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15 May 2008

Committee Secretary
Joint Standing Committee on Electoral Matters
Department of House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Re: Inquiry into the Conduct of the 2007 Federal Election and Matters Related Thereto

I refer to the Joint Standing Committee's current inquiry into the above matter and wish to provide the following comments and observations for its consideration.

Public funding and political donations disclosure

I understand that the new Federal Government is acting to tighten up the current rules with respect to the disclosure of political donations. Such steps are necessary to ensure transparency and integrity in electoral practices. I would suggest that action is necessary to ensure that the current public funding of political parties needs to be also tightened up. The committee would be aware of recent public disquiet regarding some electoral candidates who stand for election apparently in order to receive public funding.¹ Such practices can seriously affect public confidence in the electoral process as well as undermine faith in the integrity of those candidates who are serious contenders for public office.

The question of whether public funding of political parties is even desirable should be further considered since, as the attached article by Prasser argues, it is not necessarily conducive to a healthy democracy. Electoral candidates and political parties should be required to disclose full details of all donations received by them prior to an election to enable voters to make an informed choice. If the concept of public funding is to continue, then political parties and electoral candidates should be required to show that any public funding they receive is for reimbursement of relevant expenses actually incurred in running their election campaign. No party or candidate should be allowed to "make money" at the public expense from standing for public office.

¹ As exemplified by opinions expressed in the media such as:

- Prasser, S., "Biggest rort of all slips under the radar – Public funding of election campaigns has undermined key aspects of our democracy", *The Courier Mail*, 30 July 2007, p. 19;
- Steketee, M., "System open to corruption – Why should taxpayers owe Pauline Hanson and other electoral opportunists a living?", *The Australian*, 24 January 2008, p. 10

Compulsory voting

Following its 2004 election victory there was agitation within the former Federal Government for compulsory voting to be replaced by voluntary voting. At the time *The Courier Mail* reported that, “Pressure is building within Coalition ranks to use the Federal Government’s newly won Senate majority to abolish compulsory voting.”²

In my submission to the committee’s inquiry into the 2004 election I suggested that compulsory voting should be retained given that:

One of the benefits of compulsory voting is that it ensures that a government is elected on the basis of the support of the majority of the population.³ This may be contrasted with countries with voluntary voting systems where low voter turnout can affect the confidence of a government to proceed with implementing its election platform.⁴ Australians are used to, and have widely accepted,⁵ compulsory voting and they would rightly be apprehensive of the motives of any government that sought to abolish it without first seeking their endorsement for any such proposal.

In its report into the 2004 Federal Election the committee recommended that voluntary and compulsory voting be the subject of a future inquiry by the JSCEM. In response the former Federal Government indicated that it did not support the recommendation, noting that compulsory voting enjoyed popular support.

Compulsory voting has enabled Australia to be identified as a world leader in voter turnout.⁶ Compulsory voting helps to protect our democracy by ensuring that all citizens have an equal say in determining the government of the day. Without compulsory voting, political elites would have more influence and power in such matters.

Therefore, I would like to reiterate my submission to the committee’s inquiry into the 2004 Federal Election that given its merits, compulsory voting should be retained.

Four-year terms for House of Representatives

In its report into the 2004 Federal Election the committee recommended that there be four-year terms for the House of Representatives. In response the former Federal Government indicated in-principle support for this recommendation although, given

² *The Courier Mail*, “Libs unlock the gates of power”, 30 October 2004, Queensland Newspapers, p. 1

³ Widespread popular support would also help to strengthen the claim of a government to possess a mandate.

⁴ This was a concern with the recent British election where prior to the election it was predicted that voter turnout could fall to a century-low 53 percent (refer: www.csmonitor.com/2005/0425/p07s01-woeu.html; <http://safety.websoaring.com/index.php?itemid=898&catid=10>).

⁵ Surveys have found that many Australians support compulsory voting (refer: www.smh.com.au/news/Opinion/Voluntary-voting-may-not-favour-the-Liberals/2005/03/28/1111862319506.html?oneclick=true#).

⁶ Democratic Audit of Australia, *Australia 2020 Summit Governance*, April 2008, p. 2. Source: www.australia2020.gov.au/topics/governance.cfm

the vexed issue of the length of terms for the Senate,⁷ it decided not to proceed with a referendum either before or in conjunction with the next (i.e., 2007) Federal Election.⁸

The committee's report gave lengthy consideration to the arguments in favour of longer terms (pages 165 to 170). By contrast, however, only two paragraphs made reference to objections in this regard (paragraphs 7.62 and 7.63).⁹ I would like to outline for the committee's consideration a number of arguments that challenge several of the assumptions in favour of longer terms.

