

**SUBMISSION TO REDUCE THE NUMBER OF
INFORMAL HOUSE OF REPRESENTATIVES BALLOT PAPERS**

The transcripts of the recent hearings of the Joint Standing Committee on Electoral Matters (the JSCEM) in Brisbane and Adelaide have emphasised the question of the size of and increase in the informal vote in House of Representatives. I want to put before the JSCEM an alternative to the optional preferential voting suggestion that has been discussed at those hearings.

At the 1984 election, a new option for marking Senate ballot papers (above-the-line voting) was introduced, along with savings provisions to increase the number of ballot papers which could be saved from being informal. The changes appear to have dropped the Senate informal vote from an historic long-term high of 9-10%¹ to a new long-term low of 3-4%². This 6% reduction in the informal Senate vote seems to be the equivalent of including some 745,000 more votes in the count during the 2004 election, or the equivalent of 8-9 electoral divisions³.

At the same time, savings provisions were also introduced for House of Representatives ballot papers. The informality rate for House of Representatives ballot papers had been low, and remains low. The savings provisions were removed after they were used to promote optional preferential voting in the form of the Langer-style vote. House of Representatives informal voting has remained low, but has increased from a stable 2-3%⁴ for many years prior to the 1984 elections to a long-term but gradually increasing 3-5%⁵. A trend that is concerning.

This submission proposes a new savings method to reduce the number of informal House of Representative ballot-papers. It avoids changing the ballot-papers significantly or having any effect on instructions to voters on how to complete a ballot-paper. It assumes the Parliament's continued desire for full preferential voting as has applied to House of Representatives elections since 1918 and Senate elections since 1934. The proposed savings method should not create a back door method for optional preferential voting, or first past the post voting, in the House of Representatives voting system.

¹ AEC Research Report No.1/86, Informal Voting 1984 Senate, para 2.17.

² AEC Electoral Pocketbook, June 2005, page 71

³ AEC Electoral Pocketbook, June 2005, page 110 for total Senate voters. Then calculated by dividing the total enrolment of 13,098,461 (page 63) by 150 electoral divisions (page 118) and getting approximately 87,000 electors per division.

⁴ AEC Research Report No.1/85, Informal Voting 1984 House of Representatives, Table 2.1.

⁵ AEC Electoral Pocketbook, June 2005, page 71.

Criteria for proposal

- minimise change to ballot-papers, no change to format or method of marking
- continue to allow voters to deliberately mark ballot-papers informal
- save all ballot-papers marked with a single first preference
- avoid causing confusion for voters at subsequent State/Territory elections
- distribute preferences during the scrutiny as if ballot-papers were marked fully preferentially

Essence of proposal

Introduce a new savings provisions to the *Commonwealth Electoral Act 1918* that would provide that House of Representatives ballot-papers marked with a single first preference, but that would be informal because of incomplete or faulty marking for remaining preferences, should be deemed formal and be handled in the scrutiny as if they were fully preferential ballot-papers marked in accordance with a registered preference list lodged by the candidate (or party registered officer) against whose name the voter had marked the first preference.

That would mean that ballot-papers marked with a first preference only would be counted in accordance with the relevant registered preference list. All ballot-papers marked with a first preference and any other numbers which make them informal under the current rules, would also be counted in accordance with the relevant registered preference list. Ninety-six per cent of House of Representatives ballot-papers (which currently satisfy the formality requirements) would continue to be counted in accordance with the preferences marked on their face, as they are at present.

Candidates (or party registered officers) would need to be required to lodge registered preference lists, much as group voting tickets are now lodged for Senate elections. Provision would have to be made for any situation in which a candidate failed to lodge a registered preference list. That provision, in the extreme, could be to rule that candidate ineligible for election, or in moderation, could be to deem their registered preference list to be a number "1" against their name and a donkey vote for the remainder of the ballot paper. Alternatively, there could simply be no savings provisions applied to ballot-papers marked with a first preference for those candidates.

Such a proposal would:

- require minimal or no change to the current style of House of Representatives ballot-papers;
- permit the instructions to the voter to remain as they now are;
- continue to allow a voter to mark a ballot-paper deliberately informally by not recording a first preference at all;
- save all informal House of Representatives ballot-papers that are marked with a single first preference and any other numbers, but still informal;
- save the votes of most electors confused about how to mark a House of Representatives ballot-paper;

have no obvious effect on voters at subsequent State/Territory elections; and continue Australia's longstanding tradition of full preferential voting in federal elections.

