

Proposed Changes to the Electoral System

- 7.1 A number of submissions proposed broader changes to Australia's electoral system than those canvassed in previous chapters. Some of the core issues in Australian democracy were raised, including: compulsory voting; preferential voting; the introduction of electronic voting; and ideas for further involvement of the public in political decision-making. This chapter explores those proposals.

Compulsory voting

- 7.2 One of the distinguishing features of Australian democracy is what is often described as compulsory voting for federal elections. It is important to note that under the Electoral Act, the duty of the elector is to: attend a polling station; have their name marked off the certified list; receive a ballot paper and take it to an individual voting compartment; and fold the ballot paper and either place it in the ballot box, or return it to the presiding officer if making a declaration vote.¹

1 *Commonwealth Electoral Act 1918*, sections 231 to 233.

- 7.3 While Australia is one of 24 countries to impose some form of compulsory voting,² our system is widely considered to be a 'template' for compulsory voting because it is well administered despite complications such as federalism and geographical constraints, and because the compulsion is widely accepted by Australian citizens.³
- 7.4 There are several aspects of the Australian federal electoral system which are compulsory. The most obvious of these is that all those who are eligible are required to enrol, and to attend a polling booth or apply for a postal vote at each election.⁴ In addition, in order to cast a formal vote an elector must record a preference for all candidates standing for election. The full preferential voting system is discussed further at paragraph 7.25.
- 7.5 Subsection 245(1) of the Electoral Act provides that '[i]t shall be the duty of every voter to vote at every election'. Compulsory voting for federal elections was enacted in Australia with bipartisan support in 1924.⁵ Compulsory voting is also mandated for all Australian State and Territory elections.⁶
- 7.6 The Electoral Act prescribes penalties for failure to vote. Unless an elector who appears to the AEC not to have voted can show that they did vote as required, or that they had a 'valid and sufficient reason' for not voting, they may be fined. If the elector fails to show a 'valid and sufficient reason' and fails to pay the fine, the matter may be taken to court, in which case a maximum penalty of \$50 may be imposed.⁷

2 International Institute for Democracy and Electoral Assistance (IDEA), *Compulsory voting*, at: http://www.idea.int/vt/analysis/Compulsory_Voting.cfm, accessed 21 May 2003.

3 Lisa Hill, *Democratic assistance: a compulsory voting template*, paper presented to the Jubilee conference of the Australasian Political Studies Association, ANU, Canberra, October 2002, p. 2.

4 See chapter two for explanation of eligibility to enrol. *Commonwealth Electoral Act 1918*, section 101 and subsection 245(1).

5 AEC, 'Compulsory Voting', *Electoral Backgrounder 8*, at: http://www.aec.gov.au_content/how/backgrounders/08/index.htm, accessed 10 April 2003.

6 Initial enrolment is not compulsory in South Australia, however once enrolled, voting is compulsory. Electoral Council of Australia, *Electoral Systems*, at: http://www.eca.gov.au/systems/australia/by_category/eligibility.htm, accessed 20 May 2003.

7 *Commonwealth Electoral Act 1918*, section 245.

7.7 Five submissions commenting on compulsory voting recommended that voting in Australian federal elections be made voluntary.⁸ The main thrust of these submissions was that citizens should be allowed to exercise ‘the democratic right to choose not to vote.’⁹ There was also a concern that forcing indifferent voters to participate diminishes the electoral process:

compulsory voting creates a situation where electioneering becomes no more than a marketing exercise appealing to the lowest common denominator.¹⁰

7.8 Other arguments against compulsory voting raised in submissions were that it:

- increases the incidence of informal voting;¹¹
- encourages complacency amongst incumbent members in safe seats;¹² and
- unduly assists the major parties as their prominence in advertising and at polling booths helps sway the uninterested or undecided voter.¹³

7.9 None of the submissions to this inquiry expressed support for the existing compulsory voting system. The Committee notes that in public polling 74 per cent of respondents supported compulsory voting at federal elections.

7.10 There are a number of arguments in favour of compulsory voting that counter the arguments against it. For example, that:

- Full participation provides electoral outcomes with greater legitimacy, as there is high voter turnout and Parliaments are elected according to the wishes of all citizens.
- Voting is a civic duty, and the significance of the vote should not be undermined by apathy.
- People *can* choose not to vote – they are merely compelled to attend a polling booth and return a ballot paper to the ballot box.

8 Submissions (Mr P. Goss, no. 25; Mr B. Sheehy no. 37; Mr I. Bowie, no. 67; Mr B. Joy, no. 107; Salt Shakers, no. 135).

9 Submission (Salt Shakers, no. 135).

10 Submission (Mr I. Bowie, no. 67).

11 Submission (Mrs Pitman, no. 47).

12 Submission (Mr B. Sheehy, no. 37).

13 Submission (Salt Shakers, no. 135).

- A number of studies (such as the 1994 Report of the Civics Experts Group) have found that Australians are familiar with the mechanics of voting and have a fair understanding of the Australian political system.¹⁴ This weighs against the argument that the participation of those who are indifferent or uninterested in the political process diminishes the significance of the vote.
- Contrary to the argument that compulsory voting encourages complacency in safe seats, political parties assert that they value their 'safe' electorates, and the political activism of electors in safe seats is demonstrated through good participation in party membership, branch activities, party forums, and election campaigning.¹⁵
- Regarding the prominence of major party advertising, it can be argued that compulsory voting may reduce the role of money in elections, as parties and candidates do not need to convince people to turn out to vote.
- A national survey carried out immediately after polling day for the 1996 federal election found that 74 per cent of respondents supported compulsory voting at federal elections.¹⁶

