

CHANGE THAT COUNTS

Submission to the Joint Standing Committee on Electoral Matters

Australian Federal Parliament

February 14, 2011

By Anthony van der Craats

The Chairman,

It is with interest and expectation that I make this submission, as an individual, outlining my observations and concerns in relation to the conduct of the 2011 Federal Election and other matters related to Australia's electoral system.

Issues of concern outlined in this submission

1. Senate Election
 - 1.1 Scrutiny of the Ballot
 - 1.2 Method of counting
 - 1.3 Optional Preferential voting
- 2 Electoral Enrolment
 - 2.1 Silent Enrolment
- 3 Cost benefit and efficiency of the AEC Divisional Offices

I would be pleased to attend a meeting of the committee in support of my submission should the opportunity arise.

Should you require further information I can be contacted via email or telephone as provided

Yours faithfully

Anthony van der Craats

Life member of the Proportional Representation Society and member of the Australian Labor Party (Victoria)

1. Senate Election

1.1 Scrutiny of the Ballot

In August/September I had the opportunity to scrutinise the Victorian Senate election. Overall I found the conduct of the scrutiny of the ballot to be exemplary with the systems out in place to be of a high professional standard, with the exception of issues in relation to the availability of data files recording the below the line preference allocations.

With the introduction of computerised counting of the election the conduct of the counting of the ballot is no longer open and transparent.

During the scrutiny of the count of the Victorian Senate election It was of serious concern that the Australian Electoral Commission (AEC) had refused to make available copies of the preference data files, as requested, for independent analysis and scrutiny during the conduct of the counting of the ballot.

There is no technical limitation or reason that would prevent the publication of the preference data files and copies could and should be readily available to scrutineers for independent analysis and review.

Without access to copies of the below-the-line preference-data-files it is impossible to monitor and independently verify the accuracy of the results of the election. Copies of the requested data-files were made available in the week following the declaration of the election.

Copies of the preference data files should be published in "real time" on the Commission's Internet site as the count progresses. The publication of the data files would prevent and limit the opportunity for any unauthorised alteration or tampering of the transcribed recorded data.

"There is no suggestion that the results of the election had been tampered with or were fraudulent in any way but there is concern at the lack of transparency and imposed limitations that unnecessarily restrict and prevent the proper independent scrutiny of the ballot"

It should be noted that the officers in charge of the "below the line preference count" in refusing to provide copies of the below-the-line preference-data was acting on the directions of senior officers who failed to provide an satisfactory explanation as to why copies the data files had been denied .

It was of considerable concern that not only were copies of the data files not provided but that Mr Paul Pirani Chief, Legal Officer, Legal and Compliance Branch of the Australian Electoral Commission had sought to solicit an FOI application and the payment of \$30 FOI application fee in order to obtain information that should have been readily available without cost.

The suggested requirement of an FOI application in order for scrutineers to ascertain copies of the transcribed “below the line” preference data files was an abuse of process raising further concern that the election process was no longer open and transparent and scrutineers were being deliberately prevented from properly scrutinising the conduct of the counting of the election.

In reviewing the data-files that were published after the declaration of the poll there were a number of data entry inconsistencies that had the copies of the data files been made available to scrutineers during the count would have been identified and further scrutiny and inspection undertaken. An example being that a number of preference records had been recorded as “050” as it was the practice of the data-entry operators to enter in the leading zero. It is unclear if this record was meant to be 05 to 50 and why this inconsistency was not picked up by the computerised data validation process. Without access to the data and or the data-entry software code it is impossible to identify these type of data entry errors. Assumptions could be made by looking at the other preference data to see if the number is out of sequence but this cannot be assumed to always be accurate.

The Australian Capital Territory as part of their commitment to maintain an open and transparent electoral process has “open sourced” and published the source code and algorithms used in tabulation of the results of their election. The Australian Electoral Commission should consider also open sourcing the software code used.

