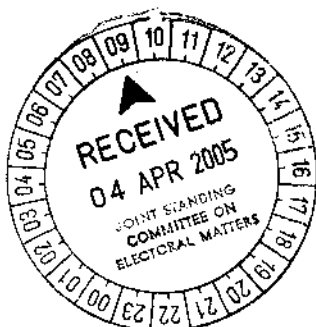


SUBMISSION NO. 125



Joint Standing Committee on Electoral Matters	
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Submission

on the

Conduct of the 2004 Federal Election

to the

Joint Standing Committee on Electoral Matters

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1. Introduction

Patrick McMahon Glynn, a South Australian delegate to the Australasian Federal Convention in 1897, viewed the prospect of an Australian nation with enthusiastic anticipation:

*"Never was the birth of a nation blessed by the conjunction of such auspicious stars, never did the opening of a national life give such promise of endurance and strength, as mark the coming of Australia.... The foundations of our national edifice are being laid in times of peace; the invisible hand of Providence is in the tracing of our plans."*¹

Australians should never forget that unlike the Americans who fought a war to create their nation, our nation was created peacefully, by a free and democratic election. Australia is currently one of the oldest constitutional democracies in the world,² but a democratic nation cannot function without an efficient and robust electoral system.

This submission to the Joint Standing Committee on Electoral Matters of the Parliament of Australia concerns the Inquiry into the 2004 Federal Election initiated in December 2004 by the Special Minister of State, Senator the Hon Eric Abetz. The submission addresses the terms of reference namely:

*That the Joint Standing Committee Inquire into the Conduct of the 2004 Federal Election and Matters related Thereto.*³

2. Integrity of the Electoral Roll

Central to the conduct of a free and fair election is the integrity of the electoral roll. The integrity of the electoral roll must not be compromised and all Australians should have confidence in the accuracy of the roll.

2.1 Close of the electoral roll

The current practice is for the electoral roll to be closed to any further modification from seven days after an election is called. This closing time deals with a common situation where a person has moved and has not considered how that affects his voting until an election approaches. It also allows people who are not on the electoral roll a chance to enrol in time to participate in the election.

A problem with this practice is that it allows a person a chance to identify a marginal electorate and attempt to enrol in that electorate under a false name, or to change his enrolment in order to vote in a marginal electorate. The large number of people who alter their enrolment details in the lead up to the election limits the scrutiny that the Australian Electoral Commission (AEC) can apply to each enrolment. Coupled with the pressure of preparing for election day, this period is the most vulnerable time in the election cycle.

The possibility of dishonesty could be greatly reduced by closing the electoral roll on the day that an election is called. The week between the issue of the election writ and the close of the roll for the 2004 federal election saw the enrolment of approximately 6.5% young voters (aged between 18 and 25) in South Australia. An early close of the roll should be accompanied by greater encouragement for young people to enrol in the lead up to an election being called. The media attention on election issues at this time provides a suitable vehicle for issuing such reminders.

The United Kingdom closed the electoral roll to registrations on 11 March 2005, which was at least seven weeks in advance of the expected May election.⁴ Closing the electoral roll about four weeks prior to an election is also the practice in some states in America.⁵ The practice in these places is similar to the recommendations of the Joint Standing Committee on Electoral Matters in their report on the 1998

election.⁶ Provisions based on the report on the 1998 election were a part of the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004*,⁷ but were removed by the Senate.

Recommendation

The electoral roll should be closed for any modification on the day that the writs for an election are issued.

2.2 Opportunities for false enrolment

The AEC maintains two databases in the course of maintaining the electoral roll. The first records every individual person enrolled as an elector; the second records every habitable residence in each electoral division. The electoral roll links each elector to a recognised residence. As different types of information are stored in each database, the process of integrity checking for each database is different. While the residence database is quite robust, the database containing personal information is more vulnerable to dishonesty.

The current electoral enrolment process involves completing a form which requires the signature of both the applicant and a witness, then mailing the form to the AEC. The problem is that a person who wishes to vote more than once can fill out this form under an assumed name and submit that form to the AEC, which could result in a fake person being added to the electoral roll. On election day, the person could then vote twice: as himself at one polling place and as the fake person at another.