The claim is often made that four-year terms produce significant financial and economic benefits for business. As well, it is claimed that longer terms enable Governments to plan their activities better and to allow them more time to implement their policies. However, as the following extract from a Commonwealth Parliamentary Library research paper indicates, evidence is lacking as to whether longer terms necessarily give rise to such claimed benefits:

One difficulty with moving from the three-year term is the lack of evidence that such a change would actually bring the benefits that are claimed. Surprisingly, there appears to have been no research undertaken on the consequences of the change to four-year terms that occurred in four of the States in the 1970s and 1980s. There is, in fact, a lack of international evidence in regard to this aspect of legislative behaviour, no doubt because political scientists have regarded it as a settled question in most countries. Even were research to be done, however, the findings could only be speculative. Claims are made about the deleterious impact of three-year terms upon the Australian economy, but as far as can be ascertained there is no methodologically sound study that establishes, without doubt, that economic performance has been materially affected by a legislative term.

A second problem relates to the contention that the existing term has a deleterious impact upon the legislative performance. Critics point to the rush to legislate before the end of a parliament, but seem not to consider the possibility that the shorter term acts as a strong motivating instrument to get planning under way and legislation passed promptly. In addition, extending the House term to four years will not necessarily see the improved pursuit of medium- and long-term planning strategies. In many cases lengthy periods may be required after the passage of legislation before policies are seen to be producing results. The required lead-time may be far longer than four years and the difference between three and four year terms may therefore be quite marginal.

⁷ Certainly, increasing the length of Senate terms to eight years, just to ensure that they were double the length of terms for the House of Representatives, would be far too long with the result that democratic accountability would suffer. Such an outcome would not be acceptable to the electorate.

⁸ It is noted that the current Federal Government, while in opposition, went to the 2007 Federal Election with a promise that it would hold a referendum to introduce four-year terms for the House of Representatives (*The Courier Mail*, "Rudd promises referendum to guarantee four-year term", 21 November 2007).

⁹ Source: <http://www.aph.gov.au/house/committee/em/elect04/report/chapter7.pdf>

*In summary, although there is a lot of sentiment in favour of the four-year term, it is all based on speculation rather than hard evidence...*¹⁰

Aside from such doubts about the claimed financial, economic, policy implementation and planning benefits of longer parliamentary terms, concerns have been raised about the impact of longer terms upon the ongoing health of our system of democracy. Notable among the concerns in this regard is the dissenting view of the 1929 Royal Commission on the Constitution: "... *the greater the control of Parliament by the electors the better for the people, and the lengthening of the term of Parliament tends to weaken this control.*"¹¹ It is significant that some Industry figures have also not supported an increase in the length of parliamentary terms. In 2003, Pat McKendry of the National Retail Association was reportedly cautious with respect to proposals to increase the length of parliamentary terms in Queensland from three to four years: "... *longer terms would mean it would take longer to throw out an incompetent government ... introducing four-year terms because of the cost of elections was superficial and wrongly put a price on democracy.*"¹²

A V Dicey once observed that the electorate is the "*true political sovereign of the state*".¹³ The franchise is the most visible means whereby citizens may exercise their political sovereignty. Increasing the length of the parliamentary term from three to four years would automatically reduce the opportunities for citizens to participate in the democratic process by decreasing the number of occasions for them to exercise their right to vote.

When the requirement for three-year terms for the House of Representatives was first incorporated into the Commonwealth Constitution this was on the basis that, "... *shorter rather than longer parliamentary terms were regarded as the democratic desideratum.*"¹⁴ If the new Federal Government, in accordance with its stated policy position, proceeded with holding a referendum to amend the Constitution to increase the length of the term of the House of Representatives it would need to explain to the public how holding elections less frequently than at present would enhance their participation, and allow them to be more engaged, in the democratic process.

Another issue pertaining to parliamentary terms that warrants the committee's consideration is the proposal for fixed four-year terms.¹⁵

¹⁰ *Should the three-year maximum term be retained?*, Parliament of Australia Library Research Paper 2 2003-04, *Four-year Terms for the House of Representatives?* (September 2003). Source: www.aph.gov.au/library/pubs/rp/2003-04/04RP02.htm#threemax

¹¹ Cited in *Should the three-year maximum term be retained?*, Parliament of Australia Library Research Paper 2 2003-04, *Four-year Terms for the House of Representatives?* (September 2003). Source: www.aph.gov.au/library/pubs/rp/2003-04/04RP02.htm#threemax

¹² *The Courier Mail*, "Business supports term vote", 15 October 2003, p. 13

¹³ Cited in Funnell, W. 2001, *Government by Fiat*, UNSW Ltd, Sydney, p. 2. The High Court of Australia has also recognised that ultimate sovereignty rests with the people: *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1 at para 17 per Deane and Toohey JJ; *Australian Capital Television Pty Ltd v The Commonwealth* (1992) 177 CLR 106 at para 37 per Mason CJ; *Theophanous v Herald & Weekly Times Ltd* (1994) 182 CLR 104 at para 13 per Deane J.