Recommendation: *That in fulfilling the requirement to maintain an open and transparent electoral process the Parliament prescribe in law that copies of “below-the-line” preference-data-files be published on the Commission’s internet site as the data is tabulated following the close of the ballot and that scrutineers have access to all information so as facilitate and ensure that the conduct of election is subject to proper scrutiny.*

Further that consideration be given to publishing as “open source” the source code and algorithms used in electronically recording and tabulating the election results

1.2 Method of counting

"If all votes were distributed at once, a candidate could end up with a sizable surplus and from ballot papers at different values, and this would make the distortion from the transfer value calculation even worse. Breaking the votes into smaller bundles attempts to limit the distortion, as does doing the distribution in order of descending transfer value." – Anthony Green ABC Electoral Analyst

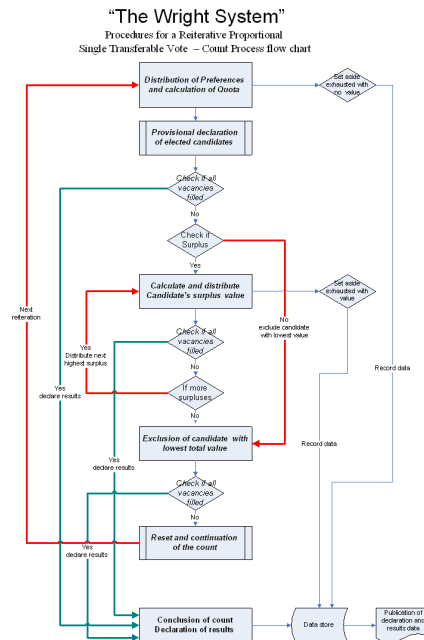
Two wrongs do not make a right.

The method of segmentation was devised to facilitate a manual count and minimise the errors that exist in the method used to calculate the surplus transfer value. There is no logic to support it, with computer aided counting there is no longer justification as a computerised count can be performed within ten minutes to three hours depending in the number candidates and number of iterations required

The Western Australia system only fixes the flaw that exists in the calculation of the Surplus Transfer Value. It does not address the distortion that exist in the segmentation of excluded candidate votes which has been left in place. The distortion in segmentation of the vote resulted in the wrong person being elected in the Queensland 2007 Senate election. In Tasmania and the ACT they only distribute the "last bundle" of segmented votes which is even worst as it gives more weight to one segment of votes then it does to other segments, (IE the vote is not distributed equally). Both the Senate and Tasmanian/ACT systems distort the proportionality of the count and as such the results of the election.

THE WRIGHT SYSTEM

The Wright system uses a reiterative counting process which seeks to address both of the identified issues with segmentation and the flawed calculation of the surplus transfer value, including issues related to exhausted ballots (Votes that do not express a valid preference for a continuing candidate).



The Wright system distributes only primary votes and surplus distributions in a single iteration. If all positions are not filled in a single iteration then the candidate with the least number of votes is excluded from the count and the count is reset and restarted and preferences votes reallocated as if that candidate had not stood.

The quota is recalculated following the re-distribution of the primary vote. Any candidates that have a surplus of votes their surplus is redistributed proportionally to the value of the surplus and the value of each ballot paper, using what is referred to as the "weighted inclusive Gregory transfer method" (makes some people feel good to use such titles)

The surplus vote is weighted and distributed based on the value of the vote not the number of ballot papers (As is the case in the Senate and Victorian Upper house counts).

The process of iteration continues for each exclusion until all vacant positions are filled.

This process outlined in the [Wright system](#) removes the flaws and distortion that has unnecessarily been built into the Australian voting system over the years.

It does make a difference.

In the **2010 NSW Senate election** the LNP group ticket vote increased in value disproportionately by over 14,000 votes as a result of the flaw in the way the Surplus Transfer value is calculated

In **2007 Victorian Senate count** the LNP group vote increased in value by over 7,000 votes which could have resulted in the ALPs David Feeney losing out to the Greens who received the bonus 7.000 votes at the expense of One Nation. Family First and the DLP, all who did not support the Greens candidature.

In **2007 Queensland Senate Election** Larissa Waters was not elected to office because of the method of segmentation. If you recount the 2007 QLD senate vote excluding all candidates but the last seven standing (3 ALP, 3 LNP and 1 Grn) Larissa Waters should have been elected.

This of course suits the main parties who are sometimes the benefactor of the flawed counting system but it comes at the cost of devaluing minor party votes. However it also works against them.

If we counted money and allocated dividends, as we count Senate votes, our monetary system would collapse overnight. We argue in court about single member states that are won or lost by less then 10 votes but we blissfully ignore the upper-house system which can be lost by a distortion in the count that represents thousands of votes. A distortion that should not exist and that we must correct.

A fair, accurate voting system is not too much to ask for is it?

