

The Chairman and Members
Joint Committee Electoral Matters
Australian Parliament

Review of transcript of proceedings related to the evidence and submission made by Mr. Antony Green - 23 July 2008

I wish to address a number of false and misleading statements made by Mr. Green in his evidence given to the committee as outlined in the published transcript (extract below)

Calculation of the Surplus Transfer Value

Mr. Green in his submission has correctly identified and concurred with my assessment in relation to the hypothetical example presented in relation to the 2007 Victorian Senate count. Namely the need for the Parliament to adopt a weighted "value" based calculation of the Surplus Transfer Value used in the counting of a candidate's surplus distribution.

On Page 20 Mr. DANBY asked the question — .. from left field that relates to what you have just said but is not particularly along the stream of what you were saying. During the election I claimed that, in the Victorian Senate ballot, Liberal Party preferences, if they were over the three quotas, would have elected the Greens ahead of Labor because of the pattern of Liberal Party preferences that were advocated by the Liberal Party. Is that accurate?

Mr. GREEN replied — *No. It depends on the way they are counted.*

Comment: Under the current rules related to the counting of the vote where the Surplus Transfer Value is calculated by dividing the value of the surplus by then number of ballot papers the distribution of Liberal National Party's preferences would have elected the Greens number one candidate disproportionately to the vote allocated. if the method of calculating the Surplus Transfer Value was based on the value of the vote (Value of Surplus divided by the total value of the candidate's vote times the value of each ballot paper) then The Green's number one candidate would not have been elected as the value of minor parties votes that contributed to the Liberal Party's surplus would not have been disproportionately reduced in value whilst the Liberal National Party's ticket vote increased in value at the expense of the minor party's voters preferences.

On page 22 Senator RONALDSON stated — *The switching of a vote is not the issue; it is the method of how that vote is treated.*

Comment: Senator Ronaldson is correct in his statement. The issue of concern in the hypothetical analysis as presented was not the switching of preferences but the method used in the calculation of the Surplus Transfer Value. The switching of preferences was only required to trigger the distribution of the Liberal Party's third candidate's surplus votes in order to highlight the flaw in the current method used.

Distribution of excluded candidates' votes

On page 21 Mr. Green in relation to my proposal outlined in submission 51 stated —

Mr. Green—*He [Mr. van der Craats] then uses that problem to advocate a whole series of quite major changes. If the Electoral Commission adopted this sort of change, they would have to change their computer systems.*

Comment: The changes that I have proposed are *not major* and would require minor changes only to the existing electoral system. (Estimated costs at around \$10,000) It would not require any changes to the data-entry or overall conduct of the election only the method used in calculating and determining the results of the election. The system proposed in my submission is the same as that recommended by Mr. Green who also advocates the adoption of a weighted surplus transfer value calculation based on the value of each vote as opposed to the number of ballot papers.

The only difference in the system proposed in my submission is the introduction of a reiterative count on the exclusion of any candidate from the count. The only change required is that the count is reset and restarted following the exclusion of any candidate. Whilst this would require additional processing time the change required to the counting process is the inclusion of a reset and run loop. It most certainly is not a major change requiring significant alteration to the current computer based counting rules.

Unfortunately Mr. Green did not address or was not aware of the change in the result of the Queensland Senate election which arises from the way in which the current system distributes voters' preferences from excluded candidates. Mr. Green most likely has not understood or given due consideration to the effect of the current method used in the distribution of excluded candidates votes and the outcome of the election. Having not addressed this issue Mr. Green is not in a position to make an informed assessment as to the merits or otherwise of the system proposed in my submission.

In considering the question of right and wrong the committee needs to take into consideration the two main issues of concern that have been raised in my submission. The method of calculating the Surplus Transfer value and the method used in distributing excluded candidates' preferences. It also needs to

take into consideration the need to ensure that the system adopted best reflects the voters' intention and that the system meets the following guiding principles when making its recommendation.