¹⁴ Sawyer, M. (Ed) 2001, *Elections Full, Free & Fair*, The Federation Press, Sydney, p. 24

¹⁵ In accordance with the 2007 ALP National Platform and Constitution, paragraph 28. Source: www.alp.org.au/platform/chapter_11.php#11participation_in_the_democratic_process

While there are some advantages to fixed parliamentary terms, such as the removal of the ability of the prime minister or premier of the day to choose an election date to suit party political purposes, a number of disadvantages have been also identified including the following:¹⁶

- they may detract from frequent opportunities for accountability to voters;
- longer, more expensive election campaigns may result;
- an early election can solve a political crisis if a government loses its majority in the Lower House;
- trust in the inherent wisdom of voters is only relevant once in every four years;
- members of parliament obtain a greater security than normal;
- the public may have to endure a longer period of a government that may have lost popular support;
- does not change the promotion and manipulation of candidates in the period before the election;
- instability may be prolonged where the government is reliant on crossbenches for support;
- a government with a small majority facing competing demands does not have recourse to an election to establish a clear mandate; and
- a fixed date may prove to be inconvenient due to unforeseen circumstances.

If a referendum was ever held to introduce fixed four-year terms for the House of Representatives consideration would need to be given to whether provision should be included for an early election to be able to be called in exceptional circumstances, such as in the event that the government of the day lost its support on the floor of Parliament.

I trust the above comments and observations will assist the committee in its deliberations.

Yours faithfully

Don Willis

¹⁶ Sawyer, M. & Kelly, N. 2005, *Parliamentary Terms*, Democratic Audit of Australia. Source: http://arts.anu.edu.au/democraticaudit/papers/20050702_sawer_kelly_parl_terms.pdf

ATTACHMENT

Courier Mail
 Edition 1 - First with the news
 MON 30 JUL 2007, Page 019
 Biggest rort of all slips under the radar
 By Scott Prasser

Public funding of election campaigns is outrageous, writes Scott Prasser
 Public funding has undermined key aspects of our democracy

While the federal Opposition and the media have raised concerns about government spending on VIP planes and advertising to promote government programs, everyone has ignored that other great rort quietly supported by all political parties -- the public funding of election campaigns. Initially introduced in New South Wales in 1981 and adopted by the federal government in 1983 and some of the states and territories since, this nice little earner for political parties cost taxpayers \$42 million at the last federal election. Since its introduction taxpayers have paid out more than \$200 million in funding state, territory and federal election campaigns. Payments are based on the number of eligible votes parties receive and provided at a set rate per vote.

As it is indexed to inflation the funding just keeps getting bigger. Nice subsidy if you can get it!

Public funding for party election expenses was supposed to ensure there is greater equity by giving all parties access to funds on the basis of votes gained rather than donations received. It sought to tackle corruption by reducing political parties' reliance on donations from interest groups for possible favoured action.

Lastly, it was hoped to reduce election campaign costs. Public funding of elections has failed on all three counts. First, the main beneficiaries have been the parties who score the most votes and in our political system that's the Liberal and Labor parties. At the last federal election the Coalition parties received \$21 million and the Labor Party, \$17 million, while all the other parties and independents received \$4 million. Second, political parties continue to seek funding from community and business sources and there is little evidence federally of donations adversely affecting government decisions. More scandals have been about how public funds are spent (eg community polling) than about donations from private sources. Third, public funding has encouraged increased election spending by providing cream on top of the election spending cake. Public funding allows parties to indulge in expensive techniques like polling, targeted marketing, and more staff. More importantly, public funding has undermined key aspects of our democracy.

It means all citizens, through their taxes, are forced to fund political parties whether they like them or not. Surely, in a democracy it should be for party supporters to fund their party not the general public. Public funding of party election campaigns is like asking taxpayers to fund churches because they do some public good (like Sweden). While in other jurisdictions parties perform a valuable civic function in encouraging people to vote and thus deserve public funding, this is not the case in Australia with its compulsory voting system. Also, public funding has made our parties lazy. They do not have to try too hard to recruit members to do key tasks. Since public funding

was introduced, party membership in Australia has declined by more than 50 per cent. Consequently parties hardly represent anyone any more. They have lost their community connection. Knock, knock -- who's there? Almost no one -- except a small group of increasingly young, ambitious look-a-likes drawn from the same narrow social base desperately seeking seats and who are often parachuted into areas to represent people they hardly know. Further, with so few members, political parties no longer look to their once large network of rank and file branch members for policy ideas, or to gauge issues locally. Indeed, parties cannot even deliver election pamphlets any more.

Now, party policies and campaigns are developed by expensive polling, focus groups, market analysis and consultants. This explains why the major parties look and sound alike. It explains why policies developed at party head offices are often at odds with long held party beliefs and local aspirations. Do not expect this rort to end. It is the major parties who benefit most from public funding and it is they who decide these matters. For the Howard Government continued reliance on public funding undermines its free market credentials. For Labor, confronted with declining trade union membership and revenue, public funding has been a lifeline. At least Mark Latham in 2004 had the courage to adopt a different policy approach to parliamentary superannuation benefits and to force the Howard Government to end that rort. But Latham had real beliefs.

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Column: Perspectives

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