The AEC operates a Continuous Roll Update (CRU) system that continuously applies a variety of checking procedures to the electoral roll in an attempt to find irregularities such as non-existent people. These include comparisons of data with Australia Post, electricity suppliers, water suppliers and the Department of Motor Vehicles, and Sample Audit Fieldwork that involves visiting households of registered voters. In South Australia this process involved door knocking 7,206 households, however the results of this process have not yet been released.⁸

If the AEC process is being applied properly, it is virtually impossible to create a fake address. Furthermore, only a limited number of people can be registered to vote in each house without prompting the AEC to investigate thoroughly. Investigations can even include an AEC representative knocking on the door of the house in question to identify each voter personally.

Transport SA requires all people who wish to obtain a driver's licence in South Australia to present themselves to a Transport SA office, with adequate personal identification, proof of address and proof of age.⁹ In rural areas, people can also go to some of the larger post offices.¹⁰

The possibility of enrolling a fake person could be minimised by requiring each person seeking enrolment to present themselves to the AEC office or a post office with adequate personal identification and proof of residence. This requirement should also apply to a person changing their name in order to prevent the person voting twice under both the old and new names. All individuals who wish to open a bank account, receive public welfare or hire a video all undergo identity checks, but there is no identity or residence check when a person applies to register on the electoral roll.

The requirement for identification and personal presence at an AEC office or post office for electoral enrolment would be a valuable component of the systems used to prevent or identify fraudulent enrolment. Some form of identity checking was proposed by the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004*,¹¹ in response to the recommendations of the Joint Standing Committee on Electoral Matters Report on the 2001 election.¹² Although those provisions were removed in the Senate, instituting identity checks would be a positive step in ensuring a robust electoral system.

Recommendation

A person should be required to attend personally an AEC office or post office with proof of identity and proof of residence in order to be included on the electoral roll.

2.3 Capacity to alter another person's details

The current process for altering personal information on the electoral roll uses the same form as for enrolment. However, if John knows the current address of Bill, and what his signature looks like, then he has all the information necessary to enrol Bill at a new address. When a person enrolls at a new address, the current practice of the AEC is to mail that person a card which sets out their name, address, federal electorate, state electorate, council area and ward. This acknowledgement is sent to the new address. Under the situation described above, where John alters Bill's address, the acknowledgement would be sent to the new address that John provided, and Bill would probably know nothing of it until election day.

Computershare is a share registry service which also has to ensure the validity of the change of address. The process adopted by Computershare, upon receiving a communication that a client has changed their address, is to send a notification to both the new address and the old address. If the AEC were to adopt this system, when John altered Bill's address an acknowledgement would also be sent to Bill's old address, alerting him to the fact that someone is interfering with his enrolment.

Recommendation

The AEC should send an acknowledgement to both the new address and the old address of a person who has enrolled at a new address to ensure that the new enrolment is authentic.

3. The Electoral System

In addition to looking at the conduct of voters and the process of election, it is appropriate to consider how candidates and parties approach the election.

3.1 Registration of parties

Two competing principles are relevant to the process of registering a political party. The first principle is that in a democratic country, any group of people should be able to register a political party in order to express their views. The second principle is that elections should not be open to manipulation or obfuscation by sham parties lacking genuine community support. The challenge is to strike an appropriate balance between these two principles.

The current requirement for the registration of a political party in Australia is the provision of 500 signatures to the AEC.¹³ The requirement for 500 signatures makes it difficult for someone to register a token party lacking genuine support. A political party with fewer than 500 members is unlikely to have a significant impact on an election but it could increase costs and confuse voters.

Recommendation

The current requirement of 500 signatures to register a political party should be retained.

3.2 Registration of candidates

As with registering a political party, two competing principles are relevant to the registration of candidates. The first principle is that in a democratic country any person should be able to stand for election. The second principle is that the ballot paper should not have so many candidates that it becomes

too cumbersome and confusing to voters. The challenge is, as with registering a party, to strike an appropriate balance between these two principles.