A more complex version of this proposal already operates for the South Australian Legislative Assembly elections (section 93 of the *Electoral Act 1985* [SA]). The South Australian system permits more than one registered preference list per candidate and only saves otherwise informal ballot-papers that try to follow a registered preference list.

If this proposal interests the JSCEM, a decision will need to be made as to whether a candidate (or registered officer) could lodge more than one registered preference list. This, as in 1983 regarding the Senate GVTs, is a political question.

Likely criticisms of the proposal

This proposal is likely to be criticised for taking a further step in federal elections to effectively isolate voters from the allocation of preferences by permitting preferences on otherwise informal ballot-papers to be allocated by political parties and/or candidates. This is a valid criticism, but must be balanced against the number of informal ballot-papers currently lost that are from voters who appear to be marking a first preference and intending their votes to count.

That figure (votes lost to informal, but with a first preference marked on them) was probably half⁶ of the almost 640,000⁷ informal ballot-papers at the 2004 House of Representatives election. That is, as many electors as there are in 3-4 House of Representatives seats⁸ marked a first preference for a candidate but had their ballot-papers rejected from the scrutiny as informal. Deeming a fully preferential vote to be shown on that approximately 50% of currently informal ballot-papers, would not interfere with 96% of voters who fully mark their House of Representatives ballot-papers 'formal' as a matter of course.

Furthermore, little is asked from voters who want to exercise their own preferences. They simply need to complete the ballot-paper with an average sequence of 7 numbers⁹. At present 96% of voters do just that.

⁶ AEC Research Study on House of Representatives Informal Voting at 2001 election, Table 2 (2004 study not published yet). The figure of half is taken by adding together the percentage of informal ballot-papers marked with just a number "1" (34%) and those marked non-sequentially but presumably with a number "1" (17%).

⁷ AEC Electoral Pocketbook, June 2005, page 117.

⁸ AEC Electoral Pocketbook, June 2005, pages 63 and 118. Calculated by dividing the total enrolment of 13,098,461 by 150 electoral divisions and getting approximately 87,000 electors per division.

⁹ AEC Electoral Newsfile No.119, Close of Nominations. 1091 House candidates for 150 divisions.

This proposal would ignore the second, third, etc preferences of those voters who marked their ballot-papers with a first and several other preferences, but left some squares blank or lost their sequence in their later numbers. Those ballot-papers would be counted as if marked in accordance with the registered preference list of the candidate against whom the number “1” is marked.

The criticism, that voters should be forced to make their own decisions as to the order of preference of the candidates, seems to ignore the fact that some voters may not have enough information to do so and may prefer to adopt the preferences recommended by a candidate or party. One important reason for bringing in the successful above-the-line voting for Senate elections for the 1984 election is relevant here. The vast majority of voters marking Senate ballot-papers informally prior to that time seemed to have been trying to copy complex how-to-vote cards listing 40/50/60 etc candidates and failing through inability or frustration¹⁰. In other words, the vast majority of voters who marked Senate ballot-papers informally had already been trying to copy a set of preferences handed to them by a candidate or political party. Surely the voters’ choice? The new above-the-line voting system simply made that task much simpler. Is it now time to make voting for House of Representatives candidates also simpler, given the confusion of a different method of marking Senate ballot-papers and different systems for State and Territory elections?

Impact on Senate voting

There seems to be no obvious impact likely for the formality of Senate votes by introducing the proposed system for the House of Representatives. In fact, if turns out to be successful and generally accepted over a few elections, it might prove to be a model which could be adapted for the Senate to simplify the Senate ballot paper. But that should be a question for the future.

Conclusion

This suggestion is offered to the JSCEM as the bare bones of an alternative scheme to save so many informal ballot-papers from being rejected from House of Representatives scrutinies, rather than a move to optional preferential voting. If the JSCEM thinks it has merit, stakeholders could be asked to comment.

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¹⁰ AEC Research Report 1/86, Informal Voting 1984 Senate, para 2.18.