7.11 Compulsory voting was investigated as part of the inquiry into the conduct of the 1996 federal election. The majority report out of that inquiry included a recommendation that compulsory voting be repealed, but that compulsory enrolment be retained in the interests of effective management of the electoral system and maintenance of records of turnout. The report stated:

If Australia is to consider itself a mature democracy, compulsory voting should be abolished. The assertion that voting is a 'right' means little if one can be imprisoned for

14 *Whereas the people ... Civics and Citizenship Education*, Report of the Civics Expert Group, Commonwealth of Australia, AGPS, 1994.

15 Petro Georgiou MP, *The Case for Compulsory Voting*, Address to the Inaugural Meeting of the John Stuart Mill Society, Parliament House, Canberra, 29 October 1996.

16 AEC, citing Newspoll Market Research Survey 3 March 1996, at: *Electoral Backgrounder 8*, as above. For further discussion of compulsory voting see: Keith Faulks, 'Should voting be compulsory?' in *Politics Review*, February 2001, pp. 24-24; Lisa Hill, 'On the Reasonableness of Compelling Citizens to Vote: the Australian Case', in *Political Studies*, vol. 50(1), Political Studies Association, 2002; and Senator Andrew Murray, Minority Report in JSCEM: *The 1996 Federal Election, Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*; Parliament of Australia, June 1997, p. 141; International Institute for Democracy and Electoral Assistance (IDEA), *Compulsory voting*, at: http://www.idea.int/vt/analysis/Compulsory_Voting.cfm, accessed 21 May 2003.

conscientiously choosing not to exercise that right – or rather, for conscientiously exercising the right not to vote.¹⁷

- 7.12 However, the ALP and Democrat members of the 1996 federal election inquiry Committee did not support this recommendation. The ALP minority report stated:

Compulsory voting allows the entire electorate to feel that they have a degree of ownership in government and its decisions. People feel that they are part of the loop and matter. It avoids the marginalisation, hostility and sense of remoteness found in the US. It simultaneously ensures that parties aspiring to govern must ensure that their policies appeal to an extremely broad spectrum.¹⁸

- 7.13 The Government rejected the recommendation to repeal compulsory voting.¹⁹

- 7.14 The Committee inquiry into the 1998 federal election reviewed a number of submissions regarding compulsory voting, and concluded that while there were strong views on compulsory voting, it had no plans to pursue the issue of voluntary voting.²⁰

- 7.15 The Committee concurs with this view.

Changes to the preferential voting system

- 7.16 A number of submissions took issue with the current practices of full preferential voting for the House of Representatives, and ‘above the line’ (ATL) voting for the Senate. The voting systems for the House of Representatives and the Senate are briefly outlined below, followed by concerns raised in the submissions.

17 JSCEM, *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto*, Parliament of Australia, June 1997, p. 26.

18 JSCEM, *The 1996 Federal Election: Report of the Inquiry into the conduct of the 1996 Federal Election and matters related thereto; Minority Report by Senator S. Conroy, Mr L. Ferguson MP and Mr R. McClelland MP*, Parliament of Australia, June 1997, p. 125.

19 *Government Response*, tabled 8 April 1998.

20 JSCEM, *The 1998 Federal Election: Report of the Inquiry into the conduct of 1998 Federal Election and matters related thereto*, Parliament of Australia, June 2000, pp. 106-107.

House of Representatives voting system

- 7.17 Section 240 of the Electoral Act implements a full preferential system for electing members of the House of Representatives. For each Division (electorate) of the House of Representatives, ballot papers include each candidate's name with a box next to it. Electors must number each candidate's box in the order of their choice. Every box must be numbered in order for the vote to count. The Electoral Act specifies a detailed process for a random draw by each electorate's DRO, to determine the order of the candidates' names on the ballot paper.²¹
- 7.18 House of Representatives candidates must gain more than 50 per cent of the vote to be elected. A candidate receiving more than 50 per cent of the first preference votes is immediately elected. If no candidate gains 50 per cent of first preferences, the candidate with the fewest votes is excluded from the count. That candidate's votes are then transferred to the other candidates according to the preferences shown on the ballot papers which gave the eliminated candidate the first preference. This process continues until one candidate has more than 50 per cent of the votes and is declared elected.²²

Senate voting system

- 7.19 The following description of the Senate voting system is largely adopted from AEC publications.
- 7.20 Senators are elected via a proportional representation voting system within their State or Territory. Proportional representation systems are used in multi-member electorates (such as those for the Senate – each State or Territory is a multi-member electorate) to elect candidates who receive a set proportion of the vote.
- 7.21 Unlike House of Representatives elections in which candidates must gain more than 50 per cent of the votes to be elected, Senate candidates must gain a quota of the formal votes to be elected. The quota is calculated by dividing the total number of formal ballot papers by one more than the number of vacancies, and then adding one to the result (ignoring any remainder). For example, in the 2001 Senate half-election the quota for NSW was determined as shown in Table 7.1.