Recommendation: *That parliament review the method of calculating the surplus transfer value and the method of segmentation of the vote with the view of adopting a reiterative counting system as outlined in the Wright System where the counting of the ballot is rest and restarted on the exclusion of a candidate. The adoption of weighted transfer value based on the value of the vote not the number of ballot papers*

1.3 Optional preferential voting

In 2010 the Victorian State Government implemented a limited form of Optional Preferential voting where the minimum number preferences was five (Equal to the number of vacant positions). The introduction of optional preferential voting had a significant impact on the outcome of the Western Metropolitan and Northern metropolitan elections with a large number of ballots exhausting having expressed no further preference for a continuing candidate.

There is no logic in limiting optional preferential voting to the number of vacancies. Optional preferential voting had the effect of devaluing a person's vote. Political parties who have more resources and are likely to exceed the arbitrary threshold of 4% tend to nominate the number of candidates as there are vacancies which is the minimum number of preferences. This encouraged voters to just express a party vote below-the-line without expressing additional preferences.

The number of ballot papers that exhausted and not transferred during the count was further exacerbated by the Victorian Electoral Commission instructions printed on the ballot paper effectively discouraging voters from maximising the value of their vote by not expressing a preference for all candidates. The Commission should have encouraged voters to number all candidates in order of preference and not to just allocate the minimum number of preferences required.

The introduction of optional preferential voting transformed our voting system closer to a party list system. Given the other distortions in the method of calculating the surplus transfer value, the distribution of continuing preferences from minor candidates and the "above-the-line voting" system, Australia might as well abandon the preferential voting system in favour of a direct party list system, a more simplified and less democratic voting system.

Recommendation: *That optional preferential voting not be introduced but in the event that the Australian Parliament does consider its introduction that further consideration and review be given to the instructions printed on the ballot paper so as to encourage voters to indicate a preferences for all candidates as opposed to the minimum number required. Further that the minimum number of preferences to be expressed in an optional preferential ballot be one.*

1.4 Candidate Nomination Deposit and Refund

The current rule of payment and refund of a nomination deposit should be reviewed so as to limit the number of nominations that have little chance of success and are primarily designed to direct preferences as a result of the registered above the line ticket voting.

The refund of a deposit should be based on 4% per candidate and not the group. IE based on a 4% refund threshold if a group nominates five candidates and receives 18% of the vote they would be entitled to a refund of 4 candidates nominations fees.

Consideration may be given to increasing the percentage required in order to receive a refund. It would be reasonable to increase the percentage (6% to 8%) per candidate.

Recommendation: *That the threshold for the refund of a nomination deposit be reviewed with consideration being given for increasing the threshold and applying it to the number of candidates belonging to a group who would be entitled to a refund (percentage of group vote divided by refund percentage threshold – rounded down)*

2. Electoral Enrolment

2.1 Silent Enrolment

In November 2011, I submitted an enrolment application with the Victorian Electoral Commission along with a signed application form and a statutory declaration required for registration as a silent voter. My application and the statutory declaration was witnessed and signed by Mr Tony Lupton, then member for the State seat of Prahran.

There is ongoing concern that the Victorian Electoral Commission had lost or failed to forward my application and signed statutory declaration. The Australian Electoral Commission failing to determine what had happened to this documentation. The Australian Electoral Commission making little effort in ascertaining the location of the signed statutory declaration which was submitted together with my application for enrolment.

This has raised a number of issues of concern in relation to the protocols of administration in relation to silent enrolments. A person who wishes to have their private residential address suppressed from publication should have the right to do so by simply nominating or ticking a box on the enrolment form which would simplify the enrolment process avoiding the loss of supporting documentation that would compromise a registered voters security and safety.

Access to the Australian Electoral Roll is widely open to misuse and abuse with access to the silent electoral role data being made for purposes other than the registration of a voters entitlement and the issuing of ballot papers.

The Australian Electoral Commission should put in place proper procedures that ensure the security and access to the electoral roll data is protected and secure. That access to confidential records by Federal and State Electoral Commission staff is restricted and recorded. Given that our Federal and State electoral rolls are based on adult franchise there should be a single point of enrolment with the administration and processing of enrolment entitlements and the issuing of ballots to "silent voters" being the sole responsibility of the Australian Electoral Commission.

Recommendation: *That parliament, undertake a review of the administration and requirements for registration as a "silent voter" with the view of simplifying the silent enrolment registration process and that the Australian Electoral Commission be requested to ensure that access to information recorded on the silent enrolment register is restricted and that voter records are protected and secure.*