury Service, and (apparently) voting are essential duties – and if people were allowed to opt out of these functions, society would collapse.⁴¹

8.60 The Public Interest Advocacy Centre summarised these contested issues in its submission, stating:

the principle of individual freedom, which is sometimes said to be the underpinning principle, clearly has to be subject to restrictions appropriate to a democratic society. There are many things that people do not wish to do and which they would not do if they were able to exercise 'individual freedom', but which parliament has legislated to require. The role of parliament in a parliamentary democracy includes passing laws to ensure the effectiveness of that democratic system.⁴²

The Committee's view

8.61 The points made about the domestic obligations of citizens do not refute, in the Committee's view, the right of the Parliament to impose requirements on citizens. The question, instead, is about the nature and extent of the obligations that it is acceptable for the Parliament to impose.

40 Submission No. 157, (Mr D Willis), p. 2.

41 Submission No. 13, (Mr M Doyle).

42 Submission No. 144, (Public Interest Advocacy Centre), p. 5.

8.62 The Committee notes that the primary electoral obligation placed on Australian voters at Federal elections is that of enrolling to vote. The Committee Chairman has noted that this duty is generally accepted, and:

those who campaigned for free and fair elections and the right to vote were making sure everyone had the chance to have an equal say on election day, not about compulsorily forcing people to have their say.⁴³

8.63 The Committee also notes that there is extant research which examines the question of how acceptable the existing compulsory arrangements are.

Popular support

8.64 According to the three recent opinion polls summarised in Table 8.2, compulsory voting enjoys popular support.⁴⁴ The polls concluded that three in every four Australians support compulsory voting ahead of voluntary voting. There was also evidence that this support crosses party lines.

43 Smith T, "Your Vote, Your Voice, Your Choice", *Herald Sun*, 24 February 2005.

44 See also commentary in Submission Nos 60, 119 & 157.

Table 8.2 Popular opinion of compulsory and voluntary voting

	Australian Election Study 2004	Morgan poll 2005			Ipsos-Mackay Study 2005 ⁴⁵		
		Liberal National voters	Labor voters	Total	Liberal voters	Labor voters	Total
Support Compulsory voting							
Strongly	46.9%				-	-	-
Total	74.1%	73%	74%	71%	79%	75%	74%
Prefer voluntary voting	10.9%				-	-	-
Strongly	10.9%				-	-	-
Total	25.8%	27%	25%	28%			24%
Can't say No view		-	1%	1%	-	-	2%
Would vote if not compulsory	85.8	91%	89%	87%	-	-	-

Source Roy Morgan Research and polls reported in *Sydney Morning Herald*, March 2005⁴⁶.

The Committee's view

8.65 The Committee noted the current wide disparity in electorate support for the compulsory or voluntary voting systems.

Resource implications

8.66 Evidence to the Committee sought to associate savings in resources with either of the voting options by examining:

- government costs; and
- party costs.

Government costs

8.67 Compulsory voting comes as a cost to the government. Non-voters can only be discovered if the electoral roll is kept up-to-date so that

45 2% did not know which they favoured. "Poll Shows Majority Favours Compulsory Voting", *Sydney Morning Herald*, 27 March 2005.

46 "Poll Shows Majority Favours Compulsory Voting", *Sydney Morning Herald*, 27 March 2005, "Voluntary Voting May Not Favour the Liberals", *Sydney Morning Herald*, 9 March 2005; "Majority of Australians Think Voting Should Remain Compulsory", Roy Morgan Research, 27 September 2005, www.roymorgan.com/news/polls/2005/3901/

the subsequent process of identification of non-voters can take place. Both components of this process have costs.

The Committee's view

- 8.68 A move to voluntary voting would remove the cost to the tax payers of pursuing non-voters. However other costs could potentially arise if it was decided that the Government had increased responsibility for educating voters of the importance of their non-compulsory vote.

Party costs

- 8.69 Compulsory voting enables parties to use previous voting data to identify marginal seats on which to focus their efforts. With a potentially more volatile vote under voluntary voting, they may no longer be able to rely on past election results as indicators of expected voting patterns. Resources currently focussed on seats perceived as winnable would have to be more widely and thinly spread, or more resources would be required.⁴⁷

- 8.70 Also, on the basis of experiences in non-compulsory voting regimes, supporters of the status quo drew the attention of the Committee to a new cost for the political parties which would arise from a change to voluntary voting. Mr Kilcullen stated:

the political parties would organize to “get out the vote”... door-knocking... not to persuade electors to change their minds, but to find out how they intend to vote, so that canvassers can visit supporters on election day to remind them to vote (perhaps offering help with transport.⁴⁸

- 8.71 Under voluntary voting, political parties' resources would be diverted from efforts to promote their leader and their policies, whereas under compulsory voting, as a *Sydney Morning Herald* article suggested:

at a practical level, compulsory voting means the energy otherwise spent just getting voters to the polling booths can be devoted to campaigning on the issues.⁴⁹

47 See AEC Fact Sheet *Compulsory Voting*, www.aec.gov.au/_content/what/publications/factsheets.htm

48 Submission No. 56, (Mr J Kilcullen), pp. 7-8.

49 “An Obligation to Democracy”, *Sydney Morning Herald*, 7 March 2005.