21 *Commonwealth Electoral Act 1918*, sections 212 and 213.

22 AEC, *Counting the Votes: House of Representatives*, at: http://www.aec.gov.au/_content/what/voting/count_hor.htm, accessed 14 April 2003.

Table 7.1 Quota for election to the Senate for NSW, 2001 election.

(a) Number of Senators to be elected:	6
(b) Number of formal ballot papers:	3 879 443
Quota determined by dividing (b) by [(a) + 1]; and then adding one:	$\frac{3\,879\,443}{6 + 1} = 554\,206$
Quota = 554 206 + 1	554 207 votes

Source AEC 2002, Electoral Pocketbook, Commonwealth of Australia 2002, p. 54.

7.22 Candidates who receive the quota, or more, of first preference votes are immediately elected. The surplus votes of candidates who receive more than the quota are transferred to second preference candidates. All the elected candidates' ballot papers are transferred at a reduced value. The transfer value of the elected candidate's ballot papers is worked out by dividing the number of surplus votes by the total number of the elected candidate's ballot papers. The AEC has provided a fictional example to demonstrate the system:

- Candidate A gains 1,000,000 votes;
- the required quota in her electorate is 500,000 votes, therefore the surplus is 500,000;
- the transfer value is calculated by dividing the candidate's number of surplus votes by the candidate's total number of votes: 500,000 divided by 1,000,000. Therefore the transfer value is 0.5;
- all of Candidate A's ballot papers are re-examined to count the number of votes allocated to second-preference candidates;
- Of the 1,000,000 votes for Candidate A, 900,000 recorded a second preference for Candidate B. These votes are transferred at 0.5 value, so 450,000 votes go to Candidate B (the remaining 100,000 second preferences are distributed to Candidates C, D, etc in a similar fashion). If Candidate B is now over the quota, she is elected and her surplus votes are transferred in the same way.²³

7.23 As a result of this process of transferring surplus votes, other candidates may be elected. If, however, all surplus votes from elected candidates are transferred and there are still some unfilled positions, further counting is undertaken. This is done by excluding

23 AEC, *Electoral Pocketbook 2001*, Commonwealth of Australia, 2002, p. 54.

unsuccessful candidates, starting with the lowest scoring candidate. Their ballot papers are distributed to the remaining candidates to whom the voters have given their preferences. When a candidate gains a quota following the distribution, he or she is elected. The above process continues until all Senate positions are filled.²⁴

- 7.24 Like the House of Representatives, the Senate employs a full preferential voting system. Electors must either vote for one party or group of candidates 'above the line', thereby endorsing that party's full list of preferences for other candidates, or must vote for all Senate candidates 'below the line'.²⁵

Proposals for change

- 7.25 Submissions raised a number of proposals for change to the current system of full preferential voting for the House of Representatives and the Senate. The term 'preferential' refers to an elector being required to indicate an order of preference for candidates on the ballot paper. Different types of preferential voting include:
- full preferential — the elector must show a preference for all candidates listed for the ballot paper to be formal (this system is used for the House of Representatives and the Senate);
 - partial preferential — the elector must show a minimum number of preferences — usually equal to the number of candidates to be elected; and

24 AEC, *Counting the Votes: Senate*, at: http://www.aec.gov.au/_content/what/voting/count_senate.htm, accessed 14 April 2003.

Electoral Council of Australia: *Electoral Systems - Voting Systems*, at: http://www.eca.gov.au/systems/australia/by_category/voting_definitions.htm, accessed 14 April 2003.

Department of the Parliamentary Library, *Parliamentary Handbook: Elections*, at: <http://www.apf.gov.au/library/handbook/elections/index.htm>, accessed 14 April 2003.

25 Although paragraph 270(1)(b)(i) of the Electoral Act stipulates that where there are more than nine candidates, if 90 per cent or more of the squares are numbered in sequence (or close to sequence – less than four mistakes), then the ballot paper shall not be counted as informal.

- optional preferential —electors need only indicate a preference for the candidate of their first choice, and the allocation of any further preferences is optional.²⁶

Optional and partial preferential voting proposals

7.26 A number of submissions supported changing to optional preferential voting for House of Representatives and Senate elections.²⁷

7.27 The Greens NSW supported optional preferential voting for the House of Representatives on the basis that voters should have the right to determine if, and to whom, they will give preferences:

It is a perfectly legitimate view, indeed it should be a right, for a voter to decide that they do not want to give preferences to a number of candidates. There is no ethical reason to deny voters the opportunity of making the point that they will not vote for particular candidates.²⁸

7.28 The comments of Mr Ian Bowie summarise the arguments of the other submissions which supported optional preferential voting:

Voters are required to express preferences for what I term the 'least worst' candidates/platforms when many voters in reality have no preferences at all or have aversions for some or all candidates/platforms. This raises questions about the legitimacy of governments.²⁹

7.29 Mr David McAlister suggested that an optional preferential system would also avoid unintentional errors in numbering which may render ballot papers invalid:

The Senate paper is a recipe for undue delay and likely resentment. To complete the numbers 1 to 65 [if voting below the line] without error is a virtual impossibility.³⁰

7.30 Salt Shakers suggested that voters be required simply to mark the number of boxes corresponding to the number of vacancies (that is,

26 Electoral Council of Australia: *Voting Systems*, at: http://www.eca.gov.au/systems/australia/by_category/voting_definitions.htm, accessed 15 April 2003.

