

**TO THE
JOINT STANDING COMMITTEE ON ELECTORAL
MATTERS
(JSCEM)**

**ENQUIRY INTO THE CONDUCT OF THE 2010
FEDERAL ELECTIONS**

**Submission of the former Australian and South Australian
Electoral Commissioner following his appearance before
The Committee on 30 March 2011**

12 May 2011

I was invited to appear at the JSCEM's meeting in Adelaide on 30 March 2011, to give my view on the effectiveness or otherwise of the 'safety-net' provisions (ticket voting) of the South Australian Electoral Act 1985. These provisions have been in operation for seven elections and I believe have served the State well. Since the Act passed in 1985, I am not aware of any objection to, nor any attempt to amend the legislation covering voting tickets.

In essence these provisions enable an otherwise informal vote to be introduced to the scrutiny of formal votes. The circumstances under which this may apply require the following;

1. the candidate for whom the voter has indicated a first preference has lodged a voting ticket with the Electoral Commission indicating how he or she wishes preferences to be distributed if,
2. the ballot paper has been marked indicating a first preference for that candidate and
3. if subsequent preferences are also shown, but fall short of the formality provisions,
4. and those subsequent preferences comply precisely with the preferences indicated on the candidate's voting ticket.

These preconditions having been met, the ballot paper is treated as though it were completed in accordance with the preferences on the voting ticket and distributed accordingly.

The rationale for introducing these provisions is predicated on some 'givens'. That, with a compulsory system every effort should be made to make it as easy as possible for an elector to comply with the legislation and in doing so be as effective as possible in casting a meaningful vote.

How-to-vote cards (HTVCs), which have been in use for decades, do of course go a long way toward ensuring most who wish to vote formally, do so. However, about 20% of the electorate (declaration voters) do not have access to HTVCs. Also, voters at polling places are sometimes reluctant to accept HTVCs when offered.

In any event most people will vote formally and comply with the instructions on the ballot paper.

However, for those who don't, but who still indicate a first preference and thus give an indication of their intention to vote for a

particular candidate, their vote would be informal but for the 'safety net' provisions in the South Australian legislation.

It can not be assumed that the elector who so voted, is trying to vote informally, particularly as there is a statement on each ballot paper saying that it is not an offence not to place a mark the paper. Why indicate a first or subsequent preference if one wished not to vote, when one could just leave the paper blank? Consequently, if the intention of the voter is clear so far as the preferences indicate, every effort should be made to make the vote effective.

Optional preferential voting (OPV) does go some small way toward saving such votes but the rationale is not directed solely to that end. The main purpose of OPV is to enable a voter not to have to indicate a preference if he or she does not have one. The consequence is that a great many ballot papers exhaust in the process of preference distribution and take no part in the final distribution.

Unfortunately, I have not been able to obtain full distribution data from the NSW electoral Commission's website for the 2011 elections. I have however, had a look at the distribution of preferences for the first 23 seats alphabetically, at the 2007 elections. About one million votes were involved, so it is not an insignificant sample. (see attachment A)

A look at the exhausted votes shows that a very large number of votes run out of puff because there is nowhere left for the paper to go. The exhausted votes in 2007 in NSW plus the informals were 12.9 of the total turnout. That means that almost 13% of votes did not contribute to the election of a member of Parliament. Of these 10.11% were exhausted votes and 2.8% informal.

In SA in 1982 before the introduction of the safety net provisions, the informal vote was 5.8%. In 1985 after the introduction the informal vote fell to 3.5% In 2010 the informal vote was 3.3, very close to the 3.2% in the most recent NSW elections.

The informal rate at the last federal election was 5.5%, similar to that in SA before the safety net provision came into force. If we subtract

the 5.5% from the 12.9% at the 2007 elections in NSW, it gives us a small indication of the number of people 7.4% who may not be able to

give full preference consideration to a paper. (I say small indication because considerably more than that number will not complete the paper, but their votes will find a home with the final two candidates before they do not exhaust.) Whilst I am not comparing ‘apples with apples and it is virtually impossible to do so until such time as one has complete research access to all the incomplete papers, it is likely that the number of incomplete OP votes will be significant. So what we have at present federally is a reasonably high informal vote together with a formal vote that includes a large number of voters who would not indicate full preferences were it not for the legislation and How to Vote cards.

The argument that ticket voting does not indicate the elector’s view but the candidate’s, has been and can logically be put.

However, the effects of candidates and parties directing their supporters how to vote, is very little different from the effect of ticket voting, in that the preferences are not necessarily those of the elector. Consequently that argument can be watered down somewhat.

In my view if there is to be a change federally to provide a safety net for votes which are incomplete, ticket voting provides a better outcome for the elector than optional preference voting. It also enables the elected candidate to claim an absolute majority.

It appears clear to me that voters in NSW know their incomplete ballot will be formal at the outset, but I am not too sure they realize that many will not make it through to the distribution to the final two candidates.

What is also clear to me from the full distribution tables of the seats I examined at the 2007 elections, is that it is difficult to believe that the voters whose papers exhausted immediately before the final distribution would not have preferred one of those remaining candidates over the other. Consequently, I believe that if the ticket voting option is not acceptable for federal purposes, that the current situation should be left unchanged as it provides a much safer outcome than optional preferential voting.

Andy Becker

Attachment A

2007 NSW ASSEMBLY ELECTIONS

(sample of ~ one million votes)

DISTRICT	FORMAL VOTES PRE DISTRIBUTION	INFORMAL VOTES	EXHAUSTED VOTES	FORMAL VOTES POST DISTRIBUTION	TOTAL VOTES
ALBURY	42309	1143	1267	41042	43452
AUBURN	40331	1775	5924	34407	42106
BALLINA	40439	612	4460	35979	41051
BALMAIN	42229	1088	8865	33364	43317
BANKSTOWN	39976	2154	3872	36104	42130
BARWON	39712	877	5741	33971	40589
BATHURST	43879	872	3903	39976	44751
BEGA	43081	949	3532	39549	44030
BAULKHM HLS	44922	1147	3841	41081	46069
BLACKTOWN	41679	1622	4125	37554	43301
BLUE MNTNS	42787	922	6076	36711	43709
BURRINJUCK	43185	862	944	42241	44047
CABRAMATTA	43375	1770	3418	39957	45145
CAMPBLLTWN	39626	1555	4206	35420	41181
CAMDEN	41665	1366	3962	37703	43031
CANTERBURY	43160	1878	5505	37655	45038
CASTLE HILL	44227	1094	4647	39580	45321
CESSNOCK	43833	1379	3222	40611	45212
CHARLESTWN	42872	1228	5809	37063	44100
CLARENCE	43831	870	4076	39755	44701
COFFS HRBR	43017	738	6219	36798	43755
COOGEE	40029	989	3733	36296	41018
CRONULLA	42937	1013	3866	39071	43950
TOTALS	973101	27903	101213	871888	1001004
%	97.21	2.79	10.11	87.1	100