3.2.1 Deposit

A candidate for a seat in the House of Representatives is currently required to deposit \$350 with the AEC and a Senate candidate is required to deposit \$700.¹⁴ If a candidate does not receive 4% of the primary vote the deposit is forfeited.¹⁵ The intention is to discourage candidates who are not seriously running in the election.

The requirement of a deposit is an effective method of excluding marginal candidates, since those with significant community support should be able to raise the necessary funds. Since senators have a term of office that is twice that of members of the House of Representatives and since they are elected by the entire state not just from one electorate, it is appropriate that the deposit for an aspiring senator be double that of an aspiring member of the House of Representatives. However the amount of the deposit is currently ineffective.

The current deposits of \$350 and \$700 are evidently not enough to deter the excessive number of candidates in the 2004 election, especially for the Senate, an increase in these amounts is justifiable. A modest increase in the required deposit for House of Representatives and Senate candidates to \$500 and \$1,000 respectively is suggested. These amounts would be an increased deterrent for unrealistic candidates but attainable by those who have significant community support.

Recommendation

The deposit for a candidate for the House of Representatives should be increased to \$500.

The deposit for a candidate for the Senate should be increased to \$1,000.

3.2.2 Endorsement

The results of the 2004 federal election reveal that some candidates received fewer than 150 votes, indicating they have little support in the community. Their involvement serves only to lengthen the voting process and take up more space on the ballot paper. While any person should be able to stand for an election, it is not unreasonable to require some demonstration that a candidate has some significant level of support from the community which he or she seeks to represent. The current legislation requires the endorsement of 50 signatures for independent candidates, but candidates endorsed by a registered political party do not need to provide this endorsement.¹⁶

Two problems exist with the current standard. Firstly, the number of signatures required is too few. Secondly, candidates of registered parties are not required to provide the endorsement of electors. These requirements should be extended so that every candidate, whether independent or nominated by a registered party, should be required to provide the signed endorsement of 200 registered voters to demonstrate significant community support for his or her candidacy in the electorate.

Since endorsement of a candidate is intended to demonstrate relevant community support, signatures should be acceptable only from electors from within the electorate for which the candidate intends to seek election. This is the electoral division for the House of Representatives or the state or territory for the Senate.

Each elector should be able to endorse only one candidate for the House of Representatives and one candidate for the Senate, in accordance with the capacity of the person to vote. Endorsement forms should be submitted to the AEC as a part of the nomination procedure, where names and signatures would be checked for validity against the electoral roll.

Recommendation

A candidate for a seat in either the Senate or the House of Representatives should be required to submit a nomination form to the AEC with the endorsement of 200 signatures of registered electors from the electorate for which the candidate is nominating, who have not endorsed any other candidate for the same House.

3.3 Taxpayer funding

After each election, each political party receiving more than 4% of the primary vote is entitled to funding from the federal government on the basis of a given sum per vote.¹⁷ This system places public money garnered from taxpayers in the hands of political parties for political purposes.

This practice excludes those parties receiving only a small primary vote and places huge amounts of money in the hands of the major parties. The result is that the relatively major parties are funded by taxation revenue. Government support of any political party cannot be justified, especially under the current system which favours the incumbent political parties.

All political parties should be on an equal footing in relation to public money, in that none of them should receive any. Any group of people should be able to set themselves up as a political party, but they should be required to support themselves. If a sufficient number of people believe in what they are doing, they will not find support difficult, but it will place the duty on all political parties to create that goodwill with the community.

Recommendation

The practice of paying major parties an amount of money per vote they receive should cease immediately.

4. The Voting System

Australia has been well served by a system of compulsory preferential voting. This system has contributed towards making Australia one of the most politically stable countries in the world.

4.1 Compulsory voting

Every Australian citizen who is above the age of 18 years on the date of a federal election is legally required to enrol and to vote. Compulsory voting, which was introduced for Australian federal elections in 1924 and first used in the 1925 elections, is relatively unusual among world countries.¹⁸ While it could be argued theoretically that true democracy demands the right to refuse to vote, the practical reality is that compulsory voting produces a better indication of the opinion of the people than voluntary voting.