27 See submissions (Mrs J. Singleton no. 63; Mr I. Bowie no. 67; Rev. S. Slucki no. 72; DG Holmes no. 84; Mr B. Joy no. 107; Salt Shakers no. 135; Ms R. Gibbs no. 140.

28 Submission (Greens NSW, no. 158), p. 1.

29 Submission (Mr I. Bowie, no. 67), p. 2.

30 Submission (Mr D. McAlister, no. 141), p. 2.

six in the case of Senate half-elections). This would be a partial preferential system.³¹

Changes to Senate above the line voting

- 7.31 The Senate ballot paper is split into two sections, allowing either 'above the line' (ATL) or 'below the line' voting. After nominations close, groups of Senate candidates (that is, parties or groups of independent candidates) may lodge with the AEC a 'voting ticket'. A voting ticket is a written statement setting out a preference order for all candidates in that particular State or Territory Senate election.³² The sequence on the ballot paper of ungrouped candidates' names, and the names of grouped candidates who have not specified a particular order, is determined at random by the Australian Electoral Officer.³³
- 7.32 The Senate ballot paper lists all the parties and grouped candidates in the section of the paper 'above the line'. Senate electors may vote either by placing the number '1' in one of the boxes above the line to indicate the group voting ticket they wish to endorse, or by numbering each candidate's box below the line to specify the order in which preferences are to be distributed.
- 7.33 ATL voting was introduced in 1984. The Electoral Act requires that group ticket preferences be registered with the AEC, and displayed at each polling booth in either poster or pamphlet format.³⁴ At the 2001 federal election, 95.2 per cent of voters chose to vote ATL.³⁵
- 7.34 A number of submissions raised concerns about ATL voting in Senate elections.³⁶ These are outlined below.
- 7.35 The treatment of 'ungrouped' candidates on the Senate ballot paper was questioned. The Festival of Light and Salt Shakers submitted that ATL voting is flawed because 'ungrouped' candidates – that is,

31 Submission (Salt Shakers, no. 135), p. 3.

32 AEC, *Behind the Scenes: the 2001 Election Report*, p. 12, available at: http://www.aec.gov.au/_content/When/past/2001/bts/index.htm, accessed 19 March 2001. Each Senate Group may lodge up to three voting tickets; subsections 272(2) and 272(3) of the Electoral Act refer.

33 *Commonwealth Electoral Act 1918*, sections 210 and 213.

34 *Commonwealth Electoral Act 1918*, sections 211 and 216.

35 AEC, *Behind the Scenes: the 2001 Election Report*, p. 21, available at: http://www.aec.gov.au/_content/When/past/2001/bts/index.htm, accessed 19 March 2001.

36 See submissions (Festival of Light, no. 71; Mr E. Lockett, Reclaim Your Parliament Movement, no. 98; Mr D. McAlister, no. 141; Salt Shakers, no. 135).

independent candidates who have not formed an alliance with other independents – do not appear above the line. As most people vote ATL, this means that ungrouped independents have a difficult task in attracting enough votes to get elected. The Festival of Light and Salt Shakers also argued that ATL voting constitutes a ‘blind’ vote as voters are usually unaware of parties’ preference distributions.³⁷ Mr Eric Lockett also supported this view, submitting:

To a very large extent, the preferences on which two thirds of Senators are elected no longer represent the rankings determined by the electors but those determined by a small number of party officials. No contest in which a vote for one candidate can be registered by marking a single box [ATL] whereas a vote for another candidate requires the sequential numbering of sixty-odd boxes [below-the-line] could ever be described as ‘fair’, even in the most primitive of democracies, much less a long-established one such as ours.³⁸

- 7.36 The Festival of Light and Mr Lockett recommended that the Senate voting system be changed to require that voters indicate their preferences either for groups above the line (by numbering every box above the line rather than just placing a ‘1’ for their preferred group as is currently the case) or for individuals below the line. Preferences marked above the line would first flow to the candidates within the party in the order they are printed on the ballot paper, then in a similar way to candidates in other parties according to the party preference order indicated by the voter. Under this system, all ungrouped independent candidates would need to be listed both above and below the line:³⁹

This would ensure that at least preferences for parties, if not preferences for individual candidates within parties, reflect the wishes of the electors rather than those of their first-choice party.⁴⁰

- 7.37 Mr Lockett also suggested changing the format of the ballot paper to allow ‘left of the line’ voting (ticket voting for party groups, grouped independents and ungrouped independents) or ‘right of the line’

37 Submissions (Festival of Light, no. 71, p. 4; Salt Shakers, no. 135, p. 3).

38 Submission (Mr E. Lockett, Reclaim Your Parliament movement, no. 98), p. 11.

39 Submission (Festival of Light, no. 71), p. 4. This recommendation was also supported by Mr E. Lockett, submission no. 98, p. 11.