The Committee's view

- 8.72 The Committee notes that these arguments assume that parties' self-interest would lead them to attempt to maximise turnout, a responsibility currently assumed by the Government.
- 8.73 The Committee considers this view is based too narrowly on British and United States practices where "getting out the vote" has a twofold function: ensuring voters are registered to vote; and urging them to exercise that right.
- 8.74 The low turnout of the eligible population in those countries despite the parties' efforts is a reflection of systemic factors in the electoral process which do not apply in Australia. First and foremost, elections in those countries are held on a weekday, whereas elections in Australia are held on a Saturday. Unlike in Australia, the United States ballot covers elections for everything from dog catcher to police chief to Congressman. Further, registration to vote is more complex, which is a disincentive to many of the voting-age population.
- 8.75 However, the Committee notes that, across the Tasman there is a different regime that is more relevant to Australia. Commenting on the New Zealand system, Mr Tony Smith MP stated:
- they have for many years had compulsory enrolment and voluntary voting...their voter turnout... has remained high all the way through.⁵⁰
- 8.76 This turnout, the Committee observed, had been achieved despite strict limits on election expenses.⁵¹ Mr Smith MP therefore considered:
- in a move to voluntary voting [Australia] could maintain a compulsory enrolment regime.⁵²
- 8.77 Under the compulsory enrolment and voluntary voting regime prior to compulsory voting, Australia achieved high Federal Election turnouts. To assume that, without compulsion, Australian voters would not vote is to do them a disservice.

50 Mr A Smith MP, House of Representatives *Hansard*, 10 February 2005, p. 125. NZ Turnout (contested seats only): 1990 = 85.2%; 1993 = 85.2%; 1996 = 88.3%; 1999 = 84.9%; 2002 = 77.0%. Elections New Zealand, www.elections.org.nz/elections/elections_dates_turnout.html

51 Party election expenditure is limited to NZ\$1 million plus NZ\$20,000 for each electorate candidate nominated by the party. In addition each candidate may expend up to NZ\$20,000. "Election Expenses and Returns", Elections New Zealand, www.elections.org.nz/elections/e5_party_return_expenses.html

52 Smith T, "Your Vote, Your Voice, Your Choice", *Herald Sun*, 24 February 2005.

Partisan advantage

8.78 The effect on politics of the new role for political parties of mobilising voters was raised in a number of submissions. Mr Mulvihill noted that under a voluntary system, voter turnout would be:

subject to the power of organised lobby groups whose primary concern is power not democracy.⁵³

8.79 A central concern was whether this process would advantage one party over another and how representative the outcome might be

8.80 There was no consensus on whether voluntary voting would intrinsically favour one party ahead of another because supporters of one party might be more or less likely to participate in such a poll than supporters of other parties.

8.81 On the basis of overseas experience Mr Doyle asserted:

voluntary voting in the UK and New Zealand does not seem to swing the balance much to the Tories.⁵⁴

and that:

relatively low turnouts (as will sometimes occur under a voluntary system, but never under a compulsory one) seem to favour Left-wing political Parties.⁵⁵

8.82 On the other hand, research in Australia on the predicted effect of voluntary voting:

found that the Liberal Party would increase its share of the two-party preferred vote by about five percent if compulsory voting was abolished, an outcome that would give it a permanent electoral advantage over other political contenders.⁵⁶

The Committee's view

8.83 There is no empirical evidence that a move to voluntary voting would favour one major party over another.

53 Submission No. 167, (Mr M Mulvihill).

54 Mr M Doyle, *Evidence*, Monday, 25 July 2005, p. 68.

55 Submission No. 175, (Mr M Doyle).

56 Submission No. 157, (Mr D Willis), pp. 1, 4; *Courier Mail*, "Every Vote Counts, Except...", 21 February 2005, *Queensland Newspapers*, p. 9; "Libs Unlock the Gates of Power", *Courier Mail*, 30 October 2004; *Queensland Newspapers*, p. 1.

Quality of the vote

- 8.84 At issue here was the perceived opportunity offered by voluntary voting to reduce the informal vote present under compulsory voting, as outlined in Table 8.3.
- 8.85 Informal voting was discussed in Chapter 5, *Counting the votes*. In this section the Committee examines the evidence concerning the significance of the informal vote as a measure of protest against being compelled to vote.