Other constitutional democracies which have voluntary voting, such as Britain and the United States of America, have much lower participation in elections than Australia. The United States of America spends huge sums of money on encouraging people to vote, regardless of which party they vote for. Voluntary voting also creates the possibility that some areas could be ignored in attempts to encourage voting if the residents seem likely to vote in the opposite manner to those organising the "encourage people to vote campaigns". The number of UK votes cast to elect the European Parliament was reported to be less than the number of votes cast in the British version of the television show *Big Brother*.¹⁹

Recommendation

Compulsory voting should be retained to ensure that Australian governments are determined by most of Australia's adult population.

4.2 Preferential voting

Another important element of the Australian electoral system is preferential voting. Indeed, preferential voting is relatively exclusive to the Australian political system. Most similar political systems employ the simple majority (first-past-the-post) system.

The main advantages of the preferential system are:

- It ensures that only a candidate with the support of an absolute majority of the electorate can win, eliminating the possibility of minority winners; in other words, the winning candidate is the "most preferred" or "least disliked" candidate.
- It ensures that voters can support minor parties and independent candidates, knowing that their preferences may be used to decide the winner; thus, votes for minor parties and independents are not wasted.²⁰

In short, the primary benefit of preferential voting is that it most accurately represents the will of the voters.

A major disadvantage of simple majority voting is that candidates can be included for the purpose of weakening an opponent's support. Consider John who becomes a candidate for a House of Representatives electorate and campaigns for the building of a shopping centre in his electorate. Suppose that Bill decides to oppose this development by becoming a candidate for the same electorate. John might enlist three other people as candidates for the same electorate who would agree with Bill. With simple-majority voting, the total vote against John is split among four candidates and John may win easily. Under a preferential system, the vote is ultimately split between the two candidates who have the most preferred support and winner in a House of Representatives electorate always has more than half of the final preferred vote.

Recommendation

The system of preferential voting contributes to the political stability of this country by ensuring that candidates elected to the House of Representatives have the support of more than half the electorate.

4.3 Senate voting above the line

In the *Inquiry into the 1998 Federal Election and Matters Related Thereto*, a number of submissions advocated the elimination of above the line voting for reasons such as ungrouped candidates not having a box above the line which gives them an unequal footing, and the capacity of parties to direct preferences in what is usually a blind vote.

Allowing political parties to lodge preference allocations which are generally unknown to the electorate opens the election process to manipulation by stooge parties and candidates. A genuine party can form a stooge party with a catchy name in the hope of attracting additional votes for the stooge candidates and directing their preferences to the genuine party. However, the stooge party may deceive voters by appearing to stand for issues opposed by the party receiving the preferences.

For example, suppose a "New Flag Party" is formed to work for the replacement of the Australian flag with a new design. The New Flag Party then forms the "Save the Flag Party" which claims to stand for keeping the present design. The Save the Flag Party can lodge a preference allocation directing preferences to the New Flag Party. The likely result is that voters would be deceived by this ruse.

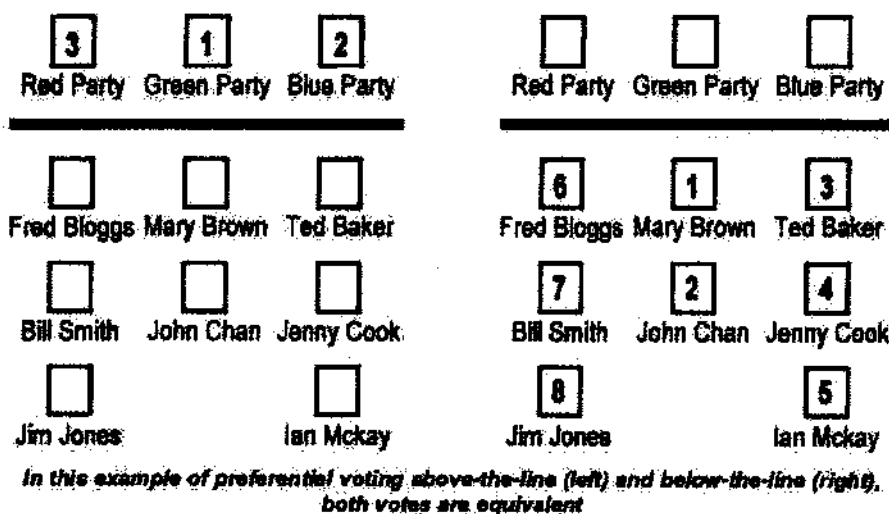
Corruption of the Senate election process by stooge parties and candidates could be eliminated by removing preference tickets and requiring voters to indicate their own preferences. Voters are familiar with indicating their own preferences on the House of Representatives ballot paper and the only significant difficulty to voters is the large number of names on the Senate ballot paper. While the House of