40 Submission (Mr E. Lockett, no. 98), p. 11.

voting for each candidate.⁴¹ A similar layout is currently used for Western Australian Legislative Council elections.⁴²

- 7.38 Salt Shakers argued that Senate candidates should not be allowed to be members of a political party, thereby eliminating the possibility of ATL voting altogether. Salt Shakers did not elaborate on their reasons for banning party membership for Senate candidates.⁴³
- 7.39 Mr Mark Hurd and Mr Ian Bowie suggested that ‘above the line preference flows for the Senate ballot paper, as submitted by the parties’ be displayed at all polling places.⁴⁴ The Committee notes that this is a requirement of the Electoral Act.⁴⁵ However, the submissions from Mr Hurd and Mr Bowie suggest that some voters are unaware of this provision, and have not seen the AEC’s displays of posters and voting ticket booklets at previous elections.⁴⁶
- 7.40 The Committee notes that a different method of ATL voting has been adopted for New South Wales Legislative Council elections, in conjunction with partial preferential voting. A voter, when voting above the line, must record a preference for at least one group but may then record further ATL preferences as desired (unlike Senate elections). Preferences flow to candidates in the marked ATL group/s only, in the order the voter preferenced those groups⁴⁷ (alternatively, the voter must record a preference for at least 15 ungrouped candidates). The Committee will examine whether aspects of this system are applicable to federal elections at a later date.

Transfer value of preferences

- 7.41 The Electoral Reform Society of South Australia argued that the current system for calculating the ‘transfer value’ of second and subsequent Senate votes is flawed:

With the Senate count now computerised, the correct transfer values can be calculated. The current formula using

41 Submission (Mr E. Lockett, no. 136).

42 Electoral Council of Australia, *Voting Systems: Western Australia*; at: http://www.eca.gov.au/systems/australia/by_area/wa.htm, accessed 14 April 2003.

43 Submission (Salt Shakers, no. 135), p. 3.

44 Submission (Mr M. Hurd, no. 1).

45 *Commonwealth Electoral Act 1918*, sections 211 and 216.

46 See also submission (AEC, no. 199), p. 5.

47 As with Senate ATL voting, distribution of preferences within a group is done in accordance with a voting ticket lodged by that group.

averaging distorts the proportionality of the voting with some votes increasing in value.⁴⁸

- 7.42 Three submissions also suggested alternative ‘weighting’ methods for the House of Representatives, so that second and subsequent preferences have less value than the primary vote. For example, Ms Pauline Chitty recommended that in a compulsory preferential system, the second and subsequent preferences should be weighted so that a second preference would carry 50 per cent of the value of the first preference, the third preference carries 33 per cent of the first preference, and so on.⁴⁹

Alternative voting systems

- 7.43 The Greens NSW argued that the House of Representatives voting system favours major parties, stating that while minor parties won over 15 per cent of the national vote in 2001, none won a House of Representatives seat.⁵⁰ According to the Greens NSW, this means that the House of Representatives as currently elected is ‘far from representative’. The Greens NSW advocated a proportional representation system for the House of Representatives, with multi-member electorates based on a Hare-Clark electoral system.⁵¹
- 7.44 The Electoral Reform Society of South Australia also supported a change to a Hare-Clark system for the House of Representatives, stating:

At the 1998 Federal Election, only 54 per cent of Australian voters found that their votes actually elected someone to the House of Representatives. In contrast to the House of Representatives... Senate elections give a much fairer result. Not only were Senators elected to represent their parties or supporters in proportion to the votes received, but also it is

48 Submission (Electoral Reform Society of South Australia, no. 97), p. 2.

49 Submission (Ms P. Chitty, no. 46). Other submissions recommended similar weighting: see Mr D. Annear (no. 132); Mr K. Hayes (no. 56).

50 The Committee notes that the Australian Greens now hold the House of Representatives seat of Cunningham, following a by-election in October 2002.

51 The Hare-Clark system is a Single Transferable Vote (STV) proportional representation system used in multi-member electorates. Candidates are elected via a quota, with excess votes distributed to other candidates according to electors’ preferences. See Tasmanian Electoral Office: *What is Hare-Clark?* at:

<http://www.electoral.tas.gov.au/pages/electoral.htm>, accessed 16 April 2003.

Submission (Greens NSW, no. 158), p. 1.

estimated that [for the 2001 election] over 85 per cent of voters found their vote electing a Senator.⁵²

7.45 Other submissions called for the following changes to the electoral system:

- introduction of a first-past-the-post system;⁵³
- introduction of ‘Robson Rotation’ in order to negate any political benefit from the ‘donkey’ vote (whereby uninterested voters simply mark preferences ‘1,2,3,4...’ straight down the ballot paper);⁵⁴
- ‘holding over’ by-elections until the next general election, or filling House of Representative vacancies through a system similar to that used in the Senate to fill casual vacancies;⁵⁵ and
- filling Senate vacancies by ‘countback’ – that is, recounting the votes, excluding the departing Senator, instead of the current practice whereby a replacement from the same political party as the departing Senator (at the time of that Senator’s election) is chosen by the relevant State or Territory Parliament.⁵⁶

