

75 Solomon Street
Fremantle WA 6160
(08) 9433 1338
pollbludger@bigpond.com

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The Secretary
Joint Standing Committee on Electoral Matters
Parliament House
CANBERRA ACT 2600

Dear Sir

I write as a private individual in regard to the committee's inquiry into the 2007 federal election. I am a doctoral candidate at the University of Western Australia's Discipline of Political Science and International Relations and publisher of the electoral studies website www.pollbludger.com, and I hope that my submission might be seen as representative of informed and non-partisan opinion regarding the particular matters I have had time to address.

Firstly, I believe the new Government should be broadly congratulated for acting promptly to undo various measures introduced by the Electoral and Referendum (Electoral Integrity and Other Measures) Act 2006. It is also encouraging that the current inquiry has chosen to place emphasis on issues regarding political donations and the disclosure thereof, although I do not propose to address these matters in my current submission.

I would also like to note in passing my concern about the inadequate penalties which apply to offences such as those alleged to have occurred in the final week of the 2007 election campaign in the electorate of Lindsay, involving the distribution of fake pamphlets purporting to be from a radical Islamic group. However, I would ask the committee to be mindful that any recommendation made to implement stricter penalties for such offences be carefully targeted to communications designed to influence election outcomes. The committee should also appreciate the explosion of published political commentary that has been facilitated in recent years by the internet, much of it conducted by persons who lack the financial means to defend themselves from actions which might be vexatious or otherwise lacking in merit. Any tightening of laws regarding political communications should take into consideration the healthy expansion in public discourse facilitated by the internet, and the chilling effect that could result from the imposition of carelessly framed restrictions.

The remainder of my submission relates to potential reforms to the electoral system. While the fundamental features of the Australian electoral system have proved effective over a long period and enjoy a high level of public confidence, basic reforms are desirable for both houses. In each case the problems as I perceive them stem from compulsory preferential voting, which frequently turns votes into expressions of preference which voters do not actually possess.

The fundamental purpose of any democratic electoral system is to empower the voter. On this basis, a preferential system such as Australia's is preferable to first-past-the-post systems which restrict voters to a first-choice option. However, the compulsory preferential system in operation for the House of Representatives unnecessarily deprives voters of the option of having their vote exhaust at the point where they hold no preference. Just such a system has operated over a long period in New South Wales and Queensland, for which popular support is clearly indicated by the growing number of voters who are exercising the option.

The Australian Electoral Commission has noted the further positive effect in these states of reducing the level of informal voting in its Research Report 10 – Informal Voting at State and Territory Elections (http://www.aec.gov.au/About_AEC/Publications/Strategy_Research_Analysis/per10/page02.htm). It is especially notable that New South Wales had a high informal voting rate of 5.0 per cent at the 2007 federal election (compared with a national figure of 4.0 per cent), which was likely to have been influenced by confusion resulting from the operation of different systems at state and federal level. Regression analysis of electorate-level data conducted by "Possum Comitatus", a pseudonymous blogger, statistician and contributor to Crikey, produced a "highly statistically significant" finding that such confusion increased the federal informal vote by 1.0 per cent where optional preferential voting operated at the state level (<http://possumcomitatus.wordpress.com/2008/01/24/the-informal-vote/>). Its implementation at the federal level would thus have the dual effect of reducing informal voting across the board, with an extra dividend in New South Wales and Queensland from the formalisation of exhausting ballots.

I will now address two problems as I see them with the electoral system for the Senate: full compulsory preferential voting, and the operation of a de facto "closed list" system.

Compulsory preferential voting

There is no denying the conceptual elegance of the Single Transferable Vote system by which the Senate is currently elected. At a normal half-Senate election, each vote is divided into pieces and distributed among seven quotas. Six of these elect Senators, the remainder being known as the "wastage quota". The problem with the system is that it gives expression to a complexity of voter preference which simply doesn't exist. In practice, voters have allowed their

favoured party to make the decision for them, either by adhering to the how-to-vote card prior to 1984 or lodging a ticket vote thereafter. The potentially undemocratic consequences of this were demonstrated by the election in 2004 of a Victorian candidate from the marginal Family First party, when natural justice clearly demanded that the six seats be divided evenly between right and left, with the third left seat going to the Greens.

Again, one need only look to the practice of New South Wales at state level to see that the problem could be solved without serious difficulty through the introduction of optional preferential voting. In practice, this almost invariably has the effect of delivering the final seats without controversy to the remaining candidates who have the most votes. Nonetheless, the option of passing on an excluded vote by directing a preference is available to those who wish to exercise it. It is disappointing that elements of compulsion in the allocation of preferences have been maintained in recent proposals to reform above-the-line voting, such as Recommendation 37 of the Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto and the *Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008* sponsored by the Greens. The latter proposal is preferable to the former, as it would require voters to number no more than four boxes, but remains wedded to a principle of compulsion which offers only obscure benefits in the context of a proportional representation system.

“Closed list” voting

Much of the complexity of the Senate system was designed to institute an “open list” system whereby voters rank the order not just of the various parties, but of the candidates within each list. It is apparent from 58 years of Senate voting experience that this has no practical effect, with Senators invariably being chosen in the order dictated by the parties. A formal closed list system, such as operates for the Israeli Knesset and for most countries’ elections for the European Parliament, would produce benefits in terms of simplicity, reduced informal voting and fewer administrative difficulties resulting from the size of ballot papers, without corresponding costs.

Alternatively, reforms should be considered that would make the open list system work in practice as well as theory. One option would be to distribute above-the-line votes evenly among all candidates in the party list, rather than cascading them in the order determined by the party. This would result in elected candidates within a given party list being effectively chosen by those who make the effort to vote below-the-line, without disfranchising those who wish to limit their involvement to selection of a favoured party or parties. The democratic credentials of such a system could be further enhanced by instituting a system of Robson rotation for the ordering of party list candidates, along the lines of that which operates in Tasmanian and the Australian Capital Territory. This would

transfer power over the election of candidates from party organisations to voters, where it belongs.

Yours sincerely

WILLIAM BOWE