Representatives ballot paper for the 2004 federal election included an average of seven names, each Senate ballot paper included an average of fifty candidates.

This problem can be resolved by requiring voters to indicate their own preferences either for groups above the line or for individuals below the line. Under this proposal, below the line voting would remain the same, but when voting above the line, the voter would be required to number all boxes in order of preference.

The privilege of a group being listed above the line should be restricted to registered parties. Independent candidates or groups of candidates from an unregistered party should be listed only below the line. The ballot paper would then list the parties above the line and the individual candidate or candidates below the line.

Preferences marked above the line would first flow to candidates within the party in the order they are printed on the ballot paper. The preference would then flow to candidates in other parties in the order indicated by the voter. Preferences marked above the line should not flow to candidates listed only below the line. In the figure below, both votes are equivalent.



This system would suit voters who find allocating preference to some fifty candidates too daunting but who would have no trouble in allocating preferences to about seven party groups. This system would also eliminate the need for the AEC to collect, print and distribute preference tickets from all the parties taking part in the election. Wall charts or booklets showing preference allocations would not be needed.

Recommendation

The Senate voting system should be changed to require voters to indicate their own preference order, either:

- *by parties above-the-line, or*
- *by candidates below-the-line.*

Preferences given to parties above the line would flow to candidates below the line in the order printed on the voting form, and then to the candidates of the second preference party

in order printed on the voting form, etc. Preferences given to parties above the line would not flow to candidates listed only below the line.

5. Integrity of the Voting Process

The process of voting can be considered to have integrity if two conditions are satisfied. Firstly, the identity of each voter should be correct, ie the person voting should be the elector whose name is marked as having voted. Secondly, each voter should vote only once.

Consider the federal electorate of Makin, which had approximately 62 polling places at the 2004 federal election. Suppose John knows the full name and address of Bill who also lives in Makin and the polling booth at which Bill will vote.

Currently, John can go to the same polling place as Bill to cast his own vote, and then go to the other 61 polling booths and vote as Bill, thus voting 62 times in the election, in a marginal electorate. If several people did this, the extra votes could have a significant effect on the outcome of the election.

The current AEC processes will quickly identify that Bill has voted multiple times when the lists of voters at each polling booth are compared after voting closes. However that will only lead the AEC and the Australian Federal Police to Bill, who has done nothing wrong and is completely unaware of John's dishonest voting.

Although the number of extra votes could be identified, they could not be removed from the count because there is no way of knowing which candidate gained the invalid votes.²¹ If the number of extra votes were sufficient to change the result of the election, the best that the losing party could hope for is an appeal to the Court of Disputed Returns, which may or may not order another election. The process of having another election is time and resource consuming, and a hassle for everyone involved. The hassle may also affect the voting of the electorate, which may prejudice the party that sought another election.

5.1 Voter identity

The integrity of the voting system requires that a person vote only once, and as themselves. While the checking that is necessary to open a bank account would likely be too time consuming on the day of the election, the requirement to produce adequate personal identification, such as in the form of a driver's licence, is reasonable.

With such a requirement enforced, it would be very difficult for one person to claim to be someone else and vote as that person. With a requirement to show adequate personal identification in place, a person could only vote multiple times as themselves, and would be identified by existing AEC processes.

Recommendation

To prevent a person from voting either multiple times or under another name, each person should be required to provide adequate personal identification to the AEC officials at polling booths prior to casting their vote.