Committee comment

7.46 The Committee notes the views of those advocating changes to the current electoral system. The Committee does not support the broad changes suggested above. In particular, a move to optional preferential voting could lead to many voters casting one preference only, resulting in a *de facto* first-past-the-post system. The current full preferential voting required for both House of Representatives and Senate elections ensures that elected candidates have the support of the majority of their electorate, and thereby confers legitimacy on the composition of the Parliament and the government. The Committee is of the view that the single-member constituencies of the House of Representatives elected through full preferential voting, combined

52 Submission (Electoral Reform Society of South Australia, no. 97), p. 2.

53 Submission (Ms P. Chitty, no. 46).

54 Submissions (Mr R. Munro, no. 50; Electoral Reform Society of South Australia, no. 97). Robson Rotation, introduced to the Tasmanian Parliament by Neil Robson MHA in 1977, is a process of rotating candidates’ names within a column on the ballot paper, so favoured positions (i.e. top of the ballot paper) are shared equally between all candidates. The ACT adopted Robson Rotation for elections to the ACT Legislative Assembly in 1995.

55 Submissions (Mr D. Combe, no. 19, Mr S. McConnell, no. 32).

56 Submission (Electoral Reform Society of South Australia, no. 97).

with the Senate's system of proportional representation, provide a good balance in the Australian political system.

The parliamentary term

7.47 The Committee received a number of submissions arguing that the parliamentary term should be changed to a fixed four-year term.⁵⁷ For example, the Greens NSW argued:

It is highly undemocratic for a Prime Minister to be able to determine the date of an election. As a candidate and member of a political party it is unlikely that the Prime Minister or Government of the day will be impartial when determining an election date. Politicians are almost certain to choose a date that will enhance the chances of retaining government. This will depend on political issues that are attracting media attention. This power provides an unfair election advantage to the government.⁵⁸

7.48 The submissions argued that the advantages of fixed four-year terms would include:

- certainty and stability in the electoral cycle, which would have a positive effect on government planning and decision-making;
- avoiding a clash with major events and school holidays; and
- cost savings.⁵⁹

7.49 The State Parliament of NSW is elected for a fixed four-year term, and the ACT Legislative Assembly has a three-year fixed term.⁶⁰ The Victorian Parliament recently passed legislation introducing fixed four-year terms for state elections.⁶¹ A table comparing the electoral

57 Submissions (Greens NSW, no. 158; Electoral Reform Society of South Australia, no. 97; Friends of the Earth, no. 32; Mr R. Munro, no. 50; Mr D. Combe, no. 19; Progressive Labour Party, no. 66).

58 Submission (Greens NSW, no. 158).

59 Submissions (Friends of the Earth, no. 32; Electoral Reform Society of South Australia, no. 97; and Mr D. Combe, no. 19).

60 Electoral Council of Australia, *Electoral Systems*, at: http://www.eca.gov.au/systems/australia/by_category/terms_members.htm, accessed 13 May 2003.

61 *Parliamentary (Constitution Reform) Act 2003* (Victoria), at: http://www.dms.dpc.vic.gov.au/sb/2003_Act/A01171.html, accessed 13 May 2003.

systems of the Commonwealth and State and Territory parliaments is at Appendix G.

- 7.50 Predecessors of this Committee have supported calls for a change to a four-year parliamentary term. The 1998 Committee recommended that the Constitution be amended to provide four-year parliamentary terms, ‘so as to facilitate better long-term planning by government and ensure consistency with state jurisdictions and cost savings’.⁶² The Committee was silent on the question of related amendments to the six-year Senate term.

Committee comment

- 7.51 Predecessors of this Committee have endorsed four-year terms for the House of Representatives. This Committee also endorses this reform, and expresses the hope that the Government will progress it.

Electronic voting

- 7.52 A number of submissions called for the introduction of electronic voting.⁶³ For example, Ms Gina Behrens wrote:

In a nation and world where even our finances are conducted via the computer, why do we still vote with the stub of a pencil?⁶⁴

- 7.53 The term ‘electronic voting’ or ‘e-voting’ covers a wide range of technological applications, including the punch-card technology used in the US, computer terminals connected via a secure network, touch screen and audio technology, and the separate and distinct use of internet technology to lodge votes. A brief overview of electronic voting, and the main issues it raises, appears below.

Advantages and disadvantages

- 7.54 The major claimed advantages of electronic voting, as identified by Australian electoral authorities, are:

62 JSCEM, *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election, and matters related thereto*; Parliament of Australia, June 2000, p. 151.

63 Submissions (Mr D. Combe, no. 19; Ms G. Behrens, no. 45 ; Mr R. Munro, no. 50; Rev. S. Slucki, no. 72; Salt Shakers, no. 135; AEC, no. 147; SGC, no. 148).