- **Principle 1.** The value of a vote should never increase in value disproportionately in the calculation and distribution of preferences. Each vote's value must be treated equally the calculation of the Surplus Transfer Value.
- **Principle 2.** If a candidate is excluded, all ballots should be treated as if that candidate had never stood.
- **Principle 3.** If a candidate has achieved the quota, they should retain a fixed proportion of every vote received, and transfer any surplus remainder to the next (non-excluded) continuing candidate according to the voters nominated preference allocations, the candidates retained total value equals the quota.

Should you require further information I can be contacted at the address below

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-- Extract of transcript --

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Mr. Green—I have a further thing to raise about the Senate. I will pass these documents across but, again, I will have to hang on to one. This runs through a problem with the way the distribution of preferences is done in the Senate when a candidate is elected. This is based on the last Senate position in Victoria at the 2007 federal election. Senator Ronaldson might be particularly interested in this one. This example shows count 214 in Victoria at the last election. David Feeney was just short of a quota for the Labor Party and Scott Ryan, the Liberal, was probably about a quarter of a quota short. At that point Family First was excluded. The second table shows a distribution of preferences which had elected both David Feeney and Scott Ryan at the same count. Most of those preferences from Family First went to the Liberal Party except for one bundle, which was the One Nation preferences, who put Labor ahead of Liberal and the Greens last. So that was where the extra 13,856 votes to Labor came from, which put David Feeney over the quota.

The problem is that, under the Senate system, the preferences are distributed in a very peculiar way at that point. Basically, as shown in the rest of the four pages, I have reversed the One Nation preferences—I have put Liberal before Labor before the Greens; I have reversed the order—and reconstructed the vote on the top of the next page to show what would have happened if that is what had happened with One Nation's preferences: David Feeney from the Labor Party would have been just short of a quota at that point. I then have a table which reconstructs the Liberal vote. I will explain what this is about. When the preferences from the

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Liberal Party flow down the ticket to Scott Ryan, there are approximately 1¼ million ballot papers at a reduced value of about 0.27. This corresponds to 344,000-odd votes, which means, when Scott Ryan was elected, in this reconstructed example, his Liberal Party votes made up 70.4 per cent of the votes that elected him. But, because of the system that the Electoral Commission uses to count Senate ballot papers, when his surplus was distributed, all the votes went back to their original ballot paper value. So, instead of 344,000 Liberal votes, there were suddenly 1¼ million, which meant that in the sample of extra preferences that flowed beyond there, just under 90 per cent of them were Liberal preferences—not the 70 per cent that elected him. If the One Nation preference ticket had been reversed, that would have resulted in Richard Di Natale winning the last spot, not David Feeney, despite how close Feeney was in the quota.

Mr DANBY—Because the Liberal Party preferences were for the Greens ahead of Labor, just as I said.

Mr Green—And because of the method that is used here, the method that is used by the federal electoral office, which is technically called the inclusive Gregory method—

CHAIR—So you are saying the method could have resulted in a different—

Mr Green—It is not the method. It is not the ticket votes of One Nation that would have changed the results—

CHAIR—It is the way they counted them.

Mr Green—it is the method that was used to then calculate the preferences. Basically, the current system works—it is called the inclusive Gregory method—and it applies to ballot papers, which means that effectively at a point like this where Scott Ryan was elected, the Liberal Party preferences are treated differently from all the other parties that are part of the bundle at that stage.

Mr DANBY—I have a question from left field that relates to what you have just said but is not particularly along the stream of what you were saying. During the election I claimed that, in the Victorian Senate ballot, Liberal Party preferences, if they were over the three quotas, would have elected the Greens ahead of Labor because of the pattern of Liberal Party preferences that were advocated by the Liberal Party. Is that accurate?

Mr Green—No. It depends on the way they are counted. I have three examples there. The Gregory method, which is the one used in Tasmanian under the Hare-Clark system, would have elected David Feeney. This is all based on One Nation's ticket being 12,000 votes reversed. The Gregory method used in Tasmania would have elected David Feeney. The inclusive Gregory method used by the AEC and in the Commonwealth Electoral Act would have elected Richard Di Natale, and what is called the weighted inclusive Gregory method, which will be used at the next Western Australian election, would have elected David Feeney.