Table 8.3 Informal voting at Federal Elections: 1993–2004

Voter turnout	1993	1996	1998	2001	2004
% of informal voting in House of Representatives	3.0	3.2	3.8	4.8	5.2
% of informal voting in Senate	2.6	3.5	3.2	3.9	3.8

- 8.86 A *Sydney Morning Herald* article argued that:
- the 5.2 per cent informal vote in the last federal election means a lot of people don't want to vote.⁵⁷
- 8.87 The Public Interest Advocacy Centre advanced a counter argument:
- rather than a protest against the requirement to attend a polling place, informal voting can be attributed to a combination of any number of factors.⁵⁸
- 8.88 The AEC, having analysed the reasons ballot papers were considered informal, concluded that:
- the link between compulsory voting and informal voting is difficult to prove.⁵⁹

57 "An Obligation to Democracy", *Sydney Morning Herald*, 7 March 2003.

58 These include: **limits on voters exercising their own electoral preferences** (embodied in the rules about voting "below the line"); **confusion about voting** because of the different systems in the three different tiers of government and between different states and territories; **dissatisfaction** with the political parties rather than the electoral process; **shortcomings in "voter education"**; **English as a second language**; **migrants** from countries where voting is not compulsory (or indeed, in some countries, a real option). See Submission No. 144, (Public Interest Advocacy Centre), p. 5.

59 Submission No. 165, (AEC), p. 7.

- 8.89 The types of markings (or their absence) which causes ballots to be discarded as informal are set out in Table 8.4, together with the proportion of the informal votes to which they applied.

Table 8.4 Categories of House of Representatives informal ballot papers: 2001 Federal Election⁶⁰

Marking	Proportion of papers (%)
Number 1	33.58
Blank	21.43
Non sequential	17.18
Ticks & Crosses	12.42
Marks	6.31
Langer Style	2.68
Slogans making numbers illegible	0.31
Voter identified	0.04
Other	6.00
Total % votes	4.82

Source AEC Research Report No 1 *Informal Vote Survey, House of Representatives, 2001 Election, 2003, p. 8.*

- 8.90 According to the AEC only two categories of informal ballot papers might indicate a protest against voting: **blanks** and **“marks”**.

it is impossible to say with assurance whether other types of informal voting are a deliberate act of electoral disobedience or a misunderstanding of the electoral laws.⁶¹

- 8.91 Because “marks” include slogans and protests against the political and electoral system they can be considered to be indicators of protest voting, although not all ballots so marked will be protests against compulsion. Blanks may merely be mistakes.⁶²

60 The analysis of the 2004 informal vote was not available prior to the Committee concluding its report.

61 AEC Research Report No. 1: *Informal Vote Survey, House of Representatives, 2001 Election, 2003, pp. 8–9*

62 AEC Research Report No. 1: *Informal Vote Survey, House of Representatives, 2001 Election, 2003, pp. 8–9.*

8.92 According to analyst Mr Antony Green:

deliberately spoiled ballot papers make up only a minority of the informal vote. The majority of informal votes are caused by incorrect or incomplete marking, a consequence of the third compulsion faced by Australian voters, compulsory preferential voting.⁶³

The Committee's view

8.93 A component of the informal vote may be attributed as a protest against compulsion, but it is not the only factor which may compromise the quality of the final vote count. Mr Tony Smith MP stated:

as the voting statistics show, our compulsory system still can't force people to have their say if they are determined not to... Donkey voting, a home-grown feature of the compulsory system can potentially skew results.⁶⁴

Unintended consequences

8.94 When examining questions of legitimacy (above), the Committee noted that voluntary voting in Federal Elections would contrast with the compulsory nature of State and Territory elections. Another facet was highlighted in a submission from the ACT Government which claimed that:

it is unlikely that electoral authorities would be successful in persuading all eligible citizens to enrol if voting is voluntary, even if compulsory enrolment was maintained.⁶⁵

The Committee's view

8.95 While voters may continue to make objection to compulsory enrolment under a voluntary election system, the Committee notes that New Zealand's electoral system combines these features and has done so very successfully for a long period of time.

63 Submission No. 73, (Mr A Green), p. 7.

64 Smith T, "Your Vote, Your Voice, Your Choice", *Herald Sun*, 24 February 2005.

65 Submission No. 119, (ACT Government).

Conclusion

8.96 As this chapter has demonstrated, there are strong views about the relative merits of voluntary and compulsory voting. This is true even within political parties as the Minister for Finance and Administration, Senator the Hon. N Minchin indicated:

I won't retreat from my strong support for voluntary voting...I will continue to advocate a policy of voluntary voting...but I wouldn't continue to push the proposition if it resulted in internal divisions.⁶⁶

8.97 The Committee is aware that the nature of the submissions to this inquiry, which focused on the 2004 Federal Election, would not represent the full breadth of opinion that could be revealed if compulsory voting was the subject of inquiry.

8.98 The Committee therefore does not recommend that the Government should initiate any change to compulsory voting prior to the next election. Rather, the Committee will continue to encourage wider debate on this matter and seek to investigate the matter in more depth.

Recommendation 36

8.99 **The Committee recommends that voluntary and compulsory voting be the subject of a future inquiry by the JSCEM.**

66 Senator the Hon. N Minchin, quoted in *Australian Financial Review*, 4 November 2004.