64 Submission (Ms G. Behrens, no. 45).

- Secrecy for assisted voters - The use of e-voting can extend the secret ballot to those with visual impairment who otherwise require assisted voting to cast their vote. Similarly, e-voting can assist those with English language difficulties, eliminating the need for assisted voting and limiting the possibility of misunderstanding and voter error for those who do not ask for assistance;
- Convenience – electronic voting may facilitate easier voting for some sections of the public – for example, those who live in remote locations. In countries without compulsory voting, it may encourage some people to vote who would otherwise not have bothered, by making the process more convenient; and
- Counting – electronic voting (and therefore vote counting) may enable a faster count and declaration of election results (particularly in complicated electoral systems such as Hare-Clark).⁶⁵

7.55 There are also a number of concerns surrounding any proposal to introduce electronic voting. These include:

- security – internet voting raises the most security concerns. According to an AEC evaluation of internet voting, the main problems are exposure of internet votes to outside attack; and voter authentication or fraud. Internet voting (and also other forms of electronic voting such as touch screen or secure network voting) would leave no paper trail, an important aspect of the accountable and transparent electoral system that exists in Australia;
- logistics – there are questions about the technical capacity to process the votes of a very large number of people within a very short period of time, that is, on election day; and
- cost - the cost of introducing electronic voting to parliamentary elections on anything but a very small scale would be prohibitive compared to the benefits associated with such a scheme. Thousands of computer terminals and technical staff, as well as

65 Elections ACT, *The 2001 ACT Legislative Assembly Election: Electronic Voting and Counting System Review*, ACT Electoral Commission, June 2002; at: <http://www.elections.act.gov.au/adobe/2001ElectionReviewComputerVoting.pdf>, accessed 13 May 2003.

substantial amounts of expensive computer hardware, would be required to achieve the claimed advantages.⁶⁶

Electronic voting in other jurisdictions

- 7.56 In 2001 the ACT Legislative Assembly trialled the use of computer technology for the first time in an Australian parliamentary election. The Electronic Voting and Counting System (EVACS) trial was primarily aimed at speeding up the counting of votes and distribution of preferences under the ACT's complex Hare-Clark voting system, but also worked to assist the visually impaired and non-English speakers in casting their votes. Features of the EVACS system included:
- on-screen voting instructions in 12 different languages;
 - an audio facility and tactile keyboard, enabling visually impaired voters to navigate through the ballot 'paper' without assistance;
 - the use of a closed system (not internet-based) using special software linked to a server in each polling location; and
 - electronic voting for 12 days prior to the election at four pre-poll locations, and at eight polling booths on polling day.
- 7.57 Implementation of the EVACS system resulted in over 16,500 votes being cast electronically, out of a total 198,814 votes cast at the 2001 election.⁶⁷
- 7.58 In its submission to this inquiry the AEC ruled out an ACT-style electronic voting system for federal elections, primarily due to cost factors. The AEC also commented that one of the main drivers for the ACT trial was the desire to obtain faster election results. There is an

66 Colin Barry, et al, *Electronic Voting and Electronic Counting of Votes: A Status Report*, Electoral Council of Australia, March 2001; at: http://www.eca.gov.au/reports/electronic_voting.pdf, accessed 13 May 2003. Elections ACT, *The 2001 ACT Legislative Assembly Election*, as above. Submission (AEC, no. 147), p. 27.

67 Elections ACT, *The 2001 ACT Legislative Assembly Election*, as above. Elections ACT, *2001 Election – First Preference Results*; at: <http://www.elections.act.gov.au/ResSum01.htm>, accessed 14 May 2003. ACT Elections has recently declared that the provision of full-scale electronic voting for ACT Legislative Assembly elections would be 'impossible' for reasons of expense and logistics. As noted by Frank Cassidy, 'electronic voting in next year's Assembly election would remain the same as for the 2001 federal election, with eight centres wired up on election day, and four in the pre-poll lead-up'. Frank Cassidy, 'ACT pulls plug on computer poll plan', *Canberra Times*, Wednesday 4 June 2003, p. 4.

absence of such a need at the federal level, as under the current federal voting system results can be obtained fairly quickly.⁶⁸

7.59 Internet voting has been trialled in the US, at the 2000 Democratic Primary elections in Arizona and also for a small group of US overseas defence personnel in the 2000 general election. Voters were offered the choice of voting for their preferred nominee over the internet. All voters were mailed out a PIN to be used with other personal information to assist in verifying voter identification.⁶⁹ Several AEC officers observed the Arizona trial, and commented that the trial highlighted the following issues as important to the e-voting debate:

- security of the internet for elections;
- cost of providing internet voting services;
- exposure to fraud and widespread 'flooding' of the internet voting site;
- potential for discrimination against those who cannot access the internet or those who are not proficient in its use; and
- potential for coercion and intimidation when voting in an unsupervised setting.⁷⁰

7.60 The AEC report on the Arizona trial found:

widespread internet voting assumes a secure infrastructure of voter terminals that simply does not exist. The average computer user is relatively untrained in defence procedures regarding viruses.⁷¹

7.61 The report also found that the current paper-based voting system provides considerable transparency in the entire electoral process, from voting through to counting and distribution of preferences. The ability of the internet to provide such transparency was questioned. In concluding its evaluation of internet voting, the AEC report found that there is insufficient maturity in the security of the internet to support its widespread use for government elections.