5.2 Voting locations

An alternative solution to the problem of multiple voting is to limit each voter to one polling place, as advised by the AEC. The AEC, which already mails information regarding the election to each household, could include a card assigning the electors at that address to a designated polling place.

If a person were unable to fill attend that polling booth, they would still be able to use absentee voting, but their vote would not be counted immediately. The counting of those votes could then wait until the

has been a comparison with other absentee votes and the electoral roll in the polling booth to ensure that a person has neither voted normally, nor tendered multiple absent votes.

Recommendation

As an alternative to adequate personal identification of voters on the day of the election, to prevent a person from voting either multiple times or under another name, each person should be required to vote either at a polling booth assigned by the AEC or use an absentee vote.

6. Conclusion

Australia enjoys the stability of one of the world's oldest constitutional democracies, and has one of the best electoral systems in the world. However, Australians cannot afford to become complacent about our electoral system, since some aspects are open to abuse and corruption. We should not wait until some of the weaknesses of the current system are corruptly exploited, rather we should further improve the system so that the integrity of the result can be assured.

The first priority for reform should be to modify the voting system of the Senate, so that voters are required to allocate preferences either to all groups above the line or all candidates below the line. This would give voters responsibility for allocating their own preferences, as they already do on House of Representatives ballot papers. The number of preferences for above-the-line voting would be much smaller than for below-the-line voting and should not be daunting to voters. Preference tickets currently lodged by parties with the AEC, which are unknown to most voters and hence effectively secret, could be eliminated since they would no longer be needed. The motivation to form stooge parties in an attempt to manipulate the result corruptly would also be removed.

All of the recommendations in this submission are intended to enable the election system to guarantee the integrity of an election result by minimising opportunities for abuse. While there will always be weaknesses, the defence of the democratic principles which have served this nation so well requires an effort to ensure the electoral system is as robust as possible. All Australians have a duty to pass on our great nation to the next generation by maintaining and strengthening the democratic traditions of this country.

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2. Behind Canada, Sweden, Switzerland, the United Kingdom and the United States of America.
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4. www.aboutmyvote.co.uk/, at 31 March 2005.
5. Eg Virginia, www.sbe.state.va.us/VotRegServ/Registration.Deadlines.htm, at 31 March 2005; Texas www.sos.state.tx.us/elections/voter/2005dates.shtml, at 31 March 2005.
6. Joint Standing Committee on Electoral Matters, *The 1998 Election*, Recommendation 3.
7. Commonwealth *Bills Digest* No. 136 2003-4, pp 10.
8. Letter from Dr Chris Drury (Australian Electoral Officer for South Australia) to Dr David Phillips (National President of Festival of Light), 1 April 2005.
9. Proof of age: eg birth certificate, current Australian or overseas passport; proof of address: eg lease agreement, land tax notice; proof of identity: eg passport with colour photograph and signature, school card with a statement from a teacher.

10. www.transport.sa.gov.au/licences_certification/drivers/proof_of_identity.asp, at 31 March 2005.
11. *Commonwealth Bills Digest* No. 136 2003-4, pp 8-9.
12. Joint Standing Committee on Electoral Matters, *The 2001 Federal Election*, pp vi, xxvii, 44.
13. *Commonwealth Electoral Act 1918* (Cth) s 126(2)(ca).
14. *Commonwealth Electoral Act 1918* (Cth) s 170(3).
15. *Commonwealth Electoral Act 1918* (Cth) s 173(1).
16. *Commonwealth Electoral Act 1918* (Cth) s 166(1).
17. *Commonwealth Electoral Act 1918* (Cth) ss 294, 297.
18. Other countries which have some form of compulsory voting are: Argentina, Austria, Belgium, Bolivia, Brazil, Cyprus, Dominican Republic, Egypt, Greece, Guatemala, Honduras, Liechtenstein, Luxembourg, Panama, Philippines, Singapore, Switzerland (some cantons only), Uruguay, and Venezuela, www.australianpolitics.com/voting/systems/compulsory.shtml.
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21. *Electoral Backgrounder No. 14*, 24 October 2001, p 9.