CHAIR—What is the method that should be used, in your opinion?

Mr Green—There is not always a right and a wrong method; there are many different variations of quota preferential voting.

CHAIR—What is the basis upon which you say which method should be used?

Mr Green—My view is on the basis of the major table on page 2. I believe that the preferences that are distributed at that point—and it was the same when Scott Ryan was elected—should be distributed in the same proportion to the way the votes elected him. So 70 per cent of the votes with Scott Ryan at that point were from the Liberal Party, and so, when he reached his surplus, 70 per cent of the votes that went out as preferences should have been from the Liberal ticket, not the 90 per cent that could have occurred. This is simply because the method that is currently adopted is an old manual system, which used to look back at the original ballot papers and it could be done by hand. The weighted inclusive Gregory system, which takes account of the fact that you are using votes and not ballots, is much harder to conduct manually. But we do not conduct these counts manually anymore; they are conducted by computer. This has always been a theoretical concept. For instance, it is possible under this system for a vote to actually increase in value and that is wrong; that should not occur. I have illustrated an example here where ticket voting has produced a strange situation where, because the weighted method of allocating preferences used has worked, you would have got a completely different result.

CHAIR—That is why I am interested in what your recommendation is as to what we should recommend—

Senator RONALDSON—There is no right or wrong—

Mr Green—There is no right or wrong, but I would—

CHAIR—I know the witness said that.

Mr Green—I would recommend the weighted inclusive Gregory method—which I have outlined here and which is being used at the next Western Australian election—simply because in this example, because the Liberal Party got well over two quotas, when it reached the third quota suddenly everything reverted back to ballot papers instead of votes. That is a manual system which assists and gives a lot more power at that point to a party which has more than a quota to any party which has less than a quota. I think the votes are effectively being treated unequally at that point and they should be treated equally.

Mr DANBY—This method was designed for a pre-computer age. Now we have computers, there is no extra administrative difficulty for the Electoral Commission to do it by the method that is being used in Western Australia and which you advocate?

Mr Green—Yes. There is another submission—No. 51, by Anthony van der Craats. He outlined the same problem, but I do not think he explains it very well. He then uses the problem—

Mr DANBY—That is his general problem!

Mr Green—He then uses that problem to advocate a whole series of quite major changes. If the Electoral Commission adopted this sort of change, they would have to change their computer systems.

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CHAIR—But the end result is that the result would not have changed in Victoria this time?

Mr Green—No, it would not.

CHAIR—You have made an assumption in relation to One Nation votes. If you do not make that assumption then the result stays, doesn't it? That is what I want to check.

Mr Green—The assumption I have made there is to illustrate that the counting method would have then changed the result.

CHAIR—I understand that, but I am interested to know whether the result would have changed in Victoria? My understanding is that it would not, because you have just switched some votes to illustrate the example.

Mr Green—If the Labor Party had 6,000 fewer votes and the Liberals had 6,000 more—

CHAIR—But they did not. I am not saying that.

Mr Green—In designing an electoral system, you want to ensure that if this sort of example did occur then the correct method is used.

CHAIR—I understand that. The correct candidate got elected in Victoria on the votes that were cast?

Mr Green—Yes.

CHAIR—You switched some votes to illustrate what could have happened in a different situation and it produced a different result.

Mr Green—And there is a problem with the Electoral Act as well.

Senator RONALDSON—The switching of a vote is not the issue; it is the method of how that vote is treated.

CHAIR—The switching of a vote was an issue because it would have produced—

Senator RONALDSON—I think that was used as a scenario to have the weighted Gregory—

Mr Green—That is right. Whenever you wash a party's preferences through a candidate that is elected you lose a proportion of those votes because they get devalued in determining the surplus. I have illustrated here that that was not caused by One Nation preferences being diluted; it was caused by the way the weighting was done with the Liberal Party votes. I just want to make that clear.