7.62 The UK Government has committed to an 'e-enabled' general election 'sometime after 2006', spending £30 million on trials over the next

68 Submission (AEC, no. 147), p. 29.

69 Colin Barry, et al, *Electronic Voting and Electronic Counting of Votes*, as above.

70 Colin Barry, et al, *Electronic Voting and Electronic Counting of Votes*, as above.

71 Colin Barry, et al, *Electronic Voting and Electronic Counting of Votes*, as above, p. 14.

three years.⁷² The UK Government envisages that electronic voting will be optional for the voter for the time being, rather than replacing existing polling methods. Electronic voting trials for local government elections in May 2003 have included internet, mobile phone text messaging, digital television, and touch-telephone voting.⁷³

- 7.63 At its July 2002 general election, New Zealand introduced an internet service to voters who were overseas at the time of the election. Enrolled overseas electors could download a ballot paper and declaration certificate from a secure internet site by providing their name, address and date of birth. Electors were then required to print out the ballot paper, mark it, sign the declaration form and fax it back to the Electoral Office. The Electoral Office then enclosed the forms in a 'special vote' envelope and forwarded them to the relevant DRO. An AEC observer team reported that the service was used by 20,000 overseas electors, and that there were no instances of attempted breach of security.⁷⁴

AEC view on electronic voting

- 7.64 The AEC submitted that it has reached the view that electronic voting for federal elections should be offered as an alternative or addition to postal voting.⁷⁵ A wider system, for example one that provided electronic voting at each polling booth, is not considered cost-effective at this time. The AEC envisaged that a postal voting system with electronic voting options would provide greater convenience to a number of groups of electors, for example those who are:
- in remote locations, both in Australia and overseas, who do not have access to other voting facilities and do not have a reliable postal service;
 - from non-English speaking backgrounds, who may find it easier to vote using a multi-language internet site, or voice recognition technology;

72 David Hencke, 'E-votes will push out ballot box by 2006', *The Guardian*, 17 July 2002, at: <http://www.guardian.co.uk/internetnews/story/0,7369,756668,00.html>, accessed 12 May 2003.

73 United Kingdom Cabinet Office: E-Democracy, at: <http://www.edemocracy.gov.uk>, accessed 13 May 2003.

74 Colin Barry, et al, *eVolution not revolution: Electronic Voting Status Report 2*; Electoral Council of Australia; September 2002; p. 17.

75 Submission (AEC, no. 147), p. 30.

- vision-impaired, who may be able to use screen-reader and speech synthesiser technology, allowing a private vote; or
- based in Antarctica, who at present are not compelled to vote because the secrecy of their vote cannot be guaranteed (completed ballot papers are sent via fax and phone to Tasmania).⁷⁶

7.65 A 2002 AEC discussion paper on electronic voting further elaborated the proposal to introduce electronic voting as an addition to postal voting. Under the system:

- the elector would apply for their postal vote in the normal way, and the AEC would dispatch to the elector postal ballot materials, together with additional information about an internet address in case the elector wished to utilise internet voting, or a telephone number in case the elector wished to utilise touch phone voting. (Alternatively, electors could indicate at the time of applying for a postal vote which kind of vote they wished to utilise.);
- the elector would receive a PIN, to be used in conjunction with another piece of personal information to access the internet or telephone voting system; and
- enhancements would have to be made to the scrutiny system for declaration votes, to ensure that any elector who had access to multiple voting methods (postal vote, internet or telephone vote) would only have one vote admitted to the count.⁷⁷

7.66 Under the current Electoral Act provisions, the AEC is unable to conduct pilots of electronic voting for the House of Representatives or the Senate. The AEC recommended that the Electoral Act and the Referendum Act be amended to allow such pilot trials to take place.

Committee comment

7.67 The Committee believes that while electronic voting may offer some potential benefits, there are also many risks involved. It does not support the AEC's recommendation to proceed with unspecified pilot trials of electronic voting, which have as-yet unexplored implications for the operation of the Electoral Act. Prior to any approval for pilot trials, the AEC should first provide to the Parliament, via this Committee, a detailed implementation plan, outlining:

- the scope and scale of the proposed trial;

⁷⁶ Submission (AEC, no. 147), p. 30.

⁷⁷ Colin Barry, et al, *eVolution not revolution*, September 2002, as above, p. 19.

- the technology proposed, including a software development plan and compliance with independent standards;
- a detailed breakdown of costs;
- details on security measures;
- the impact on the operation of the Electoral Act and any amendments required;
- the perceived benefits of the proposed scheme; and
- an evaluation plan following any such trial.

Public participation

- 7.68 A number of submissions made recommendations concerning public participation in the democratic process. These included:
- calls for the introduction of citizen-initiated referenda to determine major public policy issues;⁷⁸
 - placement of ‘voting computers’ in central public places, such as libraries, to enable citizens to learn the background of proposed Bills and indicate their views, ‘thereby educating the public in the use of the democratic vote’;⁷⁹ and
 - convening of a Constitutional Convention or similar independent commission to discuss all matters related to the operation of the Federal Government and Parliament and the electoral system.⁸⁰
- 7.69 The Committee notes the contribution of these submissions to the inquiry, and believes that these important issues should be subject to broad public debate.

Petro Georgiou, MP
Chair
June 2003

78 Submissions (Mr T. Dolling, no. 20; Dr V. Yule, no. 26).

79 Submission (Ms G. Behrens, no. 45).

80 Submissions (Friends of the Earth, no. 32; Mr E. Lockett, no. 98).