

Joint Standing Committee on Electoral Matters	
Submission No.	90
Date Received	31-3-05
Secretary	ALC

**SUBMISSION NO. 90**

**DAVID RISSSTROM** BARRISTER-AT-LAW LLB, BSc(Hons), BA, MAICD  
 CLERK 'B' OWEN DIXON CHAMBERS 205 WILLIAM ST MELB 30074 TEL: 93 576 830 682  
 PH: 9482 9451 MOB: 0418 502713 FAX: 9482 9451 E-MAIL: DAVID.RISSSTROM@TELNET.AU

My Ref: JSCEM-2004Election-1

29 March 2005

**ATTN:** Mr. Tony Smith MP, Committee Chairperson  
 Joint Standing Committee on Electoral Affairs  
 Department of House of Representatives  
 Parliament House  
 CANBERRA 2600 AUSTRALIA



**INQUIRY INTO THE CONDUCT OF THE FEDERAL ELECTION AND MATTERS RELATED THERETO**

Thank you for your inquiry into the conduct of the 2004 Federal Election.

I am currently a barrister-at-law, was the Victorian Greens No. 1 Senate Candidate in the 2004 Federal election, and was employed by the Australian Electoral Commission between 1992 and 1995 as an Electoral Educator and in assisting in the conduct of State and Federal elections during the same period.

My primary submission is that the current Senate voting system risks not adequately reflecting voters' intentions and that the proposal to allow voters to choose to record preferences above the line would improve the correlation between voter's intentions and the election of candidates. I suggest six other recommendations on page 3.

An example of voter intentions not being reflected in the result occurred in the 2004 Victorian Senate election, where I was an unsuccessful candidate.

Table 1 reproduces information sourced from the AEC pertaining to groups receiving more than 1% of the formal primary vote in the 2004 Victorian Senate election.

**Table 1. Groups receiving more than 1% of the formal vote in the 2004 Senate election for Victoria (ranked in order of % vote received).**

Group	Votes	%	Quotas	Senators elected
Liberal/National	1,321,445	44.10	3.0869	3
Australian Labour Party	1,082,271	36.12	2.5282	2
Australian Greens	263,551	8.80	0.6157	0
D.L.P - Democratic Labor Party	58,042	1.94	0.1356	0
Family First	56,376	1.88	0.1317	1
Democrats	55,867	1.86	0.1305	0
liberals for forests	55,170	1.84	0.1289	0

The quota for election to the Senate division of Victoria was 428,085.  
 Total enrolments were 3,309,800 of which 3,158,641 were recorded as voting.  
 2,996,594 formal votes (94.87%) and 162,047 informal votes (5.13%) were recorded.

As can be seen from the Table 1:

- The Liberal/National Coalition elected 3 Senators with primary votes equalling 3.0869 quotas
- The Australian Labor Party elected 2 Senators with primary votes equalling 2.5282 quotas.
- The Australian Greens elected no Senators with primary votes equalling 0.6157 quotas.
- The Family First party elected 1 Senator with primary votes equalling 0.1317 quotas.

While there is a very high correlation for the Liberal/National Coalition between primary votes and Senators elected, the correlation for all other groups is poor.

The Family First Senate Candidate was elected with a primary vote of 1.88% versus the Greens 8.80%, primarily due to the transfer of preferences from the Australian Labor Party and Australian Democrats to Family First rather than the Greens.

Following the 2004 election, it became apparent through direct contact and media commentary that a large number of people were extremely unhappy that their Senate vote for the ALP or Australian Democrats (and to a lesser extent the Liberal Party) transferred to Family First in conflict with their voting intention.

There were many instances reported to the Green party and myself of exigencies that militated against voters' intentions being reflected in their choice. These included voters being unable to access to Group Voting Tickets at polling booths, booth helpers handing out How to Vote cards telling voters that by voting ALP or Democrat their preferences would flow to the Greens, and people being misdirected about preferences. I am aware of individuals seeking advice on how to revoke their vote once they realised they had been misled directly or by assumptions based on their lack of inquiry.

This situation could affect any candidate or group in future elections, and risks damaging voter confidence.

As committee members would be aware, in accordance with the amendment to the *Commonwealth Electoral Act 1918*, from 1984, voters are required to mark their Senate ballot paper by placing one number in a box 'above the line' or to number every box 'below the line' in order of their preference.

A vote cast above the line has its preferences distributed in accordance with group preference tickets lodged ahead of the polling day. This information is contained in Group Voting Tickets made available by the AEC. Anecdotally it appears that the majority of voters are unaware of Group Voting Tickets, do not access them, and do not request to see them prior to casting their vote.

Past election results indicate that a very high proportion of Senate votes are cast above the line, typically in excess of 90%. My own observation from involvement in Senate recounts is that the level of informality increases where voters vote below the line. (I admit to seeking a replacement ballot at an election when I made a mistake on a ticket of some 80 candidates!)

The combination of two factors: 1/ the very high proportions of voters voting above the line; and, 2/ the lack of knowledge or scrutiny of Group Voting Tickets means many voters are casting their vote without knowing how their above the line vote will be apportioned during counting.

This is unlike House of Representatives elections, where voters are required to mark their candidate preferences in the order they choose.

I recommend that the advantages afforded by compulsory preferential voting in House of Representatives elections be used in above the line Senate voting.

This would allow voters to cast a vote below the line in accordance with their own choices, or to choose to cast a vote above the line using the groups as a guide to the choices they make.

I understand this is the intent reflected in the Senate Voters' Choice (Preference Allocation) Bill 2004, though it may not be identical in all respects. I recommend the Committee support this Bill.

Further recommendations I believe would assist and serve to inform voters in future elections, but do not have time to expand upon in my written submission include:

1. Enforcement of the mandatory requirement to display Group Voting Tickets in polling places.
2. The provision for How to Vote Cards to be displayed prominently in an accessible area of the polling booth.
3. The provision to formally recycle How to Vote cards so that waste is reduced and more information can be made available to voters with lower resource demands and wastage.
4. The extension of the Trades Practices Act requirement to not publish material likely to influence a voter that is 'false and misleading.'
5. The extension of the Trades Practices Act requirement to not undertake conduct likely to influence a voter that is 'false and misleading.'
6. The maintenance of compulsory voting to ensure ongoing involvement of the majority of the population in choosing their representatives.

For the avoidance of doubt, I give permission for this submission to be made public by the Committee and am willing to make a submission in person if the opportunity arises.

Yours sincerely,

*David Ristrom*  
David Ristrom  
Barrister-at-Law